

Report by The Fallen Leaf Lake Community Services District Advisory Committee on Voting

Many Fallen Leaf summer residents want to vote in CSD elections. Historically this was accomplished by simply declaring Fallen Leaf as your residence and registering to vote there. All Fallen Leaf elections are accomplished by mail, so people who registered would get their ballot at their winter home and mail it in. They would not vote in elections at their winter home.

However, there is an issue regarding whether or not summer, or partial summer, residency at Fallen Leaf is enough to make Fallen Leaf a person's domicile. Domicile is necessary for voter registration, but it is a relatively subjective term. However, the District Attorney of El Dorado County has issued a letter suggesting that our historical practice may be unlawful. There are two sides to this issue, but registration at Fallen Leaf does appear suspect if measured against the criteria to which investigators normally look when determining if someone resides at one place or another. For example, because there is no year around post office, you cannot give the DMV or other governmental agencies your Fallen Leaf address as your primary address. In addition, your children do not attend school in the area. There is also a related problem for Forest Service Permit holders. Those permits are recreational permits and provide that the holder may not use the cabin as their primary residence. Registering at Fallen Leaf could jeopardize Forest Service Permit leases.

The result of this uncertainty regarding the right to vote at Fallen Leaf is that many people who should be able to vote on CSD matters do not do so out of concern that they may run afoul of the law. This creates two problems. First, most of the people whose tax dollars and other fees support the CSD, and who are most directly impacted by its actions, do not vote in its elections. Second, being able to vote in the district is a requirement of serving on the CSD Board of Directors, and currently a small percentage of the members of the community feel they are eligible to serve. Serving as a CSD Board member has often proven to be difficult and time consuming. If we continue to have only a small number of eligible candidates, we will have difficulty maintaining enough board members to make up the quorum necessary for the CSD to conduct our business.

In March of this year the CSD Board created an Advisory Committee to look at this issue and come up with a plan. This is that Committee's report and recommendation.

The Advisory Committee met weekly through the spring and early summer. Two public meetings were held at Fallen Leaf, one on the Memorial Day Weekend and another on the Fourth of July Weekend. In the course of these meetings the Committee identified certain goals that a voting plan should serve. Those goals are:

- 1) To identify a voting system that clears up the issue of who may vote.
- 2) To increase the voter base at Fallen Leaf so that election results will be representative of the community as a whole;
- 3) To increase the number of people who qualify serve on the CSD Board;
- 4) To encourage the younger generation to participate in CSD elections and Board membership; and

5) To allow non-resident voters to continue to vote at their winter residence in general elections, but also vote in Fallen Leaf CSD special elections.

According to California's Uniform District Election Law (Election Code Sections 10500, et seq.) voters may qualify to vote in service district elections in one of two ways. The first method is the normal method. In a "resident voting district" voters qualify by declaring their residency or domicile in the district and registering to vote there. (Elections Code section 10500(b)(11).) The second method is a "landowner voting district." In this type of district anyone who owns land in the district is an "elector," whether a resident of the district or not. (Elections Code section 10500(b)(8).) When service districts are formed, they can select which voting system will apply to that district. If no selection is made, the default is the registered voter system. In the case of the Fallen Leaf CSD, no selection regarding the method of voting was made. Accordingly, we became a registered voter district.

Our problem is that neither of the two statutory voting alternatives addresses the unique needs of Fallen Leaf. Voting as a "resident voter district" leaves us in the same situation we currently find ourselves. A small percentage of the people with a legitimate interest in Fallen Leaf affairs currently registers at Fallen Leaf. However, switching over to voting as a "landowner voting district" would disenfranchise those residents who live at Fallen Leaf, but do not own property or have a Forest Service Permit. Although this is a small number of voters, the Committee believes that if we adopt a system that disenfranchises these voters, we will be unable to get governmental approval of our solution. A bill that was based only on property ownership was sent to the legislature last year, and it was immediately killed. It is believed that it was killed because tying the vote exclusively to property ownership was seen as undemocratic.

Our situation is not unique. Other districts confront the same problem. One of those districts is the Sierra Lakes Water District, and they came up with a solution that the committee believes will provide the framework of a solution for us. That solution was to pass a special statute through the state legislature that qualifies registered voters and people who own real property as voters for the Sierra Lakes Water District Board.

The Committee is recommending a modified version of the Sierra Lakes bill as a solution. However, this was not the only solution the committee considered. To explain how we arrived to our recommendation, the following are the other solutions we considered but do not recommend.

1. **Registered Voter System:** This system would continue the current system of only voting as a registered voter in El Dorado County. This alternative is not recommended.

- It does not address the uncertainty regarding whether or not cabin owners may lawfully declare their Fallen Leaf cabin as their domicile. (In the case of Forest Service Permit holders, there appears to be little uncertainty. The terms of the Forest Service permit prohibits permittees from using their cabin as their primary residence.)
- A person may not register to vote in two places at the same time. Registering as a resident at Fallen Leaf would prevent those who register there from voting at their winter home.

The committee believes that many want to vote only on CSD issues in El Dorado County, and would prefer to keep their registration for general elections at their winter home.

2. **One Vote Per Cabin System:** This system would essentially convert the CSD to a property based voting system and give each property within the district one vote in CSD matters. That vote would go to the person who appears on the El Dorado County Assessor's Roll for the property. (Forest Service Permit holders pay property taxes in El Dorado County and also appear on the Assessor's Roll. Accordingly, Forest Service Permit holders would be entitled to vote although they do not own the land under their cabin.) If the property is held in multiple names, or in the name of a legal entity such as an LLC, corporation, or trust, that cabin would have to provide the name of the person who would cast the vote for that cabin. However, this system is not recommended for several reasons.

- First, tying the right to vote exclusively to property ownership has an undemocratic feel, and the committee believes it would be a non-starter for the California Legislature. As noted above, a plan that excluded registered voters was submitted to the Legislature last year, and was immediately killed.
- Second, allowing only one vote per cabin may have the effect of disenfranchising co-owners of a cabin who may hold a different opinion on the issues from the person who appears on the assessor's role.
- Third, the cabin is likely to be in the name of the oldest person in the family. The younger generations would be shut out of voting and therefore not eligible to serve on the CSD board.

One point in favor of this system is its cost effectiveness. The CSD pays El Dorado County Elections on a time and materials basis to run its elections. El Dorado Elections can get the Assessors Roll for all property in the District very easily. Therefore, they can relatively inexpensively determine who should receive a ballot.

3. **Multiple Votes Per Cabin:** This proposal would apportion to each cabin a certain number of votes. E.g. two, three, four, etc. The default voter for all votes allotted to the cabin would be the person whose name appears on the El Dorado County Assessor's Roll. However, that person could designate another person or persons of voting age in the cabin to be a voter for some or all of that cabin's votes. This system has several things to recommend it.

- First, the problem of allowing co-owners of a cabin to vote their independent views could be solved by splitting the votes allotted to that cabin.
- Second, it would dramatically increase the number of eligible voters, and therefore dramatically increase the number of people qualified to run for the Board of Directors.
- Third, it would also allow members of the younger generation to be designated as voters. This would allow the next generation to vote, and also to run for the CSD Board.

However, this system would exclude people who are registered voters at Fallen Leaf, but do not own property. The Committee believes this would be a deal killer with Legislature. In addition, this system may be difficult to administer because keeping track of who is to cast a particular cabin's votes may be time consuming.

The Recommended Plan: The alternative which the Committee is recommending is a combination of property voting and registered voters. Anyone who is registered to vote as a resident in the Fallen Leaf District would vote. In addition, properties on the County Assessor's roll would be entitled to four votes, with two possible exceptions. First, if the property is not improved (meaning no cabin is on the property) that parcel would be entitled to only two votes. Currently, improved parcels pay a full fire assessment to the CSD. Unimproved parcels pay one half of an assessment. Second, Stanford Camp pays forty times the fire assessment that any single cabin pays, and committee members are currently in discussion with Stanford Camp to determine what would be a fair allotment of property votes to Stanford Camp.

This plan would allow the holders of Forest Service permits to vote. Permittees also pay taxes in El Dorado County and appear on the Assessor's roll.

We are recommending this alternative because:

- The combination of property owners and registered voters is modeled on a similar voting system that was successfully passed by the legislature for the Sierra Lakes Water District. As a result the Legislature has seen something like it before, and getting approval may be that much easier.
- This would dramatically increase the number of voters who could vote in CSD elections. That means it would also increase the number of possible candidates for CSD Board, as the right to vote in the district is a requirement of Board membership.
- People who vote as property owners would not have to declare El Dorado County as their place of domicile, and so they will not be "registered voters" in El Dorado County. Hence they may register and vote in their winter community.
- Allowing a cabin to have more than one vote will allow the person on the Assessor's Roll to assign some or all of the votes to others of voting age in the cabin. Accordingly, the younger generation can be assigned votes and be given a voice. This system would also allow co-owned cabins to apportion votes to each owner.
- Allowing more than one vote per cabin would also make voting more representative as most cabins contain more than one person of voting age. The committee believes it would be too expensive and too complicated to keep track of every voting age person in each cabin. However, apportioning the same number of votes to each cabin is a fair compromise that can be administered effectively.

The negative side of this alternative is that it would be more expensive to administer than the other proposals due to the necessity of mailing out and tabulating additional ballots. However, the larger number of people who may participate in Fallen Leaf affairs is a benefit which the Committee believes is worth the additional cost.

This system would also be more expensive because of the necessity of maintaining a larger, and current, list of voters. However, it is possible to mitigate the expense of maintaining this list by having the CSD, rather than El Dorado Elections, maintain the list of eligible voters. That is the way it works in the Sierra Lakes district and that solution is supported by statutory

authority. (California Elections Code §10502 10525.) We have spoken with El Dorado Elections, and they agree that the CSD can maintain the list.

It will be time consuming to make up the first list of property owner voters. However, few cabins change hands at Fallen Leaf each year. Hence that list should not require a great deal of updating. El Dorado County Elections has indicated that it can provide the CSD with a list of registered voters in the district so that duplicates may be identified. Under the proposed system a person who is both registered voter and also a property owner would vote only in one category, not both. However, if a person is voting in the property owner category, that person may vote one or all of the cabin's allotted votes.

The committee is conducting a survey to determine if its recommendation has the support of the community. The survey will be open through August 4, 2013. You can take the survey on Survey Monkey at the following link:

<https://www.surveymonkey.com/s/6QV2SQD>

If you have questions or comments, please contact one of the Committee members.

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