

# Frequently Asked Questions and Answers

1. Comment: Project options are not affordable.

Reply: The following is a list of County efforts to mitigate affordability impacts:

- a. The County Initiated grant efforts immediately to 1) reduce project costs and 2) assist low income households
- b. The County agreed to analyze alternative technologies that could provide cost savings
- c. The County approved project implementation strategies (August 14, 2007 – see Attachment “D”) that further enhance revenue possibilities or promote cost controls

2. Comment: That the County should base the Prop 218 proposed assessments on specific technologies and sites.

Reply: The County’s approach to proposing Prop 218 assessments that are not technology or site specific is based on numerous reasons. Although some of the following reasons carry greater weight than other reasons, it is the combination and totality of the issues that support the County’s approach to the proposed Prop 218 assessments.

- a. Property owners can best demonstrate that they are resolved to support development of a community wastewater project by approving Prop 218 assessments without regard to technology or site debates.
- b. The ability of the County to cost effectively implement a community wastewater project is enhanced with the approval of Prop 218 assessments that do not restrict technologies or site selection decisions.
- c. The unresolved issues that exist in public debates in Los Osos, and the ongoing litigation on the wastewater project, continue to discourage consensus on technologies and site selection issues and therefore make a Prop 218 assessment that is technology and site specific problematic.
- d. The significant uncertainty that exists on developing consensus for specific technologies and sites, does in fact, support the County’s

approach – i.e. that the proposed assessments should be a community funding decision without regard to technologies or sites.

- e. The environmental reporting and review efforts required by the California Environmental Quality Act, and the National Environmental Policies Act, if applicable are more appropriate (rather than the Prop 218 assessment process) to resolve non-financial debates on technologies and sites.
- f. Conflicts that could develop in pursuing project permits will be minimized if the Prop 218 assessments are not technology or site specific.
- g. Community speculation and debate also exists regarding cost estimates that have been developed on technologies and sites.
- h. Resolving debates on cost estimates and developing the lowest cost option can best be resolved through competitive bidding between private companies that are willing to provide firm contractual commitments.
- i. If the Prop 218 assessments restrict the County's technology options, then they will also create unnecessary barriers in developing a competitive public contracting approach, and determining the lowest cost project with firm contractual commitments from private industry will not be possible.
- j. Competitive public contracting processes can be accomplished through the use of design-build public contracting, after additional value engineering and peer review, to establish the lowest cost option through firm contractual commitments under the County's approach.
- k. If Prop 218 assessments are technology specific, then it would defeat the benefits of private industry competition and the pursuit of firm contractual commitments by private industry. (The ability to attract adequate competition from private industry requires that community funding is pre-approved – especially considering the community's bankruptcy status).
- l. Community preferences on, and acceptability of, technologies and sites (including cost considerations) are best evaluated through a community survey that coincides with the public draft environmental impact report.

- m. Addressing and resolving community issues will occur as project efforts move from the preliminary engineering, a broader scope analysis, and into additional levels of detail, such as preliminary design, environmental, permitting, and public contracting/bidding/design build.
- n. The County's approach requires minimizing costs to County-wide taxpayers; Prop 218 assessments that are not technology or site specific minimize risks to County-wide taxpayers.
- o. The County's approach will enhance the Community's ability to obtain grants and obtain favorable rulings from other agencies.
- p. The County's approach is consistent with Assembly Bill 2701 and testimonies of County officials to legislative committee's during the development of AB 2701.
- q. The County's approach is the most expedient path to permanently resolving enforcement actions and rendering them unnecessary.
- r. Approval of the Prop 218 assessments by property owners will immediately establish a cooperative approach to developing a community wastewater project with the County and become a significant move to resolving the community's existing enforcement situation and ongoing litigation.

3. Comment: That various project technologies or sites are unacceptable.

Reply: The Community Survey will determine community acceptability issues and project preferences. A competitive public contract process will best determine the lowest cost option. Timing of these efforts with the public draft environmental impact report will be important.

4. Comment: That certain technologies, sites or approaches to project implementation are not adequately considered in the County's efforts leading to the Prop 218 ballots.

Reply: The development of "Viable Project Alternatives" or project options in the Fine Screening analysis does not restrict the development of final project technologies or approaches during the CEQA process or the permitting efforts. Consequently, consideration of additional details such as regional approaches to certain project components, or treatment on a decentralized basis, is still possible. As one of its purposes, the Fine Screening Report initiates technology

selection efforts, but final determinations will not be made until the Notice of Determination required by CEQA is approved.

5. Comment: That the Board of Supervisors should not have final authority on selecting project technologies and sites.

Reply: Governing Boards of local agencies throughout California are responsible for discretionary decisions on capital projects. No compelling reason exists to pursue an alternative decision making approach especially considering the level of controversy existing within the community.

6. Comment: That the Proposition 218 Ballots should be secret and confidential – that they should not be public records.

Reply: State statutes (Government Code Section 53753) establish that the Prop 218 ballots are public records and local agency discretion does not exist on this point.

7. Comment: That grants from federal and state agencies should be known and approved prior to the County's assessment proposal pursuant to Prop 218.

Reply: Timing and approval of grants is not guaranteed. The County's efforts enhance the community's ability to obtain grants and may be the community's only real hope of obtaining federal and state assistance. Pursuing grants and other efforts to mitigate affordability impacts – those things that are within the control of the County – are the issues that the County is addressing. The suggestion from public comment that requiring the pre-approval of grants prior to establishing the Prop 218 assessments will reduce the ability of the County to implement a project in a timely manner and meet the expectations those federal and state agencies; thus it would be a counter-productive strategy.

8. Comment: That maximum project costs should be established prior to the County's assessment proposal pursuant to Prop 218.

Reply: Local agencies cannot establish or guarantee maximum project costs on mandated projects. The maximum amount of assessments (just under \$25,000 for most single family residences) is, nevertheless, the maximum amount of the lien that can be placed on those properties. Other properties are assessed based on land use and/or existing infrastructure. If project costs are less than estimated, or if grants are received to reduce the local share of project costs, then the assessments must be reduced. Cost overruns will need to be funded

through bonds secured by wastewater rates and charges. Based on the contingencies included in cost estimates, it is not reasonable to conclude that cost-overruns will occur.

9. Comment: That the County should have pursued extension of the Coastal Development Permit issued for the Los Osos Community Services District's wastewater project.

Reply: The Coastal Development Permit (CDP) extension of the LOCS D project was considered by the Board of Supervisors on August 7, 2007, who directed staff to not pursue the extension. One of the six legislative elements adopted by the BOS on June 19, 2006 included not accepting any of the liabilities of the LOCS D. In addition, the work supporting the CDP issued to the LOCS D is still substantially valid, and the conditions established in that permit continue to provide important insight into the expectations of the Coastal Commission. Lastly, since the County will be preparing an Environmental Impact Report for consideration by the San Luis Obispo County Planning Commission, the application of the CDP and its consideration by the Planning Commission can reasonably be concurrent activities.

10. Comment: That the County should allow the owners of undeveloped properties to cast ballots (i.e. that assessments should also be proposed on undeveloped properties at this time).

Reply: The Board of Supervisors considered and established policies regarding the Prop 218 ballot proceedings on July 17, 2007. The County cannot provide reasonable certainty to undeveloped property owners on their ability to connect to the wastewater system once it is constructed and consideration of their participation will need to be separate from the developed property owners. County staff is anticipating returning to the BOS, based on direction from July 17, 2007, prior to the end of 2007.

11. Comment: That property owners and/or residents outside of the prohibition zone (which some claim was improperly determined) should help pay for project costs (i.e. that the entire community should pay for project costs and not just those inside the prohibition zone).

Reply: The County agrees that certain project costs should be paid on a community-wide basis, especially those costs associated with water supply enhancements that will reduce existing sea water intrusion. Other costs that reflect community-wide benefits include those associated with a habitat conservation plan. The ability of local agencies to create taxes on a community-wide basis is limited as a result of tax reform statutes, and the State Constitution (i.e. Prop 13

and Prop 218). Nevertheless, the County will continue to consider additional tax possibilities, especially for community wide benefits. For example, a “special-tax” could be considered by the community for water supply, habitat, and affordability issue. While special taxes require 2/3rds voter approval, they have been successfully proposed by the County in other communities and could possible help develop equitable costs sharing on certain project components.

12. That the Fine Screening Report omits evaluation of “on-site” solutions.

Reply: As a public agency in the role of a “service provider” the County is providing property owners with the option of developing a community wastewater system. “Private solutions” (i.e. those that do not involve a public agency service provider) are outside the role of the County established by Assembly Bill 2701, and outside the role that the County would normally fulfill as a public utility service provider. The County does support the alternative use of grey-water systems, which will reduce wastewater flows and pumping by water purveyors. On August 14, 2007, the BOS adopted strategies supporting a “demand-based” system to establish wastewater rates and charges, and also supported incentives for grey-water systems. On site systems, and composting toilets, are outside the scope of a community wastewater system.