

Not Yet Approved

RESOLUTION NO. _____

Resolution of The City Council of The City of Palo Alto Adopting
Guidelines For The Submission And Tabulation of Protests In
Connection with Rate Hearings Conducted Pursuant To Article XIII D,
Section 6 of The California Constitution; Repealing And Replacing Resolution 8815

WHEREAS, Article XIII D, Section 6 of the California Constitution requires the City to consider written protests to proposed increases to certain utility rates; 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 City is to tabulate the protests; and

WHEREAS, in 2008 by its Resolution No. 8815, this Council adopted guidelines to govern these matters; and

WHEREAS, the City Council desires to update those guidelines to permit protests to be submitted by email, and to repeal and replace Resolution No. 8815.

NOW, THEREFORE, the Council of the City of Palo Alto does RESOLVE as follows:

SECTION 1. The City Council adopts the guidelines for the submission and tabulation of protests attached as Exhibit "A" and incorporated by reference.

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SECTION 2. The City Council repeals Resolution No. 8815 and directs that it be replaced by the Resolution adopted today.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

APPROVED:

City Clerk

Mayor

Assistant City Attorney

City Manager

Director of Utilities

EXHIBIT A

City of Palo Alto, California

GUIDELINES FOR THE SUBMISSION AND TABULATION OF PROTESTS

Where notice of a public hearing with respect to a utility rate increase has been given by the City pursuant to Article XIII D, Section 6 of the California Constitution, the following shall apply:

Submission of Protests

1. Any property owner or utility customer may submit a written protest to the City Clerk, either by delivery to the Office of the City Clerk during its business hours or by submitting the protest to the City Clerk (or his or her designee) at the public hearing. Protests must be *received* no later than the end of the public testimony portion of the public hearing. Protests received after that deadline, even if postmarked or emailed prior to the deadline, cannot be accepted.
2. Each protest must (i) state that it is a protest against the utility rate increase, (ii) identify the property owner or utility customer making the protest, (iii) identify the affected property or service location (by assessor's parcel number, street address, or utility account number) and (iv) include the signature of the person making the protest.
3. The notice of the public hearing may designate an email address at which written protests will be accepted. If an email address is so designated, the City will treat PDF files sent to the email address as written protests so long as (i) the PDF file contains all information (including a signature) required by these guidelines to be included in a written protest, and (ii) the PDF file is received at the email address no later than the date and time indicated on the notice as the deadline for email submissions.
4. To be valid, signatures on protests sent via email must be provided via either (i) a document that has been signed and scanned, or (ii) an electronically signed document. Emails that do not contain a valid signature, for example emails that close with a typed name, will not be accepted.
5. Although oral comments at the public hearing will not qualify as a formal protest unless accompanied by a written protest, the City Council welcomes input from the community during the public hearing on the proposed fees.
6. If a parcel of property served by the City has multiple property owners or customers, a maximum of one written protest will be counted for the parcel and any one written protest submitted in accordance with these rules will be sufficient to count as a protest for that property.
7. If more than one type of fee (i.e., water, refuse) is proposed for increase on the notice of public hearing, then a person submitting a protest may indicate whether the protest is submitted with respect to all fees proposed for increase or only some of the fees proposed for increase.
8. Any person 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 contain sufficient information to identify the affected parcel and the name of record owner or customer who submitted both the protest and the request that it be withdrawn.
9. A fee protest proceeding is not an election.

10. To ensure transparency and accountability in the fee protest tabulation, protests are disclosable public records once they are received by the City.
11. For purposes of these guidelines, property ownership includes tenancies of real property as is set forth in Article XIII D, Section 2(g) of the California Constitution.
12. If the person submitting the protest was not the addressee of a mailed notice of public hearing, he or she should include with the protest an explanation (and written proof if available) of how he or she is an owner or customer of the parcel of real property for which the protest was submitted.

Tabulation of Protests

1. The City Clerk shall determine the validity of all protests. The City Clerk shall not accept as valid any protest if the City Clerk determines that any of the following conditions exist:
 - a. The protest does not identify a property receiving the utility service that is the subject of the hearing.
 - b. The protest does not bear the signature of an owner of the parcel identified on the protest or a customer with respect to the parcel identified on the protest.
 - c. The protest does not state its opposition to the proposed fees.
 - d. The protest was not timely received by the City Clerk.
 - e. A request to withdraw the protest is received prior to the close of the public input portion of the hearing on the proposed fees.
2. If a protest does not state that it is limited to a specific utility service (i.e. water, sewer), then the City Clerk shall consider it to be a protest with respect to all services set forth on the notice of public hearing that are provided to the property.
3. The City Clerk's decision that a protest is not valid or does not apply to a specific fee shall constitute a final action of the City and shall not be subject to any internal appeal.
4. A majority protest exists if written protests are timely submitted and not withdrawn by the record owners of, or customers with respect to, a majority (50% plus one) of the parcels of real property subject to the proposed fee.
5. At the conclusion of the public hearing, the City Clerk shall complete the tabulation of all protests timely received and shall report the results of the tabulation to the City Council upon completion. If review of the protests timely received demonstrates that the number received is manifestly less than one-half of the parcels served by the City with respect to the fee which is the subject of the protest, then the Clerk may advise the City Council of the absence of a majority protest without determining the validity of all protests. If, owing to the number of protests received, the City Clerk determines that he or she will not be able to complete the tabulation at the Council meeting at which the hearing was conducted, the City Clerk may announce a time and place at which he or she will tabulate the protests and may delay his or her announcements of the results to a subsequent meeting of the City Council. Any tabulation must be done in a location where it can be observed by the public.