

**FLOOD CONTROL ZONE 7 ADVISORY BOARD MEETING**  
**MEETING CANCELED-SEPTEMBER 24, 2019**

**REVISED STAFF REPORT**

**Item 1. Approval of Meeting Minutes: August 21, 2019**

**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. Gallinas Levee Upgrade Project**

The purpose of this meeting is to continue Item 3 from the August 21, 2019 Advisory Board meeting, which was reviewing and recommending the draft ballot language and resolution to support placing a project-specific special tax measure on the March 2020 ballot. The project has several items progressing concurrently and at the last meeting it was requested to further clarify some of these before recommending the tax measure. Most of those items are captured in the minutes and are addressed below. For project background, purpose, funding strategy etc. see the previous staff reports from May and August at:

<http://www.marinwatersheds.org/about-us/events-meetings>

or visit the project webpage at:

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

**a. Survey and Design**

In June the Zone conducted an elevation survey of the levee using an unmanned aerial vehicle (aka a drone) equipped with a LiDAR 3D laser scanner. The District has compiled the survey data into a digital elevation model (DEM). Another survey product is a set of aerial images with spot elevations marked along the levee/TRB crest and in the backyard of most of the properties along the water. This aerial imagery has been posted on the project webpage. The elevations marked are not absolute highest or lowest but are instead roughly representative of the levee and low point of yard elevations. These survey data will be used to support the TRB design process.

Engineering design is continuing this fall to recommend a design that works with the constraints of the site. The design will include structural and geotechnical engineering and recommend a final design elevation for the reconstructed TRB. The design report will include a feasibility-level evaluation and cost comparison for alternative materials and methods such as vinyl sheetpile walls and wood vs composite timber. Even though the 2014 USACE levee evaluation determined it would cost \$17 million for a new sheetpile wall system, this study will evaluate whether there are any sheetpile technologies that could be constructed within a 3-4 million budget. The design report will identify a feasible construction project that can be built within a \$3-4 million budget and is expected to be completed this fall.

**b. Real Estate and Easements**

The District must obtain easements through private property along the levee in order to complete this project and to ensure access for future required maintenance. The easement and its negotiation

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process are of particular interest to the ~115 property owners along the creek and the Marin County Public Works' Real Estate division is working with the Zone to provide information about the process and answer questions. A Question and Answer sheet has been posted to the webpage, and a process overview will be added there this month. In order to answer specific questions, such as "will my shed be allowed to stay where it is?" the District will work with Real Estate division staff to begin meeting with homeowners and looking at plans to accommodate some of the more challenging situations as well as contracting for appraisals. This work would begin immediately following passage of the parcel tax in March.

Because FEMA is seemingly making rapid progress towards grant award, and once awarded there will be a 3-year grant performance period, staff recommend that the District be prepared to "hit the ground running" immediately following the election (assuming voter approval of the measure) in order to obtain the right-of-way needed to complete construction within the required timeframe. Staff ask that the AB make the following recommended Zone 7 budget adjustments (Table 1) to the District BOS:

**Table 1**

<b>Line Item</b>	<b>Existing FY19-20 Budget</b>	<b>Adjustment Amount</b>	<b>Description of Real Estate Tasks</b>
Real Estate Division Staff	\$30,000	\$100,000	Funding 3 full-time agents for 3 months
Professional Services	\$220,000 (plus \$8,312.23 from encumbered prior year contracts)	\$125,000	For appraisals
Misc. Expenses	\$3,000	\$55,500*	Obtain title reports

\*Assumes compensation for easements to property owners is not made until next fiscal year.

Additional costs next fiscal year could include:

- Up to \$500,000 to reimburse homeowners for their own appraisals. This assumes basically everybody elects to do so.
- Up to \$1.3 million to compensate property owners for temporary and permanent easements if they do not elect donation.
- \$250,000 in additional real estate agent time, particularly if some homeowners resist agreeing to the easements.

~~**Recommended Action:** Recommend the District Board of Supervisor approve the budget adjustments in Table 1 and that the funding only be spent if the outcome of the election was approval of the special tax measure.~~

**c. CEQA/NEPA Environmental Process**

CEQA, the California Environmental Quality Act, is a statute that encourages agencies to minimize the impacts on the environment and facilitates public involvement in project planning. In July the Zone released a draft Initial Study of the project and collected comments from residents, nonprofit groups, and the California Department of Fish and Wildlife. Responses to comments have been drafted and are currently going through final review. The final Initial Study along with an administratively signed Notice of Determination and Mitigated Negative Declaration will be filed with the County Clerk and posted to the project webpage in the coming weeks.

FEMA, as part of the Hazard Mitigation Grant review is completing NEPA, the Federal equivalent to CEQA. FEMA determined that the project scope falls under their 2014 Final Programmatic

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Environmental Assessment and therefore won't do a project-specific Environmental Assessment. On August 29, FEMA published a public notice under compliance with Executive Order 11988 that affords for public comment: <https://www.fema.gov/disaster/notices/initial-public-notice-santa-venetia-timber-reinforced-berm-marin-county-fema-dr>

### **d. Funding Strategy and Additional Grant Funding Potential**

Funding for the full project is dependent on all four of these potential sources.

- The only assured funding is the few hundred thousand in annual ad valorem tax revenue that the Zone receives. Using available reserves and revenues from this funding source and borrowing against it will reduce the amount available for pump stations and other maintenance. This funding source alone is not sufficient to rebuild the TRB, even if the rebuild were implemented over the course of 10-years.
- In November 2017, the Zone applied to FEMA's Hazard Mitigation Grant Program for up to \$3 million. Award of this grant looks promising but requires at least a \$1 million match and will not cover costs for right-of-way needed for construction and long-term maintenance
- On October 16, 2018, the County Board of Supervisors approved setting aside \$840,000 as a County contribution. This contribution is dependent upon passage of a special tax within the Zone and pursuit of easements for long-term facility maintenance.
- Passage of a several-year, project-specific parcel tax measure by a 2/3rds+ majority of voters within Flood Zone 7 would generate the fourth necessary source of funding.

The FEMA environmental review process has included a request that the District post a notice indicating their intention to fund the up to \$3 million grant for project construction. This is not the formal award, but it provides some level of assurance that the funding will be available. This would be the first Hazard Mitigation Grant Program-funded construction project ever awarded for a District project.

In May 2019 District staff applied for another grant through the State Coastal Conservancy for \$110,000 for habitat improvements along the marsh side of the TRB, construction of a demonstration project, and outreach. On August 23 the district was informed that the application was denied.

Terms of the County's \$840,000 contribution were discussed at the last meeting and it was requested that the language be strengthened in the resolution to increase confidence in its availability. The County contribution was initially affirmed in a Board of Supervisor's letter on October 16, 2018. The terms of the contribution are not contingent upon award of the FEMA grant, but are dependent upon successful passage of the tax measure and acquisition of easements. The resolution attached here for the tax measure is to the District BOS.

Contingency and cost overruns were mentioned at the August Advisory Board meeting. The potential for any project to experience cost overruns is a legitimate concern. The level of project definition is usually expressed as a % of complete design and each phase carries with it an expected cost estimate accuracy range which diminishes as the project approaches 100% design. Final costs are unknown until the project goes out for competitive bidding. At this point the project is in a 'concept' phase with less than 30% design. As the design progresses as described in item 4a above, the accuracy of the cost estimates is expected to increase. At this point there is still flexibility to design a project that fits within the construction budget with a 20-30% contingency. Typically, 10-20% contingency is applied to District projects as a matter of practice and this is sufficient for most projects where field conditions are known.

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A large project cost that we cannot adjust is the real estate costs. As a government agency, the District is required to follow state and federal laws that require appraisals and fair market offers which collectively add up to over \$1 million. While the Zone is committed to following a fair process, homeowners along the TRB will have a significant opportunity to help keep the project costs down by working together and even opting to donate the easements.

The need to address localized stormwater flooding as part of the special tax measure was raised at the last meeting. There is no doubt that portions of the neighborhood have issues with poor drainage and localized flooding and this project doesn't address them. The District does and will continue to work with the Marin County Roads and Engineering Divisions to advocate for drainage improvements as they repave roads. The District could create cost sharing incentives with Roads in the future, but this would unnecessarily complicate the levee project which has no effect on interior stormwater drainage. There are several areas of poor street drainage in the neighborhood and tens of millions of dollars would be needed in order to make a difference zone-wide. To put this into perspective, while many streets, yards, and garages experience inundation from stormwater every year (not just in Zone 7) the Santa Venetia Storm Drain Hydraulic Study only found a small proportion (27 homes based on a 2008 survey) are at risk of their living space flooding due to the level of stormwater flooding as a result of the 100-year storm (<http://www.marinwatersheds.org/resources/publications-reports/santa-venetia-storm-drain-hydraulic-study-final-report>) whereas the levee and TRB system prevents hundreds of homes' living spaces from tidal flooding during 100-year tidal event. This 100-year level can also be expressed as the highest event expected within 100-years, which has a 1% chance of occurring in a give year. In this case we are comparing the same probability between two different flood threats; an amount of precipitation and a tidal elevation.

### **e. March 2020 Ballot Initiative**

This meeting was scheduled as a follow-up to the August meeting in order for this Advisory Board to consider and recommend to the District Board of Supervisors placement of a tax measure on the March 2020 presidential primary ballot before the administrative deadline in November. The outcome of this election will determine if the other funding sources fall into place and is therefore the primary determining factor of whether this project is viable.

Staff has worked with the Advisory Board's election subcommittee (AK & JG) on the basic parameters of the tax, which, for the most part, are unchanged since the last meeting. With the goal of generating \$1 million, the recommended tax would have a 7-year duration and be assessed as a flat amount of \$179 per developed parcel (n=818 parcels). The attached tax study was completed for this proposal and stands as the basis of these calculations

At the last meeting, the recommendation included a low-income senior exemption along limits set by the US Department of Housing and Urban Development (HUD) as in Table 2 below. It was suggested that the exemptions need better justification because senior homeowners stand to benefit through increased property values as a result of flood protection along with everyone else. Staff investigated the possibility of tying the tax revenue directly to property equity. While the Marin County tax collector doesn't do this until the property has defaulted on taxes for 5 year, at which point the property can be auctioned, there is a state property tax postponement program through the controller's office. Otherwise the mechanism for accessing this equity would be a reverse mortgage. All of these options seem pretty extreme for \$1,253 over seven years.

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San Francisco, CA HUD Metro FMR Area	FY 2018 Income Limit Category	Persons in Family			
		1	2	3	4
	Low (80%) Income Limits (\$)	82,200	93,950	105,700	117,400

**Table 2.** Low income exemption limits from US Department of Housing and Urban Development (HUD)  
<https://www.huduser.gov/portal/datasets/il/il2018/2018summary.odn>

It was also suggested that as many as 163 homeowners could take the exemption, and thereby lower the project’s revenue. At \$1,253 per household, the lost revenue of 50 homes taking an exemption would be \$62,650, however reliable data on the number of low-income seniors that would take an exemption in Zone 7 remains difficult to estimate. To address both issues raised- a greater number of potential exemptions and differences of opinion regarding their justification, staff suggest a compromise of offering a 50% discount to qualifying households. Offering a 50% discount to eligible seniors would allow 100 households to take the exemption with the same impact on the project.

Proposed ballot language is as follows:

Flood Zone 7 Gallinas Levee Upgrade Project  
 Shall Santa Venetia Flood Control Zone 7 upgrade the levee and timber reinforced berm protecting the neighborhood from tides by levying a tax of \$179 per developed parcel over seven years with low income senior discounts, generating approximately \$143,000 annually only to be used for the Gallinas Levee Upgrade Project which may include obtaining easements?

**Resolution**

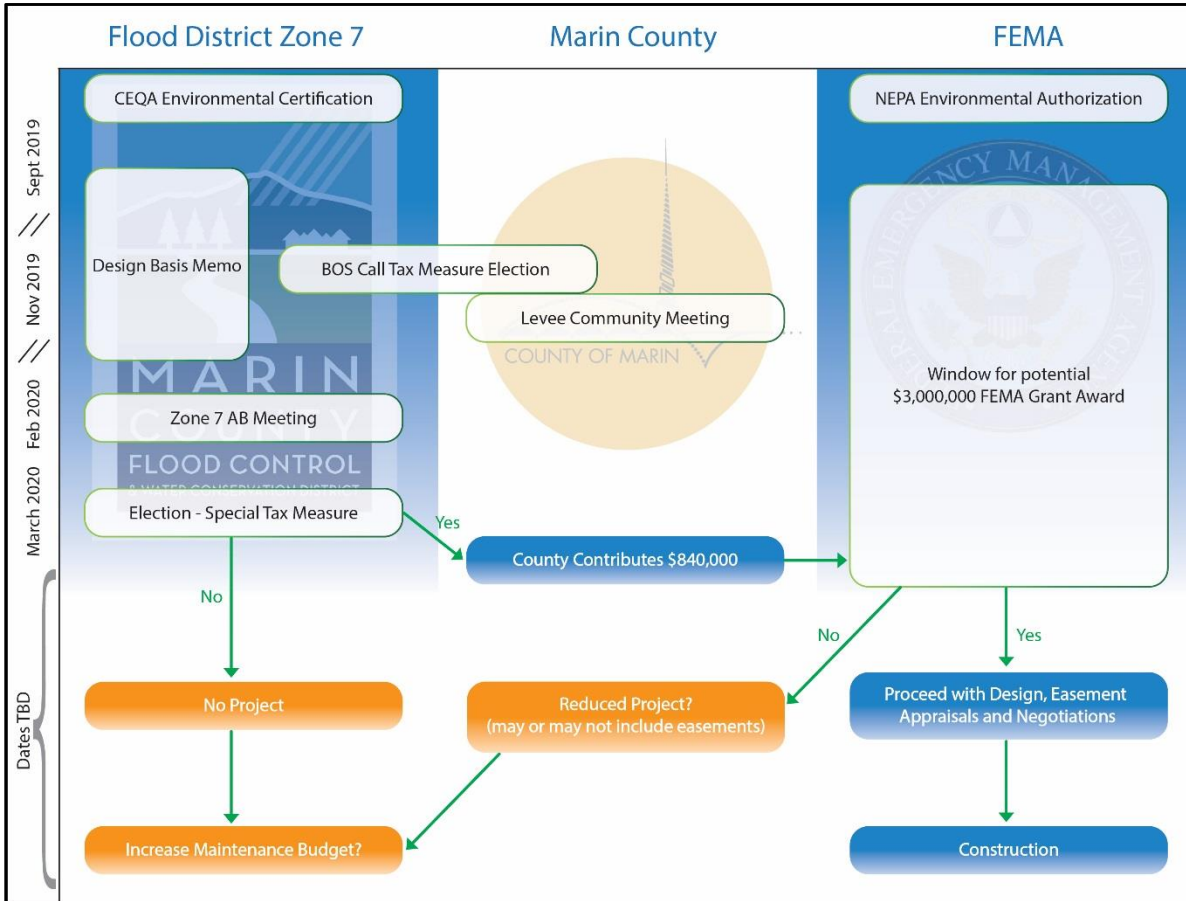
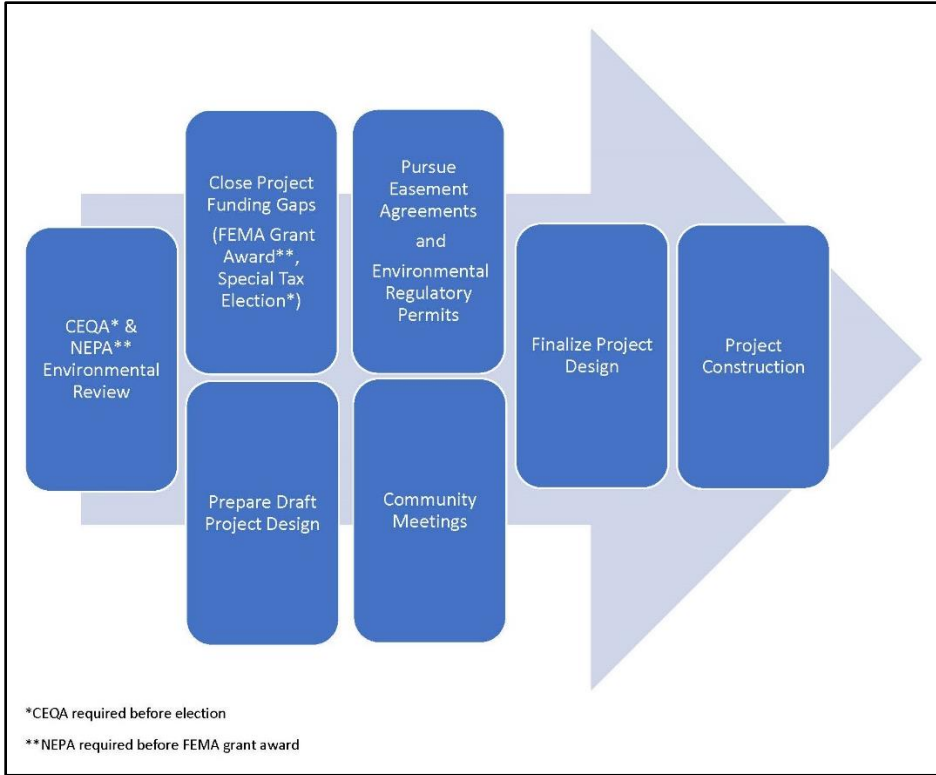
In order to meet mandatory administrative deadlines for the March 2020 election, the Marin County Flood Control and Water Conservation District Board of Supervisors must approve a resolution calling for the measure to be placed on the ballot no later than 88 days before the election. Staff are targeting a November 2019 Board date at the latest. The process involves two Board meetings; a notice of hearing, tentatively scheduled for November 5, and the actual hearing on November 19. The attached resolution is a draft of what would be brought to the District Board.

~~**Recommended Action:** Recommend ballot language and a Resolution of the Marin County Flood Control and Water Conservation District Board of Supervisors calling for an election to impose a special tax upon parcels located within Flood Control Zone No. 7 for the purpose of funding the Gallinas Levee Upgrade Project.~~

**f) Project Schedule**

The figures below illustrate the project phases and primary tasks moving forward.

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Check project website for updates.

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

<b>Date</b>	<b>Task/Deliverable</b>
7/24/18 2/26/19 5/29/19 8/21/19	Recent Advisory Board meetings about the project
07/03/19	CEQA Initial Study released for public comment
08/05/19	Public comment period for Initial Study closed
September 2019	Final Initial Study (includes responses to comments); will be posted to project website
September 2019	Notice of Determination approving Initial Study Mitigated Neg Dec signed by Raul Rojas, Director of Public Works Department
September 2019	MND filed with County Clerk; starts 30 statute of limitations on court challenges to the approval under CEQA
~February 2020	Public Meeting when Design report completed
3/3/2020	Election Day

**g. Back-up Plan/Scaled Back Project**

If the grant is not awarded but the special tax is approved, a scaled-back version of the project would be initiated. The scaled back version would still involve acquisition of permanent easements to better ensure the safety of the community going forward. The highest priority areas, based on elevation and/or existing TRB condition, would be identified and constructed. Over time, as funding allows, TRB sections would be replaced with the upgraded materials and design.

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**Item 4. 2019 Maintenance Update**

This is an informational update only and staff will be available if there are any questions or comments but no advisory board action is needed. No additional information will be provided at the meeting.

**Pump Stations**

To minimize the number of pumps out of service in a given year, the District implements a staggered rotation for major preventive maintenance on pump station pumps on a 6-year cycle. This year Pump #1 at Station #3 was the only Zone 7 pump due to be pulled and serviced. The pump was in good shape so only the standard service which cost \$14,000, and no extra repairs were needed this year on this pump. This is good news following \$44,580 and \$19,118 in extra repairs needed for the prior two years.

Station #3 pump before service



After service



Outside of the preventive maintenance cycle other pump station repairs are needed this year. In pump station 4 the automatic water level transducer failed and is being replaced. These transducers read the level of the water in the wet well and report it to the main control panel where the on/off levels are set. There are back-up mechanical floats in case of transducer failure, but this critical pump station serving a very low-lying watershed will not operate as designed until the transducer is replaced.

The water supply to Pump Station 5 ruptured this summer as a result of land subsidence relative to the pump station which is founded on engineered piles. DPW building maintenance was able to repair the leak.

**TRB Maintenance and Repairs**

Every year for the past few years the zone budget sets aside \$50,000 towards repairs of the highest priority deteriorated and broken sections of the Timber Reinforced Berms (TRB) atop the levee on private property behind Vendola Drive homes. This year the Zone will spend that full amount reconstructing or partially rebuilding TRBs on five properties.



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The last set of inspections of the full TRB system was completed in 2015-2016. This summer's repairs will finally complete the TRB sections that were identified as very high priority three years ago. In this time the District has also completed about four repairs based on special inspection requests and leaks.

The District has signed 5-year permission to enter and inspect agreements with almost all properties but needs additional signed permissions to actually conduct demolition and repair work. One house that we intended to repair this year did not respond to numerous letters and house calls and thus did not get work done. The wasted staff time and inability to do work there illustrates the challenges of the current temporary agreement situation and impetus for permanent easements.



### **La Pasada Interceptor Road Patch**

During one of the many potent storms last winter the road surface of La Pasada Way bulged and cracked in two places along the centerline. This damage is thought to be related to the two 33" interceptor pipes that are below the road surface here and specifically the result of high stormwater flow into the pipes concurrent with high tides which created excess pressure in the pipes. This pressure resulted in water seeping through the seams between the interceptor's reinforced concrete pipe sections into the road bed. The road had recently been paved, which might have sealed this seepage in a way that it previously hadn't. This summer the District and County Roads staff worked together to inspect the entire system, including videoing the pipes, sealed manhole on Vendola, and creek outfall tide gate and did not observe any flood-related problems with the condition of the infrastructure. Later this summer the County Roads department patched the road.

### **Drainage Ditch North San Pedro at Sunny Oaks Interceptor**

Marin County Roads Department has removed accumulated sediment and excessive cattails from two drainage ditches within the zone on North San Pedro Road that drain into the Sunny Oaks Interceptor Drain. The Zone does not pay for the actual excavation of sediment and cattails, but does determine when it is needed and coordinates the environmental permits.

### **Item 5. Schedule Next Meeting**

Staff recommend meeting once the design basis memo is completed and/or if FEMA awards the grant prior to the annual budget meeting next year.