



# County of Monterey

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

## Legislation Details (With Board Report)

<b>File #:</b>	RES 17-187	<b>Name:</b>	Chualar Sewer Increase - Prop 218 Negative Protest
<b>Type:</b>	BoS Resolution	<b>Status:</b>	Passed
<b>File created:</b>	11/17/2017	<b>In control:</b>	Board of Supervisors
<b>On agenda:</b>	12/5/2017	<b>Final action:</b>	12/5/2017
<b>Title:</b>	Acting on behalf of County Service Area 75 - Chualar: a. Conduct a Public Hearing to hear objections to, or protests against, the proposed wastewater service fee increase by property owners within the service area pursuant to Proposition 218 requirements. Said fee increase reflects a Three (3)-Year Phase in and forgiveness of four (4) loans totaling \$1,166,483 as public benefit; b. Direct Clerk of the Board to tabulate and certify assessment ballots received before the conclusion of the public hearing; c. Determine if a majority protest exists, or, if no majority protest exists; d. If a majority protest exists, no assessment may be imposed; and e. If no majority protest exists, adopt a Resolution to approve the proposed wastewater rate increase.		

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. Board Report, 2. Att A - Notice of Public Hearing, 3. Att B - Certification of Clerk of the Board, 4. Att C - Resolution Est New Rate, 5. Att D - CSA 75 Chualar Final Wastewater Rate Study, 6. Att E - Location Map, 7. Completed Board Order

Date	Ver.	Action By	Action	Result
12/5/2017	1	Board of Supervisors	adopted	Pass

Acting on behalf of County Service Area 75 - Chualar:

- Conduct a Public Hearing to hear objections to, or protests against, the proposed wastewater service fee increase by property owners within the service area pursuant to Proposition 218 requirements. Said fee increase reflects a Three (3)-Year Phase in and forgiveness of four (4) loans totaling \$1,166,483 as public benefit;
- Direct Clerk of the Board to tabulate and certify assessment ballots received before the conclusion of the public hearing;
- Determine if a majority protest exists, or, if no majority protest exists;
- If a majority protest exists, no assessment may be imposed; and
- If no majority protest exists, adopt a Resolution to approve the proposed wastewater rate increase.

### RECOMMENDATION:

It is recommended that the Board of Supervisors, acting on behalf of County Service Area 75 - Chualar:

- Conduct a Public Hearing to hear objections to, or protests against, the proposed wastewater service fee increase by property owners within the service area pursuant to Proposition 218 requirements. Said fees reflect a Three (3)-Year Phase in and forgiveness of four (4) loans totaling \$1,166,483 as a public benefit;
- Direct Clerk of the Board to tabulate and certify assessment ballots received before the conclusion of the public hearing;
- Determine if a majority protest exists, or if no majority protest exists;
- If a majority protest exists, no assessment may be imposed; and
- If no majority protest exists, adopt Resolution 17-\_\_\_\_\_, approving the proposed wastewater rate increase.

## SUMMARY/DISCUSSION:

Wastewater service rates for County Service Area 75 - Chualar Consolidated (CSA 75) have remained unchanged for over 14 years. This has resulted in an inability of CSA 75 to generate sufficient revenues to offset operational and infrastructure costs and the need for General Fund loans totaling \$1,166,483 between June 2012 and September 2014. In November 2015, the CSA 75 Draft Wastewater Rate Study (Rate Study) was completed by the Wallace Group. The Rate Study identified four (4) rate alternatives needed to sustain wastewater operations, accomplish capital improvements, and establish reasonable reserves over the next five (5) years:

- 1A - No Loan Payback, No Phase-In
- 1B - No Loan Payback, Three (3)-Year Phase-In
- 2A - Loan Payback, No Phase-In
- 2B - Loan Payback, Three (3)-Year Phase-In

The current Single Residential Rate is \$13.92 per month. The proposed Single Residential Rate, beginning January 1, 2018 is \$23.70, increasing to \$39.57 on January 1, 2019, \$66.03 on January 1, 2020, \$67.35 on January 1, 2021 and, \$68.07 on January 1, 2022.

On March 7, 2017, the Board of Supervisors received the CSA 75 Draft Wastewater Study with a staff recommendation to approve Rate Alternative 2A - Loan Payback, No Phase-In and authorize staff to proceed with the Proposition 218 Majority Protest Process. The Board directed staff to prepare a Resolution approving Alternative 1B - No Loan Payback with a three (3)-Year Phase In forgiveness of the four (4) loans totaling \$1,166,483, along with a finding that forgiveness of said loans would constitute a public benefit and not a gift of public funds

On March 21, 2017, staff returned to the Board of Supervisors and the Board approved Alternative 1B - No Loan Payback with a 3-Year Phase In and forgave the four (4) loans totaling \$1,166,483 based on the finding that forgiveness of said loans did constitute a public benefit and was not a gift of public funds.

The public hearing to hear objections to, or protests against, the proposed wastewater service fee increase by property owners pursuant to Proposition 218 requirements was set by the Board of Supervisors on October 17, 2017. RMA staff was directed to mail a Notice of Public Hearing to property owners in CSA 75 and publish the Notice of Public Hearing in the Monterey County Weekly not less than 45 (forty-five) days prior to the date of this public hearing. The Notice of Public Hearing with proposed wastewater rates with a Spanish translation was mailed to property owners on October 18, 2017 and published in the Monterey County Weekly on October 19, 2017. Additionally, the Notice of Public Hearing with proposed wastewater rates was posted on the County of Monterey - Resource Management Agency (RMA) webpage. Copies of the Rate Study and Notice of Public Hearing with proposed wastewater rates were made available at the RMA offices and the Gonzales Library. A Revised Notice of Public Hearing to correct the beginning dates of each annual proposed increase through 2022, with proposed water rates with Spanish translation, was mailed on November 2, 2017.

Prior to any Board action, two (2) outreach events were held in Chualar to inform property owners of the increase. The first community outreach event was held in December 2014 prior to the Rate Study being prepared and the second community outreach event was held in November 2015 after the Rate Study was completed. Rate alternatives, as presented in the Rate Study, were explained and discussed, and information regarding the wastewater system, as well as the need to increase rates, was provided to CSA 75 residents at the November 2015 community outreach event.

The public hearing is mandated by the Proposition 218 Majority Protest Process. The proposed new rate

structure will only be implemented if, upon the conclusion of the public hearing, a majority (50% plus one [1]) of written protests are received. Only one (1) written protest will be counted for each property for purposes of determining if there is a majority protest. To be counted, the protest must (1) be in writing; (2) state opposition to the proposed rate increase; (3) identify the parcel by assessor's parcel number or street address; (4) include the original signature of all of the property owners of record; and, (5) be received before the conclusion of the Public Hearing on Tuesday, December 5, 2017.

**OTHER AGENCY INVOLVEMENT:**

At the June 29, 2016 Budget Committee meeting, staff recommended that the Budget Committee:

- a. Receive the County Service Area 75 - Chualar Consolidated Draft Wastewater Rate Study;
- b. Support approval of Rate Alternative 2A - Loan Payback, no Phase-In; and
- c. Support authorizing staff to proceed with the Proposition 218 Majority Protest Process.

A motion was made by Supervisor Jane Parker, seconded by former Supervisor Fernando Armenta, to forward the recommendation to the Board of Supervisors for their consideration. At the September 12, 2016 Capital Improvement Committee (CIC) meeting, the CIC accepted receipt of the Rate Study. Supervisor Simon Salinas recommended Alternative 1B, which requires no loan payback and a three-year payment phase-in. Former Supervisor Dave Potter recommended Rate Alternative 2A, which requires a loan payback and no payment phase-in.

**FINANCING:**

A Proposition 218 Majority Protest means that if the County receives 50% plus one [1] of the property owners submitting written protests, no increase can occur. Without an increase, it is anticipated that future General Fund contributions will be required to continue the operation of the wastewater system that serves CSA 75. These General Funds are typically identified as a loan and have been funded out of the Facilities Maintenance Project Fund 401 and the Capital Projects Fund 402. Future sources of funds needed are unknown at this time as all funds within the Capital Projects Fund have been allocated to specific projects and there is no uncommitted fund balance remaining.

Because of the health and safety requirements related to wastewater operations, it is unlikely that the existing level of service can be reduced. In addition to wastewater billing revenue, CSA 75 receives approximately \$4,000 per year in assessments specifically for street lighting and approximately \$24,000 in annual Assembly Bill 8 (AB 8) property tax revenue that is not tied to a specific CSA service. Current street lighting costs are about \$9,500 per year, which is about \$5,500 more than what is received in streetlight assessments. Without a rate increase, it may be necessary to divert all of the AB 8 revenue to fund wastewater operations. Without a rate increase or loan, revenue would likely be inadequate to meet maintenance costs, even if half of the street lights in the CSA were turned off. Additionally, there would be insufficient funding for potential emergency repairs.

The County is currently in the Request for Qualifications (RFQ) process to sell all wastewater and water system operations currently owned and managed by County Service Areas and/or County Sanitation Districts. The CSA 75 - Chualar wastewater system is included in this RFQ. A more sustainable rate structure for CSA 75 would likely make it more attractive to potential bidders.

**BOARD OF SUPERVISORS STRATEGIC INITIATIVES:**

Increasing revenue will maintain the provision of essential wastewater services to CSA 75 property owners. This will facilitate infrastructure capital improvements, fund repairs and maintenance costs, allow improvements and upgrades on the existing aging infrastructure and ensure the wastewater system continues to be operational.

Economic Development  
— Administration  
— Health & Human Services  
X Infrastructure  
X Public Safety

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Approved by: Shawne Ellerbee, RMA Deputy Director of Administrative Services

Approved by: Carl P. Holm, AICP, RMA Director

**Attachments:**

Attachment A - Notice of Public Hearing & Proposed Wastewater Rates mailed October 18, 2017 w/Spanish translation; Revised Notice of Hearing & Proposed Wastewater Rates mailed on November 2, 2017 w/Spanish translation

Attachment B - Certificate of Clerk of the Board Statement of Protests

Attachment C - Resolution Establishing New Wastewater Rates

Attachment D - County Service Area 75 - Chualar Consolidated Final Wastewater Rate Study

Attachment E - Location Map

(Attachments on File with the Clerk of the Board)