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Department*

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October 18, 2006

The Honorable Marie Sovey Silveira
Superior Court-Stanislaus County
P. O. Box 3488
Modesto, CA 95353

Reference: City of Modesto Response to the Findings and Recommendations
of the Stanislaus County 2005-2006 Civil Grand Jury (CGJ)
Case # 06-26, Relating to Del Rio Water Rates

Dear Judge Silveira:

Based on the findings and recommendations put forth by the Stanislaus County Civil Grand Jury in June of 2006 regarding the aforementioned reference, the City of Modesto responds as follows:

Sections 1 through 6 and Section 8

As there were no recommendations made by the Civil Grand Jury for Sections 1 through 6 and Section 8, there are no additional comments from the City of Modesto.

Section 7 – Fairness of Rates to Del Rio

There were four recommendations made by the Civil Grand Jury:

- 1) *Conduct an extensive evaluation of the actual customer cost between metered and flat rates. The study is to compare like properties, including such variables as lot size, similar landscapes and house size.*
- 2) *Compare the charges of all presently metered residential parcels as to what the charge would be under a flat rate for the year 2005.*
- 3) *Develop an equitable rate schedule, including the date obtained, in the two comparison studies recommended in the above (1) and (2) with other information gathered from other rate studies. Until such time as all properties are under the same rate plan, an effort should be made to make the present system as equivalent as possible.*
- 4) *Develop a schedule as to when each area not yet billed as metered will be converted and read as metered. Those customers already metered but not yet read as such shall be converted to metered bills as quickly as possible.*

Citizens First!

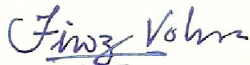
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Public Works and Finance Department staff reviewed the Civil Grand Jury recommendations and determined that the first three recommendations (listed above) should be addressed as part of a comprehensive water rate review, due to the extensive nature of the studies and the recommendation to develop a rate schedule. Staff anticipates that the next comprehensive water rate review will take place in 2008. The Public Works Department will begin the process of identifying properties and compiling data that can be used for the recommended comparisons this year. This will ensure that the information is available when the rate review begins.

Regarding the fourth recommendation for the conversion and billing of metered water services, the Public Works Department has developed a program and schedule approved by the City Council for the metering of all water services within Modesto Water System. Currently, the Public Works Department is implementing the program to have all installed water meters read and billed by 2010 using Automated Meter Reading technology.

The staff recommendations were presented to the City Council at their September 12, 2006 meeting. And, the City Council, by a Motion, accepted both the Civil Grand Jury Report recommendations and staff's proposed response action plan. Attached is the staff agenda report for the aforementioned City Council Meeting.

Sincerely,



for Nicholas Pinhey
Public Works Director

Attachment



CITY OF MODESTO
COUNCIL AGENDA REPORT

COUNCIL MEETING:
September 12, 2006

July 17, 2006

TO: Mayor and City Council
FROM: Nicholas Pinhey, Public Works Director
SUBJECT: Civil Grand Jury Case #06-26 – Water Rates
CONTACT: Nicholas Pinhey, npinhey@modestogov.com or 577-5213

RECOMMENDED COUNCIL ACTION:

Motion accepting the report on the Civil Grand Jury recommendations for the City of Modesto water rates and directing staff to incorporate the Civil Grand Jury recommendations into the next comprehensive water rate review.

BACKGROUND:

The 2005/2006 Stanislaus County Civil Grand Jury (CGJ) received a complaint from a resident of the Del Rio community regarding the City of Modesto water rates. The complaint alleged that the City of Modesto violated the provisions of Proposition 218 when it established its current water rates. In summary, the alleged violations included:

- 1) The notice informing the public of the new rate schedule was inadequate because it did not contain the proper notification of the time for a public hearing or a justification for the new water rates.
- 2) The water rates violate the provision of Proposition 218 that requires a parcel be charged only its proportional costs.
- 3) There was a misuse of funds by using monies collected for uses not related to water.
- 4) The process was unfair to the Del Rio Community as that community pays more than other customers.

The CGJ investigated the complaint by reviewing relevant documents and interviewing City staff, former staff and the complainant. Regarding the first alleged violation, the CGJ review found no evidence that the notice for the new rates was improper with respect to either the time of a public hearing or a justification for new water rates. Additionally, the CGJ made no recommendations related to proportional costs and use of funds. The CGJ concluded that there is no difference in the water rate structure between Del Rio and the rest of the City's customers.

The CGJ did make the following recommendations related to the fourth item concerning fairness of the water rates:

- 1) Conduct an extensive evaluation of the actual customer cost between metered and flat rates. The study is to compare like properties, including such variables as lot size, similar landscapes and house size.
- 2) Compare the charges of all presently metered residential parcels as to what the charge would be under a flat rate for the year 2005.

- 3) Develop an equitable rate schedule, including the date obtained, in the two comparison studies recommended in the above (1) and (2) with other information gathered from other rate studies. Until such time as all properties are under the same rate plan, an effort should be made to make the present system as equivalent as possible.
- 4) Develop a schedule as to when each area not yet billed as metered will be converted and read as metered. Those customers already metered but not yet read as such shall be converted to metered bills as quickly as possible.

Public Works and Finance Department staff reviewed the CGJ recommendations and determined that the first three recommendations (listed above) should be addressed as part of a comprehensive water rate review, due to the extensive nature of the studies and the recommendation to develop a rate schedule. Staff anticipates that the next comprehensive water rate review will take place in 2008. The Public Works Department will begin the process of identifying properties and compiling data that can be used for the recommended comparisons this year. This will ensure that the information is available when the rate review begins.

Regarding the fourth recommendation for the conversion and billing of metered water services, the Public Works Department has developed a program and schedule approved by the City Council for the metering of all water services within Modesto Water System. Currently, the Public Works Department is implementing the program to have all installed water meters read and billed by 2010 using Automated Meter Reading technology.

REASONS FOR RECOMMENDATION:

Incorporating the CGJ recommended studies and evaluation of water rates into the scope of work for the planned comprehensive water rate review is an efficient and effective way to address the issue. Additionally, the City of Modesto is implementing an approved program to read and bill all installed water meters by 2010.

EXISTING POLICY/RELATIONSHIP TO STRATEGIC PLAN:

The discussion in this report pertaining to metering is related to Strategic Plan Goal:

- o I.B.1. Strategy a.(1): Develop Water and Wastewater Master Plan that includes...:
 - Conservation strategies (water meters, variable water rates, etc.)
 - Addresses existing system deficiencies.

The discussion in this report related to water rate setting is in accordance with the City's policy for water rate reviews.

POLICY ALTERNATIVES:

The City Council could:

- 1) Direct staff to incorporate the CGJ recommendations into the next comprehensive water rate review. This alternative allows the City to address the CGJ recommendations in a cost-efficient manner as part of planned water rate review.
- 2) Direct staff to not incorporate the CGJ recommendations into the next comprehensive water rate review. This alternative could be selected, but it would not address the recommendations of the CGJ.
- 3) Take no action.

FISCAL IMPACTS:

The cost of incorporating the CGJ recommended studies into the scope of work for the comprehensive water rate review will have to be determined. This cost is anticipated to be minimal and will be presented to the City Council as part of the rate review proposal. Staff time will be required to identify and collect data for the properties needed to complete the recommended water rate comparisons.

INTERDEPARTMENTAL COORDINATION:

The preparation of this report was a joint effort of the Public Works and Finance Departments.

PUBLIC PARTICIPATION:

The public will have the opportunity to comment on this report at the regularly scheduled City Council meeting.

COMMITTEE RECOMMENDATION:

Not applicable.

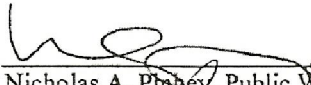
ENVIRONMENTAL REVIEW:

No environmental review is needed for this report.

STEPS FOLLOWING APPROVAL:

Public Works staff will coordinate with the Community & Economic Development and Finance Departments for the identification of properties and data collection needed to address the recommended studies.

Prepared By:




Nicholas A. Pinhey, Public Works Director, npinhey@modestogov.com, 577-5213

Reviewed By:



Wayne Padilla, Finance Director

Submitted By:



George W. Britton, City Manager