



**CITY OF SIERRA MADRE**  
**CITY COUNCIL SPECIAL MEETING**  
**MINUTES**

SIERRA MADRE CITY COUNCIL,  
SUCCESSOR AGENCY AND  
PUBLIC FINANCE AUTHORITY

**Tuesday, July 31, 2018 – 6:30 pm**  
Sierra Madre City Hall Council Chambers  
232 W. Sierra Madre Blvd., Sierra Madre, CA 91024

and

Council Member Rachelle Arizmendi  
Via Teleconference from:  
Cary House Hotel  
300 Main Historic Cary House Hotel  
300 Main Street  
Placerville, CA 95667

**CALL TO ORDER/ROLL CALL MEMBERS OF THE CITY COUNCIL**

Mayor Denise Delmar called the meeting to order at 6:31 p.m. City Clerk Sue Spears called the roll.

Present: Mayor Denise Delmar, Mayor Pro Tem John Harabedian, Council Members Rachelle Arizmendi (via teleconference from Placerville, CA), John Capoccia, and Gene Goss

Absent: None

Also Present: Gabe Engeland, City Manager  
Teresa Highsmith, City Attorney  
Laura Aguilar, Assistant City Clerk  
James Carlson, Management Analyst  
Chris Cimino, Director of Public Works  
Vincent Gonzalez, Planning & Community Preservation Director  
Miguel Hernandez, Human Resources Manager  
Sophia Kownatzi, Intern  
Joe Ortiz, Police Chief  
Jose Reynoso, Utility Services Director  
Sue Spears, City Clerk

**PLEDGE OF ALLEGIANCE AND INVOCATION/INSPIRATION**

Council Member Capoccia led the Pledge of Allegiance. He followed by remembering long-time resident and Sierra Madre Rose Float Association member, Donna Sutcliffe, who passed away on 7-22-18, and asked for a moment of silence in her memory. Council Member Capoccia recalled that, for many years, Ms. Sutcliffe annually accompanied the Sierra Madre Rose Princesses to be introduced at City Council Meetings.

**APPROVAL OF AGENDA**

Mayor Delmar asked for a motion to approve the agenda as presented.

Mayor Pro Tem Harabedian moved to approve the agenda as presented.

Council Member Goss seconded the motion to approve the agenda as presented.

Ayes: Mayor Denise Delmar, Mayor Pro Tem John Harabedian, Council Members Rachelle Arizmendi, John Capoccia, and Gene Goss

Noes: None

Absent: None

Abstain: None

The motion to approve the agenda as presented was passed unanimously.

### **MAYOR AND CITY COUNCIL REPORTS**

1. Mayor Denise Delmar thanked Asst. City Clerk Laura Aguilar and her husband, Tony, for helping with today's SM Staff BBQ, "Lunch with the Mayor," at which she recognized and thanked City employees for their service.
2. Pro Tem John Harabedian did not make a report.
3. Council Member Rachele Arizmendi did not make a report.
4. Council Member John Capoccia did not make a report.
5. Council Member Gene Goss did not make a report.

### **PUBLIC COMMENT ON NON-AGENDA ITEMS**

Mayor Delmar opened the meeting for Public Comment on items not on the agenda. Seeing no one come forward, Mayor Delmar closed Public Comment.

### **AGENDA ACTION ITEMS:**

1. **DISCUSSION REGARDING TITLE 17, ZONING, CHAPTER 17.22.130 – RECORDATION REQUIREMENT FOR SECOND UNIT PERMIT – Recommendation that the City Council provide Staff with direction.**

Planning & Community Preservation Director Gonzalez gave a report on this item, including a PowerPoint presentation titled "Second Unit Recordation Requirement." Staff is requesting direction. A summary of the PowerPoint follows:

- a. Covenant Requirements:
  - Covenant is a prerequisite to obtain a building permit.
  - Recorded covenant shall run with the land.
  - Owner occupancy required.
  - Restricts short-term rentals (not less than 30-days).
  - Authorizes the City to abate any violations.
  - Conformance with Building and Fire Codes.
- b. The Covenant Does Not:
  - Restrict units to affordable rent levels.
  - Require annual inspections (Zoning Ordinance Section 17.22.130 authorizes the City to make periodic inspections).
- c. Neighboring City Survey re. Whether Covenant Required
  - In addition to Sierra Madre, the following cities currently require a covenant: Arcadia, Claremont, Glendora, La Canada-Flintridge, Monrovia, Pasadena, San Dimas, and South Pasadena.
  - Only Glendora has no covenant required.
- d. Alternatives – Amend or Eliminate the Covenant
  - Determine if there is a need to retain the covenant as a provision of the second unit application process; or
  - Amend the covenant without reducing the ability of the City to ensure compliance with building and fire codes.
- e. Alternatives – Amend the Covenant
  - Modify the ordinance to eliminate the provision for periodic inspections.
  - Remove the covenant in its entirety and direct Staff to make a recommendation on short term rentals, which the covenant seeks to restrict.

Mayor Delmar asked if any Member of the Council had questions on this item.

In response to a question from Council Member Goss, Director Gonzalez responded that the covenant restricts rentals less than 30-day, as well as notifies the LA County Assessor's Office and future property owners that the second unit is a legal unit.

City Attorney Highsmith stated that one of the most important aspect of the covenant is to restrict the property (a single legal parcel with two legal units) such that the owner must live in one of the units. Furthermore, she said that (a) having that language written in the covenant provides notice to any prospective buyer in the future, (b) without that provision, you would be converting a single-family zoned property into a multi-family lot, (c) it would change the character of the neighborhood over time, (d) that is one of the strongest reasons for keeping the covenant with at least the provision that the owner of the property must always live in either the primary or secondary unit of the property, and (e) the property cannot just be sold later and acquired by someone who wants to rent out both units, thus creating a multi-family use of a single-family parcel.

In response to a question from Mayor Delmar, City Attorney Highsmith said that, presently, the ordinance does not allow short-term rentals (less than 30 days) anywhere in the City and that there is a separate provision in the ordinance that reiterates that for second unit rentals.

In response to a question from Mayor Pro Tem Harabedian regarding the number of citizen complaints received regarding the covenant, Director Gonzalez said one, concerning the annual inspection provision. City Attorney Highsmith added that the single complainant, in particular, objected to having the City's code enforcement remedies spelled out in advance in the covenant as a potential violation of due process.

In response to a question by Council Member Capoccia regarding what would happen to current covenant properties if the covenant is changed or amended, City Attorney Highsmith stated that it would be a City Council decision.

In response to concerns by Council Member Capoccia regarding the owner residing on the property requirement, City Attorney Highsmith said that issue is to maintain the present zoning, a single-family zone. Without the covenant (which permits a second unit), there would only be a single-family home allowed on the lot within the zone. Having the covenant in place, in addition to the ordinance, it is a recognition that by allowing someone to have a 2nd unit, the City is not changing the zoning to the extent that it is a single-family zone. If the owner were to sell the property or converts the property to an investment property (renting out both units), the owner would be effectively be converting a parcel within a single-family zone to a multi-family use.

In response to a question by Council Member Arizmendi whether there is a challenge in meeting the annual inspections, City Manager Engeland clarified that the term in the code is periodic inspection, not defined as annual inspection, the City has never conducted an inspection, and would not conduct inspections unless there is a valid reason/complaint/something illegal. City Attorney Highsmith highlighted that the periodic inspection provision is in the ordinance, not in the covenant. In addition, she said that any inspection would require owner permission, and, without such permission, the City could not go onto the property without a warrant, which requires probable cause.

Mayor Delmar opened the meeting for Public Comment on this item.

- Kathy Watson (and husband, Jim, in the audience), Sierra Madre, said that: (1) they have been advocating for some time that the recordation requirement be rescinded on 2nd units, (2) they believe that the requirements in this deed put up a huge barrier to someone who wants to build a 2nd unit, (3) they are in the process of building a 2<sup>nd</sup> unit on their property (the current zoning is R3), (4) the covenant is a 13 page document and is excessive, (5) they are urging the Council to rescind the covenant, as the issues are addressed in the City's Municipal Code, (6) the disclosure statement signed by sellers and the home inspection would be sufficient notice to prospective buyers, and (7) they believe the covenant is unnecessary, overreaching, and unfair.
- Peggy Beauregard, Sierra Madre, said that, in the event she had to move due failing health in the future, she has concerns as to whether the owner-occupied requirement would require her to sell her property, although she does not have a 2<sup>nd</sup> unit on her property.
- Mary Carney, Sierra Madre, spoke about her positive experiences regarding inspections when she was previously a property manager in another city.
- Joyce Christensen, Sierra Madre Realtor, asked the question "when you have a deed lien on your property and you change Code 17 in the City, would the deed take precedence over that code change?" She also said that realtors warn clients about any deeds or covenants on the property and tell them to read everything they can as a buyer.

Mayor Delmar asked if anyone else would like to speak on this item. Seeing no one, Mayor Delmar closed Public Comment.

Mayor Delmar asked City Attorney Highsmith to respond to Ms. Christensen's question. City Attorney Highsmith said that, anytime a covenant is recorded on a property, the covenant does need to be enforced unless there is a change in the law either at the State, Federal, or local level, depending on what the covenant says. In addition, if the covenant became contradictory to a change in the local law, then the City would not enforce it and the local law would take precedent. Generally, a covenant is the property owner's promise to do those things that the covenant obligates.

Mayor Delmar brought the matter back to Council and posed that the Council can take no action tonight, keep the covenant as is but remove language in the zoning code regarding periodic inspections, or remove the covenant in its entirety and direct Staff to make a recommendation on short-term rentals.

Discussion took place, with Council Members Arizmendi, Capoccia, and Goss expressing their agreement with rescinding the covenant, but that there is a need to have further discussion on short-term rentals at a later date.

Mayor Pro Tem Harabedian articulated his support of keeping the covenant and removing the inspection language from the ordinance as follows: (1) when changing an ordinance that a previous Council has put in place, the burden is on the person trying to change it to present a valid case as to why it should be changed, (2) only one person has filed a complaint and the issue related to the periodic inspection language in the ordinance, which is not in the covenant, (3) from a policy stand point, you do not necessarily want to be in the lone minority city when seven of the eight other surveyed cities have the covenant requirement, the recordation, (4) the covenant is a 4-page document, not a 13-page document, as stated during Public Comment, (5) an important provision in the covenant relates to situations should the City ever be sued based on this covenant in that there is a "prevailing party provision," which says that the City gets its attorney's fees back, which makes someone really question whether they want to sue the City over something like this in the first place, (6) the covenant is not really changing anything, it is just stating the state of the law, i.e. memorializing the state law, (7) notice is a big thing under the law and the covenant provides that notice to potential buyers, (8) the covenant protects the City, 8 out of 9 cities do this, it is not burdensome or overreaching, there is nothing in here that is anything but the law, it is just restating the law, and it is giving notice, and (9) has not heard a compelling reason why the covenant should be removed.

Mayor Delmar agreed with Mayor Pro Tem Harabedian and voiced that Council is mixing up documents and language that is in the City's ordinance with language that is not necessarily in the covenant.

Council Member Capoccia said that the requirement that the owner live in one of the units is harsh, such that, if a person becomes debilitated and has to live somewhere else, they would be forced to sell the property. Mayor Pro Tem Harabedian responded that (1) there is no requirement to sell the property if the owner can no longer live on the property, (2) they can still rent out one of the units, but not both, and (3) they just cannot turn the property into, effectively, a multi-family property by renting both the main house and the second unit.

Council Member Goss stated his reasons for favoring the removal of the covenant as follows: (1) the City's interests are covered if we did not have the covenant, (2) there are a number of property owners who have the potential for a second unit and would like to consider doing it, (3) the covenant is an roadblock and/or disincentive to do so that does not send the right message, (4) building and development should be reasonable, and (5) we want to give people the capacity to develop their businesses on their property with a minimal amount of reasonable regulation. He did ask for clarification regarding City recourse in the event of a lawsuit.

Mayor Delmar highlighted that the reasons why, in recent years, regulations and ordinances have been put in place are usually the result of a lawsuit, something has happened, or the State has mandated it. She suggested that the covenant issue be brought back for further discussion at a later date and, for tonight, provide direction to the Staff to bring back an amendment to the zoning code with the inspection provision taken out of the zoning code.

Council Member Capoccia also asked for clarification regarding City recourse in the event of a lawsuit. City Manager Highsmith responded that having "the prevailing party provision" in the covenant cements the City's entitlement in the event that there is a lawsuit regarding the property and the prevailing party does, in fact, receive their attorney's fees. In addition, she stated that,

without “the prevailing party provision” written into the covenant agreement, there would be no such right to the prevailing party receiving their attorney’s fees. City Attorney Highsmith continued that the covenant actually benefits property owners in that, because the covenant is recorded, it is a public notice that the second unit is legal. Furthermore, she said that, while it may be surprising, many people may have a second unit on their property that may or may not be recognized by their particular city’s Planning Department and this creates problems at the time of sale.

Further discussion occurred. Council Members agreed to provide Staff with the direction to come back with a change in the periodic inspection language of the ordinance, not the covenant. Discussion on the covenant was continued to a future date.

Mayor Delmar differentiated between the covenant, which protects the City and only pertains to the second units, and the zoning ordinance which pertains to second units as well as other building permits.

**2. DISCUSSION – CONSIDERATION OF RESOLUTION 18-42 IN SUPPORT OF CALIFORNIA HOUSE RESOLUTION (HR) 113 KNOWN AS “PIQUI’S RESOLUTION” – Recommendation that the City Council Provide staff with direction.**

City Intern Kownatzki gave a report on Resolution 18-42 (Piqui’s Resolution), which is in support of HR 133, that resolves by the Assembly, that all court-related professionals should be trauma-informed and trained in recognizing, evaluating, and understanding evidence and the impacts of domestic violence, and child abuse. In the written report analysis, it states that “Piqui’s Resolution, HR113, was introduced on 6-13-18 in response to the death of five-year-old Aramazd “Piqui” Andressian, Jr., who was murdered (during the first week of custody) by his father who was granted joint custody of the child, despite the mother’s allegations of domestic violence repeatedly made to law enforcement and/or the court.

Mayor Delmar asked if any Member of the Council had questions on this item.

Council Member Capoccia spoke about the compelling testimony made (at the last San Gabriel Council of Governments Meeting) by the mother of Aramazd “Piqui” Andressian, Jr., in which she expressed great sadness, grief and her willingness to fight so that someone else’s child is not murdered the way her son was. He said that this resolution makes a lot of sense, should be supported, and that child safety should come first.

Mayor Delmar opened the meeting for Public Comment on this item. Seeing no one, Mayor Delmar closed Public Comment and brought the matter back to the Council for discussion.

It was agreed by the entire Council to support the resolution. Mayor Delmar read out loud the entire Resolution 18-42 as written, as it is very important and all cities in the San Gabriel Valley and across the state are bringing this forth to the CA State Assembly.

Council Member Capoccia made a motion to adopt Resolution 18-42 as written.

Mayor Pro Tem Harabedian and Council Member Arizmendi seconded the motion to adopt Resolution 18-42 as written.

Ayes: Mayor Denise Delmar, Mayor Pro Tem John Harabedian, and Council Members Rachelle Arizmendi, John Capoccia and Gene Goss

Noes: None

Absent: None

Abstain: None

The motion to adopt Resolution 18-42 as written was passed unanimously.

**3. PUBLIC HEARING – CONCLUSION OF PROPOSITION 218 PROCESS FOR WATER & SEWER RATE ADJUSTMENT AND ADOPTION OF RESOLUTION NO. 18-43 SETTING WATER & SEWER RATES FOR FISCAL YEARS 2018 – 2023 – Recommendation that the City Council read by title only and adopt Resolution No. 18-43 amending Section 13.08.020 of the Sierra Madre Municipal Code regarding sewer rates and adopting water and sewer rate schedules effective August 1, 2018.**

Mayor Delmar opened this matter for Public Hearing.

Asst. City Clerk Aguilar gave a report on the results of the Proposition 218 Process, which the City Council initiated on June 12, 2018, and set July 31, 2018 as the date for the Public Hearing. Per

the written analysis, the water rate setting process was initiated on January 24, 2017, when the City Council directed staff to seek a professional services proposal from Raftelis Financial Consultants, Inc. (RFC) for an update to the City's current water and sewer rate structure. Staff is recommending that the City Council read by title only and adopt Resolution No. 18-43 setting water and sewer rate schedules effective August 1, 2018.

City Manager Engeland reported that approximately 4,800 ballots were mailed out (more than required) and that about 2,000 total protests would be required for it to be considered a Majority Protest (valid protests from 50% + 1 of the affected parcels). The tabulation of protests was set and conducted today @9:30 am by City Clerk Spears and Asst. City Clerk Aguilar, who reviewed and counted the protest ballots received. Asst. City Clerk Aguilar stated that additional protest ballots had been received after this morning's tabulation.

Mayor Delmar asked if anyone in the audience would like to turn in a protest ballot and a ballot was turned submitted. City Manager Engeland requested that Asst. City Clerk Aguilar be provided time during Public Comment to count any protest ballots received after the initial tabulation this morning.

Mayor Delmar opened the Public Hearing on this item for Public Comment.

- Scott Oliver, Sierra Madre, said that (1) he was mandated to have fire sprinklers installed when he built his house in 1999, (2) at that time, he was required to have a 1½" water meter that will supply the home needs at reasonable peak times, including in the event of a fire, (3) he did not consider this as an issue at the time, as water was cheap and meter fees were reasonable, (4) his neighbor with a ¾" meter pays a lesser meter fee and he does not understand why, (5) he believes that the City has an "incurable defect" when it comes to its water purchasing power, (6) he asserted that the City cannot join the Metropolitan Water District (MWD) and has no access to reasonable water, (7) water rates are already exorbitant and they are going to get a lot worse, and (8) the proposed water rates are grossly unfair.
- Raymond Eler, Sierra Madre, said that (1) he is not objecting to the proposed infrastructure charges, (2) he has read the water and sewer rate study and understands the resulting amount of revenue to be generated as reasonable, as it seems to anticipate costs, both variable and fixed, (3) while he has no objection to the rates, he has an objection to the way that the costs are allocated based on each individual parcel, (4) he objects to higher meter charges based on meter size, as he has a 1½" meter, and (5) he urges the Council to rescind the criteria used regarding the meter size charge.
- Yvette Del Corazon, Sierra Madre, said that (1) she is opposed to the water increase, (2) the proposed Tier 2 water rate is going to cost her more, (2) she thinks that many people do not understand the proposed water rates, and (3) asked for clarification as to whether the City is using remote water meter reading in the Canyon.
- Allen Skiff, Sierra Madre, said that (1) he has read the water rate study and understands most of it, (2) he appreciates that Sierra Madre produced water (Tier 1) is charged at a much lower rate, (3) he does not understand the rationale for the Variable Charge Tier 2 – Single Family @ \$4.23, as compared to the Variable Charge Multi-Family @ \$3.73 and Non-Residential @ \$3.71, (4) he questions using meter size as the basis to determine the fixed service charge and the infrastructure charge, (5) asked whether the infrastructure charge is subject to the 10% Utility Tax, (6) he is requesting that the infrastructure fees have a separate line item so that we can keep track of those funds to ensure that they are being used for new lines, installations, repairs, etc., and (7) asked if there is a way to get credit for those months when the water used is less than the water conservation target towards months when the water used is over the water conservation target.
- John Cassara, Sierra Madre, said that (1) he wants to receive information regarding the cubic foot price of water that the City has paid over the past three years from every water source, in the exact gallonage used, (2) he wants to compare those figures against the usage figures anticipated in 2018, (3) he has previously come to City Hall to ask for this information and has received no response, (4) he does not understand why the City does not have a contract with the MWD or is getting its water from Mono Lake, which he asserts has a lot of water, and (5) he asked if the City is entitled to getting any water from Mono Lake and what is the basic cost in comparison to what they charge other cities.
- John Fullinwider, Sierra Madre, said that (1) he is unaware of what the City has done with funds collected in the past, as he has not seen any evidence of the funds being used for

infrastructure, (2) his street has been torn up five times in the last four years because of water pipe breaks to fix, but not replace the water main, (3) he does not have a high degree of confidence in the City's ability to manage the funds, (4) he would like to see a list of projects to be done, along with a time-table/schedule, and (5) as a community, we should have a better understanding of what the City is going to do, how it is going to be managed, and why are these the "right" rates.

Mayor Delmar expressed that she wanted the public to know that what Mr. Fullinwider said was not true and that the City has already previously published and made public an infrastructure projects list (water main replacements), by street/block, with a time-line/schedule, and the costs for each. She suggested to Mr. Fullinwider that he review the related information available on the City's website, come to City Council meetings, and read the City notices published in the Mt. View News. Mayor Delmar requested that City Manager England mail to Mr. Fullinwider all of the infrastructure reports, minutes, and actions taken to notify the public about the water and sewer rate process.

- Rosalyn Evans, Sierra Madre, said that (1) asked if there is a way for residents to review the City's financial budget, as she is relatively new to Sierra Madre (under two years) and (2) she has concerns regarding the Winter and Summer water allotment.

Mayor Delmar informed Ms. Evans that the City's budget is available for viewing on the City's website.

- Carston Bell, Sierra Madre, said that (1) he sees from tonight's Public Comments that there is a huge misunderstanding and lack of clarity on how big this budget is, (2) there has not been enough time for people to understand the water rates and the logic behind them, and (3) he urges the Council to delay voting on the water/sewer rates tonight to give people an opportunity to understand them.

Mayor Delmar asked if anyone else would like to speak on this item. Seeing no one, Mayor Delmar closed Public Comment and brought the matter back to the Council for discussion.

Mayor Delmar listed issues brought up in Public Comments and City Manager Engeland provided the following responses:

1. The meter charge – The City is happy to downsize any meter, if the homeowner provides the City with a written report from an engineer or architect that says that the home does not need the meter size that it is fitted for. The City has previously processed meter downsizing based upon receipt of written engineer/architect reports.
2. The reason the larger meter pays more - The essential difference is how much water capacity there is, how much can be used at any given time, not only with the peaking factor that was discussed, but regular usage. The 1½" meter is able to produce 50 gallons per minute or more, whereas the ¾" or less meters are limited to 15 gallons per meter, which can peak higher. The 1½" meter has both the capacity and a usage that is three times higher on a recurring basis. That does not mean that the homeowner is using more water at the end of the month, it just means that their straw is bigger and that they can get water more quickly.
3. Remote meter reading and the Canyon – Radio meter reading is operational in the Canyon, which means that the City can read those meters remotely. Soon, radio meter reading will be utilized throughout Sierra Madre.
4. Whether the infrastructure fee is going to be subject to the UUT percentage – The infrastructure charge will be assessed with the UUT tax.
5. Whether water rates are seasonal – There are no seasonal water rates anymore, as they were eliminated by Council a year ago following the "Water Forum".
6. Regarding the City's Budget - The City Council recently adopted the City's Budget for Fiscal Year 2018-2019 Fiscal Year, it is on the City's website, and those having trouble finding the Budget on the website are encouraged to call the Finance Department for assistance.
7. For documents on the 218 Process - People can go to [cityofsierramadre.com/transparency](http://cityofsierramadre.com/transparency). There is a column on the left-hand side that says "218 Process" where (after clicking) documents related to the 218 Process are readily available for public viewing, i.e. the

current comprehensive Water and Sewer Rate Study, the Water Master Plan, the previous Water Rate Study, and a host of other related information/documents.

8. Regarding persons requesting City of Sierra Madre documents, Sierra Madre has a process and form by which any person can submit a written Public Records Act Request to receive copies of City of Sierra Madre documents.

Additional Public Comment issues that City Manager Engeland addressed were as follows:

1. Metropolitan Water District of Southern California (MWD) versus the San Gabriel Valley Municipal Water District (SGVMWD) – In 1959, Sierra Madre residents voted and approved that the City of Sierra Madre be a member of the San Gabriel Valley Municipal Water District (SGVMWD), which also includes the cities of Alhambra, Azusa, and Monterey Park as member cities. At that time, Sierra Madre was able to locally produce 100% of its water demand so water was not imported (purchased).

After the drought began, the State of California cut Sierra Madre's adjudicated water rates (the prescribed right to the East Raymond Basin ground water) in half, such that Sierra Madre was unable to locally meet its water demand, and this created the need for Sierra Madre to import (purchase) water. In 2013, without a way to get water from the SGVMWD (Sierra Madre's water district), Sierra Madre signed a connection agreement with the SGVMWD, and that is how the City of Sierra Madre imports water.

Sierra Madre imports its water through the SGVMWD at a rate that is about half the cost per acre-foot than what MWD cities pay. Sierra Madre voters previously made a very smart move when they chose not to join the MWD, as Sierra Madre has access to the amount of water that it needs at a cheaper rate.

Sierra Madre has access to 2,500 acre-feet of water per year through the SGVMWD. Sierra Madre currently produces 1,000 acre-feet of water per year locally and its total water demand is approximately 2,300 acre-feet.

2. Regarding the infrastructure charge - The increase in the water rates is due to the condition of the City's infrastructure, which is in critical failure. The infrastructure charge is a line item on the bill so that ratepayers can see exactly what monies are being spent on infrastructure. In this year's budget (2018-2019), infrastructure spending is seven times more than was spent last year (2017-2018), which was almost triple from what was spent the year before that (2016-2017). Sierra Madre has been making a massive investment in its water infrastructure.
3. Regarding a credit if a residence uses less one month and more another month - (a) hypothetically, it may be possible, but the City does not have a process to do so at this time, (b) the City wants to get away from the allocation system all together because Sierra Madre's local aquifer can only produce so much water, (c) instead of tracking monthly water use versus conservation target, Sierra Madre is evenly distributing what it can produce locally to everyone and there is a higher cost for water that is imported, and (d) the cost is not the same for multi-family properties, as multi-family properties have a blended rate (from Tier 1 and Tier 2).

Mayor Pro Tem Harabedian asked if it is legally defensible to tie water rates (or part of it) to a fixed fee (basically a meter fee). City Attorney Highsmith responded that the short answer is yes, the Water Rate Study goes into a great deal of detail regarding the breakdown of the various components, both the variable rates of the cost of the water and the fixed rates for the meter charges, as well as the sewer and infrastructure fees.

Mayor Delmar asked to hear the final 218 Process tabulation. Asst. City Clerk Aguilar reported that the tabulation of the protests that were filed by the deadline (up to the close of tonight's Public Hearing) is as follows:

- A total of 277 protests were received.
- 179 protested sewer rates.
- 225 protested water rates.
- 50 protests were disqualified for various reasons, i.e. duplicate protest, missing signature, missing APN number, missing utility account number, or missing APN & utility account number.

Asst. City Clerk Aguilar declared that a "Majority Protest" does not exist and that Staff is recommending that the City Council read by title only and adopt Resolution 18-43 adopting water and sewer rate increases effective August 1, 2018.

Mayor Delmar brought the matter back to Council for comments.

Mayor Pro Tem Harabedian made the following comments: (1) appreciated the speakers coming forward, (2) one of the most difficult parts of government is effectively communicating with constituents, (3) throughout this process, the City Council and Staff did its best and worked very hard to get the information out to the public, (4) rates are going to be more expensive, but it is actually not that much if you look at the average user, (5) the City's infrastructure has exceeded its lifespan and is in a real state of emergency, (6) these rates will address infrastructure such that, in 5 years, 10 years, or 20 years from now, residents will not be burdened with the current issues with the infrastructure, (7) the proposed rates are a lot fairer, everyone gets the same allocation from the City's pumped ground water (14 units or below) at the same rate, (8) the City is paying less for imported water than the MWD rate, and (9) the Water Rate Study was a good process and he stands behind it.

Council Member Capoccia made the following comments: (1) the problem is that prior Sierra Madre City Councils did not respond to the City's infrastructure issues by charging more at the time and now the pipes are failing, (2) the pipes are not going to get fixed without money, (3) the infrastructure pipes must be fixed for future generations, (4) Sierra Madre cannot continue to allow 20% of its water to flow back into the aquifer because of leaky pipes, (5) the pipes must be fixed, not just patched, (6) this Council is not going to kick the can down the road, we are going to fix the pipes, we need a way to pay for it, and the only way is for ratepayers to pay more for the water/sewer service, (7) thanked the audience for coming to tonight's meeting, (8) he welcomes direct resident inquiries, but has not been contacted, (9) anyone with questions is welcome to call him at (626) 355-6407, "as we are neighbors", and (10) City Staff is also very open to explaining the problems facing the City and the solutions.

Council Member Goss made the following comments: (1) thanked everyone for coming to the meeting, (2) the City Council conducts serious business at every meeting, yet very few people attend most meetings, (3) since City Manager Engeland was hired two years ago, there is a gung-ho approach to meeting the City's problems/challenges head-on, (4) we are making real progress in addressing Sierra Madre's problems and this is another example, (5) he is not going to kick the can down the road, (6) we are thinking about the future, (7) it costs money to fix all those pipes, then we need to resurface a lot of streets, which will also cost money, and there is no getting around it, (8) regarding water rates Sierra Madre can no longer get all of its water locally (the drought has changed that, (9) water experts have testified that the drought is more or less a permanent situation, so the City cannot rely solely on the water it produces locally at the cheap rate, (10) the purpose of the rate change is such that the cheap water that the City can pump locally is distributed to everyone equally @ about 14 units and, beyond that, we are all going to be buying water through SGVMWD, which is actually cheaper than we would be paying if Sierra Madre purchasing water from the MWD, (11) this is a reasonable thing to do, (12) anyone may Email him at any time @ [ggoss@cityofsierramadre.com](mailto:ggoss@cityofsierramadre.com), (13) Council Members Capoccia and Goss are the City Council members on the City's Water Subcommittee, and (14) the long-term outcomes of the new rates is good for Sierra Madre and that is why he supports them.

Mayor Delmar made the following comments: (1) thanked the audience for coming to the meeting, (2) some of the statements made by residents during tonight's Public Comment are absolutely untrue, which is frustrating, (3) The City Council has worked very hard to make sure that accurate and complete information is out there, including talking to people, conducting the "Water Forum", which resulted in many changes, (4) from last year's "Water Forum", it was clear that the public was confused about the four tier water rates and the fairness of the conservation targets, etc., (5) the City Council has spent a year working on this to make sure that the water rates are fair for the ratepayers and fair for the City, (6) all City of Sierra Madre documents are public, nothing is hidden, and people are more than welcome to review them, (7) residents are encouraged to look at the City Council Meeting Agendas, attend meetings, and ask questions, (8) this City Council agreed to tackle the infrastructure problems facing Sierra Madre, (9) the pipes are in serious jeopardy and must be fixed, and (10) the City of Sierra Madre has a current infrastructure project list, with a timeline, which did not exist 2-3 years ago.

Mayor Delmar confirmed with Asst. City Clerk Aguilar that the number of valid protest ballots received did not constitute a "Majority Protest" and asked for a motion.

Mayor Pro Tem Harabedian made a motion to adopt Resolution No. 18-43 as written.

Council Member Goss seconded the motion to adopt Resolution No. 18-43 as written.

Ayes: Mayor Denise Delmar, Mayor Pro Tem John Harabedian, and Council Members Rachelle Arizmendi, John Capoccia and Gene Goss

Noes: None

Absent: None

Abstain: None

The motion to adopt Resolution No. 18-43 as written was passed unanimously.

9. **DISCUSSION OF ADOPTION OF URGENCY ORDINANCE 1400-U AMENDING SECTION 13.24.140 OF THE SIERRA MADRE MUNICIPAL CODE BY DELETING SUBSECTION "A" AND SUBSECTION "B" REGARDING PENALTIES FOR VIOLATION OF MANDATORY WATER CONSERVATION – Recommendation that the City Council adopt Urgency Ordinance 1400-U, an Ordinance amending Chapter 13.24 (Mandatory Water Conservation Plan) of the Sierra Madre Municipal Code to delete Subsection A (First Violation) and Subsection B (Second Violation) of Section 13.24.140, resulting in a revised Section 1324.140 (Failure to Comply – Penalties).**

Utility Services Director Reynoso gave a report on this item. Adopting Urgency Ordinance 1400-U would rescind all excess water penalties from the City Code. Staff is recommending that the City Council adopt an urgency ordinance to immediately remove (rescind) sub-sections A and B of the Sierra Madre Municipal Code (SMMC) 13.24.140 (Failure to Comply – Penalties).

Mayor Delmar asked if any Member of the Council had questions on this item.

In response to a question from Council Member Goss, Director Reynoso said that the State requires that the City have a water conservation program, with some very detailed mandates, such as not watering after a measurable rain event, no longer watering turf in City medians, leaks must be repair within a specific time, etc., but that there are other areas where the City has flexibility.

Director Reynoso explained that it is difficult to keep plants alive with watering only two days per week and it can be argued that watering only two days per week is essentially wasting water. The goal of irrigating is to get the water to infiltrate the soil down into the roots, not to lose it to evaporation. As a result, Staff is currently working on a proposed plan in which changing the hours of the day that watering is permitted (to reduce evaporation) would possibly allow watering on an additional day(s). The result would be a more beneficial use of water and help residents maintain their landscape as well.

City Manager Engeland expressed that Staff anticipates bringing to Council, in either September or October, a plan regarding amending the watering days of the week/hours allowed, the City's current related regulations, and all of the water conservation issues in which the City has leeway.

In response to a question from Council Member Capoccia regarding when the AMI system will be functional, Director Reynoso reported that signed agreements have been received, orders have been issued for the contractor to install the TGBS (Tower Gateway Base Stations, in the East end of Sierra Madre, 80% of the meters are installed and we are just waiting to install the radios and lids, after which the City can sync the AMI System with the City's billing system. It is expected that within the next six to eight months, at least ½ of the City will be fully functioning with the AMI system. The goal with the West side of the City is to have complete AMI implementation by 6-30-2019.

Mayor Delmar opened the meeting for Public Comment on this item.

- Mary Lou Kopka, Sierra Madre, asked whether residents are still restricted to watering two days per week and she was told yes.
- John Cassara, Sierra Madre, said that (1) questioned that he is paying more for the pipe because he has a bigger property, (2) believes that the cost of the pipe should be distributed equally, and (3) he agrees that the water penalties should be eliminated.
- Bill Taylor, Sierra Madre, said that (1) he believes that the water penalty monies collected are in violation of Prop. 218, (2) the money needs to be returned to ratepayers, (3) there is a small group of people that are going to ask the City for their money back, and (4) he has contacted an attorney to represent him in a lawsuit against the City of Sierra Madre.

- Bill Pevsner, Sierra Madre, expressed that he is in favor of having the water penalties removed and thanked the City Council for considering it.
- Carston Bell, Sierra Madre, said that (1) it seems suspicious the way that past water penalties have been assessed, as he has paid \$2,000 in water penalties in the last 1½ years and (2) the water penalty system is unfair and should be eliminated.

Mayor Delmar asked if anyone else would like to speak on this item. Seeing no one, Mayor Delmar closed Public Comment and brought the matter back to the Council for discussion.

Discussion occurred and there was agreement to remove the water penalties at this time and is a subject to an urgency ordinance.

City Attorney Highsmith clarified that the water penalties that are recommended to be eliminated are the penalties that are applied to using more water than the ratepayer's conservation target and that prohibited uses of the water (an example is watering on the wrong day or time) are still subject to an administrative penalty, which is still in place. A water administrative penalty does not appear as a line item on a water bill.

In response to a question by Mayor Delmar regarding this ordinance's designation as "urgency", City Attorney Highsmith said that an urgency ordinance requires a 4/5 vote, the records must have findings as to why the ordinance is an "urgent matter." She also stated that, because the new water rates are going into effect tomorrow, taking an urgent action to remove the penalties would avoid confusion regarding the application of penalties to the City's revised water and sewer rate structure and this is why the ordinance is drafted as an urgency ordinance.

In response to a question from Mayor Delmar regarding conservation targets, City Manager Engeland stated that, when the new water rate schedule is implemented, the conservation targets will be eliminated.

Council Member Capoccia made a motion to adopt Urgency Ordinance 1400-U as written.

Council Member Arizmendi seconded the motion to adopt Urgency Ordinance 1400-U as written.

Ayes: Mayor Denise Delmar, Mayor Pro Tem John Harabedian, and Council Members Rachelle Arizmendi, John Capoccia and Gene Goss  
 Noes: None  
 Absent: None  
 Abstain: None

The motion to adopt Urgency Ordinance 1400-U as written was passed unanimously.

**ADJOURNMENT:**

Mayor Delmar asked for a motion to adjourn.

Council Member Capoccia made a motion to adjourn the meeting.

The motion to adjourn was seconded by Mayor Pro Tem Harabedian and Council Member Arizmendi.

Ayes: Mayor Denise Delmar, Mayor Pro Tem John Harabedian, Council Members Rachelle Arizmendi, John Capoccia, and Gene Goss.  
 Noes: None  
 Absent: None  
 Abstain: None

The motion to adjourn was passed unanimously.

THIS SIERRA MADRE CITY COUNCIL SPECIAL MEETING WAS ADJOURNED at 9:08 p.m. to a Regular Meeting to be held on Tuesday, September 11, 2018, in the Sierra Madre City Hall Council Chambers.

  
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 Denise Delmar, Mayor

Minutes taken and prepared by:

  
 \_\_\_\_\_  
 Sue Spears, City Clerk