

RESOLUTION NO. 2021-0365

Adopted by the Sacramento City Council

December 14, 2021

A Resolution of the City Council of the City of Sacramento Adopting Guidelines for the Submission and Tabulation of Protests in Connection with Rate Hearings Conducted Pursuant to Article XIID, Section 6, Subdivision (a) of the California Constitution

BACKGROUND

- A. Article XIID, section 6 of the California Constitution requires the City of Sacramento to consider written protests prior to adopting or increasing certain property-related fees.
- B. This constitutional provision does not offer specific guidance as to who is allowed to submit protests, how written protests are to be submitted, or how the City is to tabulate the protests.
- C. The City Council possesses the authority to adopt the following guidelines when notice of a public hearing regarding adoption or increase of property-related fees has been given by the City pursuant to Article XIID, section 6, subdivision (a) of the California Constitution.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. **Definitions.** Unless the context plainly indicates another meaning was intended, the following definitions shall apply in construction of these guidelines.
- A. "Parcel" means a County Assessor's parcel the owner or occupant of which is subject to the proposed fee that is the subject of the hearing.
 - B. "Record owner" or "parcel owner" means the person or persons whose name or names appear on the County Assessor's latest equalized assessment roll as either the owner or tenant of a parcel.
 - C. "City Clerk" means the City Clerk of the City of Sacramento or the City Clerk's designee in the Department of Utilities or the Recycling and Solid Waste Division that is identified in the notice of the proposed charges.
 - D. A "fee protest proceeding" is not an election, but the City Clerk will maintain the confidentiality of protests as provided below and will maintain the security and integrity of protests at all times.

Section 2. **Notice.** The City shall provide notice of the proposed charges and public hearing via U.S. mail to all record owners of property served by the City at least 45 days prior to the public hearing.

Section 3. **Protest Submittal.**

- A. Any record owner who is subject to the fee that is the subject of the public hearing may submit a written protest for water, wastewater, or storm drainage rate increases, by:
- Delivery to Department of Utilities at City of Sacramento, Attention: Department of Utilities, Customer Service Manager, 1391 35th Avenue, Sacramento CA 95822; or
 - Mail to Department of Utilities at City of Sacramento, Attention: Department of Utilities, Customer Service Manager, 1391 35th Avenue, Sacramento CA 95822; or
 - Personally submitting the protest at the public hearing.
- B. Any record owner who is subject to the fee that is the subject of the public hearing may submit a written protest for garbage, recycling, organics (food or yard waste), or street sweeping rate increases, by:
- Delivery to the Office of the City Clerk, Attention: 218 Protest, Recycling and Solid Waste, 915 I Street, 5th Floor, New City Hall, Sacramento, CA 95814; or
 - Mail to the Office of the City Clerk, Attention: 218 Protest, Recycling and Solid Waste, 915 I Street, 5th Floor, New City Hall, Sacramento, CA 95814; or
 - Personally submitting the protest at the public hearing.
- C. Protests must be received prior to the end of the public hearing, including those mailed to the City. No postmarks will be accepted; therefore, any protest not actually received by the close of the hearing, whether or not mailed prior to the hearing, shall not be counted.
- D. Emailed, faxed, and photocopied protests shall not be counted.
- E. Although oral comments at the public hearing will not qualify as a formal protest unless accompanied by a written protest, the City welcomes input from the community during the public hearing on the proposed charges.

Section 4. **Protest Requirements.**

- A. A written protest must include:
 - (i) A statement that it is a protest against the proposed charge that is the subject of the hearing;
 - (ii) Name of the record owner who is submitting the protest and the parcel number of the property;
 - (iii) Identity, by street address or utility account number, of the parcel with respect to which the protest is made; and
 - (iv) Original signature and legibly printed name of the record owner who is submitting the protest. The City Clerk may exercise discretion to accept an alternative that reasonably establishes the record owner's identity if an accommodation is necessary.
- B. Protests shall not be counted if any of the required elements (i thru iv) outlined in the preceding subsection A are omitted.

Section 5. **Protest Withdrawal.** Any record owner who submits a protest may withdraw it by submitting to the City Clerk a written request that the protest be withdrawn. The withdrawal of a protest shall be submitted before the close of the public hearing and contain sufficient information to identify the affected parcel and the name of the record owner who submitted both the protest and the request that it be withdrawn.

Section 6. **Multiple Record Owners.**

- A. Each record owner of a parcel served by the City may submit a protest. This includes instances where:
 - (i) A parcel is owned by more than a single record owner or more than one name appears on the property tax roll; or
 - (ii) Multiple parcels are served via a single utility account, as master- metered multiple family residential units.
- B. Only one protest will be counted per parcel as provided by Government Code section 53755(b).

Section 7. **Transparency, Confidentiality, and Disclosure.**

- A. To ensure transparency and accountability in the fee protest tabulation while protecting the privacy rights of record owners, protests will be maintained in confidence until tabulation begins following the public hearing.
- B. Once a protest is opened during the tabulation, it becomes a disclosable public record, as required by state law.

Section 8. **City Clerk.**

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

- A. The protest does not state its opposition to the proposed charges.
- B. The protest does not name the record owner of the parcel identified in the protest as of the date of the public hearing.
- C. The protest does not identify a parcel served by the City that is subject to the proposed charge.
- D. The protest does not bear an original signature of the named record owner with respect to the parcel identified on the protest. Whether a signature is valid shall be entrusted to the reasonable judgment of the City Clerk, who may consult signatures on file with the County Elections Official.
- E. The protest was altered in a way that raises a fair question as to whether the protest actually expresses the intent of a record owner to protest the charges.
- F. The protest was not received by the City Clerk before the close of the public hearing on the proposed charges.
- G. A request to withdraw the protest was received prior to the close of the public hearing on the proposed charges.

Section 9. **City Clerk's Decisions 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. A majority protest exists if written protests are timely submitted and not withdrawn by the record owners of a majority (50% plus one) of the parcels subject to the proposed charge.
- B. 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 hearing shall control in determining whether a majority protest exists.

Section 11. **Report of Tabulation.** The City Clerk may provide a report to the Utility Rate Advisory Commission of the number of protests received prior to the hearing. To the extent it is possible, the report may include general categories of the reason why a protest was submitted (i.e., rate increase is too much, other source of funding should be used to pay for the rate increase, etc.) If at the conclusion of the public hearing, additional time to tabulate the protests is necessary, the Utility Rate Advisory Commission may adjourn the meeting to allow the tabulation to be completed on another day or days. If so, the Utility Rate Advisory Commission shall declare the time and place at which the meeting shall be resumed for completion of tabulation, which shall be conducted in a place where interested members of the public may observe the tabulation. A final report tabulating the number of all protests received, both before and during the public hearing, shall be prepared for the City Council following the conclusion of the public hearing.

Section 12. **Tabulation of Protests.** At the conclusion of the public hearing, the City Clerk shall tabulate all protests received, including those received during the public hearing, and shall report the results of the tabulation to the City Council. If the total number of protests received is insufficient to constitute a majority protest, the City Clerk may determine the absence of a majority protest without validating the protests received, but may instead deem them all valid without further examination. Further, if the number of protests received is obviously substantially fewer than the number required to constitute a majority protest, the City Clerk may determine the absence of a majority protest without opening the envelopes in which protests are returned.

Section 13. This resolution will become effective immediately upon adoption.

Adopted by the City of Sacramento City Council on December 14, 2021, by the following vote:

Ayes: Members Ashby, Guerra, Harris, Jennings, Loloee, Schenirer, Valenzuela, Vang, and Mayor Steinberg

Noes: None

Abstain: None

Absent: None

Attest: **Mindy Cuppy** Digitally signed by Mindy Cuppy
Date: 2021.12.23 08:15:11
-08'00'

Mindy Cuppy, City Clerk

The presence of an electronic signature certifies that the foregoing is a true and correct copy as approved by the Sacramento City Council.