



CITY COUNCIL AGENDA

NOTICE OF REGULAR MEETING

Tuesday, December 16, 2014
7:00 p.m.
City Hall - Council Chamber
Daniel P. Moore Community Center Complex
1900 Billy G. Webb Drive
Portland, Texas

A. PROCEDURAL MATTERS, HONORS AND RELATED NON-ACTION ITEMS:

1. CALL TO ORDER: MAYOR KREBS
2. INVOCATION AND PLEDGE: MAYOR KREBS OR DESIGNEE
3. FORMAL ANNOUNCEMENTS, RECOGNITION, PRESENTATIONS AND REPORTS THAT MAY BE DISCUSSED:
 - PRESENTATION ON REPAIRS TO THE BELL WHITTINGTON LIBRARY AND RECENT UPGRADES TO HISTORICAL LIBRARY BUILDING
4. CITY COUNCIL AND STAFF COMMENTS CONCERNING ITEMS OF COMMUNITY INTEREST THAT MAY NOT BE DISCUSSED:

Members of the City Council may present reports regarding items of community interest and/or be presented reports from the Staff regarding items of community interest, provided no action is taken or discussed. Items of community interest include the following:

- Expressions of thanks, congratulations, or condolence
- Information regarding holiday schedules
- Honorary recognition of city officials, employees, or other citizens
- Reminders about upcoming events sponsored by the city or another entity that is scheduled to be attended by a city official or city employee
- Announcements involving imminent threats to the public health and safety of the city

B. ACTION ITEMS, RESOLUTIONS AND ORDINANCES:

Members of the audience who wish to (1) comment on issues concerning an agenda item, (2) present questions concerning an agenda item, (3) request assistance concerning an agenda item or (4) propose regulatory changes concerning an agenda item, must comply with the following rules of procedure:

- Persons who wish to speak must fill out and turn in a speaker card before the meeting is convened (The Mayor will notify you when it's your turn to speak and direct you to the podium)
- Persons who wish to speak must identify themselves and their places of residence
- All comments, requests and proposals must be presented to or through the Mayor
- Persons who wish to speak will be given 4 minutes to do so

5. **MINUTES OF PREVIOUS MEETINGS:** THE CITY COUNCIL WILL CONSIDER THE MINUTES OF ITS DECEMBER 2, 2014 REGULAR MEETING - MAYOR KREBS AND CITY SECRETARY

6. **ORDINANCE NO. 2100 – ANNEXATION OF APPROXIMATELY 1,863 ACRES:** THE CITY COUNCIL WILL CONSIDER SECOND AND FINAL READING OF ORDINANCE NO. 2100 ANNEXING APPROXIMATELY 1,863 ACRES SITUATED WITHIN THE CITY'S EXTRATERRITORIAL JURISDICTION – CITY MANAGER

7. **RESOLUTION NO. 691 – DEVELOPMENT AGREEMENTS IN THE PROPOSED ANNEXATION AREA:** THE CITY COUNCIL WILL CONSIDER RESOLUTION NO. 691 AUTHORIZING THE CITY MANAGER TO EXECUTE DEVELOPMENT AGREEMENTS FOR PROPERTY OWNERS WITH AGRICULTURAL, WILDLIFE MANAGEMENT, OR TIMBER LAND PROPERTY EXEMPTIONS IN THE PROPOSED ANNEXATION AREA – ASSISTANT CITY MANAGER

8. **ORDINANCE NO. 2101 - INCREASING WATER AND WASTEWATER RATES:** THE CITY COUNCIL WILL CONSIDER THE FIRST READING OF ORDINANCE NO. 2101 AUTHORIZING UTILITY RATE INCREASES – DIRECTOR OF FINANCE

C. CITIZEN COMMENTS, QUESTIONS, REQUESTS AND PROPOSALS NOT APPEARING ON THE AGENDA:

Members of the audience who wish to (1) comment on issues for which there is no item on this agenda, (2) present questions for which there is no item on this agenda, (3) request assistance for which there is no item on this agenda or (4) propose regulatory changes for which there is no item on this agenda, must comply with the following rules of procedure:

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- Persons who wish to speak will only be given 4 minutes to do so

Neither the City Council nor the Staff is legally permitted to respond to citizen comments, questions, requests or proposals at the time of the meeting. A member of the City Council or the City Manager may place an item on the agenda of a future City Council workshop or meeting to legally do so. If that is done, the audience member seeking a response will be given advance notice.

D. ADJOURNMENT: MAYOR KREBS

NOTICE OF ASSISTANCE

If you plan to attend this public meeting and you have a disability that requires special arrangements to be made, please contact City Secretary Annette Hall (361) 777-4513 or annette.hall@portlandtx.com in advance of the meeting. Reasonable accommodations will be made to facilitate your participation. The City Hall is wheelchair accessible and specially marked parking spaces are located in front of its entrance. Special seating will be provided in the Council Chamber during the meeting.

BRAILLE IS NOT AVAILABLE

Posted: December 12, 2014 by 5:00 p.m.
Portland City Hall

By: 
Annette Hall
City Secretary

**CITY OF PORTLAND
CITY COUNCIL
REGULAR MEETING
MINUTES
DECEMBER 2, 2014 – 7:00 P.M.**

On this the 2nd day of December 2014, the Council of the City of Portland convened in a regular meeting session at 7:00 p.m. in the Council Chambers of City Hall, Daniel P. Moore Community Center Complex and notice of regular meeting giving the time, place and date and subject having been posted as described by Section 551 of the Government Code.

MEMBERS PRESENT:

David Krebs	Mayor
Cathy Skurow	Mayor Pro Tem
Ron Jorgensen	Council Member
John Vilo	Council Member
Gary Moore, Sr.	Council Member
John Green	Council Member
David Lewis	Council Member

STAFF PRESENT:

Randy Wright	City Manager
Brian DeLatta	Assistant City Manager
Hal George	City Attorney
Annette Hall	City Secretary
Michel Sorrell	Finance Director
Kristin Connor	Director of Parks and Recreation
Dorothy Torres	Interim Library Director
Lyle Lombard	Fire Chief
Fred Busman	IT Technician
Drew Schell	IT Technician

And with a quorum being present, the following business was transacted:

A. PROCEDURAL MATTERS, HONORS, AND RELATED NON-ACTION ITEMS:

1. CALL TO ORDER: MAYOR KREBS

Mayor Krebs called the meeting to order at 7:00 pm.

2. INVOCATION AND PLEDGE: MAYOR KREBS OR DESIGNEE

Council Member Lewis gave the invocation and Mayor Krebs led the Pledge of Allegiance.

3. FORMAL ANNOUNCEMENTS, RECOGNITION, PRESENTATIONS, AND REPORTS THAT MAY BE DISCUSSED:

- QUARTERLY FINANCIAL UPDATE – DIRECTOR OF FINANCE

Director of Finance Michel Sorrell presented the Quarterly Financial Update that included the following:

4th Quarterly Financial Update ending September 30, 2014

- Budgeted Funds – High Level View
2014 Revenues: Collected Year-to-Date and Budget
2014 Expenditures: Used Year-to-Date and Budget
- Special Interest Revenues – Various Funds
2014 Revenues: Collected Year-to Date and Budget
- Sales Tax Revenues – General Fund FY 2010 – 2014
- Sales Tax Data From 2010 – 2014
- Financial Update Highlights

Quarterly Investment Report

- Investments by Fund & Type
- Portfolio Distribution – September 30, 2014
- Portfolio Performance Analysis – September 30, 2014
- Portfolio Performance Wrap-up

4. CITY COUNCIL AND STAFF COMMENTS CONCERNING ITEMS OF COMMUNITY INTEREST THAT MAY NOT BE DISCUSSED:

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- Announcements involving imminent threats to the public health and safety of the city

Mayor Pro Tem Skurow announced that today is Coastal Bend Day of Giving. The minimum donation is \$10 and encouraged everyone to donate to their favorite local organization. She then wished everyone a Happy Thanksgiving and commented that she is looking forward to the upcoming Christmas Holiday Events.

Council Member Moore announced that the Grand Opry will be held at 7:00 p.m. at the Community Center and the cost is \$7 per person.

Council Member Jorgensen congratulated the G-P Wildcats for playing a good game in the 3rd round of the playoffs.

Mayor Krebs announced that Christmas in Portland will be held on December 4th at the Community Center and the Parade of Lights is scheduled for December 8th at 6:00 p.m.

City Manager Randy Wright reported that the Bell Whittington Library has sustained water damage due to a water line pipe breaking over the Thanksgiving Holiday. The damage is to be assessed and will require closing the Library for the next 2 weeks.

B. ACTION ITEMS, RESOLUTIONS, AND ORDINANCES:

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- All comments, requests and proposals must be presented to or through the Mayor
- Persons who wish to speak will be given 4 minutes to do so

There were none.

5. MINUTES OF PREVIOUS MEETINGS: THE CITY COUNCIL WILL CONSIDER THE MINUTES OF ITS NOVEMBER 18, 2014 WORKSHOP AND REGULAR MEETING - MAYOR KREBS AND CITY SECRETARY

Council Member Vilo made the motion to approve the minutes of the November 18, 2014 workshop and regular meeting, seconded by Council Lewis.

The motion passed 7-0.

6. WINDFEST 2015 USE AGREEMENT WITH THE CHAMBER OF COMMERCE THE CITY

COUNCIL WILL CONSIDER AN AGREEMENT WITH THE PORTLAND CHAMBER OF COMMERCE FOR THE USE OF CITY FACILITIES, THE DISTRIBUTION OF HOTEL OCCUPANCY TAX FUNDS AND OTHER DETAILS CONCERNING THE WINDFEST 2015 EVENT – CITY MANAGER

City Manager Randy Wright explained that the Windfest 2015 Use Agreement with the Chamber of Commerce was tabled on September 16th for further discussion and clarification of the agreement. Mr. Wright added that Portland Chamber of Commerce Executive Director Collette Wall is here to present the changes made to the agreement and a request for a partnership with the City to make the event a better festival.

Ms. Walls explained that hosting Windfest as a community event brings value to the community as a whole and would like the City Council to consider a partnership. The Chamber of Commerce is requesting a partnership with the City.

The Chamber of Commerce is requesting the City Council consider the following:

- The Chamber would pay \$10,000.00 for the use of the facilities.
- The City would reimburse the Chamber's expenditures up to \$25,000 to promote the event in accordance with HOT Fund guidelines.
- The City would provide additional funds to support the growth of Windfest under one of the two following options:
 - Option A - provide \$5,000.00 which is consisted with the amount the City provided last year
 - Option B - to provide \$10,300.00 to allow the Chamber to add the following activities:

○ Exotic Petting Zoo	\$ 2,400.00
○ Kids Celebration Game Show	\$ 3,900.00
○ Loop Rawlins Wild West Show	\$ 4,000.00
	\$10,300.00

City Manager Randy Wright explained that the 2015 agreement is primarily a repeat of previous Windfest agreements. The most notable changes are increases in funds requested for the festival and changes to the alcoholic beverage area. Below is a summary of the requested changes:

- The Chamber has proposed two alternatives for HOT fund support from the City
 1. \$5,000 – equal to the amount provided by the City in 2014
 2. \$10,300 – includes an expansion of activities focused on children/families

Exotic Petting Zoo	\$ 2,400
Kids Celebration Game Show	3,900
Loop Rawlins Wild West Show	<u>4,000</u>
Total	\$10,300

- The City would allocate up to \$25,000 in HOT funds for promotion of the event. The City allocated \$12,500 last year.
- The area designated for consumption of alcoholic beverages has been modified to improve the use of other attractions, but remains generally the same size as last year.

Mayor Pro Tem Skurow made the following motion:

- Approve a use agreement with the Chamber of Commerce for Windfest 2015.
- Allocate \$10,300 in Hotel Occupancy Tax funds for use by the Chamber to support Windfest 2015.
- Allocate up to \$25,000 in Hotel Occupancy Tax fund to reimburse the Chamber for advertising expenses for Windfest 2015.

Council Moore seconded the motion.

The motion passed 7-0.

7. PETITION ON ANNEXATION : THE CITY COUNCIL WILL CONSIDER A PETITION ON ANNEXATION – CITY MANAGER

City Manager Randy Wright explained The City received a petition on November 19, 2014 entitled “Stop the Annexation.” Section 27 of the Texas Bill of Rights gives citizens the right to assemble together for their common good; and apply to those invested with the powers of government for redress of grievances and other purposes, by petition, address or remonstrance. A governmental body has no obligation to act on the substance of a petition, but case law is clear that the governmental body should consider the petition, or stop, look and listen. No action is required by the governmental body.

Mayor Krebs acknowledged that the Petition was received on November 19, 2014 and reviewed.

8. ORDINANCE NO. 2100 – ANNEXATION OF APPROXIMATELY 1,863 ACRES: THE CITY COUNCIL WILL CONSIDER FIRST READING OF ORDINANCE NO. 2100 ANNEXING APPROXIMATELY 1,863 ACRES SITUATED WITHIN THE CITY’S EXTRATERRITORIAL JURISDICTION – CITY MANAGER

City Manager Randy Wright explained that in 2013, the City began a process that eventually led to the identification of approximately 1,863 acres of land situated within the extraterritorial jurisdiction (ETJ) of the City subject to annexation. The City has

complied with all provisions of Chapter 43 of the Texas Local Government Code and the Portland City Charter necessary to formally annex the proposed area.

In 2012, faced with impending industrial growth, the City began evaluating both the opportunities and the likely consequences for the community and how economic and industrial growth would affect areas around Portland, particularly within our ETJ where the City has little control over how and what is developed.

In 2013, The City Council engaged Freese and Nichols to develop a Growth Management Plan to better understand how the City should respond to industrial growth and changing economic conditions in the area. After receipt of that report in July of 2014, the City began the process of annexing an area of approximately 1,863 acres lying within the ETJ to the west and northwest of the existing city limits.

Chapter 43 of the Texas Local Government Code provides that cities of less than 100,000 population can grow into their extraterritorial jurisdiction (ETJ), which is an area generally extending one mile beyond the city limits.

The proposed annexation area is largely undeveloped with approximately 65 occupied parcels. Existing land uses consist primarily of farming and ranching. Upon annexation, the properties will be initially considered residential (R2 and R6) with final zoning to be determined in January.

The City Council has conducted two public hearings and presented a proposed Municipal Service Plan as required by statute. Staff has maintained a webpage with pertinent information about the annexation process and has answered countless questions from interested parties.

On November 26, 2014, development agreements were mailed to 18 owners of agricultural exempt property who have requested agreements. An additional 10 properties are under review to confirm their exemption status. One property owner who requested a development agreement was determined to be outside the area to be annexed. In total, the requested development agreements represent approximately 170 acres of the 1,863 acres proposed for annexation. Executed development agreements are due back to the City by December 15, 2014.

Code, Chapter 43, authorizes the City Council to enact legislation to finalize the annexation process.

- Owners of agricultural exempt land can opt out of annexation by executing a development agreement with the City. The agreement allows for the continuation of existing uses on the property provided the owner does not initiate development of the property, and that the property remains agricultural exempt. The agreement allows the City to extend its land use controls (zoning,

building, development, etc.) to the subject properties so long as they do not materially interfere with the use of the property for agriculture, wildlife management or timber.

The City Council recommended the agreements be for 15 years and renewable 2 times, up to 45 years.

- Various requests for property tax exemptions, specific property/subdivision carve-outs, prorated taxes and other exceptions to the City's authority under Chapter 43, the Texas Constitution and City Charter have been received and considered by the City Council and Staff. In each case, the City Attorney has reviewed the request and applied applicable law before providing a response.

The City has completed all legal requisites for annexation. Under Chapter 43 of the Texas Local Government

Council Member Jorgensen made the motion to approve the first reading of Ordinance No. 2100 annexing approximately 1,863 acres situated within the City's Extraterritorial Jurisdiction, seconded by Mayor Pro Tem Skurow.

The motion passed 7-0.

Mayor Krebs read the following caption:

ORDINANCE NO. 2100

AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY TO THE CITY OF PORTLAND, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN SAID CITY LIMITS; GRANTING TO ALL THE INHABITANTS OF SAID PROPERTY ALL OF THE RIGHTS, PRIVILEGES, AND BURDENS OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS AND REGULATIONS OF SAID CITY; ADOPTING A SERVICE PLAN; PROVIDING FOR AMENDMENT OF THE OFFICIAL MAPS OF THE CITY OF PORTLAND, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AND ESTABLISHING AN EFFECTIVE DATE

- 9. ORDINANCE NO. 2099 – ABOLISHING THE PARKS AND RECREATION ADVISORY BOARD:
THE CITY COUNCIL WILL CONSIDER THE SECOND AND FINAL READING OF ORDINANCE**

NO. 2099 THAT REPEALS AND ABOLISHES THE PARKS AND RECREATION ADVISORY BOARD – ASSISTANT CITY MANAGER

Council Member Jorgensen made the motion to approve the second and final reading of Ordinance No. 2099 abolishing the Parks and Recreation Advisory Board, seconded by Council Member Vilo.

The motion passed 7-0.

Mayor Krebs read the following caption:

ORDINANCE NO. 2099

AN ORDINANCE REPEALING CHAPTER 14, ARTICLE II OF THE CODE OF ORDINANCES THEREBY ABOLISHING THE PARKS AND RECREATION ADVISORY BOARD; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE

10. 2014 AD VALOREM TAX LEVY: THE CITY COUNCIL WILL CONSIDER THE ACCEPTANCE OF THE CERTIFIED AD VALOREM TAX LEVY AS PRESENTED BY DALIA SANCHEZ, TAX ASSESSOR-COLLECTOR – DIRECTOR OF FINANCE

Director of Finance Michel Sorrell explained that the State statues require the City Tax Assessor-Collector present the Certified Tax Levy for approval by the City Council. Acceptance of the Certified Ad Valorem Tax Levy authorizes the tax collector to carry out the duties of collecting the taxes for the year. This action is required to allow the San Patricio County Tax Assessor-Collector, Dalia Sanchez, to collect the ad valorem taxes that make up 37.76% of the General Fund revenues and 95.07% of the General Obligation Bond Debt Service revenues for FY 2014-2015. The FY 2014-2015 budget is predicated on the collection of ad valorem tax.

Council Member Moore made the motion to accept the 2014 Ad Valorem Tax Levy totaling \$5,580,682.60 presented by Dalia Sanchez, Tax Assessor Collector, seconded by Council Member Green.

The motion passed 7-0.

C. CITIZEN COMMENTS, QUESTIONS, REQUESTS, AND PROPOSALS NOT APPEARING ON THE AGENDA:

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There were none.

D. ADJOURNMENT: MAYOR

Mayor Krebs adjourned the meeting at 7:38 p.m.

E. NOTICE OF ASSISTANCE:

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BRAILLE IS NOT AVAILABLE

Approved:

David Krebs
Mayor

Attest:

City Secretary



CITY COUNCIL ACTION ITEM

AGENDA TITLE	<u>ORDINANCE NO. 2100 – ANNEXATION OF APPROXIMATELY 1,863 ACRES</u> THE CITY COUNCIL WILL CONSIDER SECOND AND FINAL READING OF ORDINANCE NO. 2100 ANNEXING APPROXIMATELY 1,863 ACRES SITUATED WITHIN THE CITY'S EXTRATERRITORIAL JURISDICTION.
MEETING DATE	12/16/2014
DEPARTMENT	Administration
SUBMITTED BY	Randy Wright, City Manager

EXECUTIVE SUMMARY

This is the second reading of the Ordinance. No changes have been made to Ordinance 2100 since first reading on December 2, 2014.

In 2013, the City began a process that eventually led to the identification of approximately 1,863 acres of land situated within the extraterritorial jurisdiction (ETJ) of the City subject to annexation. The City has complied with all provisions of Chapter 43 of the Texas Local Government Code and the Portland City Charter necessary to formally annex the proposed area.

PRIOR ACTIONS OR REVIEWS

- September 3, 2013 – City Council engaged Freese and Nichols to perform a Growth Management Study.
- July 15, 2014 – City Council engaged Freese and Nichols to assist in the annexation process.
- October 30, 2014 – First public hearing at Calvary Lighthouse Church.
- November 4, 2014 – Second public hearing at Portland City Hall.

DETAILS / STAFF ANALYSIS

Chapter 43 of the Texas Local Government Code provides that cities of less than 100,000 population can grow into their extraterritorial jurisdiction (ETJ), which is an area generally extending one mile beyond the city limits.

In 2012, faced with impending industrial growth, the City began evaluating both the opportunities and the likely consequences for the community and how economic and

industrial growth would affect areas around Portland, particularly within our ETJ where the City has little control over how and what is developed.

Recognizing that Portland is blocked on three sides and that all future growth is limited to the west and northwest, it became apparent that in order to keep Portland viable and insure orderly growth in the coming decades, the City must gain control of development within its existing ETJ.

In 2013, The City Council ordered the development of a Growth Management Plan to better understand how the City should respond to industrial growth and changing economic conditions in the area. After receipt of that report in July of 2014, the City began the process of annexing an area of approximately 1,863 acres lying within the ETJ to the west and northwest of the existing city limits.

The proposed annexation area is largely undeveloped with approximately 65 occupied parcels. Existing land uses consist primarily of farming and ranching. Upon annexation, the properties will be initially considered residential (R2 and R6) with final zoning to be determined in January.

The City Council has conducted two public hearings and presented a proposed Municipal Service Plan as required by statute. Staff has maintained a webpage with pertinent information about the annexation process and has answered countless questions from interested parties.

On November 26, 2014, development agreements were mailed to 17 owners of agricultural exempt property who have requested agreements. An additional 10 properties are under review to confirm their exemption status. One property owner who requested a development agreement was determined to be outside the area to be annexed. In total, the requested development agreements represent approximately 170 acres of the 1,863 acres proposed for annexation. Executed development agreements are due back to the City by December 15, 2014.

The City has completed all legal requisites for annexation. Under the Texas Local Government Code, Chapter 43, the City Council is authorized to enact legislation to finalize the annexation.

ALTERNATIVES CONSIDERED

1. Owners of agricultural exempt land can opt out of annexation by executing a development agreement with the City. The agreement allows for the continuation of existing uses on the property provided the owner does not initiate development of the property, and that the property remains agricultural exempt. The agreement allows the City to extend its land use controls (zoning, building, development, etc.) to the subject properties so long as they do not materially interfere with the use of the

property for agriculture, wildlife management or timber.

2. Various requests for property tax exemptions, specific property/subdivision carve-outs, prorated taxes and other exceptions to the City's authority under Chapter 43, the Texas Constitution and City Charter have been received and considered by the City Council and Staff. In each case, the City Attorney has reviewed the request and applied applicable law before providing a response.

FINANCIAL IMPACT

Not applicable. The proposed Municipal Services Plan includes potential costs to the City if development occurs within the annexation area.

ATTACHMENTS

Proposed Ordinance No. 2100

RECOMMENDED ACTION

Motion to approve second and final reading of Ordinance No. 2100.

1 **ORDINANCE NO. 2100**

2
3 **AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED**
4 **TERRITORY TO THE CITY OF PORTLAND, TEXAS, AND**
5 **EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO**
6 **INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN**
7 **SAID CITY LIMITS; GRANTING TO ALL THE INHABITANTS OF**
8 **SAID PROPERTY ALL OF THE RIGHTS, PRIVILEGES, AND**
9 **BURDENS OF OTHER CITIZENS AND BINDING SAID**
10 **INHABITANTS BY ALL OF THE ACTS, ORDINANCES,**
11 **RESOLUTIONS AND REGULATIONS OF SAID CITY; ADOPTING A**
12 **SERVICE PLAN; PROVIDING FOR AMENDMENT OF THE OFFICIAL**
13 **MAPS OF THE CITY OF PORTLAND, TEXAS; PROVIDING A**
14 **SEVERABILITY CLAUSE; PROVIDING AND ESTABLISHING AN**
15 **EFFECTIVE DATE**

16
17 **WHEREAS**, Chapter 43 of the Texas Local Government Code and the City Charter of the
18 City of Portland, Texas, a home rule city under the laws of the State of Texas, authorizes the
19 annexation of territory; and

20
21 **WHEREAS**, public hearings were held by the City Council on October 30, 2014, at Calvary
22 Lighthouse, 7251 County Road 2004, Portland, Texas, a place within the area to be annexed,
23 and on November 4, 2014, at the City of Portland City Hall, 1900 Billy G. Webb, Portland, Texas;
24 and

25
26 **WHEREAS**, the above public hearings were held following publication of notice of the
27 hearings in the official public newspaper of the City, a newspaper of general circulation in the
28 City of Portland, for the consideration of annexation proceedings and the service plan for the
29 defined lands and territory, during which public hearings all persons interested in the
30 annexations were allowed to appear and be heard; and

31
32 **WHEREAS**, the service plan for the area proposed to be annexed was made available for
33 public inspection, including on the City’s website, at the above mentioned public hearings and
34 in the above mentioned publication; and

35
36 **WHEREAS**, it has been determined, and the City Council so finds, that the territory now
37 proposed to be annexed, and described herein, abuts and is contiguous and adjacent to the City
38 of Portland; and

39
40 **WHEREAS**, it has been determined, and the City Council so finds, that the territory now
41 proposed to be annexed, and described herein, constitutes lands and territories subject to
42 annexation as provided by the City Charter of the City of Portland and the laws of the State of
43 Texas; and

44

45 **WHEREAS**, this annexation will leave out property where the property owner has signed
46 a Development Agreement with the City of Portland pursuant to Chapter 43, Local Government
47 Code; and

48
49 **WHEREAS**, it has been determined, and the City Council so finds, that this annexation
50 meets all the procedural requirements of the City Charter of the City of Portland and the laws
51 of the State of Texas; and

52
53 **WHEREAS**, it has been determined, and the City Council so finds, that it would be
54 advantageous to the City and to its citizens, and it is in the public interest in furtherance of the
55 general welfare, safety and health of its citizens, to annex the lands and territory hereinafter
56 described.

57
58 **NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,**
59 **TEXAS:**

60
61 **SECTION 1:** That the 1,863 acre tracts of land, more or less, that is described by metes
62 and bounds in Exhibit A, attached hereto and incorporated herein by this reference, is hereby
63 annexed to the City of Portland, Texas, and that the boundary limits of the City of Portland,
64 Texas, are hereby extended to include the above described territory within the city limits of the
65 City of Portland, Texas, and the same shall hereafter be included within the territorial limits of
66 said City, and the inhabitants thereof shall hereafter be entitled to all the rights, privileges and
67 burdens of other citizens of the City of Portland, Texas, and they shall be bound by the acts,
68 ordinances, resolutions and regulations of said City. That this annexation will leave out
69 property where the property owner has signed a Development Agreement with the City of
70 Portland pursuant to Chapter 43, Local Government Code.

71
72 **SECTION 2.** That the Service Plan attached hereto as Exhibit B, and incorporated herein
73 by this reference, is hereby approved and adopted. This Service Plan provides for the same
74 number of services and levels of service for the annexed area and to the same extent that such
75 services are in existence in the area annexed immediately preceding the date of annexation or
76 that are otherwise available in other parts of the City with land uses and population densities
77 similar to those contemplated or projected in the area annexed.

78
79 **SECTION 3.** That the owners and inhabitants of the tracts or parcels of land annexed by
80 this Ordinance are entitled to all the rights, privileges and burdens of other citizens and
81 property owners of the City of Portland, Texas, and are subject to and bound by the City
82 Charter of the City of Portland, Texas, and the ordinances, resolutions, motions, laws, rules and
83 regulations of the City of Portland, Texas and to all intents and purposes as the present owners
84 and inhabitants of the City of Portland, Texas are subject.

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86 **SECTION 4.** That the official map and boundaries of the City and its extraterritorial
87 jurisdiction, previously adopted and amended, are amended to include the territories described
88 in the Ordinance as part of the City of Portland, Texas.

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SECTION 5. That the City Manager, or his designee, is authorized and directed to perform or cause to perform all acts necessary to correct the official map of the City and its extraterritorial jurisdiction and to take all such other action as is necessary to add the territory annexed and as required by law. A certified copy of this Ordinance and any Development Agreements shall be filed in the office of the County Clerk of San Patricio County, Texas and forwarded to relevant governmental agencies.

SECTION 6. If any provision, section, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is, for any reason held to be unconstitutional, void , or invalid, the validity of the remaining portions of this Ordinance shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof, or provisions or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof, and all provision of this Ordinance are declared severable for that purpose.

SECTION 7. This Ordinance shall be effective upon the passage of the second reading.

PASSED and **APPROVED** on second reading this ___ day of _____ 2014.

CITY OF PORTLAND

David Krebs
Mayor

ATTEST:

Annette Hall
City Secretary



CITY COUNCIL ACTION ITEM

AGENDA TITLE	<u>RESOLUTION NO. 691 – DEVELOPMENT AGREEMENTS IN THE PROPOSED ANNEXATION AREA</u> THE CITY COUNCIL WILL CONSIDER RESOLUTION NO. 691 AUTHORIZING THE CITY MANAGER TO EXECUTE DEVELOPMENT AGREEMENTS FOR PROPERTY OWNERS WITH AGRICULTURAL, WILDLIFE MANAGEMENT, OR TIMBER LAND PROPERTY EXEMPTIONS IN THE PROPOSED ANNEXATION AREA
MEETING DATE	12/16/2014
DEPARTMENT	Administration
SUBMITTED BY	Brian DeLatte, P.E.

EXECUTIVE SUMMARY

Chapter 43.035 of the Local Government Code requires a city that has proposed to annex land in its Extraterritorial Jurisdiction to first offer a development agreement to property owners with an agricultural, wildlife management, or timber land property tax exemption. The development agreement contains a guarantee that the City will not annex the land covered by the development agreement provided that the property owner does not attempt to develop the property and continues to maintain the agricultural, wildlife management, or timber land property tax exemption. Under Chapter 43.035 the City is allowed to exercise all planning and land use regulations on property that is covered by a development agreement.

PRIOR ACTIONS OR REVIEWS

- November 11, 2014 – Discussion in City Council workshop regarding the duration of the agreements

DETAILS / STAFF ANALYSIS

The City offered development agreement applications to all of the property owners in the proposed annexation area with an agricultural, wildlife management, or timber land exemption. Applications for the development agreements were submitted for 18 parcels representing approximately 167 acres.

Entering into a development agreement with the City will not allow the City to levy property taxes on the subject properties. The agreements continue the extraterritorial status of the properties, require the maintenance of the agricultural exempt status, and prohibit subdivision, development, or change in use unless annexed. The term of the agreement is 15

years, renewable for up to 45 years. The agreements run with the land. Once the resolution is approved, all signed development agreements will be executed and recorded with the San Patricio County Clerk. The San Patricio County Appraisal District will be notified that these properties will retain their extraterritorial status.

ALTERNATIVES CONSIDERED

N/A.

FINANCIAL IMPACT

N/A.

ATTACHMENTS

- Resolution No. 691
- Development Agreements' Exhibit "A"'s for the subject properties

RECOMMENDED ACTION

Motion to approve Resolution No. 691.

RESOLUTION NO. 691

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO DEVELOPMENT AGREEMENTS FOR PROPERTIES IN THE PROPOSED ANNEXATION AREA, SAID AREA DESCRIBED IN ORDINANCE NO. 2100, WHERE THE PROPERTY CONTAINS AN AGRICULTURAL, WILDLIFE MANAGEMENT OR TIMBER LAND EXEMPTION ESTABLISHED BY THE SAN PATRICIO COUNTY APPRAISAL DISTRICT AND WHERE THE PROPERTY OWNER HAS REQUESTED THE CITY GRANT A DEVELOPMENT AGREEMENT IN LIEU OF ANNEXATION ON THEIR QUALIFYING PROPERTY; PROVIDING FOR A 15-YEAR TIME LIMIT; PROVIDING THE CITY WILL NOT ANNEX LAND THAT IS THE SUBJECT OF A DEVELOPMENT AGREEMENT; PROVIDING THAT THE CITY MAY ENFORCE ALL REGULATIONS AND PLANNING AUTHORITY THAT DOES NOT INTERFERE WITH THE EXEMPTION USE; PROVIDING THAT THE AREA UNDER THE DEVELOPMENT AGREEMENT IS CONSIDERED ADJACENT OR CONTIGUOUS TO THE CITY; PROVIDING FOR AUTOMATIC TERMINATION UNDER CERTAIN CONDITIONS; PROVIDING THAT THE AGREEMENT(S) WILL BE FILED WITH THE SAN PATRICIO COUNTY CLERK; PROVIDING FOR SEVERANCE AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Portland desires to annex certain land described in Ordinance No. 2100; and,

WHEREAS, Local Government Code, Section 43.035 requires the City to offer each property owner in the annexation area with an agricultural, wildlife management or timber land exemption on their property a Development Agreement to be excluded from the annexation; and,

WHEREAS, public hearings were held on the proposed annexation on October 30, 2014 and November 4, 2014; and,

WHEREAS, certain property owners have applied for a Development Agreement and have qualified under the above cited statute.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, TEXAS:

Section 1. The City Council approves the form Development Agreement attached hereto as Exhibit A and made a part hereof by this reference, and finds that approving the Development Agreement with property owners having land in the annexation area meets the requirements for exemptions in Local Government Code, Section 43.035 and is in the public interest.

SECTION 2. That the City Manager be, and hereby is, authorized to execute Development Agreements with the persons and properties described in Exhibit B, which is attached hereto and made a part hereof by this reference. Such Developments Agreements shall be for a period of 15 years providing the property owner does not violate the agreement by filing a subdivision plat or by not maintaining an exemption for agricultural use or wildlife management or timber land with the San Patricio County Appraisal District.

SECTION 3. That the owners and inhabitants of the tracts or parcels of land are subject to all regulations and planning authority of the City that does not interfere with the property exemption for agricultural use or wildlife management or timber land.

SECTION 4. That the official map and boundaries of the City and its extraterritorial jurisdiction, previously adopted and amended, are amended to include the territories described in this resolution considered adjacent or contiguous to the City of Portland, Texas.

SECTION 5. That the City Manager or his designee is directed and authorized to perform or cause to be performed all acts necessary to correct the official map of the City and its extraterritorial jurisdiction to designate the properties herein as covered by a development agreement.

SECTION 6. If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of the resolution shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this resolution for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

SECTION 7. This Resolution goes into effect from and after its passage.

PASSED AND APPROVED this 16th day of December, 2014.

CITY OF PORTLAND, TEXAS

David Krebs
Mayor

ATTEST:

Annette Hall
City Secretary

1 **EXHIBIT A**

2
3 **STATE OF TEXAS** §
4 §
5 **COUNTY OF SAN PATRICIO** §
6

7 **CITY OF PORTLAND**
8 **DEVELOPMENT AGREEMENT**
9

10 This Agreement is entered into pursuant to Sections 43.035 and 212.172 of the Texas Local Government Code and
11 between the City of Portland, Texas (the "City") and the undersigned property owner(s) (the "Owner"). The term
12 "Owner" includes all owners of the property.

13
14 **WHEREAS**, the Owner's property (the "Property") in San Patricio County, Texas, which is more particularly and
15 separately described in the attached Exhibit "A"; and

16
17 **WHEREAS**, the Property is appraised for ad valorem tax purposes as land for agricultural or wildlife management
18 use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter;
19 and

20
21 **WHEREAS** this Agreement is entered into pursuant to Sections 43.035 and 212.172 of the Texas Local Government
22 Code, in order to address the desires of the Owner and the procedures of the City; and

23
24 **WHEREAS**, the City has begun the process to institute annexation proceedings on all or portions of the Owner's
25 Property and has held public hearings on October 30, 2014 and November 4, 2014; and

26
27 **WHEREAS**, the Owner desires to have the Property remain in the City's Extraterritorial jurisdiction ("ETJ"), in
28 consideration for which the Owner agrees to enter into this agreement; and

29
30 **WHEREAS**, the Owner and the City acknowledge that this Agreement runs with the land and is binding upon the
31 City and the Owner and their responsive successors and assigns for the term of this Agreement; and

32
33 **WHEREAS**, this Development Agreement is to be recorded in the Real Property Records of San Patricio County,
34 Texas.

35
36 **NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:
37 The Property is described as the property owned by the Owner within the boundaries of the area described in
38 Exhibit A, attached hereto and incorporated herein by reference.

39
40 **1. Continuation of Extraterritorial Status**

41 The City guarantees the continuation of the extraterritorial status of the Owner's Property, its immunity
42 from annexation by the City, and its immunity from City property taxes, for the term of this Agreement,
43 subject to the provisions of this Agreement. Except as provided in this Agreement, the City agrees not to
44 annex the Property, agrees not to involuntarily institute proceedings to annex the Property, and further
45 agrees not to include the Property in a statutory annexation plan for the Term of this Agreement.
46 However, if the Property is annexed pursuant to the terms of this Agreement, then the City shall provide
47 services to the Property pursuant to Chapter 43 of the Texas Local Government Code.

48
49 **2. Use for Agricultural Purposes Only**

50 The Owner covenants and agrees not to use the Property for any use other than for agriculture, wildlife
51 management, and/or timber land consistent with Chapter 23 of the Texas Tax Code, except for existing
52 single-family residential use of the property, without the prior written consent of the City.
53

54 The Owner covenants and agrees that the Owner will not file any type of subdivision plat or related
55 development document for the Property with San Patricio County or the City until the Property has been
56 annexed into, and zoned by, the City. The Owner covenants and agrees not to construct, or allow to be
57 constructed, any buildings on the Property that would require a building permit if the Property were in
58 the city limits, until the Property has been annexed into, and zoned by, the City. The Owner also
59 covenants and agrees that the City's R-2, Single-Family Residential District zoning requirements apply to
60 the Property, and that the Property shall be used only for R-2, Single-Family Residential District zoning
61 uses that exist on that Property at the time of the execution of this Agreement, unless otherwise provided
62 in this Agreement. However, the Owner may construct an accessory structure to an existing single family
63 dwelling or an accessory structure consistent with agriculture, wildlife management, and/or timber
64 management uses in compliance with all applicable City ordinances and codes.
65

66 The Owner acknowledges that each and every owner of the Property must sign this Agreement in order
67 for the Agreement to take full effect, and the Owner who signs this Agreement covenants and agrees,
68 jointly and severally, to indemnify, hold harmless, and defend the City against any and all legal claims, by
69 any person claiming an ownership interest in the Property who has not signed the Agreement, arising in
70 any way from the City's reliance on this Agreement.
71

72 **3. Annexation upon Subdivision or Change of Use**

73 The Owner acknowledges that if any plat or related development document is filed in violation of this
74 Agreement, or if the Owner commences development of the Property in violation of this Agreement, then
75 in addition to the City's other remedies, such act will constitute a petition for voluntary annexation by the
76 Owner, and the Property will be subject to annexation at the discretion of the City Council. The Owner
77 agrees that such annexation shall be voluntary and the Owner hereby consents to such annexation as
78 though a petition for such annexation had been tendered by the Owner.
79

80 If annexation proceedings begin pursuant to this Section, the Owner acknowledges that this Agreement
81 serves as an exception to Local Government Code Section 43.052, requiring a municipality to use certain
82 statutory procedures under an annexation plan.
83

84 Furthermore, the Owner hereby waives any and all vested rights and claims that they may have under
85 Section 43.002(a)(2) and Chapter 245 of the Texas Local Government Code that would otherwise exist by
86 virtue of any actions Owner has taken in violation of this agreement.
87

88 **4. Enforcement of Regulations**

89 Pursuant to Sections 43.035(b)(1)(B) of the Texas Local Government Code, the City is authorized to enforce
90 all of the City's regulations and planning authority that do not materially interfere with the use of the
91 Property for agriculture, wildlife management, or timber, in the same manner the regulations are
92 enforced within the City's boundaries. The City states and specifically reserves its authority pursuant to
93 Chapter 251 of the Texas Local Government Code to exercise eminent domain over property that is
94 subject to a Chapter 43 and/or Chapter 212 development agreement.
95

96 **5. Term of Agreement**

97 The term of this Agreement (the "Term") is fifteen (15) years from the date that the City Manager's
98 signature to this Agreement is acknowledged by a public notary. Any successive renewals may not exceed
99 a total of 45 years pursuant to Sec. 212.172 (d), Local Government Code. The Owner and all of the
100 Owner's heirs, successors and assigns shall be deemed to have filed a petition for voluntary annexation
101 before the end of the Term, for annexation of the Property to be completed on or after the end of the
102 Term. Prior to the end of the Term, the City may commence the voluntary annexation of the Property. In
103 connection with annexation pursuant to this section, the Owners hereby waive any vested rights they may
104 have under Section 43.002(a)(2) and Chapter 245 of the Texas Local Government Code that would
105 otherwise exist by virtue of any plat or construction any of the owners may initiate during the time
106 between the expiration of this Agreement and the institution of annexation proceedings by the City.

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6. Agreement Running with the Land

This Agreement shall be recorded in the Real Property Records of San Patricio County, Texas and shall be a covenant running with the land binding upon all parties having any right, title, or interest in the Property or any part thereof, including their heirs, successors, and assigns, and shall inure to the benefit of the owners of the Property and to the City. This Agreement may not be revised or amended without the written consent of both parties.

7. Sale of the Land

Any person who sells or conveys any portion of the Property shall, prior to such sale or conveyance give written notice of this Agreement to the prospective purchaser or grantee, and shall give written notice of the sale or conveyance to the City.

8. Severability

No subsequent change in the law regarding annexation shall affect the enforceability of this Agreement or the City's ability to annex the properties covered herein pursuant to the terms of this Agreement.

9. Enforcement

This Agreement may be enforced by Owner or City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the Agreement thereafter.

10. Venue

Venue for this Agreement shall be in San Patricio County, Texas.

WITNESS OUR SIGNATURES this _____ day of _____, 2014.

CITY OF PORTLAND, TEXAS

PROPERTY OWNERS:

By: _____
Randy Wright, City Manager

ATTEST:

Annette Hall, City Secretary

Form Approved: _____
Hal George, City Attorney

ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF SAN PATRICIO

This instrument was acknowledged before me by _____ on this _____ day of _____, 2014.

Notary Public, State of Texas

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ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF SAN PATRICIO

This instrument was acknowledged before me by _____ on this _____ day of _____, 2014.

Notary Public, State of Texas

CORPORATE ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF SAN PATRICIO

This instrument was acknowledged before me by Randy Wright, City Manager for the City of Portland, a municipal corporation of the State of Texas, on behalf of said corporation, on this _____ day of _____, 2014.

Notary Public, State of Texas

After recording return to:

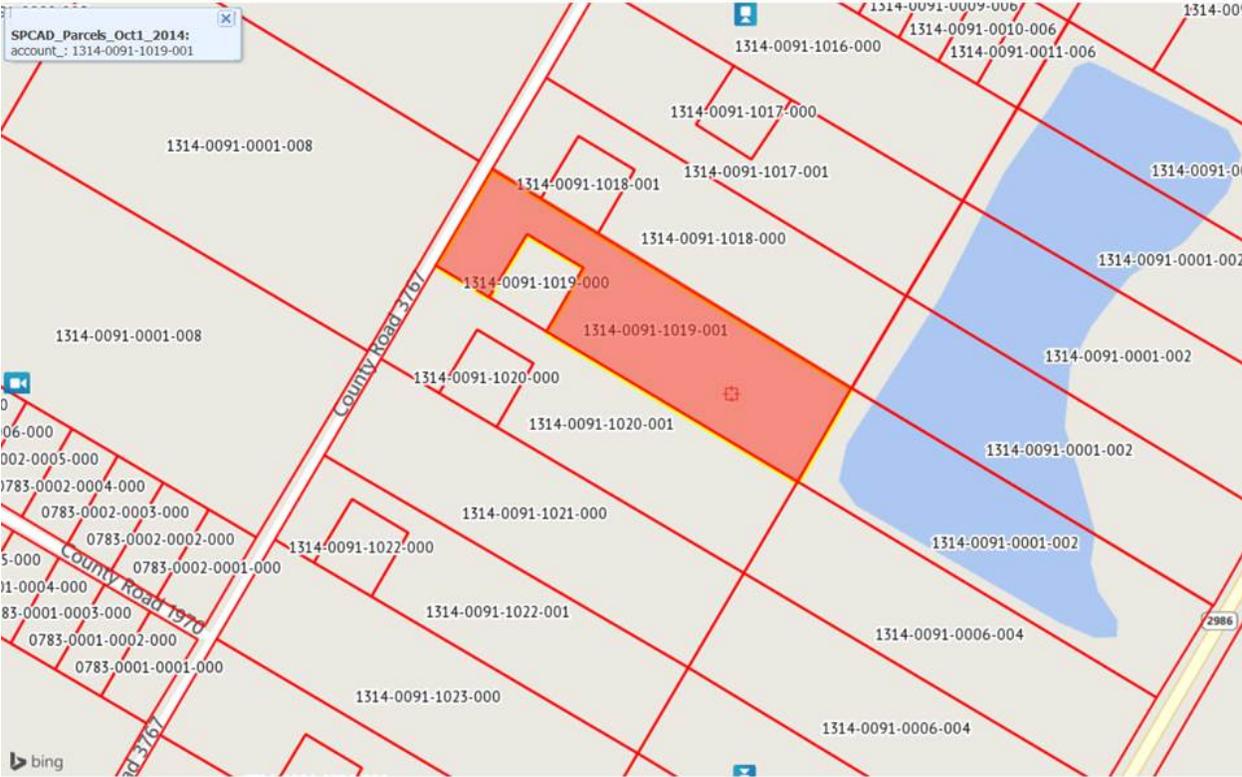
City of Portland
1900 Billy G. Webb Dr.
Portland, Texas 78374

Exhibit "A"

Owner Information
Dewey & Victoria Magee, III

San Patricio Appraisal District Tax ID # 1314-0091-1019-001

Property Legal Description:
PT LT 19 G-P COUNTRY ESTATES PAUL CFP SEC 91 9 ACRES



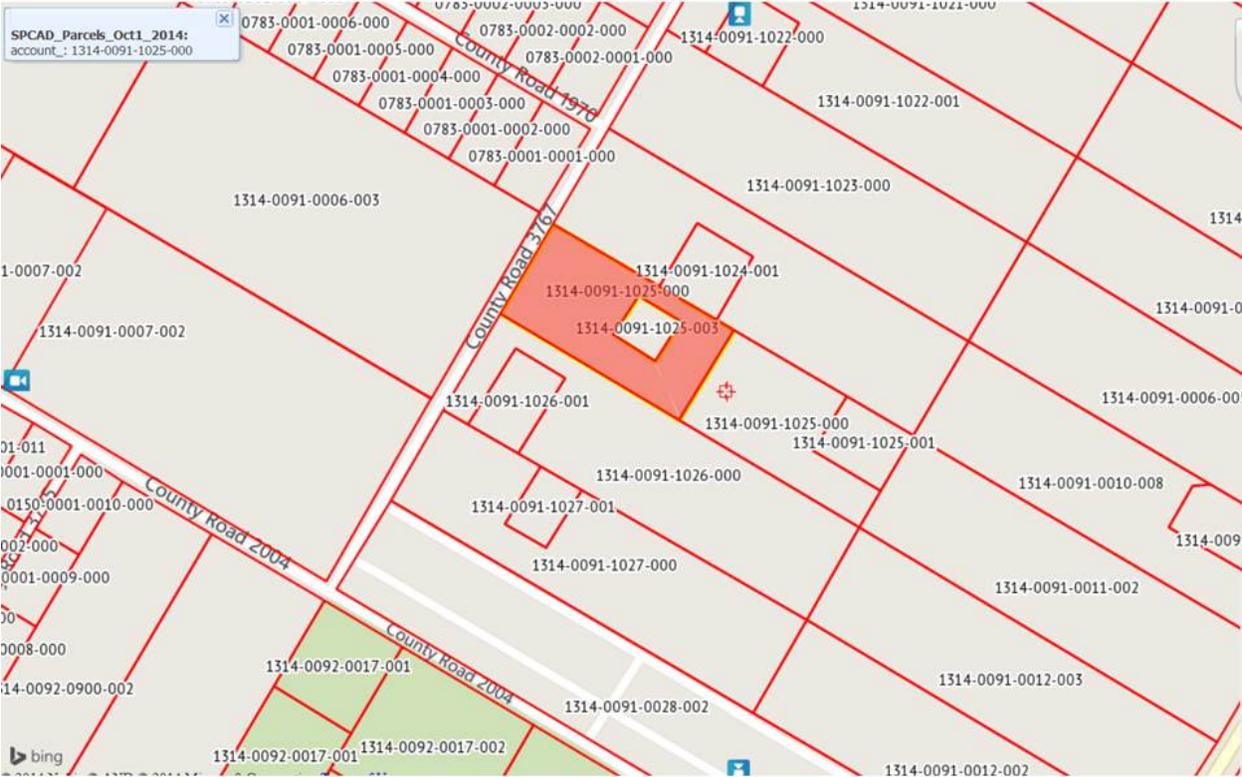
Metes and Bounds:

Exhibit "A"

Owner Information:
Jose Farias, Sr.

San Patricio Appraisal District Tax ID # 1314-0091-1025-002

Property Legal Description:
PT LT 25 G P COUNTRY EST PAUL
CFP SEC 91 4.5 ACRES



Metes and Bounds:

Exhibit "A"

Owner Information:
Charles & Mary K. Fritcher

San Patricio Appraisal District Tax ID # 1314-0091-1022-001

Property Legal Description:
LT 22 G-P COUNTRY ESTATES PAUL
CFP SEC. 91 9 ACRES



Exhibit "A"

Owner Information:
Richard & Rhonda Harrison

San Patricio Appraisal District Tax ID # 1314-0091-1023-000

Property Legal Description:
TR 23 G-P COUNTRY ESTATES PAUL CFP SEC. 91 ACRES 9



Exhibit "A"

Owner Information:
John Robert Jaster

San Patricio Appraisal District Tax ID # 1314-0091-1020-001

Property Legal Description
LT 20 GP-COUNTRY ESTATES PAUL CFP SEC 91 9 ACRES



Exhibit "A"

Owner Information:
Rodney C. Lynch

San Patricio Appraisal District Tax ID # 1314-0091-1027-000

Property Legal Description:
LT 27 GP-COUNTRY ESTATES PAUL CFP SEC 91 9.755 ACRES



Exhibit "A"

Owner Information:
Mary L. Kaufhold Magee

San Patricio Appraisal District Tax ID # 1314-0091-1018-000

Property Legal Description:
LT 18 G-P COUNTRY ESTATES PAUL
CFP SEC 91 9 ACRES

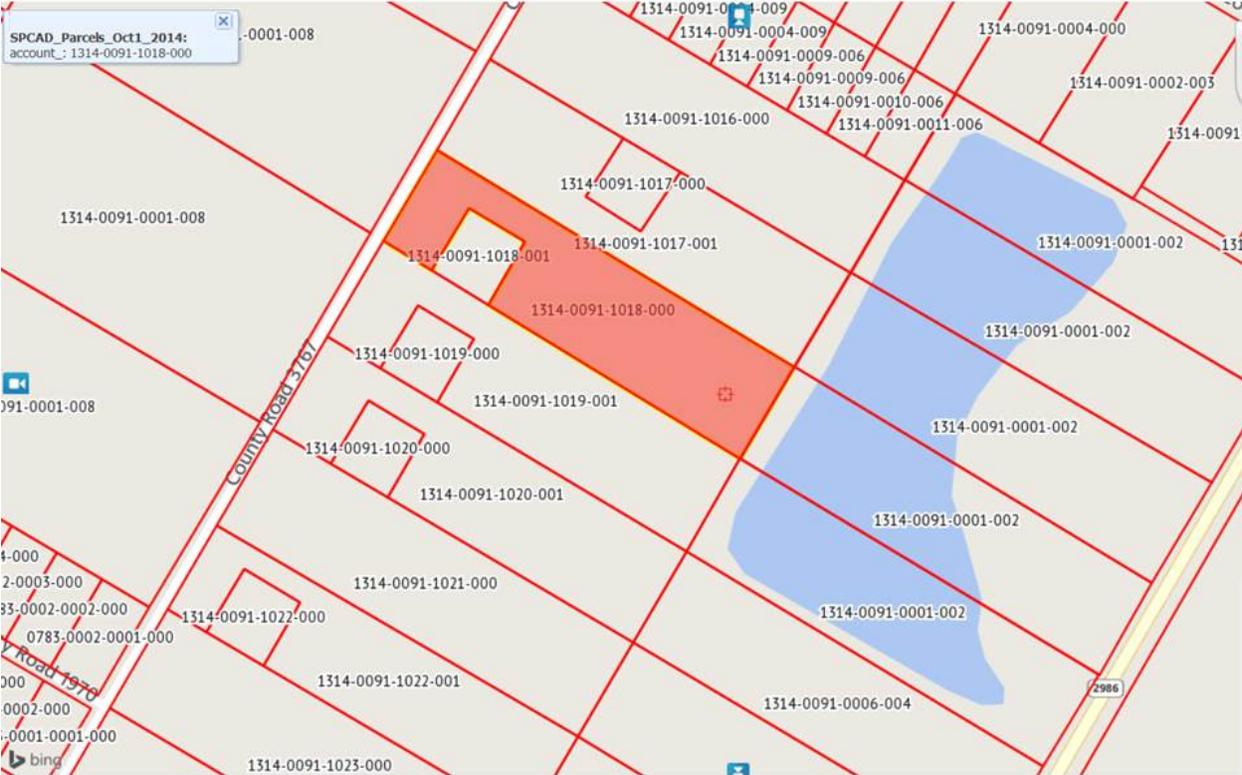
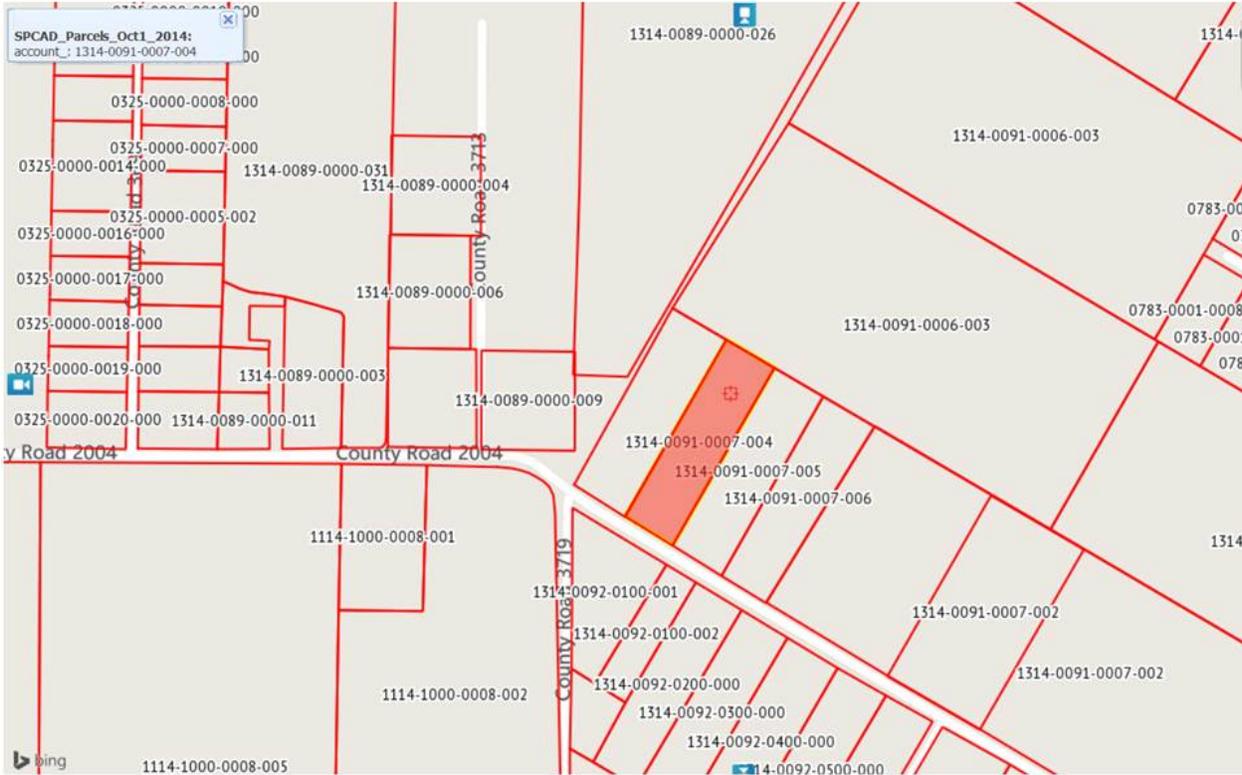


Exhibit "A"

Owner Information:
Christopher J. & Krystina D. Morin

San Patricio Appraisal District Tax ID # 1314-0091-0007-004

Property Legal Description:
SEC 91 DIAMOND S ESTATES
LOT 2 BLK 1 2.50 ACRES



Tax ID # 1114-1000-0002-001
1114-1000-0002-015
1114-1000-0002-016
1114-1000-0002-017
1114-1000-0002-018

Exhibit "A"

Owner Information:

Carrie Jean Picha
Edward J. Picha, Jr.
Edward J. & Carrie J. Picha, Jr.

San Patricio Appraisal District Tax ID # 1114-1000-0002-001
1114-1000-0002-015
1114-1000-0002-016
1114-1000-0002-017
1114-1000-0002-018

Property Legal Description:

1/4 UND INT IN 4.76 ACRES TR 1 OUT OF N PT N/2 TR 2 SEC 85 CFP BLK A NUECES BAY FARM BLOCKS 1.19 ACRES
1/4 UND INT OF 4.76 ACS TR 1 OUT N PT N/2 TR 2 SEC 85 1.19 ACRES
1/4 UND INT. TR 1 OUT OF N PTN/2 TR 2 SEC. 85-CFP-BLK A NUECES BAY FARM BLOCKS 1.19 ACRES
TR 1-A OUT OF E PT N 1/2 TR 2(SECTION 85-CFP-BLOCK A) NUECES BAY FARM BLOCKS 5 ACRES
1/4 UND INT TR 1 OUT OF N PT N/2 TR 2 SEC 85-CFP-BLK-A NUECES BAY FARM BLOCKS 1.19 ACRES

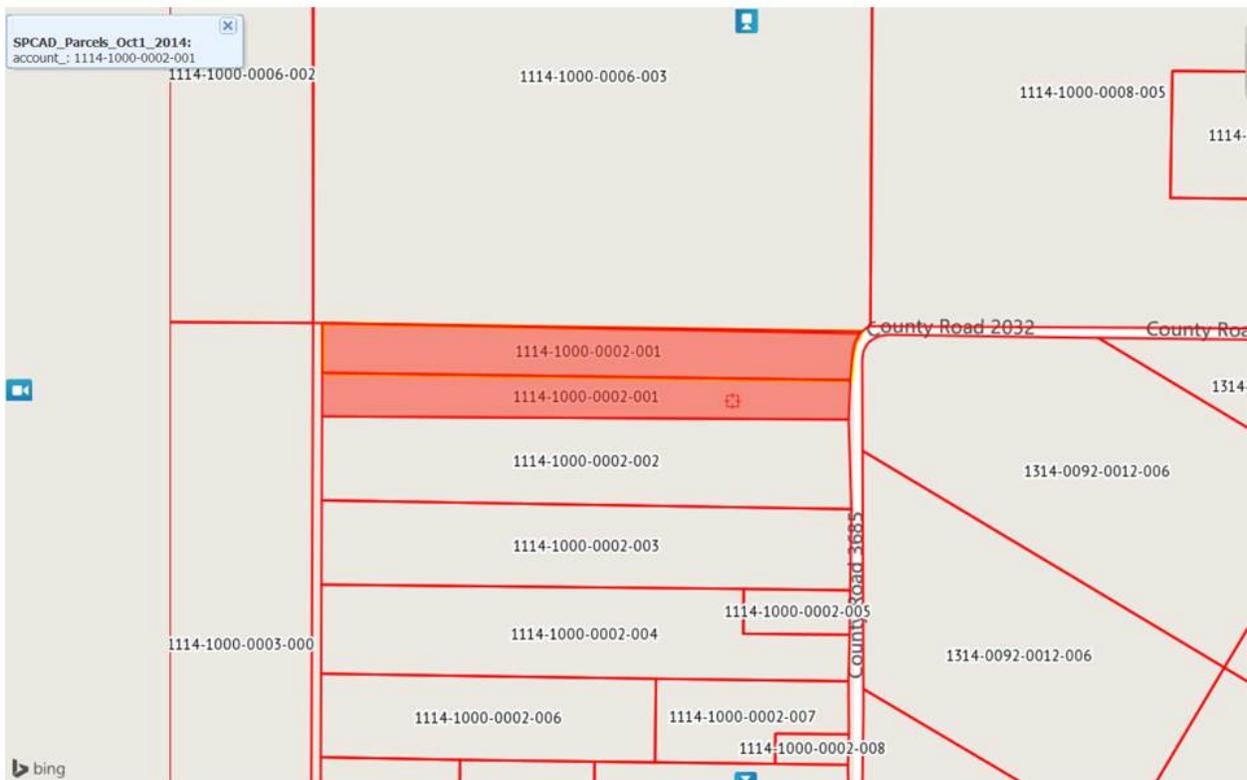


Exhibit "A"

Owner Information:
Eddie & Nelda Salinas

San Patricio Appraisal District Tax ID # 1314-0091-0007-002

Property Legal Description:
S/2 SW/2 SEC 91 (TRS 7 AND 14) PAUL SUB - CFP CO 30 ACRES



Metes and Bounds:

Exhibit "A"

Owner Information:
Sidney V. & Mellissa A. Smith

San Patricio Appraisal District Tax ID # 1314-0091-1024-000

Property Legal Description:
LT 24 GP-COUNTRY ESTATES PAUL
CFP SEC. 91 9 ACRES



Exhibit "A"

Owner Information:
TAGGART CATTLE CO

San Patricio Appraisal District Tax ID # 1314-0091-0007-002

Property Legal Description:
NE PT N 1/2 TR 8 (SECTION 85-CFP-BLOCK A) NUECES BAY FARM BLOCKS 17.5 ACRES



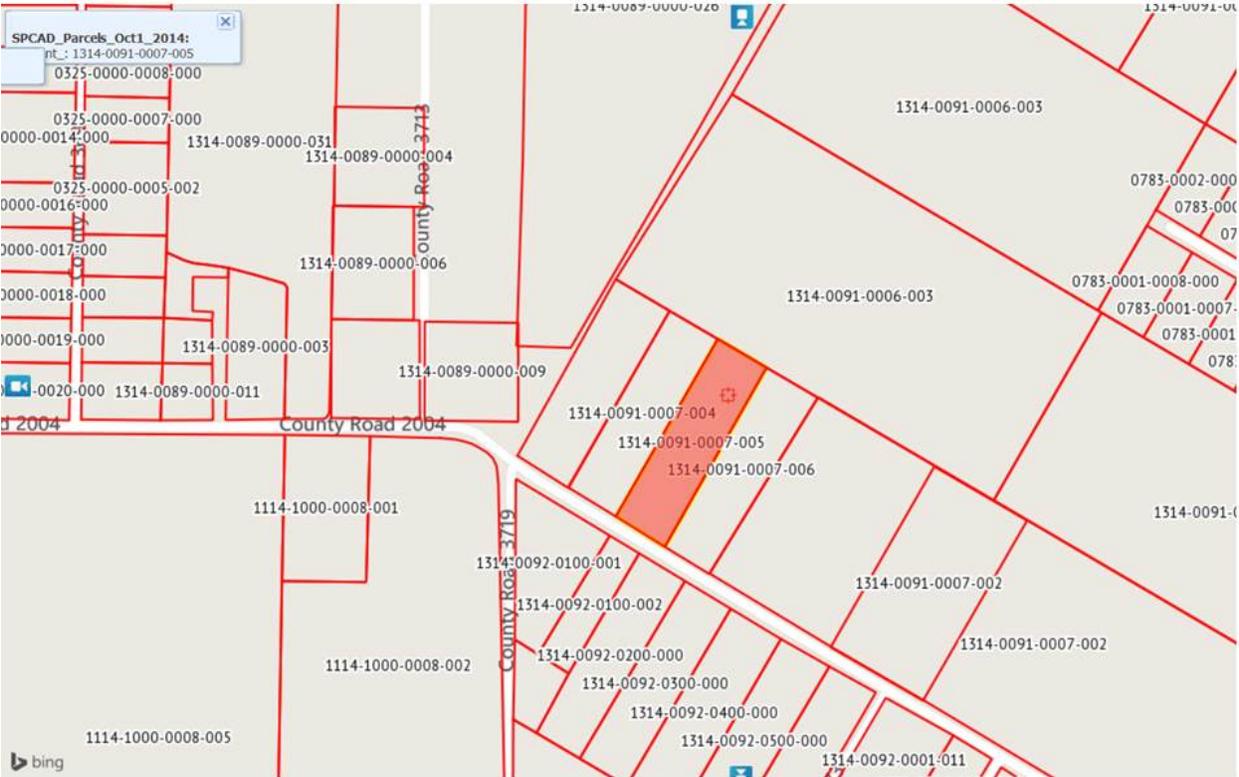
Metes and Bounds:

Exhibit "A"

Owner Information:
Michael D. & Lorena Williams

San Patricio Appraisal District Tax ID # 1314-0091-0007-005

Property Legal Description:
LT 3 BLK 1 SEC 91
DIAMOND S ESTATES
2.50 SVTRD



Metes and Bounds:

AGENDA TITLE	<u>ORDINANCE NO. 2101 - INCREASING WATER AND WASTEWATER RATES</u> THE CITY COUNCIL WILL CONSIDER THE FIRST READING OF ORDINANCE NO. 2101 AUTHORIZING UTILITY RATE INCREASES.
MEETING DATE	12/16/2014
DEPARTMENT	Finance
SUBMITTED BY	Michel Sorrell, Director of Finance

EXECUTIVE SUMMARY

The water and sewer utility system is operated through an enterprise fund that operates much like a business within the City. Rates are established to cover the cost of day-to-day operations of the system as well as generating sufficient funds to pay for capital projects to keep the water and sewer system functional and fiscally sound.

This ordinance increases water and sewer rates in order to meet our current costs and to ensure the City has funds to complete planned capital improvements to the system.

PRIOR ACTIONS OR REVIEWS

- December, 2012 - Ordinance No. 2063 increased rates charged for water service by \$0.05 per 1,000 gallons effective January 1, 2013.
- December, 2013 - Ordinance No. 2081 increased rates charged for water service by \$0.25 per 1,000 gallons effective January 1, 2014.
- June, 2014 - City engaged NewGen Strategies & Solutions to perform a utility rate study.

DETAILS / STAFF ANALYSIS

The sustainability of our water and sewer system is dependent on setting appropriate utility rates. With increases in the cost of water we buy from our supplier (San Patricio Municipal Water District), planned capital projects, predicted community growth and the expansion of the city boundaries, it is vital to establish rates that will maintain our system.

This proposed increase in utility rates includes two separate increases:

1. A pass through increase in water rates from the San Patricio Municipal Water District
2. Increases to both water and sewer rates recommended by our rate consultants and that are needed to pay for capital utility projects.

Pass-through increase to water rates only

The San Patricio Municipal Water District has increased its rates by \$0.18 per 1,000 gallons of water purchased by the City on behalf of our customers. The new rate is \$3.07 per 1,000 gallons. Ordinance 896 requires the City Council, by majority vote, to approve the change in rates within 60 days from the date of the change.

In documentation provided by San Patricio Municipal Water District, the reason for the rate increase of \$0.18 per thousand gallons is the City of Corpus Christi raised their raw water rate \$.0.18/1000 gallons on November 1, 2014.

Customers will see the increase on the water bill we issue on January 31, 2015. This change increases water rates only and does not include changes to sewer rates.

Increase in water and sewer rates to fund capital programs

Earlier this year, City Council approved the Capital Improvement Program (CIP) which includes a total of \$10,255,000 in capital utility projects. The debt generated by these capital projects, as well as the maintenance and operations for them, must be supported by adequate utility rates. In June 2014, the City engaged NewGen Strategies & Solutions to perform a utility rate study. The last utility rate study was done in 2003. The ongoing capital projects and growth of the City, including annexation, drove the need to perform a current utility rate study. Debt service, maintenance and operations, and new infrastructure provided to annexed areas also make it necessary to review the current utility rates of the City. Establishing and adjusting utility rates is a complicated and regulated process best done by a qualified rate consultant.

NewGen uses historical information, including billing and consumption data, the Capital Improvement Program (CIP), drought data, debt service analysis, both current and future, and cost recovery analysis to create a rate model. Through the creation of the rate model, revenue and expenditure forecasts are formed using "what if" analysis. For example, future capital programs can be added or removed, costs of water increased or decreased, growth rates changed, debt issuances or other types of financing included or excluded, and changes in number and type of customers. All or any of these variables determine the necessary utility rates to support the utility system.

The rate increases recommended in this ordinance by the NewGen include the rate increase by San Patricio Municipal Water District and an increase in both the water and wastewater base rates. Authorizing these rate increases will ensure that the City continues to be able to cover operating costs, debt service payments, and capital project costs.

The study also includes options for changing our classification system (the rates charged according to the customer's meter size) along with traditional volumetric changes to the rates (the rate we charge for the volume of water used). After analyzing the recommendations, the

Staff recommends implementing the base rate changes but does not recommend implementing changes to the classification system at this time. Instead, we believe those reclassifications could be implemented over a five-year period to better address customer needs and match the needs of our adopted CIP.

Rate tables show changes to customer bills

Rate tables provided by NewGen Strategies & Solutions, which are attached, show the recommended rate increases for both water and wastewater, residential and consumer. These increases are only to the base rates. The pass through increase from San Patricio Municipal Water District is included as a volumetric rate increase.

ALTERNATIVES CONSIDERED

- There is no prudent alternative to passing increases from the San Patricio Municipal Water District through to the ratepayers.
- The City could avoid some increase in rates needed to pay for capital improvement projects by eliminating or delaying projects already included in the approved CIP.

FINANCIAL IMPACT

Adoption of the recommended rates will insure that the City's utility enterprise fund remains solvent and properly funded.

Failing to adopt the recommended rates from the utility study will result in the City not being able to produce revenues sufficient to fund operations, new capital projects, or pay debt obligations.

ATTACHMENTS

- Rate tables
- Proposed Ordinance No. 2101 increasing rates in accordance with actions by San Patricio Municipal Water District

RECOMMENDED ACTION

Motion to approve the first reading of Ordinance No. 2101 increasing water and sewer service rates.

Table 5 below presents the monthly impact of the calculated water and sewer rates, on Residential customers at 5,000 gallons, 10,000 gallons, and the Residential winter, summer, and annual averages.

Table 5
Monthly Impact of Projected Rates on Residential Customers

	Current	Jan 2015
Monthly Customer Bills:		
5,000 gallons	\$60.18	\$63.35
Year over Year Increase		3.17
Winter Average	\$65.71	\$69.13
Year over Year Increase		3.42
Annual Average	\$69.64	\$73.29
Year over Year Increase		3.65
Summer Average	\$74.47	\$78.41
Year over Year Increase		3.94
10,000 gallons	\$79.93	\$84.00
Year over Year Increase		4.07

Notes:

1. The Residential winter average is 6,400 gallons.
2. The Residential annual average is 7,700 gallons.
3. The Residential summer average is 9,300 gallons.

Table 1 and 2 below presents the recommended rates for the City’s Residential and Commercial Customers, respectively.

**Table 1
Projected Residential Water Rates under Current Rate Design**

	Current	Jan 2015
Minimum Charge		
¾" or less	\$13.84	\$14.55
1"	13.84	14.55
1.5"	13.84	14.55
2"	13.84	14.55
Volumetric Rate (per 1,000 gallons)		
0 – 13,000 gal	\$3.02	\$3.20
13,001 – 25,000 gal	3.08	3.26
25,001 – 40,000 gal	3.28	3.46
40,001 gal	3.54	3.72

**Table 2
Projected Commercial Rates under Current Rate Design**

	Current	Jan 2015
Minimum Charge		
¾" or less	\$16.25	\$17.08
1"	21.00	22.07
1.5"	32.87	34.55
2"	47.11	49.52
3"	80.37	84.48
4"	127.87	134.41
6"	246.62	259.24
Master Meter	24.88	26.15
Volumetric Rate (per 1,000 gallons)		
0 – 13,000 gal	\$3.02	\$3.20
13,001 – 25,000 gal	3.08	3.26
25,001 – 40,000 gal	3.28	3.46
40,001 gal	3.54	3.72

Section 3

Table 3 and 4 below present the recommended FY 2015 sewer rates for the City's Residential and Commercial customers, respectively.

Table 3
Projected Residential and Multi-family Sewer Rates under Current Rate Design

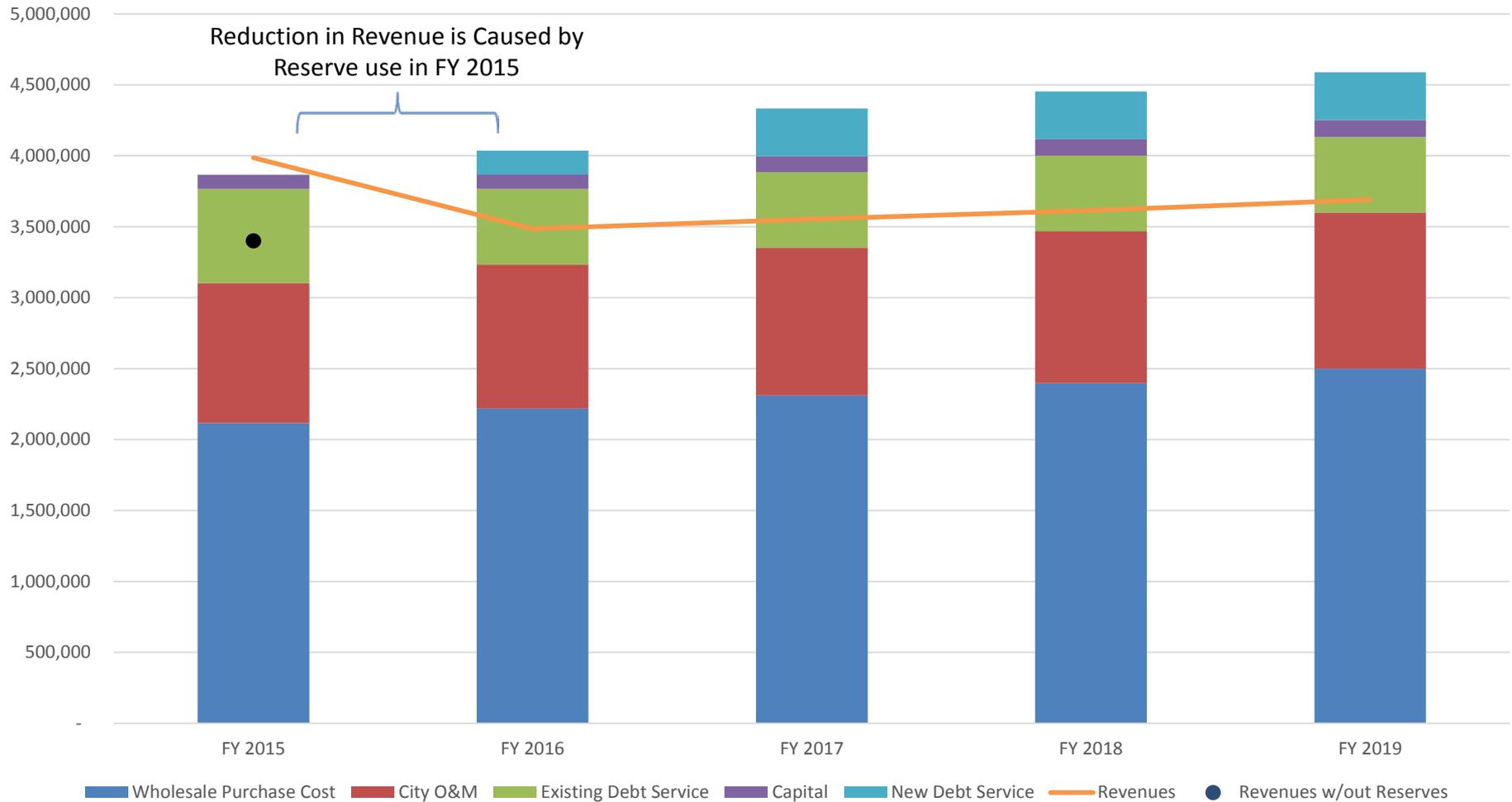
	Current	Jan 2015
Minimum Charge		
Residential	\$26.59	\$28.15
Multi-Family	26.92	28.50
”		
Volumetric Rate (Per 1,000 gallons)		
Residential	\$0.93	\$0.93
Multi-Family	0.93	0.93

Table 4
Projected Commercial Sewer Rates under Current Rate Design

	Current	Jan 2015
Minimum Charge		
¾" or less	\$32.22	\$34.11
1"	42.84	45.35
1.5"	69.37	73.44
2"	101.21	107.14
3"	175.51	185.80
4"	281.67	298.18
6"	547.03	579.09
Master Meter	18.33	19.40
Volumetric Rate (per 1,000 gallons)	\$0.93	\$0.93

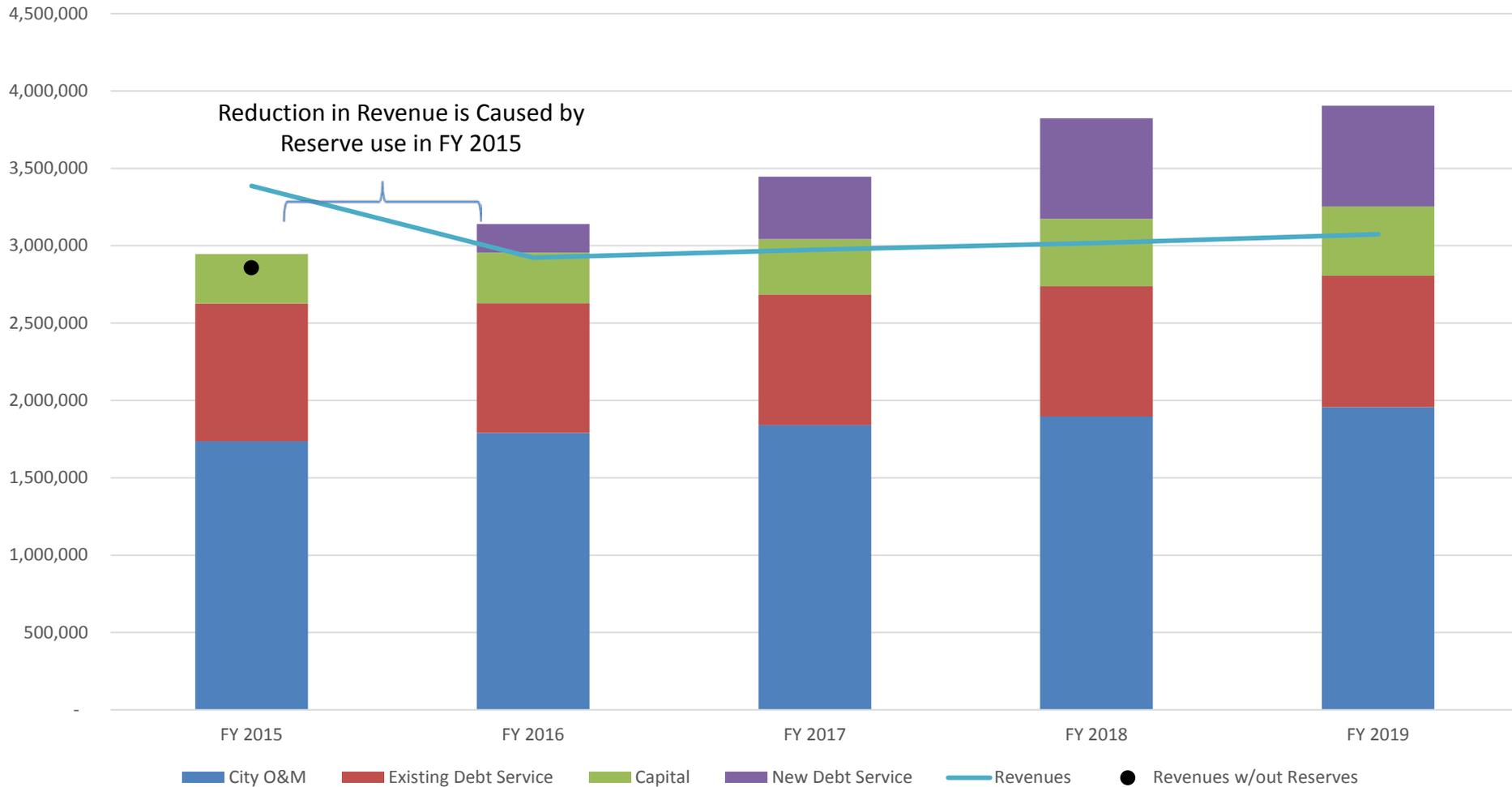
Anticipated Financial Performance (Water)

Projected Water Revenue performance under Current Rates



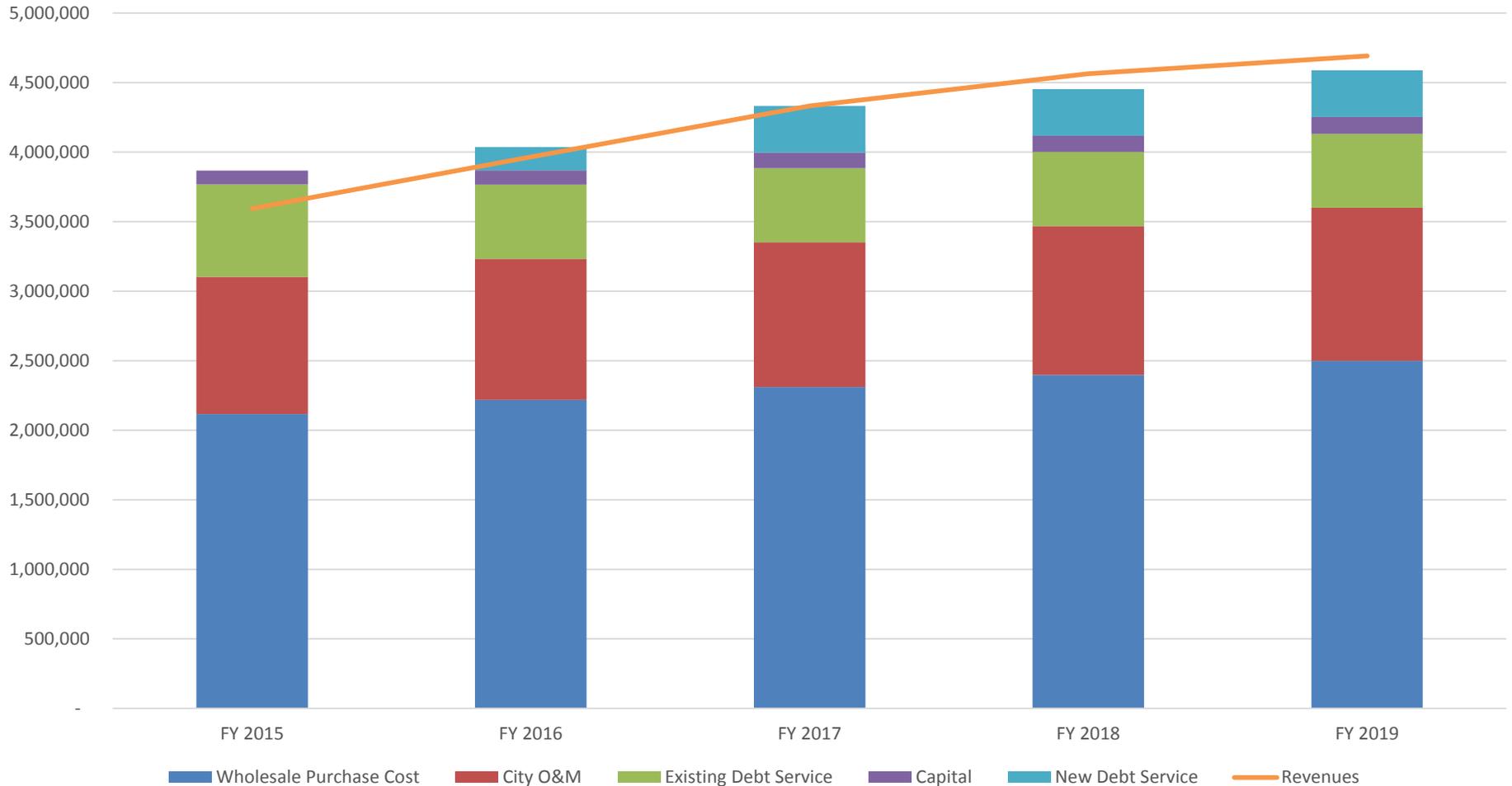
Anticipated Financial Performance (Sewer)

Projected Sewer Revenue Performance under Current Rates



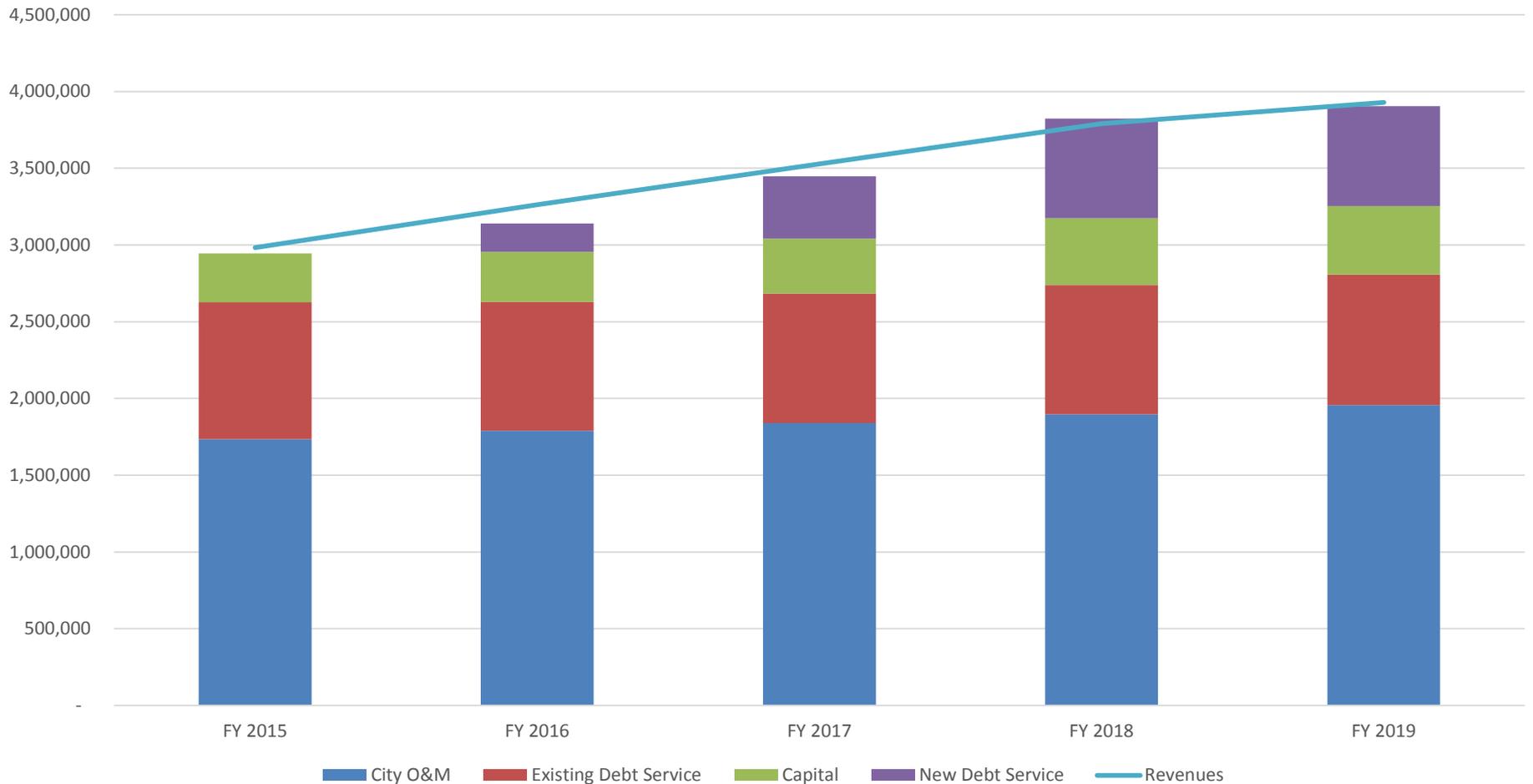
Projected Financial Performance (Water)

Projected Water Revenue Performance under Projected Rates



Projected Financial Performance (Sewer)

Projected Sewer Revenue Performance under Projected Rates



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ORDINANCE NO. 2101

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES;
INCREASING THE RATES CHARGED FOR WATER SERVICE;
INCREASING THE RATES CHARGED FOR WASTEWATER
SERVICES; PROVIDING FOR THE REPEAL OF ORDINANCES IN
CONFLICT HERewith; PROVIDING A SEVERABILITY CLAUSE
AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, the City of Portland operates a water and wastewater utility system to provide essential services to the residents of Portland and certain areas of our extraterritorial jurisdiction; and

WHEREAS, the City of Portland is anticipating community growth and expansion of city boundaries with an estimated capital cost of \$10,255,000 in water and sewer projects over the next five years; and

WHEREAS, the debt generated by capital projects, along with the maintenance and operations, must be supported sufficiently by utility rates; and

WHEREAS, the San Patricio Municipal Water District has increased rates for water sold to the City of Portland; and

WHEREAS, the City Council previously enacted ordinance number 896 which provides that all increases and decreases in the cost for water purchased from San Patricio Municipal Water District shall be passed through to the customers of the City's water system; and

WHEREAS, the San Patricio Municipal Water District has notified the City it increased the charge for water sold to the City of Portland effective January 1, 2015; and

WHEREAS, both the increase from San Patricio Municipal Water District, and the costs of increased investment in capital projects should be recovered through appropriate utility rate increases to insure financial health and the integrity of the system,

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND:

Section 1. That Chapter 23, Article II, Section 23-41(a)(4) of the Code of Ordinances of the City of Portland is hereby amended to read as follows:

- (4) The minimum fees in Tables 1 and 2 shall be charged whether the customer actually uses the services or not.

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Table 1. Water and Wastewater Minimum Base Charges

Residential	<u>Water</u>	<u>Wastewater</u>
Meter Size		
0.625 inch to 2.0 inch	\$ 13.84 <u>14.55</u>	\$ 26.59 <u>28.15</u>
Commercial	<u>Water</u>	<u>Wastewater</u>
Meter Size		
0.625 inch	\$ 16.25 <u>17.08</u>	\$ 32.32 <u>34.11</u>
0.75 inch	\$ 16.25 <u>17.08</u>	\$ 32.32 <u>34.11</u>
1.0 inch	\$ 21.00 <u>22.07</u>	\$ 42.84 <u>45.35</u>
1.5 inch	\$ 32.87 <u>34.55</u>	\$ 69.37 <u>73.44</u>
2.0 inch	\$ 47.11 <u>49.52</u>	\$ 101.21 <u>107.14</u>
3.0 inch	\$ 80.37 <u>84.48</u>	\$ 175.51 <u>185.80</u>
4.0 inch	\$ 127.87 <u>134.41</u>	\$ 281.67 <u>298.18</u>
6.0 inch	\$ 246.62 <u>259.24</u>	\$ 547.03 <u>579.09</u>

Raw Water accounts, any meter size, will have a minimum monthly charge of \$140.52.

Section 2. That Chapter 23, Article II, Division 2, Section 23-41(b) is hereby amended to read as follows:

(b) New "master meter" systems (where many entities or units are served through one meter) shall only be allowed with prior written approval of the city manager and finance director. All "master meter" systems for apartments, multi-family units and commercial entities shall be charged a monthly minimum rate of ~~twenty four dollars and eighty eight cents~~ twenty six dollars and fifteen cents (~~\$24.88~~ 26.15) for water (plus usage as outlined in Table 3). Apartment complexes (5 units and up) and commercial accounts on master meters will be charged a per-unit charge of ~~eighteen dollars and thirty three cents~~ nineteen dollars and forty cents (~~\$18.33~~ 19.40) for wastewater (plus usage as outlined in Section 23-42). Multi-family units of 2 to 4 units will be charged ~~twenty six dollars and ninety two cents~~ twenty-eight dollars and fifty cents (~~\$26.92~~ 28.50) per unit for wastewater (plus usage as outlined in Section 23-42). There will not be any amount of usage included in the minimum monthly bill. The per-unit charges will not vary based on occupancy of the unit. Minimum solid waste service for master metered units shall be established by the city, based on a projected volume of waste.

Section 3. That Chapter 23, Article II, Division 2, Section 23-42(a) is hereby amended to read as follows:

(a) *Water.* Water usage (per metered connection) for each one thousand (1,000) gallons or part thereof shall be billed as stated in Table 3.

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Table 3. Water Usage Charges per Thousand Gallons

	<u>Potable Water</u>	<u>Raw Water</u>
0 to 13,000	\$3.02 <u>3.20</u>	\$3.25 <u>3.43</u>
13,001 to 25,000	3.08 <u>3.26</u>	\$3.25 <u>3.43</u>
25,001 to 40,000	3.28 <u>3.46</u>	\$3.25 <u>3.43</u>
40,001 and up	3.54 <u>3.72</u>	\$3.25 <u>3.43</u>

Section 4. All previously adopted rules, regulations, policies and ordinances in conflict with this Ordinance are hereby repealed.

Section 5. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and separable and if any section, paragraph, sentence, clause or phrase of this ordinance shall be declared unconstitutional by the valid judgment or decree of an Court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this ordinance since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

Section 6. This ordinance shall be in full force and effect after passage and publication as required by law.

Passed and approved after second reading on this the 6th day of January, 2015.

City of Portland

By: _____
David Krebs, Mayor

Attest: _____
Annette Hall, City Secretary



**STAFF
WEEKLY
REPORTS**

Portland Fire Department

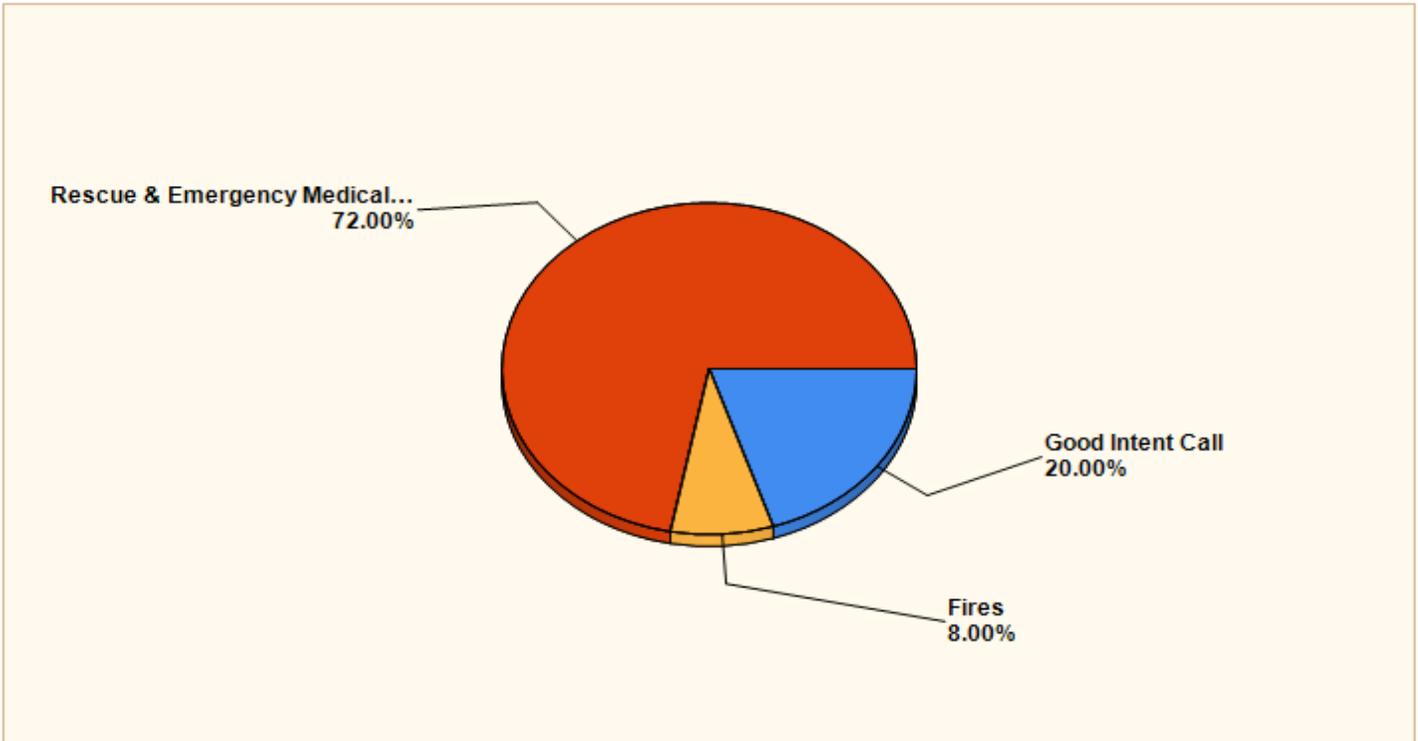


Portland, TX

This report was generated on 12/1/2014 8:51:42 AM

Breakdown by Major Incident Types for Date Range

Start Date: 11/24/2014 | End Date: 11/30/2014



MAJOR INCIDENT TYPE	# INCIDENTS	% of TOTAL
Fires	2	8.00%
Rescue & Emergency Medical Service	18	72.00%
Good Intent Call	5	20.00%
TOTAL	25	100.00%

Detailed Breakdown by Incident Type		
INCIDENT TYPE	# INCIDENTS	% of TOTAL
111 - Building fire	1	4.00%
131 - Passenger vehicle fire	1	4.00%
311 - Medical assist, assist EMS crew	8	32.00%
321 - EMS call, excluding vehicle accident with injury	8	32.00%
322 - Motor vehicle accident with injuries	1	4.00%
324 - Motor vehicle accident with no injuries.	1	4.00%
600 - Good intent call, other	1	4.00%
611 - Dispatched & cancelled en route	3	12.00%
651 - Smoke scare, odor of smoke	1	4.00%
TOTAL INCIDENTS:	25	100.00%

Number of times on scene or enroute to a call when a call was dispatched: 0

Average Response Time: 4.29 Min.



Portland Fire Department
595 Buddy Ganem
Portland, TX 78374
361-643-0155
361-643-0369

Completed Activities

11/23/2014 through 11/29/2014

Report run on: 12-01-2014

Activity Date	Record Type	Activity	Party	Site Address	Inspector	Status
11/24/2014	ANNUAL INSPECTION	Re-Inspection	BRIDGE POINT LANDING APARTMENTS	01090 Lang Rd.	Dan Willott	FAIL
11/25/2014	ANNUAL INSPECTION	Re-Inspection	BRIDGE POINT LANDING APARTMENTS	01090 Lang Rd.	Dan Willott	FAIL
11/25/2014	Foster Care	Periodic	ADAM RODRIGUE	00107 ANN DR	Dan Willott	FAILED
11/25/2014	ANNUAL INSPECTION	Re-Inspection	SQUARE APARTMENTS, WESTBURY	406 Lang	Dan Willott	PASS
11/25/2014	ALARM/SPRINKLER SYSTEM	Re-Inspection	HAMPTON INN PORTLAND	1705 U.S. Hwy 181	Dan Willott	FAIL

Total Completed Activities: 5

Portland Fire Department

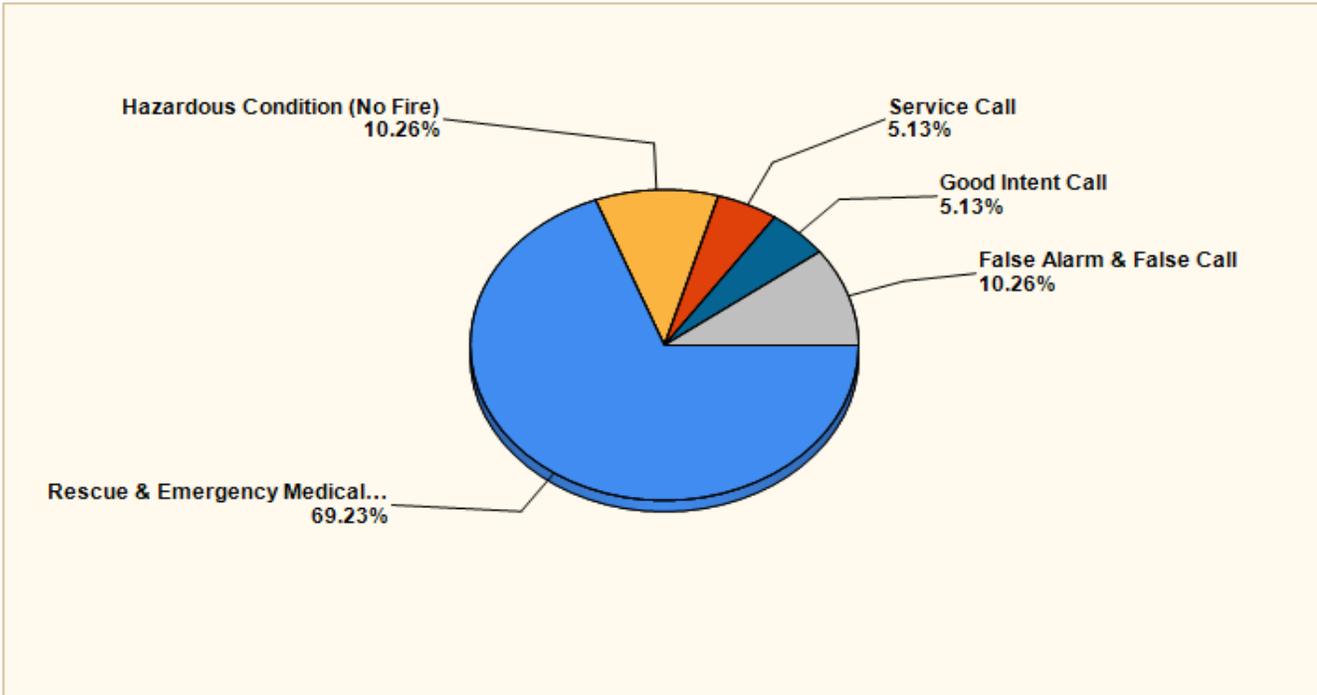
Portland, TX

This report was generated on 12/8/2014 8:18:21 AM



Breakdown by Major Incident Types for Date Range

Start Date: 12/01/2014 | End Date: 12/07/2014



MAJOR INCIDENT TYPE	# INCIDENTS	% of TOTAL
Rescue & Emergency Medical Service	27	69.23%
Hazardous Condition (No Fire)	4	10.26%
Service Call	2	5.13%
Good Intent Call	2	5.13%
False Alarm & False Call	4	10.26%
TOTAL	39	100.00%

Detailed Breakdown by Incident Type		
INCIDENT TYPE	# INCIDENTS	% of TOTAL
311 - Medical assist, assist EMS crew	12	30.77%
320 - Emergency medical service, other	3	7.69%
321 - EMS call, excluding vehicle accident with injury	12	30.77%
412 - Gas leak (natural gas or LPG)	2	5.13%
413 - Oil or other combustible liquid spill	1	2.56%
463 - Vehicle accident, general cleanup	1	2.56%
510 - Person in distress, other	2	5.13%
611 - Dispatched & cancelled en route	2	5.13%
733 - Smoke detector activation due to malfunction	1	2.56%
743 - Smoke detector activation, no fire - unintentional	1	2.56%
744 - Detector activation, no fire - unintentional	1	2.56%
745 - Alarm system activation, no fire - unintentional	1	2.56%
TOTAL INCIDENTS:	39	100.00%

Bunker Gear Cleaning and Repair Completed
 Participated in HEB Share Your Christmas Event

Number of times on scene or enroute to a call when a call was dispatched: 2

Average Response Time: 3.98 Min.



Portland Fire Department
 595 Buddy Ganem
 Portland, TX 78374
 361-643-0155
 361-643-0369

Completed Activities

11/30/2014 through 12/06/2014

Report run on: 12-08-2014

Activity Date	Record Type	Activity	Party	Site Address	Inspector	Status
12/01/2014	ANNUAL INSPECTION	Annual	WOODY MILLER CHRISTMAS TREES	1001 US Hwy 181	Dan Willott	PASS
12/02/2014	ANNUAL INSPECTION	Re-Inspection	LANDS END LIMITED & LANDS E	01201 MOORE AVENUE	Dan Willott	PASS
12/02/2014	ANNUAL INSPECTION	Annual	PORTLAND MANOR	04100 WILDCAT DR	Dan Willott	SCHEDULED
12/02/2014	ANNUAL INSPECTION	Annual	ATTIC ANTIQUES	01113 RAILROAD	Dan Willott	SCHEDULED
12/02/2014	ANNUAL INSPECTION	Annual	CONNECTIONS FAMILY SERVICES	209 Cedar Dr. B	Dan Willott	SCHEDULED
12/02/2014	ANNUAL INSPECTION	Annual	NORTH BAY PROPERTIES	1111 Railroad Ave Suite	Dan Willott	SCHEDULED
12/02/2014	ANNUAL INSPECTION	Annual	TSO - DR. RM BURTON OPTOMETRIST	1540 Wildcat Suite B	Dan Willott	SCHEDULED
12/03/2014	ANNUAL INSPECTION	Annual	TRIDENT CLUB	822 Denver	Dan Willott	SCHEDULED
12/04/2014	ANNUAL INSPECTION	Annual	ALLSTATE INSURANCE	209 Cedar Dr. A	Dan Willott	SCHEDULED
12/04/2014	ANNUAL INSPECTION	Annual	SHAMPOO & KAVIAR	01107 RAILROAD AVE	Dan Willott	SCHEDULED
12/04/2014	ANNUAL INSPECTION	Annual	RANDY RUSSELL AUTO INSURANCE	01101 RAILROAD AVE	Dan Willott	SCHEDULED
12/04/2014	ANNUAL INSPECTION	Annual	LOPEZ, JUVI	00101 NORTHSHORE & HWY 181	Dan Willott	SCHEDULED
12/04/2014	ALARM/SPRINKLER SYSTEM	Re-Inspection	HAMPTON INN PORTLAND	1705 U.S. Hwy 181	Dan Willott	FAIL
12/04/2014	Foster Care	Periodic	ADAM RODRIGUE	00107 ANN DR	Dan Willott	PASSED
12/04/2014	ANNUAL INSPECTION	Annual	DOLLAR TREE	01516 Wildcat Dr.	Dan Willott	SCHEDULED
12/05/2014	ANNUAL INSPECTION	Annual	EDWARD JONES INVESTMENTS	1605 US Hwy 181 Suite B	Dan Willott	PASS

Total Completed Activities: 16