



Flood Control District of Maricopa County

Flood Control Advisory Board

Meeting Minutes for April 27, 2016

Board Members Present: Melvin Martin, Chairman; Richard Schaner, Vice Chairman; Gregg Monger, Secretary; Hermant Patel; DeWayne Justice; Bob Larchick

Board Members Absent: Ray Dovalina.

Staff Members Present: William D. Wiley, P.E., Chief Engineer and General Manager; Wayne Peck, General Counsel; Kelli Sertich; Eric Hiser; Patrick Schafer; John Hathaway

1) CALL TO ORDER

The meeting of the Flood Control Advisory Board (FCAB) was called to order at 2:04 p.m. on Wednesday, April 27, 2016.

2) PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

3) APPROVE THE MINUTES OF MARCH 23, 2016

ACTION: It was moved by Mr. Justice and seconded by Mr. Patel to approve the minutes as submitted. The motion carried unanimously.

4) PUBLIC HEARING ACTION ITEM - TEXT AMENDMENT TO THE BOARD OF HEARING REVIEW PROCEDURES

Presented by Kelli Sertich, FMS Manager; and Eric Hiser, Counsel to the Board of Hearing Review

STAFF RECOMMENDS THE FOLLOWING ACTION: It is moved that the Flood Control Advisory Board endorse the text amendment to the existing Board of Hearing Review Procedures, and recommend that the text amendment to the existing Board of Hearing Review Procedures be adopted by the Board of Directors.

Ms. Sertich reviewed what was discussed at the last meeting. That is: The State statutes require that Board of Hearing Review procedures be adopted by the Board of Directors. In order to have an appeals process, there needs to be a Board of Hearing Review in place. The five appointed board members of the FCAB sit as that Board of Hearing Review. The Board of Hearing Review would hear decisions of the hearing officers and final orders of the Chief Engineers whenever

they were appealed. This text amendment will help bring the procedures into compliance with changes that were made to state statutes last year and additionally help to give more guidance to the Board and the participants of the process.

Additionally, Maricopa County has an Enhanced Regulatory Outreach Process ("EROP") to ensure the stakeholders are included in that process. The Enhanced Regulatory Outreach web site outlines the different processes and regulations in more detail.

On this specific amendment, two stakeholder workshops were held with three participants at each meeting. Adjustments to the draft procedures were made based on the input at those meetings. No additional written comments have been received.

General Counsel Peck clarified that the membership of the Board of Hearing Review was not the membership of FCAB, but the appointed members only and that they are two separate and distinct boards. Furthermore, the EROP process was adopted by Maricopa County, but the Flood Control Board of Directors also adopted a resolution requiring that FCD follow the same process.

Mr. Hiser stated the purpose of the change was twofold: To conform the rules to the state statute requirements; and to provide more guidance to members of the public and the Board on the course of the hearing process. At the public meetings there were verbal comments regarding how to work in conjunction with the open meeting law requirements and a request to change the language from passive to active. These were revised in the amendments you see here today. Mr. Hiser then reviewed the changes by paragraph.

The new appendix to be adopted was reviewed by Mr. Hiser. The appendix sets forth the order that people appear before the Board unless altered by the Chairperson or by the Board at the hearing. It was decided that this was best left in the realm of guidance rather than regulation, so that the Board could vary it as the interest of justice required.

In response to a question posed by Chairman Martin, Mr. Hiser confirmed that they could not discuss something outside of the agenda if the item had been advertised in the agenda, the same as it is now.

Board Member Schaner asked if a party seeking review was the same as the party requesting review in all cases. Mr. Hiser responded that it was and that the procedures could be amended for consistency.

Regarding the portion of the appendix which read, "The representative of any other party properly admitted to the hearing shall speak and asked to present argument," Board Member Justice asked if that meant only those that had intervened. Mr. Hiser responded that was correct. Mr. Hiser also responded to Board Member Justice's concern regarding conforming the numbers to the Secretary of State's preferred style.

Ms. Sertich reviewed the next steps for processing this amendment. The information would be posted on the EROP site and also on the FCD webpage.

The Chairman asked if there were any questions or comments from the public, and opened the floor to the Board. No questions or comments were voiced.

ACTION: It was moved by Mr. Justice and seconded by Mr. Patel to approve the item as submitted. The motion carried unanimously.

5) FLOODPLAIN MANAGEMENT: WHO DOES WHAT

Presented by Kelli Sertich, FMS Manager

PURPOSE: Information and discussion item only. No formal action is required.

Ms. Sertich stated that state statute requires each county to organize a Flood Control District. Some of the powers and duties include: capital improvement projects; surveying and reporting flood control problems using a variety of tools; watercourse master plans; delineating and regulating floodplains; adopting and enforcing floodplain regulations; and performing floodplain management for cities and towns in the county.

Floodplain Regulations are intended to carry out the requirements of the National Flood Insurance Program. The Code of Federal Regulations sets out a template to follow and sets minimum standards. ADWR has adopted a Floodplain Management Model Ordinance based on the state statute, and communities then adopt Floodplain Regulations based on this ordinance.

Floodplain management is focused on the regulation of the floodplains that have been delineated. Section 48-3610 states: Cities and towns can assume their own floodplain management by adopting a resolution at their council. Currently, 10 cities and towns do their own management, and 14 cities and towns are referred to as "district dependent." The unincorporated county is a hybrid of the two. A list of these was presented along with a map showing their locations.

Ms. Sertich stated that a community deciding to do their own floodplain management did not mean the District staff would stop helping them. The numbers of customer inquiries received from different jurisdictions during fiscal year 2015 to the present was presented.

Statutes require a Floodplain Use Permit for any type of development in the floodplain. The Floodplain Administrator for the county, by resolution of the Board of Supervisors, is Bill Wiley. He is the Chief Engineer for FCD and also the Floodplain Administrator for the county. If communities are district dependent, the federal government still requires them to have their own Floodplain Administrator. For unincorporated Maricopa County, FCD does all of the drainage studies and delineations which the county P&D uses for permitting reviews. P&D performs the technical review and the inspections of the permits that are issued. FCD handles enforcement if there are violations, and also performs all of the federal auditing, research, information, and field visits on behalf of the county for the NFIP. FCD also assists in the Community Rating System visits that help get residents flood insurance discounts.

With District dependent communities, at a minimum, the Flood Control District will meet with the communities to discuss their needs, such as processing Floodplain Use Permits and maintaining permit records. FCD will send copies of approved permits to the community, assist with any additional technical support they need, and participate and assist with federal audits. The minimum required from the community is that they appoint a Floodplain Administrator,

assure that all developments in the floodplain get permits, and keep permit records and elevation certificates on file. They are also supposed to have standard operating procedures in place as to how they work with the District on the permitting process.

Because dependent communities have adopted the Floodplain Regulations for Maricopa County, they come to FCD for variances and the appeals processes. FCD will seek the opinion of the community first before granting a variance because they are the ones responsible to FEMA if a lot of variances are issued. The job of FCD is to help keep the community in good standing with NFIP.

With NFIP and CRS, it requires continual teamwork process between FCD and the communities. The federal government recognizes each community separately, but FCD sits side-by-side and works with them, attends audits, compares the recordkeeping, etc. FCD provides basic services for all communities, including technical support and permit review. The goal is to keep the process quick and seamless. Keeping the communities in good standing with the NFIP and keeping people safe is the main goal.

Chairman Martin asked who sets the elevation for building permits. Ms. Sertich responded that they come from the delineation maps. Chairman Martin stated that since Flood Control enforces it, they should set it. There was further discussion about the permit process and it was suggested that perhaps the inspections were done too late in the permitting process. Ms. Sertich discussed the purpose of elevation certificates and that FEMA requires the surveyors or engineers to verify that the Floodplain Regulations have been met and inspections have been done. An elevation certificate verifies the correct elevation, and through the use of a series of checks and balances, and differences should be caught early.

Board Member Patel asked what role the District plays in response to an emergency event. Ms. Sertich responded that FCD's role is trying to mitigate the flood and if possible to ensure that flooding doesn't happen again. Mr. Wiley added that, in addition to trying to prevent flooding through the permitting and inspection processes, FCD also assists through the ALERT system. There are over 300 different monitoring stations where the District looks at rainfall and stream gauge information and warns emergency responders if they see an unsafe situation. In addition, FCD also works with the communities ahead of time on what needs to be protected if there is a problem in an area - through Emergency Action Plans. The District is also responsible for protecting FCD structures, making sure dams do not break and levees do not fall apart. Board Member Patel asked if FCD was the monitoring system as opposed to the actual responder. Mr. Wiley responded that was true in many cases.

Board Member Patel asked if the FCD needed to write a post storm report if they did an investigation. Ms. Sertich stated these are some of the services the FCD staff provide for all the communities and they could be the extra boots on the ground to get out and document things during and after a storm event, whether it was unincorporated or in a community.

6) MCMICKEN DAM REHABILITATION PROJECT

Presented by Patrick Schafer, Project Manager

PURPOSE: Information and discussion item only. No formal action is required.

Mr. Schafer presented a map showing the 22 dams in the county and the location of the McMicken Dam. ADWR is the jurisdictional agency and FCD owns and operates the dam. It is classified as a high hazard dam with safety deficiencies, though currently not unsafe deficiencies. A map of the benefited area (area protected by the dam) was presented.

There was discussion about several dam safety issues that had been identified during inspections. The overall rehabilitation project would eliminate all the safety deficiencies and meet current design criteria. The dam would go from a 100-year to a 500-year protection and have a functional life for the next 100 years. The Phases I and II project plan details were reviewed. The estimated cost of Phases I and II was \$36.7 million. Mr. Schafer displayed the current plan layout and summarized the project elements. Currently, the project is in final design with Phases I and II. The plan is to construct the project during FY 2018 and 2019. Phase I would be bid build. It was still being determined if they would utilize low bid or CMAR for Phase II construction.

Board Member Justice expressed his support that the dam would not be breached while they were repairing it and it would remain functional.

7) WICKENBURG FLOOD PRONE PROPERTY BUYOUT UPDATE

Presented by John Hathaway, Project Manager

PURPOSE: Information and discussion item only. No formal action is required.

Mr. Hathaway reviewed a map showing an aerial view of part of Wickenburg and also presented a satellite photo of Hurricane Delores showing the plume of moisture which settled over Wickenburg. Photos of damaged homes and flooding were shown from July 2015 and August 2014 along with archived photos of the area from 1964 showing it was a recurring problem.

A review of how Resolution 2015R008 came about to the Board was provided. The reason for moving so quickly to acquire the identified properties was to try to get people out of there by the coming monsoon season. The total cost for the District's portion was about \$1.2 million. Five of the six scheduled properties to be purchased by FCD have either been acquired or were in escrow. There was an issue on one property where they were upside down on their mortgage and might not be able to participate. Wickenburg was responsible for acquiring 3 properties and had acquired one of the two vacant parcels. There had been difficulties in acquiring the other vacant parcel and the other property. The process is ongoing. Maricopa County's Facilities and Risk Management departments would be coordinating boarding up vacant structures, testing for asbestos, and the actual final demolition.

Chairman Martin raised discussion about several homes for which a record of survey creating the lots and the individual building permits cannot be found. Mr. Hathaway responded with the details of those properties. The bottom line was that the cost was significantly higher to build a structure than it is to get the home owners out of there and demolish the homes. It was a discussion FCD had with the Board of Directors who said they didn't want to see this area flooded

again.

8) COMMENTS FROM THE CHIEF ENGINEER AND GENERAL MANAGER

Presented by William D. Wiley, P.E., Chief Engineer and General Manager

PURPOSE: Information and discussion item only. No formal action is required.

Mr. Wiley presented a Maricopa County organizational chart and pointed out positions in transition. Supervisor Kunasek in District 3 has decided not to run for reelection. The last day for County Manager, Tom Manos, was May 1, and they were currently in the process of interviewing for the position. Shelby Scharbach would be the Acting County Manager. Debra Stark was resigning on May 2nd to run for City of Phoenix District 3 position, and Joy Rich, in addition to being Deputy County Manager, would be Acting Planning and Development Manager. The Director of Animal Care and Control is currently vacant with Valerie Beckett in an acting role. It was anticipated that several of these positions would be filled once a County Manager is on board. The Chief Procurement Officer also announced that he would be resigning. Supervisor Kunasek's Chief of Staff, Kevin Tyne, would be with Acting Procurement Officer until a permanent solution was decided. Risk Manager, Pauline Hecker, left a while back, and it was expected that position would also be filled once the County Manager position was filled.

9) SUMMARY OF RECENT ACTIONS BY THE BOARD OF DIRECTORS

Presented by William D. Wiley, P.E., Chief Engineer and General Manager

PURPOSE: This item is for information and discussion only. No formal action is required.

Mr. Wiley stated that the budget had been submitted to the Office of Management and Budget, and they had met with the supervisors or their chiefs of staff on their budget. They were hoping to procure a few more dollars for the CIP budget. On May 16, the Board would adopt their tentative budget. A zero increase in the secondary tax rate was submitted along with a \$0.02, a \$0.03, and a \$0.04 increase. The operational budget would remain the same.

The vacant corner lot at 27th Avenue and Durango would be sold to Maricopa County. It was excess property that FCD had no need of, and FCD was asked by the County to appraise it and sell it to them.

The Board of Directors also approved an initial IGA with the City of Peoria to look at using part of the New River Dam Flood Pool for soccer fields and other game fields. No structures would be built within the 100-year flood pool, but they were very interested in developing a park.

10) OTHER BUSINESS AND COMMENTS FROM THE PUBLIC

PURPOSE: This item is for information and discussion only. No formal action is required.

There were no comments from the public.

The meeting adjourned at 3:15 p.m.