

IN THE BOARD OF SUPERVISORS

County of San Luis Obispo, State of California

_____ day _____, 20____

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. ____

RESOLUTION TO LEVY A SEWER SERVICE AVAILABILITY CHARGE

The following resolution is now offered and read:

WHEREAS, Government Code section 25215.6(b) provides that “If the procedures set forth in the former Section 25210.77b as it read at the time a standby charge was established were followed, the board may, by resolution, continue to collect the charge in successive years at the same rate from the parcels within the county service area to which water or sewers are made available for any purpose by the county service area, whether the water or sewers are actually used or not. If new, increased, or extended assessments are proposed, the board shall comply with the notice, protest, and hearing procedures in Section 53753.”; and

WHEREAS, former Government Code section 25210.77b provided that “San Luis Obispo County may fix, on or before the first day of July in each calendar year, a sewer standby or immediate availability charge not to exceed sixty dollars (\$60) for each acre of land or for each parcel of land of less than one acre, on all land within the county service area to which sewers are made available for any purpose by the county whether the sewers are actually used or not, except that the charge shall not apply to lands permanently dedicated exclusively to the public transportation of persons or property. The Board of Supervisors of San Luis Obispo County in so fixing the sewer standby charge may establish schedules varying the charges in different months and in different localities within the county service area depending upon factors such as the uses to which the land is put, the cost of transporting the sewage from the land, and the degree of the availability of sewage collection and treatment to the affected lands.”; and

WHEREAS, San Luis Obispo County followed the procedures set forth in the former Section 25210.77b at the time the standby charges (aka “sewer service availability charges”) described in this resolution were established on June 7, 1988, by County Resolution No. 88-274, and said charges have been annually continued each year thereafter by separate resolutions; and

WHEREAS, Proposition 218, which was approved by California voters on November 5, 1996, added Articles XIIC and XIID to the Constitution of the State of California; and

WHEREAS, Sections 4, 5 and 6 of said Article XIID affect laws governing availability charges; and

WHEREAS, Section 6(b) (4) of said Article XIID classifies such availability charges as “assessments”; and

WHEREAS, Section 5 of said Article XIID provides that certain assessments existing on the effective date of said Article XIID are exempt from the procedures and approval process set forth in Section 4 of said Article XIID; and

WHEREAS, this Resolution is for the purpose of continuing to levy availability charges/assessments that were already existing on the effective date of said Article XIID, and the amounts of said availability charges/assessments for fiscal year 2012-13 are not proposed to be increased; and

WHEREAS, since the availability charges/assessments were imposed exclusively to finance the capital costs or maintenance and operation expenses for sewers, then pursuant to Section 6(a) of said Article XIID, they are explicitly exempt from the procedures and approval process set forth in Section 4 of said Article XIID although increases in such assessments shall be subject to the entirety of said Article XIID; and

WHEREAS, Exhibit “A,” attached hereto and incorporated herein as though fully set forth, is a list of all parcels identified which will have a special benefit conferred upon them and upon which an assessment will continue to be levied; and

WHEREAS, Exhibit “B,” attached hereto and incorporated herein as though fully set forth is a detailed engineer’s report prepared by a registered professional engineer certified by the State of California that supports said assessments; and

WHEREAS, it is in the public interest that said charge be levied.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, acting on behalf of San Luis Obispo County Service Area No. 7, Zone A and San Luis Obispo County Service Area No. 18 as follows:

1. That the recitals set forth hereinabove are true, correct and valid.
2. That a sewer service availability charge is hereby levied within San Luis Obispo County Service Area No. 7, Zone A and San Luis Obispo County Service Area No. 18 as follows:
 - a. The charge shall be on all parcels within San Luis Obispo County Service Area No. 7, Zone A and San Luis Obispo County Service Area No. 18, to which sewer service is made available but not used.
 - b. The charge shall be levied against the owner of said property as shown on the current equalized assessment roll of the County.

- c. "Parcel" as used in this Resolution means any piece of real property within San Luis Obispo County Service Area No. 7, Zone A and San Luis Obispo County Service Area No. 18, as shown on the assessment roll of the County of San Luis Obispo Assessor as a parcel to which a separate Assessor's parcel number is assigned.
 - d. "Available" is defined as a parcel adjacent to an active main or collection line and eligible for a building permit as determined by the County Engineer.
3. SCHEDULE: The sewer service availability charge levied hereby shall be in accordance with the following schedule:
- a. The sewer service availability charge levied upon a parcel of less than one (1) acre shall be sixty dollars (\$60.00) per year.
 - b. The sewer service availability charge levied upon a parcel of one (1) acre or more shall be sixty dollars (\$60.00) per year.
4. BILLING: The record owner of each parcel subject to the levy shall be furnished a statement of the amount of the applicable charge. The statement shall also contain notice that if the charge remains unpaid on July 1, 2012, it will be subject to a six percent (6%) penalty; and that the unpaid charge plus the said penalty may then be placed on the tax rolls of the County of San Luis Obispo and become a lien on that parcel.
5. UNPAID CHARGES: In case any sewer service availability charge remains unpaid on July 1, 2012, the amount of such unpaid charge plus the said penalty shall be added to and become part of the annual tax levied upon the parcel upon which said charge was levied and shall constitute a lien thereon.
6. COLLECTION OF UNPAID CHARGES: No later than August 10, 2012, San Luis Obispo County Service Area No. 7, Zone A and San Luis Obispo County Service Area No. 18, shall submit in writing to the Board of Supervisors and to the County Auditor, respectively, a list of each and every parcel within those Districts upon which the sewer service availability charge remains unpaid, together with the amount of said unpaid charge plus said penalty on each such parcel, and request that such unpaid charges, and the penalty thereon, be included in the County tax bill separately from all other taxes.
7. REVENUE USE: Revenue derived from the sewer service availability charge levied by this resolution shall be used for any legal expenditure of San Luis Obispo County Service Area No. 7, Zone A and San Luis Obispo County Service Area No. 18, relating to the improvement, operation, maintenance, extending, and repairing of the respective District's sewer service system.
8. RESOLUTION EFFECTIVE DATE: This Resolution shall become effective immediately upon its adoption.

Upon motion of Supervisor _____, seconded by Supervisor _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing Resolution is hereby adopted.

Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

(SEAL)

APPROVED AS TO FORM AND LEGAL EFFECT:

WARREN R. JENSEN
County Counsel



By: Patrick J. Foran
Deputy County Counsel

Dated: May 3, 2012

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STATE OF CALIFORNIA, }
County of San Luis Obispo, } ss.

I, _____, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this _____ day of _____, 20 _____.

(SEAL)

County Clerk and Ex-Officio Clerk of the Board
of Supervisors

By _____
Deputy Clerk.