



CITY OF SAN JUAN BAUTISTA CITY COUNCIL REPORT

AGENDA TITLE: INTRODUCTION AND FIRST READING OF AN
ORDINANCE AMENDING SECTION 3-5-155 OF THE SAN
JUAN BAUTISTA MUNICIPAL CODE AND INCREASING
WATER RATES

MEETING DATE: AUGUST 16, 2022 (as amended- first presented July 19, 2022)

DEPARTMENT HEAD: DON REYNOLDS, CITY MANAGER

RECOMMENDED ACTION(S):

It is recommended that the City Council

- (i) Introduce and waive first reading of the attached Ordinance amending Section 3-5-155 of the Municipal Code increasing the water rates.

BACKGROUND INFORMATION:

In July 2019, when the City Manager was hired, he was holding a 25-page report written in 2018, describing the 16 conditions of “Extra High-Risk” and “High-Risk” failure that could take down the old sewer treatment plant at any moment. This report was shared with the City in a public discussion March 17, 2020 (actual discussion occurred in April due to the Pandemic). On August 8, 2020, the City Council adopted Resolution 2020-42, agreeing to an Administrative Order on Consent (“AOC”) with the Environmental Protection Agency (“EPA”). At that time, it was also negotiating a settlement agreement with the Regional Water Quality Control Board (RWQCB) to pay more than \$900,000 in fines for Permit violations dating back to 2007.

The primary source of the permit violations is simple. The City’s source of water from its wells, has high levels of chloride and sodium (salt). Therefore, it has been determined that the solution has to involve not only addressing the aging wastewater treatment plant, (“WWTP”), but banning the use of brine producing water softeners, after finding a new source of drinking water.

On October 15, 2020, City Council adopted Resolution 2020-51 and selected three compliance projects consistent with the terms, and conditions of the AOC;

- 1) Send the domestic wastewater to Hollister in a 6-mile force-main, and decommission the old WWTP;
- 2) Ban the use of brine producing water softeners, and

- 3) Dilutes its drinking water with 65% surface water imported from the San Benito County Water District's (SBCWD) West Hills Treatment Plant.

Overall, in the past three years, the City has held close to three dozen special meetings about its water solutions. In 2020, 39 special meetings occurred, and almost every Agenda included water and wastewater. This is a summary of the work done between July 2019 and December 2021:

- 1) Inspection by EPA and RQWCB of the Waste Water Treatment Plant ("WTTP"), June 2019;
- 2) Preparation of Water and Waste Water Master Plans, October 2019;
- 3) EPA Notice of non-compliance, October 2019;
- 4) EPA proposed path to resolve compliance issues and RQWCB notice of pending fines dating back to 2007, February 2020- RQWCB settlement proposed July 19, 2022;
- 5) Executed the binding Agreement with the EPA- Administrative Order on Consent-setting forth a compliance date of December 2023 August 2020;
- 6) Approve USDA Required Preliminary Engineer's report identifying three possible solutions to the City's water and sewer compliance issues, all with estimated costed cost of between \$15 - \$20 million dollars August 2020;
- 7) Applying for USDA grant and Low Interest Loan funds; September 2020 (almost completed);
- 8) Adopt the Water and Wastewater Master Plans, (Resolution 2020-47, September 15, 2020);
- 9) Selecting 3 Compliance Projects, approved by the EPA October 2020
- 10) Execute a Memorandum of Understanding with San Benito County Water District (SBCWD) February 2021;
- 11) Award of Contract to Design Compliance Project February 2021 (100% completed pending permits);
- 12) Water Softeners- Adopting Ordinance 2021-06 establishing a ban on the use of brine producing water softeners, (Municipal Code 5.36, April 21st, 2021);
- 13) Complete 30% of the SBCWD water Compliance project design – establish a "Basis for Design" November 2, 2021;
- 14) Execute a Memorandum of Understanding with the City of Hollister September 2021 amended for the USDA in December 2021;
- 15) Execute Bartell Wells Water Rate Study Agreement February 2, 2022;
- 16) Finalize water compliance project cost estimate February 17, 2022;
- 17) Approve Water Rate Study and initiate Proposition Notice of Protest process May 31st, 2022.

The related details of this history can be found in one central location on the City's web-site here: https://www.san-juan-bautista.ca.us/alert_detail.php

WASTEWATER PROJECT STATUS

To fix the aging WWTP, the City considered three different costly options: two options would upgrade the current wastewater treatment plant (“WWTP”), and the third will send the domestic wastewater to Hollister. They range in cost from \$15-\$20 million each. The City selected and the EPA approved sending the domestic wastewater (sewer water) to Hollister. Instead of spending the same amount of money upgrading its old WWTP, the WWTP will be decommissioned, but the reservoirs (“Ponds”) will be preserved for sewage storage during an emergency.

The estimated cost to do this is currently \$18 million. On December 14, 2021, the City adopted new sewer rates to pay for the new force-main to Hollister. Having adopted new sewer rates, the project is financially feasible, which is a condition of the MOU with Hollister. The new sewer rates include the City’s ability to lock-in \$6 million in grant finding, and secure relatively low interest loans from the United States Department of Agriculture (“USDA”) and the State Water Revolving Loan Fund (“SRF”) from the State Water Board. \$4 million in grant commitments have been received from both the State and Federal government. The USDA will make-up the balance and the City is applying for Community Development Block Grant funds as well. In the past few months, the City’s efforts to funding this wastewater compliance project is coming together.

The Force Main to Hollister design is nearly complete pending final comments from the County, and a few regulatory agencies including the US Fish and Wildlife Services with whom staff met last week. Once US F&WS, US Army Corps of Engineers and CA Fish and Wildlife have approved the project or recommended mitigation measures, the environmental package will be complete for both the USDA and SRF funding programs, and the project design will be sent out to bid. Last week US F&WS stated they require 180 days to complete their 30-page biological study. This would have the project bid early in 2023 (adding 6-months to the schedule, 9-months later than anticipated).

WATER PROJECT STATUS

The focus of this report is diversifying the City’s source of water blending its ground water. This is the 3rd compliance project and will remove salts from its wastewater effluent. The goal is to dilute the City’s ground water by adding 65% surface water from the West Hills Treatment Plant. But by taking the water source to regional level, it strengthens the reliability of the system, and the quality of the water.

The MOU with the SBCWD is now a year-old. The design of the project reached 30% completion November 2, 2021. The MOU requires design to halt until cost estimates are prepared from the 30% drawings, and the project’s funding is secured. The cost estimates completed February 17, 2022 have been used to completed the Bartell Wells Rate Study initiated February 4, 2022. This rate study (attached) was first presented to the City Council May 24, 2022 and adopted May 31, 2022, when the Council adopted the attached Resolution 2022-38, (its “Resolution of Intent”).

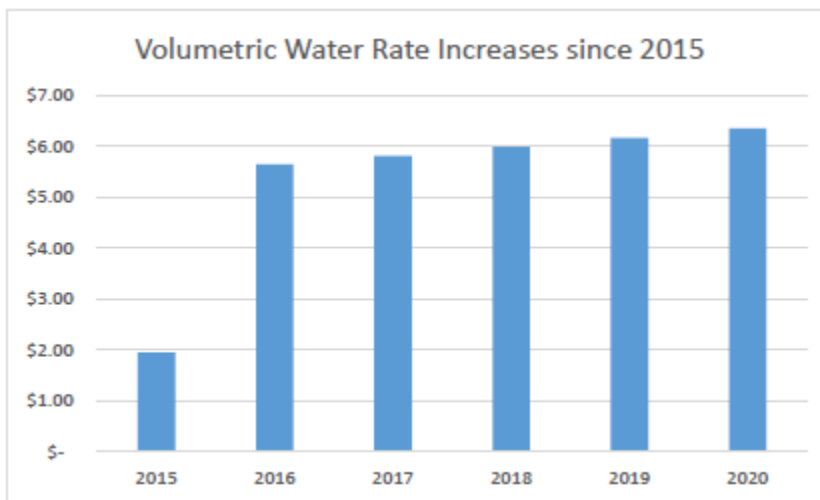
Since then, the proposed rate increase was sent in the form of a legal public notice to each of the 833 water customers. This is the same process used to increase the sewer rates. Approval of this rate study will determine if the project is fiscally feasible, allowing its design to resume.

DISCUSSION:

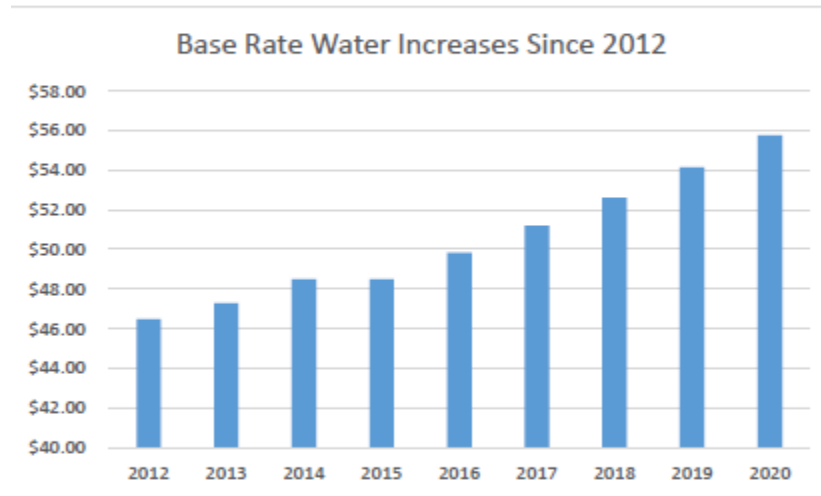
The background provided in this Report is intended to inform rate payers, concerned parties of the path that has been travelled to reach this critical point. Per the MOU with SBCWD, this “Public Hearing” will determine if the import of drinking water is financially feasible. Resolution 2022-38 approved the Rate Study and Notice. It was noticed more than 45-days in advance of the tonight’s hearing. This process is defined in the State’s Constitution as “Proposition 218.” It is intended to allow a method by which a rate increase can be protested, provide for additional dialogue regarding the City’s Rate Study, allow for written protests to be received. If fewer than 50% of City’s Water clients submit written protests, the City Council can take action to move forward with the 3rd EPA Compliance project that improves the City’s source of water.

Attached is the May 24th staff report that summarizes the history of water rate increases in the City and the details of the rate study. The City uses both a base rate, and a volumetric rate.

Page 2 describes the City’s diligence to keep the rates consistent with the cost-of-living increases over time. Since 2012, the Rates increased 2% and starting in 2015, they increased 2.6% per year until 2019. The Rate did not increase during the height of the pandemic caused by COVID-19; years 2020 and 2021.



The Base Rate also changed in 2015, increasing the annual increase from 2% per year (from 2012) to 2.6%. The residential Base Rate is currently set at \$55.76.



The residents of San Juan Bautista pay as little as \$75 per month for water, to as high as \$125 per month for water, and the average cost is \$104.04. The “Water Bill” includes the sewer flat rate of \$95.62. So, each Residential “Water and Sewer Bill” will range from \$155.62 to \$220.62, and average \$199.66.

The proposed rate increase includes both anticipated cost increases for the operation of the water collection, treatment, and distribution systems, and the additional capital expense to import and blend the West Hills Treatment Plant water with the City’s ground water. This is the first time since water storage tank was built, that the City’s water rates have considered additional capital improvements.

An excerpt from the July 24th Staff report summarizes the cost considerations in the Rate Study.

The cost estimates for the CIP for surface water is based on drawings that are 30% complete. It is estimated to cost \$7.9 million dollars. Currently, the SBCWD plans to finance these costs at an interest rate to the City of 4.5%. Listed as “Project Financing Repayment” in the Table 6 of the Rate Study, this cost we be approximately \$461,673 annually. The HUAP Buy-in is estimated to cost \$229,525 annually and includes a portion of the fixed assets needed for the SBCWD to treat the water it receives from the San Luis Reservoir. The City’s portion of the SBCWD operational expenses begins at \$337,670 annually in 2025. It is established in the Proposition 218 Notice as a “pass-through” amount, due to the nature of the changing costs to buy water from the state and federal water resources, being passed-through to the City.

It is also important to understand that the City’s current Water Enterprise Fund takes in approximately \$100,000 more than it spends with a healthy reserve (compared to the sewer enterprise fund barely breaking event). This will off-set 25% of the costs described above.

The Water Enterprise Fund anticipates costs and revenues as summarized in Table 1 of the Rate Study. This cost per year starts at \$337,670 in 2026. While the City will work hard to find favorable interest rates through the Water Board Revolving Loan Fund, and hopefully grant opportunities from State and Federal resources, the rates do not take this into consideration. Below are the estimated rates from attached the May 21, 2022 from the Bartle Wells and Associates Rate Study with the necessary changes anticipated over the next 5-years. They present increases of 14% for four years, and 5% increase the 5th year.

1.3 Summary of Water Rate Recommendations

Table 1 shows a summary of proposed water rate recommendations.

Table 1 - Proposed Water Rates

Water Rates	FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27
	<i>Existing</i>	<i>Proposed</i>	<i>Proposed</i>	<i>Proposed</i>	<i>Proposed</i>	<i>Proposed</i>
Volumetric Rate \$/1000 gallons	\$6.35	\$7.05	\$8.04	\$9.17	\$9.63	\$10.12
Monthly Base Rate	\$55.76	\$65.91	\$75.15	\$85.68	\$89.97	\$94.47

Table 1 on the rate study summarizes the cost estimates used for the proposed rate increases. They are covering additional costs to import water of \$337,670 per year.

The proposed Ordinance recommends a five-year schedule of rate increases. The second reading and adoption would occur September 20th, 2022. After 30-days, the Ordinance becomes effective. The first increase would go into effect on November 1, 2022, and subsequent increases would go into effect, without further Council action, on July 1, 2023 and each of the following three July 1sts. The Council can take action by resolution in the future to reduce these rates, but it cannot increase rates above this schedule without conducting new Proposition 218 notice, protest, and hearing proceedings.

The rates presented are a “worst-case scenario.” It is a conservative estimate of necessary rate increases, in the event the City is not successful in its effort to use State and Federal funds to help reduce the cost of the Water compliance project. Before the State and Federal funds can be approved, the City has to demonstrate its ability to independently fund this work. As the SBCWD has agreed to finance the project, the rate study uses the current conventional interest rates they anticipate paying when the construction is completed and permanent financing is secured. It assumes that most of the project will be paid by borrowing, when in fact the City is working on several different grant applications as well, to help reduce the burden to rate payers.

If the City is successful, the City’s costs will decrease, and the rates will not have to increase by as much as the estimates in this “worst-case scenario.”

At tonight's hearing, the Council is asked to accept oral and written testimony including written protests with respect to the proposed rates. The City Clerk has been accepting, and will continue to accept through the close of the public input portion of the public hearing, written protests against the rates. Because tonight's meeting will be conducted via Zoom and in person, prior to the close of the public input portion an opportunity should be given for members of the public to make an oral protest that will be counted as a written protest. After the close of the public input portion of the public hearing, the Clerk will tabulate the protests and announce the number of valid written protests received. Unless the City has received valid written protests with respect to a majority of the parcels subject to the rates, the City Council may then introduce the ordinance adopting the new rates.

The City's past practice has been to adopt water rate increases by ordinance, and to use that ordinance to place the dollar amounts of the sewer rates directly into the text of the Municipal Code. This practice is not required by law, and can cause confusion because there is limited ability to place formatted tables in the Municipal Code document. Therefore, the attached Ordinance adopts a rate table, but does not add the rate table to the text of the Municipal Code. The Ordinance also amends the Municipal Code so that future rate increases can be adopted by resolution. This change does not alter the requirement that a rate increase can be adopted only following the Proposition 218 notice, protest and hearing requirements.

A pass-through provision is proposed for changes to the rates charged by SBCWD for its services. The details of this pass-through formula are presented in the Ordinance.

At the July 17, 2022, City Council meeting, the City Council opened the Public Hearing to receive protests to the proposed rate increase. The City Clerk counted five written protests. The Clerk having tabulated the written protests, the Mayor closed the Public Hearing.

FISCAL IMPACT:

If approved, the action before the City Council will provide sufficient funding within the Water Enterprise fund to pay the SBCWD for building a 6-mile water main from the West Hills Treatment Plant, and for the SBCWD to buy, treat and send this water to the City.

STRATEGIC PLAN:

The City's Strategic Plan for Fiscal Year 2022/23 clearly identifies the Water Compliance Project in this Year's 3rd Initiative:

- 3) Invest, maintain, strengthen, plan and renew, our vital infrastructure:
 - a. Build a new Source of Water, and build the force main to Hollister for the discharge of Wastewater
 - b. Continue to Invest in the infrastructure prioritized in the Water and Waste Water Master Plans

ATTACHMENTS:

- 1) Draft Ordinance Increasing Water Rates
- 2) Resolution 2022-38 Proposition 218 Notice approved May 31st, 2021 (provided July 17, 2022)
- 3) May 31st Staff Report and Town Hall Slides on water rates (provided July 17, 2022)
- 4) Rate Study (provided July 17, 2022)
- 5) Rate Study Addendum (provided July 17, 2022)
- 6) Ordinance