



Board Agenda Item 11

DATE: May 25, 2021

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Public Works and Planning

SUBJECT: Protest Hearing on Water Service Fee Increase for County Service Area 39AB -
Beran Way/Prospect

RECOMMENDED ACTION(S):

Conduct Hearing and receive written protests from County Service Area 39AB, Beran Way/Prospect, property owners on a proposal to adjust the water service fee, as required under California Constitution Article XIII D, Section 6 (Proposition 218) and upon completion of the public protest hearing, approve item A or B.

- A. If the Board finds that there is not a majority protest, adopt a Resolution establishing increased water service fees for County Service Area 39AB, Beran Way/Prospect, effective July 1, 2021.**
- B. If the Board finds that there is a majority protest, make a finding that there is a majority protest and abandon proceedings to increase the water service fee. Direct staff to hold a public meeting announcing immediate cost saving steps.**

The proposed increased water service fee is recommended to fund Operations and Maintenance (O&M) of the community water system and the purchase of water and address the anticipated replacement or repair of certain capital components in the upcoming years. The proposed increased water service fee includes a base fee for all water users for the operation and maintenance of the water system, and a commodity fee to be charged based on water usage. If there is a majority protest, there will be insufficient funds to meet the O&M of the water system and the County may be unable to pay water service fees charged to the County by the City of Fresno (City) which is the water providing company. This item pertains to a location in District 1.

ALTERNATIVE ACTION(S):

Staff have not identified any viable alternative. If the Board declined to conduct the hearing as recommended, or if there were a majority protest by the property owners, so that the increased fee cannot be charged, then there would be insufficient funds to meet the O&M of the water system and County Service Area (CSA) 39AB (District) may be unable to pay water service fees charged to CSA 39AB by the City.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions. All costs associated with CSA 39AB, including those associated with the protest hearing, are paid for by the benefitting properties. All costs for the O&M of the water services shall be paid from the fee charged to the benefitting properties within the District. The current revenues are not sufficient to cover the O&M costs. The County is contractually obligated with the City to operate, repair and maintain the District's water system pursuant to California Department of Public Health regulations. The City also charges the County for the water that

serves the District. If there were a majority protest by CSA 39AB property owners, so that the increased fee could not be charged, then there would be insufficient funds to meet the O&M of the water system and CSA 39AB may be unable to pay water service fees charged to CSA 39AB by the City. Also, Department of Public Works and Planning staff would hold a public meeting with the community to discuss immediate cost saving steps and possible ramifications by the City if CSA 39AB is unable to pay the City's water service fees, which could include the City shutting off their water service. If the fee increase is implemented, then in compliance with the CSA Revolving Fund program established by the Board through Resolution 17-121, staff will return to your Board at a later date to request a temporary loan.

DISCUSSION:

The District was formed in 1990 to provide domestic water service to two residential subdivisions west of the City (see attached site map), near Valentine and Jensen Avenues and includes West Park Elementary School. Currently 140 dwellings and the school are connected to the District's water system.

This fee increase is proposed because the current fee structure no longer generates sufficient revenue to meet the District's expenses. The last fee increase was approved by the property owners on October 7, 2014. The District's O&M costs have increased 54.5% since FY 2015-16, a difference of \$49,396 between FY 2015-16 and FY 2019-20 O&M expense. The current water fee was determined based on services, supplies, and labor costs at the time, but the costs of operating the water system have exceeded revenues due to rising cost of water from the City, who supplies water to the District, and inflation. Consequently, cash reserves are completely depleted. Going forward, revenues need to be increased to not only meet expenses, but also to rebuild cash reserves within five years. If the fee increase is implemented, in compliance with the CSA Revolving Fund program established by the Board through Resolution 17-121, staff will return to your Board at a later date to request a temporary loan.

The proposed increased water service fees will restructure the monthly water fee to include two components. The first component is a base fee for all water users that will cover the costs of O&M and administration of the water system. The base fee was developed by analyzing the average O&M and administration costs over the past three years excluding the usage of water. The second component is a commodity fee for the water itself, to be charged based on actual monthly water usage starting on July 1, 2021, at rates that change with costs imposed by the City.

On April 3, 2021, Department of Public Works and Planning staff met with the District property owners and discussed the possibility of initiating the Proposition 218 process to restructure and increase the monthly fee for the water service due to the deficiency in funds to operate and maintain the water system.

On April 9, 2021, as required by California Constitution Article XIII D, Section 6 (Proposition 218), notification for the Protest Hearing was mailed to recorded owners and tenants listed on the District bill registers subject to the proposed increased water service fee. The notification letter explained the procedure for submitting a protest to the proposed increased fee, and clarified how the adjustment in the base fee and addition of the commodity fee for water will allow the District to build a cash reserve required by the Board and to cover unanticipated expenses caused by the operation of the water system. The notice also explains that if less than a majority of property owners submit a written protest to the proposed increased fee, the Board may increase the fee effective July 1, 2021. Notification is attached to this agenda item as Attachment A.

On May 6, 2021, Department staff met with the District's property owners and residents at the West Park Elementary School parking lot to explain the proposed adjustment to the base fee and addition of the commodity fee for the water service and to answer questions about the proposed adjustment. Additionally, staff explained the Proposition 218 process and the ramifications of a majority protest.

The current monthly water fee is \$64.60 per month and includes a seasonal water allotment of 28,000 gallons/month for May through October and 13,000 gallons/month for November through April. The proposed base fee was developed by analyzing the actual costs to provide service over the last three years

without the cost of water. Included in the proposed increased fee are some known repair costs such as installing backflow devices at the water mains, in compliance with a directive from the City. The current estimated cost to install the backflow devices is \$55,000. The proposed base fee includes a maximum 5% annual inflation increase for a five-year period (effective on July 1 of each year beginning July 1, 2022) to ensure that the base fee maintains pace with the economy and to allow the District to build a \$25,000 cash reserve within five years. If increasing for inflation according to the San Francisco-Oakland-Hayward Consumer Price Index (SFCPI), all Items would be less than an increase of 5% over the year before and is projected to produce revenues sufficient to cover expenditures and build cash reserves at the targeted pace, then the base fee will only be increased by the change in SFCPI over the year before. The maximum base rate as indexed for inflation may not be increased more than the cost to provide the services. No rate shall be imposed on any parcel which exceeds the reasonable cost of the services. The increase will only be imposed as necessary to cover costs related to the cost of operation and maintenance of the system. Table 1 on Exhibit A shows the maximum base fee over the next five fiscal years.

The proposed commodity fee was calculated by using the actual cost for 1,000 gallons of City water. Due to the nature of the water transfer process, 1,210 gallons of City water must be purchased from the City in order to provide 1,000 gallons to CSA 39AB customers. Table 2 on Exhibit A shows the current calculated commodity fee.

If protests from a majority of property owners are not received, your Board may approve the recommended fee increase. If approved, the increased fee will become effective on July 1, 2021, and will be collected following the issuance of bills for the July-August 2021 billing period. If at least 71 protests are received, then there will be a majority protest and the increased fee cannot be approved by the Board. If a majority protest occurs, staff will communicate with the District on reducing water services or the potential dissolution of the District.

REFERENCE MATERIAL:

BAI #7, February 7, 2017
BAI #8, October 7, 2014

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibit A
Site Map
Attachment A - 45-Day Notice
On file with Clerk - Resolution

CAO ANALYST:

Samantha Buck