

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

CITY OF SIERRA MADRE; and DOES 1 through 10, inclusive,

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

JOHN CRAWFORD

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**CONFORMED COPY
OF ORIGINAL FILED**
Los Angeles Superior Court

MAY 06 2011

John A. Clarke, Executive Officer/Clerk
By AMBER LaFLEUR-CLAYTON, Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Los Angeles County Superior Court,
Stanley Mosk Courthouse, 111 North Hill Street, Los Angeles, CA 90012

CASE NUMBER:
(Número del Caso): **BS131950**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Kurt Zimmerman, SBN 180732, 312 1/2 E. Grandview Ave., Sierra Madre, CA 91024 Tel: 626-880-9975

DATE: JOHN A. CLARKE, CLERK Clerk, by AMBER LaFLEUR-CLAYTON, Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

MAY 06 2011

NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify): **CITY OF SIERRA MADRE**
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify): **CCP 416.50 PUBLIC ENTITY**
- by personal delivery on (date): **MAY 10, 2011**

COPY

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Los Angeles Superior Court

MAY 03 2011

John A. Clarke, Executive Officer/Clerk
By A.E. LaFleur-Clayton, Deputy

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KURT ZIMMERMAN (SBN 180732)
312 1/2 E. Grandview Ave.
Sierra Madre, CA 91024
Telephone: (213) 880-9975

Attorney for Petitioner
John Crawford

DOES James Crawford

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

BS131950

JOHN CRAWFORD,

Petitioner,

v.

CITY OF SIERRA MADRE; and DOES 1
through 10, inclusive

Respondent.

) Case No.

) VERIFIED PETITION FOR WRIT OF
) MANDATE AND COMPLAINT FOR
) DECLARATORY RELIEF

1 7. Not surprisingly, many residents complained that the Notice confused them. (See
2 discussion regarding the residents' confusion at Section V(D) below).

3 8. Rather than correct the patent defects in the Notice, the Council implemented an
4 "educational outreach" program that proved to be a colossal failure. (See discussion regarding
5 the "educational outreach" program at Section V(E) below).

6 9. Compounding the City's refusal to comply with Proposition 218 and the failed
7 "educational outreach" program, were misleading statements from City officials intended to
8 convince residents that the proposed water rate increase would be used primarily for
9 infrastructural repairs and particularly the replacement of older water mains. (See discussion
10 regarding the City's misleading statements at Section V(F) below).

11 10. Incredibly, the Council continued to consider the proposed water rate increase at
12 multiple Council meetings, and thereafter, adopted a water rate increase that was even different
13 from what was originally proposed without providing written notice to each "record owner"
14 including, without limitation, Petitioner (See discussion regarding the City's hearings on the
15 proposed water rate increase and the different water rate increase that was eventually adopted in
16 Section V(G) below).

17 11. The City refused to accede to the reasonable demands of its residents not to
18 implement a water rate increase. Further, the City repeatedly violated the requirements of
19 Proposition 218, governing the procedures for approving a water rate increase. Accordingly, the
20 Court should invalidate the Ordinance and further declare that the City's actions complained of
21 herein are unconstitutional, unlawful and void.

22 **II. PARTIES**

23 12. Petitioner John Crawford is a long-time resident of the City. He receives his water
24 from the City and is a water customer and water ratepayer. The Council previously appointed
25 him to serve and he did serve on a citizens' advisory board for the City's Utility Users' Tax. In
26 his spare time, he is the moderator of, and contributor to, the Sierra Madre Tattler ("Tattler")
27 website, which publishes articles and editorials focusing on local politics. (See
28 sierramadretattler.blogspot.com).

13. Respondent City of Sierra Madre is a municipality subject to the Court's power to
compel compliance with a legal duty pursuant to Section 1085 of the California Code of Civil
Procedure. The City is located in the County of Los Angeles in the State of California. It
supplies and sells water to customers, including, without limitation, Petitioner, and sets water
rates by ordinance.

1 **V. STATEMENT OF FACTS**

2 **A. The City Initiates A Process To Increase Water Rates**

3 21. At its May 11, 2010, meeting, the Council voted to initiate a process to increase
4 water rates of its water customers. (See true and correct copy of Minutes of Sierra Madre
5 Council Meeting (May 11, 2010) at pp.11-12 attached as Exhibit 5).

6 22. On or about May 17, 2010, the City sent the aforementioned Notice of the
7 proposed water rate increase to all its water customers as well as the property owners identified
8 on all water accounts (See Agenda Report for Sierra Council Meeting (Jun. 22, 2010) at p.3
9 attached as Exhibit 3). Initially, the City proposed a water rate increase resulting in a cumulative
10 five-year increase of 32.95% - 37.42%. (See Minutes of Sierra Madre Council Meeting (Nov.
11 23, 2010) at p.7 attached as Exhibit 2; see also Notice attached as Exhibit 4).

12 **B. The Proposed Water Rate Increase Was Extremely Unpopular With Many of
13 the City's Residents**

14 23. The proposed water rate increase was extremely unpopular with many of the
15 City's residents. Upon information and belief, a near-majority of the water ratepayers and/or
16 owners of affected parcels (1719) filed written protests against the rate increase. (See true and
17 correct copy of the Minutes of Sierra Madre Council Meeting (Jul. 27, 2010) at p.6 attached as
18 Exhibit 6).

19 24. Further, concerned citizens including, without limitation, Petitioner John
20 Crawford, sent the City letters challenging the water rate increase on legal grounds and
21 demanding compliance with proposition 218. The City responded by simply acknowledging
22 receipt of these protest letters and never addressed the legal and policy arguments advanced
23 therein. (True and accurate copies of those letters and the City's responses thereto are attached as
24 Exhibit 7).

25 25. Multiple, in-depth articles or editorials criticizing the proposed water rate increase
26 appeared on the Sierra Madre Tattler website, which is devoted to political and other matters of
27 interest to Sierra Madreans.. See, e.g.,

28 *Clearing up a Few Misconceptions Regarding the Water Rate Protest* (Mar. 4, 2011);
The Water Rate Protest: One Last Appeal to Reason Before We Take the City to Court
(Feb. 28, 2011).

Kurt Zimmerman's Notes from Saturday's Fundraiser (Jan. 31, 2011).

So Now There is Another Water Rate Hike on the Way ? (Jan. 19, 2011).

1 *The Livingston Case and How It Compares to the G4's Prop. 218*
2 *Shenanigans* (Jan. 14, 2011).
3 *The Water Rate Increase Protest Is Not Over* (Jan. 13, 2011).
4 *Last Night's G4 Water Rate Hike: Would It Stand Up In Court* (Jan. 12, 2011).
5 *Throwing Ms. Sandi Under the Bus . . . And More* (Dec. 10, 2010).
6 *MaryAnn MacGillivaray's Remarks: A Key Moment At Tuesday Evening's City Council*
7 *Meeting* (Nov. 26, 2010).
8 *The City's Vulnerability on the Prop 218 Question* (Nov. 24, 2010).
9 *Ordinance 1312: The Gang of Four Hides From the Water Rate Payers* (Nov. 20, 2010).
10 *The Real Water Rate Misinformation* (Nov.11, 2010).
11 *Agenda Man Asks: Will the Water Rate Increase Take Place Tonight at Midnight?* (Nov.
12 9, 2010).
13 *Sierra Madre's City Council Doesn't Trust Sierra Madre* (Oct. 27, 2010).
14 *The Smoking Water Gun* (Oct. 21, 2010).
15 *Your Tattler Water Rate Increase: Special Meeting Agenda Packet* (Oct. 18, 2010).
16 *Sierra Madre's Ongoing Bond Shenanigan's And More!* (Oct. 14, 2010).
17 *Has Sandy Levin Embraced Chaos Theory?* (Sep. 16, 2010).
18 *The Letter City Hall Would Have Preferred You'd Not Heard About* (Sep. 15, 2010).
19 *Was the Proposed Water Rate Hike Actually All About Bond Debt* (Aug. 20, 2010).
20 *Did Sierra Madre's City Council Violate the Brown Act When it Delayed the Water Rate*
21 *Hike ?* (Aug.7, 2010).
22 *The Mystery of the \$10 Million Dollar Federal Grant* (Aug. 6, 2010).
23 *Sierra Madre: The Mouse Roars Again* (Jul. 20, 2010).
24 *Mayor Mosca Tips His Hand* (Jul. 19, 2010).
25 *Is City Hall Attempting a Bait and Switch* (Jul. 17, 2010).
26 *Did City Hall Even Hear Us* (Jul. 15, 2010).
27 *A Couple of Talking Points On the Sierra Madre Water Rate Hike* (Jun. 30, 2010).
28 *The Statement Joe Mosca Wouldn't Let Jim Engle Finish* (Jun. 23, 2010).
29 *Prop 218 and the Water Rate Hike* (May 19, 2010) (true and correct Copies of these
30 articles as they appeared on sierramadretattler.blogspot.com are attached as Exhibit 8).

26 26. Numerous residents also spoke out at Council meetings criticizing the water rate
27 increase and/or the City's inept handling of the process required for approval of the water rate
28 increase. (See true and correct copy of Minutes of Sierra Madre Council Meeting (Jun. 22,

1 2010), at pp. 16-17 attached as Exhibit 9; see also true and correct copy of Minutes of Sierra
2 Madre Council Meeting (Jul. 13, 2010) at pp. 7-12 attached as Exhibit 10; see also Minutes of
3 Sierra Madre Council Meeting (Nov. 23, 2010) at pp. 9-10 attached as Exhibit 2).

4 27. Some of the residents found their impassioned speeches against the proposed
5 water rate increase cut short by the intolerant former Mayor Joe Mosca. (See e.g., Minutes of
6 Sierra Madre Council Meeting (Jun. 22, 2010) at pp.15-17 attached as Exhibit 9). Sadly, the
7 residents' protests against the proposed water rate increase fell on the City's deaf ears.

8 **C. The Notice That Was Sent To Water Customers And Property Owners, Including**
9 **Without Limitation Petitioner, Did Not Satisfy Proposition 218's Constitutionally**
10 **Mandated Notice Requirements.**

11 28. Proposition 218 requires that the Notice to each record owner including, without
12 limitation, Petitioner: identify the rate increase under consideration; specify the basis upon
13 which the rate increase was calculated; state the reason for the rate increase; and provide the date,
14 time and location of a public hearing on the rate increase.

15 The amount of the fee or charge proposed to be imposed upon each parcel shall be
16 calculated. The agency shall provide written notice by mail of the proposed fee or charge
17 to the record owner of each identified parcel upon which the fee or charge is proposed for
18 imposition, the amount of the fee or charge proposed to be imposed on each, the basis
19 upon which the amount of the proposed fee or charge was calculated, the reason for the
20 fee or charge, together with the date, time and location of the public hearing on the
21 proposed fee or charge.

(Cal. Const. Art. XIII D, sec. 6(a)(1)).

22 As described below, the Notice did not comply with these requirements.

23 **1. The Notice Did Not Provide Each Record Owner Including, Without**
24 **Limitation Petitioner, With the Amount of the Proposed Water Rate**
25 **Increase**

26 29. First, the Notice did not provide each record owner with the amount of the
27 proposed water rate increase as required by Proposition 218. Instead, the Notice required each
28 "record owner" to estimate his/her/its respective, proposed water rate increase based on such
factors as the meter size and the application of a complicated, three-tiered, rate formula. (See
Notice attached as Exhibit 4).

1 30. The Notice did not specify each “record owner’s” meter size nor did it contain any
2 explanation for how to estimate the proposed water rate increase by applying the complicated, three-
3 tiered rate formula. (Id.) Absent that essential information, Petitioner, and, upon information and belief,
4 many other “record owners” could not estimate the amount of his/her/its respective, proposed water rate
5 increase.

6 31. In contrast to the “bare bones” Notice, Council Members were presented with detailed
7 agenda reports, which devoted several pages to the complex process of calculating water rates under the
8 proposed three-tiered rate formula. (See, e.g., true and correct copy of Agenda Report for Sierra Madre
9 Council Meeting (May 11, 2010) at pp. 2-5 attached as Exhibit 11).

10 32. Similarly, the Notice stated that a discount was available for “low income.” The Notice
11 did not contain, however, a definition of the term “low income” or state the maximum amounts an
12 individual or family could earn and still qualify for such a discount. (See Notice attached as Exhibit 4).

13 33. In addition, the Notice did not explain how proposed water rates would be calculated for
14 multi-family properties. For example, upon information and belief, a five-unit apartment complex using
15 34 ccf of water per month could be charged either at the higher Tier III rate for water consumption of 33
16 ccf or more, or at a lower rate based on dividing the 34 ccf by the total number of units. (Id.). Confusing
17 any water rate increase calculation even further, the Notice refers to monthly consumption charges, but
18 Sierra Madre sends its water ratepayers bimonthly bills.

19 34. In fact, the Minutes of the Council meeting on November 9, 2010, reflect that nearly six
20 months after the Notice was sent, both a resident and a Council Member Moran were still questioning
21 how the City calculated multi-family, water rate charges (See true and correct copy of Minutes of Sierra
22 Madre Council Meeting (Nov. 9, 2010) pp. 13-14 attached as Exhibit 12).

23 **2. The Notice Did Not Specify the Basis for the Proposed Water Rate Increase**

24 35. Second, the Notice did not specify the basis for the water rate increase. (Id.) Upon
25 information and belief and as set forth in the Council’s agenda report for the Council meeting on May
26 11, 2010, the basis for the water rate increase was, “a study, entitled City of Sierra Madre Water System
27 (WSPP)... [The WSPP] recommends adjustments to both the static meter charge for each customer
28 based on the size of their water meter, and an increase in the variable unit cost, based on the amount of

1 water used during each billing period.” (See Agenda Report for Sierra Madre Council Meeting (May 11,
2 2010) at pp. 2-5 attached as Exhibit 11).

3 36. The WSPP, however, was not included as an attachment with the Notice, or even
4 mentioned in the Notice. (See Notice attached as Exhibit 4).

5 3. The Notice Did Not State the Reason for the Proposed Rate Increase

6 37. Third, the Notice did not state the reason for the proposed water rate increase as required
7 by Proposition 218. In a circular fashion, the Notice stated, "the City imposes its water rates in order to
8 fund the City's costs of operating and maintaining the water system, as well as to pay off the costs of
9 improvements to that system." (Id.). Absent in the Notice, however, is the actual "reason" or "reasons"
10 that the current level of water department funding is insufficient to accomplish these purposes and now
11 must be increased. (Id.)

12 D. Many Residents Were Confused By the Notice

13 38. Not surprisingly, many residents appeared at Council meetings to complain that they
14 were confused by the Notice. (See, e.g., Minutes of Sierra Madre Council Meeting (Jun. 22, 2010) at
15 pp. 16-17 attached as Exhibit 9). Even Ms. Laurie Cooper, who upon information and belief, is a vocal
16 supporter of a water rate increase, addressed the Council at its November 9, 2010 meeting – nearly six
17 months after the water rate increase was proposed in the Notice – and asked that the “tier systems be
18 explained again” because “many residents are confused.” (See, e.g., Minutes of Sierra Madre Council
19 Meeting (Nov. 9, 2010) at p.16 attached as Exhibit 12).

20 39. Indeed, at the City Council’s meeting on June 22, 2010, no less than the former Mayor
21 and current Council Member Marianne MacGillivray conceded that there is a “level of confusion”
22 regarding the proposed water rate increase. (See Minutes of Sierra Madre Council Meeting (Jun. 22,
23 2010) at p. 18 attached hereto as Exhibit 9).

24 40. Incredibly, the City’s failure to include enough information in the Notice for the “record
25 owner” to calculate his/her/its own proposed water rate appears to have been deliberate. Upon
26 information and belief, Sierra Madre’s City Attorney stated:

27 The fact that the [N]otice raised questions in people's minds indicates that it did exactly what a
28 notice is supposed to do. It's not supposed to provide all the possible information. It's supposed
to provide enough information that it causes people to want to find out more, and that's exactly
what it did.

1 (A true and correct copy of the online article with the City Attorney's statement by B.Gazzar,
2 *Sierra Madre Residents Charge City Violated Law In Proposed Water Rate Hike Notice*,
3 Pasadena Star News (Sep. 15, 2010) is attached as Exhibit 13.).

4 **E. The City Conducts An Educational Outreach Program That Failed**
5 **Miserably**

6 41. The Notice did provide the date, time and place of one hearing for the proposed
7 water rate increase (i.e. the Council meeting on July 13, 2010). (See Notice attached as Exhibit
8 4). At that hearing, however, the Council chose not to approve any water rate increase.¹ Instead,
9 upon information and belief, former Mayor Joe Mosca determined to implement an "educational
10 outreach" program and to revisit a water rate increase at a later time. (See Minutes of Sierra
11 Madre Council Meeting at p.14 (Jul. 13, 2010) attached as Exhibit 10).

12 42. Over the next few months, the Mayor's "educational outreach" program was
13 implemented. There were five outreach events held including an August 14, 2010 "Walk and
14 Talk, an August 17, 2010, Community Water Forum, a September 1, 2010 Community Water
15 Forum, a September 13, 2010 Community Water Forum, and a September 29, 2010 "Walk &
16 Talk." (See true and correct copy of Agenda Report for Sierra Madre Council Meeting (Oct. 19,
17 2010) at p.2 attached as Exhibit 14.).

18 43. The "educational outreach" program was a colossal failure. The first "Walk &
19 Talk Event" on August 14, 2010 had only about 100 participants. The remaining four events had
20 a total of only 100 participants (i.e., an average of 25 participants per event). (Id. at p. 2). Upon
21 information and belief, many of the participants at these educational outreach events were
22 actually children.

23 ¹ Proposition 218 requires the City to "conduct a public hearing upon the proposed fee or charge not less
24 than 45 days after mailing the notice of the proposed fee or charge to the record owners of each identified
25 parcel upon which the fee or charge is proposed for imposition. At the public hearing, the agency shall
26 consider all protests against the proposed fee or charge. If written protests against the proposed fee or
27 charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee
28 or charge." (Cal. Const. Art. XIII D, sec. 6 (a)(2). At the City Council meeting on July 13, 2010, the City
clerk presented the Council with her tabulation showing that there was a sufficient number (1829) of
written protests to defeat the proposed rate increase. (See Sierra Madre Council Minutes (Jul. 13, 2010) at
p. 2 attached as Exhibit 10). Obviously, disatisfied, with the tabulation, the Mayor directed the Clerk to
verify the results with City Staff. (Id. at p. 14). Thereafter, numerous written protests were invalidated
and it was subsequently determined that there was no longer the majority of protests required to defeat the

(Continued...)

1 **F. City Officials Made Misleading Statements Intended To Convince Residents**
2 **That The Water Rate Increase Was Primarily Intended For Infrastructural**
3 **Improvements And To Replace Older Water Mains.**

4 44. Compounding the City's refusal to comply with the detailed procedural requirements of
5 Proposition 218 and its failed "educational outreach" program, were the City's frequent and misleading
6 pronouncements that the proposed water rate increase would be used primarily for infrastructural repairs
7 and particularly the replacement of older water mains, instead of the service of water bond and other debt
8 obligations.

9 45. Upon information and belief, the City Manager stated that, "payments routinely made on
10 outstanding bond debt and associated interest are part of the city's ongoing water costs, **but that the**
11 **proposed rate hike is needed primarily to fund improvements to water infrastructure.**" (See true
12 and accurate copy of online article by J. Stephens, *City Announces Special Water Rate Meeting*, Sierra
13 Madre Patch (Oct. 7, 2010) attached as Exhibit 15; emphasis supplied).

14 46. The City Manager also addressed the Council at its meeting on June 22, 2010, wherein
15 the proposed water rate increase was being discussed, stating "the water mains [need to be] replaced."
16 (See Minutes of Sierra Madre Council Meeting (June 22, 2010) at p. 14 attached as Exhibit 9).

17 47. At that same Council meeting on June 22, 2010, wherein the proposed water rate increase
18 was being discussed, the City's Director of Public Works stated "we need to address water main
19 replacement. We need funds for water mains." (Id. at p. 18).

20 48. At a later Council meeting, Council Member Moran even claimed that the water rate
21 increase would provide "\$500,000 for water mains and capital projects." (See Minutes of Sierra Madre
22 Council Meeting (Nov. 9, 2010), at p. 15 attached as Exhibit 12).

23 49. Moreover, upon information and belief, at the Council meeting where the
24 Ordinance was adopted by second reading, former Mayor Joe Mosca stated before casting his
25 vote in favor of adopting the Ordinance that "a lot of the water mains need to be fixed up." (See
26 streaming videotape of Sierra Madre Council meeting (Jan. 11, 2011) at
27 <http://kgem.tv/2011/01/sierra-madre-city-council-january-11-2011/>.

28 (...Continued)
proposed water rate increase. (See Sierra Madre Council Minutes (July 27, 2010) p. 6 attached as Exhibit
6).

1 50. Then too, a story about a broken water main and the need for a water rate increase
2 to effect infrastructural repairs appeared in a local newspaper while the proposed water rate
3 increase was under consideration by the Council (See true and accurate copy of article by T.
4 Miller, *Water Rate Increase on Hold Thanks to Residents Outcry*, Sierra Madre Weekly (Oct. 9,
5 2010) attached as Exhibit 16).

6 51. The City's own documents, however, belie its repeated claims that it ever intended the
7 proposed water rate increase to address aging infrastructure and replace water mains.

8 52. For example, in a letter addressed to a resident and dated August 26, 2010, the City
9 Manager conceded that the money generated from the water rate increase, if approved, would be
10 insufficient to make capital improvements including water main replacement. In her own words:

11 The proposed rate increase is enough to meet the requirements of the City's existing debt
12 obligations and to begin rebuilding the water fund reserve. It is not enough to fund a pay-as-you-
13 go capital improvement program. Funding a capital improvement program to begin immediate
14 replacement of deteriorated water mains (for example) would require a rate increase significantly
15 higher than what was proposed earlier this year.

16 (A true and accurate copy of Letter from City Manager E. Aguilar to Resident E. Richey (Aug. 26, 2010)
17 attached as Exhibit 17).

18 53. Further, upon information and belief, the City made a PowerPoint presentation to
19 interested residents in October 2010 entitled "The 411 on H2O." A PowerPoint slide in that presentation
20 corroborated what the City Manager wrote in her letter to the resident. The first "bullet point" in the
21 slide stated "[t]he proposed rate increase did not provide for a pay-as-you go capital improvement
22 program." The second bullet point stated "[t]he proposed rate increased [*sic*] covered only the bond
23 requirements and projected increases in operational expenses." (A true and accurate copy of the slides
24 from the presentation, which appear on p.9, is attached as Exhibit 18).

25 54. More recently, the Council took action indicating that it did not intend to use the revenue
26 from the water rate increase monies to replace water mains. At the Council meeting on April 12, 2011,
27 the Council by a vote of five to zero approved a proposal in the amount of \$38,300 from an engineering
28 firm to design a water main replacement project. The Minutes of that Meeting reflect that the City had
already allocated \$750,000 of redevelopment funds (i.e., not funding from the approved water rate
increase) for the water main replacement project. (See Minutes of Sierra Madre Council Meeting (Apr.
12, 2011) at pp. 22-23 attached as Exhibit 19).

1 55. Upon information and belief, many residents were misled into believing that the revenue
2 from the water rate increase would be used primarily to replace the water mains instead of satisfying
3 water bond and other debt obligations. Indeed, at the Council's November 9, 2010 meeting, former
4 Mayor and Council Member MacGillivray observed that with respect to the City's handling of the water
5 rate increase process, "[p]eople felt misled." (See Minutes of Sierra Madre Council Meeting (Nov. 9,
6 2010) at p. 15 attached as Exhibit 12).

7 **G. The Council Reconsiders The Proposed Water Rate Increase Without Providing**
8 **The Required Written Notice Under Proposition 218**

9 56. As mentioned above, after determining not to pass a water rate increase at the July
10 13, 2010 Council meeting (See, para. 41 and n.1 above), the Council then reconsidered the
11 proposed water rate increase at multiple Council meetings. The City, however, did not provide
12 each "record owner" with written notice of the "amount of" the proposed increase "to be
13 imposed." Moreover, the City did not provide each "record owner" with written notice of the
14 date, time and location of all public hearings, where it was reconsidered as required by
15 Proposition 218. (Cal. Const. Art. XIII D, sec. 6(a)(1)).

16 57. The Council's decision not to send out additional notices regarding the proposed
17 water rate increase, pursuant to Proposition 218, was no mere oversight. Council Member
18 Moran, for one, argued that mailing out new notices pursuant to Proposition 218, "would be a
19 waste of the City's staff time," (See Minutes of Sierra Madre Council (Nov. 9, 2010) at p. 16
20 attached as Exhibit 12). Upon information and belief, Council Member Moran also stated that it
21 would be "fiscally irresponsible" to spend \$9,000 on postage and labor. (See streaming
22 videotape of Sierra Madre Council meeting (Jan. 11, 2011) at [http://kgem.tv/2011/01/sierra-
23 madre-city-council-january-11-2011/](http://kgem.tv/2011/01/sierra-madre-city-council-january-11-2011/)).

24 58. Former Mayor Mosca was likewise opposed to mailing out new notices regarding
25 the proposed water rate increase and cautioned his fellow Council Members against "not get[ting]
26 buried in the [Proposition 218] process." (See Minutes of Sierra Madre Council Meeting (Nov.
27 9, 2010) at p 16 attached as Exhibit 12).

28 59. The Council reconsidered the proposed water rate increase on July 27, 2010. The
City, however, did not provide each "record owner" with written notice of the "amount of" the
proposed water rate increase "to be imposed." Moreover, the City did not provide each "record
owner" with written notice of the basis and reason for the proposed water rate increase nor the
date, time and location of the public hearing on July 27, 2010, as required by Proposition 218.

1 (Cal. Const. Art. XIII D, sec. 6(a)(1); see also Minutes of Council Meeting (July 27, 2010) at
2 pp.9-14 attached as Exhibit 6.)

3 60. The Council reconsidered the proposed water rate increase on October 26, 2010.
4 The City, however, did not provide each "record owner" with written notice of the "amount of"
5 the proposed water rate increase "to be imposed." Moreover, the City did not provide each
6 "record owner" with written notice of the basis and reason for the proposed water rate increase
7 nor the date, time and location of that public hearing on October 26, 2010, as required by
8 Proposition 218. (Cal. Const. Art. XIII D, sec. 6(a)(1); see also true and correct copy of Minutes
of Council Meeting (Oct.26, 2010) at pp.5-13 attached as Exhibit 20).

9 61. The Council reconsidered the proposed water rate increase on November 9, 2010.
10 The City, however, did not provide each "record owner" with written notice of the "amount of"
11 the proposed water rate increase "to be imposed." Moreover, the City did not provide each
12 "record owner" with written notice of the basis and reason for the proposed water rate increase,
13 nor the date, time and location of that public hearing on November 9, 2010, as required by
14 Proposition 218. (Cal. Const. Art. XIII D, sec. 6(a)(1); see also Minutes of Council Meeting
(Nov. 9, 2010) at pp. 4-16 attached as Exhibit 12.).

15 62. Worse still, at the November 23, 2010 Council meeting, the Council actually
16 determined to approve and did approve by first reading an Ordinance incorporating an entirely
17 different water rate increase than what was first proposed on May 17, 2010. The City, however,
18 did not provide each "record owner" with written notice of the "amount of" this different
19 proposed water rate increase "to be imposed." Moreover, the City did not provide each "record
20 owner" with written notice of the date, time and location of that public hearing On November 23,
21 2010, as required by Proposition 218. (Cal. Const. Art. XIII D, sec. 6(a)(1); see also Minutes of
Council Meeting (Nov. 23, 2011) at pp. 4-13 attached as Exhibit 2).

22 63. Finally, at the January 11, 2011 Council meeting, the Council adopted the
23 Ordinance incorporating the entirely different rate increase approved by the Council on
24 November 23, 2010. The City, however, did not provide each "record owner" with written notice
25 of the "amount of" this different proposed water rate increase "to be imposed." Moreover, the
26 City did not provide each "record owner" with written notice of the date, time and location of
27 that public hearing on January 11, 2011, as required by Proposition 218. (Cal. Const. Art. XIII
28 D, sec. 6(a)(1)); see also true and accurate copy of Minutes of Sierra Madre Council Meeting
(Jan 11, 2011) at pp. 7-13 attached as Exhibit 21).

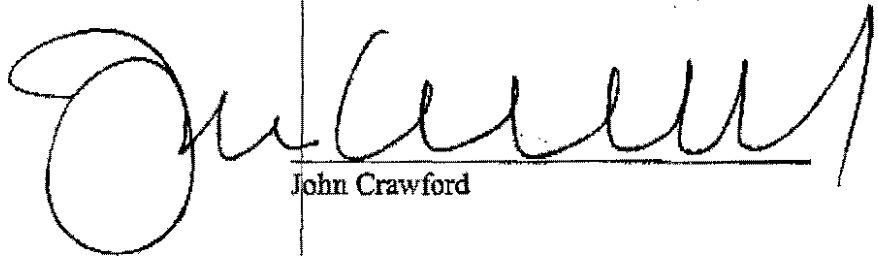
VERIFICATION

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I, John Crawford, declare as follows:

I am the Petitioner in the above-captioned matter. I have read the above Verified Petition for Writ of Mandate and Complaint for Declaratory Relief and I am familiar with its contents. Except where alleged on information and belief, the matters stated therein are true and on that basis I verify that the matters stated therein are true.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this verification is executed on May 5, 2011, in Sierra Madre, California



John Crawford

Exhibits to Writ of Mandate

Exhibit	Description	Date	Meter Nos
1	Ordinance No. 1312	01/11/2011	000001-000003
2	Minutes of Sierra Madre City Council Mtg	11/23/2010	000004-000017
3	Agenda Report for Sierra Madre City Council Mtgs	06/22/2010	000018-000031
4	Notice of Public Hearing	07/2010	000032-000033
5	Minutes of Sierra Madre City Council Mtg	05/11/2010	000034-000049
6	Minutes of Sierra Madre City Council Mtg	07/27/2010	000050-000071
7	Correspondence Re: Protesting the Water Rate Increase and the Cities' Responses	01/2010 ~ 03/2011	000072-000084
8	News articles re: Water Rate Hike from the Sierra Madre Tattler	05/2010 ~ 05/2011	000085-000170
9	Minutes of Sierra Madre City Council Mtg	06/22/2010	000171-000191
10	Minutes of Sierra Madre City Council Mtg	07/13/2010	000192-000208
11	Agenda Report for Sierra Madre City Council Mtg	05/11/2011	000209-000215
12	Minutes of Sierra Madre City Council Mtg	11/09/2011	000216-000237
13	Pasadena Star News Article	09/15/2010	000238-000239
14	Agenda Report Sierra Madre City Council	10/19/2011	000240-000245
15	Patch Article	10/07/2010	000246
16	Sierra Madre Weekly Article	07/15/2010	000247-000249
17	Letter to Earl Richey	08/26/2010	000250-000258
18	PowerPoint Presentation Re: Water Rates	10/12/2010	000259-000271
19	Minutes of Sierra Madre City Council Mtg	04/12/2011	000272-000312
20	Minutes of Sierra Madre City Council Mtg	10/26/2010	000313-000327
21	Minutes of Sierra Madre City Council Mtg	06/11/2011	000328-000350