

Goleta Water District  
BOARD OF DIRECTORS



*William Rosen – President*  
*Jack Cunningham – Vice-President*  
*Bert Bertrando – Director*  
*Lauren Hanson – Director*  
*Rick Merrifield – Director*  
*John McInnes – General Manager*

**Special Meeting Minutes**

**Action Summary**

**Thursday, March 31, 2011**

**5:30 P.M.**

**Goleta Union School District  
Board Room  
401 North Fairview Avenue, Goleta, CA 93117**

**Agendas, Supplemental Materials and Minutes of the Goleta Water District Board of Directors meetings are available on the internet at [www.goletawater.com](http://www.goletawater.com)**

5:30 p.m. ....Convened to regular session

**Roll call** – President Rosen; Vice President Cunningham; Director Bertrando; Director Hanson; Director Merrifield

**ALSO PRESENT WERE:** John McInnes, General Manager; Matt Anderson, Administrative Manager/CFO; Tom Bunosky, Operations Manager; Chris Rich, Water Supply & Conservation Manager; Fran Farina, General Counsel; Mike Colantuono, Special Counsel of Colantuono & Levin, PC; Grant Hoag, of Camp Dresser & McKee, Inc.; and Beth Horn, Assistant Board Secretary

#### Welcome and Opening Remarks

President Rosen welcomed everyone to the special Goleta Water District Board of Directors Meeting to discuss new water service charges and alternatives that are proposed for the new potential rates. President Rosen explained that at the special Board meeting on Thursday, April 7<sup>th</sup>, the Board will select one of the options that will be discussed this evening and at that time, the District will comply with the requirements of Proposition 218 and then in the beginning of June, the Board will meet to count any protests that have been received and enact an ordinance which will put into effect an action with respect to rates. President Rosen mentioned that since he arrived at the District as a Board member, the District has: substantially restructured its Board operations, changed its management with new people in charge, retained a new accounting firm, restructured a substantial portion of the District's debt, addressed issues relating to billing errors and past due accounts, retained special counsel to deal with labor relations, adopted a Capital Improvement Program, the budget process is based upon a zero based budget procedure, and eliminated over 1 million dollars in the past year to keep expenses in line with costs and revenues. Also, President Rosen pointed out that unfortunately these actions have not been sufficient, the District has extraordinary expenses with respect to State water, Cachuma water, and the problem is that the District does not have any operating or capital reserves.

#### 1) GUIDELINES FOR SUBMISSION AND TABULATION OF PROTESTS

##### a) Presentation

The Board received a presentation from Mr. Colantuono regarding guidelines for submission and tabulation of protests.

Speakers on this item were Jack Ruskey, Susan Petrovich, Ann Ostrowsky, Sherm Ostrowsky, and Patti Close.

b) Resolution

A motion was made by Director Merrifield, seconded by Director Hanson, to approve resolution 2011-08 and Exhibit A as modified 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. The motion carried by the following roll call vote:

Ayes: 5 – Directors Bertrando, Cunningham, Hanson, Merrifield, Rosen

Resolution 2011-08 is attached to these minutes.

2) WATER RATES AND NEW WATER SUPPLY CHARGE

a) The Board received a presentation from Mr. Hoag concerning findings related to the cost of service and financial plan studies and potential adjustments to the District’s new water supply charge.

Speakers on this item were Jack Ruskey, Susan Petrovich, Jay Ruskey, Paul Van Leer, Jeff Nelson, Kirsten Deshler, Ann Ostrowsky, Sherm Ostrowsky and Jim Marino.

b) President Rosen announced that the Board of Directors will have a special meeting on April 7, 2011 for the purpose of considering changes to water rates and the new water supply charge.

8:30 p.m.....Meeting adjourned

DATED: 4/13/11

MINUTES PREPARED BY:

Beth Horn  
BETH HORN, ASSISTANT BOARD SECRETARY

DATE APPROVED: 4/12/11

ATTEST:

Beth Horn  
BETH HORN, ASSISTANT BOARD SECRETARY

William C. Rosen  
WILLIAM C. ROSEN, PRESIDENT

RESOLUTION NO. 2011 – 08

RESOLUTION OF THE BOARD OF DIRECTORS OF THE GOLETA WATER 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

WHEREAS, Article XIID, Section 6 of the California Constitution requires the Board of Directors of the Goleta Water District 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 the protests.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Goleta Water District, to adopt the Guidelines for the Submission and Tabulation of Protests attached hereto as Exhibit "A" and incorporated herein by reference.

FURTHER RESOLVED that this Resolution shall take effect immediately.

PASSED, APPROVED and ADOPTED by the Board of Directors of the Goleta Water District at a special meeting held on the 31<sup>st</sup> day of March, 2011 by the following roll call vote:

A YE: Directors Bertrando, Cunningham, Hanson, Merrifield, Rosen

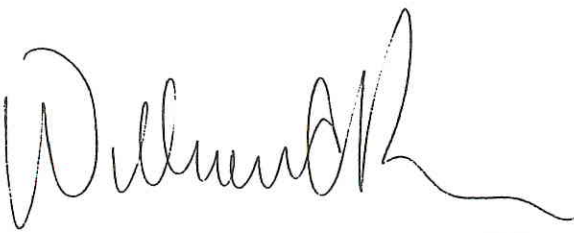
NAY: None

ABSENT: None

ABSTAIN: None

ATTEST:

  
\_\_\_\_\_  
JOHN D. MCINNES  
DISTRICT SECRETARY

  
\_\_\_\_\_  
WILLIAM C. ROSEN, PRESIDENT  
BOARD OF DIRECTORS

## Exhibit "A"

### GOLETA WATER 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 District 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 County Assessor's parcel the owner or occupant of which is subject to the proposed charge that is the subject of the hearing.
2. "Record customer" and "customer of record" mean a person or persons whose name or names appear on the District's records as the person or persons who has or have contracted for, and is or are obligated to pay for, utility services to a particular utility account.
3. "Record owner" or "parcel owner" means a person or persons whose name or names appear on the County Assessor's latest equalized assessment roll as the owner of a parcel.
4. A "fee protest proceeding" is not an election, but the General Manager will maintain the confidentiality of protests as provided below and will maintain the security and integrity of protests at all times.
5. "Non-record owner" means (i) a person or persons who has a legal interest in a parcel but who is not a "record owner" of that parcel or (ii) a person who is legally obligated to pay as to that parcel a utility charge for which notice and hearing are given under these Guidelines.

#### NOTICE OF PROPOSED RATES AND PUBLIC HEARING

5. *Notice Delivery*; Proof of Mailing

- A. The District shall give notice of proposed charges via U.S. mail, postpaid to all customers of record served by the District.
- B. The District will post the notice of proposed charges and public hearing at its official posting site.
- C. The General Manager shall execute an affidavit or certificate of service of notice containing such information describing the document served and including a list of each person and such person's address served with notice.

## **SUBMISSION OF PROTESTS**

### **6. *Protest Submittal.***

- A. Any record owner, customer of record or non-record owner who is subject to the proposed utility charge which is the subject of the hearing may submit a written protest to the General Manager, by:
  - Delivery to the District Office, 4699 Hollister Avenue, Goleta, CA 93110-1999,
  - Mail to a post office box identified for such purpose on the Notice of Public Hearing prior to the day of the public hearing, 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 District. 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.
- C. 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 District Board of Directors welcomes input from the community during the public hearing on the proposed charges.

### **7. *Protest Requirements.***

- A. A written protest must include:
  - (i) A statement that it is a protest or otherwise opposes the proposed charge which is the subject of the hearing;
  - (ii) Name of the record owner, customer of record or non-record owner;

- (iv) Original signature of the record owner, customer of record or non-record owner with respect to the identified parcel; and
- (v) If the protest is not submitted by a record owner or a customer of record with respect to the identified parcel, evidence that the person submitting the protest is a non-record owner of the identified parcel.

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

8. ***Protest Withdrawal.***

Any person who submits a protest may withdraw it by submitting to the General Manager a written request that the protest be withdrawn. The withdrawal of a protest shall contain sufficient information to identify the affected parcel and the record owner, customer of record or non-record owner who submitted both the protest and the request that it be withdrawn.

9. ***Multiple Record Owners, Customers of Record or Non-Record Owner.***

A. Each record owner, customer of record, or non-record owner 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 the parcel, or
- (ii) A customer of record is not the record owner (as a rental property), or
- (iii) A parcel includes more than one record customers, or
- (iv) Multiple parcels are served via a single utility account, as master-metered multiple-family residential units, or
- (v) There is a non-record owner of the parcel.

B. Only one protest will be counted per parcel as provided by Government Code Section 53755(b).

10. ***Transparency, Confidentiality, and Disclosure.***

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

## TABULATION OF PROTESTS

### 11. ***General Manager.***

The General Manager shall not accept any protest as valid if the General Manager 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 a record owner, record customer of record, or non-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 District 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 General Manager, who may consult signatures on file with the County Elections Official and/or the District;
- 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 General Manager before the close of the public hearing on the proposed charges; or
- G. A request to withdraw the protest was received prior to the close of the public hearing on the proposed charges.

### 12. ***General Manager's Decisions Final.***

The General Manager's decision that a protest is not valid shall constitute a final action of the District and shall not be subject to any appeal pursuant to Chapter 8.30 of the Goleta Water Code.

### 13. ***Majority Protest.***

- A. A majority protest exists if written protests are timely submitted and not withdrawn by the record owners (or non-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.

14. ***Tabulation of Protests.***

Following the close of the public input portion of the public hearing, while the Board of Directors remains in session, the General Manager shall tabulate all protests received, including those received during the public hearing, and shall report the results of the tabulation to the District Board of Directors. If the total number of protests received is insufficient to constitute a majority protest, the General Manager may determine the absence of a majority protest without validating the protests received, but may instead deem them all valid without further examination. In such event, as no protests will be rejected by the General Manager, the Board of Directors need not appoint a Citizens Committee pursuant to Section 15 of these Guidelines.

15. ***Verification of Protests and Role of Citizens' Committee.***

If at the conclusion of the public hearing the General Manager determines that additional time to validate the protests is required, the General Manager shall so advise the District Board of Directors, which may adjourn the meeting to allow the tabulation to be completed on another day or days. If so, before adjourning the meeting, the District 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 General Manager.

Before any validation of protests begins, the Board of Directors shall appoint three members of the public to serve as a citizens' committee which shall have opportunity to observe the acts and determinations of the General Manager. Such citizens' committee shall not have a vote with respect to any determination of the General Manager, but may comment on their observations to the General Manager. The General Manager shall notify each member of the citizens' committee of the date, time and place where he will determine the validity of protests, but the failure of any or all members of the citizens' committee to attend at such time and place shall not invalidate any determination of the General Manager.

All tabulation and verification activities shall take place in an area that is open to the public and any member of the public may observe tabulation and validation activities.

In making a determination of the validity of a protest by the General Manager shall, with respect to any parcel, the signatures of any of the following shall be sufficient to authorize the protest for such parcel:

1. If owned by one or more individuals, any one or more individuals named in such title;
2. If owned by a trust, any one or more trustees;
3. If owned by a corporation, any officer of such corporation;
4. If owned by a partnership, any partner;
5. If owned by a limited liability company, any designated officer or owner;
6. If owned by any other type of organization, any official of such entity;
7. If a tenant to whom a bill for water service is sent, by such tenant in the form set forth in 1-6 inclusive.