

# ADMINISTRATIVE REPORT

Date: February 9, 2012

Agenda Item No.: 7

Council Action Date: February 27, 2012

**To: RICK COLE, CITY MANAGER**

**From: SHANA EPSTEIN, VENTURA WATER GENERAL MANAGER**

**Subject: COST OF SERVICE AND RATE DESIGN ADVISORY COMMITTEE  
RECOMMENDATIONS**

## RECOMMENDATION

It is recommended that the Council consider the following information and recommendations from the Cost of Service and Rate Design Advisory Committee.

- a. In the course of their review of the Water and Wastewater financial plans the Cost of Service and Rate Design Advisory Committee (Committee) accepted:
  1. The assumptions in the long-range financial plan for two years (FY 2012/13 and FY 2013/14) only.
  2. The reserve target for the Water and Wastewater Enterprise Funds.
  3. The revenue requirements as recommended to meet the fiscal needs and customer expectations of the Water and Wastewater Enterprise Funds for two years (FY 2012/13 and FY 2013/14) only.
  4. The recommended rate structures.
  5. The recommended separately billed line item for the Estuary Protection Fund for two years (FY 2012/13 and FY 2013/14) with these funds used for planning purposes.
- b. In addition, the Committee recommends to Council that the current pass through ordinance language be updated to reflect Proposition 218 requirements and clarify the factors by which the rates may be adjusted with this tool.
- c. Lastly, the Committee recommends that Council exempt the Water and Wastewater Enterprise Funded Capital Projects from the 2% Public Art obligation in order to remove an undue hardship on the customers of Ventura Water to support public art as part of paying for water and wastewater services.

### **PREVIOUS COUNCIL ACTION**

November 14, 2011 – Workshop presentation to review the progress of the Cost of Service and Rate Design Citizen Advisory Committee’s outcomes from the Pricing Objectives Workshop

August 1, 2011 – Authorized professional services agreement with Raftelis Financial Consultants, Inc. for a Cost of Service and Rate Design Study to evaluate water and wastewater revenues and directed staff to establish an Advisory Committee to review the rate study and design process and make recommendations to Council at its conclusion.

July 26, 2010 – Workshop presentation updating Council on current issues impacting Ventura’s water resources.

October 6, 2008 – Adopted ordinances increasing water and wastewater customer rates for fiscal year 2008/09, effective November 6, 2008, and for fiscal year 2009/10, effective July 1, 2009. Overall, the monthly combined water and wastewater cost for a typical residential single-family household increased by approximately \$4 and then an additional \$5 and commercial accounts by approximately \$9 and then an additional \$9.

### **SUMMARY**

High quality and reliable water and wastewater services are essential to Ventura’s public health, economic prosperity and quality of life. As a core City function funded 100% from customer rates, our operations and vital infrastructure systems need financial stability to deliver safe and reliable water and clean wastewater into the future.

Changes in the law, economic realities and public trust required a new and comprehensive review of the financial health of the utilities and the methodology for how customer rates are set. The “status quo” is vulnerable to both severe financial strains and legal challenge.

The comprehensive review was spurred by the same concerns that led to the creation of Ventura Water, a separate department within the City family, to focus on the increasingly complex responsibilities emerging from the water and wastewater functions. In August 2011, Raftelis Financial Consultants, Inc. (RFC), a firm with specialized financial expertise in water utilities, was hired to conduct a Cost of Service study and to offer community insight, review and transparency throughout this complex and technical process, a Cost of Service and Rate Design Advisory Committee was formed.

This report represents the work of the Committee, staff and RFC over the past six months to construct financial stability through fair and reasonable rates to our customers. While it is anticipated that only two years of revenue requirements and related rate adjustments will

be proposed in March, a long-term financial plan has been developed to provide a roadmap for the future. The Committee is recommending minor changes to the water rate structure and more significant modifications to the wastewater rate structure. Also included for Council's consideration are policy recommendations which resulted from the Committee's review of the utilities' financial structure and condition.

## **DISCUSSION**

The City's water and wastewater functions are enterprise business entities and their expenses and revenues are accounted for in proprietary funds, completely separate from the City's General Fund. Customer rates must generate sufficient revenues to sustain operations, maintenance and capital renewal programs as well as the costs of oversight and administrative functions performed by the City

While adjustments have been made over the years to Ventura's water and wastewater rates, the last formal Cost of Service and Rate Design Study was conducted in the early 1990s. Under California law and especially through the lens of Proposition 218 (Attachment A), rates must be based on robust and legally defensible cost of service analyses to ensure that customers pay a fair and equitable portion of the true cost of service. The study's goal was to meet today's requirements by analyzing and proposing changes to the existing rate structure to correct any imbalances and align the new rates to provide financial stability and encourage conservation.

### **Cost of Service and Rate Design Study**

Six months ago, an all-volunteer Committee of nine Ventura residents began meeting with Ventura Water staff and RFC to offer their perspectives during a new Cost of Service study. Community perspective is an important ingredient to the development of the final study, which will be presented to Council in March. One of the Committee's first tasks was to rank pricing objectives (Attachment B) to guide the rate structure design and the results were as follows:

SEE NEXT PAGE FOR CHART REGARDING  
The pricing objectives

Classification	Rank	Pricing Objectives	Total Score
Most Important	1	Cost of Service Based Allocations	11
	2	Rate Stability	18
Very Important	3	Revenue Stability	19
	4	Conservation	19
	5	Defensibility	19
Important	6	Minimization of Customer Impacts	21
	7	Simple to Understand and Update	22
	8	Equitable Contributions from New Customers	22
Least Important	9	Economic Development	25
	10	Phase of Implementation	26
	11	Affordability	26

As will be demonstrated by the outcomes of the process, the Committee maintained their focus on equity, rate and revenue stability, and conservation as important components in the rate structure design.

### Financial Plan

The first step in determining rates was the development of a 10-year financial plan for each utility. The advantages of modeling long term financial requirements includes appropriate timing of larger capital projects with debt issuance and the ability to smooth out rate adjustments. The plan is only a tool and does not preclude the annual budget process to establish the final financial framework for each year.

### Assumptions

The plan uses a number of assumptions to project the likely expenditures and revenues needed throughout this planning horizon (Attachment C). For expenses, this includes no salary increases for the next three years, 7.5% increases for electricity for FY 2012/13 and 5% annually thereafter, 5% increases for chemicals annually and 3% inflation increases for all other materials annually. Other factors included limited new construction and modest customer water consumption reductions over the term.

### Reserves

The plan also assumes the establishment of a reserve policy, which the Committee agreed was a financially prudent action. The City's current Financial Administrative Policy and Procedures regarding financial reserves for Enterprise Funds do not set a specific level for fund balance reserves but allow for:

- Timely replacement of rolling stock and other equipment and infrastructure repairs and/or replacement.
- Adequate cash flow.
- Funds for emergency purchases.
- Maintenance of a ratio of net operating income to debt service requirements of at least 125% (1.25:1).

A more structured policy is a common business practice for modern utilities. The Committee accepted the reserve targets in the financial plan which include an Operating Reserves target of 3 months (or 25%) of operating expenses and a Capital Reserves target of 50% of average annual replacement of assets, gradually increasing to 100% in FY 2016/17 (Attachment C). The Operating Reserves will provide working capital, allow for unanticipated changes to budgeted expenses, and provide adequate cash flow during disasters or other emergencies. The Capital Reserves will assist in building financial stability to support a healthy replacement program going forward.

#### Debt Issuance

The timing of debt issues to raise funds, historically to pay for one-time capital projects, is an important financial strategy for most utilities. Debt allows future generations to shoulder capital costs. Since assets that have a long life expectancy will primarily benefit customers in the future, spreading those costs by issuing debt is often deemed an appropriate funding strategy.

Higher debt loads result in greater revenue needs over the long term, but cost less in the short term. Conversely, choosing to use today's cash to fund projects requires more short-term revenue, but costs less in the long run. Long-term borrowing costs are minimized, however, in today's low interest rate environment. Additionally, construction costs are favorable for the kind of front-loaded investments that can only be funded through debt financing.

The revenue assumptions in the financial plan reflect a 67% debt funding for the Water Fund and a 65% debt funding for the Wastewater Fund.

#### Debt Service Revenue Requirement

A related issue, the balance between net operating revenue and debt payments, called debt service coverage, is also a factor in determining financial health. Revenue levels must be set sufficiently to cover debt service requirements of at least 125% of net operating income. Currently, projected revenues will not be able to meet debt service coverage requirements in this fiscal year for the Wastewater Fund, a situation which will negatively impact the utility's bond rating if not corrected soon.

#### Capital Improvement Program

The Committee carefully reviewed all elements of the plan, especially the capital improvement program schedule. While the operations budget is anticipated to remain

relatively flat within inflationary and energy increases, Ventura's aging infrastructure and regulatory and legal commitments are driving an aggressive capital program. In recognition of historical shifts in the capital project program caused by changing priorities, scope changes, and other unforeseen factors, the 10-year plan assumes a capital project completion rate of 75% of the schedule. As the capital program is the primary driver of rate increases, this projection better aligns cash flow revenues to more realistic timeframes and ultimately minimizes rate impacts to customers.

Two capital projects, projected in the latter years of the financial plan, whose scopes are undefined at this point, prompted much discussion among the Committee members. The plan assumes a treatment project, possibly a reverse osmosis plant, to improve the quality of groundwater delivered primarily to Ventura's eastside in response to high levels of total dissolved solids, a non-health based constituent. The plan also includes the capped dollar amount for the planning and construction of the potential Santa Clara River Estuary diversion project, which will be determined through the agreement process over the next five years or so as directed by the settlement between the City, Wishtoyo Foundation's Ventura Coastkeeper Program and Heal the Bay. Consequently, the Committee agreed to accept the assumptions for the first two years of the financial plan only.

#### **Revenue Requirements and Cost Allocation**

As such, the Committee concurred with the revenue requirements for the next two years to meet the fiscal needs and customer expectations of the utilities. The Water Enterprise Fund will require approximately an additional \$1.7M and \$1.8M for FY 2012/13 and 2013/14, respectively and the Wastewater Enterprise Fund will require approximately \$1.4M and \$1.0M for FY 2012/13 and 2013/14, respectively. As noted earlier, revenue increases are necessary for the Wastewater Fund to meet debt service coverage and to retain the fund's ability to issue highly rated bonds in the future.

The next step of the study process is a cost of service analysis, which allocates the revenue requirements to defined customer classes, such as residential single-family, non-residential, etc. based on their proportional use of the water and/or wastewater system. Through a very technical and specialized method, total costs are assigned based on water consumption and demand and wastewater flow and strength. This analysis must conform to Proposition 218 requirements to establish fairness and defensibility by forming the cost basis of the rates to be charged.

#### **Rate Structure Design**

As stated, the basic rate structure has remained essentially unchanged for over 20 years. The Committee spent many hours comparing the various customer impacts within a number of different rate designs (Attachment C) consistent with the priorities identified through the pricing objectives exercise. In the end, both staff and the Committee agreed on the following proposed modifications to the existing rate structures.

Water Outside City Rates

An outcome of the cost allocation analysis was the determination that the factors which supported the 70% rate differential charged to customers outside of the City limits are no longer valid (Attachment C). Within the proposed rate structure, this customer group will be required to pay in addition to City rates a flat surcharge of \$0.73 in FY 2012/13 and \$0.76 in FY 2013/14 per unit of water (HCF: hundred cubic feet=748 gallons or 15 full bathtubs.).

Water Rate Structure

Bi-monthly water charges are currently assessed based on a flat meter charge plus a per unit cost for each HCF used during the two-month period. At this time, the meter service charge is approximately 19% of the total water utility's rate revenues. To aid in revenue stability, one of the higher priority pricing objectives, the Committee agreed that this charge be increased to recover 25% of rate revenues. After analyzing current water consumption patterns, it was also agreed that the three tiers should be adjusted to encourage water efficiency as follows:

Single Family Residence	
Current	Proposed
0 to 16	0 to 14
17 to 42	15 to 30
42+	31+

Multi-Family Residence	
Current	Proposed
0 to 10	0 to 10
11 to 24	11 to 16
24+	16+

SEE NEXT PAGE FOR CHART REGARDING  
The proposed service charges and volume rates for water

The proposed service charges and volume rates for water are:

		Current Rates*	7/1/2012 Effective	7/1/2013 Effective
<b>Bi-Monthly Service Charge</b>				
<b>Meter Size</b>				
	3/4"	\$15.03	\$23.14	\$25.11
	1"	\$28.74	\$35.34	\$38.35
	1 1/2"	\$47.76	\$65.86	\$71.46
	2"	\$66.76	\$102.48	\$111.20
	3"	\$150.42	\$218.43	\$237.00
	4"	\$245.49	\$389.31	\$422.41
	6"	\$483.06	\$798.20	\$866.05
	8"	\$720.60	\$1,469.52	\$1,594.43
	10"	\$958.15	\$2,323.92	\$2,521.46
	12"	\$1,100.68	\$3,056.26	\$3,316.05
<b>Volume Rates (\$/HCF)</b>				
<b>SFR</b>				
Tier 1	0 to 14	\$2.02	\$1.98	\$2.15
Tier 2	15 to 30	\$2.66	\$2.69	\$2.92
Tier 3	30+	\$4.27	\$4.41	\$4.79
<b>MFR</b>				
Tier 1	0 to 10	\$2.02	\$1.98	\$2.15
Tier 2	11 to 16	\$2.66	\$2.69	\$2.92
Tier 3	16+	\$4.27	\$4.41	\$4.79
<b>Non-Residential</b>		\$2.66	\$2.48	\$2.70
<b>Institutional/Interruptible Rate</b>		\$1.40	\$1.98	\$2.15
<b>Reclaimed Water</b>		\$0.50	\$0.64	\$0.68
<b>Untreated Water</b>		\$1.40	\$1.88	\$2.04
<b>Outside City Rates</b>		170% of Inside	Add \$0.73/HCF	Add \$0.76/HCF

\*Current rates have different tiers

The impacts on different customers at varying usage levels are shown below.

**Residential – Single Family Proposed Bi-Monthly Bill**

	Usage HCF	Current Bill	7/1/2012 Bill	7/1/2013 Bill
Very Low	5	\$25.13	\$33.04	\$35.86
Low	12	\$39.27	\$46.90	\$50.91
Average	21	\$60.65	\$69.69	\$75.65
High	35	\$97.89	\$115.95	\$125.88
Very High	50	\$150.67	\$182.10	\$197.73

\*Assumes 3/4" meter

**Residential – Multi-Family Proposed Bi-Monthly Bill**

	Usage HCF	Current Bill	7/1/2012 Bill	7/1/2013 Bill
Very Low	3	\$21.09	\$29.08	\$31.56
Low	8	\$31.19	\$38.98	\$42.31
Average	13	\$43.21	\$51.01	\$55.37
High	22	\$67.15	\$85.54	\$92.87
Very High	35	\$119.44	\$142.87	\$197.73

\*Assumes 3/4" meter

**Non-Residential - Commercial Proposed Bi-Monthly Bill (Example)**

	Usage HCF	Current Bill	7/1/2012 Bill	7/1/2013 Bill
Commercial	70	\$233.96	\$239.46	\$260.46

\*Assumes 1 1/2" meter

Wastewater Estuary Protection Charge

As noted, the long range financial plan includes projected capital program funding to support the timeline to build a diversion infrastructure as defined by the settlement agreement for the Santa Clara River Estuary. The plan begins collecting revenue in FY 2012/13 with the goal of building a reserve which will provide stability to incur additional debt to fund the entire project at the point when its full scope is determined. After reviewing the differences between integrating the costs into the overall rates vs. a separate dollar amount line item, the Committee concurred with staff’s recommendation to reflect the cost on the bill separately as the “Estuary Protection Charge.” Furthermore, since the full scope of the project will not be determined for several more years, the Committee recommended that these funds be used for planning purposes only for the next two years.

Wastewater Rate Structure

The current wastewater rate structure sets each residential customer into one of six flat tiers each July for the next year based on the lowest water consumption for bills received during the previous winter months of November to April, when landscape watering is minimized due to rain and cooler weather. The proposed design will modify this structure in two basic ways. Instead of using the lowest winter consumption to set the charge, winter consumption will be averaged on two full cycles for bills received from February to May. And, this average consumption number will set each customer into a specific level, instead of a range.

Additionally, mirroring the water rates, there will be a fixed charge, representing 25% of revenue requirements, and a flow charge based on the average winter usage for residential customers. For example, if a household's winter average is 17 HCF for two bills received between February and May, the bi-monthly charge starting in July would be calculated by adding the fixed charge plus 17 times the flow charge. This rate would remain constant for the following year and then reset every July based on the previous winter average usage.

In recognition that most high water consumers in the winter months are using water for outdoor use, it was also recommended that the winter flow be capped at 30 HCF for single family and 24 HCF for multi-family customers.

SEE NEXT PAGE FOR CHART REGARDING  
The proposed fixed plus flow rates for wastewater

The proposed fixed plus flow rates for wastewater are:

	Effective 7/1/2012	Effective 7/1/2013
<b>Single Family Residential</b>		
Bi-monthly Fixed Charge	\$17.65	\$18.35
Bi-monthly Flow Charge*	\$2.67	\$2.78
Maximum Bill (Capped at 30 HCF)	\$97.75	\$101.75
Max Estuary Protection Fund Charge	\$1.96	\$4.07
<b>Multi-Family Residential</b>		
Bi-monthly Fixed Charge	\$13.06	\$13.58
Bi-monthly Flow Charge*	\$2.67	\$2.78
Maximum Bill (Capped at 24 HCF)	\$77.14	\$80.30
Max Estuary Protection Fund Charge	\$1.54	\$3.21
<b>Commercial</b>		
Bi-monthly Fixed Charge	\$17.65	\$18.35
Bi-monthly Flow Charge**		
Group 1	\$3.13	\$3.26
Group 2	\$3.58	\$3.72
Group 3	\$4.61	\$4.80
Group 4	\$5.61	\$5.84
Group 5	\$5.12	\$5.33
Group 6	\$1.08	\$1.13
<b>Churches</b>	\$2.33	\$2.43
<b>Schools (100 ADA)</b>	\$128.17	\$133.25
<b>Industrial (Billed Monthly)</b>		
Flow	\$3,689.47	\$3,835.63
COD	\$153.01	\$159.08
SS	\$283.68	\$294.92
<b>Estuary Protection Fund Charge</b>	2% of bill	4% of bill
*Based on average winter usage for 2 full billing cycles for bills received February through May		
** Based on actual water usage		

The impacts on different customers at varying usage levels are shown below.

**Residential – Single Family Proposed Bi-Monthly Bill**

Winter Avg HCF	Current Bill	7/1/2012 Bill	7/1/2012 Estuary	7/1/2012 Total Bill	7/1/2013 Bill	7/1/2013 Estuary	7/1/2013 Total Bill
5	\$34.27	\$31.00	\$0.62	\$31.62	\$32.25	\$1.29	\$33.54
10	\$42.24	\$44.35	\$0.89	\$45.24	\$46.15	\$1.85	\$48.00
15	\$65.51	\$57.70	\$1.15	\$58.85	\$60.05	\$2.40	\$62.45
20	\$73.27	\$71.05	\$1.42	\$72.47	\$73.95	\$2.96	\$76.91
25	\$73.27	\$84.40	\$1.69	\$86.09	\$87.85	\$3.51	\$91.36
30	\$73.27	\$97.75	\$1.96	\$99.71	\$101.75	\$4.07	\$105.82

**Residential – Multi-Family Proposed Bi-Monthly Bill**

Winter Avg HCF	Current Bill	7/1/2012 Bill	7/1/2012 Estuary	7/1/2012 Total Bill	7/1/2013 Bill	7/1/2013 Estuary	7/1/2013 Total Bill
2	\$34.27	\$18.40	\$0.37	\$18.77	\$19.14	\$0.77	\$19.91
6	\$34.27	\$29.08	\$0.58	\$29.66	\$30.26	\$1.21	\$31.47
12	\$50.00	\$45.10	\$0.90	\$46.00	\$46.94	\$1.88	\$48.82
17	\$73.27	\$58.45	\$1.17	\$59.62	\$60.84	\$2.43	\$63.27
21	\$73.27	\$69.13	\$1.38	\$70.51	\$71.96	\$2.88	\$74.84
24	\$73.27	\$77.14	\$1.54	\$78.68	\$80.30	\$3.21	\$83.51

**Non-Residential Proposed Bi-Monthly Bill**

Customer Group	Bi-Monthly Usage HCF	Current Bill	7/1/2012 Bill	7/1/2012 Estuary	7/1/2012 Total Bill	7/1/2013 Bill	7/1/2013 Estuary	7/1/2013 Total Bill
Group 1	70	\$179.13	\$236.75	\$4.74	\$241.49	\$246.55	\$9.86	\$256.41
Group 2	331	\$1,041.71	\$1,202.63	\$24.05	\$1,226.68	\$1,249.67	\$49.99	\$1,299.66
Group 3	923	\$4,968.23	\$4,272.68	\$85.45	\$4,358.13	\$4,448.75	\$177.95	\$4,626.70
Group 4	147	\$1,033.96	\$842.32	\$16.85	\$859.17	\$876.83	\$35.07	\$911.90
Group 5	122	\$796.72	\$642.29	\$12.85	\$655.14	\$668.61	\$26.74	\$695.35
Group 6	200	\$73.27	\$233.65	\$4.67	\$238.32	\$244.35	\$9.77	\$254.12
Churches	242	\$73.27	\$581.51	\$11.63	\$593.14	\$606.41	\$24.26	\$630.67
Schools	704 ADA	\$722.15	\$902.32	\$18.05	\$920.36	\$938.08	\$37.52	\$975.60

### **Policy Recommendations**

Other related topics were discussed by the Committee in the course of their review of the utilities' finances, with the following recommendations.

#### Pass Through Ordinance Update

The Committee was requested to provide a recommendation on updating existing language in the City's ordinance which allows third party costs to be passed through to customers with a more limited noticing process. The Committee agreed that significant costs imposed by other parties between rate adjustment cycles could limit the financial capacity of daily operations, resulting in deferred maintenance. They revised the language to target only specific energy and water costs outside of the City's control and though Proposition 218, this mechanism would need to be reauthorized every five years. If Council concurs with the language (Attachment D), staff will include this modification along with other ordinance updates required by rate adjustments.

#### Public Art Obligation

Several of the meetings included education and discussion of the 2% Public Art obligation borne by construction costs of capital improvement projects (Attachment E). Although the citywide requirement does not apply to pipeline and other replacement projects and has a relatively minor financial impact, the Committee strongly recommends that Council remove this requirement from the Water and Wastewater Enterprise Funded capital projects. They noted that their stance was not a reflection on their appreciation of art but how it is paid for, in this case. In a vote of 7-1, the Committee supported the removal of the obligation based on these stated arguments:

1. Tax for public art is not a legitimate or reasonable cost of water or wastewater service.
2. Public art is not necessary for proper functioning of the utilities.
3. It is questionable that such tax levy<sup>1</sup> is in keeping with the **intent** of Proposition 218. In most other jurisdictions funding of public art would not be allowed in the rate base.
4. Public support for the utility rate increase is weakened by inclusion of non-essential, low priority and pet projects.
5. Public support for public art is not an appropriate or efficient use of long term debt financing. Why pay interest on non-essential and low priority items?
6. Any use of funds for non-essential items detracts from and diminishes the construction of essential facilities necessary for the proper, dependable, safe and efficient operation of the utilities.
7. It is time to rethink all public funding and priorities. This is an opportunity to effect some needed change.

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<sup>1</sup> Water and Wastewater rates are not taxes; the language is used here at the request of the Committee.

The Council may also wish to seek the perspective of the Public Art and/or the Cultural Affairs Commission on their views on changes to the City's long-standing Public Art program.

### **CITIZEN ADVISORY GROUP REVIEW**

The members of the Cost of Service and Rate Design Citizen Advisory Committee are John Mundy (Chair), Irene Henry (Vice Chair), Clint Crowell, Diane de Mailly, Sarah LeClaire, Robert McCord, Marty Melvin, Don Mills and Alejandro Robles. The Committee conducted public meetings in 2011 on October 12, October 26, November 16, and December 14 and in 2012, January 18, and January 25. All the meetings were conducted at the City's Sanjon Maintenance Yard from 6 pm until 8:30 pm, or much later.

### **PUBLIC COMMUNICATIONS / PUBLIC ENGAGEMENT**

Extensive public engagement was conducted to support this process (Attachment F), beginning in late August 2011 with an appeal for volunteers for the Committee. Advertisements and e-blasts were regularly published announcing the meeting dates and times. All meeting materials and presentations were posted on the City's website ([www.cityofventura.net/water/resources](http://www.cityofventura.net/water/resources)) for each meeting to provide transparency. Those details of the Committee's work will remain posted throughout the duration of the rate process to help increase our customers understanding of the cost of service study and the Committee's role throughout its development.

When staff returns to Council with the completed study in March, a comprehensive outreach plan will also be presented.

### **FISCAL IMPACTS**

There are no fiscal impacts by receiving the Committee's recommendations regarding the financial plan at this time. The final Cost of Service Study Report is expected to be presented to Council in March at which time it is anticipated that staff will bring forward an outreach plan and final rate recommendations.

The revenue requirements in the financial plan for the Water Enterprise Fund project are approximately \$1.7M and another \$1.8M for FY 2012/13 and 2013/14, respectively. The Wastewater Enterprise Fund requires approximately another \$1.4M and \$1.0M for FY 2012/13 and 2013/14, respectively, which in part provides sufficient revenues to meet the necessary debt coverage ratios to protect the financial integrity of the fund.

The proposed water rate changes are projected to increase an average single family customer's bi-monthly bill by \$9.04 the first year and another \$5.93 the second year. The bi-monthly bill for a commercial office using 70 HCF would increase \$5.50 the first year and another \$21.00 the second year.

The proposed wastewater rate changes, which includes the Estuary Protection Charge, would decrease the bi-monthly bill of a single family customer with a winter average of 15 HCF by \$6.66 the first year and would increase it by \$3.60 the second year, a total decrease of \$3.06 from the current rates. A multi-family's bi-monthly wastewater bill, reflecting a winter average of 12 HCF, would decrease by \$4 the first year and increase by \$2.82 the second year, a total decrease of \$1.18 from the current rates. The bi-monthly bill for a commercial customer in Group 1 using 70 HCF is proposed to increase \$62.36 the first year and another \$14.92 the second year.

In addition, the 2% public art obligation for the next two years is anticipated to be \$320,000, about one percent of the capital budget for water projects and \$110,000, about one half of one percent of the capital budget for wastewater projects. Since the actual dollar amount transferred to public art is not calculated until the construction contract is awarded, these numbers are estimates only. Additional calculations would be necessary to analyze any customer rate impacts if the public art element was removed from the projects.

## **ALTERNATIVES**

In regards to the financial plan, Council could choose to:

- Request another rate structure or other modifications such as different water tiers or wastewater methodology or any other rate element proposed.
- Request a lesser or a greater revenue requirement for one or both of the Enterprise Funds.
- Maintain the existing rate structure without the recommended changes, with or without additional revenue requirements.

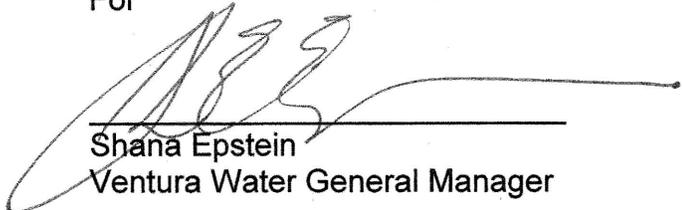
However, changes impacting the first two years of the financial plan or rate structures would require a recalculation of proposed customer rates. Any reduction in the revenue requirements would delay projects in the capital program and jeopardize the Wastewater Fund's ability to meet debt coverage obligations.

Also, Council could choose to modify, defer or eliminate the pass through language.

As for the public art obligation, Council could choose to:

- Defer a decision on changing long-standing Council policy in order to solicit the views of the Public Art Commission, Cultural Affairs Commission and the general public.
- Sustain the long-term commitment the City has made to incorporating art into visible capital improvement projects recognizing that it represents less than one-half of one percent of the total spending of the utility.
- Suspend the public art obligation for the near term or any set length of time and/or revisit the policy when the economy improves or at a later date.
- Evaluate each individual project for its appropriateness for a public art component and invoke the exclusion waiver of the ordinance if desired.

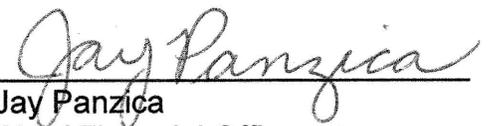
Prepared by Nancy Broschart, Management Analyst  
For



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Shana Epstein  
Ventura Water General Manager

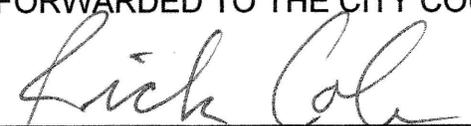
Reviewed as to fiscal impacts



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Jay Panzica  
Chief Financial Officer

FORWARDED TO THE CITY COUNCIL



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Office of the City Manager

#### ATTACHMENTS

- A Overview of Proposition 218 "The Right to Vote on Taxes Initiative"
- B Pricing Objectives Workshop Definitions

- C Recommendations Stemming Cost of Service and Rate Design Study- *REVISED*  
Administrative Report
- D Pass Through Ordinance Current and Recommended Language
- E Public Art Regarding Water and Wastewater Enterprise Fund Capital Projects  
Administrative Report
- F Cost of Service and Rate Design Advisory Committee Civic Engagement

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**ATTACHMENT A**

**OVERVIEW OF PROPOSITION  
218 "THE RIGHT TO VOTE ON  
TAXES INITIATIVE"**

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# Overview of Proposition 218

## "The Right to Vote on Taxes Initiative"

Proposition 218 would:

- Restrict local government revenue raising ability. Bring greater uncertainty to local government finance.
- Reduce the amount of fees, assessments, and taxes that individuals and businesses pay. Increase voter-approval requirements for local taxes, assessments and fees.
- Reduce spending for local public services.
- Proposition 218 affects most local government revenues, including water and wastewater fees, garbage collection fees, fire assessments, and utility user taxes. The only local revenues **not** affected directly by Proposition 218 are: fees for local services not related to property, gas and electric charges, fees collected as a condition of property development, and intergovernmental transfers.

## Overview as it applies to water and sewer fees

All new and existing "property-related" such as water and wastewater fees fall under the purview of Proposition 218.

### Major Provisions

- Revenues derived from the fee or charge shall not exceed the funds required to provide the property related service.
- No property owner's fee may exceed his or her proportionate share of costs for the property-related service.
- Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.
- Local government must notify all property owners before imposing a property-related fee.
- The agency shall provide written notice by mail of the proposed fee or charge to the record owner of each identified parcel upon which the fee or charge is proposed for imposition, the amount of the fee or charge proposed to be imposed upon each, the basis upon which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, together with the date, time, and location of a public hearing on the proposed fee or charge.
- The agency shall conduct a public hearing upon the proposed fee or charge not less than 45 days after mailing the notice of the proposed fee or charge to the record owners of each identified parcel upon which the fee or charge is proposed for imposition. At the public hearing, the agency shall consider all protests against the proposed fee or charge. If written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee or charge.

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**ATTACHMENT B**

**PRICING OBJECTIVES  
WORKSHOP DEFINITIONS**

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## Pricing Objectives Workshop Definitions

The Pricing Objectives Workshop defined the eleven main objectives and six demand management (water efficiency) objectives to be used in guiding rate structure design. Below are the eleven objectives and conservation sub-objectives and their definitions:

**Cost of Service Based Allocations:** The rate structure should ensure that each customer class is contributing equitably towards revenue requirements based upon the costs of providing service to each customer class.

- **Rate Stability:** The rate structure should minimize dramatic rate increases or decreases over the planning period.
- **Revenue Stability:** The rate structure should provide for a steady and predictable stream of revenues to the utility such that the utility is capable of meeting its current financial requirements.
- **Conservation (Water Efficiency)/Demand Management:** The rate structure should encourage water conservation as well as assist in managing system demand.

The conservation demand management sub-objectives were ranked by the Committee in importance as follows:

1. Reward economically efficient water users
  2. Surcharge nonessential and non-efficiency water use
  3. Communicate conservation consciousness
  4. Reduce total consumption
  5. Reduce peak consumption
  6. Reduce seasonal consumption
- **Defensibility:** The rate structure should be consistent with the rate setting methodologies provided by American Water Works Association and applicable laws, in order to ensure that rates are defensible if challenged in court.
  - **Minimization of Customer Impacts:** The rate structure should be developed such that adverse rate impacts on each customer class are minimized.
  - **Simple to Understand and Update:** The rate structure should be easy for City customers to understand, utilizing a moderate level of education tools. In addition, the rate structure should be able to be effectively maintained by City staff in future years.
  - **Equitable Contributions from New Customers:** New customers should be responsible for the capital costs of providing service.
  - **Economic Development:** The rate structure should incorporate a preferential rate that may be used to attract economic development to Ventura.
  - **Ease of Implementation:** The rate structure should be compatible with City's billing system. In addition, the rate structure should allow for the continuation of existing management and system reports.
  - **Affordability:** The rate structure should not overly burden low volume customers.

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**ATTACHMENT C**

**RECOMMENDATIONS  
STEMMING COST OF SERVICE  
AND RATE DESIGN STUDY-  
*REVISED* ADMINISTRATIVE  
REPORT**

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# ADMINISTRATIVE REPORT

Date: January 20, 2012

Agenda Item No.: 5

Meeting Date: January 25, 2012

**To: COST OF SERVICE AND RATE DESIGN CITIZEN ADVISORY COMMITTEE**

**From: SHANA EPSTEIN, VENTURA WATER GENERAL MANAGER**

**Subject: RECOMMENDATIONS STEMMING FROM COST OF SERVICE AND RATE DESIGN STUDY - *REVISED***

## **RECOMMENDATIONS**

It is recommended that the Committee:

- a. Accept the assumptions in the long-range financial plan as stated in this report.
- b. *Accept* a reserve target for the Water and Wastewater Enterprise Funds.
- c. *Accept as recommended* the revenue requirement adjustment to meet the fiscal needs and customer expectations of the Water and Wastewater Enterprise Funds for FY13 and FY14.
- d. *Recommend* a preferred rate structure to meet the pricing objectives exercise.
- e. *Recommend a preferred option to fund the reuse/diversion program, a result of the settlement to protect the Santa Clara River Estuary.*

## **SUMMARY**

In order to complete the Cost of Service and Rate Design Study, staff prepared a ten-year financial projection, which included operations and maintenance costs and capital improvement programs. During the November and December meetings of the Committee, staff and Raftelis Financial Consultants (RFC) presented a number of assumptions that are required to prepare such a projection. The purpose of a long-range planning exercise is to assist in determining how much funds should be collected in reserves to smooth out revenue requirement adjustments over the years, and avoid drastic rate fluctuations. To complete a long-range financial plan, a number of assumptions must be made to project all

costs in the water and wastewater enterprise funds budgets. The projected costs establish the basis of the revenue requirements. That is, rates must be designed to generate enough revenue to cover the projected expenditures for any given year.

It is important to note that the acceptance of the long-range financial plan does not supersede the annual budget adoption process. Annual budget modifications are expected in response to changing conditions and priorities. The significance of the financial plan process is to develop a strategic roadmap which includes debt timing and reserve levels to guide the long-range fiscal health of the organization.

In addition, the rate design is formulated through recognizing the collective pricing objectives resulting from the prioritization exercise completed in October. Modifying a rate structure has impacts to different customer classes and impacts on how those customers will consume water. Most importantly, the rate design is being evaluated through the lens of Proposition 218 to ensure all customers are paying rates equitable to the services that they receive.

## **DISCUSSION**

### **Long Range Financial Plan Assumptions**

The following information details the assumptions used in establishing the 10-year financial plan. While it is expected that changes will occur, they represent the best estimate today of how growth, costs and revenue patterns may shift in the future.

#### Growth rates

- Single Family Residential (SFR) – no growth in FY 2012 and 0.5% per year thereafter
- Multi-family Residential (MFR) – no growth in FY 2012 and 0.5% per year thereafter
- Commercial/Industrial – no growth in FY12 and 0.5% per year thereafter
- Other – no growth
- Outside City customers – no growth

#### Inflation Assumptions

- General – 3% per year
- Salaries – no change through FY15, and 0.5% per year thereafter
- Benefits – approximately 0.3% per year
- Utilities – 7.5% in FY13 and 5% per year thereafter
- Chemicals – 5% per year
- Capital – 3.5% per year

#### Reserves Targets

- Operating reserves – 3 months (or 25%) of operating expenses
- Capital reserves – 50% of average replacement CIP, increasing to 100% in FY17

#### Interest rates

- Reserves – Earn 1% in FY12 and 13, increasing at 0.5% per year until 2.5% in FY16
- New debt issue – 5.5%, 30-year term

#### Customer Water Consumption

- Usage projections – 2% reduction for two years, 1% reduction annually starting in FY15
- Historical usage – see June 2011 Urban Water Management Plan consumption and per capita daily use chart (Attachment A)

#### Wastewater Projections

- Infiltration and inflow – 7%
- Single family density – 2.6 people per household
- Multi-family density – 2.25 people per household
- Per capita daily generation – 53 gallons per person

#### **Capital Improvement Program**

While the operating budgets have remained fairly static within the framework of inflation and significant cost pressures from energy and chemical increases over time, funding the infrastructure renewal program represents the lion's share of future higher revenue requirements. The available funding avenues – cash, debt and/or grants – each have their advantages and disadvantages and require careful planning, timing and coordination for optimization. Based on the latest Water and Wastewater Master Plans and today's best estimates, the following projects by category are contained in the 10-year financial plan.

#### Water = Total \$120.4M

- Well Projects – \$25.7M
- Pipeline Projects – \$42.1M
- Tank Projects – \$7.2M
- Pump Station Projects – \$3.4M
- Facility Projects – \$7.9M
- Treatment Projects – \$34.1M

#### Wastewater = Total \$145.M

- Pipeline Projects – \$ 29.6M
- Lift Station Projects – \$6.6M
- Treatment Projects – \$35.8M
- Facility Projects – \$6.1M
- Estuary Protection Projects – \$67M

While the dollar amounts include an inflationary escalation factor for projects scheduled in later years, the total amount in the financial plan represents only 75% of the overall estimated costs. The total program includes 66 projects but based on historical project completion rates and shifts caused by changing priorities, scope changes, and other unforeseen factors, the plan anticipates that around 50 of these will actually require funding during the 10-year period. This aligns revenue requirements to more realistic timeframes since the capital program is the primary driver of rate increases.

Over the past ten years, the capital program has expended \$81.3 and \$64.8 million for 44 total projects for the water and wastewater systems, respectively. This included a new membrane filtration plant to treat Ventura River water and significant upgrades to the Ventura Water Reclamation Facility to improve treatment processes to meet strict new environmental regulations and modernize aging facility components. During the next ten years, the plan includes more pipeline replacements, new replacement wells as well as funding for a reuse diversion structure for the water currently discharged by the Reclamation Facility into the Santa Clara River Estuary.

### **Debt Issuance Ratios**

As noted, borrowing money through bonds or other debt programs is one of the funding avenues historically used to support one-time capital projects and is a strong player in the financial portfolios of most utilities. The ratio between how much debt versus cash (or pay-as-you-go) requires the community and future generations to shoulder debt payments. Since debt funding for assets that have a long life expectancy will primarily benefit customers in the future, spreading those costs is often deemed an appropriate funding strategy.

Higher debt loads result in greater revenue needs over the long term, but cost less in the short term. Conversely, choosing to use today's cash to fund projects requires more short-term revenue, but costs less in the long run.

The revenue requirements for the proposed rates reflect a 67% debt ratio for the Water Fund and a 65% debt ratio for the Wastewater Fund.

### **Debt Service Revenue Requirement**

A related issue, the balance between revenue and debt payments is also a factor in the financial planning strategy. Revenue levels must be set sufficiently to cover debt service requirements of at least 125% of net operating income. Currently, projected revenues will not be able to meet debt service coverage requirements in this fiscal year for the Wastewater Fund.

### **Outside City Rates**

Customers outside of the City limits have been charged historically a rate differential of 70% as supported by the *Hansen v. City of Ventura* Supreme Court decision in 1986. Research has shown that the factors that existed at that time, namely financial

contributions to improve assets and water supply for former customers of Saticoy and Mound Water Company, are no longer valid. However, there are financial contributions from City customers that are appropriate to recover from outside City customers which are as follows:

- Property tax on water utility's assets: \$0.05/HCF. As the utilities' assets are City property and do not pay property taxes, the City's General Fund and its residents absorb this revenue loss which is not shared by outside City customers. *If the utilities were privately owned, property taxes would be collected by the City and that would increase the revenue to fund general expenses. The outside City customers, therefore, benefit from the fact that the assets are City owned and should pay a portion to offset this revenue loss.*
- Police and fire protection costs on water utility's assets: \$0.10/HCF. The assets are protected by Ventura's Police and Fire personnel who are funded by the City's General Fund.
- Differential water supply costs: \$0.58/HCF. The water utility's first responsibility is to provide water to City customers. Additional water supply and long-term planning is needed to serve outside City customers and that differential should be recovered.

Since these allocations are cost based (*Attachment B*) and meet Proposition 218 requirements, outside City customers during the next rate adjustments will be imposed a flat surcharge of \$0.73 per unit of water (HCF: hundred cubic feet=748 gallons).

### **Reserve Policy**

The City's current Financial Administrative Policy and Procedures regarding financial reserves for Enterprise Funds do not set a specific level for fund balance reserves but allow for:

- Timely replacement of rolling stock and other equipment and infrastructure repairs and/or replacement.
- Adequate cash flow.
- Funds for emergency purchases.
- Maintenance of a ratio of net operating income to debt service requirements of at least 125% (1.25:1).

A more structured policy is a common business practice for modern utilities. The assumptions in the financial plan include an Operating Reserves target of 3 months (or 25%) of operating expenses and a Capital Reserves target of 50% of average replacement of assets, gradually increasing to 100% in FY17. The Operating Reserves will allow for adequate cash flow during disasters or other emergencies and the Capital Reserves will assist in building financial stability to support a healthy replacement program going forward.

### **Revenue Requirement Adjustment**

The long term financial plan, based on the projected operating, debt payments and capital improvement expenses as well as reserve requirements, reflects the need for next fiscal

year of \$1.6M and \$1.4M more revenue for the Water and Wastewater Fund, respectively. For FY14, another \$1.7M for Water and \$1.0M for Wastewater is projected. *For FY12, the financial plan reflects a beginning balance of \$21M and \$35M for the Water and Wastewater Fund, respectively. These balances, or retained earnings fluctuate year to year based on the actual amount of capital and operating funds expended. These funds are budgeted to near-term capital projects and are reflected in the cash flow projections for each utility.*

**Rate Structure**

The rate structure itself has remained essentially unchanged since its inception in the early 1990s. One of the objectives of the Cost of Service Study was to re-evaluate the equity and effectiveness of the rate structure to serve this community’s needs in the future. Based on the pricing objectives exercise, the Committee was presented with six different rate structures that identified customer class impacts at the December 14, 2011 meeting. *Those scenarios were narrowed down to three for each utility and customer impacts were shown with the new revenue requirements as projected in the first year of the financial plan at the January 18, 2012 meeting. The Committee generally agreed at the meeting that Scenario 2 for water rates and Scenario 3 for wastewater rates closely met the pricing objectives. The following provides an overview of all the presented options.*

Water Overview

Bi-monthly water charges are currently assessed based on a flat meter charge plus a per unit cost for each HCF used during the period. At this time, the meter service charge is approximately 19% of the total utility’s expense. To aid in revenue stability, it is recommended that this charge be increased to recover 25% of expenses. There are three scenarios proposed for the volumetric charges with Scenario 2 recommended based on its better alignment with current usage patterns.

<b>WATER (SERVICE CHARGE 25% + HCF VOLUME)</b>					
1	Current	Tier 1 (0-16)	Tier 2 (17-42)	Tier 3 (43+)	
2	Revise 3 Tiers	Tier 1 (0-14)	Tier 2 (15-30)	Tier 3 (31+)	
3	Revise 3-Tiers+Add 4th	Tier 1 (0-14)	Tier 2 (15-26)	Tier 3 (27-38)	Tier 4 (38+)

Wastewater Overview

The current wastewater rate structure sets each residential customer into one of six flat tiers each July for the next year based on the lowest water consumption during the previous November to April, when landscape watering is minimized due to rain and cooler weather. Scenario 2 proposes a flat bi-monthly charge for all residential customers.

*Scenario 3 proposes to assign each residential customer a charge based on the average water consumption during the previous November to February (four months) as the best estimate of each household’s flow to the collection system. Instead of six tiers, a fixed charge plus the average consumption number would be charged starting in July for the following year.*

*In recognition of irrigation usage even during the winter months of November to February, the flow charge is recommended to be capped at 20 HCF for single family and 16 HCF for multi-family customers. Approximately 31% of single family and 19% of multi-family households' actual water usage exceeded these caps during the proposed time period last fiscal year. The Committee requested more analysis as to impacts of removing the cap or changing the level of the cap.*

While more complicated to implement and explain, Scenario 3 is recommended for its nexus to water usage. Customers who use less water would experience reductions in both their water and their wastewater charges and greater water efficiency would be encouraged.

<b>WASTEWATER</b>		
<b>1: Current Annual Tiers</b>	<b>2: Residential Flat Charge</b>	<b>3: Fixed + Flow Charge</b>
Tier 1 (0-8)	Single Family	Single Family (capped at 20 HCF)
Tier 2 (9-10)	Multi-Family	Multi-Family (capped at 16 HCF)
Tier 3 (11-12)		
Tier 4 (13-14)		
Tier 5 (15-16+)		
Tier 6 (17+)		

**Revenue and Rate History**

Revenue history from FY95 through FY10 reflects a net increase of \$9,709,164 and \$7,593,055 for the Water and Wastewater Funds, respectively (Attachment C). Water residential and non-residential history is detailed for tier ranges, unit costs, and meter service charges (Attachment D). Wastewater rate history is charted for all customer groups (Attachment E).

**Estuary Protection Funding Options**

*The long range financial plan includes projected capital program funding to support the timeline to build a diversion infrastructure as defined by the settlement agreement for the Santa Clara River Estuary. The plan begins collecting revenue in FY13 with the goal of building a portion of the funds in a reserve which will provide stability to incur additional debt to fund the entire project at the point when its full scope is determined. There are two alternatives:*

- *Merge the cost into the rate adjustments without separation from other revenue requirements.*
- *Identify the amount separately for each customer on the utility bill as, for example, an Environmental Estuary Protection charge.*

Prepared by Nancy Broschart, Management Analyst  
For



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Shana Epstein  
Ventura Water General Manager

Attachment A – 2010 Urban Water Management Plan Base Daily Per Capita Water Use Chart

*Attachment B – Outside City Rate Differential Calculation*

Attachment C – Water (Fund 52) and Wastewater (Fund 51) Actual Revenue History By Fiscal Year

Attachment D – Water Rate History

Attachment E – Wastewater Rate History

**2010 URBAN WATER MANAGEMENT PLAN**

**Kennedy/Jenks Consultants**

**TABLE 2-3  
BASE DAILY PER CAPITA WATER USE**

<u>Base Period Year</u>		Distribution System Population	Daily System Gross Water Use (mgd)	Annual Daily per Capita Water Use (gcpd)	10 Year Average <sup>(a)</sup>	5 Year Average <sup>(a)</sup>
Sequence Year	Calendar Year					
Year 1	1995	101,022	16.3	161.6		
Year 2	1996	101,793	17.0	166.7		
Year 3	1997	102,409	17.1	166.6		
Year 4	1998	102,964	17.1	166.5		
Year 5	1999	103,606	17.8	171.4		
Year 6	2000	104,522	19.1	183.1		
Year 7	2001	105,254	18.8	178.3		
Year 8	2002	106,280	17.2	161.5		
Year 9	2003	107,905	17.3	160.4		
Year 10	2004	108,559	19.6	189.9	169.7	
Year 11	2005	109,153	18.0	165.2	170.1	
Year 12	2006	110,049	16.3	148.5	168.3	
Year 13	2007	110,894	16.8	152.0	168.9	161.8
Year 14	2008	111,439	16.6	149.1	165.1	159.3
Year 15	2009	112,499	15.7	139.3	161.9	151.0
Period Selected					161.9	161.6

Note:

(a) Average of previous 10 or 5 year period.

**Note:** This chart appears on page 2-5 of the 2010 UWMP. The entire document can be accessed at [www.cityofventura.net/water/conservation](http://www.cityofventura.net/water/conservation).

## Outside City Rate Differential Calculation

		NOTES
<b>Property Tax Component</b>		
Total Utility Assets	\$156,163,699	
Estimated Property Tax (a)	276,410	Assets City-owned and tax not assessed
<i>Unit Cost (\$/hcf)</i>	<i>\$0.05</i>	Divide (a) by total water sales of 6.2 million hcf*
<b>Police and Fire Component</b>		
Total City Assets	\$10,734,000	
Percentage of Utility Assets (b)	1.5%	
Police and Fire Budget (c)	44,000,000	Estimated GF budget
<i>Unit Cost (\$/hcf)</i>	<i>\$0.10</i>	(b) x (c) divided by 6.2 million hcf
<b>Water Supply Component</b>		
United water total cost	\$2.05	
Average treated water cost	1.47	
Difference (\$ per hcf)	\$0.58	
<b>TOTAL RATE DIFFERENTIAL PER HCF</b>	<b>\$0.73</b>	

\*HCF = 748 gallons

Actual Revenue History By Fiscal Year

Water		Fiscal Year															
Revenue	Program #	94 - 95	95 - 96	96 - 97	97 - 98	98 - 99	99 - 00	00 - 01	01 - 02	02 - 03	03 - 04	04 - 05	05 - 06	06 - 07	07 - 08	08 - 09	09 - 10
Fund 52		12,985,998	13,390,161	14,369,428	14,010,956	14,208,911	14,667,136	14,481,155	14,996,953	15,835,945	18,127,669	17,690,685	17,996,231	20,480,993	21,357,770	22,118,124	22,695,162
Increase/Decrease			404,162	979,268	-358,472	197,955	458,225	-185,980	515,798	838,991	2,291,725	-436,984	305,546	2,484,762	876,777	760,354	577,038

Wastewater		Fiscal Year															
Revenue	Program #	94 - 95	95 - 96	96 - 97	97 - 98	98 - 99	99 - 00	00 - 01	01 - 02	02 - 03	03 - 04	04 - 05	05 - 06	06 - 07	07 - 08	08 - 09	09 - 10
Fund 51		9,899,928	10,260,570	10,062,327	10,177,762	9,868,084	10,363,143	10,469,020	10,617,812	12,036,491	12,400,193	12,727,466	14,159,462	14,985,636	16,410,188	16,720,737	17,492,983
Increase/Decrease			360,642	-198,243	115,435	-309,679	495,060	105,877	148,792	1,418,679	363,702	327,273	1,431,996	826,174	1,424,552	310,548	772,246

**History of Residential City Customers Tier Ranges**

		Actual																									
		FY 88-89	FY 89-90	FY 90-91	FY 91-92	FY 92-93	FY 93-94	FY 94-95	FY 95-96	FY 96-97	FY 97-98	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	
<b>Single Family</b>	Tier 1	0 - 8	0 - 8	0 - 12	0 - 12	0 - 12	0 - 16	0 - 16	0 - 16	0 - 16	0 - 16	0 - 16	0 - 16	0 - 16	0-16	0-16	0-16	0-16	0-16	0-16	0-16	0-16	0-16	0-16	0-16	0-16	
	Tier 2	9 +	9 +	13 - 24	13 - 24	13 - 24	17 - 42	17 - 42	17 - 42	17 - 42	17 - 42	17 - 42	17 - 42	17 - 42	17-42	17-42	17-42	17-42	17-42	17-42	17-42	17-42	17-42	17-42	17-42	17-42	
	Tier 3			25 +	25 +	25 +	43 +	43 +	43 +	43 +	43 +	43 +	43 +	43 +	43 +	43 +	43 +	43 +	43 +	43 +	43 +	43 +	43 +	43 +	43 +	43 +	
<b>Multi Family</b>	Tier 1	No Distinction		0 - 8	0 - 8	0 - 8	0 - 8	0 - 10	0 - 10	0 - 10	0 - 10	0 - 10	0 - 10	0 - 10	0 - 10	0 - 10	0 - 10	0 - 10	0 - 10	0 - 10	0 - 10	0 - 10	0 - 10	0 - 10	0 - 10	0 - 10	
	Tier 2	between residential		9 - 16	9 - 16	9 - 16	9 - 24	11 - 24	11 - 24	11 - 24	11 - 24	11 - 24	11 - 24	11 - 24	11 - 24	11 - 24	11 - 24	11 - 24	11 - 24	11 - 24	11 - 24	11 - 24	11 - 24	11 - 24	11 - 24	11 - 24	
	Tier 3	customers		17 +	17 +	17 +	25 +	25 +	25 +	25 +	25 +	25 +	25 +	25 +	25 +	25 +	25 +	25 +	25 +	25 +	25 +	25 +	25 +	25 +	25 +	25 +	
				<b>Mandatory Conservation</b>																							

**History of Rates for Residential City Customers by Tier, Cost per HCF**

		Actual																									
		FY 88-89	FY 89-90	FY 90-91	FY 91-92	FY 92-93	FY 93-94	FY 94-95	FY 95-96	FY 96-97	FY 97-98	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	
Tier 1		\$0.638	\$0.665	\$0.96	\$0.96	\$1.165	\$1.206	\$1.29	\$1.29	\$1.29	\$1.29	\$1.29	\$1.29	\$1.29	\$1.29	\$1.41	\$1.47	\$1.53	\$1.60	\$1.67	\$1.82	\$1.91	\$2.02	\$2.02	\$2.02		
Tier 2		0.829	0.883	1.26	1.26	1.557	1.611	1.72	1.72	1.72	1.72	1.72	1.72	1.72	1.72	1.87	1.94	2.02	2.11	2.20	2.40	2.52	2.66	2.66	2.66		
Tier 3				1.98	1.98	2.48	2.567	2.75	2.75	2.75	2.75	2.75	2.75	2.75	2.75	3.00	3.12	3.24	3.39	3.53	3.85	4.04	4.27	4.27	4.27		
				<b>Mandatory Conservation</b>																							

**History of Rates for Non Residential City Customers, Cost per HCF**

		Actual																									
		FY 88-89	FY 89-90	FY 90-91	FY 91-92	FY 92-93	FY 93-94	FY 94-95	FY 95-96	FY 96-97	FY 97-98	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	
Non Residential		\$0.638	\$0.665	\$1.26	\$1.26	\$1.557	\$1.611	\$1.72	\$1.72	\$1.72	\$1.72	\$1.72	\$1.72	1.72	1.72	\$1.87	1.94	2.02	2.11	\$2.20	\$2.40	2.52	2.66	2.66	2.66		
tiered rate		0.829	0.883																								
Untreated		0.3354	0.3354	0.55	0.66	0.685	0.709	0.90	0.90	0.90	0.90	0.90	0.90	0.9	0.9	0.98	1.02	1.06	1.11	1.16	1.26	1.32	1.40	1.40	1.40		
Reclaimed							0.19	0.21	0.21	0.23	0.23	0.25	0.28	0.33	0.39	0.44	0.45	0.46	0.48	0.50	0.50	0.50	0.50	0.50	0.50		
				<b>Mandatory Conservation</b>																							

**History of Rates for BiMonthly Meter City Service Charge**

		Actual																								
		FY 88-89	FY 89-90	FY 90-91	FY 91-92	FY 92-93	FY 93-94	FY 94-95	FY 95-96	FY 96-97	FY 97-98	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13
5/8" & 3/4"		\$2.71	\$2.71	\$3.95	\$5.10	\$7.20	\$7.45	\$7.97	\$7.97	\$7.97	\$7.97	\$7.97	\$7.97	\$7.97	\$7.97	\$8.69	\$9.04	\$9.40	\$9.82	\$10.22	\$11.14	\$12.94	\$15.03	\$15.03	\$15.03	
1"		2.71	2.71	3.95	11.80	14.25	14.70	15.70	15.70	15.70	15.70	15.70	15.70	15.70	15.70	17.11	17.79	18.50	19.33	20.11	21.92	25.10	28.74	28.74	28.74	
1.5"		2.71	2.71	3.95	20.05	24.00	24.80	26.50	26.50	26.50	26.50	26.50	26.50	26.50	26.50	28.89	30.05	31.25	32.66	33.97	37.03	42.05	47.76	47.76	47.76	
2"		2.71	2.71	3.95	28.30	33.70	34.90	37.30	37.30	37.30	37.30	37.30	37.30	37.30	27.30	40.66	42.29	43.98	45.96	47.80	52.10	58.98	66.76	66.76	66.76	
3"		2.71	2.71	3.95	64.80	76.65	79.30	84.90	84.90	84.90	84.90	84.90	84.90	84.90	84.90	92.54	96.24	100.09	104.59	108.78	118.57	133.55	150.42	150.42	150.42	
4"		2.71	2.71	3.95	107.00	125.40	130.00	139.00	139.00	139.00	139.00	139.00	139.00	139.00	139.00	151.51	157.57	163.87	171.24	178.09	194.12	218.30	245.49	245.49	245.49	
6"		2.71	2.71	3.95	210.00	247.30	256.00	274.00	274.00	274.00	274.00	274.00	274.00	274.00	274.00	298.66	310.61	323.03	337.57	351.08	382.68	429.95	483.06	483.06	483.06	
8"		2.71	2.71	3.95	314.00	369.15	382.00	409.00	409.00	409.00	409.00	409.00	409.00	409.00	409.00	445.81	463.64	482.19	503.89	524.05	571.21	641.57	720.60	720.60	720.60	
10"		2.71	2.71	3.95	417.00	491.05	508.00	544.00	544.00	544.00	544.00	544.00	544.00	544.00	544.00	592.96	616.68	641.35	670.21	697.02	759.75	853.20	958.15	958.15	958.15	
12"		2.71	2.71	3.95	480.00	564.20	584.00	625.00	625.00	625.00	625.00	625.00	625.00	625.00	625.00	681.25	708.50	736.84	770.00	800.80	872.87	980.18	1,100.68	1,100.68	1,100.68	

**CITY OF VENTURA  
HISTORICAL WASTEWATER RATE DATA**

History of WASTEWATER Rates for Residential City Customers by Tier																						
	FY 91-92	FY 92-93	FY 93-94	FY 94-95	FY 95-96	FY 96-97	FY 97-98	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13
Tier 1	17.99	19.72	19.72	20.95	20.95	20.95	20.95	20.95	20.95	20.95	20.95	20.95	\$23.67	\$24.14	\$25.11	\$26.49	\$27.55	\$30.00	\$32.04	\$34.27	\$34.27	\$34.27
Tier 2	28.81	31.58	31.58	25.70	25.70	25.70	25.70	25.70	25.70	25.70	25.70	25.70	29.04	29.62	30.81	32.50	33.80	36.98	39.50	42.24	42.24	42.24
Tier 3	38.36	42.06	42.06	30.44	30.44	30.44	30.44	30.44	30.44	30.44	30.44	30.44	34.40	35.09	36.49	38.50	40.04	43.78	46.75	50.00	50.00	50.00
Tier 4				35.18	35.18	35.18	35.18	35.18	35.18	35.18	35.18	35.18	39.76	40.56	42.18	44.50	46.28	50.57	54.01	57.76	57.76	57.76
Tier 5				39.93	39.93	39.93	39.93	39.93	39.93	39.93	39.93	39.93	45.12	46.02	47.86	50.49	52.51	57.36	61.26	65.51	65.51	65.51
Tier 6				44.67	44.67	44.67	44.67	44.67	44.67	44.67	44.67	44.67	50.48	51.49	53.55	56.50	58.76	64.16	68.52	73.27	73.27	73.27
<b>Single Family Only</b>																						

History of WASTEWATER Tier Range by HCF for Residential City Customers																						
	FY 91-92	FY 92-93	FY 93-94	FY 94-95	FY 95-96	FY 96-97	FY 97-98	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13
Tier 1	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8
Tier 2	9-16	9-16	9-16	9-10	9-10	9-10	9-10	9-10	9-10	9-10	9-10	9-10	9-10	9-10	9-10	9-10	9-10	9-10	9-10	9-10	9-10	9-10
Tier 3	17+	17+	17+	11-12	11-12	11-12	11-12	11-12	11-12	11-12	11-12	11-12	11-12	11-12	11-12	11-12	11-12	11-12	11-12	11-12	11-12	11-12
Tier 4				13-14	13-14	13-14	13-14	13-14	13-14	13-14	13-14	13-14	13-14	13-14	13-14	13-14	13-14	13-14	13-14	13-14	13-14	13-14
Tier 5				15-16	15-16	15-16	15-16	15-16	15-16	15-16	15-16	15-16	15-16	15-16	15-16	15-16	15-16	15-16	15-16	15-16	15-16	15-16
Tier 6				17+	17+	17+	17+	17+	17+	17+	17+	17+	17+	17+	17+	17+	17+	17+	17+	17+	17+	17+
<b>Single Family Only</b>																						

History of WASTEWATER Rates for Multi City Customers by Tier									
	FY 91-92			FY 92-93			FY 93-94		
	2-Units	3-Units	4+ - Units	2-Units	3-Units	4+ - Units	2-Units	3-Units	4+ - Units
Tier 1	35.98	53.97	28.81	39.44	59.16	31.58	39.44	59.16	31.58
Tier 2	28.81	28.81		31.58	31.58		31.58	31.58	
Tier 1	0-16	0-24	0+	0-16	0-24	0+	0-16	0-24	0+
Tier 2	17+ pu	25+ pu	per unit	17+ pu	25+ pu	per unit	17+ pu	25+ pu	per unit

History of WASTEWATER Rates for Commercial City Customers by Group																						
	FY 91-92	FY 92-93	FY 93-94	FY 94-95	FY 95-96	FY 96-97	FY 97-98	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13
Group 1 - Tier 1	11.74	12.41	12.41	13.46	13.46	13.46	13.46	13.46	13.46	13.46	13.46	13.46	\$15.20	\$15.50	\$16.12	\$17.01	\$17.70	\$13.95	\$14.90	\$16.07	\$16.07	\$16.07
Group 1 - Tier 2	1.47	1.55	1.55	1.68	1.68	1.68	1.68	1.68	1.68	1.68	1.68	1.68	1.90	1.94	2.02	2.13	2.22	2.18	2.44	2.63	2.63	2.63
Group 2 - Tier 1	13.67	14.52	14.52	15.48	15.48	15.48	15.48	15.48	15.48	15.48	15.48	15.48	17.28	17.63	18.34	19.35	20.13	19.97	22.59	24.26	24.26	24.26
Group 2 - Tier 2	1.71	1.82	1.82	1.94	1.94	1.94	1.94	1.94	1.94	1.94	1.94	1.94	2.16	2.20	2.29	2.42	2.52	2.58	2.94	3.15	3.15	3.15
Group 3 - Tier 1	22.91	24.00	24.00	26.42	26.42	26.42	26.42	26.42	26.42	26.42	26.42	26.42	29.04	29.62	30.80	32.49	33.79	36.08	36.08	36.38	36.38	36.38
Group 3 - Tier 2	2.86	3.00	3.00	3.30	3.30	3.30	3.30	3.30	3.30	3.30	3.30	3.30	3.63	3.70	3.85	4.06	4.23	4.44	5.07	5.39	5.39	5.39
Group 4 - Tier 1	30.42	31.55	31.55	31.50	31.50	31.50	31.50	31.50	31.50	31.50	31.50	31.50	34.64	35.33	36.74	38.76	40.32	46.64	53.62	56.79	56.79	56.79
Group 4 - Tier 2	3.8	3.94	3.94	3.94	3.94	3.94	3.94	3.94	3.94	3.94	3.94	3.94	4.33	4.42	4.60	4.85	5.05	5.87	6.64	7.03	7.03	7.03
Group 5 - Tier 1	29.22	30.57	30.57	31.44	31.44	31.44	31.44	31.44	31.44	31.44	31.44	31.44	34.56	35.25	36.66	38.68	40.23	40.02	45.01	47.74	47.74	47.74
Group 5 - Tier 2	3.65	3.82	3.82	3.93	3.93	3.93	3.93	3.93	3.93	3.93	3.93	3.93	4.32	4.41	4.59	4.84	5.04	5.57	6.20	6.57	6.57	6.57
Group 6 - Flat	38.36	42.06	42.06	44.67	44.67	44.67	44.67	44.67	44.67	44.67	44.67	44.67	50.48	51.49	53.55	56.50	58.76	64.16	68.52	73.27	73.27	73.27

History of WASTEWATER Tier Range by HCF for Commercial City Customers																						
	FY 91-92	FY 92-93	FY 93-94	FY 94-95	FY 95-96	FY 96-97	FY 97-98	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13
Tier 1	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8	0-8
Tier 2	9+	9+	9+	9+	9+	9+	9+	9+	9+	9+	9+	9+	9+	9+	9+	9+	9+	9+	9+	9+	9+	9+

NOTE: Tier range applies to all commercial groups, except group 6, which is a flat rate.

**ATTACHMENT D**

**PASS THROUGH ORDINANCE  
CURRENT AND  
RECOMMENDED LANGUAGE**

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**Pass Through Language of Adopted Ordinance:**

*G. Pass-through charges.* An increase in cost of water or energy purchased by the city or pump charges established or increased by other agencies which shall take effect subsequent to July 1, 1992, shall be passed through to all water users except those in the 0—16 hcf consumption block for the single-family residential customer classification, and 0—10 hcf consumption block for the multifamily residential customer classification, 0—16 hcf consumption block for the nonresidential customer classification and 0—16 hcf consumption block for the raw water (nonpotable, non-fully treated water) customer classification. Pass-through cost shall be in the form of a quantity rate surcharge, effective as of the date of said pump charge and of the purchased water or energy cost increase.

The city manager shall determine the amount of the surcharge increase by estimating the annual increase in cost of purchased water or pump charge and dividing this cost by the quantity of water consumed in the preceding year. The surcharge shall be computed separately for treated and untreated water sales.

**Draft Proposed Pass Through Language**

The rates charged for all water and wastewater supplied by the city shall be established by ordinance of the city council. Each customer receiving water or wastewater service is liable for payment for such service at the rates so established.

The city council authorizes the imposition of future water or wastewater rate increases when the water rates, pumping charges, sludge ~~removal~~ disposal charges or other utility charges for water purchased or used by the city, or wastewater treatment costs, increase as a result of increased charges to the city from other agencies, including *and but not* limited to *Southern California Edison*, the United Water Conservation District, Casitas Municipal Water District, Ventura Regional Sanitation District, and the State Water Project *or any of these agency's successors*. Such increases shall be derived from and based solely upon the increases in the rates, pumping charges, or other utility charges that the city pays for the water purchased or used, or wastewater treatment costs.

The general manager of Ventura Water shall provide written notice *to the City Council and customers* of any such rate increases not less than thirty (30) days before the effective date of the rate increases. Any such notice may be provided in the city's regular billing statements.

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**ATTACHMENT E**

**PUBLIC ART REGARDING  
WATER AND WASTEWATER  
ENTERPRISE FUND CAPITAL  
PROJECTS ADMINISTRATIVE  
REPORT**

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# ADMINISTRATIVE REPORT

Date: January 19, 2012

Agenda Item No.: 3

Meeting Date: January 25, 2012

**To: COST OF SERVICE AND RATE DESIGN CITIZEN ADVISORY COMMITTEE**

**From: SHANA EPSTEIN, VENTURA WATER GENERAL MANAGER**

**Subject: PUBLIC ART REGARDING WATER AND WASTEWATER ENTERPRISE FUND CAPITAL PROJECTS**

## **RECOMMENDATION**

Upon approval of this action, the Committee recommends to the City Council to remove the Water and Wastewater Enterprise Funded Capital Projects from the 2% Public Art obligation *in order to remove an undue hardship on the customers of Ventura Water to support public art as part of paying for water and wastewater services.*

## **SUMMARY**

The Committee has requested staff to formulate a recommendation to the affect above after reports from Community Partnerships staff regarding the Public Art program and the City Attorney's legal opinion that the Public Art program is admissible by Proposition 218 to be applied to water and wastewater enterprise fund capital projects. *The Committee requested stronger reasoning in the recommendation and requested staff to return with this item on January 25, 2012.*

## **DISCUSSION**

*The majority of the Committee is opposed to water and wastewater customers contributing to the Public Art program indirectly through their utility bills. Customers' rates include operational costs and capital improvement costs. New capital improvement projects include a 2% construction cost obligation toward the Public Art program. The Committee would prefer customers actively choose to support Public Art through direct donations rather than embedded in the rates. This decision was reached after thorough discussion*

*and requested information from three City Departments: City Attorney, Recreation, Parks & Community Partnerships, and Finance and Technology.*

Attached is a summary of Ventura Water's participation in the Public Art Program. In compliance with City Policy, Ventura Water has contributed a total of \$3,145,620.97 to the Public Art Program (Fund 19). A total of \$1,431,249.91 has been collected from the Wastewater Fund 71 and a total of \$1,714,371.06 from the Water & State Water Revolving Fund 72 and 74.

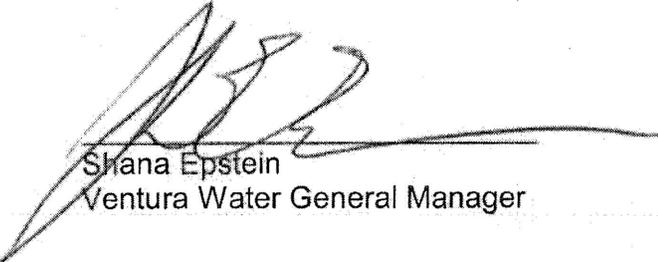
Fund 71 public art project, Harbor Wastewater Wetlands, is currently on hold, pending the future use of the ponds. However, the project team has conducted interviews with key stakeholders, two focus group workshops, and a town hall meeting. The draft vision was approved by the Commission in December 2007. A total of \$431,265.27 has been expensed to support this project.

Projects completed as funded through Fund 72 and 74 include the gates at the Avenue Water Treatment Plant depicting an assembly of mechanical designs associated with water projects, enhancements to the entrance at the Golf Course Booster Pump Stations, and McWherter Conservation Garden Booster Pump Station improvements, which include native plantings and amenities to increase water conservation landscaping. A total of \$582,294.53 has been expensed to support these three public art projects.

In addition, the Redevelopment Agency of the City of San Buenaventura was issued a promissory note of \$1,000,000.00 from Fund 19 through Fund 72 contributions, which City Council approved on February 4, 2008 to facilitate the construction of the Working Artists Ventura ("WAV") development in the City.

This reflects a cash balance of \$999,984.64 from Fund 71 and \$132,076.53 from Fund 72 & 74 for a total of \$1,132,061.17.

Also, attached for your reference is the City Attorney's legal opinion for the Public Art Program and the Municipal Code Chapter 4.610-Public Art Program.



Shana Epstein  
Ventura Water General Manager

Attachments:  
Public Art Actuals.xlsx  
Public Art City Atty 12-8-2011.pdf  
Public Art Muni code.pdf

VENTURA WATER - PUBLIC ART PROGRAM STATUS AS OF JANUARY 2012

CONTRIBUTED	Fund 71	Fund 72/74	Total	Actual %
Administration <sup>[1]</sup>	\$ 204,957.34	\$ 227,250.60	\$ 432,207.94	14%
Project	\$ 1,226,292.57	\$ 1,487,120.46	\$ 2,713,413.03	86%
	<u>\$ 1,431,249.91</u>	<u>\$ 1,714,371.06</u>	<u>\$ 3,145,620.97</u>	
EXPENSED	Fund 71	Fund 72/74	Total	
Administration	\$ 204,957.34	\$ 227,250.60	\$ 432,207.94	43%
Project	\$ 226,307.93	\$ 355,043.93	\$ 581,351.86	57%
	<u>\$ 431,265.27</u>	<u>\$ 582,294.53</u>	<u>\$ 1,013,559.80</u>	
Project Cash Balance	\$ 999,984.64	\$ 1,132,076.53	\$ 2,132,061.17	
WAV Loan		\$ 1,000,000.00	\$ 1,000,000.00	
Expires on: Jan 26, 2010				
1/26/2008 Original				
6/30/2010 First Amend <sup>[2]</sup>				
Expires on: March 1, 2012				
3/14/2011 Second Amend <sup>[3]</sup>				
Expires on: Dec. 1, 2016				
Total Loans		<u>\$ 1,000,000.00</u>	<u>\$ 1,000,000.00</u>	
NEW Cash Balance	\$ 999,984.64	\$ 132,076.53	\$ 1,132,061.17	
AS ORIGINALLY PROPOSED/PLANNED	Fund 71	Fund 72/74	Total	
Harbor Wetland Phase I	\$ 440,000.00		\$ 440,000.00	
Harbor Wetland Phase II	\$ 400,000.00		\$ 400,000.00	
Avenue Gates		\$ 223,000.00	\$ 223,000.00	
Golf Course BPS		\$ 40,000.00	\$ 40,000.00	
McWherter Conservation Garden		\$ 75,000.00	\$ 75,000.00	
	<u>\$ 840,000.00</u>	<u>\$ 338,000.00</u>	<u>\$ 1,178,000.00</u>	

Notes:

[1] Per Public Art Program SBMC section 4.610.040.B, "Monies appropriated under this ordinance may be used for operating costs of the public art program, but in no event should such costs exceed 20 percent of the public art fund."

[2] - Per first amendment to promissory note: The loan and this note shall have a term (the "Term") that expires on the earlier of (i) March 1, 2012 or (b) thirty (30) days after the last unit in the Project is sold

[3] - Per second amendment to promissory note: The loan and this note shall have a term (the "Term") that expires on the earlier of (i) December 1, 2016, or (b) thirty (30) days after the last unit in the Project is sold

CITY OF VENTURA  
**CITY ATTORNEY**

December 8, 2011

To: Shana Epstein, General Manager, Ventura Water  
From: Ariel Calonne, City Attorney  
Subject: Applicability of the City's Public Art Program to Ventura Water Capital Improvement Projects

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**Question Presented**

May the City lawfully impose its "2% for Public Art" program upon projects undertaken by Ventura Water?

**Short Answer**

Yes. Public art charges pursuant to Chapter 4.610 of the San Buenaventura Municipal Code (the City's public art program) are lawful elements of the cost of service which may be constitutionally recovered from ratepayers by the City via Ventura Water's rates.

**Discussion**

Under both the pre-Proposition 218 California Constitution and the common law of utility ratemaking, utility charges may not exceed the "reasonable" cost of providing the service in question. (*Hansen v. City of San Buenaventura* (1986) 42 Cal.3d 1172, 1180-1181 ["reasonableness, then, is the beginning and end of the judicial inquiry."]; *Beaumont Investors v. Beaumont-Cherry Valley Water Dist.* (1985) 165 Cal.App.3d 227, 234-235.) The post-Proposition 218 inquiry is similar:

The theme of these sections [of Proposition 218] is that fee or charge revenues may not exceed what it costs to provide fee or charge services. ***Of course, what it costs to provide such services includes all the required costs of providing service, short-term and long-term, including operation, maintenance, financial, and capital expenditures.*** The key is that the revenues derived from the fee or charge are required to provide the service, and may be used only for the service. In short, the section 6(b) fee or charge must reasonably represent the cost of providing service. (*Howard Jarvis Taxpayers Ass'n v. City of Roseville* (2002) 97 Cal.Ap.4<sup>th</sup> 637, 647-648; emphasis added.)

RE: Applicability of the City's Public Art Program to Ventura Water Capital Improvement Projects

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We look next to the Council's enabling powers to determine what the appropriate costs of service may include. City Charter Section 1406 authorizes the City Council to establish and operate municipal utilities:

Section 1406. Establishment of public utilities.

The City may establish, acquire, lease, and/or operate, or cease to operate and dispose of, public utilities and quasi-public utilities or any part thereof, at its own option ***in the manner provided by the laws now existing or hereafter enacted***, or by the majority vote of the registered qualified electors of the City in the manner provided by ordinance enacted by the Council by the affirmative vote of five members of such Council. All amendments of such ordinances shall require a like vote. (Emphasis added.)

Likewise, Charter Section 1210 requires the Council to review and adopt a five-year capital improvement program:

Section 1210. Capital improvement program.

The Manager shall prepare and submit to the Council a five-year capital improvement program at least three months prior to the final date for submission of the budget. The contents of the program shall include:

- (a) A clear general summary of its contents.
- (b) A list of all capital improvements which are proposed to be made during the next five fiscal years, with appropriate supporting information as to the necessity for such improvements.
- (c) Cost estimates, method of financing and recommended time schedules for each such improvement.
- (d) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

On or before the first day of April of each year, the Council shall hold a public hearing and adopt by resolution a capital improvement program, with or without amendments.

Finally, and most critically, the Council has exercised its charter-based powers to enact San Buenaventura Municipal Code Chapter 4.610 establishing the City's Public Art Program. That program carefully includes utility projects within the definition of "eligible capital improvement project." (SBMC, § 4.610.020.) The program specifically provides that "[a]s part of the annual capital improvement plan budget, the city council will

RE: Applicability of the City's Public Art Program to Ventura Water Capital Improvement Projects

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appropriate within each project two percent of each eligible capital improvement project for public art." (SBMC, § 4.610.030 A.)

Taking these powers together, it is clear that the City Council, as the City's ratemaking authority, has determined that the public art program constitutes a reasonable cost of service for capital improvements attributable to Ventura Water. While we have found no case directly testing public art programs against California's evolving constitutional rate, fee and tax restrictions, it seems reasonable enough to require, essentially, that City utility improvements mitigate some of their impact on the public spaces of the community through public art improvements. We believe that a court would conclude that such expenditures are a reasonable cost of service for Ventura Water.

## **Chapter 4.610 - Public Art Program** <sup>[36]</sup>

Sec. 4.610.010. - Intent and purpose.

Sec. 4.610.020. - Definitions.

Sec. 4.610.030. - Funding.

Sec. 4.610.040. - Use of funds.

Sec. 4.610.050. - Public art funds.

Sec. 4.610.060. - Annual projects plan.

Sec. 4.610.070. - Public art commission.

Sec. 4.610.080. - Ownership.

Sec. 4.610.090. - Application.

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Sec. 4.610.010. - Intent and purpose.

The city council of the City of San Buenaventura accepts responsibility for expanding the opportunities for its citizens to experience public art and other projects resulting from the creative expression of artists in public places throughout the city. The city further recognizes the substantial economic benefits to be gained through aesthetic enhancement of its public spaces and consequent retail activity throughout the city. A policy is hereby established to direct the inclusion of works of art in public spaces throughout the city and/or the design services of artists in certain city capital improvement projects.

(Code 1971, § 1820.1; Ord. No. 2000-05, § 1, 2-8-00)

Sec. 4.610.020. - Definitions.

The following terms are defined for the purpose of the ordinance:

*Annual projects plan* means a prioritized list of arts projects developed by the public art supervisor in conjunction with the appropriate city departments and in consultation with the

public art commission to be approved by the city council concurrent with the capital improvement plan and budget.

*Eligible capital improvement project* means any capital improvement paid for wholly or in part by funds appropriated by the City of San Buenaventura to construct or remodel a building, decorative or commemorative structure, park, street, sidewalk, parking facility, or utility or any portion thereof, within the city limits of, or under the jurisdiction of, the City of San Buenaventura. Specifically excluded from this definition are street resurfacing and water and sewer line replacement projects.

*Eligible capital improvement project budget* means project appropriations, including land acquisition, contracted planning and design services, construction, contracted construction management services and capital equipment, but not including, legal fees, demolition, soils remediation, and portable equipment of standard manufacture.

*Public art fund* means a fund established for the purpose of tracking the public art program that will consist of specific accounts established according to fund source and can include sources other than the capital improvement plan as may be appropriate.

*Public art projects* involve all necessary tasks associated with the selection of sites for art works through their design, construction and installation.

*Public art supervisor* means either a contract consultant hired for this purpose, the position of public art supervisor, or the city manager or designee.

*Public artworks* means enduring original works of public art. The art should be integral to both the location and the associated work of other design professionals. They should contribute to a sense of place and enhance the quality of life in the city by contributing to its unique identity. The works of art should be of the highest quality and engage one's mind and senses. They should be of a lasting nature, but may incorporate such transitory design elements as light, sound, odor and touch. While they are the creation of an artist, the art works may rely on natural forces and human interaction to be fulfilled. The artworks may be permanently sited or be portable, and may serve as venues for various performing and cultural art forms.

(Code 1971, § 1820.2; Ord. No. 99-15, § 1, 2, 6-21-99; Ord. No. 2000-05, § 1, 2-8-00)

Sec. 4.610.030. - Funding.

A.

*Appropriations.* As part of the annual capital improvement plan budget, the city council will appropriate within each project two percent of each eligible capital improvement project for public art. Public art monies will be transferred to the public art fund each time a contract for any portion of the overall eligible capital improvement project is approved. The two percent will be based upon the approved contract amount. Further adjustments will not be made if the project's completion produces a final cost that is different from the council's initial award of contract.

B.

*Pooling.* Funds appropriated for the public art program through a two percent dedication from any one capital improvement project, but not deemed necessary or appropriate to be expended in total or in part for public art at said project site, may be expended on other projects approved under an annual projects plan when such funds are eligible to be so used.

C.

*Exclusions.* If the source of funding or other applicable law or regulation with respect to any particular capital improvement project or portion thereof prohibits or restricts the use of the two percent dedication of such funds for art in public places, this ordinance shall not apply to those funds so prohibited or restricted.

D.

*Grant applications.* All city departments shall, from the effective date of this ordinance, include in applications to outside granting authorities for capital improvement projects which will include site-specific artwork, amounts for artists' services and/or artworks as specified herein, where permitted or unless otherwise waived by the city council. Receipt of such funds shall be administered as part of the city's public art program.

E.

*Waiver.* The city council may exclude certain capital improvement projects or budgeted portions thereof from the provisions of this ordinance by passage of an authorizing motion.

(Code 1971, § 1820.3; Ord. No. 99-15, §§ 1, 4—6, 6-21-99; Ord. No. 2000-05, § 1, 2-8-00)

Sec. 4.610.040. - Use of funds.

A.

Monies appropriated under this ordinance may be used for hiring artists to develop design concepts and for the selection, acquisition, purchase, and commissioning of public artworks. Artist fees may also include the following:

1.

Structures which enable the display of artwork(s).

2.

Artistic design and fabrication fees.

3.

Labor of assistants, materials, and contracted services, including engineering, required for the production and installation of the work of art.

4.

Any required permit or certificate fees, business and legal costs directly related to the project.

5.

Dealer's fees of up to 15 percent of the artist's fee to be paid as a dealer or gallery commission, if necessary and where appropriate.

6.

Communication and other indirect costs (insurance, utilities, travel and per diem expenses).

7.

Transportation of the work of art to the site.

8.

Preparation of site to receive artwork.

9.

Installation of the completed work of art.

B.

Monies appropriated under this ordinance may be used for operating costs of the public art program, but in no event should such costs exceed 20 percent of the public art fund. Eligible costs may include the following:

1.

Costs incurred in the process of managing the public art program including staff time, direct costs and overhead.

2.

Documentation (color slides and black and white photographs) of the artwork's fabrication and installation and plaques to identify the artwork.

3.

Costs to maintain and refurbish public art when the cost of such maintenance exceeds funds currently available for the maintenance of public property in general.

4.

Other expenses which are, or may become, an integral part of the public art program, including community educational activities and public dedications of completed art works.

C.

Monies appropriated under this ordinance shall not be used for the following:

1.

Directional elements such as supergraphics, signage, or color coding except where these elements are integral parts of the original work of art or executed by artists in unique or limited editions.

2.

"Art objects" which are mass produced of standard design such as playground equipment or fountains.

3.

Reproduction, by mechanical or other means, of original works of art, except in cases of film, video, photographs, printmaking or other media arts.

4.

Decorative or functional elements, or architectural details, which are designed solely by the building architect as opposed to an artist commissioned for this purpose working individually or in collaboration with the building architect.

5.

Landscape architecture and landscape gardening except where these elements are designed by the artist and are an integral part of the work of art by the artist.

(Code 1971, § 1820.4; Ord. No. 99-15, §§ 1, 5, 6-21-99; Ord. No. 2000-05, § 1, 2-8-00)

Sec. 4.610.050. - Public art funds.

A.

Funds appropriated to the public art fund within each capital improvement fund, if not expended in any given fiscal year, shall be carried over to the next fiscal year. Funds appropriated from sources placing time restrictions on expenditure of such funds shall be expended according to such restrictions. Funds in the public art fund be used solely for the public art program.

B.

Disbursements from the public art fund shall be made in accordance with the annual projects plan adopted by the city council as part of the capital improvement program and budget.

(Code 1971, § 1820.5; Ord. No. 99-15, §§ 1, 5, 6-21-99; Ord. No. 2000-05, § 1, 2-8-00)

Sec. 4.610.060. - Annual projects plan.

The public art supervisor and appropriate city departments, in consultation with the public art advisory committee, shall review all on-going and new capital improvement projects from any eligible funds, grants and other sources at least once a year. An annual projects plan, including project descriptions, budgets, locations, and recommended design approaches, will be submitted to the city council for approval and implementation as part of the annual capital improvement program and budget process.

(Code 1971, § 1820.6; Ord. No. 99-15, §§ 1, 3—5, 6-21-99)

Sec. 4.610.070. - Public art commission.

A public art commission will be appointed by and be advisory to the city council. The commission will provide general oversight of the public art program, its projects, the sites, project scopes, artworks, and artists for public art projects. The composition and responsibilities of the public art commission will be established by ordinance or city council resolution.

(Code 1971, § 1820.7; Ord. No. 99-15, § 7, 6-21-99)

Sec. 4.610.080. - Ownership.

All art objects acquired by monies appropriated pursuant to this ordinance shall be acquired in the name of the City of San Buenaventura and title shall vest in the City of San Buenaventura.

(Code 1971, § 1820.8)

Sec. 4.610.090. - Application.

This ordinance shall apply to all existing and future capital improvement projects that begin construction on or after July 1, 1992.

(Code 1971, § 1820.9)

Sec. 4.610.100. - Severability.

Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance be declared unconstitutional or invalid for any reason, such declaration shall not affect the validity of the remaining portions of this ordinance.

(Code 1971, § 1820.10)

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**ATTACHMENT F**

**COST OF SERVICE AND  
RATE DESIGN ADVISORY  
COMMITTEE CIVIC  
ENGAGEMENT**

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## COST OF SERVICE AND RATE DESIGN ADVISORY COMMITTEE

## CIVIC ENGAGEMENT

Date		Avenue	Reach
1/16/12	"Attend Rate Review Committee Meeting Jan. 18"	Ventura Water's E-blast, Ventura Water's Facebook, Twitter	2,483, FB: 128
1/11/12	Review of Dec. Rate Review Meeting and Advance of Jan. 18 Meeting	Pipeline E-Newsletter #4	2,490
12/9, 13/11	Attend the Dec. 14 Rate Review Meeting	Ventura Water's E-blast, Ventura Water's Facebook, Twitter	2,450, FB: 162
12/1 – 2/8/12	Rate Committee Meeting Information and Links	Water and Wastewater Rate Bills (backside)	32,000
11/23, 30, 12/2/11	Attend Rate Review Meeting on Dec. 14 Press Release	City website	5,000
11/22/11	Review of latest Rate Committee Meeting and Advance of Dec. 14 Rate Review Meeting.	Pipeline E-Newsletter #3	2,450
11/11, 15/11	"Attend Rate Review Meeting on Nov. 16"	Ventura Water's E-Blast, Ventura Water's Facebook, Twitter	2,450
11/4/11	"Attend Rate Review Meeting on Nov. 16" Press Release	City website	5,000
10/27/11	"Attend Rate Review Meeting on Nov. 16" Press Release	Ventura Breeze	11,000
10/19/11	"Rate Advisory Committee Formed"	Ventura Breeze article	11,000
10/18/11	Advance Nov. 16 Rate Review Meeting and review Oct. 12 meeting	Pipeline E-Newsletter #2	2,450
10/11/11	"Ventura committee to examine city's water needs"	Ventura County Star	20,369
10/10/11	Attend Oct. 12 Rate Advisory Committee Meeting Press release	City website	5,000
10/9/11	"Diane de Mailly: Safeguarding a precious resource" Op Ed piece	Ventura County Star Sunday Newspaper	20,369
10/8/11	"Diane de Mailly: Safeguarding a precious resource" Op Ed piece	Posted online at VCStar.com	Approx. 10,000 impressions

## ATTACHMENT F

10/6, 11/11	"Attend Rate Advisory Meeting Oct. 12"	Ventura Water's E-Blast, Ventura Water's Facebook, Twitter	2,450 customers, FB: 500
10/5 - 12/11	Online banner ads "Be a Part of Ventura's Water Future -Attend Oct. 12 Meeting"	Ventura Chamber's website	Approx. 4,000 impressions
10/5-12/11	Online banner ad "Be a Part of Ventura's Water Future -Attend Oct. 12 Meeting"	Ventura County Star's website	25,000 impressions
10/5, 6, 7, 10, 11/11	"Be a Part of Ventura's Water Future -Attend Oct. 12 Meeting" 30 second spots	KVTA Radio	4,000 each day
10/7/11	"Be a Part of Ventura's Water Future -Attend Oct. 12 Meeting" Advertisement (2 col. x 5" ad)	Ventura Extra!	29,126
10/6/11	"Be a Part of Ventura's Water Future -Attend Oct. 12 Meeting" Advertisement (4.8" x 5.8" ad)	VC Reporter	33,000
10/5/11	"Be a Part of Ventura's Water Future -Attend Oct. 12 Meeting" Advertisement (4.8"x 7.75" ad)	Ventura Breeze	11,000
10/5, 7, 8, 12/11	"Be a Part of Ventura's Water Future -Attend Oct. 12 Meeting" Advertisement (2 col. x 5" ad)	Ventura County Star	20,369 each date
9/8/11	Seeking Committee Members	City website, Facebook, Twitter	5,000, FB: 33
9/1/11	Deadline Extended For Applications	City website, Facebook, Twitter	5,000, FB: 182
8/31/11	Seeking Committee Members	City website, Facebook, Twitter	5,000, FB: 83
8/27/11	Seeking Committee Members	Facebook, Twitter	FB: 157
8/22/11	Seeking Committee Members	Facebook, Twitter	FB: 205
8/18/11	Seeking Committee Members	Facebook, Twitter	FB: 98
8/9/11	Committee Formation Announced and Applications Posted	City website, Facebook, Twitter	5,000, FB: 90