



**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

**Submitted on:**  
(COB Stamp)

**Department Name:** Public Works  
**Department No.:** 054  
**For Agenda Of:** 09/11/2007  
**Placement:** Administrative  
**Estimate Time:** 1 Hour  
**Continued Item:** NO  
**If Yes, date from:**  
**Vote Required:** Majority

**TO:** Board of Supervisors  
**FROM:** Department Director: Scott McGolpin, Interim Public Works Director, Ext. 3010  
Contact Info: Michael B. Emmons, Deputy Director, Ext. 3020  
Kevin Ready, Senior Deputy County Counsel, Ext. 2950  
**SUBJECT:** Toro Canyon Survey Discrepancy  
1st Supervisorial District

**County Council Concurrence:**

As to form/legality:  Yes  No  N/A

**Auditor-Controller Concurrence:**

As to form:  Yes  No  N/A

**Recommended Action(s):**

Set a hearing for October 2, 2007 for the Board of Supervisors to consider the following:

That the Board of Supervisors:

- a) Determine that an area of survey discrepancy, as defined by Chapter 21A of County Code exists within T4N R26W SBM Sections 1 and 12 in the Toro Canyon area, First District.
- b) Adopt a Resolution declaring an area of survey discrepancy and invoking provisions of Chapter 21A of County Code to allow land owners an expedited method of resolving boundary disputes.
- c) Adopt a Resolution to add cost reimbursement of \$1250 deposit plus \$50 per lot (similar to fees collected for review of Lot Line Adjustments) to be paid to the County Surveyor's Office for processing of boundary line agreement documents in accordance with Chapter 21A of the County Code.
- d) Upon adoption of c) above, approve an annual fee adjustment linked to the Consumer Price Index (CPI) for the Fee Schedule referenced in Exhibit A.
- e) Upon adoption of b) above, pursuant to County's California Environmental Quality Act (CEQA) Guidelines, Approve Notice of Exemption from the California Environmental Quality Act of 1970 (CEQA) exemption under Public Resources Code, Section 21083 and 21087, and Title 14 (California Code of Regulations), Section 15301, for the Survey Discrepancy Resolution.
- f) Upon adoption of c) and d) above, pursuant to County's California Environmental Quality Act (CEQA) Guidelines, Approve Notice of Exemption from the California Environmental Quality Act of 1970 (CEQA) exemption under Public Resources Code, Section 21080, Subdivision (b)(8)(A) & (B) and Title 14 (California Code of Regulations), Section 15273, for the Fee Resolution.

**Summary:**

Items a) and b):

During a land use permit case in 2003, it was determined by the County Surveyor that certain monuments (survey points) in the Toro Canyon area were incorrectly set and that some previous surveys had not been conducted in accordance with applicable law and regulation. To resolve the issue, the County Surveyor conducted a survey of

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the subject monuments and filed a Record of Survey in accordance with Section 8762 of the California Business and Professions Code. Because this discrepancy has now been documented, there is a strong possibility that existing boundaries of occupation by land owners in the area, which were established based upon the incorrect historical survey monuments, could conflict with properly surveyed property boundaries based upon the modern government survey conducted by the County Surveyor. This conflict between boundaries of occupation and legal parcel boundaries could result in disputed boundary lines between properties. To avoid the necessity of owners having to undertake difficult and lengthy legal proceedings to resolve the conflicting boundaries, staff is recommending that the Board of Supervisors invoke provisions of Chapter 21A of County Code, which was enacted for this very purpose.

If the Board of Supervisors were to declare an Area of Survey Discrepancy pursuant to Chapter 21A of the County Code, land owners would be able to avail themselves to an expedited process wherein they could reach agreement with their neighbors as to the proper lines of occupation, prepare necessary documents and/or maps and have County staff approve the filing documents which would resolve the boundary location from that point forward. A workshop will be held to inform the residents of this area and to answer any questions they may have. Feedback from this meeting will be provided to the Board of Supervisors at the hearing.

Due to conflicting government surveys; the original GLO Plat and the 2001 County survey; staff recommends that the County Board of Supervisors adopt a resolution declaring Sections 1 and 12 of Township 4 North, Range 26 West SBM as an area of survey discrepancy subject to Chapter 21A of the County Code. By doing so, owners with descriptions based on the GLO Plat lines will have the ability to record a boundary line agreement that reflects where the owner thought his/her property boundary was located when they purchased their property.

Item c), d) and e):

This is a separate fee resolution and is not contingent upon adoption of a) and/or b) above. An area of survey discrepancy currently exists in the Tepusquet area and no fee has been adopted for projects processed in accordance with Chapter 21A of County Code. This addition would provide funds for the County Surveyor review of projects submitted under Chapter 21A.

If approved by your Board, the Consumer Price Index (CPI) adjustment to Subdivision Maps and other Document Review Fees by the County Surveyor will be effective on July 1 of each year, beginning in 2008. The adjustment is not automatic; the Director of Public Works will annually review revenues and expenditures to ensure that fees charged fairly reflect the cost of the services provided prior to adjusting fees. If costs exceed the CPI in any given year, the Chief Executive Officer will provide your Board with options of how to address those costs.

**Background:**

Problem Statement – the Source of the Survey Discrepancy

A Government Land Office Plat was filed in the Toro Canyon area for the purpose of transferring federally owned lands to the public on May 19, 1875. This plat, made from a certified government survey, determined the location of the new corners for Sections 1 and 12 (Note: A section is approximately 1 mile square and contains 640 acres).

Beginning in 1918, various surveys were conducted by private surveyors in this area. Among them were several surveys that were disputed by at least three separate County Surveyors (the earliest in 1966) as to the methods and/or locations established to replace government corners that were determined to be missing during subsequent surveys. In 2001, at the request of the Board of Supervisors and County Counsel, the County Surveyor conducted a new survey of Section 12 and portions of Sections 1, 2, 11, and 13 due to the inconsistencies of previous private surveys. The survey was conducted using the methods described in the 1973 Manual of Surveying Instructions published by the U.S. Department of the Interior (which is the authority for surveying public land properties) and is required by Chapter 21-9(p) of County Code for subdivision of properties described using sectionalized (public lands) descriptions. While conducting the survey, discrepancies were found with the original GLO Plat but most

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notably, a very large discrepancy was found in the location of the southwest corner of Section 12. This corner had previously been set by Frank Flournoy (Ex-County Surveyor at the time of his survey) and subsequently accepted by many private surveyors. To substantiate the County's claim that the Flournoy monument was set in error, our research revealed that the Bureau of Land Management had conducted its own survey in 1986 of the east line of Section 12 and had come to the same conclusion. The BLM set a monument at the southeast corner of Section 12 at that time that is within inches of the position the County Surveyor believes to be the true corner today. The County has accepted the BLM monument as a perpetuation of the "original" location of that corner.

In order for the County to establish the true location of the northwest corner of Section 12, it was necessary to survey to the north, south, east, and west of that location. In doing so, County staff found what it believes is acceptable evidence for the northwest corner of Section 1, the northwest corner of Section 11, the southwest corner of Section 12 and the northwest corner of Section 12. Midpoints (1/4 corners) were set which disagree with the locations of previously set and accepted private survey monuments along Section lines. County staff's findings are that two monuments set previously to represent the same point near the mid-point between the northwest corner of Section 12 and the northwest corner of Section 1 (w 1/4 corner Section 1) were both in disagreement with the original GLO Plat and the County survey. One monument is northeasterly approximately 21 feet and the other is northwesterly approximately 63 feet. These discrepancies, along with others, result in the possibility of property lines being placed in an alternate location which could lead to disputes between neighboring property owners.

**Fiscal and Facilities Impacts:**

Budgeted:  Yes  No

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Approval could require an undetermined amount of work by the County Surveyor and County Counsel in providing guidance on the process to the public. Other processing will be paid for by the applicant(s) should the Board adopt the associated fee resolution.

**Staffing Impact(s):**

**Legal Positions:**

**FTEs:**

**Special Instructions: After the Chair of the Board endorses and the Clerk of the Board attests to the Resolution(s), the Clerk shall transmit a copy(ies) to the County Surveyor and County Counsel.**

**Attachments: (list all)**

None

**Authored by: Michael B. Emmons**

**cc:** Kevin Ready-County Counsel