

RESOLUTION NO. 2023-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GRASS VALLEY ADOPTING GUIDELINES FOR THE SUBMISSION AND TABULATION OF PROTESTS IN RATE HEARINGS CONDUCTED PURSUANT TO ARTICLE XIII D, SECTION 6 OF THE CALIFORNIA CONSTITUTION

WHEREAS, article XIII D, section 6 of the California Constitution requires the City Council of the City of Grass Valley to consider written protests to certain proposed increases to utility charges; and

WHEREAS, this constitutional provision does not offer specific guidance as to how written protests are submitted, or how the City tabulates protests.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Grass Valley that the City shall conduct the protest hearings described in article XIII D, section 6 of the California Constitution as follows:

SECTION 1: Definitions. Unless the context plainly indicates another meaning was intended, the following definitions shall apply in construction of this Resolution.

- A. "Parcel" means a County Assessor's parcel, the owner or occupant of which is subject to the proposed charge at issue in the protest hearing.
- B. "Customer of record" means (i) a person whose name appears on the City's records as a person who has contracted for, or is obligated to pay for, utility services to a particular utility account, or (ii) another person who demonstrates to the reasonable satisfaction of the City Manager or his / her designee that the person is a tenant of real property directly liable to pay the proposed charge.
- C. "Record owner" means a person whose name appears on the County Assessor's latest equalized assessment roll as the owner of a parcel.
- D. "Protest hearing" does not mean an election. Nevertheless, the City will maintain the security and integrity of the protests described below at all times, and it will maintain those protests' confidentiality until they are subject to the disclosure requirements described in Section 7.

SECTION 2: Notice. The City shall provide notice of proposed rates, and of the protest hearing on those proposed rates, at least 45 days prior to the date of the protest hearing. This notice shall be sent via U.S. mail to either of the following:

- A. To the record owner of each identified parcel upon which the rate is proposed for imposition.
- B. If the proposed action is an increase to an existing service charge, the City may mail notice to the addresses to which it customarily mails the billing statements for that service charge.

SECTION 3: Submission of Protests

- A. Any record owner or customer of record who is subject to the proposed utility rates may submit a written protest to those proposed rates. The person submitting a written protest may do so by either of the following:
 - 1. Mailing or personally delivering the written protest to the City Clerk at Grass Valley City Hall, 125 East Main Street, Grass Valley, CA 95945.
 - 2. Submitting the written protest in person at the protest hearing.
- B. The City shall not accept written protests submitted via fax, email, or any other medium not included above.
- C. All written protests, including those mailed to the City, must be received by the end of the protest hearing. Any protest not actually received the close of that hearing, whether or not mailed and postmarked prior to the hearing, shall not be counted.
- D. The City welcomes all input from the community at or before the protest hearing on the proposed rates. However, only a properly formatted and submitted written protest will count toward the majority protest described below in Section 10. Oral objections do not qualify.

SECTION 4: Required Contents for Written Protest. A written protest must include all of the following. It will not be counted if any of the required elements outlined below (A through D) are omitted.

- A. A statement that it is a protest against the proposed charge that is the subject of the protest hearing.

- B. The legibly printed name of the record owner or customer of record who is submitting the protest.
- C. The identity, using its street address or utility account number, of the parcel for which the protest is submitted.
- D. An original signature from the record owner or customer of record who is submitting the protest.

SECTION 5: Protest Withdrawal. Any person who submits a protest may withdraw it by submitting to the City Clerk a written request that the protest be withdrawn prior to the close of the protest hearing. The withdrawal request must contain sufficient information to identify the affected parcel and the name of the record owner or customer of record who submitted both the protest and the request to withdraw it.

SECTION 6: Multiple Persons Qualified to Submit a Protest. More than one person may qualify to submit a written protest for a given parcel. For example, there may be more than one record owner, more than one customer of record, or the record owner and customer of record for the parcel may not be the same person. Any such qualified person may submit a protest. However, only one protest will be counted per parcel for purposes of determining whether there is a majority protest.

SECTION 7: Confidentiality and Disclosure of Protests. To protect the privacy rights of record owners and customers of record, the City will keep written protests confidential until tabulation begins following the protest hearing. Once a protest is opened during that tabulation, it becomes a disclosable public record under state law.

SECTION 8: Validity of Protests. The City Clerk shall not accept any protest as valid if he or she determines that any of the following is true:

- A. The protest does not include one or more of the required components listed in Section 4 of this Resolution.
- B. The required signature is not valid. Whether a signature is valid is entrusted to the reasonable judgment of the City Clerk, who may consult signatures on file with the County Elections Official.
- C. The protest has been altered in a way that raises a fair question as to whether the protest actually expresses the intent of a record owner or customer of record to protest the charges.

- D. The protest was not received by the City Clerk before the close of the protest hearing on the proposed rates.
- E. A request to withdraw the protest was received before the close of the protest hearing on the proposed rates.

SECTION 9: City Clerk's Decision Final. The City Clerk's decision that a protest is not valid shall constitute a final action of the City and shall not be subject to any internal appeal.

SECTION 10: Majority Protest. A majority protest exists if valid written protests are submitted with respect to a majority (50% plus one) of the parcels subject to the proposed rates. While the City may inform the public of the number of parcels served by the City when a notice of proposed rates is mailed, the number of parcels with active customer accounts served by the City on the date of the protest hearing shall control to determine whether a majority protest exists.

SECTION 11: Tabulation of Protests. At the conclusion of the protest hearing, the City Clerk shall tabulate all protests received, including those received the protest hearing itself, and shall report the results of that tabulation to the City Council. If the total number of protests received is insufficient to constitute a majority protest, the City Clerk may find the absence of a majority protest without validating the protests received, but may instead deem them all valid without further examination.

SECTION 12: Report of Tabulation. If the City Clerk determines that he or she will require a substantial amount of time to tabulate the protests, such that it would be unreasonable or inconvenient to complete that tabulation immediately following conclusion of the protest hearing, he or she shall so advise the City Council. The City Council may then adjourn the meeting to allow the tabulation to be completed at a later time. If so, the City Council shall declare when and where the tabulation will take place, and the tabulation must occur in a location where interested members of the public may observe it. The City Council shall also declare when and where it will reconvene to receive and act on the City Clerk's tabulation report.

SECTION 13: Immediate Effect. This Resolution shall become effective immediately upon adoption.

ADOPTED as a resolution of the City Council of the City of Grass Valley at a regular meeting held on the 23rd day of May, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINING:

Jan Arbuckle
Mayor

ATTEST:

APPROVED AS TO FORM:

Taylor Day
City Clerk

Michael G. Colantuono
City Attorney