

**BOARD OF SUPERVISORS, COUNTY OF SIERRA, STATE OF CALIFORNIA,
ON BEHALF OF COUNTY SERVICE AREA 5**

ORDINANCE NO. 854

AN ORDINANCE OF THE COUNTY OF SIERRA, COUNTY SERVICE AREA 5 ESTABLISHING A SPECIAL TAX TO BE IMPOSED ON IMPROVED REAL PROPERTY WITHIN ZONE 4A5A, FOR THE SUPPORT OF THE WATER SYSTEM IN THE SIERRA BROOKS SUBDIVISION, ADDING PART 5, CHAPTER 70 SECTIONS 010 - 090.

THE BOARD OF SUPERVISORS OF THE COUNTY OF SIERRA, SERVING AS THE GOVERNING BODY OF COUNTY SERVICE AREA 5, ORDAINS AS FOLLOWS:

ORDINANCE SECTION 1. - Non-Codified Factual Background and Findings:

WHEREAS, the County of Sierra has previously established zone 4A5A within County Service Area 5, which zone encompasses the real property located within the Sierra Brooks subdivision, through the adoption of Resolution No. 71-21 (hereafter CSA 4A5A); and

WHEREAS, by adoption of Sierra County Ordinance No 787, in 1992, the Board of Supervisors imposed a benefit assessment fee against the real property in the CSA 4A5A, for the support of the local water system which provides potable water and fire flow within the Sierra Brooks subdivision; and

WHEREAS, with the adoption of Proposition 218 by the voters in November 1996, in order to continue the use of the benefit assessment fee as previously adopted, CSA 4A5A would be required to prepare an engineering study which allocates the cost of the use of the system to each parcel in relation to its proportionate benefit; and

WHEREAS, under Proposition 218, in order to assess a portion of the cost of the capital and operation and maintenance costs to undeveloped parcels within CSA 4A5A as standby fees or charges, the County would be required to conduct assessment proceedings under the provisions of Article XIII D of the California Constitution; and

WHEREAS, the cost of the formation of an assessment district and to levy the assessment in accordance with Proposition 218 would significantly add to the cost that would be passed on to the property owners within CSA 4A5A; and

WHEREAS, the Board of Supervisors has determined that in light of the additional costs that would be added to the charges borne by the property owners in CSA 4A5A, these additional costs could be avoided by the adoption of a special property tax which would be used as the

principal revenue source for the support of the Sierra Brooks water system instead of the benefit assessment fees; and

WHEREAS, pursuant to the provisions of California Government Code Section 25210.6a and Section 50075-50077.5, the Board of Supervisors is authorized to adopt this ordinance providing for the imposition of a special property tax, subject to the approval of the voters within CSA 4A5A by a two-thirds majority vote; and

WHEREAS, if approved by the voters, the special property tax will be used solely for the purpose of providing water to the real property within CSA 4A5A; and

WHEREAS, in compliance with the provisions of Article XIII B of the California Constitution, the Board of Supervisors is also proposing that the voters approve an amendment to the spending limit for CSA 4A5A so as to allow the funds raised by the special property tax to be spent for that purpose.

ORDINANCE SECTION 2 - Adoption of a Special Property Tax for the Support of the Sierra Brooks Water System.

CHAPTER 5.70 SPECIAL PROPERTY TAX FOR THE SIERRA BROOKS WATER SYSTEM

Section 5.70.010 Imposition of a Special Property Tax for the Support of the Sierra Brooks Water System

A special tax is hereby established and shall annually be imposed on all taxable real property within the boundaries of the CSA 4A5A, as it presently exists or may hereafter be amended. The special tax shall be imposed on each separate parcel based upon the following classifications of real property and at the rate as may annually be approved by the Board of Supervisors, up to the following maximum amount:

| <u>Classification of Real Property</u> | <u>Maximum Annual Tax</u> |
|--|---------------------------|
| Unimproved | \$120 per parcel |
| Residential, connected to the water system | \$ 240 per dwelling unit |
| Improved parcel, not connected to water system | \$ 75 per dwelling unit |
| Improved parcel, connected to water system | \$240 |

Section 5.70.018 Procedure for Repeal of Special Tax

If approved by the voters, the special tax shall continue until repealed by the Board of Supervisors or by the voters. A simple majority vote in favor of the repeal shall be required for the repeal of the special tax by the voters within CSA 4A5A.

Section 5.70.020 Submission of Special Tax to Voters

The special tax established by this ordinance shall be submitted to the voters within County Service Area 4A5A at a special election for their approval or rejection. The special tax shall not become effective unless approved by two-thirds of the registered voters within CSA 4A5A voting thereon. The question submitted to the voters shall read substantially as follows:

Shall a special property tax for the support of the water system within CSA 4A5A, as established by Sierra County Ordinance No. _____, be approved?

The special tax shall be deemed established and shall be in effect as of the day following the election, upon certification of the election results evidencing approval by at least two-thirds of the registered voters voting thereon, by the County Clerk/Recorder. Thereafter the Board shall take all necessary steps to assure that the tax is imposed and collected beginning with the 1997-1998 fiscal year. The special tax shall continue in effect unless and until rescinded by the Board of Supervisors by adoption of a subsequent ordinance, or by repeal by the voters pursuant to their initiative powers by simple majority vote.

Section 5.70.030 Use of Special Tax Proceeds

The special property tax proceeds shall be used solely for the purpose of operating, maintaining, repairing, modifying, expanding, improving or replacing the water system within CSA 4A5A, including appropriate administrative and overhead costs.

Section 5.70.040 Supervisors Authority to Annually Adjust Special Tax to Maximum Amount

Annually, on or before August 1, of each year, the Board of Supervisors shall determine the amount of special property tax required for the support of the water system and shall establish the rate for each classification of real property as set out in Section 5.70.010 (above) for the present fiscal year. The Director of the Department of Public Works, as the administrator of CSA 4A5A water system shall annually make a report to the Board of Supervisors with a recommend as to the amount of the tax rate for each of the classifications of the property, as part of the process for the adoption of a budget for CSA 4A5A. The rates set for each classification of real property shall be in proportion to the maximum amount (in relation to the other classifications), unless the Board determines that the cost of service for any classification justifies a higher proportionate rate. In the event that the Board of Supervisors fails to

establish the rates by August 1 of any year, the rates in effect in the preceding year shall remain in effect.

For the initial fiscal year, and each year thereafter until any proposal to increase the amount charged shall be submitted to the voters, the maximum charges per parcel shall be that amount set forth in Section 5.70.010 above. For the initial year, the amount charged shall be that amount set forth in Section 5.70.010 above.

Section 5.70.050 Collection of Special Property Tax

Unless otherwise ordered pursuant to a Resolution adopted by the Board of Supervisors, the special property taxes shall annually be collected on the county property tax bill in the same manner and subject to the same penalty as the county property taxes are collected. The Sierra County Treasurer/Tax Collector shall annually take such steps as are necessary to have the special property taxes collected through the property tax bill and shall coordinate with the County Auditor and Tax Assessor in this regard. The County shall be entitled to deduct its reasonable costs incurred in collection the special taxes before the balance of the taxes are remitted to the account maintained for the CSA 4A5A water system.

Section 5.70.060 Individual Billing Authorized

As an alternative to the collection of the special tax through the property tax roll, the Board may direct that the special tax be separately and individually billed to each property owner whose property is subject to payment of the special tax. If billed in this manner, the special tax shall be due and payable within 45 days of the date of the mailing of the bill. Failure to pay the special tax within the 45 days shall result in the automatic imposition of a ten percent (10%) late penalty and thereafter, the balance unpaid, including the penalty and interest, shall accrue interest at the rate of one and one half percent (1.5%) per month until paid in full. In the event that the special tax or any portion thereof or any penalties or interest attached thereto are unpaid in any fiscal year, the Board of Supervisors may require the unpaid sum to be collected on the property tax roll for the following year.

Section 5.70.070 Tax Lien for Special Property Taxes

If the special tax is billed as set forth in Section 5.70.060 (above), the special tax shall constitute a lien against the real property as of January 1st of each year; provided however that in the initial fiscal year of 1997-1998, the special tax shall constitute a lien against all real property subject to the special tax on the day following the election at which the voters approve the special tax. In the event of approval, notice of the lien for the special tax shall be separately recorded as to each parcel within 30 days following the certification of the results of the special tax election; provided however that in no event shall the failure to record a notice of lien abrogate the establishment of the lien.

ORDINANCE SECTION 3. - Approval of Increase in Spending Limit for CSA 4A5A**Section 5.70.080 Spending Increase Authorization**

The ballot for the special tax election that is to be conducted pursuant to the provisions of this Ordinance shall include a separate question seeking approval for an increase in the spending limit (under Article XIII B of the California Constitution and applicable statutes) for CSA 4A5A. If approved by a majority of the registered voters within CSA 4A5A voting thereon, the spending limit for CSA 4A5A (or CSA 5, if appropriate) shall be increased annually by an amount that equals the amount of funds raised by the special tax in each fiscal year. The question appearing on the ballot shall read substantially as follows:

Shall the spending limit for CSA 4A5A be increased by an amount equal to the proceeds that are obtained from the special property tax for the water system in CSA 4A5A?

ORDINANCE SECTION 4. - Call of a Special Mailed Ballot Election

The Board of Supervisors hereby calls a special election at which the above two measures shall be submitted to the registered voters within CSA 4A5A. The special election shall be held on the date of October 21, 1997 and shall be by mailed ballot pursuant to the provisions of Elections Code Sections 4000 et. seq.. The Sierra County Clerk shall be the election official conducting this mailed ballot special election. The costs of the special mailed ballot election shall be borne by CSA 4A5A.

The County Counsel shall have the authority to and be directed to modify the ballot language set out herein, as may be appropriate in order to effectuate the purpose of this Ordinance.

ORDINANCE SECTION 5. - Repeal of Benefit Assessment Fees Established Under Ordinance 787

The benefit assessment fees as established by Sierra County Ordinance No 787 are hereby repealed; provided however, that any existing and/or delinquent payments of these benefit assessments fees as levied in any year prior to the 1997-1998 fiscal year shall continue to be valid legal obligations subject to all collection and enforcement provisions as may be provided by law.

ORDINANCE SECTION 6. - Validation Pursuant to CCP Section 860 et. seq.**Section 5.70.090 Statute of Limitations for Suit**

Pursuant to the provisions of Government Code Section 50077.5 any judicial action or proceeding to attack, review, set aside, void or annul this ordinance and or the approval of

the subject special tax and/or increase in the spending limitation pertaining to the special tax shall be commenced, if at all, within 60 days of the date of the adoption hereof.

ORDINANCE SECTION 7. - Severability

Section 5.70.100 Severability

If any section, subsection, paragraph, subparagraph, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Chapter; and the Board declares that this Chapter and each section, subsection, paragraph, subparagraph, sentence, clause, and phrase hereof would have been adopted irrespective of the fact that one or more of such section, subsection, paragraph, subparagraph, sentence, clause or phrase be declared invalid or unconstitutional.

ORDINANCE SECTION 8.

This ordinance shall take effect thirty (30) days after its passage. Before the expiration of fifteen (15) days after passage of this ordinance, it shall be published once with the names of the members of the Board of Supervisors voting for and against the ordinance in the Mountain Messenger, a newspaper of general circulation published in the County of Sierra, State of California.

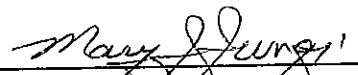
Introduced at a regular meeting of the Board of Supervisors held on the 15th day of July, 1997, and passed and adopted by the Board of Supervisors of the County of Sierra, State of California, on the 5th day of August, 1997, by the following roll call vote, to-wit:

AYES: Supervisors Gutman, Luchessi, Nunes, Mitchell, Whitley
NOES: None
ABSTAIN: None
ABSENT: None


COUNTY OF SIERRA


RICHARD LUCHESSI
CHAIRMAN, BOARD OF SUPERVISORS

ATTEST:


MARY J. JUNGJ
CLERK OF THE BOARD
L162SC42.ORD-B

APPROVED AS TO FORM:


WILLIAM W. PANGMAN
COUNTY COUNSEL