



THE CITY OF SAN DIEGO  
**REPORT TO THE CITY COUNCIL**

DATE ISSUED: July 25, 2007 REPORT NO: 07-126  
ATTENTION: Council President and City Council  
Docket of July 30, 2007  
SUBJECT: Wastewater Rate Increases Related to *Shames v. City of San Diego*  
REFERENCE:

REQUESTED ACTION: Set hearing date for October 8, 2007 for public comment and vote on *Shames* rate increases. Authorize issuance of Proposition 218 notice.

STAFF RECOMMENDATION: Set hearing date.

SUMMARY: In 2005, a class action lawsuit was initiated seeking correction for perceived rate imbalances. On May 18, 2007, the Superior Court for the County of San Diego approved an agreement to settle this class action lawsuit over the City's past wastewater service rates. This action will start the Prop. 218 noticing and mailing and set the date for public hearing of the proposed rate increases. The rate increases are needed to provide sufficient revenue to meet the court settlement revenue requirement of \$40 million. It is revenue neutral to the City of San Diego during the payment period; all funds raised by this proposed rate adjustment will go towards reducing sewer service charges for eligible single family residential customers or satisfying other terms of the court settlement. After the four year period, the rate reduction for single family residential customers will expire and the two 3.05% rate increases for all City sewer customers will sunset about 30 October 2011.

FISCAL CONSIDERATIONS: Mailing costs of the Prop. 218 notice are anticipated to be approximately \$230,000, shared by water and wastewater.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: On December 6, 2006, City Council approved a settlement of the suit that would give rebates to approximately 224,000 single-family ratepayers.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: Proposition 218 notice will be issued upon approval of this action and provide 45 days for public review and outreach.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: Commercial, industrial, multi-family, and ineligible single-family residence account holders will see increases in their wastewater service charges over the next four years. Examples of impacts on these account types, based on average usage, are provided in the Discussion section of this report.

Single-family residential account holders whose residences had wastewater service prior to October 1, 2004 will have these wastewater rate increases credited back to them; additionally, they will receive a

monthly credit that represents the distribution of revenues collected from all other account holders for this settlement action.

**BACKGROUND:**

In 2005, a class action lawsuit was filed against the City of San Diego alleging that until October 2004 (when the City revised its sewer rate structure), single family residential customers were overcharged for sewer service, while other customers were undercharged. On May 18, 2007, the Superior Court for the County of San Diego approved a settlement of this class action lawsuit. The settlement requires that the City reimburse single family residential customers a total of \$40 million (less attorney's fees of \$5 million and other costs<sup>1</sup>) over the next four years.

To satisfy the terms of the settlement, the City intends to implement the following rate adjustments for sewer service in addition to the existing rate structure:

**For all City Sewer Customers:**

- Increase existing sewer rates by 3.05% starting November 1, 2007.
- Increase existing sewer rates again by another 3.05% starting May 1, 2008.

**For eligible City Single Family Residential Customers<sup>2</sup>:**

- Reduce sewer service charges by an amount calculated as follows:
  1. Reverse the two 3.05% rate increases applicable to all City sewer customers (above), and
  2. Distribute a share of the settlement, currently estimated to be \$3.25 per month to each single family residential account. The actual amount may vary slightly, depending on total number of accounts in the City.

These proposed rate adjustments are calculated to raise the Court settlement revenue requirement of \$40 million over a four year period. During this period, all funds raised by this proposed rate adjustment will go towards reducing sewer service charges for eligible single family residential customers or satisfying other terms of the Court settlement. After \$40 million is raised and distributed in accordance with the Court settlement, the rate reduction for single family residential customers will expire and the two 3.05% rate increases for all City sewer customers will sunset about 30 October 2011.

---

<sup>1</sup> A sum of \$20,000 is also to be used by a 'to be determined' non-profit organization for purposes of evaluating future sewer and water rate-setting activities and a sum of about \$30,000 will be paid to former customers who filed a claim.

<sup>2</sup> Eligible SFR customers are those with sewer service to the property prior to October 1, 2004. More recent accounts will not receive a credit against sewer service fees.

## Monthly Sewer Service Charge

The following examples of the first step of the rate increase are based on the average usage as indicated in the chart. **Actual billing will vary with usage.** The second step in May 2008 will be similar. This example is for monthly billing; the City intends to shift to billing every two months by April 2008, and the values will then be doubled.

Example:

Customer Type	Sewer Flow**	Oct 2007 Billing	Nov 2007 Billing	Nov 2007 Billing with Rate Reversal	Monthly Credit	Nov 2007 Net Billing
Single Family Resident (Eligible)	9 hcf	\$38.32	\$39.51	\$38.32	\$3.25	\$35.07
Single Family Resident (Not Eligible)	9 hcf	\$38.32	\$39.51	\$39.51	N/A	\$39.51
Multi-Family Residential	28 hcf	\$125.43	\$129.17	\$129.17	N/A	\$129.17

Commercial Accounts:

Sewer Usage	Oct 2007 Billing	Nov 2007 Billing	TSS*** (PPM)	COD*** (PPM)
750 hcf	\$3,324.63	\$3,426.03	300	600

\*\* Sewer flow is calculated as a percentage of the amount of water used. For Single Family Residents, that calculation is based on data collected during winter months, the time of lowest water use in San Diego. All other customers are based on a percentage of monthly water usage.

\*\*\* There are three components of the cost of wastewater service: amount of flow, amount of total suspended solids (TSS) and amount of organic material, known as Chemical Oxygen Demand (COD). For residential customers an average value for TSS and COD is assumed, so one rate is shown on the wastewater bill. For smaller industrial customers values for TSS and COD are based on industry average and vary based on type of business. For larger industrial customers, TSS and COD are measured directly and billed accordingly.



Timothy C. Bertch Ph.D.  
Metropolitan Wastewater Department Director



R.F. Haas  
Deputy Chief of Public Works