



AGENDA

Special City Council Meeting

and Successor Agency to the
Former Redevelopment Agency

Thursday, February 17, 2022 – 6:00 pm.

Via Zoom Webinar

www.cityofwasco.org

IMPORTANT NOTICE REGARDING FEBRUARY 17, 2022 COUNCIL MEETING

As emergency conditions persist in the City, specifically, a state of emergency remains in effect related to COVID-19, community transmission of COVID-19 in Kern County has rapidly increased from Low to High due to the highly contagious variants of COVID-19, which has emerged, Kern County officials are imposing and recommending measures to promote social distancing, requires masking by all, regardless of vaccination status, in an effort to slow the continuously high trends in and level of transmission of COVID-19 throughout the State and Kern County. The City Council determine that the presence of COVID-19 and the increase of cases due to the COVID variants will continue to cause conditions of peril to the safety of persons within the City that are likely to be beyond the control of services, personnel, equipment, and facilities of the City, and has affirmed a local emergency exists and re-ratified the proclamation of state of emergency by the Governor of the State of California. In compliance with AB 361, Brown Act public meetings will be conducted utilizing Zoom Video Communications. To participate in the meeting from the comfort of your own home or office, download Zoom on any phone or computer device and enter meeting ID# (see below for more information). The teleconferenced meeting allows the City to continue to conduct essential business and comply with CDC recommendations to protect the public and City employees, practice social distancing and limit exposure.

Listen to the meeting live via zoom

Member of the public may participate in the meeting by joining the Zoom Webinar via PC, Mac, iPad, iPhone, or Android device using the URL:

<https://us02web.zoom.us/j/83043434130>

Listen to the meeting live via telephone

The public may participate via phone only (without a computer/ smart device) by dialing the below numbers:

Dial Number: 1-669-900-9128

Meeting ID: **830 4343 4130**

ALL PARTICIPANTS WILL BE MUTED AUTOMATICALLY UPON ENTERING THE MEETING. THE CITY CLERK WILL UNMUTE THOSE WHO WISH TO SPEAK AT APPROPRIATE TIMES. PLEASE KEEP YOURSELF ON MUTE WHEN NOT SPEAKING. SPEAKERS ARE LIMITED TO TWO (2) MINUTES.

Verbal Participation using Zoom

Please use the "Raise Hand" button to request to speak. Raised hands will only be acknowledged during the Public Hearing and Public Comment sections of the agenda and when the Meeting's presiding officer requests public comments.

Verbal Participation over the phone

Please dial *9 to "raise your hand" to request to speak. Raised hands will only be acknowledged during the Public Hearing and Public Comment sections of the agenda and when the Meeting's presiding officer requests public comments. Please be advised you will be called on by the phone number you are calling from.

Submitting written comments:

You can also submit your comments via email to cityclerk@cityofwasco.org such email comments must be identified by adding the Agenda Item Number in the email's subject line. Every effort will be made to read your comment into the record; however, they are limited to two (2) minutes. If a comment is received after the agenda item is heard but before the meeting is adjourned, the comment will still be included as a part of the record of the meeting but will not be read into the record.

American Disability Act Accommodations:

Meetings are accessible to people with disabilities. Requests in advance of the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting and its materials. Individuals who need special assistance or a disability-related modification or accommodation to participate in this meeting or who have a disability and wish to request an alternative format for the meeting materials should contact the City Clerk at cityclerk@cityofwasco.org or call 661-758-7203. Every attempt will be made to swiftly address each request. (28 CFR 35.102–35.104 ADA Title II)

SPECIAL MEETING – 6:00 pm

- 1) CALL TO ORDER:** Mayor
- 2) ROLL CALL:** Mayor Reyna, Mayor Pro Tem Pallares, Council Members: Garcia, Lynch, Martinez
- 3) FLAG SALUTE:** Mayor
- 4) PUBLIC COMMENTS: PLEASE REFER TO PAGE ONE (1) FOR INSTRUCTION INFORMATION**
- 5) SPECIAL AGENDA ITEMS:**
 - a. Approve a Resolution Establishing Guidelines For The Submission And Tabulation Of Protests In Connection With Enterprise Rate Hearings Conducted Pursuant To Article Xiid, Section 6 Of The California Constitution. (Hurlbert)

6) **CLOSED SESSION: None**

7) **CLOSED SESSION ACTIONS: None**

8) **ADJOURNMENT:**

This is to certify that this agenda was posted at Wasco City Hall on February 16, 2022. The agenda is also available on the City website at www.cityofwasco.org



Maria O. Martinez, City Clerk

All agenda item supporting documentation is available for public review in the city website www.cityofwasco.org and the office of the City Clerk of the City of Wasco, 746 8th Street, Wasco, CA 93280 during regular business hours, 7:30 am – 5:00 pm Monday through Thursday and 8–5 pm Friday (closed alternate Friday's), following the posting of the agenda. Any supporting documentation related to an agenda item for an open session of any regular meeting that is distributed after the agenda is posted and prior to the meeting will also be available for review at the same location and available at the meeting. **Please remember to turn off all cell phones, pagers, or electronic devices during Council meetings.**

The City of Wasco does not discriminate on the basis of disability in the access to, provision of, or employment in its programs and activities pursuant to 29 United States Code Section 12132 and California Civil Code Section 54. Information regarding the rights provided under the Americans with Disabilities Act (ADA) may be obtained from the City Clerk's Office.

If you need special assistance to participate in this meeting, please contact the City Clerk's Office at (661) 758-7215 to make reasonable arrangements to ensure accessibility to this meeting. Telephone (661) 758-7215 Requests for assistance should be made at least two (2) days in advance whenever possible.



STAFF REPORT CITY OF WASCO

TO: Honorable Mayor and Council Members

FROM: M. Scott Hurlbert, City Manager
Tom Schroeter, City Attorney

DATE: February 17, 2022

SUBJECT: Approve a Resolution Establishing Guidelines For The Submission And Tabulation Of Protests In Connection With Enterprise Rate Hearings Conducted Pursuant To Article XiiiD, Section 6 Of The California Constitution.

Recommendation:

Staff recommends the City Council Approve a resolution Establishing Guidelines For The Submission And Tabulation Of Protests In Connection With Enterprise Rate Hearings Conducted Pursuant To Article XIII D, Section 6 Of The California Constitution.

Background

Pursuant to Proposition 218, the City Council has directed staff to publish notice of a public hearing regarding the City's proposed Enterprise Rate adjustments. The public hearing for the purpose of accepting protests will occur on April 19, 2022. Prior to the opening of the hearing, the City Council is recommended to adopt the guidelines that apply to that hearing.

Discussion:

The attached guidelines will ensure that the public protest hearing is conducted in a way that permits every affected person to speak or submit testimony and, if desired, a protest of the proposed rate adjustments. The guidelines also provide a process for receiving protests and counting the number of protests.

Any person who wishes to protest or provide any information regarding the proposed Enterprise Rate adjustment must do so prior to the public hearing or during the public hearing but prior to its conclusion and in compliance with the guidelines attached hereto. For a protest to be successful, verified protests from 50% plus 1 parcel must be submitted in writing by the property owner or customer of record.

The City Manager, City Attorney, and City Clerk have reviewed the guidelines and recommend the City Council to adopt the Resolution

Fiscal Impact:

None

Attachments:

1. Resolution

RESOLUTION NO. 2022 -

A RESOLUTION OF THE CITY OF WASCO APPROVING GUIDELINES FOR THE SUBMISSION AND TABULATION OF PROTESTS IN CONNECTION WITH ENTERPRISE RATE HEARINGS CONDUCTED PURSUANT TO ARTICLE XIID, SECTION 6 OF THE CALIFORNIA CONSTITUTION

BE IT RESOLVED, by the City Council of the City of Wasco, California as follows:

WHEREAS, Article XIID, Section 6 of the California Constitution requires the City Council to consider written protests to certain proposed increases to utility charges; and

WHEREAS, this constitutional provision does not offer specific guidance as to who may submit protests, how written protests are to be submitted, or how the City is to tabulate protests.

WHEREAS, upon adoption of this resolution, any and all resolutions, or rules or regulations of this City in conflict with it, shall be repealed and shall have no further force or effect. This resolution supersedes all prior resolutions of the City to the extent that such resolutions established guidelines for the submission and tabulation of protests in connection with rate hearings conducted by the City pursuant to Article XIID, Section 6 of the California Constitution.

NOW IT IS, THEREFORE, RESOLVED by the City Council of the City of Wasco that when notice of a public hearing with respect to the adoption or increase of Enterprise Rate charges has been given by the City pursuant to Article XIID, Section 6(a) of the California Constitution, the following shall apply:

SECTION 1: Definitions.

Unless the context plainly indicates another meaning was intended, the following definitions shall apply in the construction of these guidelines.

- A.** "Parcel" means a County Assessor's parcel the owner or occupant of which is subject to the proposed charge that is the subject of the hearing.
- B.** "Record customer" and "customer of record" mean the person or persons whose name or names appear on the City records as the person who has contracted for, or is obligated to pay for, utility services to a particular utility account.

- C. "Record owner" or "parcel owner" means the person or persons whose name or names appear on the County Assessor's latest equalized assessment roll as the owner of a parcel.
- D. A "fee protest proceeding" is not an election, but the City Clerk will maintain the confidentiality of protests as provided below and will maintain the security and integrity of protests at all times.

SECTION 2: Notice Delivery.

Notice of proposed rates and public hearing shall be as follows:

- A. The City shall give notice of proposed charges via U.S. mail to all record owners and customers of record served by the City.
- B. The City will post the notice of proposed charges and public hearing at its official posting sites.

SECTION 3: Protest Submittal.

- A. Any record owner or customer of record who is subject to the proposed utility charge that is the subject of the hearing may submit a written protest to the City Clerk, by:
 - (i) Delivery to the City Clerk's Office at 746 8th Street, Wasco, CA, 93280 during published business hours.
 - (ii) Mail to City Clerk at 746 8th Street, Wasco, CA 93280 or
 - (iii) Written protest can be submitted during the public hearing by placing protests in the City's Mailbox located at City Hall 746 8th street, Wasco Ca 93280 prior to the conclusion of the public hearing. Written protests submitted during the public hearing will be collected from the city hall mailbox and will be counted with the other protests received.
- B. Protests must be received prior to the conclusion of the public hearing, including those mailed to the City. No postmarks will be accepted; therefore, any protest not physically received prior to the close of the public hearing, whether or not mailed prior to the close of the public hearing, shall not be counted.
- C. Because an original signature is required, emailed, faxed and photocopied protests shall not be counted

- D. Oral comments at the public hearing will not qualify as a formal protest unless accompanied by a written protest; but the City Council; welcomes input from the community during the public hearing on the proposed charges.

SECTION 4: Protest Requirements.

- A. A written protest must include:
 - (i) A statement that it is a protest against the proposed charge that is the subject of the hearing.
 - (ii) Name of the record owner or customer of record who is submitting the protest;
 - (iii) Identification of assessor's parcel number, street address, or utility account number of the parcel with respect to which the protest is made;
 - (iv) Original signature and legibly printed name of the record owner or customer of record who is submitting the protest.
- B. Protests shall not be counted if any of the required elements (i thru iv) outlined in the preceding subsection "A." are omitted.

SECTION 5: Protest Withdrawal.

Any person who submits a protest may withdraw it by submitting to the City Clerk a written request that the protest be withdrawn. The withdrawal of a protest shall contain sufficient information to identify the affected parcel and the name of the record owner or customer of record who submitted both the protest and the request that it be withdrawn.

SECTION 6: Multiple Record Owners or Customers of Record.

- A. Each record owner or customer of record of a parcel served by the City may submit a protest. This includes instances where:
 - (i) A parcel is owned by more than one record owner or more than one name appears on the City's records as the customer of record for a parcel, or
 - (ii) A customer of record is not the record owner, or

(iii) A parcel includes more than one record customer, or

(iv) Multiple parcels are served via a single utility account, as master-metered multiple-family residential units.

B. Only one protest will be counted per parcel as provided by Government Code Section 53755(b).

SECTION 7: Transparency, Confidentiality, and Disclosure.

A. To ensure transparency and accountability in the fee protest tabulation while protecting the privacy rights of record owners and customers of record, protests will be maintained in confidence until tabulation begins following the public hearing.

B. Once a protest is opened during the tabulation, it becomes a disclosable public record, as required by state law, and will be maintained in City files for two years.

SECTION 8: City Clerk.

The City Clerk shall not accept as valid any protest if he or she determines that any of the following is true:

A. The protest does not state its opposition to the proposed charges.

B. The protest does not name the record owner or record customer of the parcel identified in the protest as of the date of the public hearing.

C. The protest does not identify a parcel served by the City that is subject to the proposed charge.

D. The protest does not bear an original signature of the named record owner of, or record customer with respect to, the parcel identified on the protest.

E. The protest was altered in a way that raises a fair question as to whether the protest actually expresses the intent of a record owner or a customer of record to protest the charges.

F. The protest was not received by the City Clerk before the close of the public hearing on the proposed charges.

- G. A written request to withdraw the protest was received prior to the close of the public hearing on the proposed charges.

SECTION 9: City Clerk's Decisions Final.

The City Clerk's decision that a protest is not valid shall constitute a final action of the City and shall not be subject to any internal appeal.

SECTION 10: Majority Protest.

- A. A majority protest exists if written protests are timely submitted and not withdrawn by the record owners of, or customers of record with respect to, a majority (50% plus one) of the parcels subject to the proposed charge.
- B. While the City may inform the public of the number of parcels served by the City when a notice of proposed rates is mailed, the number of parcels within the city limits plus parcels with active customer accounts (affected by the proposed service charges) served by the City outside the city limits on the date of the hearing shall control in determining whether a majority protest exists.

SECTION 11: Tabulation of Protests.

At the conclusion of the public hearing, the City Clerk shall tabulate all protests received, including those received during the public hearing. However, no attempt will be made to validate the protest letters received only to establish whether the potential number of protests received is insufficient to constitute a majority protest.

SECTION 12: Report of Tabulation.

If the number of protests received is insufficient to constitute a majority protest, the City Clerk may announce the absence of a majority protest in which case the protest process ends.

If the City Clerk determines that an apparent majority protest has been received and will require additional time to validate the protests, he or she shall so advise the City Council, which may adjourn the meeting to allow the validation to be completed on another day or days.

The City Council shall declare the time and place of validation, which shall be conducted in a place where interested members of the public may observe the validation. The City Clerk shall ensure the tabulated protests are sealed and secured until the validation can occur.

SECTION 13: This resolution will become effective immediately upon adoption.

I HEREBY CERTIFY that the foregoing Resolution No. 2022 - _____ was passed and adopted by the Council of the City of Wasco at a special meeting thereof held on February 17, 2022, by the following vote:

COUNCIL MEMBERS:

AYES:

NOES:

ABSTAIN:

ABSENT:

GILBERTO REYNA,
MAYOR of the City of Wasco

Attest: _____

MARIA O. MARTINEZ
CITY CLERK and Ex Officio Clerk of
the Council of the City of Wasco