

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

Inter-Departmental Correspondence

Date: June 28, 2001

Board Meeting Date: July 24, 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 the San Mateo County Flood Control Districts - Flood Control Zone One - County Wide**

RECOMMENDATION

Acting as the Governing Board of the San Mateo County Flood Control District:

1. Hold a public hearing to consider all comments and objections to imposing additional charges 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. After considering all written and oral objections, close the public hearing and determine if there is a majority protest to the imposition of additional charges.
3. If there is a majority protest, terminate your consideration of imposing additional charges.
4. If there is not a majority protest, adopt an emergency Ordinance establishing and imposing additional charges in Zone One of the District for the purpose of financing additional work on the General NPDES Program for Flood Control Zone One as mandated by the State Regional Water Quality Control Board (4/5ths vote required).

Previous Board Action

1. Adopted a resolution 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. Set 9:00 a.m. on July 24, 2001, in your Chambers as the time and place of a public hearing on the additional 2001-2002 Water Pollution Control Service Charges Report for financing additional work on the General NPDES Program for Flood Control Zone One - County Wide.

Honorable Board of Supervisors

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

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3. Directed 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.

Key Facts

1. The City/County Association of Governments (C/CAG), who administers the general NPDES Program, requested that your Board increase the Zone One charges to finance the expanded scope of work for the Program that has been mandated by the Regional Water Quality Control Board.
2. 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.
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.
4. All of the cities, except Brisbane and Woodside, have passed resolutions in support of establishing and imposing the additional charges through Zone One. Brisbane and Woodside will finance their proportional share of costs through their own sources.
5. If there are majority written protests filed with your Board by the close of the hearing, the proceedings cannot go forward pursuant to the provisions of the State Constitution that we are following.
6. The Controller has informed us that August 10th is the last day that a charge can be approved to be collected with the tax bill.

Discussion

Our staff report (copy attached) presented to your Board when the date and time of the public hearing was set explained the need for the additional charges and the proposed process to be followed. We sent notices to the owner of 212,078 parcels within the unincorporated area and within the corporate limits of all the cities in the County except the cities of Woodside and Brisbane, as these two cities decided to fund their share of the additional program by other means.

Honorable Board of Supervisors

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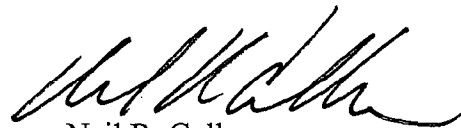
We received 37 protests (0.02%) to the imposition of the additional fees by the time this report was prepared and will report to your Board on any additional protests that are received up to and including the date of the public hearing.

We are recommending that your Board adopt an urgency ordinance imposing the fees if there is not a majority protest. The urgency ordinance is necessary in order to comply with the noticing procedures as provided by the State Constitution and the provisions of the Flood Control legislation which allow the fees to be placed on the tax roll if said fees are established by an ordinance adopted by at least 2/3rds (4 members) of your Board.

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 ordinance has been reviewed and approved by the County Counsel.



Neil R. Cullen
Director of Public Works

NRC:BCL:WDC:sdd

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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

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

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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

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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

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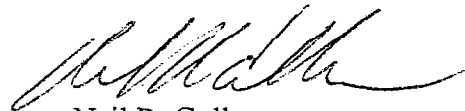
The public hearing for the new fees is proposed to be held on July 24, 2001, as Proposition 218 specifies that notices be sent to all affected property owners at least 45 days prior to the hearing.

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

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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.

* * * * *

Department of Public Works
 County of San Mateo
 555 County Center, 5th Floor
 Redwood City, CA 94063-1665

Presorted Standard
 U.S. Postage
 PAID
 San Mateo, CA
 Permit No. 610

APN:
 NPDES Storm Drain Fee: \$

Notice of Proposed Charges- National Pollution Discharges Elimination System Program

The Federal Clean Water Act and the State of California Regional Water Quality Control Board requires local agencies to meet the pollution control requirements of the National Pollution Discharges Elimination System (NPDES) Program, a program to improve water quality by reducing pollutants in stormwater that flows to the bay and ocean. The San Mateo County Board of Supervisors, acting as the governing board of the San Mateo County Flood Control District and at the request of the cities in the County, created a county-wide zone and established service charges that can be imposed on parcels in the Zone to fund the development and implementation of a NPDES Program. The current service charges finance an \$825,155 program, were last amended in 1995 and have been or will be on your tax bill this coming year if authorized by the City in which you live. In addition, if authorized by the City in which you live or by the Board of Supervisors for the unincorporated area, an additional annual charge will also be placed on your tax bill to finance additional programs mandated by the Regional Water Quality Control Board with the goal of further reducing water pollution. The cost of the new programs is \$550,000 for fiscal year 2001-02 and this cost has been apportioned to each parcel on which a fee is proposed to be levied, based on the zoning, use or size of the parcel. The existing and proposed additional annual charge rates are as follows:

Parcel Type	Existing Annual Charge Rate	Proposed Additional Annual Charge Rate
Single Family Residential Unit	\$3.44 per parcel	\$2.44 per parcel
Condominium, Vacant Land Agriculture, Miscellaneous parcels	\$1.72 per parcel	\$1.22 per parcel
All other parcels	\$3.44 per parcel plus \$0.00031217 per each square foot in excess of 11,000 square feet	\$2.44 plus \$0.00022 per each square foot in excess of 11,000 square feet

The Assessors Parcel Number and specific additional proposed charge for your parcel is shown above next to "APN and NPDES Storm Drain Fee". The proposed additional annual charge rate is also proposed to be increased/decreased annually based on the change in the Consumer Price Index-San Francisco-Oakland-San Jose Area each February using February 2001 (187.9) as the base.

The Board of Supervisors will conduct a public hearing on July 24, 2001, at 9:00 a.m. in the Board of Supervisors Chambers at 400 County Center, Redwood City, California, to consider the proposed additional annual charges. The existing annual charges are not being considered at this hearing. You have the right to object to the proposed additional annual charges. Protests must be in writing and can be sent to the Director of Public Works at the address shown above or presented to the Board at the hearing. The hearing will be open to the public and anyone interested may appear and be heard on this matter. A copy of the staff report is available at www.co.sanmateo.ca.us/ctybos.htm or may be obtained by writing to the Department of Public Works at the address shown above.

Neil R. Cullen
 Director of Public Works

Ordinance No. _____

**Board of Supervisors, County of San Mateo, State of California
as the Governing Board of the
San Mateo County Flood Control District**

* * * * *

**An Emergency Ordinance Establishing and Imposing Additional Fees
in 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**

The Board of Supervisors of the County of San Mateo, State of California, acting as the governing board of the San Mateo Flood Control District, **ORDAINS** as follows:

SECTION 1.

The Board of Supervisors hereby finds:

- a) The Board of Supervisors, acting as the governing board for the San Mateo County Flood Control District has created Zone One for the purpose of preventing pollution to storm water drainage in said zone.

b) The aforementioned action is mandatory and the State Regional Water Quality Control Board requires prompt compliance with its requirements under threat of significant monetary penalties.

c) A project has been developed which will be implemented and will comply with the applicable requirements. The project will require substantial additional expenditures to implement and operate over the initial program established in 1993 and amended in 1995 and the Board desires to impose additional fees on the parcels of real property within the zone.

d) The additional fees imposed may be collected by the tax collector on the tax roll in the same manner as general taxes if the charge is fixed by the ordinance and presented to the County Auditor/Controller by August 10, 2001.

SECTION 2.

For the purpose of administering, engineering, constructing, maintaining, operating, extending, repairing or otherwise improving any or all works concerning storm water pollution abatement projects established or to be established within or on behalf of the zone, the following additional fees shall be imposed in said zone and as described in the report prepared by the Director of Public Works in conformance with Section 8 of the San Mateo County Flood Control District Act, as amended:

- 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 shall 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.

SECTION 3. This Ordinance shall be in full force and effective immediately upon adoption by the Board of Supervisors.

* * * * *