

AGENDA

WASHINGTON COUNTY WATER DISTRICT

Regular Meeting

April 11, 2019

6:00 P.M.

At The **SCHOOL**

Please Note: In compliance with the Federal "Americans with Disabilities Act", any person who requires special accommodations in order to attend or participate in the meeting, please contact 265-4323 - prior to the meeting.

APPROVAL OF THE AGENDA

APPROVAL OF THE MINUTES FROM REGULAR MEETING –MARCH 14, 2019

Fire Department Meeting

- I. A. Monthly Fire Chief's Report (Department Representative)
- B. Firewise Coalition Re cap (Rorie Lin Gotham)
- C. Closure of the Fire District Meeting

Water Agency Meeting

- I. **Monthly Reports**
 - A. Finance Coordinator Report and Approval of Warrants (Directors)
 - B. Director's Announcements (Directors)
 - C. System Operations Report: (S. Rowland)
 - D. Meter Report (D. Askew)

- II. **Old business: for information, discussion and possible motion.**
 - A. Workman Comp issues (S Rowland/C. Jackson)
 - B. Billing software (J. Price)
 - C. Finalize and accept job descriptions for GM and Secretary (S. Roland)
 - D. Grant update (W. Helm)
 - E. Rate concerns (W. Ahrens/Concerned Citizens Committee)

New Business: for information, discussion and possible motion

- A. Separation and assignment of duties for board members (W. Helm)
- B. Billing issues for less than \$25 (W. Helm)
- C. Website (K. Kosloski)
- D. CSDA Trial membership (K. Kosloski)

Correspondence

- A. Letter from James Grille

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**MEMORANDUM OF POINTS AT ISSUE, WITH AUTHORITIES, TO BE CONSIDERED REGARDING
THE VALIDITY OF WASHINGTON COUNTY WATER DISTRICT WATER RATE ANALYSIS OF
FEBRUARY 2018 PREPARED BY RCAC.**

I. BACKGROUND:

The subject Water Rate Analysis ("Analysis") was commissioned to determine a water rates structure post installation of water meters on each of the then existing customers who were receiving treated water from the Washington County Water District ("WCWD").

The installation of water meters were **mistakenly understood** by WCWD to be required **only** on each property then currently served with water (see discussions in Article II below). Previous to the installation of the water meters, water was sold by WCWD to its customers on a flat rate basis in the amount of \$50 per month with no cap on the volume used therein. The Analysis proposed a hybrid flat rate/tiered monthly rate: \$50 flat rate for the first 5000 gallon usage per month; \$.00325 tiered rate per gallon over 5000 gallons per month. The intent of these rates was to cover WCWD's initial annual operating cost of \$110,319. These rates went into effect beginning with the months of November-December 2018.

Upon receipt of the billing statements for this bi-monthly period, many customers realized a significant increase in the water charges beyond the previous \$50 per month. This realization was cause for an investigation of the correctness of the Analysis. That investigation is the subject of this memorandum.

II. POINTS AT ISSUE:

A. Is the Analysis Compliant with Proposition 218:

No. While the Analysis stated that it was compliant with Proposition 218, in fact it was not. California Water Code, WAT Section 537.1 requires a metered measure of water "**..to each residential dwelling unit** as a condition of new water service".

Furthermore, in *Capistrano Tax Payers Assoc. v. City of San Juan Capistrano, 4th Appellate District, Division 3 Case No. G048969*, the court ruled that the water rates must be proportional to the cost of **each residential dwelling unit**.

To the contrary, the Analysis did not structure its water rates proportional to the cost of **all existing residential dwelling units within its service area** but rather to only those 111 residential units then currently served.

B. Residential Units That Are Not Included in the Analysis:

The Analysis treated the River Rest Business ("River Rest") and the Pine Aire Business ("Pine Aire") water usage the same as its individual residential customers. This is wrong pursuant to Proposition 218, the California Civil Code and court rulings because River Rest and Pine Aire are not single residential units but are multi-residential Mobilehome Parks pursuant to the California Civil Code, Title 25, Division 1, Chapter 2.5 Sect. 798.4 DEFINITION OF MOBILE HOME PARK: "'Mobile Home park' is an area of land where two or more mobile homes sites are rented, or held out for rent, to accommodate mobile homes used for human habitation".

C. Mobilehome Sites are Designated Residential Sites Under the California Civil Code:

Section 798.3 DEFINITION OF MOBILE HOME states (a) "'Mobilehome' is a structure designed for human habitation..."; (b) "'Mobilehome for purposes of this chapter.... also includes trailers and other recreational vehicles of all types defined in Section 18010 of the Health and Safety Code..".

Further, the Civil Code defines the occupants of the mobilehome as a "Homeowner, Resident, and Tenants". See: Section 798.9 "Homeowner is a person who has a tenancy in a mobilehome park under a rental agreement"; See also: Section 798.11 "Resident is a homeowner or other person who lawfully occupies a mobilehome"; See also: Section 798.12 "Tenancy is the right of a homeowner to the use of a site within a mobilehome park on which to locate, maintain, and occupy a mobilehome, site improvements, and accessory structures for human habitation, including the services and facilities of the park".

Under the Civil Code criteria therefore, each of the mobilehome sites within River Rest and Pine Aire Mobile Home Parks are homeowner resident sites. Additionally, each site must have individual potable water hookups pursuant to 25 California Code of Regulations Section 1274, Chapter 2 Mobilehome Parks and Installations, Article 5. Plumbing Requirements (a). "Each lot shall be provided with a potable water lot service outlet...; (c) "A separate water service shutoff valve shall be installed in each lot water service outlet at each lot".

Most importantly, each "potable water lot service outlet" must be individually metered at the users cost pursuant to California Water Code - WAT Chapter 8, Article 3.5 Metered Service. Section 525. (a) "Notwithstanding any other provision of law, every water purveyor who sells, leases, rents, furnishes, or delivers water service to any person shall require.... that a suitable water meter to measure the water service shall be installed on the water service facility in accordance with this chapter. The cost of installation of the meter shall be paid by the user of the water, and any water purveyor may impose and collect charges for those cost".

River Rest has 107 advertised mobilehome sites each with individual water outlets. Of these 107 sites, a total of 24 are legal lots with individual assessor parcel numbers further validating their inclusion as individual WCWD customers. Moreover, there are presently at least 33 sites there that are permanently occupied by mobilehomes, some with irrigated gardens.

Pine Aire does not have an advertised number of mobilehome sites. Nevertheless, by actual count there are more than 30 sites permanently occupied by mobilehomes at this writing all presumably with lawful individual potable water outlets. connection each. This means that they receive the same monthly billing as each other customer within the WCWD service area; a flat/tiered \$50 per month for the first 5000 gallons and \$.00325 respectively for each additional gallon beyond that usage.

River Rest and Pine Aire then sell WCWD treated water to each of their mobilehome sites as part of their monthly site rental fee. This effectively renders River Rest and Pine Aire sub-contractors of WCWD, presumably at a profit for both mobilehome parks. (1). This quasi relationship amounts to a discounted and/or reduced rate charge to River Rest and Pine Air thereby shifting their reduced rate savings onto the WCWD's other 109 customers (2).

Not surprisingly, this discounted, reduce charge, arrangement is in conflict with a ruling by the California 4th Appellate Court in *Morgan v. Imperial Irrigation District (Feb. 4, 2014)*, wherein the court stated that discounts and reduced charges are not allowed if the lower charge "shifts cost to other payers such that they pay more than their fair share".

D. The Existing Water Service Rates for River Rest and Pine Aire Are Effectively Discounts:

River Rest and Pine Aire water services under the Analysis constitute one metered

III. CONCLUSION:

Pursuant to the California Code of Regulations, and Proposition 218, the Analysis must be revised to include individual metered water services rates for the mobilehome homeowner residential sites within River Rest and Pine Aire that are equal to the other WCWD customers. This revision is particularly applicable because both of these mobilehome parks are lawfully required to, and presently do, provide WCWD treated water individually to all of their mobile home sites. Failure to meter these mobilehome sites for their fair share of the district's water service operating cost would therefore be unlawful pursuant to these authorities.

Alternatively, on the positive side, the addition of possibly 200 mobilehome residential water customers at \$50 each per month will yield up to \$120,000 annually, thereby more than satisfying WCWD's annual operating cost with a resulting windfall for all WCWD customers (3).

Respectfully submitted April 1, 2019.

James S. Grill - WCWD customer since 1968

All bold and [bracketed] emphasis added

(1). One Pine Aire mobilehome resident who was interviewed by the undersigned, stated that he pays the owner \$50 per month for water service. While this is unconfirmed, it bears further investigation by WCWD.

(2). The Analysis states that there are 111 water service customers within the service district. The Analysis does not state which service customers are residences and which are business i.e. the store, hotel. It only states that all services pay the same water rate. This also suggest another investigation by the WCWD into inequities in the rate structure; even if it means that the business rate should be less than a residential rate as with other municipalities.

(3) The \$50 per month for River Rest and Pine Aire mobilehome sites will not affect the owners thereof. As commercial entities, they like all other businesses will pass this cost onto their customers (unlike the WCWD's residential customers who cannot pass their cost onto others!).

III. Close of the Water District Meeting

General Public Comment

General Public Comment time (not related to existing agenda items) allowed on subjects relating to the water agency and/or Fire Department, total elapsed time **15 minutes, 3 minutes per individual speaker.**