



**RESOLUTION 14-2009
APRIL 23, 2009**

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE CAMBRIA COMMUNITY SERVICES DISTRICT
ADOPTING GUIDELINES FOR THE SUBMISSION AND TABULATION OF
PROTESTS IN CONNECTION WITH RATE HEARINGS
CONDUCTED PURSUANT TO ARTICLE XIID, SECTION 6,
OF THE CALIFORNIA CONSTITUTION,
AND RELATED NOTICING**

WHEREAS, Article XIID, Section 6 of the California Constitution requires the Board of Directors of the Cambria Community Services District (CCSD) to consider written protests to certain proposed increases to utility charges; and

WHEREAS, 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 CCSD is to tabulate the protests; and

WHEREAS, for purposes of determining protests, Government Code Section 53755(b) provides for one written protest per parcel, and Government Code Section 53750(g) provides that identified parcels are those parcels that an agency has identified as a parcel upon which a proposed fee or charge is to be imposed; and

WHEREAS, to implement these provisions, and given the history of subdivision and development in Cambria, where the CCSD serves customers owning Assessor Parcel Numbers (APN) with more than one lot and the CCSD also serves customers with more than one APN, the attached Guidelines provide that a majority protest is to be determined based upon the number of parcels with active accounts served by the CCSD on the date of the public hearing, and defines "parcel" as a piece of land or property identified by Assessor's Parcel Number that is served by the CCSD, the owner or occupant of which is subject to the proposed charge; and

WHEREAS, the Board of Directors of the CCSD may direct the General Manager to mail notice of proposed water charges and proposed wastewater charges, effective July 1, 2009, to each record owner and record customer of every parcel served by the CCSD, scheduling the rates protest hearings for Monday, June 15, 2009, at 12:30 p.m., at Cambria Veterans Memorial Building, at 1000 Main Street, in Cambria, CA; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the CCSD hereby adopts the Guidelines for the Submission and Tabulation of Protests attached hereto as Exhibit "A" and incorporated herein by reference.

BE IT FURTHER RESOLVED that the Board of Directors of the CCSD hereby directs the General Manager to mail out a notice of proposed water charges and proposed wastewater charges, effective July 1, 2009, to each record owner and record customer of every parcel served by the CCSD.

PASSED, APPROVED AND ADOPTED on this 23rd day of April 2009.

Gregory W. Sanders
President, Board of Directors

ATTEST:

APPROVED AS TO FORM:

KATHY A. CHOATE, District Clerk

TIM CARMEL, District Counsel

Attachment “A”

CAMBRIA COMMUNITY SERVICES DISTRICT

GUIDELINES FOR THE SUBMISSION AND TABULATION OF PROTESTS

Where notice of a public hearing with respect to the adoption or increase of a utility charge has been given by the CCSD pursuant to Article XIID, Section 6(a) of the California Constitution, the following guidelines shall apply.

DEFINITIONS

Unless the context plainly indicates another meaning was intended, the following definitions shall apply in construction of these Guidelines:

1. “Parcel” means a piece of land or property identified by Assessor’s Parcel Number (APN) that is served by the CCSD, as determined by the San Luis Obispo County Tax Assessor.
2. “Record customer” and “customer of record” mean the person or persons whose name or names appear on the CCSD’s records as the person who has contracted for, and is obligated to pay for, utility services to a particular utility account.
3. “Record owner” or “parcel owner” means the person or persons whose name or names appear on the San Luis Obispo County Tax Assessor’s latest equalized assessment roll as the owner of a parcel.
4. A “fee protest proceeding” is not an election, but the District Clerk will maintain the confidentiality of protests as provided below and will maintain the confidentiality and integrity of protests at all times.
5. “Public hearing” means the public hearing on the proposed charges.

NOTICE OF PROPOSED RATES AND PUBLIC HEARING

6. ***Notice Delivery.***
 - A. The CCSD shall give notice of proposed charges and public hearing on the proposed charges via 1st-class U.S. mail to all record owners and customers of record served by the CCSD, effective the date the notice is approved by the Board of Directors.
 - B. The CCSD will mail each notice subject to a request that the U.S. Postal Service provide forwarding address information to the CCSD for any notices forwarded by the U.S. Postal Service.

- C. If the U.S. Postal Service returns any notice to the CCSD as undeliverable and provides the CCSD a forwarding address, the CCSD shall mail the notice to the forwarding address, but its doing so does not extend the time in which protests may be submitted with respect to the proposed charges that are the subject of the public hearing.
- D. The CCSD will provide the notice of proposed charges and public hearing to each record owner and/or record customer who initiates CCSD utility services after the notice is mailed and before the date of the public hearing on the proposed charges, but its doing so does not extend the time in which protests may be submitted with respect to the proposed charges that are the subject of the public hearing.
- E. The CCSD will post the notice of proposed charges and public hearing at its official posting site after the notice is approved by the Board of Directors.

SUBMISSION OF PROTESTS

7. *Protest Requirements.*

A. A written protest must include:

- (i) A statement that it is a protest against the proposed charge which is the subject of the hearing; and
- (ii) Name of the record owner or customer of record; and
- (iii) Identity of the affected parcel by assessor's parcel number or service address; and
- (iv) Original signature of the record owner or customer of record with respect to the identified parcel.

B. Protests shall not be counted if any of the required elements (i thru iv) outlined in the preceding subsection "7.A." are omitted.

C. A notice of proposed charges may, but need not, include a form by which record owners and customers of record may note their protest of, or support for, a proposed charge. However, use of such a protest form shall not be required and the CCSD shall accept any protest which complies with these Guidelines.

8. *Protest Submittal.*

A. Any record owner or customer of record who is subject to the proposed utility charges, which are the subject of the public hearing, may submit a written protest to the District Clerk, by:

- Delivery to the District Clerk's Office, 1316 Tamson Drive, Suite 201, Cambria, CA 93428,

- Mail to the CCSD, Attention: District Clerk, Post Office Box 65, Cambria, CA 93428, or
 - Personally submitting the protest at the public hearing.
- B. Protests must be received by the end of the public hearing, including those mailed to the CCSD. No postmarks will be accepted; therefore, any protest not actually received by the close of the public hearing, whether or not mailed prior to the public hearing, shall not be counted.
- C. In order to reduce duplicate protests and to avoid fraud, a protest may only be submitted by the record owner or customer of record who signed the protest or an individual authorized in writing by the record owner or customer of record to submit the protest. That written authorization shall be provided to the District Clerk so the District Clerk may accept a protest from someone other than the person who signed it.
- D. Designated trustees, legal guardians, probate estate executors or administrators, court-appointed or other legal representatives, or property managers/agents of a record owner or a record customer may sign a protest on behalf of a record owner or a record customer. Anyone other than the record owner or record customer's designee shall provide the District Clerk with the written authorization to act in such capacity.
- E. Emailed protests shall not be counted. Only protests with original signatures shall be counted.
- F. Copied protests shall not be counted. Only protests with original signatures shall be counted.
- G. Although oral comments at the public hearing will not qualify as a formal protest unless accompanied by a written protest, the CCSD Board of Directors welcomes input from the community during the public hearing on the proposed charges.

9. ***Protest Withdrawal.***

Any person who submits a protest may withdraw it by submitting to the District Clerk a signed written request that the protest be withdrawn. The withdrawal of a protest shall identify the affected parcel and the name of the record owner or customer of record who submitted both the protest and the request that it be withdrawn.

10. ***Multiple Record Owners or Customers of Record.***

- A. Each record owner or customer of record of a parcel served by the CCSD may submit a protest. This includes, but is not limited to, instances where:
 - (i) A parcel is owned by more than a single record owner or more than one name appears on the CCSD's records as the customer of record for the parcel, or
 - (ii) A customer of record is not the record owner, or

- (iii) A parcel includes more than one record customer, or
- (iv) Multiple parcels are served via a single utility account such as master-metered condominium units and multiple family residential units.

B. Only one protest will be counted per parcel.

C. Any one protest submitted in accordance with these rules will be sufficient to count as a protest for the identified parcel.

11. ***CCSD as Record Owner of Parcel.***

Parcels owned by the CCSD that receive utility services, but are not subject to the proposed charges which are the subject of the public hearing, shall not be included in the parcel count for tabulation.

12. ***Transparency, Confidentiality, and Disclosure.***

A. To ensure transparency and accountability in the fee protest tabulation, while protecting the privacy rights of record owners and customers of record, 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.

TABULATION OF PROTESTS

13. ***Protest Official.***

The CCSD shall retain a neutral third-party with experience as a City, County or District Clerk or elections official (the Protest Official) to determine the validity of all protests. The Protest Official shall not accept as valid any protest if he or she determines that any of the following conditions exist:

A. The protest does not state its opposition to the proposed charges.

B. The protest does not name the record owner or record customer 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 CCSD which is subject to the proposed charge.

D. The protest does not bear an original signature of the named record owner of or record customer with respect to the parcel identified on the protest. Whether a signature is valid shall be entrusted to the reasonable judgment of the Protest Official, who may review and compare it with signatures on file with the County Elections Official and/or the CCSD. If the signature is questionable, it will be retained for further follow-up with the record owner or customer of record. Should the count be close enough that any

retained protest might change it, the Protest Official will mail a notice to the record owner or customer of record requesting they contact the Protest Official within five (5) business days to verify their signature.

- 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 or a customer of record to protest the charges.
- F. The protest was emailed or copied.
- G. The protest was not received by the District Clerk before the close of the public hearing on the proposed charges.
- H. A request to withdraw the protest was received prior to the close of the public hearing on the proposed charges.
- I. The Protest Official's decision that a protest is not valid shall constitute a final administrative action of the CCSD.

14. ***Majority Protest.***

- A. A majority protest exists if protests are timely submitted and not withdrawn by the record owners of, or customers of record with respect to, a majority (50% plus one) of the parcels subject to the proposed charge.
- B. The number of parcels with active customer accounts served by the CCSD on the date of the public hearing shall control in determining whether a majority protest exists.
- C. The CCSD will inform the public of the number of parcels served by the CCSD when the notice of proposed charges is mailed.

15. ***Tabulation of Protests.***

At the conclusion of the public hearing, the Protest Official shall tabulate all protests received, including those received during the public hearing, and shall report the results of the tabulation to the CCSD Board of Directors.

16. ***Report of Tabulation.***

If at the conclusion of the public hearing the Protest Official determines that he or she will require additional time to tabulate the protests, he or she shall so advise the CCSD Board of Directors, which may continue the meeting to allow the tabulation to be completed on another day or days. If so, the CCSD Board shall declare the time and place of tabulation, which shall be conducted in a place where interested members of the public may observe the tabulation, and the Board shall declare the time at which the meeting shall be resumed to receive and act on the tabulation report of the Protest Official.