

Marin County Flood Control and Water Conservation District

FLOOD CONTROL ZONE 7 ADVISORY BOARD MEETING
AUGUST 21, 2019

STAFF REPORT

Item 1. Approval of Meeting Minutes: May 29, 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 Tax Revenue Measure

The purpose of this meeting is for your Board to review and recommend the draft ballot language and resolution to support placing a special tax measure on the March 2020 ballot. The revenue for the tax would go specifically to fund the Gallinas Levee Upgrade Project including the process of obtaining easements for long term maintenance.

Background and Purpose

The height of the levee system protecting Zone 7 from tidal inundation was increased with a Timber Reinforced Berm (TRB) in 1984 following several tidal floods in the neighborhood. The approximately 1 mile of TRB is located along the creek behind homes on Vendola Drive. The levee under the TRB is on a combination of private and public property and no permanent easements exist for its continued maintenance.

In 2014, the US Army Corps of Engineers in partnership with the Zone completed an evaluation of the levee system around Santa Venetia in a collection of studies that are available here:

<http://www.marinwatersheds.org/resources/publications-reports/las-gallinas-creek-levee-evaluation-reports-and-documents>

This evaluation concluded that the existing levee/TRB system had an 80% chance of failing before water levels get high enough to overtop it (Geotech Data Report p. 51). The Corps also evaluated several levee upgrade project alternatives that would have met or exceeded their minimum criteria for levees, including sheetpile wall alternatives. The least expensive sheetpile alternative was estimated at \$17 million and would conceivably cost about \$20 million today. All the alternatives that met Corps criteria, including sheetpile walls, were determined to be too expensive to implement relative to the small size of the community they protect and therefore a levee project was deemed ineligible for their assistance.

In the last three years the Zone has been considering an effective and less expensive upgrade to the levee that is eligible to leverage a \$3 million maximum FEMA Hazard Mitigation grant (requires a minimum \$1 million local match). The Gallinas Levee Upgrade Project would reconstruct the TRB to a higher elevation with a more durable composite material and deeper post embedment in order to significantly reduce the risk of failure as well as reduce ongoing maintenance costs.

Marin County Flood Control and Water Conservation District

The zone released a draft CEQA Initial Study document in July which describes the project and its environmental impacts in detail. The public comment period closed on August 5 but the document can be found on the webpage at: <http://www.marinwatersheds.org/resources/projects/gallinas-levee-upgrade-project>. The final initial study along with comments received and responses are expected to be filed within the next few weeks. The comment letters and responses will be posted to the project page. Once the final Initial Study is certified and filed it starts a 30-day statute of limitations on court challenges to the approval under CEQA.

As currently described in the initial study and grant application, the elevation of the replaced TRB would be no higher than 12.5 feet NAVD88. The final design elevation will be refined and adjusted during final design which is expected to commence this fall. The cost for the final design would be borne by the Zone if this task begins before the FEMA grant is awarded. There is budget available in the Zone professional services funds to initiate the design work.

Funding Strategy

Funding for the project is dependent on four potential sources. In November 2017, the Zone applied to FEMA’s Hazard Mitigation Grant Program for \$3 million. On October 16, 2018, the County Board of Supervisors approved setting aside \$840,000 as a County contribution. The Zone has a few hundred thousand in annual revenue that could be borrowed against. Passage of a several-year, project-specific parcel tax measure within Flood Zone 7 would generate the fourth necessary source of funding.

An expenditure plan for the project is included here as Attachment A.

Tax duration and amount

Taxes can be configured in different ways. With the goal of generating \$1 million towards the project, staff worked with the Advisory Board’s election subcommittee (AK & JG) to develop and evaluate the parameters recommended here.

The recommended tax would be a 7-year duration, assessed as a flat amount per developed parcel (n=818 parcels) with exemptions available to low-income seniors. These exemptions would be along HUD income limits as in the table below. The numbers below include 50 exemptions, but this is an approximation because we don’t have an accurate count of seniors in Zone 7 that would qualify and seek an exemption. Using these criteria, the annual tax would be approximately \$181 generating approximately \$143,000 per year for 7 years. The annual tax amount could vary slightly depending on the final tax study which will be attached to the resolution presented to the District BOS.

Term	4 years	5 years	7 years	9 years
Rate per Parcel	\$315	\$252	\$181	\$140

Table 1. Possible Tax Rate Scenarios assuming 818 parcels and 50 senior exemptions

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>

Marin County Flood Control and Water Conservation District

Ballot Language

Staff and the election subcommittee generated several versions of proposed ballot language that conform to the 75-word limit per Elections rules. Only the version below complies with other requirements staff were apprised of following review by County Counsel and Elections.

Flood Zone 7 Gallinas Levee Upgrade Project

Shall Santa Venetia Flood Zone 7 obtain easements and upgrade the levee and timber reinforced berm protecting the neighborhood from tides by levying a tax of \$181 per developed parcel over seven years with low income senior exemptions, generating approximately \$143,000 annually only to be used for the Gallinas Levee Upgrade Project?

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: Approve ballot language and recommend 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

Item 9. Schedule Next Meeting

At this time, the AB could consider when they would like to meet next.

Attachment A

Gallinas Levee Upgrade Project Expenditure Plan

Flood Control Zone No. 7 – Santa Venetia is proposing a parcel tax to fund levee safety upgrade projects to reduce the risk of tidal flooding. In particular it will fund reconstruction of a timber reinforced berm atop a levee. Project concepts, estimated costs, and benefits are summarized below:

Project Component Concept	Est. Cost	Actions and Benefits
Timber-Reinforced Berm (TRB) Improvement	\$6 M	Construct new TRB. The facility will be designed for a higher level of flood protection and will be made of materials requiring less maintenance. Includes preliminary estimates for easement acquisition, habitat elements, and loan interest.
Pump Station No. 2 Outfall Reinforcement	\$250k	Trenchless rehabilitation of the pipeline that discharges pump station No. 2 to Gallinas Creek. The project is designed to significantly reduce the risk of levee failure by sink hole over this facility.
Pump Station No. 5 Gravity Bypass Safe Abandonment	\$50k	Trenching to remove a corrugated metal pipe under the levee that is beyond its expected design life and is no longer needed. The project is designed to significantly reduce the risk of levee failure by sink hole over this facility.
Total Cost:	\$6.3 M	In 2019 Dollars
Parcel Tax Proceeds	\$1 M	Over the next 7 years
Grant Target*	\$3.11 M	FEMA, Coastal Conservancy
County Contribution**	\$840k	Likely contingent on parcel tax.
Existing ad valorem Zone 7 revenue in fund balance and expected	\$1.35 M	Over the next 7 years. \$360,000 available in fund with \$142,000 additionally expected per year (reserving funds for estimated basic O&M needs).
Total:	\$6.3 M	

* Does not include NEPA, which is paid for by FEMA

**Does not include CEQA and election management and tax study, which is paid for by the County

Actual costs are not known until construction bids are received. Relative costs per project component may change within the \$6.3 million estimate.

RESOLUTION NO. 2019-_____

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 UPGRADING THE LEVEES ALONG GALLINAS CREEK

WHEREAS, Santa Venetia is protected from tidal inundation by over one mile of earthen levee and Timber Reinforced Berm, hereinafter referred to as "levee system", located on private property behind homes along Vendola Drive; and

WHEREAS, future flood risks for properties located behind the levee system will likely be exacerbated by sea level rise and land subsidence and the levee system does not currently meet height standards such as the 2017 Base Flood Elevation established by the Federal Emergency Management Agency (FEMA); and

WHEREAS, the District, on behalf of Flood Control Zone No. 7 (hereinafter referred to as "Zone 7") has described an intended levee system upgrade project including acquisition of permanent maintenance easements through an initial study/mitigated negative declaration in accordance with the California Environmental Quality Act (CEQA) guidelines; and

WHEREAS, the Board of Supervisors of the Marin County Flood Control and Water Conservation District hereinafter referred to as "Flood District", and upon the recommendation of the Zone No. 7 Advisory Board, determines that it is in the best interests of the property owners within to provide for increased protection from flooding risk; and

WHEREAS, pursuant to all applicable state law, including California Water Code – Appendix 68-5(11) and Government Code Section 50075 *et seq.*, and in compliance with California Constitution Articles XIII A and XIII C, the Board of Supervisors of the Marin County Flood Control and Water Conservation District is hereby authorized to adopt this Resolution to establish and impose (subject to voter approval) a special tax upon all taxable real property located within Zone 7; and

WHEREAS, the Board of Supervisors of the Marin County Flood Control and Water Conservation District calls for an election to impose a special tax in the amounts specified per the parcel tax rates described in Exhibit A beginning with fiscal year 2020-2021; and

WHEREAS, anyone who attains age 65 on or before the beginning of the tax year on July 1 of each applicable year and is the beneficial owner (either spouse) of a parcel that is their principal place of residence, and can provide evidence showing that the total household income of the occupants of the residence is not more than the HUD Low Income Limit for Marin County for the applicable tax year, may apply for the exemption; and

WHEREAS, the special tax, if approved by the electorate, will not exceed the spending limit pursuant to California Constitution Article XIII B; and

WHEREAS, the District has applied to FEMA's Hazard Mitigation Grant Program for a federal contribution of \$3,000,000 towards the levee upgrade project which would require the District to guarantee its ability to conduct future maintenance; and

WHEREAS on October 16, 2018, the County Board of Supervisors authorized the Department of Finance to set aside contingent \$840,000 for the levee upgrade project; and

WHEREAS, the Board of Supervisors of the Marin County Flood Control and Water Conservation District conducted a public hearing on this matter on November 5, 2019; and

NOW, THEREFORE, BE IT RESOLVED that, subject to voter approval, the Marin County Tax Collector shall collect the special tax annually in the same manner and subject to the same penalties as County property taxes are collected. The County shall be entitled to deduct its reasonable costs incurred collecting the special tax before such tax is remitted to the Marin County Flood Control and Water Conservation District, Zone 7 Fund.

BE IT FURTHER RESOLVED that the special tax established by this Resolution shall be submitted to the registered voters within Zone 7 in the Statewide Presidential Primary Election on March 3, 2020. The question submitted to the voters shall read substantially as follows:

**Marin County Flood Control and Water Conservation District
Flood Control Zone No. 7 (Santa Venetia) Special Tax**

Flood Zone 7 Gallinas Levee Upgrade Project. Shall Santa Venetia Flood Control Zone 7 obtain easements and upgrade the levee and timber reinforced berm protecting the neighborhood from tides by levying a tax of \$181 per developed parcel over seven years with low income senior exemptions, generating \$143,000 annually for the Gallinas Levee Upgrade Project?	YES
	NO

BE IT FURTHER RESOLVED that the special tax is for the specific purposes of providing risk reduction from tidal flooding for Zone 7 by upgrading the Gallinas levee system and obtaining property rights as required for the proposed project as described in the initial study authorized by the Department of Public Works Director on behalf of the Marin County Flood Control & Water Conservation District on **date**.

BE IT FURTHER RESOLVED that to the extent possible the Zone 7 will leverage local, State and Federal grants and funding.

BE IT FURTHER RESOLVED that the proceeds for the special tax be applied only to the specific purposes stated above

BE IT FURTHER RESOLVED that if the tax measure passes but FEMA Hazard Mitigation Grant is denied, the Flood Control Zone 7 Advisory Board would recommend a request for the County contribution of \$840,000 and would recommend continuing with a scaled-back version of the project within the scope authorized by the **DATE** Initial Study.

BE IT FURTHER RESOLVED that should the electorate approve the special tax, the proceeds shall be placed in a special fund to be used solely for the purposes stated above.

BE IT FURTHER RESOLVED that should the electorate approve the special tax, the Zone 7 could issue bonds consistent with Water Code Section 68.5.

BE IT FURTHER RESOLVED that the Marin County Auditor as chief fiscal officer, and acting as an ex-officio officer of the Flood District pursuant to Water Code Section 68-7, is hereby

directed to prepare an annual report pursuant to Government Code Section 50075.3. The chief fiscal officer shall receive actual necessary expenses in the performance of official duties performed pursuant to this resolution payable from the funds of the Marin County Flood Control and Water Conservation District.

BE IT FURTHER RESOLVED that this Board of Supervisors of the Marin County Flood Control and Water Conservation District hereby calls and orders an election to be consolidated with the Statewide Presidential Primary Election to be held on March 3, 2020, for the purpose of voting on a ballot measure to approve the special tax.

BE IT FURTHER RESOLVED that pursuant to the provisions of Elections Code Section 10002, the Board of Supervisors of the Marin County Flood Control and Water Conservation District hereby requests that the Registrar of Voters render all services necessary for the conduct of the election, which include the following matters: coordination of election precincts, polling places, voting booths, voting systems and election officers; printing and mailing of voter pamphlets; preparation of tabulation of result of votes cast. The cost of the ballot election is hereby requested to be borne by the County of Marin through the Countywide Watershed Project.

BE IT FURTHER RESOLVED that to the extent applicable, under Elections Code Section 10418, all proceedings related to, connected with, and incidental to the election shall be regulated and performed in accordance with the provisions of law regulating a statewide election.

BE IT FURTHER RESOLVED that the proclamation or notice of the election shall provide that Article 3 of Chapter 2 of Division 9 of the Elections Code (Section 9160 et seq.) relating to arguments concerning County measures applies and County Counsel is directed to prepare an impartial analysis.

BE IT FURTHER RESOLVED that the special tax shall be deemed established and shall be in effect beginning with the 2020/21 fiscal year upon certification of the election results evidencing approval by at least two-thirds of the registered voters voting thereon. The special tax shall be null and void as of twelve o'clock midnight, June 30, 2027, and shall have no force and effect whatsoever after said time and date.

BE IT FURTHER RESOLVED that if any provision of this resolution or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provisions or applications, and to this end the provisions of this resolution are declared to be severable. The Board of Supervisors of the Marin County Flood Control and Water Conservation District and the electorate, should it approve the special tax, do hereby declare that they would have adopted and approved this resolution and the special tax and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, parts or portions thereof, be declared invalid or unconstitutional.

BE IT FURTHER RESOLVED that pursuant to Government Code Section 50077.5 and Code of Civil Procedure Section 860, any judicial action or proceeding to attack, review, set aside, or annul this special tax, if approved by the voters, shall be commenced within 60 days of the effective date of this resolution.

APPROVED AND ADOPTED at regular meeting of the Board of Supervisors of the Marin County Flood Control and Water Conservation District held on the 19th day of November, 2019, by the following vote:

AYES: SUPERVISORS

NOES:

ABSENT:

PRESIDENT, BOARD OF SUPERVISORS
MARIN COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

ATTEST:

CLERK

Exhibit A

***** Include Parcel Tax Rates and Tax Study here**