

Marin County Flood Control and Water Conservation District

FLOOD ZONE 7 ADVISORY BOARD MEETING
SEPTEMBER 17, 2020

STAFF REPORT

Item 1. Approval of Meeting Minutes: August 6, 2020

Attachment 1: August 06 Draft Minutes

<https://www.marinwatersheds.org/sites/default/files/2020-09/Att%201%20draft%20minutes%20Zone%207AB%20080620.pdf>

Recommended Action: Approve minutes.

Item 2. Open Time for Items Not on the Agenda

Comments will be heard for items not on the agenda (limited to three minutes per speaker).

Item 3. Levee Real Estate Process and Proposed Budget

Following the shelter in place order in March, most fund budgets from Fiscal Year 2019-2020 were automatically rolled over into the next fiscal year, including Zone 7's. Going forward, the County Administrator's Office (serving as the Flood District Administrator) requested that all flood zones recommend a baseline budget for the beginning of each fiscal year that does not include major project expenses. Baseline budgets are intended to be relatively consistent year to year based on ongoing operations and maintenance needs. Major projects will require separate actions from the Advisory Board (AB) and Flood District Board of Supervisors (BOS) to adjust the budget as needed. As usual, the approved budget may always be adjusted as necessary as priorities and cost estimates for projects and studies planned for this coming fiscal year are more clearly identified.

In order to begin the process of obtaining necessary easements along the levee system alignment, and prepare to advertise the project for construction by the spring 2021 timeline, the following budget adjustments are recommended and correspond to the gray rows in Attachment 1 (all other rows represent current budgets in Munis and changes are not at this time proposed. Note Munis is the County's and by default, the Flood District's enterprise accounting software system).

Attachment 2: Zone 7 FY20-21 Budget including Line Item Details

<https://www.marinwatersheds.org/sites/default/files/2020-09/Att%202%20Z7%20Budget%20FY20-21%20incl%20detail.pdf>

Recommended Action: Recommend the Flood District Board of Supervisors approve the following Zone 7 budget adjustments in order to begin the process of obtaining easements along the levee system and prepare to advertise the project for construction by the spring 2021 deadline:

- 1) Increase revenue budget in the Munis object for Federal-Other by \$2,982,753 for a total of \$2,982,753 (the adjustment would not be made until after the special tax election referenced in Item 4 below, if it is passed by voters.) See Attachment 2, Line Item 14
- 2) Increase revenue budget in the Munis object for Transfers In by \$840,000 for a total of \$840,000 (the transfer would not be made until after the special tax election referenced in Item 4 below, if it is passed by voters.) Line Item 16

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- 3) Increase expenditure budget in the Munis object for Maintenance of Buildings and Improvements by \$22,047.77, or a total of \$126,992.16 (including encumbered funds carried over from prior fiscal years) to fund the timber-reinforced berm upgrade demonstration project so property owners can see what the proposed improvements would look like. Line Item 17
- 4) Increase expenditure budget in the Munis object for compensation to private levee owners by \$1,387,000 for a total of \$1,390,000 (compensation would not be paid until after the special tax election referenced in Item 4 below, if it is passed by voters.) Line Item 18
- 5) Increase expenditure budget in the Munis object for easement appraisals and Title Reports by a total of \$94,000 for a total of \$329,812.23 (including encumbered funds carried over from prior fiscal years). Line Item 19
- 6) Create a project designation for levee construction setting aside \$4 million for upgrade of the timber-reinforced berm. Line Item 30

Item 5. Gallinas Levee Upgrade Project Financing Options and Zone 7A Special Tax Measure

In the last year, the AB has considered two types of voter approved revenue measures, a special tax and a benefit assessment. At this meeting a refined special tax option is being presented that incorporates some of the benefits of both methods of assessment.

Background

The Zone 7 Advisory Board is being asked to review and make a recommendation on a possible method of financing up to \$1.4M of remaining project funding. Funds are needed to obtain the right-of-way for construction and maintenance, maintain access over the levee for levee owners, and environmental mitigation in compliance with State and Federal permits. Project costs are being refined through the design process and the latest estimate for all TRB project costs is \$6 million.

Gallinas Levee Upgrade Project information is available on the website:

<http://www.marinwatersheds.org/resources/projects/gallinas-levee-upgrade-project>

In August 2019 the AB considered a special parcel tax across the entire Zone 7. Details about that tax proposal and the ensuing conversation can be found on the meeting page here:

<https://www.marinwatersheds.org/about-us/events-meetings/flood-control-zone-7-advisory-board-meeting-2>. That proposal was temporarily shelved while staff investigated other special assessment methodologies that would only consider those parcels subject to the threat of tidal flooding if the levee didn't exist.

Since that time

1. The CEQA Initial Study/Mitigated Negative Declaration (IS/MND) has been filed and posted by the County including responses to comments.
2. The Flood Barrier Study Technical Memo draft has refined the design, provides a better description and alignment of the new TRB, and evaluates alternatives that were raised during the CEQA process.
3. The easement acquisition process has been described in two documents on the project website.
4. FEMA awarded the \$2,982,753 hazard mitigation grant, providing approximately half of the overall project funding (up to 75% of the costs for design, permitting, project management, and construction).

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Last month the board was presented with a '1913 Act' Benefit Assessment engineer's report as an alternative special assessment method in which the boundary of the assessment area was delineated to specifically include the homes at risk of tidal flooding and assessment rates were tiered based on adjacent ground elevation. For more details find the meeting packet for that meeting here:

<https://www.marinwatersheds.org/about-us/events-meetings/flood-control-zone-7-advisory-board-meeting-4>

At the meeting there was concern expressed about proposing a tax measure that only requires a simple majority rather than the more typical 2/3, and one in which the voting is not conducted by the County Elections Department as part of a regular election cycle. There was also the impression that the benefit assessment was overly complicated, and that the seven tiers of assessment stratified the costs too much. The differences between a benefit assessment and special tax were reviewed at the last Advisory Board meeting. Here is a link to the presentation from that meeting:

<https://www.marinwatersheds.org/sites/default/files/2020-09/8%3A6%3A20%20AB%20slides.pdf>

Subsequent conversations highlighted the necessity of retaining the area delineated by the benefit assessment (parcels whose primary structures sit on land that is below an average elevation of 11 feet NAVD) but to return to a special tax so that the election is more consistent with other County special tax measures. Therefore, based on community feedback, staff is recommending a special tax measure.

Zone 7A

The special tax option presented here would, if approved by 2/3 of voters in March, create a new subzone within Zone 7 that we will call Zone 7A. Zone 7A is made up of the parcels that, due to their elevation, are at risk of tidal flooding and benefit from the levee project. Building off of the benefit assessment methodology, these are the parcels, shown in the figure below, whose primary structures sit on land that is below an average elevation of 11 feet NAVD.

According to the State water code governing the Flood District, formation of subzones is permitted and accomplished through a sequence of two resolutions by the District Board of Supervisors (BOS) – one resolution of intent and one resolution of conditional approval following a public hearing. In this case the resolutions would be brought to the BOS concurrent with resolutions approving placement of the parcel tax (details below) on the March ballot. This process of creating a subzone has been done in other Flood Zones in Marin County.

Zone 7A would only be created if the ballot measure passes. Once created, it would exist as an administrative designation in perpetuity. The parcel tax under consideration would run 7 years and then end, leaving Zone 7A dormant. Any new taxes for the subzone would require another election.



Figure 1. Proposed Zone 7A parcels outlined in bold

Zone 7A Special Tax Duration and Amount

Special tax amounts can be the same for all parcels or based upon factors such as land use class, building square footage, or even elevation, as was presented in the benefit assessment last month. With the goal of generating \$1 million towards the project, NBS prepared various options in the Attachment 3: Zone 7a Parcel Tax Study.

<https://www.marinwatersheds.org/sites/default/files/2020-09/Att%203%20Zone%207a%20Parcel%20Tax%20Study.pdf>

Of the options presented in this report, Scenario #1 is recommended by staff as the preferred option. This scenario is the simplest way to calculate the tax. Each parcel is taxed equally, irrespective of the size, development status, land use, or elevation.

Per the tax study, the final ballot language wording would be within a 75 word limit and in compliance with the Election Code. The ballot language would have the following elements:

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Number of parcels	660
Rate per parcel	\$381
Annual Revenues	\$251,460
Duration	7 years
Total Revenue*	\$1,760,000

*also per the tax study, this total revenue is higher because it includes expectations to bond immediately after the election and associated costs.

Special Tax Resolution

In order to meet mandatory administrative deadlines for the March 2021 election, the Flood District BOS must approve a resolution calling for the measure to be placed on the ballot no later than 88 days before the election. Staff are targeting a November 17, 2020 BOS meeting date at the latest. The process involves two BOS meetings; a notice of hearing, tentatively scheduled for October 20, 2020, and the actual hearing on November 17, 2020. These resolution and hearing dates will be concurrent with those required for conditional establishment of Zone 7A as referenced above.

Next Steps

Below is an updated timeline of next steps for the project (dates to be confirmed).

Prepare Construction Plans and Specifications	August 2020 - April 2021
Z7 Advisory Board meeting to review special assessment options	September 17, 2020
District BOS to consider Resolution of Intention to conditionally establish Subzone 7A, contingent on voter approval of a special tax. Set the date and time for Public Hearing	October 20, 2020
Environmental Permitting	November 2020 - February 2021
District BOS Conducts Public Hearing; considers Resolutions conditionally establishing Subzone 7A and calling for a special tax election	November 17, 2020
Election	March 2, 2021
Easement Acquisition Process	December 2020 - May 2021
Advertise Construction Contract to Potential Bidders	May 2021 - June 2021
Reconstruct Timber-Reinforced Berm	June 2021 - November 2022
Grant Closeout Process	November 2022 - February 2023

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Recommended Action: Approve special tax scenario #1 and recommend the Flood District Board of Supervisors call for an election to impose a special tax upon parcels located within a conditionally established Zone 7A for the purpose of funding the Gallinas Levee Upgrade Project.

Item 6. Schedule Next Meeting

The next regular advisory board meeting is tentatively scheduled to take place after the proposed election on March 11, 2021. Special meetings, subcommittee meetings, and community or project meetings may take place in the meantime.