

ORDINANCE NO. 3191

AN ORDINANCE AMENDING THE ANNEXATION FEES FOR ZONE 9 OF THE MONTEREY COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT ESTABLISHED BY ORDINANCE NO. 3062 ON APRIL 23, 1985

The Board of Supervisors of the Monterey County Flood Control and Water Conservation District, State of California, do ordain as follows:

SECTION ONE:

Ordinance No. 3062, Add Article 7:

ARTICLE 7. State Board of Equalization Processing Fees
The landowner shall contribute a sum equal to the amount of the State Board of Equalization processing fee.

SECTION TWO:

Findings:

The Board of Supervisors of the Monterey County Flood Control and Water Conservation District finds that the State Board of Equalization processing fees are a direct cost to Zone 9 in the annexation process.

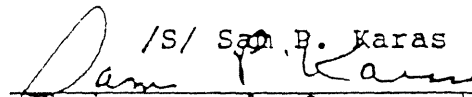
Furthermore, the Board finds that the developers should bear the cost of these fees.

PASSED AND ADOPTED this 18th day of November, 1986, by the following vote, to-wit:

AYES: Supervisors Del Piero, Karas and Strasser
Kauffman.

NOES: None.

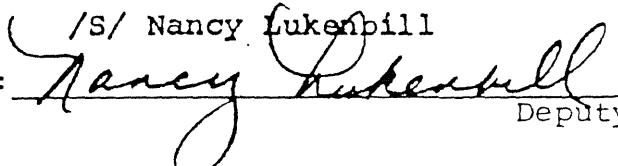
ABSENT: Supervisor_s Shipnuck and Petrovic.

/S/ Sam B. Karas

Chair, Board of Supervisors

ATTEST:

(SEAL)

ERNEST K. MORISHITA,
Clerk of the Board

/S/ Nancy Lukenbill
By: 
Deputy

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I. INTRODUCTION

This report presents for approval by the Board of Supervisors a benefit assessment program for financing flood control services performed by the Monterey County Flood Control and Water Conservation District.

The program was developed because revenues, after Proposition 13, will not be adequate to keep the flood protection system of levees, channels, pumping plants, storm drains, etc., upon which the lives and property of District residents depend, in a safe and effective condition.

Historically, the District had levied a tax or assessment on an ad valorem basis under the provisions of Section 13 of the District Act. At the time Proposition 13 was being argued, special districts had been assured that special assessment for flood control purposes were not included in the limitations of Proposition 13.

After Proposition 13 had passed, follow-up legislation (SB 154) redefined special ad valorem assessments as taxes and, hence, the District found that the zone special assessments were included in the limitations of Proposition 13.

All special districts in the state which depended on ad valorem taxes or assessments for their source of revenue were suddenly in serious financial trouble. The State Legislature recognized the vital public safety service furnished by flood control districts and therefore passed Assembly Bill 549 (Frazee) which authorizes flood control districts to levy benefit assessments to help finance their operations. AB 549 requires that the assessments be proportionate to the runoff from each parcel of property and that the levy of such assessments be approved by a vote of the people being assessed either before the ordinance that establishes the assessments goes into effect or within one year thereafter. No other mechanism exists today and no other legislation is being considered which would provide adequate funding for these flood control services.

This report describes the extent and functions of the existing flood control system which was constructed over the past 26 years. It extends into and protects 3 cities plus unincorporated areas of the District. It describes the reliance the community has placed on the system and the resultant maintenance and repair obligation inherent in its ownership. It describes the resources required to respond to emergencies and to meet minimum standards of community safety and operational effectiveness.

The District's financial situation and the need for supplemental financing are explained and the alternatives for providing financing are discussed.

The concept and mechanics of the proposed benefit assessment are described in detail, and tables are presented which indicate to each property owner the approximate amount of his/her assessment.

It should be noted that the assessment program contained in this report applies to Zones 1, 3, 5, 8, 9 and 12 of the District. Maps showing the area and location of these zones are at the end of this report.

II. BACKGROUND DATA ON MONTEREY COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

The State Legislature created the Monterey County Flood Control and Water Conservation District in 1947 following the recognition of the need for the construction of flood control, drainage, water supply and water conservation facilities in Monterey County.

In general, the District was formed to provide for the control and conservation of flood and storm waters and the protection of watercourses, watersheds, public highways, life and property from damage or destruction from flood waters and to provide for the retention and reclamation of drainage, storm, flood and other waters and to save and conserve such waters for beneficial use.

The District's boundaries coincide with those of Monterey County. The Board of Supervisors of the County of Monterey are also the Board of Supervisors of the District. The officers, assistants, deputies, and employees of the County of Monterey also perform their same duties for the District.

The Board of Supervisors may establish, within the District, zones that are benefited by specific projects. Historically each zone has financially supported its project or projects by the collection of ad valorem taxes or assessments within the zone. There has been 16 zones formed for various flood control and water conservation needs. At this time it has been determined that only Zones 1, 3, 5, 8, 9, and 12 are in need of supplemental funds and comply with the requirements of Assembly Bill 549. Water conservation costs can not be funded by assessments permitted by A. B. 549.

III. ALTERNATIVES AND CONCLUSIONS

Because of its geographic setting and its topographic and geological characteristics, Monterey County is exposed to flood, erosion, and mudflow hazards which have the potential for catastrophic loss of life and property.

Public safety in this hazardous environment has been provided for by the construction over the past 26 years of flood protection systems within Zones 1, 3, 5, 8, 9, and 12. With a replacement value of about \$50 million dollars, these systems extend into and protect most parts of the District.

The existence and effectiveness of the systems has been relied upon by policy makers in planning community development. Residential, commercial, and industrial developments have been approved in the valleys and plains on the basis that levees, channels, and storm drains on which they must depend for safety will be maintained in a safe and effective condition. Federal flood insurance rates are also based upon the effective performance of the systems.

The District management has always implemented cost-cutting and cost-saving programs which have maximized the cost-effectiveness of flood control services. These were expanded after the passage of Proposition 13 to stretch limited revenues as far as possible.

At this writing, financial resources will not be available to keep the flood protection system in safe and effective condition in the future.

The alternatives available include:

1. Accept the loss of life and property associated with degradation or partial abandonment of the system.
2. Take-over of the system by other local government agencies using funding from other sources.
3. Take-over of the system by the State.
4. Supplemental financing of the District by the State.
5. Supplemental financing of the District by benefit assessment.

The benefit assessment alternative is proposed herein because other alternatives appear unacceptable and/or unattainable. The assessment method is the most responsive to community concerns, is the most equitable method of financing, and maintains local control. Flood control is a local property-related service.

IV. BENEFIT ASSESSMENT PROGRAM

A. Authority

The levying of a benefit assessment for flood control services is authorized by Chapter 10 (commencing with Section 60400), Division 2, Title 6, California Government Code. This chapter was added to the statutes by Assembly Bill 549 (Frazee), and was signed by Governor Brown on July 16, 1979.

B. Purpose

The purpose of the proposed benefit assessment is to supplement other available but limited revenues in order to keep

the existing flood protection system in a safe and effective condition, to respond to emergencies, to perform maintenance and repair, to provide for the completion of other projects still needed, and to provide for general service to the public.

The assessment program is based on the assumption that the Flood Control District would continue to receive its "pro rata" share of County revenue entitlements under the provisions of Article XIII A of the Constitution and AB 8. This assumption is made because AB 549 provides in part that the Board of Supervisors may levy assessments "on the basis of estimated benefits sufficient to cover the cost not otherwise offset by other available revenue for providing flood control services within the District, or any zones thereof,"

For 1980-81, the total anticipated revenues for Zones 1, 3, 5, 8, 9 and 12 from Article XIII A property taxes, are estimated to be approximately \$87,000. In order to finance the programs recommended herein, the District will need total revenues of \$507,000. This represents a level of effort program that is needed for the next five to ten years. It is therefore proposed to levy an annual benefit assessment in the above mentioned zones of the District which would generate a total assessment revenue of approximately \$420,000 in 1980-81.

C. Concept

As authorized by the statute cited above, it is proposed that an assessment be levied on each parcel of real property, except that an assessment shall not be imposed on federal, state, or local government agencies. The assessment is to be levied in proportion to benefits received. The statute provides that the benefits received "may be determined on the basis of the proportionate storm water runoff from each parcel".

To determine the proportionate storm water runoff from each parcel it is necessary to know the area of the parcel and its runoff factor. The area of a parcel can be determined from existing data. The runoff factor is a measure of the amount of water that will flow off a parcel compared to the amount of rainfall that falls on the parcel. It is expressed as a decimal. Land used for lawn, agriculture, and similar uses has a low runoff factor. Land which has been improved by adding roofs, driveways, and other impervious areas has a higher runoff factor.

D. How to Compute the Assessment

1. Size: Larger parcels contribute more runoff than smaller ones of the same character.

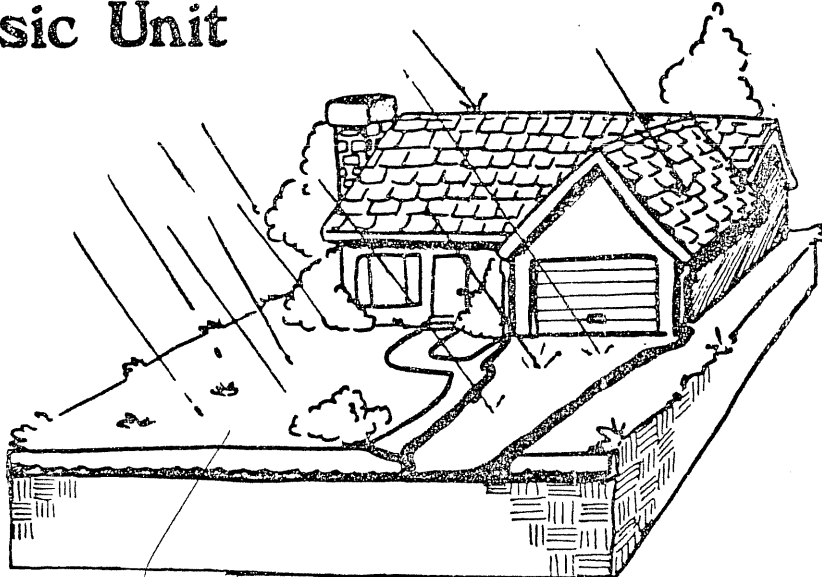
2. Land Use: Parcels with a greater degree of development (impervious surfaces; such as roofs, driveways, storage or parking areas, etc.) would contribute more runoff than a same sized parcel with less development.

<u>Land Use Categories</u>	<u>Land Use Runoff Factor</u>	<u>Assessment Group Code</u>
Commercial or industrial purposes.	0.8	A
Institutional purposes, such as churches, schools, and hospitals, and for apartments or other multiple living unit residential purposes such as mobile home parks, in excess of four units.	0.6	B
Single-family residential purposes on parcels of one quarter acre or smaller, or for multiple living residential purposes containing not more than four units and on parcels of one quarter acre or smaller. Those portions of Group C land exceeding one quarter acre are assessed at Group E or Group F rates depending upon usage.	0.4	C
Vacant land not in its undisturbed natural state, used for agriculture, open space, or similar purposes, and which is tilled, planted, farmed, or irrigated; salt ponds; wetlands and marshlands not subject to periodic inundation.	0.2	E
Vacant land in its undisturbed natural state, not tilled, planted, farmed, or irrigated, although it may be grazed if otherwise undisturbed; wetlands and marshlands if undisturbed and subject to periodic inundation.	0.1	F

Computation of Assessment Units for Each Parcel:

The Basic Assessment Unit (BAU) is the proportionate runoff from a single-family residential parcel with an area of 0.25 (1/4) acre or smaller. Larger residential parcels and other land use categories will have multiples of the basic unit.

Basic Unit



SINGLE FAMILY RESIDENTIAL ON MINIMUM LOT
(1/4 ACRE OR LESS)

One (1) Unit = (minimum area) X (Single-family residential runoff factor)

or One (1) Unit = (0.25 acre) X (0.4) = One Basic Assessment Unit (BAU)

Then for all other parcels (other than minimum parcels):

Number of Units =
$$\frac{(\text{Area of Parcel in acres}) \times \text{Land Use Runoff Factor}}{\text{One Basic Assessment Unit}}$$

Minimum Basic Assessment Units For Parcel Size 1/4 Acre or Smaller:

Group A: No. of BAU =
$$\frac{(0.25 \text{ acre}) \times (0.8)}{(0.25 \text{ acre}) \times (0.4)} = 2.0 \text{ BAU}$$

Group B: No. of BAU =
$$\frac{(0.25 \text{ acre}) \times (0.6)}{(0.25 \text{ acre}) \times (0.4)} = 1.5 \text{ BAU}$$

Group C: No. of BAU =
$$\frac{(0.25 \text{ acre}) \times (0.4)}{(0.25 \text{ acre}) \times (0.4)} = 1.0 \text{ BAU}$$

$$\text{Group E: No. of BAU} = \frac{(0.25 \text{ acre}) \times (0.2)}{(0.25 \text{ acre}) \times (0.4)} = 0.5 \text{ BAU}$$

$$\text{Group F: No. of BAU} = \frac{(0.25 \text{ acre}) \times (0.1)}{(0.25 \text{ acres}) \times (0.4)} = 0.25 \text{ BAU}$$

Parcel Size Larger Than 1/4 Acre:

Group C: The portion of any single-family residential parcel in excess of 0.25 acre is assessed at Group F (Vacant Land) rate of 0.1.

therefore:

$$\text{No. of BAU} = \frac{(\text{Parcel Area in acres} - 0.25) \times (0.1) + 1}{(0.25 \text{ acre}) \times (0.4)}$$

or

$$\text{No. of BAU} = (1) \times (\text{Parcel Area in acres} - 0.25) + 1$$

Other groups are computed as shown below:

$$\text{Group A: No. of BAU} = \frac{(\text{Parcel Area in acres}) \times (0.8)}{(0.25 \text{ acre}) \times (0.4)}$$

or

$$\text{No. of BAU} = (8) \times (\text{Parcel Area in Acres}) \text{ or } 8 \text{ BAU per ac.}$$

$$\text{Group B: No. of BAU} = \frac{(\text{Parcel Area in Acres}) \times (0.6)}{(0.25 \text{ acre}) \times (0.4)}$$

or

$$\text{No. of BAU} = (6) \times (\text{Parcel Area in Acres}) \text{ or } 6 \text{ BAU per ac.}$$

$$\text{Group E: No. of BAU} = \frac{(\text{Parcel Area in Acres}) \times (0.2)}{(0.25 \text{ acre}) \times (0.4)}$$

or

$$\text{No. of BAU} = (2) \times (\text{Parcel Area in Acres}) \text{ or } 2 \text{ BAU per ac.}$$

$$\text{Group F: No. of BAU} = \frac{(\text{Parcel Area in Acres}) \times (0.1)}{(0.25 \text{ Acre}) \times (0.4)}$$

or

$$\text{No. of BAU} = 1 \times (\text{Parcel Area in Acres}) \text{ or } 1 \text{ BAU per ac.}$$

For any parcel with more than one land use, its area is divided according to those uses and the number of BAU's is calculated by adding the products of the BAU's per acre multiplied by the acreage of each respective use. For any land use with less than 1/4 acre, the minimum BAU for that group is used.

Examples:

Listed below are some examples showing the calculations for different size parcels and land use categories:

1. Residential (Group C)

Single family residential larger than 1/4 acre.

ASSUME: Single family home on 0.50 (1/2) acre lot.

$$\text{No. of Basic Assessment Units} = \frac{(\text{Parcel Area in Acres} - 0.25) \times 0.1 + 1}{(0.25 \times 0.4)}$$

$$\text{No. of BAUs} = 1 \times (0.50 \text{ acres} - 0.25) + 1$$

$$1 \times (0.25) + 1 = 1.25 \text{ BAU}$$

2. Commercial or Industrial (Group A)

ASSUME: A small 2-acre industrial plant.

$$\text{No. of BAUs} = (8) \times (\text{Parcel Area in Acres})$$

$$= (8) \times (2) = 16 \text{ BAU}$$

3. Institutions and Apartments (Group B)

ASSUME: A large apartment complex on 2 acres.

$$\text{No. of BAUs} = (6) \times (\text{Parcel area in acres})$$

$$= (6) \times (2) = 12 \text{ BAU}$$

4. Rural and Agricultural (Group E)

ASSUME: An 80 acre parcel in row crop with two residences and a small farm equipment shed.

$$\text{No. of BAUs} = 2 \times (\text{Parcel Area} - 0.50) + 2$$

$$= 2 \times (80 - 0.50) + 2$$

$$= 2 \times 79.50 + 2$$

$$= 161 \text{ BAU}$$

5. Rural or Agricultural (Group E)

ASSUME: A 10-acre parcel of agricultural land.

$$\text{No. of BAUs} = (2) \times (\text{Parcel area in acres})$$

$$= (2) \times (10) = 20 \text{ BAU}$$

6. Vacant Land Undisturbed (Group F)

ASSUME: 40 acres of pasture land with one residence.

$$\begin{aligned}\text{No. of BAUs} &= 1 \times (\text{Parcel Area} - 0.25) + 1 \\ &= 1 \times (40 - 0.25) + 1 \\ &= 40.75 \text{ BAU}\end{aligned}$$

Computation of Assessment for each parcel:

1. For each zone of the Flood Control and Water Conservation District for which assessment is being considered, the BAUs are computed for each parcel within each respective zone.
2. The BAUs for each zone are totaled.
3. To obtain assessment charge per BAU, the total BAUs of each zone are divided into the total amount of assessment required to operate that zone for one year.

$$\text{Assessment charge per BAU} = \frac{\text{Total Assessment Required By Zone}}{\text{Total BAUs}}$$

4. The assessment per parcel is computed by multiplying the BAUs of each parcel times the amount of assessment charge per BAU.

$$\text{Assessment} = \text{BAUs for each parcel} \times \text{assessment charge per BAU}$$

E. Determination of 1980-81 Unit Assessment Rate

By knowing the budget deficit (short-fall) for each zone, and knowing the size and land use of each parcel of property within the zone, the District has calculated the annual benefit assessment as shown on Table I. This amount will be required to maintain the existing system and provide for a construction program in Zone 9 which has a badly needed project to be completed.

TABLE 1

PROPOSED ZONE ASSESSMENT RATES 1980-81

Zone	Group A	Group B	Group C	Group E	Group F
	Commercial Industrial	Institutional Apartment	Single Family Residential (One BAU) 1/4 Acre Or Less	Rural Agricul- tural	Vacant Land/ Natural
	8 X BAU/ Acre	6 X BAU/ Acre		2 X BAU/ Acre	1 X BAU/ Acre
1	\$17.12	\$12.84	\$ 2.14	\$4.28	\$ 2.14
3	5.60	4.20	0.70	1.40	0.70
5	36.00	27.00	4.50	9.00	4.50
8	20.48	15.36	2.56	5.12	2.56
9	21.12	15.84	2.64	5.28	2.64
12	7.68	5.76	0.96	1.92	0.96

It is believed that these assessment rates, if levied each year and indexed to account for inflation during future years, will permit adequate funding of these zones for the next five to ten years. It is recommended that the District commit itself to retaining these assessment rates for future years plus indexing for inflation unless unforeseen circumstances require additional funding by assessments, and that this source will be used only when all other sources of funds are exhausted.

The preliminary budgets for 1980-81 for each zone, the anticipated tax revenue, and the assessment revenue required to fund these budgets are shown below in Table 2.

TABLE 2

1980-81 PRELIMINARY BUDGETS AND PROPOSED REVENUE SOURCES

Zone	1	3	5	8	9	12	Total
1980-81 Budget							
Maintenance	22,000	23,000	27,000	25,000	200,000	10,000	307,000
Capital Improvements	0	0	0	0	200,000	0	200,000
Total	22,000	23,000	27,000	25,000	400,000	10,000	507,000
Tax Revenue- Estimated	8,000	7,500	17,000	2,000	50,000	2,500	87,000
Assessments- Required	14,000	15,500	10,000	23,000	350,000	7,500	420,000

F. Implementation Procedures

In accordance with the authorizing legislation, implementation of a benefit assessment requires the following actions:

- a. Introduction of ordinance
- b. Adoption of ordinance
- c. Filing a report
- d. Notice of hearing
- e. Public hearing before the Board of Supervisors
- f. Adoption of resolution by Board of Supervisors
- g. Delivery of assessment roll to the Auditor-Controller
- h. Collection of the assessment along with the tax collection
- i. Within one year of the initial ordinance the question of whether the assessment shall be continued shall be put to the voters.
 1. Filing a Report: The authorizing legislation requires that a written report be filed with the Clerk of the Board. This report has been reviewed and approved by the County Counsel as meeting the legal requirements of the law. In addition to the information contained in this report, the official assessor map books and records of the County of Monterey are hereby referenced, and by reference are incorporated into this report. These references contain sufficient information for each property owner to verify the area of his parcel and its land use. Zone assessment rolls have been developed that indicate the amount of the assessment for each parcel of property in the zones. These rolls are hereby referenced and are incorporated into this report.

For the convenience of the public, the zone assessment rolls will be placed in libraries throughout the District so each property owner may determine the proposed assessment on his/her property. There will also be a complete assessment roll located at the District Office, Courthouse, Salinas, California. The following list will indicate where the respective zone assessment rolls will be located:

County Library-Pajaro Branch	Zone 1
County Library-Castroville Branch	Zone 5
Steinbeck Library-Salinas	Zones 3,5, & 9
King City Library	Zone 12
County Library-Soledad Branch	Zone 8

2. Notice of Hearing: Notice of the time, date and place of hearing on the report must be published pursuant to Section 6066 of the Government Code, and at least three notices shall be posted in public places within the zone. The notice must be published at least two weeks before the public hearing.
3. Public Hearing: At the public hearing, the Board of Supervisors shall hear and consider all protests and comments.
4. Adoption of Ordinance and Resolution: At the conclusion of the hearing, the Board may adopt, deny, revise, change, reduce, or modify any assessment and shall make its determination upon each assessment, and thereafter, by Resolution shall confirm or deny the assessments.
5. Delivery of Assessment Roll to Auditor-Controller: The assessment roll must be delivered to the Auditor-Controller by August 18, 1980, in order to be incorporated into the 1980-81 tax collection. The assessment roll will be delivered in the form of computer tapes containing all of the required information in the format specified by the Auditor-Controller.
6. Collection of Assessment along with Tax Collection: The assessment is to be levied and collected at the same time and in the same manner as the general tax levy for County purposes.
7. Confirmation Election: Either before the ordinance takes effect, or within one year thereafter, the Board shall place before the voters of each zone the question of whether the District shall be authorized to levy benefit assessments. The benefit assessment is approved if a majority of those voting approve. The approval of the voters may be secured at a District or county-wide election, or by a ballot mailed to each property owner or registered voter of the zones. The question could be placed on the ballot at a general election, or a special election. The general election would be the least expensive method and it is the method recommended, except for Zone #5, which to our knowledge does not have any voters living within its boundaries. For Zone 5 it is recommended that a mail ballot election be held with the absentee property owners being eligible to vote.

G. Schedule

Assuming the levy is to be effective in 1980-81, and the Board calls for an election in November, 1980, the ordinance and resolution must be adopted and the assessment roll delivered to the Auditor-Controller by August 15, 1980.

V. REASONS FOR BENEFIT ASSESSMENT

A. Financial background

In California, flood control districts are created by the State Legislature to provide an effective means of safeguarding life and property from the dangers of flood and erosion, sand, and mudflow which are naturally present in many parts of the State. Flood problems are not bounded by city and county jurisdictional boundaries. Thus, a regional approach is necessary for coordinated planning, uniformity of protection standards, efficient maintenance, and coordinated operations.

The statutes creating flood control districts provide for the levying of an ad valorem tax or an ad valorem special assessment to cover the cost of operations. In Monterey County the Flood Control and Water Conservation District Act authorizes three separate levies:

1. A general District-wide levy to carry out any of the objectives or purposes of the act, and to pay the general administrative costs and expenses of the District.
2. A zone debt service levy sufficient to pay the interest and principal on outstanding general obligation bonds for the zones as they become due. This levy can be used for no other purpose.
3. A zone levy in each zone to pay the costs of constructing, maintaining, operating, extending, repairing, or improving any or all zone capital improvement works according to the benefits derived. Table No. 3 shows the historical total tax rates for Zones 1, 3, 5, 8, 9, and 12.

Proposition 13 and follow-up legislation has taken away the District's authority to levy these ad valorem assessments except as required to service outstanding bonded indebtedness. There is no bonded indebtedness on Zones 1, 3, 5, 8, 9, and 12.