

**RESOLUTION NO. 2021-08**

**RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE YORBA LINDA WATER DISTRICT  
ADOPTING GUIDELINES FOR THE CONDUCT OF  
PROPOSITION 218 PUBLIC HEARINGS**

**WHEREAS,** pursuant to Water Code Section 31007, the Board of Directors of the Yorba Linda Water District (YLWD or District) is required to set rates and charges at a level which yield an amount of revenue sufficient to pay for operating expenses, provide for repairs and depreciation of works, and pay the principal and interest on any bonded debt; and

**WHEREAS,** certain provisions of Proposition 218 (Section 6 of Article XIID of the California Constitution), impose specific procedural and substantive requirements with respect to the imposition of certain new or increased fees and charges; and

**WHEREAS,** the Board of Directors desires to establish guidelines in alignment with these requirements for the conduct of Proposition 218 public hearings and the tabulation of written protests.

**NOW THEREFORE BE IT RESOLVED** by the Board of Directors of the Yorba Linda Water District as follows:

**Section 1. Definitions**

- A. "Parcel" means a County Assessor's parcel the owner or occupant of which is subject to the proposed fee or charge that is the subject of the hearing.
- B. "Record owner" means the person or persons whose name or names appear on the County Assessor's latest equalized secured property tax assessment roll as the owner of a parcel.
- C. "Proposition 218 public hearing" is an official proceeding conducted by the Board of Directors and is not an election.
- D. "Majority protest" constitutes 50% plus one of the parcels subject to the proposed fee or charge as of the date of the public hearing.

**Section 2. Notice Delivery**

- A. The District shall give notice of Proposition 218 public hearings to consider proposed fees or charges via U.S. mail to record owners and customers of record within the District's boundary that receives or are eligible to receive water or wastewater service as a customer of YLWD at least forty-five (45) days prior to the date of the hearing.

- B. Failure of any person to receive the notice will not invalidate the proceedings.
- C. The District shall also post the notice at its official posting sites and communication outlets.

**Section 3. Proposition 218 Public Hearing**

- A. At the hearing, the Board of Directors shall hear and consider public testimony regarding the proposed fees and charges and accept written protests until the close of the hearing.
- B. The Board of Directors may impose a reasonable time limit on the length of the entire hearing.

**Section 4. Tabulation of Written Protests**

- A. At the conclusion of the hearing, the Board Secretary or other designated neutral party shall tabulate any written protests, including those that may be submitted during the hearing, and report the results of the tabulation to the Board of Directors.
- B. If the total number of protests received is insufficient to constitute a majority protest, the Board Secretary may determine the absence of a majority protest without validating the protests received, but may instead deem them all valid without further examination.
- C. If the total number of protests received is potentially sufficient to constitute a majority protest, the Board Secretary may determine that further examination and validation of the protests is required.
- D. If it is not possible to complete tabulation and/or validation of the protests on the same day as the hearing, the Board of Directors may continue the meeting to a later date.
- E. Only one protest shall be counted per parcel as provided by California Government Code Section 53755(b).
- F. A separate, written, and signed protest shall be required for each parcel.
- G. The Board Secretary's decision, after consultation with the District's General Counsel, that a protest is or is not valid shall constitute a final action of the District and shall not be subject to any internal appeal.

## **Section 5. Requirements for and Submittal of Written Protests**

- A.** Any record owner or customer of record who is subject to the proposed fee or charge which is the subject of the hearing may submit a written protest by:
- Postage pre-paid U.S. mail or personal delivery to the Board Secretary at 1717 E Miraloma, Placentia CA 92870 by the close of the hearing.
  - No postmarks shall be accepted; therefore, any protest not actually received before the close of the hearing, whether or not mailed prior to the hearing, shall not be counted.
  - E-mailed, faxed, and photocopied protests shall not be counted.
  - Oral comments at the public hearing shall not qualify as a formal protest unless accompanied by a written protest.
- B.** Protests must include:
- A statement that it is a protest against the proposed fee or charge, which is the subject of the hearing.
  - Name of the record owner or customer of record who is submitting the protest.
  - Identify, by street address or assessor's parcel number (APN), of the parcel with respect to which the protest is made.
  - Original signature and legibly printed name of the record owner or customer of record who is submitted the protest.
- C.** Protests may be withdrawn in writing by submitting a request to the Board Secretary prior to the close of the hearing. The 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 that it be withdrawn.

## **Section 6. Transparency and Confidentiality**

- A.** To ensure transparency and accountability, written protests shall remain unopened and secured by the Board Secretary until tabulation begins following the public hearing.
- B.** Prior to the public hearing, neither the protest nor any envelope in which it is submitted will be treated as a public record, pursuant to California Government Code Section 6254(c) and any other applicable

law, in order to prevent potential unwarranted invasions of the submitter's privacy and to protect the integrity of the proceedings.

**Section 7. Effective Date**

A. This Resolution shall take immediate effect.

**Section 8. Severability**

A. If any subdivision, paragraph, sentence, clause or phrase of this Resolution is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or enforcement of the remaining portions of this Resolution.

**PASSED AND ADOPTED** this 13<sup>th</sup> day of April 2021 by the following called vote:

AYES: Director DesRoches, Hawkins, Lindsey, and Miller  
NOES: Director Jones  
ABSTAIN: None  
ABSENT: None



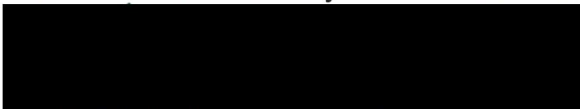
Phil Hawkins, President  
Yorba Linda Water District

ATTEST:



Annie Alexander, Board Secretary  
Yorba Linda Water District

Reviewed as to form by General Counsel:



Andrew B. Gagen, Esq.  
Kidman Gagen Law LLP

