

C O U N T Y O F S A N M A T E O

Inter-Departmental Correspondence

Date: May 22, 2001

Board Meeting Date: June 5, 2001

TO: Honorable Board of Supervisors

FROM: Neil R. Cullen, Director of Public Works

SUBJECT: **Additional Fees to Finance Work in Conjunction with the National Pollution Discharge Elimination System (NPDES) Program in Flood Control Zone One - County Wide****RECOMMENDATION**

Acting as the Governing Board of the San Mateo County Flood Control District, adopt a resolution:

1. establishing proposed rates to be used to calculate additional 2001-2002 Water Pollution Control fees which are required to finance additional work on the General NPDES Program for Flood Control Zone One as mandated by the State Regional Water Quality Control Board;
2. setting a time and date for a hearing to consider the additional fees,
3. directing the Director of Public Works to send a notice to the owner of each property that a fee is proposed to be levied on, notifying them of the proposed fee and of the hearing to consider said additional fee

Previous Board Action

1. Formed Flood Control Zone One in 1993, for the purpose of carrying out pollution control requirements of the NPDES General Program. The boundaries of Zone One are contiguous with those of the County.
2. Adopted as the Zone project, the San Mateo County Storm Water Management Plan, 1998-2003, and authorized the City/County Association of Governments (C/CAG) to assume responsibility for the County wide compliance with the NPDES requirements through the Plan.
3. Adopted Ordinance No. 03662 in 1995 at the request of C/CAG, which set the current charge rates for storm water pollution control services in Flood Control Zone One

Key Facts

1. The San Mateo County Flood Control Act provides that fees or charges may be placed upon the tax roll after the adoption of an ordinance approved by 2/3rds of the governing board of the District

Honorable Board of Supervisors

Subject: Additional Fees to Finance Work in Conjunction with the National Pollution Discharge Elimination System (NPDES) Program in Flood Control Zone One - County Wide

May 22, 2001

Board Meeting Date: June 5, 2001

Page 2

2. C/CAG has requested that we increase the Zone One charges to finance this coming year's expanded scope of work for the General NPDES Program that has been mandated by the Regional Water Quality Control Board
3. The State Constitution as amended by Proposition 218 requires an individual notice and hearing on any new or increased property related fees. It is arguable that Proposition 218 does not apply to the proposed increases in fees, but the notice and hearing process set out in Proposition 218 is being followed to provide additional public notice of the proposed fees

Discussion

The Storm Water Management Plan, 1998-2003, comprises the basis of a NPDES municipal permit issued by the State of California Regional Water Quality Control Board (RWQCB). This general permit, managed by C/CAG, covers the 20 cities in the County and the unincorporated area. The General NPDES Storm Water Program (Program) has a current budget of \$825,155 that is funded by charges either levied on properties throughout the County through the Water Pollution Control Fee for Flood Control Zone One, or by direct payments by individual cities. The current funding covers the programs as enumerated in the NPDES permit held by C/CAG. However, the RWQCB has mandated additional programs that require additional funding.

C/CAG directed its NPDES Technical Advisory Committee (TAC) to form a Task Force to study a full scope of work for the Program and to recommend how to fund this increase. The Task Force, after reaching consensus on the expanded scope of work for the Program, recommended that the current Water Pollution Control Fee for Flood Control Zone One be increased by \$550,000 to fund the expanded scope of work. The expanded scope of work includes:

1. Additional monitoring for copper, nickel, mercury, PCBs, dioxin-like compounds, DDT, dieldrin, chlordane, diazon, and sediment.
2. Creation of training tapes and manuals to be used by cities and the County for training new employees and for refresher courses
3. Developing and providing brochures/documents that can be shared by cities and the County and developing public awareness of water pollution issues through mass mailings, developing a web site and by regional advertising via the radio, newspapers, movie theater screen advertisements and other media

Honorable Board of Supervisors

Subject: Additional Fees to Finance Work in Conjunction with the National Pollution Discharge Elimination System (NPDES) Program in Flood Control Zone One - County Wide

May 22, 2001

Board Meeting Date: June 5, 2001

Page 3

- 4 Legal fees associated with defending the issuing of our NPDES permit by the RWQCB, as we anticipate that the permit will be challenged in the courts on the basis that the permit does not go far enough in reducing pollutants in storm water
- 5 Miscellaneous administrative costs including the cost of mailings that has to be sent to each property

The existing and proposed additional annual Water Pollution Control Service rates for Flood Control Zone are as follows:

Parcel Description	Existing Annual Rates	Proposed Additional Annual Rates
Single Family Residential	\$3.44/Parcel	\$2.44/Parcel
Condominium Units/Vacant Land/Agriculture/Miscellaneous	\$1.72/Parcel	\$1.22/Parcel
Commercial, Retail, Manufacturing, Industrial	\$3.44/ Parcel Plus \$0.3127/1,000 Square Feet (Sq.Ft.) for parcels over 11,000 Sq. Ft.	\$2.44/Parcel Plus \$0.22/1,000 Sq. Ft for parcels over 11,000 Sq. Ft.

The Proposed Additional Annual Rates are also proposed to be increased/decreased annually based on the change in the Consumer Price Index - San Francisco-Oakland-San Jose Area, for each February and using February 2001 (187.9) as the base.

C/CAG adopted the expanded scope of work for the Program at its April 12, 2001, meeting, and requested that the Water Pollution Control Fees for Flood Control Zone One be increased as proposed. However, they also requested that the change be separated from the base charge as the notification processes are different for existing charges and new charges, and in case there is a challenge to the new charges. New charges are arguably subject to the provisions of Proposition 218 approved by the voters in 1996, which amended the California Constitution as it relates to the levying of assessments, fees and charges. Out of an abundance of caution, the notice and hearing procedures specified in Proposition 218 are being followed and we are proposing to notify each owner of their new annual charge by mail, and will also explain that protests to the charge must be in writing.

Honorable Board of Supervisors

Subject: Additional Fees to Finance Work in Conjunction with the National Pollution Discharge Elimination System (NPDES) Program in Flood Control Zone One - County Wide

May 22, 2001

Board Meeting Date: June 5, 2001

Page 4

The public hearing for the new fees is proposed to be held on July 24, 2001, as Proposition 218 specifies that notices be sent to all affected property owners at least 45 days prior to the hearing

We will be presenting a form of ordinance at the public hearing for your consideration which will authorize the additional charges for the additional work on the General NPDES Program for Flood Control Zone One for Fiscal Year 2001-2002, with the fees increased/decreased annually based on the change in the Consumer Price Index- San Francisco-Oakland-San Jose Area using February 2001 (187.9) as the base, if your Board determines to levy said charges after holding the public hearing

Fiscal Impact

The proposed additional annual fees are estimated to generate \$550,000 in revenue that will be used to finance the expanded scope of work of the Program and reimburse the County for the costs associated with levying the charges including the \$0.30 per parcel charge levied by the Controller. There is no impact to the General Fund.

A form of Resolution establishing proposed charges, setting the time and date of the public hearing and directing the Director of Public Works to send notices has been approved by the County Counsel.



Neil R. Cullen
Director of Public Works

NRC:BCL:sdd

F:\USERS\ADMIN\NP&S\NPDES\BOARDSUP\2001\NPDES New Fee Ord nance Rev 1 doc

cc: Richard Napier, C/CAG
Robert Davidson, C/CAG NPDES Coordinator
Milt Mares, Deputy County Counsel
Brian C. Lee, P.E., Division Manager, Programs and Engineering Services
Walt Callahan, Flood Control & Utility Services Manager

Resolution No. _____

Board of Supervisors, County of San Mateo, State of California

* * * * *

Resolution Establishing Proposed Fees, Setting Time and Place for a Public Hearing and Directing the Director of Public Works to Send Individual Notices to the Owners of Each Property on Which Proposed Fees are to be Levied for Flood Control Zone One for the Purpose of Carrying Out Additional Pollution Control Requirements of the National Pollution Discharge Elimination System as Mandated by the California Regional Water Quality Control Board

RESOLVED, by the Board of Supervisors, County of San Mateo, State of California, as the governing board of the San Mateo County Flood Control District, Zone One, that

WHEREAS, the San Mateo County Flood Control District Act allows that fees or charges may be collected on the tax roll for each parcel of property in a specific zone; and

WHEREAS, there has been presented to this Board a recommendation to levy a fee for the purpose of carrying out additional Pollution Control Requirements of the National Pollution Discharge Elimination System (NPDES) as required by the California Regional Water Quality Control Board, with the fees increased/decreased annually based on the change in the Consumer Price Index - San Francisco–Oakland–San Jose Area using February 2001 (187.9) as the base, and

WHEREAS, a public hearing is required to consider any and all objections to said charges, and

WHEREAS, there has been presented to this Board a proposed rate schedule that is recommended to be used to calculate said fees and this Board has considered same

NOW, THEREFORE, IT IS HEREBY ORDERED and determined that:

A. The following rates shall be used by the Director of Public Work in calculating proposed fees for the purpose of carrying out additional Pollution Control Requirements of the National Pollution Discharge Elimination System (NPDES) Program as required by the California Regional Water Quality Control Board:

- i) \$2 44 per parcel for single family residential units;
- ii) \$1 22 per parcel for Condominiums, Vacant Land, Agriculture, Miscellaneous parcels; and
- iii) \$2.44 per 11,000 square feet plus \$0 22 per 1,000 square feet of parcel over 11,000 square feet in size for Commercial, Retail, Manufacturing, Industrial or all other parcels,
- iv) Parcels Owned by Cities and Towns, Counties, the State of California, the United States of America, Public Elementary School Districts, Public School Districts, Special Districts, Public Unified School Districts, Public Colleges and/or Community Colleges and Property Appearing on Tax Roll as utility pipelines or trailers shall be exempt from said charges;
- v) the fees as described above are also proposed to be increased/decreased annually based on the change in the Consumer Price Index- San Francisco-Oakland-San Jose Area using February 2001 (187.9) as the base.

B. Notice is hereby given that Tuesday, July 24, 2001, at 9 00 a.m. in the Chambers of the Board of Supervisors of the County of San Mateo at 400 County Center, Redwood City, California, is hereby fixed as the time and place of the hearing on the proposed additional charges for 2001-2002 for San Mateo County Flood Control Zone One

C. The Director of Public Works is hereby directed to send to the owner of each parcel that a fee is proposed to be levied on, a notice of said fee and the time and date when the hearing to consider all protests will be considered by this Board. Said Notice shall also notify the property owner that protests to said fees must be in writing as provided by the Constitution of the State of California.

* * * * *