



BOARD OF DIRECTORS
AGENDA LETTER

Secretary of the Board of
Directors
4699 Hollister Avenue,
Goleta, CA 93110
(805) 879-4621

For Agenda Of: June 1, 2011

Estimated Time 2 hours

Continued Item: No

If Yes, date from:

TO: Board of Directors
Division

FROM: Division: Administration
Contact Info: John McInnes, General Manager

SUBJECT: Receive Protest Tabulation Results and Consider Ordinance to Enact New Rates
Effective July 1, 2011

Legal Concurrence

As to form: Yes

Recommended Action:

Receive protest tabulation results and, unless a majority of the parcels subject to the proposed charge are found to have protested the recommended rate increase, adopt an ordinance to increase rates pursuant to the rates option selected at the April 7, 2011 Board of Directors meeting.

Summary Text:

On March 31, 2011, the Board of Directors (Board) received a presentation by Camp Dresser McKee, Inc. (CDM) concerning the findings of its Cost-of-Service and 5-year Financial Plan studies. The goal of the Cost-of-Service study was to ascertain whether District user charges by customer class are proportional to the cost of servicing each respective class of customers. The CDM analysis found that District rates are proportionate to District costs by class of customer. Their evaluation was performed using the industry standard methodologies prescribed by the American Water Works Association (AWWA) Manual M1. CDM separately presented a 5-year Financial Plan of District cash flow requirements, which evaluated District rate-based revenue requirements through FY 2015-16. Based on the findings of this cash flow analysis, CDM developed four recommended rates options.

On April 7, 2011, the Board selected a preferred rates option and adopted a resolution directing staff to conduct the necessary proceedings to implement the rates increase. Staff subsequently mailed a Notice of Public Hearing (Notice) to all District customers-of-record for each and every parcel affected by the proposed rates increase. The Notice invited customers to attend the scheduled protest hearing as well as provided instructions as to how they could submit a written protest.

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As described in the Notice, protests can be received by hand delivery to the District office, by mailing to a designated United States Post Office Box, or by hand delivery at the June 1, 2011 hearing. The total number of protests received will be tabulated at this hearing. If, based upon the results of this tabulation, a majority protest against the proposed Water Rates does not exist, staff recommends that the Board adopt an ordinance (Attachment 1) that puts into effect the rates increase.

Background:

Mailing of Protests – Per Board direction, staff updated the Notice of Public Hearing with the table of rates as selected on April 7, 2011. On April 8, 2011, staff downloaded the name, service address, and contact address of the 16,659 active customers-of-record in the District billing system. The District then used the professional services of CSG Systems, Inc. (CSG), who is contracted to perform District monthly billings, to mail notice to those addresses. The Notice was sent first class via the United States Postal Service (USPS), on April 15, 2011. To confirm, the District obtained delivery confirmation that the USPS received and mailed 16,671 pieces. This less 12 test pieces sent to CSG and the District, reconciles to the 16,659 active District customers. In sum, the Notice mailing was comprised of 37 containers weighing 396.77 pounds, with a total postage cost \$5,643.18.

The Notice was mailed in the manner required by Article XIID, Section 6 of the California Constitution and by the District’s adopted “Guidelines for the Submission and Tabulation of Protests” (Guidelines).

Receipt of Protests – As described in the Notice, the public was instructed to send protests either by hand delivery in person to District offices or by mailing to a U.S. Post Office Box specifically designated to receive protest letters. Beginning April 25, 2011 and repeated 2-3 days per week, two District staff were dispatched to retrieve mail from the Post Office Box and together place the unopened mail into a tamper-proof lockbox. Concurrently, if unmarked protests were received as ordinary mail, each was placed into the lockbox with other protest letters. For additional security, this lockbox was located in the District vault. The Administration Manager retained the only set of keys to the lockbox, ensuring it remained secure. Finally, an additional layer of security was provided by the Administration manager not having the ability to unlock the vault. These controls ensure the safekeeping of protests through 5:00pm on the date of the hearing.

Returned Mail – The District received 117 (0.7% of total) unopened protests marked as “return to sender,” “no such address,” or “no forwarding address.” Due diligence was exercised to investigate the cause of the returned mail, resulting in the mailing of second notices to all valid forwarding addresses on May 10, 2011.

Protest Tabulation – Subsequent to announcing final opportunity to submit a protest, the Board will adjourn to allow time for staff to tabulate protests in view of the public. Upon completion of the tabulation, the Board will reconvene to receive the tabulated results.

Fiscal Analysis:

The adoption of recommended rates generates the revenues needed to fund operating costs, meet debt covenants, fund critical capital projects, and build necessary cash reserves to ensure long-term District sustainability.

Attachments:

1. Ordinance 2011-__ amending Appendix A of the Goleta Water District Water Code to revise the District water rates.

DRAFT

ORDINANCE NO. 2011 -

**AN ORDINANCE OF THE GOLETA WATER DISTRICT BOARD OF DIRECTORS
AMENDING APPENDIX A OF THE GOLETA WATER DISTRICT CODE TO REVISE
THE DISTRICT'S WATER RATES**

**BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE GOLETA WATER
DISTRICT AS FOLLOWS:**

FINDINGS

1. Pursuant to Section 6.24.020 of the Goleta Water District Code, the District imposes a fixed meter service charge and a billing unit commodity charge (collectively, the "Water Rates") for water service.
2. At the request of the District, Camp Dresser & McKee, Inc. (CDM) prepared a Technical Memorandum dated March 22, 2011 to propose Water Rates sufficient to permit the District to operate in a prudent manner and continue providing of quality water service to its customers.
3. On June 1, 2011, the Board of Directors held a full and fair public hearing on a proposed increase to the Water Rates. At the hearing, all interested persons had an opportunity to provide oral and written testimony regarding the proposed Water Rates.
4. Notice of the June 1, 2011 hearing was mailed in the manner required by Article XIIID, Section 6 of the California Constitution and by the District's adopted "Guidelines for the Submission and Tabulation of Protests" (the "Guidelines").
5. The District accepted and caused the tabulation of written protests against the proposed Water Rates in the manner set forth in the Guidelines. Based upon the results of this tabulation, a majority protest against the proposed Water Rates does not exist.
6. Based on the information presented at the June 1, 2011 hearing, including (but not limited to) the CDM Technical Memorandum and oral and written testimony and protests from members of the public, the Board of Directors determines that:
 - A. Revenues derived from the proposed Water Rates are not expected to exceed the funds required to provide water service.
 - B. Revenues derived from the proposed Water Rates may not be used for any purpose other than to provide water service.
 - C. The amount of the Water Rates proposed for imposition upon any parcel or person as an incident of property ownership will not exceed the proportional cost of water service attributable to the parcel.
 - D. Water Rates are imposed upon a parcel only where water service is actually used by, or immediately available to, the parcel.

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7. This ordinance does not constitute a project under the California Environmental Quality Act (CEQA) Guidelines as set forth in Title 14, Section 15378 of the California Code of Regulations, because it amends a government funding mechanism which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment (§15378(b) (4)) and is an administrative activity of government that will not result in direct or indirect physical changes in the environment (§15378(b) (5)). Furthermore, if this ordinance were a project, it is categorically exempt from CEQA pursuant to Title 14, Section 15273(a) of the California Code of Regulations, because it establishes rates and charges to fund current operating expenses of the District.

NOW THEREFORE BE IT ORDAINED:

1. Paragraph 1 of Appendix A of the Goleta Water District Code is amended to read as follows:

“Appendix: A Schedule of Charges.
1. Water Rates and Meter Charges

Description	Effective				
	July 1, 2011	July 1, 2012	July 1, 2013	July 1, 2014	July 1, 2015
Commodity Charges (\$ / HCF)					
Urban Conservation (less than or equal to 4 HCF)	\$4.12	\$4.58	\$4.90	\$5.04	\$5.09
Urban	\$4.30	\$4.78	\$5.12	\$5.27	\$5.32
Recreation Irrigation	\$3.11	\$3.45	\$3.70	\$3.81	\$3.84
Reclaimed	\$2.49	\$2.76	\$2.96	\$3.05	\$3.08
Urban Agricultural	\$1.16	\$1.29	\$1.38	\$1.42	\$1.43
West Conduit System Agricultural	\$1.06	\$1.18	\$1.26	\$1.30	\$1.31
Fixed Meter Service Charges (\$ / Month)					
5/8" & 3/4" Meters (Based on average 12 month water use)					
Ultra-Low Flow (4 or less HCF)	\$10.68	\$11.87	\$12.70	\$13.08	\$13.21
Low Flow (5 to 8 HCF)	\$21.37	\$23.74	\$25.40	\$26.16	\$26.42
All other 5/8" & 3/4" Meters	\$32.05	\$35.61	\$38.10	\$39.24	\$39.64
1 - inch	\$53.43	\$59.36	\$63.52	\$65.42	\$66.08
1 1/2 - inch	\$106.84	\$118.69	\$127.00	\$130.81	\$132.12
2 - inch	\$170.96	\$189.94	\$203.23	\$209.33	\$211.42
3 - inch	\$320.54	\$356.12	\$381.05	\$392.48	\$396.41
4 - inch	\$534.24	\$593.54	\$635.09	\$654.14	\$660.68
6 - inch	\$1,068.46	\$1,187.06	\$1,270.16	\$1,308.26	\$1,321.35
8 - inch	\$1,709.56	\$1,899.32	\$2,032.28	\$2,093.24	\$2,114.18
10 - inch	\$4,060.84	\$4,511.59	\$4,827.40	\$4,972.22	\$5,021.94

101108.2

See Section 1.04.020 for definitions of Water Service Classifications used in the above table.

Note that certain customers receive a special rate based on agreements with the District or as a result of the judgment in Wright v. Goleta Water District.”

2. Where a water bill is based upon a meter reading period that contains dates both before and after the effective date of a rate change, charges based on that meter reading period shall be prorated. For example, if a meter reading period includes 30 days total, and 10 of those days occur when a new rate is effective, then the Fixed Meter Service charge shall be two-thirds of the old monthly rate plus one third of the new monthly rate. If the customer consumed 15 HCF during that meter reading period, then 10 HCF shall be billed at the old rate and 5 HCF at the new rate.

3. The Board of Directors may elect to allow the adjustment of the rates set forth in Section 1 by a percentage no greater than (i) two-thirds of the percentage change over 3% per year in the Consumer Price Index for Los Angeles-Anaheim-Riverside for all urban consumers since the most recently published value as of July 1, 2011 *plus* (ii) one-third of the percentage increase over 3% per year of Central Coast Water Authority rates since July 1, 2011. Any such adjustment, if made, shall occur no later than with the adoption of rates for Fiscal Year 2015-16. The action to allow such adjustment shall not constitute an increase requiring additional hearing pursuant to Article XIID, Section 6 of the California Constitution.

4. This Ordinance shall be effective on July 1, 2011.

5. This Ordinance does not affect any charge imposed by the District other than the charges set forth in Paragraph 1 of Appendix A of the Goleta Water District Code.

6. If any subdivision, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforcement of the remaining portions of this Ordinance or of any other provisions of the Goleta Water District Code. It is the District's express intent that each remaining portion would have been adopted irrespective of the fact that one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

PASSED AND ADOPTED by the Board of Directors of the Goleta Water District this ____ day of _____, 2011 by the following vote:

AYE:

NAY:

ABSENT:

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Public Hearing on Rates Increase

Special Board Meeting
June 1, 2011



1

Board Action Summary

- January 25, Special Board Meeting #1: California Constitutional Requirements, Water District Overview, Financial Status, and Cost of Service Methodology
- March 31, Special Board Meeting #2: CDM Presentation of Cost-of-Service Results and a 5-year Financial Plan including 4 rate options
- April 7: Special Board Meeting #3: Board selected rate option and adopted resolution instructing staff to send Notice of Public Hearing scheduled for June 1, 2011
- June 1: Special Board Meeting #4: Tabulation of Protests and Adoption of Ordinance amending District water rates

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Tonight's Agenda

- Receive Public Comment
- Recess to Tabulate Protests
- Reconvene to Receive Tabulation Results
- Board Consideration of Ordinance to Adopt New Rates

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**LETTERS
FROM
THE PUBLIC
REGARDING
JUNE 1, 2011
GWD SPECIAL
BOARD MEETING**

From: Ann Ostrowsky [anno55@yahoo.com]
Sent: Friday, May 27, 2011 7:40 PM
To: Bert Bertrando; Lauren Hanson; Jack Cunningham; William Rosen; Doreen Farr; Janet Wolf; Salud Carbajal
Cc: Beth Horn; fran farina
Subject: Fw: why NOT no rate-increase petition put in customers' water bills

Fran and Beth, Just want to make sure you get a copy of this. I wrote a rather passionate letter re: THE CONCEPT THERE SHOULD BE A>>>>>

" Prepared printed FORM LETTER sent to each resident placed inside with their monthly bill" Seems like the expense would be nearly nothing. to the district and the Rate and The Bill Payer.

Also seems likely the DISTRICT already has each Assessors Parcel Number, and the AP# should be included... on the form.

--- On Fri, 5/27/11, Sherm Ostrowsky <shermo7@cox.net> wrote:

From: Sherm Ostrowsky <shermo7@cox.net>

Subject: why no rate-increase petition put in customers' water bills

To: "William Rosen" <wrosen98@gmail.com>, "Lauren Hanson" <LaurenHanson@cox.net>, "Bert Bertrando" <bertrando@verizon.net>, "Jack Cunningham" <jcunni6432@aol.com>

Cc: "NEWSHAWK" <e-bulletin@noozhawk.com>, "William M. Macfadyen" <wmacfadyen@noozhawk.com>, "Santa Barbara Sound" <info@santabarbarafree.com>, "Nick Welsh" <nick@independent.com>, "Travis Armstrong" <tarmstrong@newspress.com>

Date: Friday, May 27, 2011, 5:13 PM

As citizens and rate payers, we have been talking to friends and acquaintances, and even strangers, about the proposed rate increase. We were dismayed, but not really surprised, to find that hardly *anyone* knows anything about this issue!

You say that the Board desires public input, and indeed I think the law requires that the customers (all of them) be notified in a "timely" manner and given an opportunity for comment and to express opposition if they wish to do so. But you have made only a pitiful token effort to give such notice. A few meetings, which the vast majority of customers didn't know or care about; a few newspaper articles, mostly buried on "page 9". You asked for input of petitions, and made a big issue at one meeting concerning how the petitions should be handled. But no real effort has been made to publicize this.

Come on, now. The Board has a list -- an official list -- of all the customers who are entitled to be notified. These are the same people to whom you send out bills every month! It would have been simple and easy to include a notification message along with each bill, and a copy of the petition. Then you would really be entitled to say: "we did as much as we could to give proper notice."

A concerned citizen would, we think, feel justified in doubting the sincerity of the Board's expressed desire to give this matter the publicity it deserves.

If you want to avoid this appearance of saying one thing and doing another, there is a simple solution:

We feel this increase MUST BE put on HOLD until the GWD Board sends out a "FORM LETTER and a PETITION" within each monthly billing letter for at LEAST one billing cycle, so that everyone has a real chance to know what is going on. Also they will then have a "VALID PETITION" printed in legible LARGE PRINT they can send or bring in if they wish, and adequate time to make an informed choice.

Isn't that what the Board claims to desire? Don't say "it's too late for that". It's never too late for openness in the Public's business. A mere pretense of openness will fool nobody when the time for explanations comes around.

**Barbara Ann Ostrowsky
Howard Sherman Ostrowsky
291 Salisbury Avenue
Goleta, CA 93117
805-562-9933**

From: John Ruskey [johnruskey@sbcglobal.net]
Sent: Tuesday, May 31, 2011 4:23 PM
To: John McInnes; Beth Horn
Cc: David Matson; 'Fran Farina'
Subject: Objections to proposed actions at special Board meeting on June 1,2011

The below email message is to be delivered to each of the Directors of the District for their deliberations at the Special Board meeting scheduled for June 1, 2011. This email message is to be part of the administrative record as to the proceedings on June 1st.

The Goleta Water District has failed to give any mailed notice of right of protest to any of the "record owner" of parcels of real property which are going to be subject to the proposed rate increases as required by ARTICLE XIII (D), SECTION 6 of the California Constitution and thus the counting of protests filed only by the "customers of the District" which is scheduled at the special Board meeting on June 1, 2011 will be a void action

I.

Introduction.

The following written materials are being submitted by the undersigned as a "record owner" of a parcel of real property which is located within the boundaries of the Goleta Water District. I will appear at the Special Board meeting scheduled on June 1, 2011 to orally object as to the failure of the District to comply with Article XIII(D), Section 6 of the California Constitution as to its failure to supply notice of the proposed rate increases to all of the record owners of parcels of real property which are located within the boundaries of the District. This written Protest and Objections is being made individually and on behalf of all other record owners of parcels located within the boundaries of the Goleta Water District.

These written objections will be submitted to the Directors of the District prior to the meeting on June 1st as to be considered by them and to be made a part of the administrative record concerning the past and present actions and deliberations of the Board of Directors concerning the complete lack of any Notices being mailed to the "record owners" of the parcels which are to be subject to the proposed rate increases and the adoption of the Ordinance to enact new rates.

I.

THE CALIFORNIA CONSTITUTION GIVES THE RIGHT OF PROTEST BY ALL OWNERS OF PARCELS OF REAL PROPERTY LOCATED IN GWD ON PROPOSED ADOPTION OF INCREASED WATER RATES.

Per the plain language of Article XIII(D) Section 6, of the California Constitution requires that the notice of the proposed new water rates must go to the RECORD OWNERS OF PARCELS located within the boundaries of the agency which wishes to impose new or increases water rates. (Emphasis added) . The right of protest is to be given to each and every

owner of record of the affected parcels and not to be done on a hit and miss basis which is dependent upon the information concerning the District's "customers of record"!

The majority protest procedures for increases rates are as follows:

"Sec. 6. Property Related Fees and Charges. (a) Procedures for New or Increased Fees and Charges. An agency shall follow the procedures pursuant to this section in imposing or increasing any fee or charge as defined pursuant to this article, including, but not limited to, the following:

(1) The PARCELS upon which a fee or charge is proposed for imposition shall be identified. The amount of the fee or charge proposed to be imposed upon each PARCEL shall be calculated. 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. (Emphasis added)

(2) 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."(Emphasis added)

The Prop 218 Omnibus Implementation Act at Government Code § 53755(a) (1) provides that "notice may be given by including it in the regular billing statements..." But this section goes on to state that:

(a)(3) If the agency desires to preserve any authority it may have to record or enforce a lien on the parcel to which service is provided, the agency shall also mail notice to the record owner's address shown on the last equalized assessment roll if that address is different than the billing or service address.

And also provides that, "One written protest PER PARCEL, filed by an OWNER OR TEMANT of the PARCEL, shall be counted in calculating a majority protest to a proposed new or increased fee or charge subject to the requirements of Section 6 of Article XIII D of the California Constitution." (Emphasis added)

The fact that the Implementation Act of the Government Code states that the notice may go to customers by including in the regular billing statement, which was not the procedure adopted and followed by the District, does not override the clearly stated and required mandatory Constitutional notice requirement of the mailing of notice to the "named owner" at its address and identifying the affective parcel. The only form of Notice was sent by the GWD by a special mailing on April 15th. The form of the mailed Notice was only addressed to "current customers of record" of the District and did not set forth any information identifying the name of the record owner of the parcel nor any identification(APN) of which specific parcel was to be subject to imposition of the new rates. The County identifies specific parcels by the use of Assessor's parcels numbers (APN) .The mailed Notice, per the statement provided in the Agenda package for the June 1st meeting, was that a Notice was mailed "to all District customers –of –record for each and every parcel affected by the proposed rate increase". The mailed notices did not contain the names of the record owners, or their mailing addresses or the APN information required to identify the affected parcel. See Item #1 page #1 paragraph 4 of the

agenda package. Thus it is admitted by the District that no proper notice was sent to the record owner of the parcel to be affected by the proposed rate increases! This failure has prevented all of the parcel owners of record from being advised of their right to protest.

There is nothing improper by the District deciding to provide additional notice by informing their customers at the customer's billing address. However, this form of Notice used by the District does not substitute for the constitutionally mandated identification of the specific parcel affected appearing on the Notice and the Notice being sent to the addresses of record owners of the affected parcel. There is no actual basis to assure the names and addresses of all customers of record are the same names and addresses of record owners of parcels. The names and addresses of every record owner of each parcel located within the boundaries of the District are available, yet the District has decided to only mail the Notices to the names and addresses per its customer list. This means that every affected parcel that is leased or used by a person who is not the record owner, such as when the record owner of the parcel is a corporation, partnership or trust, but has the water bill sent to the name and address of a person who is not the named owner of record, does not have the owner of record receive any mailed notice of the proposed rate increases as constitutionally required.

Apparently the District has made an unsupportable factual assumption to justify its complete failure to give any mailed notice to the record owner of the affected parcel that somehow each and every record owner of all affected parcel will receive some form of notification relayed by the billing customer per the District's records that there is a proposed rate increase that can be protested by the record owner. It has been stated on the record at various Board meetings that a significant number of its customers are college students who have short term leases and are one of the principal sources of the unpaid delinquent monthly statements. What is the factual basis for the implied assumption that the college students will bother to give the record owner of the parcel any type of notification, even if the name and address of the record owner is actually known by the students that the water rates on the parcel for the next five years will be increasing? The mostly likely action by the short term college student renters will be to throw the Notice into the waste basket feeling it is not their problem. Thus, the record owner of the parcel will never receive the required notice of the proposed rate increases and right to protest.

Ultimately, The District by voluntarily informing the billing customers and by not providing mandatory Notice to the record owner, the District has possibly increased the number of received protests required to reach the required majority to prohibit the proposed rate increase. The agenda package for the June 1st meeting states that 16,659 Notices were mailed to the District's "active customers". However, since the District has failed to identify the actual number of parcels affected by the proposed rate increase, it is impossible to compute the number of protests from the parcels affected which determines whether a majority protest has been submitted. The fallacy of the reasoning of the District in using only the names and addresses of its active customers is that it is currently impossible per the information provided in the information package for the meeting on June 1st to determine the actual number of parcels constituting a majority for purposes of the protest computation. The willful failure of the District to make this crucial information available will be disclosed below concerning the failure of the District to comply with the Public Records Act per Request for Public Records concerning the mailed Notice concerning the right of protest to the proposed rate increases.

As mentioned above, the number of tenants in the District who are customers is very substantial due to the large number of students who live and rent in the District and the commercial businesses who lease their premises. Thus the actual number of owners of parcels located in the District have no clear factual relationship to the actual number of "active billing customers of record" located within the District. One large parcel with an apartment building can have a substantial number of individual tenants who are each the individual customer of the District. If there are twenty customers in that apartment who file a protest, the twenty separate received protests only count as one protest per that parcel. Where is the factual information which will be used to establish that 19 of the filed protests will be disregarded in determining the number of countable protests?

Per a Public records Request filed by the undersigned, the records identifying the exact number of parcels entitled to file a valid protest was requested and this information has been not supplied by the District and thus it will not be possible to determine if the number of owners of record who have received the required Notice and what number of protests will equal a majority protest.

II.

The district has failed to comply with the requirement of its Resolution No. 2011-08 as to the Guidelines for the Submission and Tabulation of Protests.

The Directors on March 31st adopted Resolution 2011-08 concerning the Guidelines for the Submission and Tabulation of Protests to be used at the June 1st Special board meeting. Per exhibit A of the Resolution, under " Notice of Proposed rates and Public Hearing" 5 C. it was required that "the General Manager shall execute an affidavit or certificate of service of notice containing such information describing the document served and INCLUDING A LIST OF EACH PERSON AND SUCH PERSON'S ADDRESS SERVED WITH NOTICE". (ENPHASIS ADDED)

The agenda package for the June 1st meeting does not contain the above required Affidavit from the General Manager on the service of the notice required by the constitutes and the Resolution of the Board adopted on March 31st. Thus there is no information provided to the public and the Directors as to the person and such person's address used for the service by mail of the required Notice.

This complete failure to supply the required information as to who was mailed a Notice prevents the counting and processing of the protests received since there is no factual materials available to the Directors and the public to determine how many countable protests have been made per each affected parcel per the proposed rate increase.

Even though there were over 16,000 Notices mailed per the agenda package, there is no factual basis to determine how many individual legal parcels said mailed Notices covered in order to determine a majority of the protest which is limited to one per legal parcel. The number of Notices mailed has no factual or rational relationship or correlation as to the number of separate legal parcels entitled to protest and thus it is impossible to determine the number of protests to constitute a majority. See below discussion of Request for Public Records and the District's bad faith Responses concerning Notice of proposed rate increase.

III.

The District was requested on May 11, 2011 to produce various Public Records on the required affidavit of the General Manager per the proposed increase in water rates and the undersigned received a bad faith response as to the production of the records required per the June 1st special meeting.

The undersigned on May 11, 2011 filed with the District a request for the production of various Public records specifically requesting a copy of the required Affidavit of the General Manager concerning the service of Notice.

In addition to the Affidavit, the District was requested to supply a copy of the various records it relied upon concerning the identification of the parcels within the District which were to be counted in the tabulation of the number of received protests to determine if a majority protest had been received.

A document purporting to be a copy of the required Affidavit of the General Manager was produced per the Public record Request which is completely defected under California law as being a valid affidavit and also did not contain the information required in the Affidavit as to whom received the mailed notices.

The California Code of Civil Procedure section 2003 clearly provides that an affidavit is a "written declaration under oath". The provided document per the Public record request was not signed under oath by the General Manager as required by section 2003.

Section 2015.5 of the Code of Civil Procedure sets forth the form of the Oath to be used in signing an Affidavit as follows:

Whenever, under any law of this state or under any rule, regulation, order or requirement made pursuant to the law of this state, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn statement, declaration, verification, certificate, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may with like force and effect be supported, evidenced, established or proved by the unsworn statement, declaration, verification, or certificate, in writing of such person which recites that it is certified or declared by him or her to be true under penalty of perjury, is subscribed by him or her, and (1), if executed within this state, states the date and place of execution, or (2), if executed at any place, within or without this state, states the date of execution and that it is so certified or declared under the laws of the State of California. The certification or declaration may be in substantially the following form:

(a) If executed within this state:

"I certify (or declare) under penalty of perjury that the foregoing is true and correct":

(Date and Place)

(Signature)

The purported Affidavit, a copy of which is set forth below, is invalid on its face since it was not dated or signed under oath, and does not contain the materials required as to the specific information required by Resolution 2011-08 which states: "including a list of each person and such person's address served with notice." No such listing was attached to the legally defective Affidavit supplied per the Public Records Request and no revised affidavit with the required list has been supplied to the Directors and the public per the materials to be considered at the Special Board meeting on June 1st.

The Affidavit provided to the undersigned stated: "The list of customers to which the notice was sent is not a disclosable public record by virtue of the Public Records Act, Government Code section 6254.16 but is available for inspection (but not copying) in the office of the General Manager." The District's General Manager legal conclusion which was set forth in the body of his affidavit completely ignores the fact that pursuant to the terms of sub section (f) of section 6254.16 provides that the names and addresses of customers shall be made available if the local agency determines that the public interest in disclosure of the information clearly outweighs the public interest in nondisclosure. This provision reads as follows:

Nothing in this chapter shall be construed to require the disclosure of the name, credit history, utility usage data, home address, or telephone number of utility customers of local agencies, except that disclosure of name, utility usage data, and the home address of utility customers of local agencies shall be made available upon request as follows:

....

(f) Upon determination by the local agency that the public interest in disclosure of the information clearly outweighs the public interest in nondisclosure.

The public interest in the full disclosure of the names and addresses has been already decided by the Board when it adopted Resolution 2011-08 on March 31st since the resolution specifically stated that said names and addresses were to be set forth in the Affidavit of the General Manager! The Directors, if they had wished to determine to not disclose the names and addresses of the customers, would have not put the requirement in telling the General Manager what information the Board wanted to be provided in the body of the Affidavit. There is a great public interest in knowing the nature and scope of who actually received notice of the proposed rate increases and the right of protest. The language of the March 31st Resolution was proposed by the General Manager and was approved by the District's legal counsel prior to the adoption of the Board!

There has been no action of the Board in rescinding this requirement adopted per resolution 2011-08 and it is not within the authority of the General Manager and the District's legal counsel to ignore or rescind the action of the Board on March 31, 2001 which was an integral part of the District's duly adopted "GUIDELINES FOR THE SUBMISSION AND TABULATION OF PROTESTS".

Thus the impermissible withholding of this critical information by the General Manager prevents any action on the tabulation of the protests received as to the proposed rate increases.

As evidence of the above failure to provide vital factual information concerning the proposed actions at the Special meeting on June 1st, the below is a true and correct records of the undersigned efforts to obtain the relevant information per the proposed rate increases.

COPY OF PUBLIC RECORDS REQUEST

From: John Ruskey [johnruskey@sbcglobal.net]

Sent: Wednesday, May 11, 2011 6:06 AM

To: John McInnes

Cc: Beth Horn; 'Fran Farina'; David Matson

Subject: Public record request re service of 218 on fees increases per affidavit of General Manager

REQUEST FOR PUBLIC RECORDS FROM THE GOLETA WATER DISTRICT (GWD) BY JACK RUSKEY CONCERNING AFFIDAVITE OR CERTIFICATE OF SERVICE BY GENERAL MANAGER ON SERVING MATERIALS PER PROPOSITION 218 AS TO PROPOSED WATER RATE INCREASE BY GOLETA WATER DISTRICT

DATED: May 11, 2011

The undersigned is a customer of the Goleta Water District and in that capacity is requesting the below described Public Records.

The requested Public Records described in the possession and control of various agents, attorneys, employees, officers and directors of the District are to be made available to the undersigned for inspection and possible copying within the time periods specified under the California Public Records Act.

INTRODUCTORY STATEMENT.

The GWD Board of Directors at its special meeting on March 31, 2011 adopted Resolution 2011-08 concerning the procedures required per the proposed future water rate increases which will be applicable to every parcel of real property which is located within the boundaries of the Goleta Water District. Resolution 2011-08 stated the following as to the mailing of notices of the proposed water rate increase:

"The General Manager shall execute an affidavit or certificate of service of notice containing such information describing the document served and including a list of each person and such person's address served with notice."

The undersigned received a NOR ICE OF PUBLIC HEARING PROPOSED WATER RATE INCREASE several weeks ago. However, after a search of the GWD's website could not locate the required affidavit or certificate of service executed by the General Manager as required by resolution 2011-08. The undersigned at the regular Board meeting on May 10th, during the Public Comment time on the agenda specifically asked the Directors, and the staff who were present which included the General Manager and the District's general counsel, to please identify for me the location on the District's website where said affidavit or certificate of service could be found. My request was not answered by anyone at the meeting!

THE REQUESTED PUBLIC RECORDS CONSIST OF THE FOLLOWING DOCUMENTS:

1. A true and correct copy of the affidavit or certificate of service required from the General manager per the provisions of resolution 2011-08 which was adopted by the Board on March 31,2011 per the proposed water rate increases.
2. A true and correct copy of all communications among and between the staff, legal counsel for the District, and the Directors of the District as to who was to receive a mailed Notice of the proposed rate increase and which owners of parcels of real property which are located within the boundaries of the Goleta Water District who were not to receive the mailed Notice of proposed rate increase.
3. A copy of all records of the District which will be used by the General Manager in the determination of the number of parcels within the District which are to be counted in the tabulation as to the number of protests which will be deemed a majority of the parcels per the provisions of Proposition 218.

If there are any protected customer's data, all such protected should be redacted from the documents produced.

The documents which are maintained in electronic form shall be transmitted to the undersigned by email at the earliest possible date and should not be delayed pending the review and possible redaction concerning non electronic Public Records.

The records to be delivered electronically should be submitted to me at johnruskey@sbcglobal.net. Please contact me by email if there will be any problems, objections or delays in promptly producing the above requested Public Records for my inspection and possible copying. The Response to this request for public records pursuant to the provisions of the Government Code should be sent to the undersigned by email. .

When the requested documents are available for my inspection, please contact me by email.

Jack Ruskey

May 11, 2011

[End of e-mail]

DISTRICT'S LETTER AS RESPONSE TO PUBLIC RECORDS REQUEST

[De LAY & LAREDO , Attorneys at Law letterhead]

sent via e-mail johnruskey@sbcglobal.net

SUBJECT: May 11, 2011 Request for Public Records on General Manager Certificate of Service For Proposed Water Rate Increase Notice

Dear Mr. Ruskey:

In regard your May 11th request, the information is available on a CD (free of charge) which may be picked up at the District's front office. The District will use information received from the County Assessor's Office and incorporated into its GIS layer to determine the number of parcels within the District on June 1, 2011.

If you wish to review the list of customers to which notice was sent, I will need to arrange for a meeting room and supervision of your review. The customer information is available for inspection but not copying in accordance with Government Code §6254.16. Please contact me at 681-8822 or email me at ffarina@cox.net.

Sincerely,

De Lay & Laredo

By: Fran Farina

[End of letter]

At the meeting on the 23rd, the District provided a one-page document from the U.S. Post Office with information that on April 15th, 16,6781 pieces of mail were sent. The mailing agent was named as Custom Mailing Solutions, Inc.; a copy is not included hereto.

E-MAIL RE MEET AND CONFER MEETING WITH THE DISTRICT'S GENERAL COUNSEL

The undersigned, after the meeting on May 23 with the District's General Counsel as to the failure to produce the majority of the records requested, sent the following e-mail to the District's General Counsel in a good faith attempt to obtain the requested records.

From: John Ruskey [mailto:johnruskey@sbcglobal.net]

Sent: Tuesday, May 24, 2011 11:13 AM

To: 'Fran Farina'

Cc: 'John McInnes'; 'David Matson'

Subject: Public records on Notice per 218 as to rate increases.

Ms. Farina,

I am sending this email pursuant to the meeting I had at the District's office yesterday morning as to the public records I had requested from the District as to the mailing of notices concerning the proposed water rate increases and a determination of the owners of parcels in the District who received notice of the right to protest. This email is being sent as a meet and confer as to the resolution of the District's position as to the non production of the records I had previously requested per my written request dated May 11th.

First you stated at the outset of the meeting that I could not make any notes on my computer or write on my note pad as to the materials which you said I could look at in your presence . You said the 238 pages were mailings by the District to its customers.

The list shown to me had no alphabetical listing by name or address or even zip code. all of the information on the list was completely random and thus impossible to check a specific name to verify if a particular customer was on the list. The list contained no APN numbers as to the random names and addresses. When I specifically asked you was there a mailing made by the District to the record owners of the legal parcels located in the District , you merely restated that the list provided was the mailing to the District's customers. I told you that your answer was nonresponsive and then I immediately repeated the same question several times and each time you refused to answer as to any mailings to the owners of the parcels located in the District. If there has been any separate mailing done by the District to the owners of

the legal parcels located in the District, please immediately notify me as to this fact and supply me with the District's records reflecting said mailings. I believe you must know that the names, addresses and APN numbers are not confidential records of the Assessor's office and are readily available to any member of the public.

I was given a one page document which was represented to be a record from the post office showing the mailing of 16,671 pieces of mail on April 15, 2011. You then represented to me the mailing was to the persons on the "confidential" 238 page document which I could not make any notes concerning.

I then asked where were the public records I had requested per items number 2 and 3 of my May 11th Public record Request. You advised me that nothing additional was to be provided as to item #2. We had a brief nonproductive discussion as to the specific items which I read to you per the items specified by me per my May 11th Request. I specifically asked you as to such items was there an exemption as to their productions under the Public records Act. You refused to answer me.

Finally, I asked as to records concerning item # 3 and why none had been produced to me. You said that the determination as to the number of legal parcels entitled to file a protest was to be determined by the District as of June 1st. I asked how did the District know that all required parcel owners in the District received the notice mailed on April 15. You failed to provide me with any response as to this question.

The meeting was concluded with you stating to me that I had received everything that the District was going to produce per my Public Record Request. I asked you if it would require a court Order for me to receive any additional records per my written May 11th request and our discussion during our meeting. Please confirm that your statement on no further production of requested records is the current position of the District and that any further efforts by me as to an additional meet and confer will be an exercise in futility.

Jack Ruskey

May 24, 2011

[End of e-mail]

COPY OF AFFIDAVIT OF GENERAL MANAGER PRODUCED PER REQUEST FOR PUBLIC RECORDS

[GOLETA WATER DISTRICT letterhead]

CERTIFICATE OF SERVICE BY REGULAR MAIL

I, John McInnes, General Manager, of the Goleta Water District do hereby certify that I served by United States mail, postage prepaid, the notice attached hereto as Exhibit A to all then-existing customers of the District on April 15, 2011. The list of customers to which the notice was sent is not a disclosable public record by virtue of the Public Records Act, Government Code § 6254.16 but is available for inspection (but not copying) in the office of the General Manager.

(signature)

John McInnes, General Manager

[A copy of Section 6254.16 of the Government Code was also provided, but is not set forth herein.]

[End of affidavit]

Since the above last e-mail sent by the undersigned to the District, there has been no further communication or records from the District to the undersigned as to the failure to provided the requested records and there has been no additional information set forth in the agenda package materials for the meeting on June 1st.

The above information clearly establishes a premeditated program of deception as to the actions of the District in its efforts to circumvention the constitutionally protected rights of the record owners of parcels to exercise their right of protest as to the proposed rate increases which will be in place for the next 5 years. Does the General Manager intend to count the number of parcels which have the right of protest to be one more than 50 % of the number of notices mailed to the customers of record of the District on April 15, 2011? To tabulate the number of protests on this factual basis is capricious and arbitrary without support in facts or law.

IV

The California Constitution protects the rights of its citizens to the access to information concerning the conduct of the people’s business, and, therefore, the meetings of public bodies and the writing of public officials and agencies shall be open to public scrutiny.

The California Constitution specifically provides as follows in Article 1 section 3 (a)and (b)(1):

CALIFORNIA CONSTITUTION ARTICLE 1 DECLARATION OF RIGHTS

SEC. 3. (a) The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good. (b) (1) The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.

As has been demonstrated above concerning the willful refusal of the District to comply in good faith to the Public Records Requests of the undersigned submitted on May 11th as to the records of the District as to the giving of notice pursuant to the constitutionally guaranteed right of the record owners of parcels of real property the right to defeat said proposed rate increases by filing protests to said rate increases have been irreparably prejudiced. The purpose in making the Request for Public Records was to obtain transparency for the public as to the proposed actions undertaken by the GWD as to the process of giving the required notices to owners of the parcels of the real property to be affected by the proposed actions and the subsequent counting of protests to determine if a majority plus one of the parcel owners had filed their protests in order to defeat the proposed rate increases. The General Manager and the General Counsel for the District, with the presumed knowledge of the members of the Board of Directors , have engaged in a concerted effort to not supply the fundamental records requested. The various omissions were the refusal to presented a proper Affidavit of the General manager on the mailing of the notices on April 15th , the failure to supply copies of the internal communication of the District as to whom was to receive a mailed notice of the protest right as to the proposed rate increases, and the records of the District’s General Manager in determining the number of parcels within the District which are to be counted in the tabulation of the number of protests required to constitute a majority of the parcels per the provisions of Constitution Article XIII (D) (6).

Specifically, in the letter of May 16th from the General Counsel of the District to the undersigned in its refusal to comply with identification of the parcels within the District stated “the district will use information received from the county Assessor’s Office and incorporate into its GIS layer to determine the number of parcels within the District on June 1,

2011." No such information will be available from the Assessor's office on June 1st since the Assessor's Office, when recently asked by the undersigned for the CD as to the most current listing of the record owners located within the county, provided the following response as to how current the information as to ownership of parcels would be available from the assessors' office:

ASSESSOR: Santa Barbara (805) 568-2550, Fax (805) 568-3247, Santa Maria (805) 346-8310, Fax (805) 346-8324, Lompoc (805) 737-7899

ELECTIONS: 1-800-SBC-VOTE, Santa Barbara (805) 568-2200, Fax (805) 568-2209, Santa Maria (805) 346-8374, Fax (805) 346-8342, Lompoc (805)737-7705

CLERK-RECORDER: Santa Barbara (805) 568-2250, Fax (805) 568-2266, Santa Maria (805) 346-8370, Lompoc (805) 737-7705

County Clerk, Recorder and Assessor

Dear Disk User:

This disk contains a number of files all based off the *2010 Secured Assessment Roll.txt* file. The *2010 Secured Assessment Roll.txt* file is the complete secured assessment roll, which is the most current secured property assessment roll containing current ownership information as of our latest certified closed roll valuation as of January 1, 2010. Also included are Excel files of the various cities that are subsets of the *2010 Secured Assessment Roll.txt*. Most of these agencies have less than 65,000 records, which is the record limit of Microsoft Excel 2003, unlike the *2010 Secured Assessment Roll.txt*, which contains 128,394 records.

Note that the roll in its entirety is too large to be placed in an Excel 2003 spreadsheet. To view the roll in Excel spreadsheet format, realize that the combination of the unincorporated area spreadsheet and the eight incorporated city spreadsheets will yield the entire roll. Also this data is a snapshot in time as of January 1, 2010 since that time the data has changed as a result of jurisdictional changes, annexations, lot splits, parcel consolidation, transfers, etc. Therefore if you require up-to-date data, or have any questions or concerns about the accuracy, please do not hesitate to contact the Assessor's office.

Updated Files

Quarterly, this disk is updated with the latest owner information on record; these files do not contain the assessed values and could possibly have different counts due to jurisdictional changes, annexations, lot splits, parcel consolidation, etc. If you require up-to-date data or have any questions or concerns about the accuracy please do not hesitate to contact the Assessor's office.

We hope you will find this information useful, and if you have any questions, comments, or concerns please do not hesitate to call us at the number above.

JOSEPH E. HOLLAND

County Clerk, Recorder and Assessor
Registrar of Voters

JIM MCCLURE

Asst. County Clerk, Recorder and Assessor

[End of Assessor's response]

In addition, since the notices which were mailed by the District on April 15th were sent only to the "customers of record" and the notices had no APN numbers on them, how can the District compute which protests pertained to which parcels even when the information concerning the parcels is eventually obtained by the District from the Assessor's office?

By the admission that the District must go to the Assessor's office for the records on the names and addresses of the record owners of the parcels of real property which are located in the District, means that the District's own billing information as to its 'customers of record' do not contain any information as to the APN of the parcels to which water service is being delivered. This admitted lack of information appears to be the reason behind the District's stonewalling on the requested records on all communications concerning the identification of the record owners of the parcels located in the District who are required to receive the constitutionally mailed notices. From the brief cursory review by the undersigned of the Assessor's CD of parcel owners within the County, it appears that the total number of affected parcels is substantially fewer than the 16,000-plus number of customers of record who received the mailed notices.

The complete failure to provide the requested records is in clear violation of the public's rights of information as to the actions of the GWD which are guaranteed by Section 3 of the California Constitution . Any actions of the General Manager to count the received protests on June 1st and make a determination as to whether there was a majority of the parcel owners voting against the proposed rate increases will be an arbitrary and capricious action without any factual support and any reliance by the Board of the District as to the Determination of the General Manager in proceeding to adopt the proposed rate increases will be a nullity.

Jack Ruskey

May 31, 2011

June 1, 2011

To: Goleta Water Board
From: Michael and Margarete Reinhart
3938 Laguna Blanca Dr
Santa Barbara, CA 93110

Dear Water Board Members:

I am writing to protest against the water rate increase using the current billing structure. I am currently billed \$46.06 for a one inch meter, but my twelve month average usage is 7.50 hcf. I called several years ago and was advised to keep this size meter as our home is on a slope. I do everything possible to conserve water.

The billing should be based primarily on water usage (or water saving in my case), not meter size.

Thanks for your consideration,

Margarete L Reinhart
Michael Reinhart, 6-1-11

Margarete L. Reinhart
Michael Reinhart

Attachment: Current Billing



Goleta Water District
 4699 Hollister Avenue
 Goleta, CA 93110-1999

AUTO5-DIGIT 93110 2 PS5 66A56AD27-A-1
 455 1 AV 0.340



REINHART, MICHAEL
 3938 LAGUNA BLANCA DR
 SANTA BARBARA CA 93110-2134

Invoice

ACCOUNT INFORMATION

Account Number 1948061.000
 Service Address 3938 LAGUNA BLANCA DR
 Rate Schedule SFF
 Service From 03/25/2011 To 04/25/2011
 Number of Billing Days 3
 Bill Date 04/28/2011
 Due Date 05/18/2011

METER READ INFORMATION IN HCF = 748 GALLONS

Meter #	Previous Read	Current Read	Current Usage
41862582	2,276	2,282	
Rate Per HCF	3.71		

CURRENT CHARGES

Description	Amount
Water Usage	22.21
Basic Charge 1 Inch Meter Service	46.00
Backflow Prevention Device Chg	5.00
Total Current Charges	73.31

PAYMENTS/ADJUSTMENTS/CREDITS

Payment Received 04/19/2011	(69.60)
Total Payments/Adjustments/Credits	(69.60)

SUMMARY

Previous Balance	69.60
Payments/Adjustments/Credits	(69.60)
Past due balance due immediately	0.00
Total Current Charges	73.31
Total Amount Due	73.31

If Paid After 05/18/2011 78.31

AUTO DRAFT - DO NOT PAY

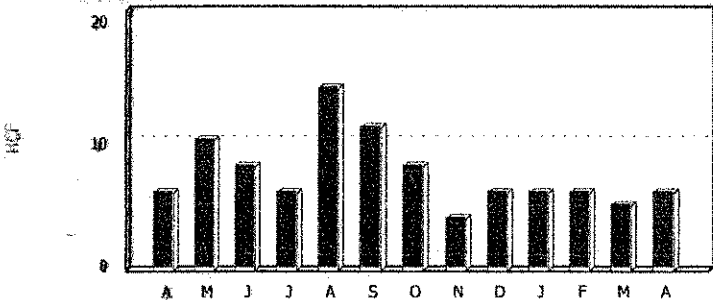
SPECIAL MESSAGE

The District is proposing changes to customer rates and charges. The next Special Board Meeting will be held at the Goleta Unified School District Board Room, 401 N. Fairview Ave. on June 1, 2011 at 5:30pm.

May is Water Awareness Month. For ways to save water go to www.sbwater.org & www.goletawater.com.

Do you have an Ocean Friendly Garden? Join us at the first OFG series class on June 11, paid for by a Whale Tail CA Coastal Commission grant. Learn more: www.oceanfriendlygardens.org.

YOUR MONTHLY WATER USAGE



12-month average: 7.50
 Current Usage in HCF: 6

1 HCF = 100 cubic feet = 748 gallons
 Current Usage in Gallons: 4,488

PAYMENT COUPON

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT
 PLEASE MAKE YOUR CHECKS PAYABLE TO:
 Goleta Water District

Account Number 1948061.000
 Service Address 3938 LAGUNA BLANCA DR
 Service From 03/25/2011 To 04/25/2011
 Due Date 05/18/2011

REINHART, MICHAEL
 3938 LAGUNA BLANCA DR
 SANTA BARBARA CA 93110-2134

AMOUNT DUE

Total Amount Due 73.31

AMOUNT ENCLOSED

AUTO DRAFT - DO NOT PAY

IF PAID AFTER 05/18/2011

78.31



GOLETA WATER DISTRICT
 4699 HOLLISTER AVENUE
 GOLETA CA 93110-1999

0000019480610005000007332