

**LIST OF ATTACHMENTS FOR PUBLIC HEARING  
ITEM NO. 3 – CONSIDER PROTESTS AGAINST  
PROPOSED WATER AND SEWER RATE INCREASES,  
WAIVE READING BEYOND THE TITLE OF  
ORDINANCES AND ADOPT WATER ORDINANCE NO.  
120.46 AND SEWER ORDINANCE NO. 208.47 TO  
AMEND TITLE VIII OF THE MILPITAS MUNICIPAL  
CODE TO ESTABLISH WATER AND SEWER RATES  
FOR 2011-2015**

- A. Summary Response to Public Comments**
- B. Ordinance No. 120.46, Water Rate Ordinance**
- C. Ordinance No. 208.47, Sewer Rate Ordinance**

A



# MEMORANDUM

## CITY MANAGER'S OFFICE

**To:** Mayor Esteves and City Council

**From:** Tom Williams, City Manager

**By:** Greg Armendariz, Public Works Director/City Engineer  
Kathleen Phalen, Utility Engineer

**Subject:** Water and Sewer Rates Community Meetings and Public Comments

**Date:** April 25, 2011

### BACKGROUND

At the February 15, 2011 Council meeting, a Public Hearing was held to introduce water and sewer ordinances to establish rate increases. At the March 1, 2011 Council meeting staff reported on water and sewer operating costs and Council provided staff direction to hold community meetings to advise and inform the public on the proposed water and sewer rate increases.

### SUMMARY OF COMMUNITY MEETINGS

Staff held community meetings to present information on the costs of water and sewer services and the need for rate increases on Saturday morning, March 26, Wednesday morning, April 6, and Tuesday evening, April 21.

Twenty-eight Milpitas residents attended the March 26 meeting. Thirteen indicated that they learned of the meeting from the Milpitas Post; four from a friend or other resident; three from the City notice; and one from the City Council meeting, the City website, and a City employee. Five staff were on hand to present, answer questions, and hand out materials, including the Public Works Director, Utility Engineer, Utilities Public Information Specialist, a student intern, and myself. Staff provided a powerpoint presentation and visual displays of the major regional and City projects, described the benefits of these projects, their cost impact, and the consequent need to raise rates. In addition, staff explained the Proposition 218 public notice and protest process. Staff responded to approximately 40 written questions as well as engaged in an open dialogue with attendees and stayed after the meeting to talk further with those with additional comments and questions. Staff received both positive and negative comments and questions about the rate increases.

Twenty-two clientele of the senior center attended a senior forum on April 6. After a member of the public urged the clientele to sign rate protests, Senior Center staff asked for this forum to help answer the numerous questions from both English and non-English speaking clientele. Six staff were on hand including the Utility Engineer, Utilities Public Information Specialist, a student intern, and Mandarin, Cantonese, and Vietnamese translators. The content of this presentation was a shortened version of the March 26 community meeting, including the Proposition 218 protest process, all of which was verbally translated for six Cantonese attendees and two Vietnamese attendees.

Fourteen Milpitas residents attended the April 21 community meeting, including three that also attended the March 26 meeting. Four staff were on hand to present, answer questions, and hand out materials, including the Public Works Director, Utility Engineer, Utilities Public Information Specialist, and a student intern. The format and presentation were the same as for the March 26 meeting.

## **SUMMARY OF PUBLIC COMMENTS AND QUESTIONS**

### **Overview of cost drivers**

- *Why are costs rising so steeply now?*

The water and sewer systems are community assets operated by the City for the community's benefit. The services are managed as enterprise funds, which means customers pay the cost of services. Costs are unavoidably going up at this time due to massive investment in regional and local infrastructure. Snow melt from the pristine High Sierras flows nearly 200 miles to Milpitas and then flows through another 200 miles of the City's distribution network to all Milpitas homes and businesses. The sewer system then collects wastewater for 99% purifying tertiary treatment at the Water Pollution Control Plant in Alviso/San Jose before discharge to San Francisco Bay.

The City of San Francisco Public Utilities Commission is projecting a 47.4% wholesale water increase this year, following five years of back-to-back double-digit increases. San Francisco needs this revenue to complete a \$4.6 billion Water System Improvement Program (WSIP) to upgrade the seismic reliability of its storage and transmission system. San Francisco is compelled to complete this work by AB 1823. The State enacted AB 1823 in 2002 in response to intense advocacy of the wholesale customers, including the City of Milpitas. There is serious risk to public health and safety from failure of the 70-year infrastructure. Construction of the WSIP reduces the expected water supply outage after a major earthquake from 60 days to a single day.

The City of San Jose is embarking on a \$2.2 billion Plant Master Plan reconstruction program to overhaul the 55-year old wastewater plant. Critical facility equipment and infrastructure date back to World War II and can no longer be repaired. The program will replace and seismically upgrade aging infrastructure, add green technologies to generate energy from waste, and, of critical importance to Milpitas, remove the odorous open air sludge lagoons and drying beds.

The City of Milpitas Public Works Department is designing and constructing seismic upgrades for its key water and sewer system components to ensure their continuing performance after a major earthquake. The water system improvements are estimated to be \$25 million. Sewer seismic improvements are underway with the reconstruction of the Main Sewage Pump Station and an additional \$15 million to \$20 million of seismic improvements are needed.

- *Why are infrastructure replacements all happening now in bad economic times?*

Investment into infrastructure has never been easy for ratepayers. The Milpitas water and sewer services tap into amazingly broad regional systems that move water and wastewater hundreds of miles to make the services available to homes and business all day, everyday. The foresight and financial investment of the previous generations who built these systems are what make possible the Bay Area metropolitan lifestyle we enjoy.

1. After the catastrophic damage from the 1906 earthquake, San Francisco led a regional effort to develop a secure reliable water supply. Although highly controversial and expensive at the time, voters approved a \$45 million bond in 1908 and Congress passed the Raker Act in 1913 to start construction of the Hetch Hetchy reservoir and its 200 mile transmission pipeline. The project took 20 years to build at a cost of \$100 million (1934 dollars). Milpitas gets two-thirds of its potable water from this system.
2. In 1949, California passed the Dickey Water Pollution Control Act making it illegal to dump raw sewage into public water bodies such as the San Francisco Bay. In 1950, the California Department of Health Services issued San Jose a cease and desist order to stop dumping sewage. The City of San Jose had proposed a bond measure to construct a treatment plant, but voters, led by the cannery owners, voted it down as too costly. Voters approved a second bond measure in 1950 when they realized that San Jose's future economy absolutely depended on having a treatment plant. In 1983, the City of Milpitas bought into a share of the plant infrastructure by entering into a 48-year agreement for sewage treatment services. Milpitas's quality of life and economic prosperity depend upon a reliable sewage management system.
3. In 1960, California voters narrowly approved the highly contentious Burns-Porter Act to begin building the State Water Project, the nation's largest surface water storage and conveyance system serving 25 million Californians. The costs of this multi-million dollar construction are borne by the water contractors, including Santa Clara Valley Water District. Milpitas gets 40% of its potable water directly from the State Water Project via the Santa Clara Valley Water District.

Unfortunately, many components of these systems are past their design life and are highly vulnerable to earthquake damage in this seismically active region. Although it seems coincidental that San Francisco is completing a \$4.6 billion overhaul and seismic upgrade of the Hetch Hetchy water supply at the same time San Jose is launching a \$2.2 billion overhaul of the sewage treatment plant, it is actually an indication of a broader problem that vast amounts of public infrastructure built nationwide during the post-war housing boom is wearing out. Reinvestment is needed to keep these public assets performing for future generations.

Water and sewer customers are asked to pay the costs of the services, and these costs are increasing. It is unfortunate that this occurs at a time when the local economy is still underperforming and many Milpitas residents are out of work, but the City utilities are subject to the same harsh economic conditions as its customers. Water sales are down 20%, resulting in a two-year combined water and sewer fund revenue shortfall of \$4 million. Wholesale water and sewer treatment costs are rising steeply due to major infrastructure reconstruction programs. These costs are beyond the City's control.

- *Is the increase for a given period? Will rates go down after this period?*

Costs are not expected to go down, but the magnitude of needed rate increases should begin to level off around 2015. In the case of the SFPUC Hetch Hetchy cost, 2015 is when the wholesale rate should have reached a level sufficient to pay the 30-year financing bonds. In the case of the San Jose Plant, this is when sewer treatment capital budget reaches a steady-state level sufficient to fund the 30 year improvement program.

- *How much will the \$2.2 billion Plant Master Plan cost the Milpitas single family customer?*

San Jose does not set a sewage treatment rate. Technically, it does not set fees either. It adopts budgets for annual operating and maintenance (O&M) and for a 5-year Capital Improvement Program (CIP). All Plant member agencies pay a proportionate share of these budgets based on use (discharged flow) for O&M and based on capacity rights for CIP. Milpitas has capacity rights of about 7.68 percent of the Plant total capacity, so that is the City's percentage share of the Plant CIP. CIP budgets vary year to year depending on the planned construction for the year, but yes, we are already seeing the increases in the 5 year CIP plan for Master Plan defined work and are planning for these costs in our proposed sewer rates.

The current year Water Pollution Control Plant Capital Improvement Program budget is \$45,116,477. Based on its percentage of treatment capacity rights, the City of Milpitas share of this is \$3,496,434. The remainder of the capital cost is paid by the Cities of San Jose and Santa Clara, West Valley Sanitation District, and Cupertino Sanitary District. The Milpitas single family resident's share of the Plant capital cost is 40.14% of the City total or \$1,385,034. The individual single family customer share of the current Plant capital cost is \$129.93. The remaining ~60% is paid by the other customer classes including multifamily, commercial, industrial, and institutional. If San Jose's assessment is correct that Milpitas will pay \$168 million for the Plant Master Plan improvements, this would be an annual capital share of \$5.6 million if divided evenly over the next 30 years. If divided evenly, and the number of customer accounts does not change, each single family resident share will be \$183.29 per year. At this time, these are all still conceptual estimates. This is also only the Plant capital cost. Sewer bills also cover the Plant operating cost, and the City of Milpitas capital and operating costs for its sewer collection system.

### **Financial Projection Assumptions**

- *Why is SFPUC raising 42%, rather than 10%*

The latest information we have is that SFPUC proposes raising its wholesale rate 47.4% this year. Water sales are down through the region, probably due to the poor economy, the two wet winters, and the State's prolonged declaration of drought (rescinded March 2011.) SFPUC is making up lost revenue to rebuild its reserve while raising new revenue to pay for the \$4.6 billion improvement program. Milpitas and other wholesale customers have interest in seeing SFPUC rebuild its reserve to adequate levels because this affects SFPUC's bond rating. SFPUC is selling about \$250 million of bonds every three months, and a drop in bond rating can result in needless increase of several million dollars of bond interest. This excess interest cost would be passed through to Milpitas and the other wholesale customers.

- *Did you take into account the population increase?*

For the purposes of this projection, we assumed there would be no population growth. That is, the projected costs and revenue are based on the current customer base. If the City experiences some growth, that will improve the rate forecast because the fixed costs can be spread over a larger customer base.

- *Why not promote conservation to reduce costs?*

The City does promote water conservation and it will reduce an individual customer's cost as compared to larger users. This is why the City has a tiered rate structure. But, except for minor pumping and treatment expenses, conservation does not reduce the City's costs. The fixed costs of service for both the wholesalers and the City are constant regardless of how many gallons of water that are sold. Unit rates are calculated by spreading the total expenses over the estimated volume of water. If the rates are not high enough in one year to cover the costs, they have to be set even higher in future years to compensate. In the long run, it does not permanently benefit customers to hold rates artificially low in any year, since it just postpones the day rates have to cover the actual costs. SFPUC is setting rates this year in part to recover their deficit from last year.

- *How much revenue will the new rates generate in the first year?*

The water rates are projected to produce about \$17.2 million; the recycled water rates are projected to produce about \$1.4 million; and the sewer rates are projected to produce about \$12.2 million. Actual revenue generation depends on customer consumption.

- *I have prepared a spreadsheet for you to complete. Provide the number of customers, water and sewer usage, and revenue forecasted for each category of user for fiscal years 2010 through 2015. Show all expenses and capital outlays by cost elements for each year. Make clear what labor is hands on and what is overhead. Identify and justify all capital projects. List expenses and revenue for last year and previous year.*

We have provided actual revenues and expenses down to the cost element detail for water and sewer in FY09/10 and the booked revenue and expense detail through February for FY10/11. We have also provided the of revenue assumptions by customer classes and general categories of projected expenses for future years. We do not have this level of operating revenue and expense breakdowns to the level of detail requested for future years, because the future budgets have not yet been developed. The rate analysis is not a budget or a financial statement. It is a broad projection of cost trends based on information from wholesalers, assumptions about inflation, and other known or assumed needs. By its nature, the data is estimated and subject to change, so it is not possible to forecast either revenue or expense with the requested precision. In April, the Finance Department will present the draft FY11/12 operating budget and the Engineering Department will present the draft 2011 - 2016 CIP budget. Subsequent year budgets will not be developed until shortly before their years.

### **Water and Sewer Rate Structure**

- *Why are water and sewer rates different for single family vs multifamily? What is the definition of multifamily? By definition it is more than a single family. How can there be less people? Are condominiums considered multi-family?*

For billing purposes, the City tracks residential water, sewer, and garbage utility accounts by the water meter. Each customer account, regardless of whether it serves single-family, multi-family, or commercial is charged for the entire volume of water used plus the fixed meter fee. Single family accounts are billed for water through a fixed meter fee and a variable unit rate tiers. Multifamily water is billed by dwelling unit. There is no assumed number of persons per household.

- *For water, the fixed meter charge should be set to cover the fixed costs, and the variable rate should be set at the wholesale rate. The existing two tiers should be retained, but there should be no subsidy.*

The fixed meter fee could be increased to more closely match the fixed operating cost. For fiscal year 2011/12, the \$25.70 fixed meter fee represents about 31% of the typical residential bill using 23 hundred cubic foot per month, while the fixed operating costs are about 46%. If this was done, it would allow a small reduction in the volumetric rate. Shifting more of the cost to the fixed fee component increases cost for low volume consumers and reduces costs for high volume users. It is not possible to retain the discounted tiers, without subsidy. With proposed water rate structure, the high volume users subsidize the low volume users for the purpose of encouraging conservation.

- *Why do we have both a water meter charge and a usage rate?*

The term “meter charge” is industry standard terminology for the fixed portion of the water service charge. The term is misleading because it is not specifically for maintenance and replacement of the meters, but addresses a portion of City fixed costs, such as meter reading, regulatory testing and reporting, and system-wide maintenance. It is also known as a “fixed charge.” It is set according to the meter size and is a base rate that all customers pay. A combination of fixed and volumetric charges reduces the subsidy of large water users to small users for the portion of costs all equally incur.

- *Residential sewer rates should not be based on an assumed household size. Assumed household size should be the same for single family and multifamily. New multifamily (condominiums and townhomes) should have higher household size assumption than older apartments. Residential sewer rates should be based on water consumption, not on assumed household size. Sewer rates should be based on average winter consumption. Rates should be based on actual declared household size. Residential sewer rates should have a fixed component as do water.*

These comments from four different members of the public question the basic premise of using a "one-size-fits-all" assumed household size as a basis for estimating sewer use. Their suggested alternatives include estimating sewer use based on water consumption, which could penalize customers using large amounts of landscaping water; basing it on winter water use which is a better estimate, but still difficult to administer since billing would be one year in arrears, or having customers report their household size, which would also create administrative burden and likely result in underreporting. These comments raise valid points, although the suggested alternatives are not necessarily more precise for the entire customer base.

Staff would need Council's direction to undertake a full re-evaluation of the residential sewer use assumption because it would be a substantial effort. A full re-evaluation should look at all of the assumptions about the relative costs to serve sewer. For example, high density multifamily is less expensive to serve by dwelling unit because it needs less publically maintained pipe (both service laterals and mains) per unit. Changing methodologies would require coordination with and possibly approval of City of San Jose. San Jose interprets their Master Agreement with the City to say that all tributary agencies must use their methodology and must use their reporting forms for the purpose of establishing each agency's annual share of Plant operating costs. There

is also a risk that a full re-evaluation would show that Milpitas residential rates could be higher. Milpitas's 2010 population is 70,817 and the number of dwelling units is 19,231, which puts the average household size at about 3.68 persons per dwelling unit.

- *Why are single family sewer rates going up faster than multifamily rates?*

For sewer, the single family and multifamily rates differ because single family rates assume 3.37 persons per house, while multi-family rates assume 2.05 persons per dwelling unit. As part of an effort to determine why Milpitas sewer costs are relatively high, staff compared assumptions with the other agencies using the San Jose/Santa Clara Water Pollution Control Plant and found that San Jose uses lower household size assumptions for single family and multifamily. To make Milpitas rates comparable, this year the assumptions of household size were reduced from 3.45 to 3.37 persons for single-family and from 2.75 to 2.05 for multifamily to conform to the standard followed by San Jose. The adjustment from this change was phased in over four years which is why multifamily rates do not climb as steeply.

- *Why do businesses pay less for water and sewer? Why are commercial sewer rates so much less than residential rates?*

Businesses pay higher not lower unit rates for water. Commercial sewer rates are equivalent to residential rates; with the exception that residential rates have an assumed average flow rate while business flow is assumed to be the same as business metered water flow. As noted above, the assumed average flow rate may be higher or lower than any individual residential actual discharge rate. There is not a precise way to measure residential sewer discharge, but there are several ways to estimate use. The City's long-standing method, also used by the other members of the San Jose/Santa Clara Water Pollution Control Plant, is to assume standard household sizes. All sewer rates are based on a proportionate share of costs to pump hydraulic flow and treat the strength components of biochemical oxygen demand (BOD), suspended solids (SS) and ammonia (NH<sub>3</sub>). Per gallon, the unit rates are \$0.00529 for flow, \$0.00057 for BOD, \$0.00057 for SS, and \$0.00061 for NH<sub>3</sub> at estimated strengths for residential sewage of 250 mg/l BOD, 250 mg/l SS, and 35 mg/l NH<sub>3</sub>.

- *Why do we not tier sewer rates?*

Tiering to discount low levels of water use is allowed by State law to provide incentive for water conservation. This allowance does not exist for sewer.

- *Why do we not have a senior rate?*

The City does not have much leeway when it comes to adjusting rates for certain customer classes. State law (Prop 218 and the newly passed Prop 26) forbid subsidizing one utility customer class with rate payments from other customer classes. For the City to develop a senior rate, it would have to take funding from some other discretionary source to fund the subsidy.

### **Operation of Enterprise Funds**

- *Is operation running at a loss? What happens to the profits?*

The water and sewer utilities are self-supporting enterprises, each with its own fund that is financially distinct from other City funds, such as those used for police and fire protection. Customers are asked to pay their share of the cost of the water and sewer services. The City

gains no profit from the water and sewer sales, but neither can it afford to provide the services at a loss.

- *How much capital reserve do we have? Do we have an emergency reserve? Is there a fund for future improvements? What planning was done over past 10 years to prepare for sewer plant overhaul? Why cannot this retrofit be covered by existing money?*

For capital reserve, City policy is to set aside up to \$2 million per year when funds are available into water and sewer infrastructure funds to accumulate funding for future aging infrastructure needs. The City currently has about \$550,000 in the water infrastructure fund and about \$4.2 million in the sewer infrastructure fund. The sewer infrastructure fund balance is not sufficient to pay all of the Plant Master Plan costs (estimated at \$168 million over 30 years), but it can be used to smooth out unanticipated rate impacts.

For operating reserve, City policy is to maintain 30% of its water operating budget as an operating reserve. This is roughly \$4 million. At this time, the water fund reserve is at about \$5 million, but with the proposed increases it is projected to decrease to \$4 million over the four year period of the rate analysis. City policy is to maintain 25% of its sewer operating budget as an operating reserve. This is roughly \$3 million. At this time, the sewer fund reserve is at about \$8 million, but with the proposed rate increases it is projected to decrease to \$3 million over the four year period of the rate analysis. The reason the fund balance is high at this time is due to a one-time transfer from the Transit Area Impact Fund to reimburse the fund for the portion of the Main Sewer Pump Station Reconstruction project supporting future growth in the Transit Area.

### **City Infrastructure**

- *How did you come up with 150 water line breaks from a major earthquake?*

This information and other seismic assessment and recommendations are from the study “City of Milpitas Water System Seismic Improvement Strategic Plan” commissioned by the Public Works Department and prepared by Damon S. Williams Associates in May 2006.

- *If 19% of customer bills go for infrastructure, what has been done recently?*

Examples of recent improvement projects include:

- 2009 - Main Sewer Pump Station Reconstruction - \$10 million
- 2009 – Venus Sewer Pump Station Reconstruction - \$600,000
- 2010 – Sewer Main Deficiency Replacement Program – \$1.1 million
- 2011 - Gibraltar Water Pump Station Reconstruction - \$9 million
- 2011 – Ayer Water Pump Station Emergency Repair - \$650,000

- *What projects are planned for the next five years, and at what cost?*

The 2010 – 2015 Capital Improvement Program with budgets is available on the City’s website at <http://www.ci.milpitas.ca.gov/government/engineering/capital.asp>. As is typical of municipal government, this report contains the adopted budgets for projects in fiscal year 2011 and the planned budgets for projects in fiscal years 2012 through 2015. The 5-year CIP for 2011 -2016 is scheduled to be brought to the City Council for adoption on May 10. The rate analysis does not define the specific improvement projects or the budgets. Instead it assumes a level of funding based on Council policy, the adopted 2010-2015 CIP, and assessment of future needs.

For water, the rate analysis assumed \$3 million per year to be allocated into the 5 year CIP and/or reserved in the water infrastructure fund for future improvement budgets. For sewer, the rate analysis assumed \$2.45 million per year to be allocated into the 5 year CIP and/or reserved in the sewer infrastructure fund for future improvement budgets, and to pay the annual ~\$680,000 sewer pump station bond.

- *How long will the retrofit last before we need to improve again?*

The components of the regional and municipal utility systems have varying design lives, but, in general, the reconstruction investments should extend the service lives of the systems for a generation or more. Pump station motors and pumps will last ten to twenty years depending on use, valves will last 20 years or more, and pipelines should last 50 to 75 years.

- *What happened to the Milpitas treatment plant which we already paid?*

The Milpitas Sanitary District, which owned and operated the plant, dissolved in 1980 and the City of Milpitas entered into the “Master Agreement for Wastewater Treatment between City of San Jose, City of Santa Clara, and City of Milpitas” on March 1, 1983 and converted the old plant into the Main Sewer Pump Station to convey the city’s sewage two miles to San Jose’s Plant for treatment. The Milpitas Sanitary District treatment plant was undersized and did not meet State regulations, so the City selected this option as the best alternative.

- *What happened to the money from the feds for infrastructure?*

Unfortunately, there is very limited federal money for routine upkeep of water and sewer infrastructure because the federal and state governments believe that utilities should be maintained by the customer rates rather than the general taxpayer. The federal government did allocate American Recovery and Reinvestment Act funds to the California State Water Resources Control Board and the California Department of Public Health and the City did apply to these agencies for grant funding for three water improvement projects, but did not qualify for funding. In granting funding, the State agencies give preference to disadvantaged rural communities with demonstrated water quality problems and give preference to projects supporting water conservation and reuse.

### **Cost Detail**

- *How are water and sewer payments used? How are revenues from rates used?*

Currently, 55% of customer water bills are used to buy wholesale water from the City of San Francisco and the Santa Clara Valley Water District and 54% of sewer bills are used to buy sewage treatment from the City of San Jose. These external costs are not negotiable and their percentage proportions of the total costs will continue increasing for at least the next five years. When customers turn on water faucets or flush sewage down the drain, the City of Milpitas must pay the wholesale bill. Wholesale water and sewer treatment costs are climbing steeply because the system owners are undertaking major rehabilitation projects.

Currently 26% of customer water bills and 27% of sewer bills are used to pay the City’s costs to operate the services. This includes cleaning and repairing the pipelines, operating pump stations, and sampling and testing water quality. It includes regulatory compliance reporting, recording keeping and long-term planning to ensure adequate water supplies and sewer capacity for the

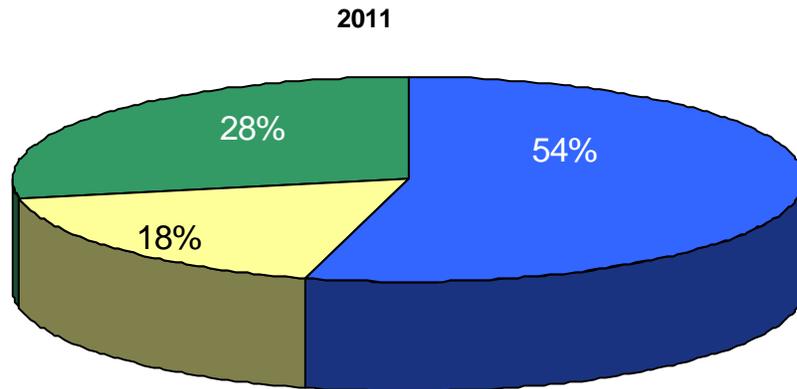
decades ahead. It also includes indirect costs for legal, finance, and management support. These internal costs are stable and compare favorably with operating costs of neighboring agencies.

Currently, 19% of customer water and sewer bills are used for capital long-term improvements into the water and sewer infrastructure to replace aging components and strengthen key components to resist earthquake damage. These costs are a prudent investment in the community's post-World War II infrastructure nearing the end of its useful life. Their percentage proportion of the total cost will drop for at least the next five years.

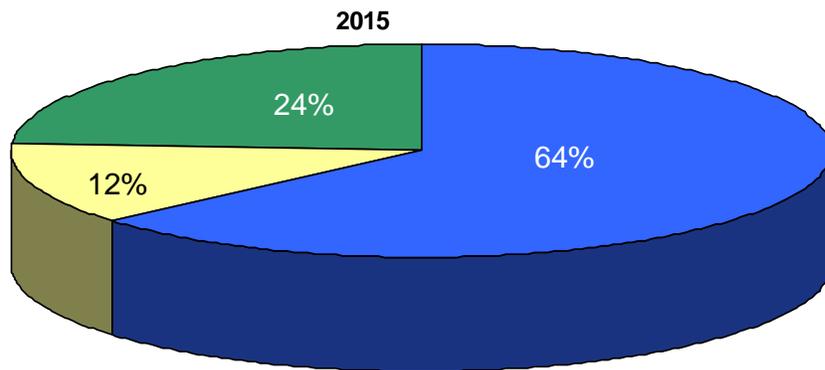
Each of these activities has a cost, but it is unthinkable that the Wholesale suppliers or the City could allow public health and safety to be put at risk by not taking appropriate care of the utility systems. As we saw with the recent Cholera outbreak in Haiti, water-borne disease is a constant public health threat we would not want in this community. The Center for Disease Control finds that investment into well-maintained public water systems yield a 23-fold return on the reduction in medical costs for disease treatment. Seismic upgrades to the system are also critical for public health and safety. The US Geological Survey estimates there is a 63% probability of a 6.7 magnitude earthquake in the San Francisco Bay Area within 30 years, and Milpitas is sited on or nearby two major faultlines. Milpitas's existing water and sewer core systems need seismic upgrades to withstand the forces of this inevitable threat.

- *The information in the Prop 218 pie chart is wrong.*

The pie chart drew water and sewer data from the 2015 projection, while the chart legend incorrectly drew data from the 2011 projection. The corrected charts for 2011 and 2015 are as follows:



- Wholesale water and sewer treatment ~ \$17.5 million
- City Infrastructure ~ \$5.7 million
- City Operations ~ \$9.1 million



- Wholesale water and sewer treatment ~ \$26.6 million
- City Infrastructure ~ \$5.2 million
- City Operations ~ \$10.0 million

### Cost Control

- *Who votes on the amount of money needed to make upgrades?*

In all cases, the ruling body of the project owner votes to approve the amount of money for upgrades. This typically happens in two steps. The ruling body first votes to approve a capital improvement program budget. It then votes to approve award of individual projects. San Francisco Public Utilities Commission is the approving body for the \$4.6 billion Hetch Hetchy system upgrade, the Board of Directors of the Santa Clara Valley Water District approves its

capital program, the City Council of the City of San Jose approves the Water Pollution Control Plant capital program, and the City Council of the City of Milpitas approves the local water distribution and sewer collection system upgrades.

- *What did City do to cut costs? How much did it cut? Why increase rates before cutting budget?*

Over the past three years, the City reduced staffing through attrition and lay-offs. In fiscal year 2010/2011, staff from five of the six bargaining units agreed to furloughs resulting in 7% salary reductions. For the fiscal year 2011/2012 budget, the City is seeking a 20% reduction in supplies and services.

- *How many direct employees work to support water and sewer? Provide a list of city employees and consultants paid by the water/sewer fund. Can we reduce employee salaries, benefits, and pensions instead of raising rates? Have you considered contracting out engineering, maintenance, and finance?*

There are currently 16.3 full-time equivalent (FTE) employees working in the water utility at a personnel cost of \$2,279,150. There are currently 10.53 FTE employees working in sewer utility at a personnel cost of \$1,455,907. The City is negotiating with employee bargaining units to reduce personnel costs, but because personnel costs are only a little more than 10% of the total utility costs, their reduction would not be sufficient to eliminate the need for rate increases. However, any cost savings achieved, whether from personnel costs or other sources, will reside in the water and sewer fund balances and so will reduce the magnitude of future rate increases.

**History of Rate Increases**

- *When and how much was the last increase?*

The last increases were 9 percent for both water and sewer effective July 2010.

- *Provide past ten years of water rate increases so I can verify they do not exceed inflation.*

	<b>Residential</b>	<b>Residential</b>	<b>Commercial</b>
<b>Fiscal Year</b>	<b>1st Tier(0-20 hcf)</b>	<b>2nd tier (21+ hcf)</b>	
2000-01	\$0.88	\$1.85	\$2.02
2001-02	\$0.95	\$1.99	\$2.17
2002-03	\$1.02	\$2.14	\$2.33
2003-04	\$1.15	\$2.42	\$2.64
2004-05	\$1.29	\$2.71	\$2.95
2005-06	\$1.40	\$2.93	\$3.19
2006-07	\$1.49	\$3.13	\$3.40
2007-08	\$1.49	\$3.13	\$3.40
2008-09	\$1.49	\$3.13	\$3.40
2009-10	\$1.62	\$3.41	\$3.71
2010-11	\$1.77	\$3.72	\$4.04

### Rate comparison and benchmarking to other cities

- *How do Milpitas water rates compare to San Francisco? What about the other cities in the area?*

In San Francisco, the single-family residential fixed meter fee for a 5/8-inch meter is \$6.20 per two-month period. The first tier pricing for usage up to 6 hundred cubic feet (hcf) is \$3.09 per hcf. The second tier pricing for usage over 6 hcf is \$4.60 per hcf. A resident of San Francisco using 23 hcf in a bimonthly period pays \$96.90. For comparison, in Milpitas the single family residential fixed meter fee for a 5/8-inch meter is \$22.41 per two-month period. The first tier pricing for usage up to 20 hcf is \$1.77 per hcf. The second tier pricing for usage over 20 hcf is \$3.72 per hcf. A resident of Milpitas using 23 hcf in a bimonthly period pays \$68.97.

The All Bay Area water and sewer providers are experiencing similar cost drivers. The City of San Francisco recently compared the costs of its 26 retail customers. San Francisco's analysis shows that Milpitas residential water prices are the fifth lowest of the 26. The City of Milpitas recently benchmarked its internal personnel costs against six neighboring cities and found it has the second lowest personnel cost per miles of pipe maintained, gallons of water served, and gallons of sewage collected.

- *Why are our sewer rates highest of Santa Clara cities?*

There are several factors that make Milpitas sewer rates relatively high.

- The City recently bonded for the \$10 million Main Sewer Pump Station overhaul which adds about \$700,000 annual debt service to the sewer budget each year.
- The City has \$11 million reserves in the Treatment Plant and Infrastructure Funds to be used for aging infrastructure.
- The City has been investing in replacement, repair, and maintenance of its sewer collection system for many years, including the pump station reconstruction listed above and construction of a second force main from the Station to the San Jose Plant. These proactive improvements may well save the City money over the long-term because a direct financial benefit of this investment is that the City consistently reports low rates of sanitary sewer overflows (SSOs) to the State. Any sewer overflow, even as small as one-gallon, is a water quality violation that must be reported. The San Francisco Regional Water Quality Control Board is aggressively enforcing upon these violations. For example, several months ago, San Jose was investigated and received a Notice of Violation from the Regional Water Board for its collection system operation and maintenance. A violation notice requires a city to commit to increased replacement, repairs and reporting to the State and under California Water Code Section 13385(c) can result in fines up to:
  - \$10,000 for each day in which a violation occurred; and
  - \$10 for each gallon of discharge that is not susceptible to cleanup or is not cleaned up in excess of 1,000 gallons.

In addition, the SSO data reported to the State is public information. Non-governmental organizations use SSO data to bring lawsuits and obtain monetary settlements from cities and sanitary districts. Please see this link to the Baykeeper web site: <http://baykeeper.org/articles/baykeepers-legal-actions-end-sewage-spills>. You may also find this interactive map from the Baykeeper site of interest: <http://baykeeper.org/articles/sewage-map-2010>.

- A final reason is that some comparable cities have rates that are too low and are now going through the painful process of catching up. An example is City of Santa Clara which raised sewer rates 28% in FY 09/10, 19% in FY 10/11, and is considering an increase of about 25% this year. Even with these steep back-to-back percentage increases, Santa Clara may not have sufficient revenue if San Jose ramps up the Plant Master Plan capital costs too quickly. This is a difficult issue for Milpitas because the Master Plan improvement that San Jose can most easily postpone is removal of the odorous open-air sludge lagoons and drying beds.

### **Rate Adoption Process**

- *How many single family accounts are there?*

There are 12,264 single family residential accounts, 1,848 multifamily accounts with a total of 6,397 dwelling units, and three mobile home accounts with a total of 521 dwelling units.

- *Do non-property owners have a say?*

At the May 3 public hearing, anyone may speak to give the City Council his or her comments about the proposed water and sewer rates prior to any Council action concerning rate adoption. The California Constitution (Prop 218) gives property owners receiving water and sewer service the opportunity to protest proposed rate increases. Written protests against the proposed rates should be submitted to the City Clerk before 5 pm on May 3, 2011. The protest needs to be in writing, include the date, property owner's name, mailing address, signature, and identification of the parcel by street address and/or assessor's parcel number. Only one protest vote from each parcel will be counted. If more than 50% of property owners submit written protests, the City cannot raise water and sewer rates. If that happens, the City will be in the unsustainable position of selling water and sewer at a loss.

### **Consequences if rates are not raised**

- *What happens if City does not accept costs? What will happen if the people reject the increase? What does the City plan to do if rate increases are not approved? What services would be cut by City? Why can the City not guarantee safe water and also control costs?*

The costs are largely fixed and beyond the City's control to reduce. External costs are locked in by agreement with the providers. Internal costs have been repeatedly reviewed and reduced. They cannot be further substantially reduced to make a significant difference in the total water and sewer costs.

Although State law allows a majority of property owners to deny a rate increase for all customers, it does not address how a city can continue to provide water and sewer services at a

loss. Ultimately, this decision will be up to the community. If property owners are unable or unwilling to pay for the cost of the service, the City may be able to:

- Cut services and improvements to save costs, this only defers maintenance and maintenance costs to the future;
- Subsidize the price with funds from other sources by cutting other city services;
- Sell the utilities (privatize).

There is no reason to believe these options serve the interests of the community. At best, cutting services puts the city at risk of costly regulatory violations. At worst, cost cutting puts public health and safety at risk. Subsidizing the price can only be done by sacrificing other discretionary services and these are already under review for cutback due to the city's structural budget deficit. Selling the water utility may be possible, but could well result in even higher water rates for the community as State law does not require private companies to let customers protest rate increases. San Jose Water Company, one of the few private water purveyors in the area, has current water rates 41% higher than Milpitas's (\$97.48 vs \$68.97 for single family residences using 23 units in bimonthly period.) There are no private sewer utility companies in this area at this time.

### **Public Outreach**

- *Why are we being informed so late? Why were not there more meetings?*

Although it is understandable that the public, busy with other concerns, missed information provided in previous mailers and media placements, the City and the regional project owners have been making substantial efforts to inform the public about the impending regional projects for at least the past five years. San Francisco was compelled to undertake its Water System Improvement Program by AB 1832 enacted in 2002. San Jose announced it would be embarking on its Plant Master Plan in 2007. These agencies have sent out numerous press releases summarizing their projects. San Jose's public outreach campaign included paid advertisements on radio, billboards and bus-sides. The City has identified the impending cost impact of the regional projects in the previous two Prop 218 notices.

For this proposed rate increase, the City conducted substantial public outreach. The City developed and distributed three outreach pieces. "Regional Water and Sewer Systems" describing San Francisco's \$4.6 billion Water System Improvement Program and San Jose's \$2.2 billion Plant Master Plan was mailed to residences in January, "Proposed Water and Sewer Rate Increases" was mailed to all property owners in March, and "Community Information Meeting" describing the water and sewer cost drivers was mailed to all single and multifamily addresses in April. Following the rate introduction presentation at the February 15 Council meeting, on March 1 staff presented a detailed breakdown of the cost assumptions and a benchmarking analysis showing that Milpitas operating costs for its utilities compare favorably to those of surrounding cities. The City held two community meetings on March 26 and April 21 to present how the water and sewer services work and why the customers will benefit by reinvesting in their regional and local infrastructure. Staff presented a forum, translated into Cantonese and Vietnamese, for the Senior Center customers on April 6. The City posted rate information on the City web site and placed flyers and notices of proposed rates at public facility counters. Finally, the City responded to several requests for information from local media.

- *How many Prop 218 notices were mailed out and at what cost?*

The Proposition 218 notice was sent to the 17,037 Milpitas property owners, including homeowners, landlords, businesses, and institutions such as the schools, that receive water and sewer services. The notice cost about \$13,600 including staff time, printing, collating, and postage. The printing and postage was around \$6,800.

### **General Questions and Suggestions**

- *Is my bill read every month? If not, do you estimate my bill? Why does my bill not go down when I am on a two-week vacation?*

Water meters are read every two months and utility bills are sent out every two months. The City does not estimate bills. Your water consumption and consequently your bill should go down for period you are on vacation, but the amount may not be noticeable. The first \$22.41 of your bill is the fixed bimonthly meter charge that will not vary with consumption. The remaining portion of your bill could be expected to drop by 2/8 since there are about 8 weeks in a billing period. This difference may be hard to notice if you are on vacation in the summer when your outdoor irrigation is high or if you use a disproportionate amount of water before or after your vacation such as for laundry. It is also possible you have a leak in your plumbing system. You can call the Department of Public Works at 408/586-2600 to check for a leak at your water meter.

- *Is our tap water drinkable?*

Yes, Milpitas tap water consistently meets all regulatory standards for drinking water. Please see the most recent Consumer Confidence Report describing Milpitas municipal water quality. [http://www.ci.milpitas.ca.gov/government/pworks/water\\_quality.asp](http://www.ci.milpitas.ca.gov/government/pworks/water_quality.asp)

- *Publish customer water consumption to let us compare our usage and conservation. Publish the volume and charges to the City for sewer treatment.*

If there is sufficient interest, the City could develop and provide benchmarking consumption data.

- *Why our reservoirs are not 100% filled? Why do we not repair them to save more water from running to the bay?*

The City does not own or operate any open municipal reservoir impoundments. The City's storage reservoirs are all enclosed tanks in good repair.

Several of the SFPUC projects funded by ratepayers do consist of repairing dams to improve water storage. These are Calaveras Reservoir in the unincorporated county east of Milpitas and Crystal Springs reservoir in unincorporated San Mateo County.

- *Could we sell advertising on outer walls?*

**REGULAR**

**NUMBER:** 120.46

**TITLE:** AN ORDINANCE OF THE CITY OF MILPITAS AMENDING CHAPTER 1 OF TITLE VIII OF THE MILPITAS MUNICIPAL CODE RELATING TO WATER SERVICE CHARGES

**HISTORY:** This Ordinance was introduced (first reading) by the City Council at its meeting of February 15, 2011, upon motion by Councilmember Gomez and was adopted (second reading) by the City Council at its meeting of \_\_\_\_\_, upon motion by \_\_\_\_\_. Said Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael J. Ogaz, City Attorney

**RECITALS AND FINDINGS:**

**WHEREAS**, the provision of potable and recycled services by the City of Milpitas (“City”) require the City to incur capital, operating, maintenance, replacement, and other costs related to the provision of such services; and

**WHEREAS**, the City provided written notice by mail of proposed water service charge increases to pay for such services, held a public hearing, and complied with other provisions of Article XIID of the California Constitution (commonly known as Proposition 218); and

**WHEREAS**, the City Council has determined that increases in water service charges are in the best interests of the City and in keeping with sound business and financial management of the water enterprises and does not exceed the cost of providing such services; and

**WHEREAS**, the adoption of the proposed increases to water service charges are statutorily exempt from the requirements of the California Environmental Quality Act under California Resources Code Section 21080 (b)(8).

**NOW THEREFORE**, the City Council of the City of Milpitas does ordain as follows:

**SECTION 1. RECORD AND BASIS FOR ACTION**

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

**SECTION 2. AMENDMENT OF MILPITAS MUNICIPAL CODE VIII-1-6.13**

Section VIII-1-6.13 of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

**VIII-1-6.13 Quantity Charges:**

The quantity charges per hundred cubic feet for metered water service shall be as set forth below and are limited to the actual cost of providing water service. The rates for Fiscal Year 2011/12 shall be those set forth in the first column, unless modified by inflation or unanticipated wholesale supplier cost increases, as provided herein. Rates for all years subsequent to Fiscal Year 2011/12 shall be at or below the proposed maximum rate as determined administratively by City staff after calculating total personnel, overhead, and capital costs incurred to provide the service and shall be based upon an annual review of utility finances. In no event shall rates exceed the cost of providing the service.

The maximum water rates listed below account for a possible inflation rate of 2%. Inflationary costs in excess of 2% caused by labor or commodity cost increases recorded in such indices as the Construction Cost Index, published in the Engineering News Record for the San Francisco Bay Area, and utility section financial reviews shall be passed through administratively to the ratepayer. The City shall also administratively calculate and pass through unanticipated changes in the wholesale water cost that were not projected in the calculation of the maximum rates. This wholesale water cost pass-through provision applies to wholesale rates, water management charges, and other regulatory or environmental charges that the City is required to pay its wholesale water suppliers. These rate pass-throughs shall only be implemented with at least 30 days notice to ratepayers.

	<b>FY11/12 Rate</b>	<b>FY12/13 to FY14/15 Maximum Rate</b>
<b>Residential:</b>		
0 - 10 hcf	\$1.77	\$2.62
11 - 20 hcf	\$2.76	\$3.48
21 - 30 hcf	\$3.72	\$4.69
31+ hcf	\$4.17	\$5.29
Commercial / Industrial / Institutional / Construction Meter	\$4.32	\$5.29
Irrigation (potable)	\$4.79	\$5.29
City Accounts (potable)	\$2.35	\$5.29
Ed Levin Park	\$2.68	\$3.32
Recycled - Irrigation	\$3.79	\$4.08
Recycled - Industrial / Dual Plumbed	\$2.16	\$2.65
City Accounts (recycled)	\$1.29	\$2.51

FY = Fiscal Year

1 hcf = One Hundred Cubic Feet = 748 Gallons

No adjustments shall be granted to any water account holder due to variation in the days of service for any bimonthly billing period. Acceptable days of service range from 50 to 69 days per bimonthly billing period.

**SECTION 3. AMENDMENT OF MILPITAS MUNICIPAL CODE VIII-1-6.14**

Section VIII-1-6.14 of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

**VIII-1-6.14 Bimonthly Water Meter Charges:**

(a) Water Meter Charges:

The bimonthly charges for water meters shall be as follows:

<b>Water Meter Size</b>	<b>FY11/12 Charge</b>	<b>Subsequent Years</b>
5/8"	\$ 25.77	2% annual increase for all sizes
3/4"	\$ 27.39	
1"	\$ 38.90	
1-1/2"	\$ 49.07	
2"	\$ 64.04	
3"	\$171.45	
4"	\$217.27	
6"	\$331.57	
8"	\$434.40	
10"	\$628.82	

(b) For Temporary Construction Meter Customers:

\$150.00 bimonthly

**SECTION 4. AMENDMENT OF MILPITAS MUNICIPAL CODE VIII-1-6.15**

Section VIII-1-6.15 of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

**VIII-1-6.15 Fire Service Charges:**

The bimonthly charges for “ready to serve” detector check valve fire suppression systems shall be made on the basis of the size of the detector check valve, and shall be as follows:

<b>Detector Check Valve Size</b>	<b>FY11/12 Charge</b>	<b>Subsequent Years</b>
2”	\$ 41.20	2% annual increase for all sizes
3”	\$ 61.89	
4”	\$ 68.78	
6”	\$ 89.45	
8”	\$110.04	
10”	\$130.69	

Water flowing through detector check valves shall be used solely for the purpose of fire protection and testing of such fire protection systems. In the event that water service provided through detector check valve fire suppression systems is used for purposes other than for fire protection or the testing of such fire protection systems, a quantity charge of \$14.75 per hundred cubic feet shall be imposed for water use that exceeds one hundred cubic feet per billing period.

**SECTION 5. AMENDMENT OF MILPITAS MUNICIPAL CODE VIII-1-6.16**

Section VIII-1-6.16 of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

**VIII-1-6.16 Billing and Effective Dates of Water Rates and Charges**

(a) Billing. After the Ordinance adopting the charges set forth in this Section goes into effect, customers shall be subject to the water charges, set forth in 6.13 (Quantity Charges), 6.14 (Bimonthly Water Meter Charges), and 6.15 (Fire Service Charges), in effect as of the beginning date of the bimonthly billing period or deposit period for which a customer is charged.

(b) Rate Program. The water service charges for the annual periods of Year 1 (June 2, 2011 to April 18, 2012), Year 2 (April 19, 2012 to April 18, 2013), Year 3 (April 19, 2013 to April 18, 2014) and Year 4 (April 19, 2014 to June 30, 2015) shall be calculated administratively, subject to adjustments to reflect the previous year’s actual budget balances and annual revenue and expenditures, but the annual rate shall not exceed the maximum allowed in this Section. In the absence of amendment of the rates set forth herein or adoption of a new rate ordinance, the maximum rate shall remain in effect for billing periods and service years subsequent to Fiscal Year 2014-15.

**SECTION 6. SEVERABILITY**

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

**SECTION 7. EFFECTIVE DATE AND POSTING**

This Ordinance shall be ineffective if, at the conclusion of the public hearing to hear protests to the proposed increase in sewer service charges held on May 3, 2011, the City Council determines that a majority protest exists pursuant to Section 6 of Article XIII(D) of the California Constitution. In the absence of a majority protest, in accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.

**REGULAR**

**NUMBER: 208.47**

**TITLE: AN ORDINANCE OF THE CITY OF MILPITAS AMENDING CHAPTER 2 OF TITLE VIII OF THE MILPITAS MUNICIPAL CODE RELATING TO SEWER SERVICE CHARGES**

**HISTORY:** This Ordinance was introduced (first reading) by the City Council at its meeting of February 15, 2011, upon motion by Councilmember Gomez and was adopted (second reading) by the City Council at its meeting of \_\_\_\_\_, upon motion by \_\_\_\_\_. Said Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael J. Ogaz, City Attorney

**RECITALS AND FINDINGS:**

**WHEREAS**, the sewage collection and treatment services of the City of Milpitas (“City”) require the City to incur capital, operating, maintenance, replacement, treatment, and other costs related to providing such services; and

**WHEREAS**, the City provided written notice by mail of proposed sewer fee or charge increases to pay for such services, held a public hearing, and complied with other provisions of Article XIID of the California Constitution (commonly known as Proposition 218); and

**WHEREAS**, the City Council has determined that increases in sewer service charges are in the best interests of the City and in keeping with sound business and financial management of the sewer enterprises and do not exceed the cost of providing such services; and

**WHEREAS**, the adoption of the proposed increases to sewer service charges is statutorily exempt from the requirements of the California Environmental Quality Act under California Resources Code Section 21080 (b)(8).

**NOW THEREFORE**, the City Council of the City of Milpitas does ordain as follows:

**SECTION 1. RECORD AND BASIS FOR ACTION**

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

**SECTION 2. AMENDMENT OF MILPITAS MUNICIPAL CODE VIII-2-6.01.**

Section VIII-2-6.01 of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

**VIII-2-6.01 Sewer Service Charges**

The charges for sewer service shall be as set forth below and are limited to the actual cost of providing sewer service. The rates for Fiscal Year 2011/12 shall be those set forth in the first column, unless modified by inflation, as provided herein. Rates for all years subsequent to Fiscal Year 2011-12 shall be at or below the proposed maximum rate as determined administratively by City staff after calculating total personnel, overhead, and capital costs incurred to provide the service, and shall be based upon an annual review of utility finances and the sewer revenue program. In no event shall rates exceed the cost of providing the service.

The maximum sewer rates listed below account for current projected treatment costs and inflationary cost increases of 2% for City treatment costs, which is based upon past historical averages and norms. Inflationary costs in excess of 2% or not provided for in the sewer revenue program caused by labor or commodity cost increases recorded in such indices as the Construction Cost Index, published in the Engineering News Record for the San Francisco Bay Area, and utility section and treatment plant financial reviews shall be passed through administratively to the ratepayer. Inflation pass-throughs in excess of the projected maximum sewer rate shall only be implemented with at least 30 days notice to ratepayers.

The following amounts shall be assessed upon each premise maintaining a sewer connection with the City’s sewage system.

(a) Residential- Bimonthly for each dwelling unit

<b>Category</b>	<b>FY11/12 Charge</b>	<b>FY12/13 to FY14/15 Maximum Charge</b>
Single Family	\$75.92	\$93.00
Multi-Family	\$51.06	\$52.22
Mobile Home Parks	\$33.36	\$40.87

(b) Commercial, Industrial and Miscellaneous Premises.

(1) Flat Rate: For non-residential accounts, there shall be a flat rate assessed every billing cycle during which normal billing takes place, regardless of the amount of sewage discharged, in the amount of \$12.82 per bimonthly period to defray billing and sewer system administration costs, effective June 2, 2011. This amount will increase to \$13.72 per bimonthly billing period, effective April 19, 2012. This amount will increase to \$14.68 per bimonthly billing period, effective April 19, 2013. This amount will increase to \$15.72 per bimonthly billing period, effective April 19, 2014.

(2) Quantity and Strength Charges: For each commercial, industrial, or miscellaneous premises, a charge for each one hundred cubic feet of water used per billing cycle shall be charged as follows:

<b>Category</b>	<b>FY11/12 Rate</b>	<b>FY12/13 to FY14/15 Maximum Rate</b>
Motels, hotels & senior citizen housing developments	\$3.14	\$3.95
General offices, banks, government offices, general merchandise, retail, and shopping centers; building, hardware, and gardening material facilities; amusement centers, and theaters	\$3.23	\$4.33
City of Milpitas	\$2.97	\$3.85
Service stations, repair shops, and car washes	\$3.12	\$3.93
Eating and drinking establishments	\$5.38	\$6.41
Personal services – laundry, barber/beauty shops, cleaners	\$2.85	\$3.63
Jefferson Smurfit Corporation*	\$3.68	\$4.46
T. Marzetti Co.*	\$6.99	\$8.47
Prudential Overall Supply	\$4.06	\$5.33
Loral-Fairchild-Lockheed*	\$2.38	\$3.12
Siemens Water (previously US Filter)	\$3.27	\$4.38
Lucky Pure Water*	\$2.85	\$3.62
DS Water	\$2.71	\$3.75
Milpitas Materials*	\$3.00	\$3.62
Union Pacific Railroad	\$3.52	\$4.69
Headway Technology Corporation	\$3.08	\$4.18
Electrical and electronics design, fabrication, assembly and storage facilities	\$3.20	\$4.27
Metal fabrication, machinery, and tool fabrication facilities	\$4.20	\$5.46
Linear Technology Corporation	\$2.75	\$3.50
Recycled water cooling towers	\$3.20	\$4.27
Schools, colleges and churches	\$4.20	\$5.91
Convalescent hospitals, day care centers and health service facilities	\$3.06	\$3.85
Elmwood Rehabilitation center	\$3.33	\$4.15

\*These industrial customers are subject to sewer charge adjustments based on their sewer volumes, as indicated in their Sewer Flow Adjustment Agreements.

(3) City of San Jose for properties known as North McCarthy Properties: \$492 bimonthly for any discharge up to 75,000 gallons per day (Maximum Flow). Excess flow charge of \$100 for each 1,000 gallons per day in excess of the Maximum Flow or part thereof.

(c) Purpose of Charge. The purpose of the sewer service charges stated herein is to defray the City's cost for operation and maintenance of the City's facilities, capital improvement costs, the City's proportionate share of costs at the San Jose-Santa Clara Water Pollution Control Plant and the debt service related thereto, and other costs related to the provision of sewage collection and treatment.

(d) Billing. After the Ordinance adopting the charges set forth herein goes into effect, customers shall be subject to the sewer service charges set forth in 6.01, in effect as of the beginning date of the bimonthly billing period for which a customer is charged.

(e) Rate Program. The sewer service charges for the annual periods of Year 1 (June 2, 2011 to April 18, 2012), Year 2 (April 19, 2012 to April 18, 2013), Year 3 (April 19, 2013 to April 18, 2014) and Year 4 (April 19, 2014 to June 30, 2015) shall be calculated administratively, subject to adjustments to reflect the previous year's actual budget balances and annual revenue and expenditures, but the annual rate shall not exceed the maximum allowed in this Section. In the absence of amendment of the rates set forth herein or adoption of a new rate ordinance, the maximum rate shall remain in effect for billing periods and service years subsequent to Fiscal Year 2014-15.

### **SECTION 3. SEVERABILITY**

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

### **SECTION 4. EFFECTIVE DATE AND POSTING**

This Ordinance shall be ineffective if, at the conclusion of the public hearing to hear protests to the proposed increase in sewer service charges held on May 3, 2011, the City Council determines that a majority protest exists pursuant to Section 6 of Article XIII(D) of the California Constitution. In the absence of a majority protest, in accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.