CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. 14,947

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD ORDERING THE SUBMISSION OF A BALLOT MEASURE TO REPEAL THE CITY’S WASTEWATER RATES ADOPTED IN JANUARY 2016, THEREBY RETURNING TO THE 2012 RATES, AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURE

WHEREAS, the regulations of the Federal Environmental Protection Agency (EPA) and the California State Water Resources Control Board (SWRCB) Revenue Program Guidelines require that the City of Oxnard’s wastewater service charges conform to grant specifications for fair and equitable user fees; and

WHEREAS, the EPA and SWRCB revenue programs require the City of Oxnard (City) to conduct periodic rate adjustment studies and to implement the recommendations thereof, to keep municipal wastewater services on a self-supporting basis; and

WHEREAS, Ordinance Number 2860 was adopted on September 18, 2012, to set forth the City’s wastewater system fees, charges and user rates in accordance with the provisions of the City Code and the EPA/SWRCB Revenue Program Guidelines; and

WHEREAS, the City’s Public Works Department completed a Cost of Services Study, dated September 2015 (Rate Study) so that the proportional cost of providing wastewater treatment and disposal service to the City’s various customer classes are allocated consistently; and

WHEREAS, the City Council adopted Ordinance Number 2901 on January 26, 2016, which reflected the Rate Study to provide updated supplemental fees and charges for certain special services available upon request throughout the City; and

WHEREAS, on March 8, 2016, the City Clerk received a Notice of Intent to Circulate Petition and a copy of the actual petition (Petition) for the Initiative to Repeal the City’s Wastewater Rates Adopted on January 2016 to the City Council (Wastewater Rates Repeal Initiative); and

WHEREAS, since that date, the City Attorney provided the ballot title and summary for the Wastewater Rates Initiative and the proponent circulated the Petition among the voters to collect the requisite number of signatures; and

WHEREAS, the City Clerk has ascertained that the Petition is signed by the requisite number of voters; and
WHEREAS, the City Clerk has attached a Certification of Sufficiency as Exhibit E to the June 21, 2016 Staff report regarding this Resolution, which is incorporated herein by reference, and the City Clerk certifies these results to the City Council; and

WHEREAS, the City Council desires to submit the Wastewater Rates Repeal Initiative to the voters at the general municipal election on November 8, 2016; and

WHEREAS, California Environmental Quality Act (CEQA) Guidelines section 15378, which defines a project for the purpose of required CEQA review, exempts from CEQA review the submittal of proposals to a vote of the people that does not involve a public agency sponsored initiative.

NOW, THEREFORE, the City Council of the City of Oxnard hereby resolves:

1. That the City Council orders submitted to the voters at the general municipal election on November 8, 2016, the following question:

<table>
<thead>
<tr>
<th>Shall an ordinance be adopted repealing the City’s wastewater rates adopted in January 2016 and returning to the rates previously in effect?</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES</td>
</tr>
</tbody>
</table>

2. That the proposed text of the Wastewater Rates Repeal Initiative to be submitted to the voters is incorporated herein as Exhibit A.

3. That the Wastewater Rates Repeal Initiative is exempt from CEQA pursuant to CEQA Guidelines section 15378.

4. That the City Council directs the City Clerk to transmit a copy of the measure to the City Attorney, who shall prepare an impartial analysis of the measure not exceeding 500 words, showing the effect of the measure on existing law and the operation of the measure and stating that this measure was placed on the ballot by the voters.

5. That the City Clerk is directed to forward to the Ventura County Board of Supervisors and to the County Clerk a certified copy of this resolution.

6. That the City Clerk shall certify to the adoption of this resolution and cause the same to be posted as required by law.
PASSED AND ADOPTED this 21st day of June, 2016, by the following vote:

AYES: Councilmembers Flynn, Ramirez, MacDonald, Padilla and Perello.

NOES: None.

ABSTAIN: None.

ABSENT: None.

Tim Flynn, Mayor

ATTEST:
Daniel Martinez, City Clerk

APPROVED AS TO FORM:
Stephen Fischer, City Attorney
SECTION 2. Findings and Conclusions.
The people of the City of Oxnard find and declare all of the following:

1. High local utility rates are harmful to the general welfare of residents.
2. High local utility rates reduce Oxnard’s competitiveness as a business destination and encourage businesses to locate in other nearby cities, reducing local job opportunities.
3. The Oxnard City Council enacted City of Oxnard Ordinance No. 2901, also known as the Ordinance of the City of Oxnard Establishing Wastewater System User Fees and Charges. This ordinance schedules an 88% increase in user charges for residential rates and an additional $126 per year for wastewater for a typical household, plus additional adjustments for changes in the Consumer Price Index and cost of energy consumption.
4. The City of Oxnard’s Cost of Services Study, dated September 2015 (Rate Study), is the basis for increased rates and charges imposed by Ordinance No. 2901.
5. News accounts of the City of Oxnard’s inadequate controls over its own finances cause many questions to arise concerning whether the City’s financial reports can be relied upon for establishing new rates.
6. The Rate Study already anticipates increases in operating expenses due to changes in the Consumer Price Index, but Ordinance No. 2901 commands a 40% increase in user charges for changing in the Consumer Price Index. Moreover, adjusting rates for increases in the Consumer Price Index raises the assumption that all expenditures increase with inflation, which results in setting rates for a future or a past event and should be prepared for new and future rates.

The Rate Study proposes a $1.23 billion in capital expenditures, including $657 million for the waste-water system, much of which supports projects of obvious value to ratepayers and appears to lack sufficient supporting documentation.

A. The Rate Study presents an all-or-nothing plan, fails to discuss alternative solutions with trade-offs, and completely lacks prior fiscal year fixed balance trends and actual data for comparative analysis.

B. A former manager and civil engineer of the City of Oxnard who served as Water Superintendent (1999-2005) and Public Works Director (2005-2010) has repeatedly questioned whether the proposed rate increases can be more cost-effectively achieved by leveraging more modern wastewater treatment technologies that also reduce footprints requirements (eliminate property acquisition), and increase water recovery by energy conversion opportunities, and further accentuate additional pre-treatment capital investment at the Advanced Waste Water Purification Facility (AWFP).

C. The above concerns expressed by an outside professional with extensive knowledge of the inner workings of the utility and the lack of a comprehensive peer review of the Rate Study, find that uncontroverted evidence has not been established that the increased wastewater fees and charges established in Ordinance No. 2901 are absolutely necessary.

SECTION 3. Purposes and Intent.

a. The People of the City of Oxnard hereby declare that their purpose and intent in enacting the "Repealing Oxnard’s Increases of Wastewater Rates Act" is to repeal City of Oxnard Ordinance No. 2901, also known as the Ordinance of the City of Oxnard Establishing Wastewater System User Fees and Charges, enacted on January 26, 2016, and revert to the lower rate structure in effect prior to its adoption.

b. The people intent this Act to be an exercise of their rights pursuant to Section 3 of Article XII C of the California Constitution to reduce or repeal local taxes assessments, fees or charges.

SECTION 4. Repealing Oxnard’s Increases of Wastewater Rates Acts.

Part I: The fees, charges and rates set forth below shall be charged and collected for the use and/or for any other privilege or service related to the following:

A. Regional Treatment and Desposal Facility User Charges.

In the event that the Regional Inland Water Reclamation District (RIWRD), the Santa Barbara-Ventura County Joint Water Reclamation District (SBVJCWRD), or the Santa Maria Joint Water Reclamation District (SMWRD) shall fail to comply with the requirements of the Regional User Charge Formulas as follows:

**Table:**

<table>
<thead>
<tr>
<th>Service</th>
<th>Effective March 1, 2016</th>
<th>Effective January 1, 2017</th>
<th>Effective January 1, 2018</th>
<th>Effective January 1, 2019</th>
<th>Effective January 1, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly Wastewater Discharge from Gallons</td>
<td>$50.65</td>
<td>$58.36</td>
<td>$66.07</td>
<td>$73.78</td>
<td>$81.49</td>
</tr>
<tr>
<td>Monthly BOD Discharge from Pounds</td>
<td>$53.87</td>
<td>$61.58</td>
<td>$69.29</td>
<td>$76.91</td>
<td>$84.63</td>
</tr>
<tr>
<td>Monthly SS Discharge from Pounds</td>
<td>$2.50</td>
<td>$2.90</td>
<td>$3.30</td>
<td>$3.70</td>
<td>$4.10</td>
</tr>
</tbody>
</table>

**Note:** Residential Residential sewage service is designed to begin when metered service begins.

Monthly residential user charges by type of dwelling unit are as follows:

| Rate per Hundred Cubic Feet of Water | $6.10 | $6.70 | $7.30 | $7.90 | $8.50 |

The applicable rate per hundred cubic feet of water used is based on the assumption that a percent of the water consumed is returned to the wastewater system. The applicable percentage difference based on customer class:

- 20% for each customer class in the table below. The Public Works Director shall have the authority to reduce the water consumption of any metered user of the wastewater system and to adjust the rate based on the average water consumption over a reasonable period of time.
<table>
<thead>
<tr>
<th>Service</th>
<th>Effective March 1, 2014</th>
<th>Effective March 1, 2015</th>
<th>Effective March 1, 2016</th>
<th>Effective January 1, 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>HCF-Month h</td>
<td>1.65</td>
<td>2.04</td>
<td>2.31</td>
<td>2.59</td>
</tr>
<tr>
<td>HCF-Month h</td>
<td>2.06</td>
<td>2.37</td>
<td>2.66</td>
<td>2.88</td>
</tr>
<tr>
<td>HCF-Month h</td>
<td>2.87</td>
<td>3.16</td>
<td>3.42</td>
<td>3.70</td>
</tr>
<tr>
<td>Multi-Family, Multi-Unit Residential Wastewater Use-Percentage Wastewater Return-All Users</td>
<td>52.90</td>
<td>58.45</td>
<td>63.16</td>
<td>67.55</td>
</tr>
<tr>
<td>HCF-Month h</td>
<td>4.35</td>
<td>4.65</td>
<td>4.97</td>
<td>5.30</td>
</tr>
<tr>
<td>HCF-Month h</td>
<td>4.65</td>
<td>4.95</td>
<td>5.25</td>
<td>5.60</td>
</tr>
<tr>
<td>HCF-Month h</td>
<td>8.50</td>
<td>8.85</td>
<td>9.25</td>
<td>9.75</td>
</tr>
<tr>
<td>HCF-Month h</td>
<td>10.85</td>
<td>11.20</td>
<td>11.55</td>
<td>12.15</td>
</tr>
<tr>
<td>HCF-Month h</td>
<td>16.50</td>
<td>17.00</td>
<td>17.50</td>
<td>18.20</td>
</tr>
<tr>
<td>HCF-Month h</td>
<td>24.65</td>
<td>25.20</td>
<td>25.85</td>
<td>26.75</td>
</tr>
</tbody>
</table>

**Monthly Base Rates:**
In addition to monthly rates for a five-per-HCF rate, the following monthly rates for a five-per-HCF rate should be used:

<table>
<thead>
<tr>
<th>Service</th>
<th>Effective March 1, 2014</th>
<th>Effective March 1, 2015</th>
<th>Effective March 1, 2016</th>
<th>Effective January 1, 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family</td>
<td>$28.43</td>
<td>$31.60</td>
<td>$34.81</td>
<td>$36.62</td>
</tr>
<tr>
<td>Multi-Family/Landlord-1 to 4 Units</td>
<td>$50.85</td>
<td>$55.20</td>
<td>$59.64</td>
<td>$63.12</td>
</tr>
<tr>
<td>Landlord-5 to 10 Units</td>
<td>$16.00</td>
<td>$16.40</td>
<td>$16.80</td>
<td>$17.25</td>
</tr>
</tbody>
</table>

**Additional Charges for Outside the City Limits:**
- Water shortage declarations at the rate charged by the agency for transmission, treatment and disposal of such wastewater, subject to the contract between the City and the water company.
- Additional charges for outside the City Limits of the Water System

**Monthly Rates for the 3% Declared Water Shortage:**

<table>
<thead>
<tr>
<th>Service</th>
<th>Effective March 1, 2014</th>
<th>Effective March 1, 2015</th>
<th>Effective March 1, 2016</th>
<th>Effective January 1, 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family</td>
<td>$57.32</td>
<td>$62.91</td>
<td>$68.64</td>
<td>$74.44</td>
</tr>
<tr>
<td>Multi-Family/Unit</td>
<td>$81.20</td>
<td>$87.60</td>
<td>$94.12</td>
<td>$100.72</td>
</tr>
<tr>
<td>Landlord-1 to 4 Units</td>
<td>$16.00</td>
<td>$16.40</td>
<td>$16.80</td>
<td>$17.25</td>
</tr>
</tbody>
</table>

**Water Systems:**
- Residential Water Systems
- Commercial Water Systems
- Institutional Water Systems

**Water Quality Standards:**
- For water systems covered by the rules of the State Water Resources Control Board.
- The rules shall be in effect on the date of this ordinance.

**Additional Information:**
- Water metered-use is subject to the City’s rules for metered-water service.
- Water shortage declarations at the rate charged by the agency for transmission, treatment and disposal of such wastewater, subject to the contract between the City and the water company.
### Wastewater Users (Industrial & Commercial)

The monthly water charge for industrial and commercial users shall be calculated using the following formula:

\[ \text{Charge} = \text{Monthly Discharge} \times \text{Rate per Thousand Gallons} \]

**Formula Users (Industrial & Commercial):**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly Water</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Discharge</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Million Gallons</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dollars</td>
<td>$0.1372</td>
<td>$0.1523</td>
<td>$0.1622</td>
</tr>
<tr>
<td>Monthly Biological Oxygen Demand (BOD) Discharge</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thousand Lbs.</td>
<td>$3.083</td>
<td>$3.311</td>
<td>$3.450</td>
</tr>
<tr>
<td>Monthly Suspended Solids (SS) Discharge</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thousand Lbs.</td>
<td>$2.345 x 10^-2</td>
<td>$2.55 x 10^-2</td>
<td>$2.58 x 10^-2</td>
</tr>
</tbody>
</table>

### Residential Wastewater Users

The charges for residential users shall be calculated using the following formulas:

1. **Rate Per Hundred Cubic Feet (HCF) of Water:**
   - Effective Oct. 2012: $1.10
   - Effective Jan. 1, 2013: $1.25
   - Effective Oct. 2013: $1.50
2. **Monthly Water Discharge (Million Gallons):**
   - Effective Oct. 2012: $0.1372
   - Effective Jan. 1, 2013: $0.1523
   - Effective Oct. 2013: $0.1622
3. **Monthly Suspended Solids (SS) Discharge (Thousands of Lbs):**
   - Effective Oct. 2012: $2.345 x 10^-2
   - Effective Jan. 1, 2013: $2.55 x 10^-2
   - Effective Oct. 2013: $2.58 x 10^-2
4. **Monthly Biological Oxygen Demand (BOD) Discharge (Thousands of Lbs):**
   - Effective Oct. 2012: $3.083
   - Effective Jan. 1, 2013: $3.311
   - Effective Oct. 2013: $3.450

### Multi-Family, Multi-Unit Residential Wastewater Users

The following multi-family rates shall be used for residential users:

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly Water</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Discharge</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Million Gallons</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dollars</td>
<td>$0.1372</td>
<td>$0.1523</td>
<td>$0.1622</td>
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<tr>
<td>Monthly Biological Oxygen Demand (BOD) Discharge</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thousand Lbs.</td>
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<td>$3.311</td>
<td>$3.450</td>
</tr>
<tr>
<td>Monthly Suspended Solids (SS) Discharge</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thousand Lbs.</td>
<td>$2.345 x 10^-2</td>
<td>$2.55 x 10^-2</td>
<td>$2.58 x 10^-2</td>
</tr>
</tbody>
</table>

### Notes

- The rates are effective Oct. 2012 and are subject to change annually.
- The rates for water service are subject to change annually based on the Consumer Price Index (CPI).
- The rates for sewage charges are subject to change annually as determined by the Public Works Director.
D. Charges for Unusual or Non-Compatible Water-Use

A charge for unusual or non-compatible water usage of such quantity or character as to impact upon the City's usual operation and/or maintenance of capital costs whether or not related to total flow volume, biochemical oxygen demand, or suspended solids, shall be set by the Public Works Director and paid by the discharger. These charges shall be reasonably calculated to defray costs attributable to such usage.

E. Fee for Appeal

For each appeal to the City Council of a ruling by the Public Works Director a fee of $100 will be charged.

F. Industrial Wastewater Discharge Permits

The Industrial Wastewater Discharge Permits (permits) specified in Chapter 19 of the City Code shall be granted for a specific time period, not to exceed five years. Applications for permits and permit renewal shall be made in accordance with Chapter 19. All users classified as significant industrial wastewater users according to Chapter 19 shall be assessed a fee of $2,500 per year per permit. All other industrial users shall be assessed a fee of $150 per year per permit. In addition to the permit fee, new applicants for a permit shall be assessed a one-time application processing fee of $100.

G. Billing Procedures for Monthly Service Charge for Use of City Wastewater System

Bills shall be computed according to the rates then in effect and the number of days in the service period at such rate.

H. Automatic Inflation Adjustment

Pursuant to Government Code section 5756, the rates adopted herein shall automatically adjust for a 2-year period, for inflation in the cost of operating the city wastewater system. The inflation adjustment shall be the same percentage as the percentage change in the rates that the city pays to power providers that supply electricity and natural gas sources to power the wastewater collection, treatment, and disposal systems. As these rates are applied in the Rate Model, such adjustments shall be effective concurrent with the date of any adjustment to rates that the city pays to power providers that supply electricity and natural gas sources to power the wastewater collection, treatment, and disposal systems.

Part 2. The provisions of this ordinance shall be applicable to all service provided or charges, imposed on and after October 15, 2012. Upon the effective date of this Ordinance, Ordinance No. 2011 is repealed.

SECTION 5. Broad Construction

a. The provisions of this Act shall be liberally construed and broadly applied in order to effectuate its underlying purpose of repealing the City's increase in rates enacted on January 26, 2016.
b. If any provision of this Act conflicts directly or indirectly with any other provision of law, those other provisions shall be null and void to the extent that they are inconsistent with this Act, and are hereby repealed.
c. This Act shall not limit or prohibit the City's ability to impose a new schedule of fees and charges in accordance with the provisions of Article XIII D of the California Constitution.

SECTION 6. Conflicting Ballot Measures

a. In the event that this measure and another measure or measures relating to fees and charges on wastewater shall appear on the same citywide election ballot, the provisions of the other measure that would affect in whole or in part the field of fees and charges on wastewater shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety and the provisions of the other measure or measures shall be null and void in their entirety. In the event that the other measure or measures shall receive a greater number of affirmative votes, the provisions of this measure shall take effect to the extent permitted by law.
b. If this measure is approved by voters but superseded by any other conflicting ballot measure approved by voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force of law.

SECTION 7. Severability

If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act that can be given effect in the absence of the invalid provision or application. To this end, the provisions of this act are severable.

Notice of Intent to Circulate Petition

Notice is hereby given by the person whose name appears hereon of his intention to circulate the petition within the City of Oxnard for the purpose of repealing the City Council's January 26, 2016 increase in Wastewater System User Fees and Charges. A statement of the reasons of the proposed act as contemplated in the petition is as follows:

We the people, exercising our rights pursuant to Section 3 of Article XIII C of the California Constitution to reduce or repeal local taxes, assessments, fees or charges, seek the repeal of the wastewater rate hikes enacted by the City Council on January 26, 2016, when they adopted City of Oxnard Ordinance No. 2901.

The City Council's ordinance schedules an 88% increase (or an additional $326 per year) for wastewater for a typical household, plus additional adjustments for changes in the Consumer Price Index and cost of energy consumption. These rate increases are harmful to the general welfare of residents and encourage businesses to locate in other nearby cities, reducing local job opportunities.

The City of Oxnard's Cost of Services Study, dated September 2015 (Rate Study), which is the basis for increased rates and charges imposed by Ordinance No. 2901, has a number of flaws. The Rate Study already anticipates increases in operating expenses due to changes in the Consumer Price Index, but Ordinance No. 2901 compounds the impact of inflation on rates by requiring additional increases for changes in the Consumer Price Index. Moreover, adjusting rates for increases in the Consumer Price Index presumes that all expenditures increase with inflation, when outlays for debt service typically remain fixed during the life of the debt instrument. The Rate Study proposes $1.23 billion in capital expenditures, including $675 million for the wastewater system, much of which support projects of dubious value to ratepayers and appear to lack sufficient supporting documentation. The Rate Study presents an all-or-nothing plan, fails to discuss alternative solutions with trade-offs, and completely lacks prior fiscal year fund balance trends and audited actuals for comparative analysis.

A former manager and civil engineer of the City of Oxnard who served as Water Superintendent (1999-2005) and Public Works Director (2005-2010) has openly questioned whether the proposed Wastewater Enterprise Capital Replacement strategies can't be better and more cost effectively accomplished/achieved by leveraging more modern wastewater treatment technologies that also reduce footprint requirements (eliminate property acquisition), capitalize on waste-to-energy conversion opportunities, and reduce the need for additional pre-treatment (capital investment) at the Advanced Water Purification Facility (AWPF).

Given the above concerns expressed by an outside professional with intimate knowledge of the inner workings of this utility and the lack of a comprehensive peer review of the Rate Study, we find that uncontroverted evidence has not been established that the increased wastewater fees and charges established in Ordinance No. 2901 are absolutely necessary. Moreover, news accounts of the City of Oxnard's inadequate controls over its own finances cause many to question whether the city's financial reports can be relied upon for establishing rates.

We believe that rates should revert back to where they were before the adoption of Ordinance No. 2901 and the City Council should commission a peer reviewed rate study that does not have the flaws of the existing Rate Study to establish a new rate structure that meets the needs of ratepayers.

[Signature]
Aaron Stahal