

RESOLUTION NO. __-__ C.S.

A RESOLUTION OF THE COUNCIL OF THE CITY OF MONTEREY

ADOPTING PROCEDURAL GUIDELINES FOR THE RENEWAL OF PROPERTY AND BUSINESS IMPROVEMENT DISTRICTS UNDER THE PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994

WHEREAS, The Property and Business Improvement District Law of 1994 ("1994 Act," Streets and Highways Code §§ 36600 et seq.) requires the City Council of the City of Monterey to consider petitions to renew a Property and Business Improvement District as well as written protests against the renewal of such a District; and

WHEREAS, these statutory provisions do not offer specific guidance as to whether petitions to form a Property and Business Improvement District must include original signatures;

WHEREAS, these statutory provisions do not offer specific guidance as to how written protests against the renewal of an assessment district should be submitted, who is allowed to submit such protests, or how the City is to tabulate the protests; and,

WHEREAS, the City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA)(CCR, Title 14, Chapter 3 (CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

THEREFORE, BE IT RESOLVED by the City Council of the City of Monterey that when notice of a public hearing with respect to the renewal of a Property and Business Improvement District has been given by the City pursuant to the 1994 Act, the following shall apply:

SECTION 1: Petitions. Petitions to renew a district under the 1994 Act shall be submitted with original or electronic signatures of affected business owners. Signatures submitted by fax or email shall not be counted.

SECTION 2: Protest Submittal.

- A. Any business owner who is subject to a proposed assessment that is the subject of the hearing may submit a written or oral protest to the City Clerk, by:
 - Personal delivery to the secure dropbox outside the Council Chamber at City Hall, 580 Pacific Street, Monterey,

- Mail to City Clerk, 580 Pacific Street, Room 6, Monterey, CA 93940, or
 - Personally submitting the protest in writing at the public meeting or public hearing or orally at the public hearing.
- B. Protests, whether written or oral, must be received by the end of the public hearing, including those written protests mailed to the City. 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.

SECTION 3: Protest Requirements.

- A. A written protest against renewal of a business district must include:
- (i) A statement that it is a protest against renewal of the proposed business district that is the subject of the hearing;
 - (ii) A description of the business that is sufficient to identify the business;
 - (iii) Original signature and legibly printed name of the person submitting the protest; and
 - (iv) If the person submitting the protest is not shown on the official records of the City as the owner of the business, written evidence that the person an owner of the business or an authorized representative.
- B. Written protests against the renewal of a business district shall not be counted if any of the required elements (i thru iv) outlined in the preceding subsection "A." are omitted.
- C. Oral protests must include:
- (i) A statement that it is a protest against renewal of the proposed business district that is the subject of the hearing;
 - (ii) A description of the business that is sufficient to identify the business;
 - (iii) If the person submitting the protest is not shown on the official records of the City as the owner of the business, written evidence that the person an owner of the business or an authorized representative.
- D. Oral protests against the renewal of a business district shall not be counted if any of the required elements (i through iii) outlined in the preceding subsection "C." are omitted.

SECTION 4: Protest Withdrawal. Any person who submits a protest may withdraw it by submitting to the City Clerk a written request that the protest be withdrawn at any time prior to the close of the public hearing. The withdrawal of a protest shall contain sufficient information to identify the affected business, and the name of the record owner or business owner who submitted both the protest and the request that it be withdrawn.

SECTION 5: Transparency, Confidentiality, and Disclosure.

- A. To ensure transparency and accountability in the protest tabulation while protecting the privacy rights of record owners and business 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.

SECTION 6: City Clerk.

The City Clerk shall not accept as valid any protest against the formation of a business district if he or she determines that any of the following is true:

- A. The protest does not state its opposition to renewal of the proposed district.
- B. The protest does not name the affected business owner as of the date of the public hearing.
- C. The protest does not identify the business that would be subject to the renewed assessment.
- D. The protest does not bear an original signature of the business owner identified on the protest. Whether a signature is valid shall be entrusted to the reasonable judgment of the City Clerk, who may consult signatures on file with the County Elections Official.
- E. The protest was altered in a way that raises a fair question as to whether the protest actually expresses the intent of a business owner to protest the charges.
- F. The protest was not received by the City Clerk before the close of the public hearing on the renewed district.
- G. A request to withdraw the protest was received prior to the close of the public hearing on the renewed district.

SECTION 7: City Clerk's Decisions Final. The City Clerk's decision that a protest is not valid shall constitute a final action of the City and shall not be subject to any internal appeal.

SECTION 8: Majority Protest. A majority protest exists if written or oral protests are timely submitted and not withdrawn by business owners subject to more than 50% of the proposed assessment. In the event of a majority protest, the renewed district shall not be renewed.

SECTION 9: Tabulation of Protests. At the conclusion of the public hearing, the City Clerk shall tabulate all protests received, including those received during the public hearing, and shall report the results of the tabulation to the City Council.

SECTION 10: Report of Tabulation. If at the conclusion of the public hearing, the City Clerk determines that he or she will require additional time to tabulate the protests, he or she shall so advise the City Council, which may adjourn the meeting to allow the tabulation to be completed on another day or days. If so, the City Council 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 City Council shall declare the time at which the meeting shall be resumed to receive and act on the tabulation report of the City Clerk.

SECTION 11: This resolution will become effective immediately upon adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this _____
day of _____, by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

APPROVED:

ATTEST:

Mayor of said City

City Clerk thereof