



Contra  
Costa  
County

To: Board of Supervisors  
From: David Twa, County Administrator  
Date: August 1, 2017

Subject: Response to Civil Gran Jury Report No. 1705, Entitled "Funding Flood Control Infrastructure"

**RECOMMENDATION(S):**

ADOPT report as the Board of Supervisors' response to Civil Grand Jury Report No. 1705, entitled "Funding Flood Control Infrastructure" and DIRECT the Clerk of the Board to forward to the Superior Court no later than August 29, 2017.

**FISCAL IMPACT:**

No fiscal impact.

**BACKGROUND:**

The 2016/17 Civil Grand Jury filed the above-reference report attached, on May 31, 2017, which was reviewed by the Board of Supervisors and subsequently referred to the County Administrator and Public Works Department, who prepared the attached response that clearly specifies:

- A. Whether the finding or recommendation is accepted or will be implemented;
- B. If a recommendation is accepted, a statement as to who will be responsible for implementation and a definite target date;
- C. A delineation of the constrains if a recommendation is accepted but cannot be implemented within a six-month period; and
- D. The reason for not accepting or adopting a finding or recommendation.

APPROVE

OTHER

RECOMMENDATION OF CNTY  
ADMINISTRATOR

RECOMMENDATION OF BOARD  
COMMITTEE

Action of Board On: **08/01/2017**  APPROVED AS RECOMMENDED  OTHER

Clerks Notes:

**VOTE OF SUPERVISORS**

AYE: John Gioia, District I Supervisor  
Candace Andersen, District II Supervisor  
Diane Burgis, District III Supervisor  
Karen Mitchoff, District IV Supervisor  
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: August 1, 2017

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: Stephanie Mello, Deputy

Contact: Laura Strobel, (925)  
335-1091

## BACKGROUND: (CONT'D)

### FINDINGS

F1. Reserves have not been set aside for the replacement costs of the County flood control system.

**Response:** *The respondent agrees with the finding.*

F2. Presently, there is little public support to fund the replacement costs of the County flood control system.

**Response:** *The respondent neither agrees nor disagrees with the finding; however, based on presentations given to a wide variety of groups in Contra Costa County and the feedback received, there does not appear to be public support to raise revenue to fund replacement costs of Flood Control District facilities.*

F3. There is little sense of urgency among elected officials towards financing the replacement costs of flood control in California.

**Response:** *The respondent disagrees with the finding. The Contra Costa County Board of Supervisors understands the urgency to develop a funding source for replacement, however the solution includes modifying the California State Constitution. Senate Bill 231 by Hertzberg would define Sewer to include stormwater and flood control facilities and, therefore, be considered a utility and be allowed to raise rates similar to water and wastewater. The California State Association of Counties (CSAC) is committed to finding a funding solution for local stormwater programs. CSAC staff are working in coordination with county public works departments to build local political support with county Board of Supervisors and state legislators as well as to increase public awareness of this critical issue until a successful statewide solution is identified.*

F4: The older sections of the County flood control system are approaching their design life of 70 years.

**Response:** *The respondent agrees with the finding.*

F5: The current mechanism for funding flood control is not enough to maintain and eventually replace the system.

**Response:** *The respondent agrees with the finding. None of the Flood Control Zones have adequate funding to maintain and eventually replace the systems. For example, the County receives no money to maintain and replace the existing infrastructure for Pinole Creek, Zone 9 because the tax rate was set at zero when Proposition 13 went into effect.*

F6. The proposed California Water Conservation, Flood Control and Storm Water Management Act could provide revenues for County Flood Control to begin building financial reserves for full maintenance and eventual replacement of the system.

**Response:** *The respondent agrees with the finding. The proposed legislation is an*

*effort to modify the California Constitution to allow stormwater to be treated as a utility similar to water or sewer. This proposed modification would allow a rate structure for stormwater to be used for maintenance or replacement of facilities.*

## **RECOMMENDATIONS**

R1. The County Board of Supervisors, as the Governing Board of the Flood Control and Water Conservation District, should consider continuing to pursue efforts to educate elected officials about the urgency of passing the California Water Conservation, Flood Control and Storm Water Management Act.

***Response:** The recommendation has been implemented. The Board of Supervisors is working with the California State Association of Counties and the League of Cities to outreach to elected officials and the public in general in California on the importance of stormwater funding.*

R2. The County Board of Supervisors, as the Governing Board of the Flood Control and Water Conservation District, should consider identifying funds to increase the Flood Control maintenance budget to begin reducing the deferred maintenance backlog, prior to January 2018.

***Response:** The recommendation has been implemented. The Board of Supervisors is very involved in the ongoing efforts to identify funding to increase the Flood Control maintenance budget and is working closely with CSAC and state Legislators to determine the best course of action to address stormwater funding. It is not anticipated that currently proposed legislation will pass before January 2018.*

R3. The County Board of Supervisors, as the Governing Board of the Flood Control and Water Conservation District, should consider identifying funds to begin building reserves to fund the reconstruction of the County flood control system, prior to January 2018.

***Response:** The recommendation has been implemented. The Board of Supervisors has considered availability of funding and is closely following efforts in Sacramento to determine the best course of action to address stormwater funding. It is not anticipated that the proposed legislation would pass before January 2018.*

R4. The County Board of Supervisors, as the Governing Board of the Flood Control and Water Conservation District, should consider instructing Flood Control staff to prepare plans for a County wide campaign to educate the public on the need to replace the infrastructure.

***Response:** The recommendation has been implemented. The Flood Control District is engaged in an ongoing outreach campaign to residents on the importance of stormwater infrastructure and the funding for installation, replacement and maintenance. District Staff regularly reports to the Board of Supervisors' Transportation Water and Infrastructure Committee on the outreach efforts and to the full Board of Supervisors annually and receives input and direction.*

## **CONSEQUENCE OF NEGATIVE ACTION:**

In order to comply with statutory requirements, the Board of Supervisors must provide a response to the Superior Court no later than August 29, 2017. The Board must take timely action in order to comply with the statutory deadline.

## ATTACHMENTS

Civil Grand Jury Report No. 1705

A REPORT BY  
THE 2016-2017 CONTRA COSTA COUNTY GRAND JURY  
725 Court Street  
Martinez, California 94553

Report 1705

# Funding Flood Control Infrastructure

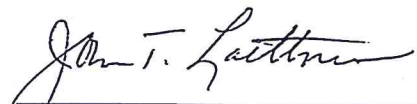
APPROVED BY THE GRAND JURY:

Date: 6/8/17

  
\_\_\_\_\_  
JIM MELLANDER  
GRAND JURY FOREPERSON

ACCEPTED FOR FILING:

Date: 5/31/17

  
\_\_\_\_\_  
JOHN T. LAETTNER  
JUDGE OF THE SUPERIOR COURT

Contra Costa County Civil Grand Jury Report 1705

## **Funding Flood Control Infrastructure**

**TO: Board of Supervisors, as the Governing Board of the Flood Control and Water Conservation District**

### **SUMMARY**

Most portions of the Contra Costa County (County) flood control system were built over 55 years ago. Because of its age, the system requires a high level of maintenance and will eventually need to be replaced. Currently, there is a shortfall in funds to adequately maintain the flood control system. Due to the lack of funds, the system has unmet maintenance needs. Deferred maintenance of the system not only reduces its efficiency, but could lead to failure of flood control components.

To prevent failure of the flood control system, immediate funding is needed to pay for deferred maintenance. The Contra Costa County Flood Control and Water Conservation District (Flood Control) lacks adequate sources of revenue to pay for these needs. State legislation has been proposed that would enable flood control to be funded as a utility through assessed fees.

The Grand Jury recommends that the County Board of Supervisors consider funding deferred maintenance, while continuing to support efforts to get State legislation passed allowing Flood Control to increase revenues for replacement of its aging infrastructure.

### **METHODOLOGY**

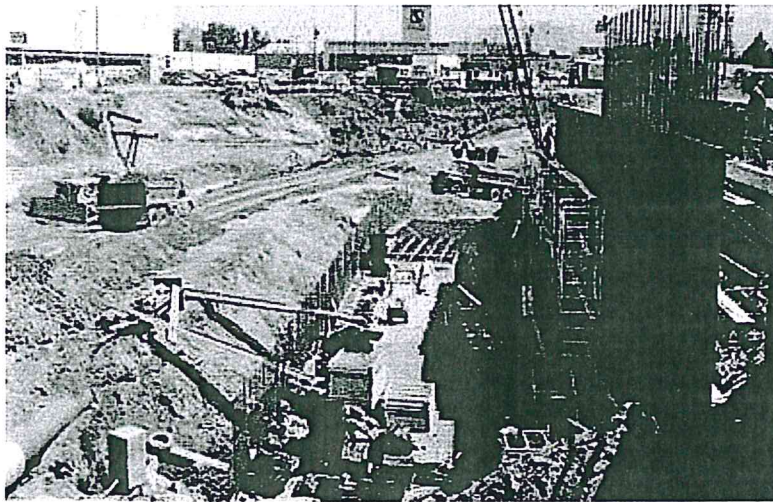
In the course of its investigation, the Grand Jury:

- Interviewed members of County Flood Control, County Public Works, the County Board of Supervisors and engineering consultants
- Reviewed Flood Control documents related to maintenance, capital

- improvement requirements, and financial management of the system
- Reviewed the Flood Control Fifty-Year Plan
- Attended a Flood Control report to the Board of Supervisors
- Participated in a tour of the Lower Walnut Creek Flood Control System

## BACKGROUND

Flood Control was formed in 1951 in response to widespread flooding. In the late 1950s, the Army Corps of Engineers began construction of the flood control system, paid by federal funding. A series of flood control projects was constructed over the next 30 years. Today, the system is extensive, consisting of 75 miles of channels, 35 detention basins and 25 trash racks. The oldest sections of this system are over 55 years old.



Construction of the culvert under Broadway Plaza in the early 1960s  
(Courtesy of the Walnut Creek Historical Society)

According to staff from Flood Control, most of its revenue for operations and maintenance is collected from an assessment of property taxes. Flood Control receives only 0.75% of the one percent of the property tax collected. The 0.75% rate has not changed since 1978.

Some other revenue sources include:

- Special assessments in some drainage areas to fund ongoing maintenance costs
- Impact fees from development projects within some drainage areas to fund construction of planned drainage facilities
- Fees for services related to hydraulic and hydrological analysis

The funding sources are insufficient to maintain and/or replace the flood control infrastructure. It requires an increasing amount of annual maintenance due to its age and will eventually need to be replaced. Required maintenance costs far exceed the money budgeted to properly maintain the system, resulting in a substantial backlog of maintenance requirements. Flood Control has no reserves set aside for the eventual replacement of the infrastructure. Past attempts to raise money for flood control improvements have not been successful.

In 2012 Flood Control tried to raise revenues to cover funding shortfalls through the Community Clean Water Initiative, which was placed on the ballot for Contra Costa County. Some of the monies from the proposed per-parcel fee would have helped to fund the flood control system, but County voters rejected the initiative.

In 2015, AB 1362 was introduced in the State Assembly as the first step in providing cities and counties with a mechanism to fund storm water related infrastructure and services. The introduced version of the bill was later changed to a different purpose, deleting the mechanism to fund flood control.

Two recent polls in Contra Costa County showed low public support for increased taxes or assessments to fund the reconstruction of the flood control system.

## **DISCUSSION**

To varying degrees, the County flood control system prevents flooding every year. January 2017 was the wettest January on record in the County since 1973, and no major flooding occurred within the County during that month. This is a testament to the quality of maintenance that Flood Control and County Public Works have accomplished with limited funding.

Flood Control believes that the present level of flood deterrence cannot be maintained at current funding levels. As parts of the system age past their design life and maintenance fails to keep pace with needed repairs, flood control performance will be impacted negatively. Deferred maintenance of flood control structures leads to poor system performance and will eventually result in subsystem failures.

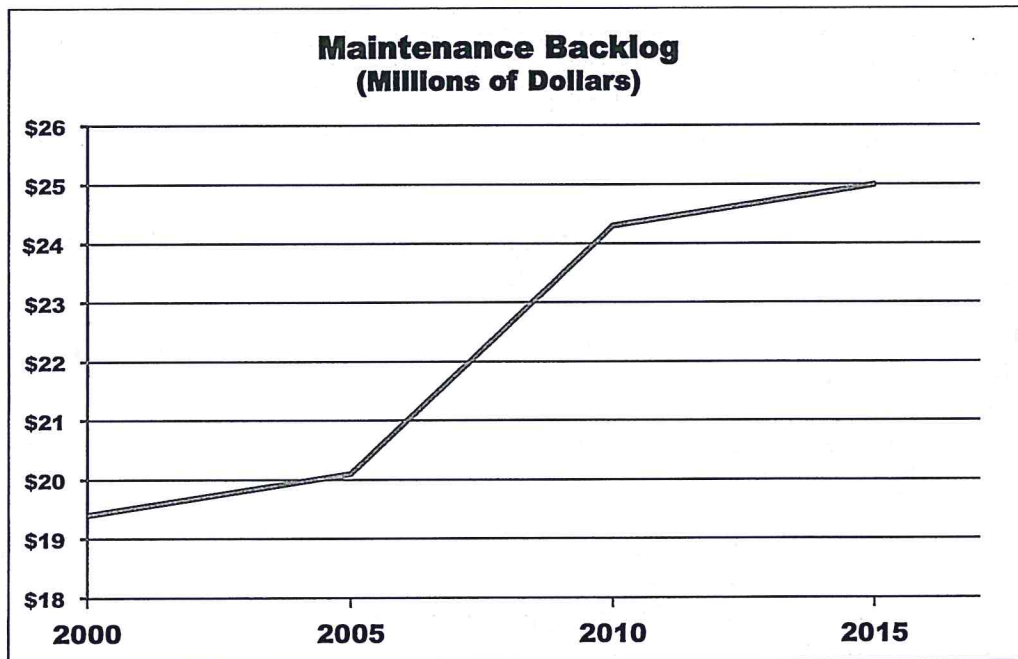
The design life of the flood control system's concrete-lined channels is approximately 70 years. This means that the system's older sections are approaching the time when deterioration will accelerate. The extent of the deterioration will depend upon the funding that Flood Control has available for maintenance.

A public poll conducted for Flood Control by Fairbank, Maslin, Metz & Associates in 2015 showed "a lack of understanding of the danger of flooding." The poll reflected low support (about 40%) for increased property or parcel taxes to fund future system needs.

Flood Control staff have sometimes referred to themselves as “stewards of forgotten infrastructure.”

Flood Control has implemented a seven-year program to assess the current condition of the system’s structures. The goal of this program is to prioritize the structures or portions of the system in greatest need of repair. The preliminary results, based on visual inspection techniques, have provided an average structural rating of ‘good,’ with an 80% confidence level. If properly maintained and needed repairs are made in a timely manner, many of the system’s newer sections could last several decades.

Flood Control estimates that to rebuild the entire system to its original standards would take 40 or more years and cost about \$2.4 billion, in 2016 dollars.



This graph is part of Flood Control's presentation to the County Board of Supervisors 2/7/17

The above graph shows the growing shortfall, since 2000, between flood control system maintenance needs and system maintenance revenues. Flood Control has a current annual maintenance and capital improvement budget of \$5.15 million. At the level of funding presently available, the growing backlog shortfall is projected to be over \$25 million dollars in 2017.

The County has no current reserves to fund an increased level of flood control system maintenance or to cover the much greater costs of future system reconstruction.

In 2016, The California State Association of Counties (CSAC), of which Contra Costa is a member, proposed a statewide ballot measure titled the California Water Conservation, Flood Control and Storm Water Management Act. Other interested statewide organizations included the League of California Cities, the County Engineers Association of California (CEAC) and the Association of California Water Agencies. The proposed State ballot measure would allow local governments to assess flood control services as a utility. Once the measure is passed, voters in a county would still be required to approve the change. To determine voter sentiment on the proposed legislation, a statewide poll was conducted by CSAC and CEAC. The polling results were negative, so the proposed ballot measure did not move forward in 2016.

## **FINDINGS**

- F1. Reserves have not been set aside for the replacement costs of the County flood control system.
- F2. Presently, there is little public support to fund the replacement costs of the County flood control system.
- F3. There is little sense of urgency among elected officials towards financing the replacement costs of flood control in California.
- F4. The older sections of the County flood control system are approaching their design life of 70 years.
- F5. The current mechanism for funding flood control is not enough to maintain and eventually replace the system.
- F6. The proposed California Water Conservation, Flood Control and Storm Water Management Act could provide revenues for County Flood Control to begin building financial reserves for full maintenance and eventual replacement of the system.

## **RECOMMENDATIONS**

- R1. The County Board of Supervisors, as the Governing Board of the Flood Control and Water Conservation District, should consider continuing to pursue efforts to educate elected officials about the urgency of passing the California Water Conservation, Flood Control and Storm Water Management Act.
- R2. The County Board of Supervisors, as the Governing Board of the Flood Control and Water Conservation District, should consider identifying funds to increase the

Flood Control maintenance budget to begin reducing the deferred maintenance backlog, prior to January 2018.

- R3. The County Board of Supervisors, as the Governing Board of the Flood Control and Water Conservation District, should consider identifying funds to begin building reserves to fund the reconstruction of the County flood control system, prior to January 2018.
- R4. The County Board of Supervisors, as the Governing Board of the Flood Control and Water Conservation District, should consider instructing Flood Control staff to prepare plans for a County wide campaign to educate the public on the need to replace the infrastructure.

### REQUIRED RESPONSES

|   | Findings | Recommendations |
|---|----------|-----------------|
| Contra Costa County Board of Supervisors, as the Governing Board of the Flood Control and Water Conservation District | F1 to F6 | R1 to R4        |

These responses must be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to [ctadmin@contracosta.courts.ca.gov](mailto:ctadmin@contracosta.courts.ca.gov) and a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson  
725 Court Street  
PO Box 431  
Martinez CA 94553-0091