



TO: GCSO Board of Directors

FROM: Peter Kampa, General Manager

DATE: August 13, 2024

SUBJECT: Agenda Item 6B: Adoption of a Resolution Approving an Amendment to Current Policy Regarding Public Access to District Owned Easements

RECOMMENDED ACTION:

Staff recommends the following action:

I move to Adopt Resolution 20-2024 Approving an amendment to the current Policy regarding public access to District owned Easements.

BACKGROUND:

The previous policy was challenging to navigate due to its complex wording and less structured processes, and it did not establish a clear priority for the identification and clearing of easements to ensure access. The changes in the new Policy Section 500 are recommended to improve clarity, organization, and functionality of the District's operational policies. The updated policy separates the "what" (policy) from the "how" (procedure), ensuring that policies reflect the Board's intentions while allowing staff to efficiently manage procedures. Key improvements include:

1. **Enhanced Clarity and Detail:** The new policy provides clearer definitions and structured processes, making it easier for property owners and District staff to understand and follow the guidelines.
2. **Proactive Maintenance and Use:** Emphasis on maintaining clear and passable easements ensures that District infrastructure can be routinely inspected, maintained, and repaired without obstruction.
3. **Responsibility and Compliance:** The updated policy outlines the responsibilities of property owners and the District, ensuring compliance with regulations and reducing potential conflicts.
4. **Streamlined Procedures:** The new policy consolidates and simplifies procedural steps, eliminating redundancies and making it easier to apply for permits and manage encroachments.

5. **Alignment with Best Practices:** The revisions align with legal best practices and current operational needs, ensuring that the District's policies are up-to-date and effective.

These changes aim to enhance the efficiency and effectiveness of managing District properties and easements, ultimately benefiting the community by ensuring reliable access to essential services.

ATTACHMENTS:

1. DRAFT Policy Section 500: Deeds, Easements, and Encroachments
2. Comparison of New and Old Policy 500
3. Resolution 20-2024

SECTION 500: DEEDS, EASEMENTS, AND ENCROACHMENTS

POLICY 501: ACCEPTANCE OF DEEDS

501.1 Purpose:

The District Board of Directors may agree by resolution to accept a deed conveying fee simple title to real property or some interest in real property to the District. The Board of Directors may also authorize by resolution the execution of a Grant Deed by which the District conveys all or a portion of its interest in real property to a third party, by sale or exchange of said real property.

501.2 Procedure:

For any acceptance of a Grant Deed of real property from a third party to the District, action to approve acceptance of the conveyance in such property by Grant Deed must be authorized by action of the Board of Directors at a public meeting properly agendized pursuant to the provisions of the Brown Act.

The Board shall act to accept a Grant Deed by resolution approved by a majority of the Board. Attached to the resolution shall be a Certificate of the Secretary of the Board certifying the fact that said resolution was duly adopted by the Board of Directors at a meeting called and held pursuant to the Brown Act on a specified date by the specified vote, and certifying that said resolution is valid and in full force and effect and has not been revised by the Board since the date of its adoption.

This resolution and the attached Certificate of Secretary shall be recorded with the Grant Deed in the Office of the County Recorder in Tuolumne County.

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POLICY 502: EASEMENTS

502.1 Purpose:

The Groveland Community Services District (GCSD) recognizes the need to acquire and manage easements for various purposes, including water and sewer infrastructure, fire suppression services, recreation and park facilities, and community center facilities. The District's policies aim to ensure that all easements are used appropriately to support these functions while maintaining the ability to inspect, maintain, and repair District-owned infrastructure.

Key Purposes Include:

1. **Water and Sewer Infrastructure:** Acquiring easements to access, operate, maintain, repair, replace, construct, and improve water and sewer infrastructure located on private property.
2. **Fire Suppression Services:** Ensuring access to necessary infrastructure and areas to support effective firefighting operations.
3. **Recreation and Park Facilities:** Developing and maintaining recreational and park facilities to provide public enjoyment and community services.
4. **Community Center Facilities:** Enhancing the quality of life for residents by providing accessible community spaces.

502.2 Procedure for Easement Creation, or Easement Abandonment Requested by Property Owner:

A. Submission of Request:

Property owners must submit a written request to the District, including a legal description of the proposed requested easement or easement abandonment by metes and bounds, a legal description of the Tuolumne County Assessor's Parcel Number upon which the proposed easement is located, and a plat map demonstrating the location of the easement upon the parcel. These documents must be prepared by a licensed engineer or surveyor.

B. Review of Legal Descriptions:

District staff will check the accuracy of the legal descriptions of both the easement and the property parcel.

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C. Title Report:

The property owner dedicating an easement to the District must provide a preliminary title report covering the property. The requesting party shall arrange for the title company to forward a copy of the preliminary title report to the District for review. The District Engineer will review the preliminary title report and inform the requester of any liens or other encumbrances on the property. All such liens and encumbrances must either be subordinated to the proposed easement or determined by the District not to conflict with its easement rights.

D. Easement Agreement:

Easements granted to the District must be documented in the District's standard Easement Agreement and executed by all parties holding title to the property. This agreement must be notarized and, if applicable, bear the corporate seal.

E. Board Approval for Acceptance:

The acceptance of easements must be approved by the Board of Directors. The request for acceptance must include a detailed rationale and documentation of how the easement will benefit the District's operations. The District may require the dedication of additional easement rights if deemed necessary for existing or future District needs.

F. Board Approval for Abandonment:

Easement abandonments require approval by the Board of Directors. The request for abandonment must include a detailed rationale and documentation of how the abandonment will affect the District's operations. For the approval of an easement abandonment, the District may require the dedication of an alternative easement to meet existing or future District needs. If it is determined that an alternative easement is needed, all policies of Section 502.2 will apply.

G. Recordation and Title Insurance:

Following Board approval for easement dedication, or acceptance, the District will record the Easement Agreement with the Tuolumne County Recorder's Office. The property owner requesting an easement will be responsible for all title and recording fees, as well as

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the cost of issuing a policy of title insurance, ensuring its easement rights in the property. Title insurance is not required for easement abandonments.

502.3 Procedure for Easement Requested by District:

A. Offer Submission:

The District will submit a written offer to the owner of the real property upon which the District desires to locate an easement. This offer shall include a legal description of the parcel upon which the proposed easement is located, a legal description of the easement by metes and bounds, and a plat map demonstrating the location of the easement upon the parcel. These documents must be prepared by a licensed engineer or surveyor.

B. Title Report and Review:

The District will order a preliminary title report covering the parcel of real property upon which the easement is located as well as the proposed easement location. The District will review the preliminary title report and provide a copy to the property owner.

C. Subordination of Liens and Encumbrances:

The District will require any liens or encumbrances on the parcel of real property upon which the proposed easement is located that conflict with the District's easement rights to be subordinated to the easement rights of the District. If subordination is not possible, the District must determine that the liens or encumbrances do not conflict with its easement rights.

D. Easement Agreement Execution:

Easements offered by property owners for public utility, park and recreation, fire suppression, or community facilities purposes will be documented using the District's standard Easement Agreement. All such Easement Agreements must be executed by all parties holding title to the property upon which the easement will be located. All documents must be notarized, and if applicable, bear the corporate seal of the executing party.

E. Board Approval:

Easements requested by the District for public utility, park and recreation, fire suppression, or community facilities purposes must be approved by the Board of Directors. The request

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for approval must include a detailed rationale and documentation of how the easement will benefit the District's operations.

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F. Recordation and Title Insurance:

Following Board approval, the District will record the Easement Agreement with the Tuolumne County Recorder's Office. The District will be responsible for all title and recording fees, as well as the cost of issuing a policy of title insurance naming the District as insured, ensuring its easement rights in the property.

G. Notification and Documentation:

Upon execution, a copy of the Easement Agreement and any associated documents will be provided to the property owner. The original documents will be retained in the District's records.

502.4 Easement Maintenance and Use:

A. Property Owner Responsibilities:

Property owners must keep District easements clear of encroachments and non-native vegetation to ensure routine inspection, maintenance, and repair of infrastructure can be carried out without hindrance. They must also prevent water runoff from eroding District easements.

B. District Responsibilities:

The District will proactively inspect, survey, field mark with monuments, and map its easements. The District shall maintain its easements in a way that allows vehicle and equipment access wherever reasonably possible. This may require native vegetation management, benching, grading, and applying road base.

C. Use Restrictions:

The District does not have the authority to grant private individuals or businesses access to District easements unless they are directly working for the District in a manner that is in accordance with the purpose of the easement.

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502.5 Encroachments:

A. Restrictions:

1. Non-temporary encroachments require a variance approved by a majority of the Board of Directors at a regularly agendized public meeting of the Board of Directors.
2. Property owners wanting to access the lake shore via steps or structures, and must cross a District easement to do so, must terminate or begin the steps or structures outside of the easement boundaries. If the easement is not acceptable for normal foot traffic due to grade or surface type, the District will allow the property owner to bench, grade, and apply road base to it. Before performing any work, such as that listed herein, written approval must be obtained from the District.

B. General Requirements:

1. No person or entity shall do or cause to be done any work on District Property without first having obtained an Encroachment Permit and paid the applicable fee.
2. Any construction work performed in connection with the permitted encroachment shall be in accordance with the plans and specifications reviewed by the District and the conditions specified in the Encroachment Permit.
3. Such Encroachment Permits only permit limited access to District Property for such purposes and uses as will not interfere with the District's customary use of such property for the provision of public services.
4. All such Encroachment Permits shall comply in all respects with the District's Encroachment Ordinance, which requires, among other things, that the applicant agree to defend and indemnify the District against any and all claims, liability, damages, and expenses arising out of the construction, installation, or maintenance of the encroachment, including any dangerous or defective conditions created as a result of such encroachment.

C. Forms and Appendices:

1. Application for Encroachment Permit (Appendix 500-F).
2. Encroachment Permit (Appendix 500-G).

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POLICY 503: RIGHT-OF-WAY AND ENTRY AGREEMENTS

503.1 Purpose:

The District utilizes Right-of-Way and Entry Agreements to memorialize District agreements to license the use of District-owned property to third parties for temporary periods of time and for purposes specified in the agreement. Such contemplated uses of District-owned property may restrict District access to and use of such property. A Right-of-Way and Entry Agreement restricts a third party's use of District-owned property to specified purposes and times and may require payment of compensation to the District by the applicant for the value of the applicant's temporary use of District-owned property. The license to use District-owned property granted in such a Right-of-Way and Entry Agreement shall be limited in duration to specified periods of time.

503.2 Procedure:

A. Submission of Request:

The person requesting the right to temporarily use District-owned property for specified purposes must submit a written request to the District requesting a Right-of-Way and Entry Agreement together with a legal description of the parcel of real property upon which the right-of-way or entry shall be located, including a legal description of the right-of-way by metes and bounds prepared by a licensed engineer or licensed surveyor.

B. Evaluation of Request:

The District shall evaluate the request and determine whether the proposed temporary use of District Property will conflict with any other existing or planned uses of District-owned property during the proposed duration of the proposed right-of-entry.

C. Compensation Determination:

The District shall also determine whether the proposed nature and extent of use of District-owned property by the applicant and the duration of the proposed use merits the requirement that the applicant pay compensation to the District for the use of District-owned property. Compensation may be waived when the applicant's use of District-owned property pursuant to the Right-of-Way and Entry Agreement promotes a public interest served by the District, such as allowing the contractor to utilize a portion of District-owned

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property for storage of construction materials pending construction of a District public works project.

If the proposed use of District-owned property will preclude the District from utilizing such property due to the nature and extent of the applicant's proposed activities on District-owned property, the District shall establish a rental value for such District-owned property to be paid by the applicant for the use of District-owned property and include that amount in the proposed Right-of-Way and Entry Agreement.

- D.** Any Right-of-Way and Entry Agreement must be approved by a majority of the Board of Directors at a regularly agendized public meeting of the Board of Directors. Following approval by the Board of Directors by minute action or by resolution, District staff will provide a copy of the fully executed Right-of-Way and Entry Agreement to the applicant and retain the original in the District office file. This authority may be delegated to the General Manager by the Board of Directors.

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Policy 504: Encroachment Permits

504.1 Purpose:

To establish the requirements and procedures for obtaining Encroachment Permits from the District for any work or structures placed within District easements or property.

504.2 Encroachment Access:

- A.** The District does not have the authority to grant private individuals or businesses access to District easements unless they are directly working for the District in a manner that is in accordance with the purpose of the easement.
- B.** Permanent encroachments within District easements require a variance approved by the Board of Directors.

504.3 General Requirements:

- A.** No person or entity shall do or cause to be done any work on District Property without first having obtained an Encroachment Permit and paid the applicable fee.
- B.** Any construction work performed in connection with the permitted encroachment shall be in accordance with the plans and specifications reviewed by the District and the conditions specified in the Encroachment Permit.
- C.** Such Encroachment Permits only permit limited access to District Property for such purposes and uses as will not interfere with the District's customary use of such property for the provision of public services.
- D.** All such Encroachment Permits shall comply in all respects with the District's Encroachment Ordinance, which requires, among other things, that the applicant agree to defend and indemnify the District against any and all claims, liability, damages, and expenses arising out of the construction, installation, or maintenance of the encroachment, including any dangerous or defective conditions created as a result of such encroachment.

504.4 Easement Maintenance and Use:

- A.** The District shall keep its easements clear of encroachments and open for routine inspection, maintenance, and repair of District-owned infrastructure.
- B.** Property owners must bench or flatten out the easement in locations where they desire to install steps or structures, ensuring such structures terminate outside the easement.

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- C. The District will proactively inspect, survey, field mark with monuments, and map its easements, making them passable by for District purposes, including passage of vehicles and equipment whenever reasonably possible.

504.5 Forms and Appendices:

- A. Application for Encroachment Permit (Appendix 500-F).
- B. Encroachment Permit (Appendix 500-G).

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Policy 501: Acceptance of Deeds

Old Document:

501.1 Purpose:

- The purpose remains the same in both documents.

501.2 Procedure:

- The procedure in the old document involves the acceptance of a Grant Deed by resolution, with specific requirements for certification and recordation with the County Recorder.

New Document:

501.1 Purpose:

- The purpose remains unchanged.

501.2 Procedure:

- The procedure is similar but more concise and focused.

Comparison:

- No significant changes; both documents outline the same purpose and procedure with slight wording differences.

Policy 502: Easements

Old Document:

502.1 Purpose:

- Specifies the need to acquire rights of access for water and sewer infrastructure and other services like fire suppression, recreation, and community facilities.

502.2 Procedure for Easement or Easement Abandonment Requested by Property

Owner:

- Detailed steps including submission of a request, review of legal descriptions, title report, execution of easement agreement, and approval for abandonment.

502.3 Procedure for Easement Requested by District:

- Steps for the District to submit an offer, review title reports, and execute easement agreements.

502.4 Effect of Easement Agreement:

- Explains the creation of a permanent real property interest and compensation policies.

New Document:

502.1 Purpose:

- Similar but more explicitly includes managing easements for various purposes and the importance of maintaining District-owned infrastructure.

502.2 Procedure for Easement or Easement Abandonment Requested by Property

Owner:

- Similar steps but more organized and detailed. Includes a provision for the recordation and title insurance.

502.3 Procedure for Easement Requested by District:

- Similar to the old document with slight rewording and added detail. Requires the District to cover all costs.

502.4 Easement Maintenance and Use:

- New section emphasizing property owner responsibilities, District responsibilities, and use restrictions.

502.5 Encroachments:

- New section detailing restrictions, general requirements, and steps for handling encroachments.

Comparison:

- The new document is more detailed and organized, adding new sections on easement maintenance and use, and encroachments. Clear separation of policy ("what") from procedure ("how").

Policy 503: Right-of-Way and Entry Agreements

Old Document:

503.1 Purpose:

- Outlines the use of Right-of-Way and Entry Agreements to license temporary use of District property.

503.2 Procedure for Entry into Right-of-Way and Entry Agreement:

- Steps for submission of requests, evaluation, compensation determination, and approval by the Board of Directors.

New Document:

503.1 Purpose:

- Similar to the old document with slight rewording for clarity.

503.2 Procedure:

- Similar steps but reworded for clarity and conciseness.

Comparison:

- The new document remains largely the same but with improved wording and clarity.

Policy 504: Encroachment Permits

Old Document:

504.1 Purpose:

- Specifies when property owners must apply for encroachment permits.

504.2 Definition of “Encroachment”:

- Provides a definition of encroachment.

504.3 Procedure:

- Steps for completing an application, review by the District, and approval of encroachments.

504.4 General Requirements:

- General requirements for obtaining an encroachment permit and conditions for construction and maintenance.

New Document:

504.1 Purpose:

- To establish the requirements and procedures for obtaining Encroachment Permits from the District for any work or structures placed within District easements or property.

504.2 Encroachment Access:

- The District does not have the authority to grant private individuals or businesses access to District easements unless they are directly working for the District in a manner that is in accordance with the purpose of the easement.
- Permanent encroachments within District easements require a variance approved by the Board of Directors.

504.3 General Requirements:

- No person or entity shall do or cause to be done any work on District Property without first having obtained an Encroachment Permit and paid the applicable fee.
- Any construction work performed in connection with the permitted encroachment shall be in accordance with the plans and specifications reviewed by the District and the conditions specified in the Encroachment Permit.

- Such Encroachment Permits only permit limited access to District Property for such purposes and uses as will not interfere with the District's customary use of such property for the provision of public services.
- All such Encroachment Permits shall comply in all respects with the District's Encroachment Ordinance which requires, among other things, that the applicant agree to defend and indemnify the District against any and all claims, liability, damages, and expenses arising out of the construction, installation, or maintenance of the encroachment, including any dangerous or defective conditions created as a result of such encroachment.

504.4 Easement Maintenance and Use:

- The District shall keep its easements clear of encroachments and open for routine inspection, maintenance, and repair of District-owned infrastructure.
- Property owners must bench or flatten out the easement in locations where they desire to install steps or structures, ensuring such structures terminate outside the easement.
- The District will proactively inspect, survey, field mark with monuments, and map its easements, making them passable by vehicles and equipment whenever reasonably possible.

504.5 Forms and Appendices:

- Lists the forms and appendices related to encroachments.

Comparison:

- The new document is more organized and detailed, adding new sections on encroachment access and maintenance and use responsibilities.

Summary of Changes:

Removed from the Old Policy:

- Specific language and some detailed steps that were either redundant or combined in the new document.
- Certain procedural details were streamlined or reworded for clarity.

Added in the New Policy:

- More detailed and organized structure.
- Clear separation of policy ("what") from procedure ("how").
- New sections on easement maintenance and use, and encroachments.
- Emphasis on property owner and District responsibilities.
- Inclusion of provisions for recordation and title insurance.
- Updated and reworded steps for clarity and conciseness.

The new document improves clarity, organization, and detail, aligning with the District's goal of separating policy from procedure and emphasizing the maintenance and use of easements.

RESOLUTION 20-2024

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE GROVELAND COMMUNITY SERVICES DISTRICT APPROVING AN AMENDMENT TO CURRENT POLICY REGARDING PUBLIC ACCESS TO DISTRICT OWNED EASEMENTS

WHEREAS, the Groveland Community Services District (herein referred to as District) is a local government agency formed and operating in accordance with Section §61000 et seq. of the California Government Code; and

WHEREAS, the Board of Directors (Board) of the Groveland Community Services District (District) is authorized and required to adopt and amend policies related to the services it provides and typically does so by resolution of the Board; and

WHEREAS, the Board desires to amend the Districts Policy Section 500: DEEDS, EASEMENTS, and ENCROACHMENTS to reflect current practices, provide clarity for District staff and the public, simplify language and provide for consistent implementation.

NOW THEREFORE BE IT RESOLVED THAT THE BOARD OF DIRECTORS OF THE GROVELAND COMMUNITY SERVICES DISTRICT DOES hereby approve Resolution 20-2024 Approving an Amendment to Current Policy Section 500: DEEDS, EASEMENTS, and ENCROACHMENTS.

WHEREFORE, this Resolution is passed and adopted by the Board of Directors of the Groveland Community Services District on August 13, 2024 by the following vote:

AYES:

ABSENT:

NOES:

ABSTAIN:

APPROVE:

Nancy Mora, Board President

ATTEST:

Rachel Pearlman, Board secretary

CERTIFICATE OF SECRETARY

I, Rachel Pearlman, the duly appointed and acting Secretary of the Board of Directors of the Groveland Community Services District, do hereby declare that the foregoing Resolution was duly passed and adopted at a Regular Meeting of the Board of Directors of the Groveland Community Services District, duly called and held on August 13, 2024.

DATED: _____