

RESOLUTION NUMBER R- 299374

ADOPTED ON JUN 22 2004

A RESOLUTION OF THE CITY COUNCIL REAFFIRMING  
WATER RATE INCREASES PREVIOUSLY ADOPTED ON  
APRIL 30, 2002

WHEREAS, on April 30, 2002, the City Council adopted Resolution Number R-296437 [Resolution] authorizing the City Manager to increase then effective water sales revenues by 6% per year each year beginning July 1, 2002, for a period of five years through July 1, 2006, by adjusting then effective water base fees and commodity charges such that 50% of the additional revenue would be generated from the base fee component and the remaining 50% of the additional revenue would be generated from the commodity charge component of the water user fees [Rate Increases]; and

WHEREAS, because of then existing California case law the Rate Increases were adopted in accordance with the noticing provisions of San Diego Municipal section 67.0502 but not in accordance with the noticing provisions of article XIII D, section 6 of the California Constitution [article XIII D]; and

WHEREAS, in reliance upon the Resolution, the City Manager implemented the Rate Increases on July 1, 2002 and July 1, 2003; and

WHEREAS, on February 9, 2004, the California Supreme Court determined in *Richmond v. Shasta Community Services District* [Richmond], that water user fees [Fees] are property-related fees subject to the provisions of article XIII D; and

WHEREAS, the City is proposing to change the rate structure for the Fees which will result in increasing the Fees for certain water customers; and

WHEREAS, during the week of April 19, 2004, in accordance with the provisions of article XIII D, the City's Water Department mailed out notices [Notices] of the proposed changes to the rate structure and the increases in the Fees and the City's intention to reaffirm the prior Rate Increases; and

WHEREAS, the City believes that the Rate Increases when adopted did not violate California law but that the action set forth below to reaffirm the Rate Increases would be curative of any alleged or perceived violation of article XIII D; and

WHEREAS, it is deemed in the best interests of the City to so reaffirm the Rate Increases; NOW THEREFORE,

BE IT RESOLVED by the Council of the City of San Diego as follows:

1. That all of the foregoing Recitals are true and correct and the City Council so finds and determines.

2. That it continues to be in the best interest of the City to proceed with the Rate Increases as adopted pursuant to the Resolution.

3. All actions of the City Council in furtherance or effectuation of, or reliance upon the Rate Increases are hereby ratified so as to reaffirm their efficacy from their respective times of adoption or approval and to effectuate their continuous efficacy now and hereafter.

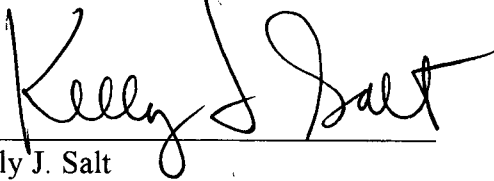
4. All acts or actions taken on behalf of the City, by its employees, agents, representatives or others, under or in furtherance or effectuation of the Rate Increases or in reliance thereon, or in furtherance or effectuation of the Resolution or in reliance thereon, to the maximum extent required and allowed by law, are hereby reaffirmed, so as to declare their

continuous efficacy since the respective times of such act or actions and the continuing efficacy now and hereafter.

5. The previous authority granted to the City Manager to implement the Rate Increases in the Resolution is hereby ratified and reaffirmed.

APPROVED: CASEY GWINN, City Attorney

By

  
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Kelly J. Salt  
Deputy City Attorney

KJS:pev

05/25/04

Or.Dept: Wtr. & MWWD

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R- 299374