



FILED

DATE 2-12-02

IN THE OFFICE OF
GROVELAND COMMUNITY
SERVICES DISTRICT

By *Carol Colton*
SECRETARY

G.C.S.D. Services – 209/962-7161
Fire Department – 209/962-7891

water • fire protection • parks • wastewater collection & treatment

18966 Ferretti Road P.O. Box 350 Groveland, CA 95321-0350

RESOLUTION 2-02

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE GROVELAND
COMMUNITY SERVICES DISTRICT ADOPTING PROPOSITION 218
ASSESSMENT BALLOT PROCEEDINGS PROCEDURES

WHEREAS, Proposition 218 was adopted on November 6,
1996, adding Articles XIIIIC and XIIIID to the California
Constitution; and

WHEREAS, Articles XIIIIC and XIIIID of the California
Constitution impose certain procedural and substantive
requirements relating to assessments (as defined); and

WHEREAS, some of the requirements of Proposition 218
are unclear and require judicial interpretation or
legislative implementation; and

WHEREAS, the Board of Directors believes it to be in
the best interest of the Groveland Community Services
District to record its decisions regarding implementation
of the provisions of Proposition 218 relating to
assessments and to provide the community with a guide to
those decisions and how they were reached.

NOW, THEREFORE, the Board of directors of the Groveland
Community Services District does hereby resolve as follows:

SECTION 1. Statement of Legislative Intent. It is the
Governing Board's intent in adopting this resolution, to
adopt assessment ballot proceedings which are consistent,
and in compliance with, Articles XIIIIC and XIIIID of the
California Constitution and with the Proposition 218
Omnibus Implementation Act. It is not the intent of the
Governing Board to vary in any way from the requirements of
either the California Constitution or the state law.

SECTION 2. Definition of Assessment. Proposition 218
defines "assessment" as any levy or charge upon real
property by an agency for a special benefit conferred upon
the real property. "Assessment" includes, but is not
limited to, "special assessment", "benefit assessment",

"maintenance assessment", and "special assessment tax". In other words, an assessment which is not a charge upon real property for a special benefit conferred upon the real property is not an "assessment" for the purposes of Article XIIIID, section 2(b) of the California Constitution.

SECTION 3. Assessment Ballot Proceeding. The following procedures shall be used in an assessment ballot proceeding required by Article XIIIID, section 4, of the California Constitution:

A. Amount of Assessment Only special benefits are assessable. The amount of each assessment shall be each identified parcel's proportionate share of the public improvement or property-related service based upon that parcel's special benefit from the improvement or service. The amount shall be proportional to and no greater than the benefits conferred on the property.

B. Special Benefit For purposes of determining the amount of the assessment:

1. Special benefit means a particular and distinct benefit over and above general benefits conferred on real property located in the assessment district or to the public at large.
2. Special benefits are those that the property assessed received, due to the improvement or service, in excess of the general public benefit.
3. The fact that the other property within the district or within the area will be, to a greater or lesser extent specially benefited by the improvement or service, will not have the effect of depriving assessed property of its character as specially benefited property.
4. Special benefit is immediate and of such a character as can be seen and traced. General benefits are remote and sometimes contingent.

C. Engineer's Report The Governing Board shall direct the filing of an engineer's report that shall comply with the applicable state statute authorizing the assessment and with Article XIIIID,

section 4 of the California Constitution. The engineer's report shall explain the special benefit, as defined in Section 3B of this resolution, conferred by the improvement or property-related service. The engineer's report shall also provide the evidence upon which the Governing Board may find that a special benefit exists. If the improvement or service confers a general benefit, the engineer's report shall describe the general benefit and explain how it will be funded.

D. **Notice** The following guidelines shall apply to giving notice of an assessment:

1. The record owner(s) of each parcel to be assessed shall be determined from the last equalized property tax roll. If the property tax roll indicates more than one owner, each owner shall receive notice. Only property owners shall receive notice.
2. The notice shall be sent at least forty-five (45) days prior to the date set for the public hearing on the assessment.
3. The notice provided by this section and in accordance with Article XIIIID, section 4 of the California Constitution, shall supersede and be in lieu of any other statutes requiring notice to levy or increase an assessment, including but not limited to the notice required by the state statute authorizing the assessment and Government Code section 54954.6.
4. Failure of any person to receive notice shall not invalidate the proceedings.
5. The cost of providing notice shall be included as a cost of the assessment district.

E. **Assessment Ballot** The following guidelines shall apply to the assessment:

1. The ballot required by Article XIIIID, section 4(d) of the California Constitution shall be mailed to all property owners of record within the assessment district at least forty-five (45) days prior to the date of the public hearing on the proposed assessment.

2. All ballots must be returned either by mail or by hand delivery; not later than the date for return of ballots stated on the notice described in section 3(D). Mailed ballots must be returned to the Groveland Community Services District, or the entity delegated by the District to tabulate the ballots, at the address shown on the ballot. Hand delivered ballots must be returned to District offices at 18966 Ferretti Road, Groveland, California 95321; or, delivered at the time and place of the public hearing stated on the ballot.
3. Each ballot must be signed under penalty of perjury. For properties with more than one owner of record, ballots will be accepted from each owner of record. Each owner of record is entitled to vote. Voting rights for a single piece of property shall be apportioned between the owners based upon the respective record interests as is deemed correct, proper, and appropriate. However, if only one owner of record votes, the vote shall be tabulated as a vote on behalf of the entire parcel.
4. A tenant of real property shall not have the power or authority to submit an assessment ballot.
5. If a parcel has multiple owners, any owner may request a proportional assessment ballot. If the ownership interest of the owner is not shown on the last equalized secured property tax assessment roll, such request must include evidence, satisfactory to the District, of the owner's proportional rights in the parcel. The District, or the District's agent will provide the proportional ballot to the owner at the address shown on the assessment roll. Any request for a ballot to be mailed to another location must be made in writing and must include evidence, satisfactory to the District, of the identity of the person requesting the ballot. Each proportional ballot will be marked to show the date on which the ballot was provided, to identify it as a proportional ballot and to indicate the owner's proportional

rights in the parcel. The District, or the District's agent will keep a record of each proportional ballot provided to an owner.

6. The District will only accept ballots mailed or otherwise provided to owners by the District.
7. If an assessment ballot is lost, withdrawn, destroyed or never received, the Assessment Engineer will mail or otherwise provide a duplicate ballot to the owner upon receipt of a request in writing delivered to the District Secretary. The duplicate ballot will be marked to show the date on which the ballot was mailed or provided and to identify it as a duplicate ballot or a duplicate proportional ballot. The same procedure applies to duplicate ballots or duplicate proportional ballots, which are lost, withdrawn, destroyed, or never received.
8. An assessment ballot proceeding is not an election.
9. An assessment ballot is a disclosable "public record" as that phrase is defined by Government Code section 6252 during and after tabulation of the ballots.
10. To complete an assessment ballot, the owner of the parcel must (1) stamp or mark the appropriate box supporting or opposing the proposed assessment, and (2) sign, under penalty of perjury, the statement on the ballot that the person completing the ballot is the owner of the parcel or the owner's authorized representative. Only one box may be stamped or marked on each ballot.
11. After returning an assessment ballot to the District, the person who signed the ballot may withdraw the ballot by submitting a written statement to the District Secretary directing the District Secretary to withdraw the ballot. Such statement must be received by the District Secretary prior to the close of the public input portion of the public hearing on the proposed assessment. When ballots for the

assessment are tabulated, the District Secretary will segregate withdrawn ballots from all other returned ballots. The District Secretary will retain all withdrawn ballots and will indicate on the face of such withdrawn ballots that they have been withdrawn.

12. In order to change the contents of a ballot that has been submitted, the person who has signed that ballot may (1) request that such ballot be withdrawn, (2) request that a duplicate ballot be issued, and (3) return the duplicate ballot fully completed. Each of these steps must be completed according to the procedures set forth above.

F. **Tabulating Ballots** The following guidelines shall apply to tabulating assessment ballots:

1. The District or designated neutral party shall tabulate the assessment ballots. If a third party entity is designated by the Governing Board to tabulate ballots ("Tabulator"), then such entity shall determine the validity of all ballots. All ballots shall be accepted as valid except those in the following categories:
 - a. A photocopy of a ballot, a letter or other form of a ballot that is not an official ballot provided by the District;
 - b. An unsigned ballot, or ballot signed by an unauthorized individual;
 - c. A ballot which lacks an identifiable mark in the box for a "yes" or "no" vote or with more than one box marked, will not be counted;
 - d. A ballot which appears tampered with or otherwise invalid based upon its appearance or method of delivery or other circumstances;
 - e. A ballot for which the barcode representing the parcel number is damaged or obstructed, unless the parcel number is legible.
2. In the event of a dispute regarding whether the signer of a ballot is the owner of the parcel

to which the ballot applies, the District will make such determination from the last equalized assessment roll and any evidence of ownership submitted to the District prior to the conclusion of the public hearing. The District will be under no duty to obtain or consider any other evidence as to ownership of property and its determination of ownership will be final and conclusive.

3. In the event of a dispute regarding whether the signer of a ballot is an authorized representative of the owner of the parcel, the District may rely on the statement on the ballot signed under penalty of perjury that the person completing the ballot is the owner's authorized representative and any evidence submitted to the District prior to the conclusion of the public hearing. The District will be under no duty to obtain or consider any other evidence as to whether the signer of the ballot is an authorized representative of the owner and its determination will be final and conclusive.
4. A property owner who has submitted an assessment ballot may withdraw the ballot and submit a new or changed ballot up until the conclusion of the public input portion of the public hearing on the assessment.
5. A property owner's failure to receive an assessment ballot shall not invalidate the proceedings conducted under this section and section 4, Article XIIIID of the California Constitution.
6. The District shall retain the ballots for a period of (3) years from the date of the public hearing.

G. Public Hearing

1. At the public hearing, the Governing Board shall hear all public testimony regarding the proposed assessment and accept ballots until the close of the public hearing.
2. Reasonable time limits may be imposed on both the length of the entire hearing and the length of each speaker's testimony.
3. At the conclusion of the hearing, the Tabulator shall begin tabulation of the ballots,

including those received during the public hearing.

4. If it is not possible to tabulate the ballots on the day of the public hearing, or if additional time is necessary for public testimony, the Governing Board may continue the public hearing to a later date to receive additional testimony, information, or to finish tabulating the ballots.
5. If according to the final tabulation of the ballots, ballots submitted against the assessment exceed the ballots submitted in favor of the assessment, weighted according to the proportional financial obligation of the affected property, a "majority protest" exists and the Governing Board shall not impose the assessment.

PASSED AND ADOPTED by the Board of Directors of the Groveland Community Services District, this 11th Day of February 2002, by the following vote:

AYES: DIRECTORS: Myers, Norris, Henderson, Moore

NOES: DIRECTORS: None

ABSENT: DIRECTORS Edwards



Donald B. Myers, President

ATTEST:



Carol A. Carlson, Secretary