

TO: City Council

FROM: James L. App, City Manager

SUBJECT: Water User Rates - Commodity Option

DATE: December 4, 2007

Needs: For the City Council to consider adoption of a commodity-based water rate structure to pay for the costs of providing water service, including Nacimientto water.

Facts:

1. Paso Robles must amend its water rates to pay for the costs of providing a new, higher quality source of fresh water for the City. The Nacimientto Water Project will deliver 4,000 acre feet or 1,303,413,600 gallons of water annually.
2. The City is acquiring Nacimientto Water to improve water quality, decrease pumping from the Paso Robles Ground Water Basin, diversify supply and increase supply reliability.
3. Future large-scale development will be required to purchase additional water allocations from the Nacimeinto Project.
4. On July 20, 2004 the City executed the Nacimientto Project Water Delivery Entitlement Contract whereby the City committed to participate in the Project and pay its share of Project costs.
5. In August 2004, the Council adopted water user fee increases to pay for the City's share of the multi-jurisdictional Project, based on an engineer's preliminary cost estimate of \$150,000,000 (Ordinance No. 882). The City Council determined that phasing the increases in over time would aid customers in adapting to the increased cost. The City's fee increases were to be phased in annual increments of \$6/month to reach \$36/month as of July 2010.
6. At the same August 3, 2004 meeting, the Coucil amended the City's water development impact fees (connection fees), adjusting the cost of a single family residential connection from \$3,703.00 per unit to \$7,734.00 per unit, thus ensuring new development would contribute its fair share to the cost of the Nacimientto project and water treatment plant. NOTE: The development impact fee is paid if/when new development occurs. Inasmuch as the pace and timing of new development is uncertain, impact fee revenue cannot be assured at any particular point in time. However, project-related costs are certain, current and continuous. Consequently, user rates must be set at a level to assure sufficient revenue to meet the full payment demand. In the future, after new development has occurred and paid its fees, user rates may be adjusted to a level adequate to service the remaining debt minus those amounts collected from new development.
7. Fee collections (both user and development impact fees) accumulated before new water deliveries were/are being set aside for construction of a Water Treatment Plant. It was hoped this would eliminate any need to finance the Plant's construction costs.

8. In 2007, the engineers updated the projected Project cost to \$190 million, increasing the City's projected share. Therefore water rates require adjustment to cover the City's increased share of the project costs, including \$17 million for the Water Treatment Plant, plus the estimated recurring costs of operation and maintenance.

9. At its July 17, 2007 hearing, the City Council adopted a rate structure (Ordinance No. 935), providing that the portion of the water fee related to the Nacimiento Project be increased incrementally to \$60 per month, up from the earlier approved \$36. At that time, a number of residents requested that the City Council consider a fee structure based on actual water consumption, which the Council agreed to do once the actual costs of the Nacimiento Project were determined.

10. After the adoption of Ordinance No. 935, construction of the Nacimiento Project was authorized and bonds issued, so that the actual cost of design, construction and financing were known.

11. On October 2, 2007, City Council, in response to public input, repealed Ordinance No. 935 and authorized staff to initiate preparation of an ordinance establishing a consumption-based water user fee.

12. The proposed ordinance would repeal Ordinance No. 882 (adopted in 2004) and establish a commodity-based fee that would cover the costs of providing water service, including the City's share of the cost of the Nacimiento Water Project, the New WTP and estimated on-going maintenance and operation costs.

**Analysis &
Conclusion:**

The construction cost for the pipeline project is \$175,157,695. The net amount to be financed for construction is \$169,278,553. An additional \$33,502,134 is being financed for the cost of design, property acquisition, project management, etc. for a total project cost of \$202,780,687. In addition, the projected cost for the New WTP is \$17 million. To the greatest extent possible, a portion of the fees collected prior to the completion of the Nacimiento Project shall be used for the construction of the New WTP. NOTE: Delays in rate implementation lessen revenue collections intended to pay for the treatment plant. Consequently, a portion of the treatment plant construction cost may have to be financed, thus further increasing costs to water users.

The \$202.8 M is divided into taxable and non-taxable components; the taxable portion is for the Atascadero Mutual Water Company's share as it may not issue tax exempt debt as a private entity. The tax-exempt portion is \$164,215,687, issued at a net interest cost of 4.72%. Paso Robles' share of the \$164,215,687 is \$72,294,877; with interest of 4.7%, the City's annual average debt service cost is \$4,378,637. Therefore, the adjusted annual cost of the Nacimiento Water Project and maintenance and operation of the Nacimiento pipeline and the New WTP is as follows:

NW pipeline average annual debt service requirement	\$4,378,700
NW pipeline estimated M&O (net ad valorem property taxes)	916,600
New WTP estimated M&O only	<u>1,500,000</u>
TOTAL ANNUAL NW COSTS FOR RATE SETTING (rounded)	<u>\$6,800,000</u>

A consumption-based rate is based on dividing total costs of providing service by the number of units consumed. The City has certain fixed costs for water distribution, such as electricity and debt service, and operation, maintenance, repair and replacement of items, such as piping and equipment. The proposed rate structure recognizes that while costs remain relatively fixed, revenues do not, declining as water usage declines. Consequently, the rates include provisions for anticipated consumption decreases and inflation.

Calculation For Consumption-Based Water Fee Structure:

Utility Billing Budget – FY 2008:	\$ 596,100
less operating capital	(28,000)
less allocation to sewer operations	<u>(328,400)</u>
	239,700
Field maintenance and operation Budget – FY 2008:	3,758,200
add operating transfers out	51,200
add operating capital	<u>(214,100)</u>
	3,595,300
 TOTAL CURRENT COSTS	 <u>3,835,000</u>
 add average annual debt service for pipeline	 4,378,700
add operating cost of New WTP	1,500,000
add operating cost of pipeline	<u>916,600</u>
 TOTAL ALL COSTS	 <u>10,630,300</u>
Total Operating Costs divided by 3,319,000 units*/month	\$ 3.20
 Phased Rate, including Adjustment Factors (a)	 <u>\$ 4.00 per unit</u>

(a) Includes adjustments for inflation and projected consumption decrease

* A Unit equals 748 gallons

Based on the above, the proposed rate structure would be phased in, beginning in February 2008 through July 2010, as follows:

	<u>2/08</u>	<u>7/08</u>	<u>7/09</u>	<u>7/10</u>
Consumption Based	\$2.25/unit	\$2.75/unit	\$3.50/unit	\$4.00/unit

These rates would be reviewed at least annually and adjusted if revenues received were significantly different from the cost of providing the service.

**Fiscal
Impact:**

The fixed costs of the Nacimiento Project alone are currently estimated at \$6.8 million annually (recurring costs could increase if a portion of the Treatment Plant's costs are financed). In addition, the City's existing costs of providing water service are nearly \$4 million annually.

The City has a contractual obligation to pay its share of the Nacimiento Water Project. To the extent that revenues from water fees do not cover the City's share of the Nacimiento and other water operations, the City would have to use money from the General Fund, which now pays for Police and Emergency Services, as well as Parks and Recreation Services and other governmental functions. A likely result could be a reduction in General Fund Services.

Options:

- a. That City Council introduce for first reading Ordinance No. xxx which:
 1. Repeals Ordinance No. 882 (adopted in 2004) establishing annual increments of \$6/month reaching \$36/month as of July 2010 to offset the estimated cost of the Nacimiento Water Project; and;
 2. Adopts phased Consumption Based Water Fee Rates.
- b. Amend, modify, or reject the above option.

Attachments:

Ordinance No. 882
Proposed Ordinance No. xxx

ORDINANCE NO. 882 N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
AMENDING SECTIONS 14.04.020 ~~AND 14.16.020~~* OF THE CITY OF EL PASO DE
ROBLES MUNICIPAL CODE TO ADJUST WATER USER FEES

* Clerical error in title identified & corrected 1/6/05

WHEREAS, the City Council has approved participation in the Nacimiento Water Project to help assure a high quality and continuous supply of water to its citizens; and

WHEREAS, as the Nacimiento Water Project will, based upon current construction costs, result in a new reoccurring annual cost of \$4.8 million; and

WHEREAS, the City Council proposes to collect said annual cost from a combination of user and impact fees; and

WHEREAS, it has been determined that it is necessary to raise water user fees by \$36.00 per month; and

WHEREAS, in order to mitigate the impact upon the City's water customers, the City Council desires to raise monthly rates by \$6.00 every July 1st beginning 2005 and continuing through 2010.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES ORDAIN AS FOLLOWS:

SECTION 1. Subdivision C of Section 14.04.020 of the Paso Robles Municipal Code is hereby amended to read as follows:

“C. FEES—WATER USAGE RATES. The monthly rates to be charged and collected by the water department for all water consumption including private fire lines, bulk water delivery or fire hydrant usage from every person, school, firm or corporation shall be charged at rates established by ordinance of the City Council. Other than as expressly set forth herein, such water usage rates may only be established or amended by a two-thirds vote of the city council in favor of such establishment or amendment of water usage rates.

Effective July 1, 2005, the base water usage fee in place at the time shall be increased by \$12.00 for up to 2,000 cubic feet of water per customer for each two-month billing period (\$6.00 per month) and shall be further adjusted every July 1st thereafter through July 1, 2010 by an additional \$12.00 for up to 2,000 cubic feet of water per customer for each two-month billing period (\$6.00 per month).

Unless otherwise specifically adjusted by subsequent action of the City Council or by the annual inflationary adjustment provided for below, the variable consumption rate shall remain unchanged at \$0.96 per 100 cubic feet.

The base water usage fee and variable consumption rate established in this section shall be modified annually by the increase in the Consumer Price Index for the San Francisco-Oakland-San Jose Region as reported by the Bureau of Labor Statistics for the year ending April of each year and shall be applied to all billing statements calculated, generated and distributed beginning July 1st of each fiscal year.

The water usage fees shall further be reviewed no less than bi-annually in conjunction with the update of the City's budget to ensure that the sewer and water connection fees then in existence do not exceed the costs of providing water service within the City.”

SECTION 3. Severability

If any action, subsection, sentence, clause or phrase of this ordinance is, for any reason, held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Introduced at a regular meeting of the City Council held on August 3, 2004, and passed and adopted by the City Council of the City of El Paso de Robles on the 17th day of August 2004 by the following vote:

AYES:	Finigan, Heggarty, Nemeth, Picanco, and Mecham
NOES:	None
ABSTAIN:	None
ABSENT:	None

Frank R. Mecham, Mayor

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk

ORDINANCE NO. XXX N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
REPEALING ORDINANCE NO. 882 N.S. AND
ESTABLISHING A CONSUMPTION-BASED WATER FEE STRUCTURE

WHEREAS, the City of Paso Robles has traditionally relied upon the Paso Robles Groundwater Basin and the Salinas River underflow as sources of water for its citizens; and

WHEREAS, the City's groundwater supply, and its uses thereof, create constituent loads that exceed discharge limits, and Nacimiento water presents lower initial constituent loads that when blended with groundwater, reduce the overall loading thus diminishing the frequency of constituent limit breaches; and

WHEREAS, recent studies have indicated that the Paso Robles Groundwater Basin is at risk of being overdrawn in the foreseeable future due to heavy usage and demand; and

WHEREAS, continuously increasing use of groundwater is associated with further diminishment of groundwater quality; and

WHEREAS, the City Council studied a variety of possible alternative water sources that might be available to help ensure that the citizens of Paso Robles would have a good quality, continuous and reliable source of water for the future; and

WHEREAS, the City Council, after much study and public discussion, determined several years ago that the City should participate, along with other cities in San Luis Obispo County and the County of San Luis Obispo, in the Nacimiento Water Project (the "Project"); and

WHEREAS, in July 2004, the City executed the Nacimiento Project Water Delivery Entitlement Contract (the "Contract") in which the City committed to pay for its proportionate share of the cost of the Project; and

WHEREAS, on August 17, 2004, the City Council adopted Ordinance No. 882 N.S. which enacted certain increases in City water fees in order to pay for the City's share of the estimated costs of the Project; and

WHEREAS, the City has included in its Integrated Water Resource Plan the construction of a new water treatment plant (the "New WTP"), the purpose of which is to process water received from the Project and blend it with water taken from City wells in preparation for delivery into the City's water distribution system; and

WHEREAS, at the public hearing at which Ordinance No. 935 was considered, several residents of the City expressed the opinion that the City's water rates should be based on the amount of water actually used; and

WHEREAS, in order to meet its obligations under the Contract and the bond financing documents related thereto, the City Council adopted Ordinance No. 935 N.S., but also directed staff to prepare and present alternative rate structures based upon water consumption; and

WHEREAS, the City's share of the costs for the construction of the Project are now known as the construction contract for the Project has been awarded and the bonds to finance the Project have been issued; and

WHEREAS, on October 2, 2007, after the City was presented a referendum petition on Ordinance No. 935 N.S. with sufficient signatures to subject the measure to a special election, the City determined to repeal Ordinance No. 935 N.S. as permitted by law; and

WHEREAS, the effect of the repeal of Ordinance No. 935 N.S. was to reinstate the rates set forth in Ordinance No. 882 N.S.; and

WHEREAS, also on October 2, 2007, staff presented to the City Council two alternative methods of structuring water rates based on consumption; and

WHEREAS, after considering both alternatives and hearing public testimony, the City Council directed staff to take the necessary steps under Proposition 218, including the mailing of notices regarding a public hearing to consider a proposed ordinance to adopt a consumption-based fee structure; and

WHEREAS, the City has identified the parcels upon which the rates will be imposed, calculated the amount of the rates, mailed notice to all record owners and tenants of properties responsible for water charges, wherein the City provided written notice of proposed rates, the basis for the calculation, the reason for the rates and the date, time, and location for a public hearing not less than 45 days after sending the notice;

WHEREAS, the City further provide published notice of the foregoing;

WHEREAS, the City Council held the duly noticed public hearing and considered any and all property owner and tenant protests; and

WHEREAS, written protests against the water rates were not presented by a majority of owners of the identified parcels;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Ordinance No. 882 N.S. is hereby repealed in its entirety.

SECTION 2: In accordance with Article XIII D, Section 6(b), of the California Constitution, the City Council makes the following findings:

A. The revenues derived from the water rate increase do not exceed the funds required to provide water service because the rates are calculated to allow the City to recover its costs associated with (i) its contractual obligation to pay for a portion of the costs of construction of the Nacimiento Water Project; (ii) to the extent possible, a portion of the costs of the design and construction of the New WTP; (iii) the ongoing costs of operation and maintenance of the City's water delivery system. This finding is based upon the information contained in the notice, the staff report to the City Council at the public hearing and the testimony presented at the public hearing.

B. The revenues derived from the water charges will not be used for any purpose other than that for which the charge is imposed. This finding is based on the fact that all revenues collected from water customers are deposited into a designated fund for such purpose.

C. The charges do not exceed the proportional cost of the water service. This finding is based on the fact that the proposed rates are based upon the City's actual total cost of providing water service to its customers (including the City's share of the Project costs), divided by the actual amount of water used.

D. The proposed increases in the rates are intended to balance the anticipated increases in the costs of delivering water and the possible reductions in the amount of water used.

SECTION 3. Paragraph C. of Section 14.04.020 of the Paso Robles Municipal Code is hereby revised in its entirety to read as follows:

14.04.020 Fees.

"C. Fees – Water Usage Rates. The monthly rates to be charged and collected for all water consumption, including private fire lines, bulk water delivery or fire hydrant usage, from every water customer, including, but not limited to, any person, school, business entity or corporation, shall be charged at rates established by ordinance of the city council.

The water usage rates shall be reviewed no less than annually in conjunction with the update of the city's budget to ensure that water user fees then in existence do not exceed the costs of providing water service within the City."

SECTION 4. Beginning on February 1, 2008, the monthly water usage fee to be charged for each unit of water, or 748 gallons, used shall be as follows:

February 1, 2008:	\$2.25/unit
July 1, 2008:	\$2.75/unit
July 1, 2009:	\$3.50/unit
July 1, 2010:	\$4.00/unit

SECTION 4. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 5. Effective Date. This Ordinance shall take effect thirty (30) days after adoption as provided by Government Code section 36937.

SECTION 6. Publication. This Ordinance shall be published once fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Government Code section 36933.

Introduced at a regular meeting of the City Council held on _____, 2007, and passed and adopted by the City Council of the City of El Paso de Robles on the _____ day of _____ 2007 by the following roll call vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Mayor Frank R. Mecham

ATTEST:

Deborah Robinson
Deputy City Clerk