

BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: PW/Flood Control
Department No.: 054
For Agenda Of: December 12, 2017
Placement: Administrative
Estimated Time:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
Board of Directors, Flood Control and Water Conservation District

FROM: Department Scott D. McGolpin, Public Works Director, (805) 568-3010
Director(s)
Contact Info: Thomas D. Fayram, Deputy Public Works Director, (805) 568-3436

SUBJECT: **Adopt a Resolution and Policy for Beneficial Secondary Use of County and District Flood Control and Water Conservation Facilities, All Supervisorial Districts**

County Counsel Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

- a) Adopt a Resolution entitled "In the Matter of Adopting a Policy for Secondary Uses of Flood Control and Water Conservation Facilities for Bikeway, Recreation, and other Beneficial Uses" Rescinding and Replacing Resolution No. 98-266 which established "A Policy for Secondary Uses of Flood Control and Water Conservation Facilities for Bikeway and Recreational Purposes";
- b) Determine that the proposed action is not a project under the California Environmental Quality Act, pursuant to Guidelines Section 15378(b)(5), organizational or administrative activities that will not result in a direct or indirect physical change in the environment.

That the Board of Directors, Flood Control and Water Conservation District:

- c) Adopt a Resolution entitled "In the Matter of Adopting a Policy for Secondary Uses of Flood Control and Water Conservation Facilities for Bikeway, Recreation, and other Beneficial Uses" Rescinding and Replacing Resolution No. 98-266 which established "A Policy for Secondary Uses of Flood Control and Water Conservation Facilities for Bikeway and Recreational Purposes";
- d) Determine that the proposed action is not a project under the California Environmental Quality Act, pursuant to Guidelines Section 15378(b)(5), organizational or administrative activities that will not result in a direct or indirect physical change in the environment.

Summary Text:

This item is on the agenda in order to rescind Resolution No. 98-266 and to adopt a resolution to establish a revised Secondary Use Policy of Flood Control and Water Conservation facilities. On July 7, 1998, the Board adopted a resolution establishing a policy for secondary use of Flood Control facilities for bikeways and recreational purposes. The policy has allowed public agencies to operate various recreational facilities on Flood Control facilities. More recently, requests from public agencies have included uses other than for recreational purposes. The revised policy will broaden the types of uses allowed on Flood Control facilities to include other public beneficial uses such as water supply, water quality, and environmental enhancement projects.

The primary goal of the policy is to protect the County and the Flood Control District (District) from the liability and costs associated with the secondary uses of Flood Control facilities and to clearly establish that the flood control function of the facility is maintained. The policy ensures that the public agencies defend, indemnify and hold harmless the County and District from all claims or lawsuits arising out of or connected to the secondary use.

The District owns numerous parcels throughout the County as well as holds easement rights on many others. Some Flood Control facilities are located on County-owned parcels and easements dedicated to the County for flood control purposes. Most notably, the Santa Maria River Levees were built on County property but are owned and operated by the Flood Control District. The County is included in this policy to provide indemnification and protection of the secondary uses on County-owned property.

All requests for secondary uses of Flood Control facilities are looked at on a case-by-case basis. Some uses may be compatible with District operations and maintenance of Flood Control facilities and others may not. The District reserves the right to deny any secondary use requests of Flood Control facilities at its sole discretion.

It is important to note that at some facilities there may be a safety issue with coexistence of secondary uses. Due to the nature of the types of maintenance required, the use of equipment may be necessary. This may expose a danger to the users of the secondary use either by way of direct contact with equipment or indirectly by way of damage to the secondary facilities which could cause injury. In either case, it is important to receive full indemnification for damages and injury. The design of most existing flood control facilities did not include provisions for secondary use. It is of paramount importance to protect the District and County from liability as well as preserve the ability to perform necessary maintenance without increased costs.

In some cases, the proposed secondary use involves the use of Flood Control facilities that were constructed by or in cooperation with the federal government. In such cases, the Policy requires the requesting public agency to receive the appropriate federal agency approval and to comply with all federal requirements.

The policy establishes baseline conditions for secondary use licenses as well as offers consistency when working with other agencies. All secondary use licenses are subject to the Board's discretion and approval and can be suspended or revoked at the County and District's sole opinion if the secondary use becomes incompatible with District activities.

Background:

Other Flood Control Districts in the State are faced with similar requests to use their flood control facilities for other uses and all require an agreement to address the liability issues. Ventura County Watershed Protection District has adopted a similar policy to address secondary uses.

Fiscal and Facilities Impacts:

Budgeted: No

Fiscal Analysis:

Narrative:

There are no fiscal impacts with these Board actions.

Special Instructions:

Direct the Clerk of the Board to send copies of the minute order and resolution to the Flood Control District office; Attn: Christina Lopez.

Attachments:

- Attachment A - Resolution entitled "In the Matter of Adopting a Policy for Secondary Uses of Flood Control and Water Conservation Facilities for Bikeway, Recreation, and other Beneficial Uses"
- Exhibit A - A Policy for Secondary Uses of Flood Control and Water Conservation Facilities for Bikeway, Recreation, and Other Beneficial Uses
- Attachment B - Secondary Use Policy (track changes version)

Authored by:

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