REPORT TO COUNCIL 15
City of Sacramento

915 I Street, Sacramento, CA 95814-2671
www. CityofSacramento.org

CONSENT
November 1, 2005

Honorable Mayor and
Members of the City Council

Subject: Water Meter Program

Location/Council District: Citywide

Recommendation: 1) Adopt an Ordinance amending the City Code provision relating to water meters (Amending Section 13.04.030, Adding Section 13.04.065 and Amending Article III of Chapter 13.04 of the City Code)

Contact: Dave Brent, Engineering Manager, 808-1420; Dan Sherry, Supervising Engineer, 808-1419

Presenters: Gary Reents, Director of Utilities, 808-1433

Department: Utilities

Division: Engineering Services

Organization No: 3332

Summary:

The proposed ordinance amends Section 13.04.030, adds Section 13.04.065 and amends Article III of Chapter 13.04 of the Sacramento City Code to comply with A.B. 2572, that mandates the installation of water meters on all service connections by January 1, 2025.

Committee/Commission Action: On September 6, 2005 the Law and Legislation Committee made the recommendation that Council approved the attached ordinance.

Background Information:

A.B. 2572 was passed by the Legislature on August 26, 2004, and signed by Governor Schwarzenegger on September 29, 2004. This bill mandates that water meters be installed on all municipal and industrial water service connections by January 1, 2025. Previous State water meter legislation (S.B. 229) required the installation of water meters for new water service connections made on or after January 1, 1992. As noted in the proposed ordinance, the requirements of A.B. 2572 and S.B. 229 have

superseded the long-standing residential water meter prohibition set forth in the City Charter.

The Department of Utilities has gone before City Council and the Law and Legislative Committee regarding the Water Meter Program mandated by A.B. 2572 as follows:

- November 4, 2004, presented an informational workshop on water meters to the City Council.
- March 1, 2005, requested that the Law and Legislative Committee revise the 2004-2005 State and Federal Legislative Platforms to include water meter funding.
- March 22, 2005, requested guidance from the City Council on the meter implementation options.
- May 24, 2005, the City Council adopted Resolution No. 2005-347 approving the Department of Utilities water meter implementation plan criteria, the placement of water meters in the sidewalk, and the institution of a voluntary metered rate program.
- September 6, 2005, requested that the Law and Legislation Committee approve and forward the attached ordinance to City Council for their approval.

The City Code presently contains water meter provisions that were adopted following the enactment of S.B. 229 in 1991. The Department of Utilities and the City Attorney's Office staff drafted the proposed ordinance to conform the City Code's water meter provisions to the new mandates of A.B. 2572.

The proposed ordinance includes the following provisions:

- The City's Director of Utilities is directed to develop and implement a phased program for water meter installation as necessary to comply with provisions of A.B. 2572, and consistent with direction provided by City Council resolution.
- The cost incurred to fund this program will be paid by customers of the City's water system, as authorized by Water Code Section 527(b), through rates, fees or charges established by City Council resolution.
- Customers receiving City water service are required to provide the department's employees or contractors access to and use of the premises where the customer receives water service as may be required for the City's installation, maintenance, repair or removal of any pipelines and meter facilities used to provide water service, as well as for meter reading.

Financial Considerations:

The water meter program will be coordinated with the ongoing relocation of backyard mains. The total projected cost for installation of water meters and relocating backyard

mains is approximately $350 million, approximately $150 million to install meters and approximately $200 million to abandon backyard mains and construct new mains in the street.

Environmental Considerations:

Adoption of an ordinance to bring the City Code into compliance with A.B. 2572 does not constitute a discretionary approval subject to CEQA, since the City has no choice but to comply with the State's regulatory mandate. Implementation of the meter program also is exempt from the provisions of CEQA pursuant to Section 15301 (b) of the CEQA Guidelines, pertaining to the operation and minor alteration of facilities used to provide public utility services involving no expansion of use.

Policy Considerations:

A.B. 2572 mandates that water meters be installed on all service connections before January 1, 2025, and that customers served by metered service connections begin being billed on a metered rate on January 1, 2010, or at the end of one calendar year after meter installation.

Emerging Small Business Development (ESBD):

Not applicable. There are no goods or services being purchased as a direct result of this report.

Respectfully Submitted by: _____
David L. Brent
Engineering Manager

Approved by: _____
Gary A. Reents
Director of Utilities

Recommendation Approved:

_____
For ~~Robert P. Thomas~~
City Manager

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ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

AN ORDINANCE AMENDING SECTION 13.04.030, ADDING SECTION 13.04.065 AND AMENDING ARTICLE III OF CHAPTER 13.04 OF THE SACRAMENTO CITY CODE, RELATING TO WATER METERS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1

The City Council hereby makes the following findings:

1. Article III of Chapter 13.04 of the Sacramento City Code requires that all new water service connections made to the City water system on or after January 1, 1992, be equipped with a water meter, as required by Water Code Section 525, adopted by Senate Bill 229 (SB 229) in 1991 (Chapter 407 of Stats 1991).

2. In 2004, Assembly Bill 2572 (AB 2572) was signed into law (Chapter 884 of Stats 2004). Among other provisions, AB 2572 enacted Water Code Section 527, that requires an urban water supplier to (i) install water meters on all service connections located within its service area on or before January 1, 2025, and (ii) charge metered rates to customers that have water service connections for which water meters have been installed, beginning not later than January 1, 2010 (provided that metered billing may be delayed for one annual seasonal cycle of water use for services being converted from flat rate to metered billing). AB 2572 became effective January 1, 2005.

3. In enacting AB 2572, the Legislature found that the provision of water on a non-metered basis has caused, and will continue to cause, waste and unreasonable use of water. Article X, section 2 of the California Constitution and Water Code Section 100 provide that rights to the use of water in California do not extend to any waste or unreasonable use of water. These provisions apply to the water rights that the City relies upon to supply water to all customers of the City's water system. AB 2572 also requires any urban water supplier that applies for specified State funding or for a permit for a new or expanded water supply on or after January 1, 2010, to demonstrate compliance with the requirements specified in AB 2572.

4. In the absence of SB 229 and AB 2572, the City could not require the installation of meters on any residential water service, due to Section 11 of the Sacramento City Charter, that prohibits meters on residential water pipes. However, the requirements now mandated by SB 229 and AB 2572 have superseded City Charter Section 11, because these state laws address a subject matter of statewide concern. The Legislature also has declared that these requirements supersede and preempt all conflicting enactments of charter cities, including charter provisions.

5. The City has approximately 100,000 water service connections without water meters. In order to accomplish the installation of water meters on all of the unmetered connections by January 1, 2025, as mandated by Water Code Section 527, it will be necessary to implement a long-term phased water meter installation program that incrementally installs water meters until January 1, 2025. Water Code section 527(b) provides that an urban water supplier may recover the cost of implementing this program from rates, fees or charges.

6. It is necessary and desirable to direct the City's Director of Utilities to develop and implement a phased program for water meter installation as necessary to comply with the provisions of AB 2572. The costs incurred to fund this program should be paid by customers of the City's water system through rates, fees or charges, as authorized by Water Code Section 527(b).

7. The foregoing costs should be included in the rates paid by all retail water service customers of the City's water system because:

   A. These costs must be incurred to comply with a state regulatory mandate that applies to the operation of the City's entire water system which provides water service to all City water customers. It is necessary to incur these costs for the City's water system to remain in compliance with State law, avoid subjecting the City's water rights to any claim of waste or unreasonable use of water, and maintain the eligibility of the City's water system for specified State funding and permits on and after January 1, 2010.

   B. All customers receiving water from the City's water system will benefit from the City's compliance with this mandate, and a failure to comply with this mandate would have significant adverse effects on the City's entire water system and all customers receiving water service from the City's water system.

   C. Increased water conservation resulting from the implementation of a program for water meter installation and metered billing for all City water service connections will reduce future increases in water demand and associated operational costs, for the benefit of the City's entire water system and all customers receiving water service from the City's water system.

D. Since water meters generally require replacement every 10-20 years, even customers required to install water meters under SB 229 will benefit from the City's replacement of the water meters on their water service connections when needed during the City's phased water meter installation program and thereafter.

8. Adoption of this ordinance is necessary to comply with the state's regulatory mandate imposed by AB 2572.

SECTION 2

Section 13.04.030 of the Sacramento City Code is amended as follows:

A. The definition of "water meter" in Section 13.04.030 is amended to read as follows:

~~Water~~"Water meter~~. A~~" means a water meter provided or approved by the city that is installed on a water service connection in a manner that measures the volume of all water taken from the city water distribution system through that water service connection. As used in article III of this chapter, "water meter" shall include the water meter, the meter box containing the water meter and all related attachments and equipment.

B. Except as specifically amended above, all other provisions of Sacramento City Code section 13.04.030 shall remain unchanged and in full force and effect.

SECTION 3

Section 13.04.065 is added to the Sacramento City Code to read as follows:

13.04.065 Access to customer premises.

A customer receiving city water service shall provide the department's employees and/or contractors access to and use of the premises where city water service is received as may be required by the city's employees or contractors for the installation, maintenance, repair or removal of any pipelines, water meters and other appurtenances used to provide or measure city water service to the customer's premises or to adjacent premises, and/or as may be required by the city for purposes of connecting, reconnecting or relocating the connection for city water service to any such premises. Compliance with the foregoing requirements shall be a condition of the customer receiving or continuing to receive city water service. If the customer refuses to allow such access, the city also may seek authorization from any court of competent jurisdiction for such access.

SECTION 4

Article III of Chapter 13.04 of the Sacramento City Code is amended to read, in its entirety, as follows:

Article III. Water Meters

13.04.280 Intent and purpose.

~~A. This chapter is enacted to implement the~~ The provisions of ~~Chapter 407 of Stats 1991, as codified within the~~ California Water Code ~~at Chapter 1, § 110, and Chapter 8 commencing with § 500.~~

~~B. This chapter is enacted solely~~§§ 521 and following, impose various requirements for the installation and use of water meters. This article is enacted to comply with ~~state law and is not otherwise intended to repeal, amend or interpret the provision of the City Charter that prohibits~~and implement these state law requirements.

13.04.290 Installation of water meters on ~~residential~~ water service ~~pipes.~~

~~13.04.290 Water meters required--Adoption of standards and requirements.~~

~~No~~connections made on or after January 1, 1992.

A. In accordance with the provisions of California Water Code § 525, no new water service connections may be attached to the city water distribution system on or after January 1, 1992, unless such connection is equipped with a water meter. As used in this section, "new water service connection" includes any existing water service connection that is used to provide water to buildings or residential units constructed on or after January 1, 1992. Fire service connections are exempt from the provisions of this chapter. The director may adopt standards and requirements to implement the provisions of this ~~chapter~~section.

~~13.04.300 Water meter fee.~~

B. Prior to the installation of a water meter in accordance with the terms of this ~~chapter~~section, the customer shall pay any applicable fee established from time to time by resolution of the city council to recover costs incurred by the city to provide, install or supervise the installation of the water meter.

~~13.04.310 Requirements for installation of water meter.~~

~~A. Water meters~~

C. Water meters for water service connections made on or after January 1, 1992 shall be installed by the city or under the city's supervision in accordance with all applicable city water and building codes, regulations, and standards.

~~B.~~ D. A water meter for a water service connection made on or after January 1, 1992 shall not be installed unless a plumbing permit has been issued.

~~C.~~ E. Meters for water service connections made on or after January 1, 1992 shall be installed above ground on metered water services three inches and larger in diameter that require the installation of a backflow prevention assembly installation.

~~D.~~ F. No occupancy permit for any structure served by ~~the new~~a water service connection made on or after January 1, 1992 shall be issued until meter installation is complete.

~~13.04.320 Access~~

13.04.300 Phased Meter Installation Program.

California Water Code § 527 requires the city to install water meters on all water service connections on or before January 1, 2025. In order to comply with this requirement, the director shall develop and implement a phased program to accomplish, by January 1, 2025, the installation of water meters on all city water service connections that existed without meters as of January 1, 2005. Such program shall comply with any requirements specified or approved by resolution(s) of the city council, including resolution(s) adopted prior to the effective date of the ordinance enacting this section. The director may adopt standards and requirements to implement the provisions of this section. Customers shall pay such rates, fees and/or charges as may be established from time to time by resolution of the city council to fund, among other costs, the development and implementation of the phased meter installation program.

13.04.310 Reading meters.

The customer receiving city water service shall keep water meters unobstructed and accessible for reading, maintenance and repair~~. The customer~~, and shall provide the department~~staff~~'s employees and/or its contractors access to the premises ~~receiving~~where the customer receives water service as may be required ~~for the reading, maintenance and~~

~~repair of water meters, and shall keep water meters and meter boxes clean and accessible~~by the city for such purposes. Compliance with this section shall be a condition of receiving or continuing to receive city water service.

13.04.3~~3~~20 Testing meters.

Any metered customer may request in writing that the meter through which water is being furnished be examined and tested by the department to determine whether the meter is registering accurately the amount of water that is being delivered through it. Upon receipt of such request, the department shall ~~cause~~examine and test the meter~~ to be examined and tested~~. If the meter is found to register over three percent more water than actually passes through it, the customer's water bill will be adjusted accordingly. If the meter is found to register a variance of three percent or less, no billing adjustment will be made. Meter testing will be performed at a customer's request, at no charge to the customer, not more than once every twelve (12) months.

If a customer requests more frequent testing, the customer's request shall be accompanied by a deposit of an amount equal to the monthly minimum meter charge. Upon receipt of such request, the department shall ~~cause~~examine and test the meter~~ to be examined and tested~~. If the meter is found to register over three percent more water than actually passes through it, the customer's water bill will be adjusted accordingly and the deposit shall be returned, without interest. If the meter is found to register a variance of three percent or less, no billing adjustment will be made and the deposit shall be used by the city to pay its inspection and testing costs.

13.04.3~~4~~30 Water meter use--Indemnity.

No person other than authorized employees of the department or other persons duly authorized by the director shall install, maintain, repair, move, replace, adjust, tamper with, manipulate, damage, disconnect or remove any water meter. Any person or entity performing any of the foregoing actions, whether or not authorized by the department, shall pay the city's costs of investigating and repairing any resulting damage and/or replacing any removed item(s), and shall indemnify and hold harmless city, its officers and employees from any claims, actions, costs (including attorney fees), damages or other liability resulting or arising from such damage or removal.

13.04.340 Reserved.

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   B. All customers receiving water from the City's water system will benefit from the City's compliance with this mandate, and a failure to comply with this mandate would have significant adverse effects on the City's entire water system and all customers receiving water service from the City's water system.

   C. Increased water conservation resulting from the implementation of a program for water meter installation and metered billing for all City water service connections will reduce future increases in water demand and associated operational costs, for the benefit of the City's entire water system and all customers receiving water service from the City's water system.

D. Since water meters generally require replacement every 10-20 years, even customers required to install water meters under SB 229 will benefit from the City's replacement of the water meters on their water service connections when needed during the City's phased water meter installation program and thereafter.

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Section 13.04.065 is added to the Sacramento City Code to read as follows:

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SECTION 4

Article III of Chapter 13.04 of the Sacramento City Code is amended to read, in its entirety, as follows:

Article III. Water Meters

13.04.280 Intent and purpose.

The provisions of California Water Code §§ 521 and following, impose various requirements for the installation and use of water meters. This article is enacted to comply with and implement these state law requirements.

13.04.290 Installation of water meters on water service connections made on or after January 1, 1992.

A. In accordance with the provisions of California Water Code § 525, no new water service connections may be attached to the city water distribution system on or after January 1, 1992, unless such connection is equipped with a water meter. As used in this section, "new water service connection" includes any existing water service connection that is used to provide water to buildings or residential units constructed on or after January 1, 1992. Fire service connections are exempt from the provisions of this chapter. The director may adopt standards and requirements to implement the provisions of this section.

B. Prior to the installation of a water meter in accordance with the terms of this section, the customer shall pay any applicable fee established from time to time by resolution of the city council to recover costs incurred by the city to provide, install or supervise the installation of the water meter.

C. Water meters for water service connections made on or after January 1, 1992 shall be installed by the city or under the city's supervision in accordance with all applicable city water and building codes, regulations, and standards.

D. A water meter for a water service connection made on or after January 1, 1992 shall not be installed unless a plumbing permit has been issued.

E. Meters for water service connections made on or after January 1, 1992 shall be installed above ground on metered water services three inches and larger in diameter that require the installation of a backflow prevention assembly installation.

F. No occupancy permit for any structure served by a water service connection made on or after January 1, 1992 shall be issued until meter installation is complete.

13.04.300 Phased Meter Installation Program.

California Water Code § 527 requires the city to install water meters on all water service connections on or before January 1, 2025. In order to comply with this requirement, the director shall develop and implement a phased program to accomplish, by January 1, 2025, the installation of water meters on all city water service connections that existed without meters as of January 1, 2005. Such program shall comply with any requirements specified or approved by resolution(s) of the city council, including resolution(s) adopted prior to the effective date of the ordinance enacting this section. The director may adopt standards and requirements to implement the provisions of this section. Customers shall pay such rates, fees and/or charges as may be established from time to time by resolution of the city council to fund, among other costs, the development and implementation of the phased meter installation program.

13.04.310 Reading meters.

The customer receiving city water service shall keep water meters unobstructed and accessible for reading, maintenance and repair, and shall provide the department's employees and/or its contractors access to the premises where the customer receives water service as may be required by the city for such purposes. Compliance with this section shall be a condition of receiving or continuing to receive city water service.

13.04.320 Testing meters.

Any metered customer may request in writing that the meter through which water is being furnished be examined and tested by the department to determine whether the meter is registering accurately the amount of water that is being delivered through it. Upon receipt of such request, the department shall examine and test the meter. If the meter is found to register over three percent more water than actually passes through it, the customer's water bill will be adjusted accordingly. If the meter is found to register a variance of three percent or less, no billing adjustment will be made. Meter testing will be performed at a customer's request, at no charge to the customer, not more than once every twelve (12) months.

If a customer requests more frequent testing, the customer's request shall be accompanied by a deposit of an amount equal to the monthly minimum meter charge. Upon receipt of such request, the department shall examine and test the meter. If the meter is found to register over three percent more water than actually passes through it, the customer's water bill will be adjusted accordingly and the deposit shall be returned, without interest. If the meter is found to register a variance of three percent or less, no

billing adjustment will be made and the deposit shall be used by the city to pay its inspection and testing costs.

13.04.330 Water meter use--Indemnity.

No person other than authorized employees of the department or other persons duly authorized by the director shall install, maintain, repair, move, replace, adjust, tamper with, manipulate, damage, disconnect or remove any water meter. Any person or entity performing any of the foregoing actions, whether or not authorized by the department, shall pay the city's costs of investigating and repairing any resulting damage and/or replacing any removed item(s), and shall indemnify and hold harmless city, its officers and employees from any claims, actions, costs (including attorney fees), damages or other liability resulting or arising from such damage or removal.

13.04.340 Reserved.