RESOLUTION - ACTION REQUESTED 2014-111

MEETING: March 18, 2014

TO: The Board of Supervisors

FROM: Rick Benson, County Administrative Officer

RE: Assessment Ballot Procedures

RECOMMENDATION AND JUSTIFICATION:
Adopt assessment ballot procedures for Proposition 218 elections. In the near future an item will be brought your Board requesting that a new ballot be sent to property owners to reaffirm the assessment in County Service Area #3. This will require a vote in conformance with Proposition 218.

Mariposa County has not established a formal procedure for a Proposition 218 election. The relevant constitutional and legislative provisions provide general direction but do not dictate detailed procedures. Outside counsel has recommended that Mariposa County define procedures for this and any future Proposition 218 property owner election. County Counsel is in concurrence with their recommendation.

Attached is a proposed resolution establishing procedures. The specific procedures are outlined in Exhibit A. These procedures are in conformance with all legal requirements regarding a Proposition 218 election. It should be noted that Proposition 218 votes do not constitute an election or voting for purposes of Article II of the California Constitution or of the Elections Code.

It is recommended that your Board adopt the attached resolution establishing assessment ballot procedures.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
No procedures have been established for Proposition 218 elections.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
If not approved by your Board, no formal procedures will be implemented.

FINANCIAL IMPACT:
None

CAO RECOMMENDATION
Requested Action Recommended
RESULT: ADOPTED AS AMENDED [UNANIMOUS]
MOVER: Lee Stetson, District I Supervisor
SECONDER: Merlin Jones, District II Supervisor
AYES: Stetson, Jones, Bibby, Cann, Carrier
RESOLUTION NO. 14-111

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIPosa ADOPTING GUIDELINES FOR THE SUBMISSION AND TABULATION OF ASSESSMENT BALLOTS IN CONNECTION WITH ARTICLE XIII D, SECTION 4 OF THE CALIFORNIA CONSTITUTION

WHEREAS, Article XIII D, section 4 of the California Constitution requires the Board of Supervisors of the County of Mariposa to issue and tabulate ballots submitted by property owners in connection with certain proposed assessments;

WHEREAS, this constitutional provision does not provide specific guidance as to how ballots are to be submitted, or how the County is to tabulate those ballots.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Mariposa as follows:

SECTION 1. the guidelines for the submission and tabulation of assessment ballots attached hereto as Exhibit “A” and incorporated herein by reference is hereby adopted.

SECTION 2. All resolutions and ordinances, or portions thereof, in conflict herewith are hereby repealed.

SECTION 3. This resolution shall take effect immediately upon its adoption.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Mariposa at a regular meeting held on the 18th day of March, 2014 by the following vote:

AYES: STETSON, JONES, BIBBY, CANN, CARRIER

NAYS: NONE

ABSENT: NONE

ABSTAIN: NONE

COUNTY OF MARIPosa

[Signature]
Kevin Cann
Chairman, Board of Supervisors
ATTEST:

Rene LaRoche, Clerk of Board

APPROVED AS TO FORM:

Steven W. Dahlem, County Counsel
EXHIBIT “A”

GUIDELINES FOR THE SUBMISSION AND TABULATION OF ASSESSMENT BALLOTS

Where notice of a public hearing with respect to the adoption of an assessment is required pursuant to Article XIII D, section 4 of the California Constitution, the following guidelines shall apply.

NOTICE OF PROPOSED ASSESSMENT AND PUBLIC HEARING

1. The record owner(s) of each parcel to be assessed shall be determined from the last equalized property tax roll.

2. Only property owners shall receive notice of the public hearing on the proposed assessment.

3. Notice of the proposed assessment and public hearing shall be sent via U.S. mail to each record owner at least forty-five (45) days prior to the date set for the public hearing on the proposed assessment. Pursuant to Government Code section 53753, each notice shall include the total amount of the proposed assessment chargeable to the entire assessment district, the amount chargeable to the record owner’s parcel, the duration of the payments, the reason for the assessment, the basis upon with the amount of the proposed assessment was calculated, and the date, time, and location of the public hearing on the proposed assessment.

4. Also pursuant to Government Code section 53753, each notice shall include, in a conspicuous place, a summary of the procedures for the completion, return, and tabulation of the assessment ballot, including a statement that the assessment shall not be imposed if the ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment, with ballots weighted according to the proportional financial obligation of the affected property. On the face of the envelope mailed to the record owner in which the notice and ballot are enclosed, there shall appear the words “OFFICIAL BALLOT ENCLOSED” in no smaller than 16-point type.

5. At the time, date and place stated in the notice, the Board of Supervisors shall conduct a public hearing on the proposed assessment. At the public hearing, the Board of Supervisors shall consider all objections or protests, if any, to the proposed assessment, and any person shall be permitted to present written or oral testimony. Although oral comments at the public hearing will not qualify as an assessment ballot vote, the Board of Supervisors welcomes community input during the public hearing on the proposed assessment.
6. Pursuant to Government Code section 53753, each notice given pursuant to these guidelines shall contain an assessment ballot that includes a place where the person returning the assessment ballot may provide his or her name and signature, a reasonable identification of the parcel, and his or her support or opposition to the proposed assessment. Each assessment ballot shall also indicate that the ballot should be either submitted at the public hearing described in the notice, or returned to the Clerk of the Board at the following address: 5100 Bullion Street, PO Box 784, Mariposa, CA 95338. Regardless of the method of delivery or date of postmark, all assessment ballots must be received prior to the conclusion of public testimony at the noticed hearing in order to be included in the tabulation.

7. Only original assessment ballots with original signatures will be accepted. Photocopies, facsimiles or email ballots will not be accepted.

8. Pursuant to Government Code section 53753, each assessment ballot shall be in a form that conceals its contents once it is sealed by the person submitting the assessment ballot and returned in a sealed envelope. The Clerk may accept assessment ballots sealed in an envelope where the outside of the envelope is clearly marked that it contains an assessment ballot.

9. The Clerk may issue a duplicate assessment ballot to any property owner whose original assessment ballot was lost or destroyed. The new assessment ballot shall be issued upon presentation of adequate information that the requesting party is an owner of record who would be subject to the proposed assessment. The new assessment ballot shall be clearly marked as a duplicate ballot.

10. A property owner of record may delegate his or her assessment ballot vote to an authorized agent, provided that the authorization:

   a. Is in writing;
   b. Clearly identifies the authorized agent;
   c. Identifies the property by APN number or other information adequate to identify the property; and
   d. Is signed by the property owner.

11. Unless designated as the authorized agent of a property owner of record, a tenant of real property shall not have the power or authority to submit an assessment ballot.

12. If the property is identified to have a split in ownership due to differing ownership interests in different parts of the property (such as an ownership interest in the land and a separate ownership interest in a mobile home on the land), a ballot will be sent to the first name and address listed on the last equalized property tax roll. However, if the property has a split ownership interest in the entire property, a ballot will be sent to each ownership interest, with voting rights apportioned between or among the owners.
according to their respective ownership interests. However, if only one owner of record votes, the Clerk or his or her designee shall tabulate that vote on behalf of the entire parcel. Multiple property owners may indicate their proportional property interests on the assessment ballot.

13. The Clerk or his or her designee may issue additional assessment ballots to additional property owners whose name does not appear on the last equalized property tax roll. These additional assessment ballots shall be issued upon presentation of adequate information that the requesting party is an additional owner of real property.

14. Pursuant to Government Code section 53753, assessment ballots shall remain sealed until the tabulation of ballots commences.

15. An assessment ballot may be changed or withdrawn by the person who submitted the ballot by written request submitted to the Clerk or his or her designee prior to the conclusion of public testimony at the noticed hearing.

**TABULATION**

16. At the conclusion of the public hearing, the Clerk or an impartial person designated by the County shall tabulate the assessment ballots submitted, and not withdrawn, in support of or opposition to the proposed assessment. The ballots shall be unsealed and tabulated in public view at the conclusion of the hearing so as to permit all interested persons to meaningfully monitor the accuracy of the tabulation process.

17. The Clerk or designated impartial person shall determine the validity of the assessment ballots. All ballots shall be accepted as valid except those in the following categories:

   a. An assessment ballot or authorization that does not contain an original signature;
   b. An assessment ballot that lacks an identifiable support or opposition for the assessment (e.g., both boxes marked or neither box marked);
   c. An assessment ballot that appears tampered with or otherwise invalid based upon is appearance or method of delivery or other circumstances; or
   d. An assessment ballot not in actual receipt prior to the conclusion of public testimony at the noticed hearing.

18. The decision of the Clerk or designated impartial person, after consultation with County Counsel, that an assessment ballot is invalid shall be final and may not be appealed to the Board of Supervisors.

19. The Clerk or designated impartial person may use technological methods of tabulating the assessment ballots, including, but not limited to, optically readable (bar-coded) assessment ballots.

20. During and after the tabulation, the assessment ballots and the information used to
determine the weight of each ballot shall be treated as disclosable public records, as defined in Government Code section 6252, and equally available for inspection by the proponents and the opponents of the proposed assessment. The ballots shall be preserved for a minimum of two years, after which they may be destroyed.

21. If at the conclusion of the public hearing the Clerk or designated impartial person determines that he or she will require additional time to tabulate the ballots, he or she shall so advise the Board of Supervisors, which may adjourn the meeting to allow the tabulation to be completed on another day or days. In that event, the 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.

22. A majority protest exists if the assessment ballots submitted, and not withdrawn, in opposition to the proposed assessment exceed the assessment ballots submitted, and not withdrawn, in its favor, weighting those assessment ballots by the amount of the proposed assessment to be imposed upon the identified parcel for which each assessment ballot was submitted.

23. If there is a majority protest against the imposition of an assessment, the County shall not impose the assessment.