

## RESOLUTION NO. 22-1050

### RESOLUTION OF THE BOARD OF DIRECTORS OF THE JOSHUA BASIN WATER DISTRICT APPROVING GUIDELINES FOR THE SUBMISSION AND TABULATION OF PROTESTS IN CONNECTION WITH RATE HEARINGS CONDUCTED PURSUANT TO ARTICLE XIID, SECTION 6 OF THE CALIFORNIA CONSTITUTION

**BE IT RESOLVED**, by the Board of Directors of the Joshua Basin Water District ("District") as follows:

**WHEREAS**, Article XIID, Section 6 of the California Constitution requires the Board of Directors to consider written protests to certain proposed increases to utility charges; and

**WHEREAS**, this constitutional provision does not offer specific guidance as to who may submit protests, how written protests are to be submitted, or how the District is to tabulate protests.

**WHEREAS**, upon adoption of this resolution, any and all resolutions, or rules or regulations of this District in conflict with it, shall be repealed and shall have no further force or effect. This resolution supersedes all prior resolutions of the District to the extent that such resolutions established guidelines for the submission and tabulation of protests in connection with rate hearings conducted by the District pursuant to Article XIID, Section 6 of the California Constitution.

**IT IS, THEREFORE, RESOLVED** by the Board of Directors of the Joshua Basin Water District ("District") that when notice of a public hearing with respect to the adoption or increase of Water charges has been given by the District pursuant to Article XIID, Section 6(a) of the California Constitution, the following shall apply:

#### **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 charge that is the subject of the hearing.
- B. "Record customer" and "customer of record" mean the person or persons whose name or names appear on the District records as the person who has contracted for, or is obligated to pay for, utility services to a particular utility account.
- C. "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 the owner of a parcel.
- D. A "fee protest proceeding" is not an election, but the District will maintain the confidentiality of protests as provided below and will maintain the security and integrity of protests at all times.

## **SECTION 2: Notice Delivery.**

Notice of proposed rates and public hearing shall be as follows:

- A. The District shall give notice of proposed charges via U.S. mail to all record owners and customers of record served by the District.
- B. The District will post the notice of proposed charges and public hearing at its official posting sites.

## **SECTION 3: Protest Submittal.**

- A. Any record owner or customer of record who is subject to the proposed utility charge that is the subject of the hearing may submit a written protest to the District, by:
  - (i) Delivery to the District 's Office at 61750 Chollita Road, Joshua Tree, CA 92252 during published business hours
  - (ii) Mail to District at PO Box 675, Joshua Tree, CA 92252, or
  - (iii) Personally submitting the written protest at the public hearing.
- B. Protests must be physically received by the end of the public hearing, including those mailed to the District. No postmarks will be accepted; therefore, any protest not physically received by the close of the hearing, whether or not mailed prior to the hearing, shall not be counted.
- C. Because an original signature is required, emailed, faxed and photocopied protests shall not be counted.
- D. 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 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 or customer of record who is submitting the protest;
  - (iii) Identification of assessor's parcel number, street address, or utility account number of the parcel with respect to which the protest is made;
  - (iv) Original signature and legibly printed name of the record owner or customer of record who is submitting the protest.

- 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 person who submits a protest may withdraw it by submitting to the District a written and signed request that the protest be withdrawn. The withdrawal of a protest shall 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 that it be withdrawn.

**SECTION 6: Multiple Record Owners or Customers of Record.**

- A. Each record owner or customer of record of a parcel served by the District may submit a protest. This includes instances where:
- (i) A parcel is owned by more than one record owner or more than one name appears on the District's records as the customer of record for a 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, 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 and customers of record, protests will be maintained in confidence until tabulation begins following the public hearing.
- C. Once a protest is opened during the tabulation, it becomes a disclosable public record, as required by state law and will be maintained in District files for two years.

**SECTION 8: District .**

The District shall not accept as valid any protest if it 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 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 District that 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 District, 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 or a customer of record to protest the charges.
- F. The protest was not received by the District 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: District's Decisions Final.**

The District's decision that a protest is not valid shall constitute a final action of the District 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, or customers of record with respect to, a majority (50% plus one) of the parcels subject to the proposed charge.
- B. While the District may inform the public of the number of parcels served by the District when a notice of proposed rates is mailed, the number of parcels with active customer accounts served by the District on the date of the hearing shall control in determining whether a majority protest exists.

**SECTION 11: Tabulation of Protests.**

At the conclusion of the public hearing, the District shall tabulate all protests received, including those received during the public hearing, and shall report the result to the Board of Directors. If the number of protests received is insufficient to constitute a majority protest, the District 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 District may determine the

absence of a majority protest without opening the envelopes in which protests are returned.

**SECTION 12: Report of Tabulation.**

If at the conclusion of the public hearing, the District determines that it will require additional time to tabulate the protests, the General Manager, or the General Manager's designee, shall so advise the Board of Directors, which may adjourn the meeting and/or continue the consideration of any considered rates following the close of the public hearing so as to allow the tabulation to be completed on another day or days. If so, the Board of Directors 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 of Directors shall declare the time at which the matter shall be resumed to receive and act on the tabulation report of the District.

**SECTION 13:** This resolution will become effective immediately upon adoption.

**ADOPTED** by the Board of Directors of the Joshua Basin Water District ("District"), County of San Bernardino, State of California at a special meeting on the 14<sup>th</sup> day of **December**, 2022, by the following vote:

**AYES:**           —

**NOES:**           —

**ABSENT:**       —

**ABSTAIN:**      —

**WITNESS** my hand and Seal of said District this 15th day of December 2022.

By: \_\_\_\_\_  
Thomas Floen, President, Board of Directors

ATTEST: \_\_\_\_\_  
Sarah Johnson, General Manager & Board Secretary

