

RESOLUTION NUMBER 919
A RESOLUTION OF THE CARPINTERIA VALLEY WATER DISTRICT
ADOPTING PROCEDURES FOR RECEIVING AND
TABULATING PROTESTS AGAINST WATER RATE
INCREASES UNDER PROPOSITION 218

WHEREAS, the California Constitution, Article XIII D, section 6 (also referred to as Proposition 218) requires the District to consider written protests to proposed increases to water rates; and

WHEREAS, Proposition 218 does not offer clear guidance as to who is allowed to submit protests, how written protests are to be submitted, or how the District is to tabulate the protests; and

WHEREAS, the California Legislature adopted Government Code sections 53750 et seq. in an effort to clarify the ambiguities contained in the procedures set forth in Proposition 218; and

WHEREAS, the District desires to adopt this Resolution setting forth the District's reasonable interpretation of the protest procedures required by Proposition 218 as clarified in Government Code sections 53750 et seq.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Carpinteria Valley Water District, that the following definitions and procedures are hereby adopted for submitting protests against proposed increases to District water rates:

1. Definitions:
 - a. Parcel: a lot or area of existing land under ownership, lawfully created, that can be conveyed in fee as a discrete unit separate from any contiguous lot and is subject to the proposed charge that is the subject of the hearing.

- b. Parcel owner or record property owner: the person or persons whose name(s) appears on the latest County of Santa Barbara Assessor's equalization assessment role as owner(s).
 - c. Tenant record account holder or customer of record: the person or persons whose name(s) appears on District records as the individual or individuals responsible for payment of fees and charges levied against the account serving a parcel.
2. Notice of a proposed change in water fees, required under section 6(a) of Article XIII D of the California Constitution, shall be mailed postpaid via United States mail to:
- a. All record owners of each identified parcel, as provided in Government Code § 53750(g) and (j).
 - b. All tenants of identified parcels directly liable for payment of District water charges and identified as tenant record account holder or customer of record as reflected in the billing records of the District at the time the notice is given. Such tenants shall be mailed a notice to the address to which the District customarily mails the billing statement for the water charges.
 - c. Notice shall be mailed at least forty-five days prior to the date of the public hearing on the proposed fees.
3. Any record property owner or tenant record account holder may submit a written protest at the public hearing or to the General Manager/Secretary, 1301 Santa Ynez Avenue, Carpinteria, Carpinteria, CA 93013, before the close of the noticed public hearing. Protests must be received or postmarked prior to the close of the public hearing. Protests received or postmarked after that time will not be counted.
4. For all record property owners of each identified parcel, each protest must include:
- a. A statement that is protesting or otherwise opposing the proposed increases in rates and charges that is the subject of the hearing;
 - b. the assessor's parcel number or address of each identified parcel; and
 - c. the printed name and original signature of the record owner of the identified parcel (no facsimiles or digital files permitted).

5. For all tenant record account holder, each protest must include:
 - a. A statement that is protesting or otherwise opposing the proposed increases in rates and charges that is the subject of the hearing;
 - b. the assessor's parcel number or service address of each identified parcel;
 - c. the printed name and original signature of the record owner or tenant of the identified parcel (no facsimiles or digital files permitted); and
 - d. the ten-digit District account number for the service on the parcel.
6. Protests submitted by e-mail or facsimile will not be accepted as these do not contain original signatures. Such protests will not be counted. Although oral comments at the public hearing will not qualify as a formal protest unless accompanied by a written protest, the Board of Directors welcomes input from the community during the public hearing on the proposed fees.
7. If an identified parcel served by the District is owned by more than a single record owner or occupied by more than one tenant, each owner or tenant may submit a protest, but only one protest will be counted per identified parcel. Any one protest submitted in accordance with these rules will be sufficient to count as a protest for that identified parcel.
8. Any person who submits a protest may withdraw the protest by submitting a written request that the protest be withdrawn in person at the public hearing or to the General Manager/Secretary, 1301 Santa Ynez Avenue, Carpinteria, CA 93013, before the end of the public hearing. The withdrawal of a protest shall contain sufficient information to identify the identified parcel and the name of the record owner or tenant who submitted both the protest and the request that it be withdrawn. Only the individual who submitted a protest may withdraw it.
9. The public hearing and protest required under Article XIII D, § 6(a) of the California Constitution (i.e., Proposition 218) prior to the adoption of new or changed fees for water and sewer service is not an election.
10. To ensure transparency and accountability in the fee protest tabulation, protests shall constitute disclosable public records from and after the time they are opened at the close of the public hearing. To protect the privacy interests of those participating in the proceeding and the integrity of the balloting process, protests shall not be open to public inspection prior to the close of the public hearing. The General Manager/Secretary shall establish appropriate and reasonable administrative, technical and physical safeguards to ensure the integrity of protests received by the District.

BE IT FURTHER RESOLVED, that the following procedures are hereby adopted for tabulating protests against proposed increases to water rates:

1. The General Manager/Secretary shall determine the validity of all protests. The General Manager/Secretary may not accept as valid any protest if the General Manager/Secretary determines that any of the following conditions exist:
 - a. The protest does not include the assessor's parcel number or address of an identified parcel served by the District for which the proposed fee is to be imposed.
 - b. The protest does not bear an original signature of a record owner or tenant customer of record of the identified parcel on the protest.
 - c. The protest does not state its opposition to the proposed fee which is the subject of the protest proceeding.
 - d. The protest was not postmarked or received by the District before the close of the public hearing on the proposed fee.
 - e. A request to withdraw the protest is received prior to the close of the public hearing on the proposed fee.
2. The General Manager/Secretary's decision regarding the validity of a protest shall constitute a final action of the District and shall not be subject to any further administrative appeal.
3. The General Manager/Secretary may begin tabulating written protests at any time following the close of the public hearing on the proposed fees. A majority protest exists if written protests are timely submitted and not withdrawn by the record owners or tenants of a majority of the properties subject to the proposed fee.
4. During and after the tabulation of the protests, the protests shall be treated as disclosable public records, as defined in Section 6252 of the Government Code, and shall be equally available for public inspection to both supporters and opponents of the proposed fee.
5. At the conclusion of the public hearing, the General Manager/Secretary shall complete the tabulation of all protests received, including those received during the public hearing and shall report the results of the tabulation to the Board of Directors upon completion.

BE IT FURTHER RESOLVED that District Resolution Number 882 is hereby superseded by Resolution No. 919.


BE IT FURTHER RESOLVED that this activity is not subject to the California Environmental Quality Act because it will not result in a direct or reasonably foreseeable indirect physical change in the environment pursuant to CEQA Guidelines section 15060(c) (2).

PASSED, APPROVED and ADOPTED by the Governing Board of the Carpinteria Valley Water District on the 23rd day of March, 2011, by the following vote:

AYES: Van Wingerden, Ducharme, Roberts, Lieberknecht, Orozco
NAYES: NONE
ABSENT: NONE
ABSTAIN: NONE

Resolution Number 919 was declared approved and adopted.


Charles B. Hamilton, Secretary


June Van Wingerden, President