

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA
and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 02/07/2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSE:



Resolution No. 2012/43

IN THE MATTER OF A RESOLUTION DOCUMENTING THAT A MAJORITY PROTEST HAS NOT BEEN ACHIEVED IN OPPOSITION OF THE CONTRA COSTA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT'S PROPOSED 2012 COMMUNITY CLEAN WATER INITIATIVE AND DIRECTING A PROPERTY OWNER BALLOTING (CAL. CONST., ART. XIII D, § 6)

WHEREAS, the Contra Costa County Flood Control and Water Conservation District ("District") is initiating the 2012 Community Clean Water Initiative on behalf of the Contra Costa Clean Water Program; and,

WHEREAS, the Contra Costa Clean Water Program ("Program") is composed of twenty-one public agencies including Contra Costa County, all nineteen of its incorporated cities and towns, and the Contra Costa County Flood Control and Water Conservation District, all of which are joint permittees under National Pollutant Discharge Elimination System ("NPDES") permits issued by the San Francisco Bay and Central Valley Regional Water Quality Control Boards; and

WHEREAS, NPDES stormwater permits require public agency permittees to take certain prescribed measures to keep pollutants from entering storm drain systems and from being discharged into other bodies of water, such as local creeks, reservoirs, lakes, and the Delta and the Bay; and

WHEREAS, if these Federal and State requirements are not satisfied, the joint permittees may be subject to fines and/or third-party lawsuits; and

WHEREAS, the Program's primary purpose is to provide clean water and pollution control services and facilities, and implement federal and state mandated regulations for reducing pollution and harmful or toxic materials in water; and

WHEREAS, each year, tons of harmful and dangerous pollutants, bacteria and trash are carried through our neighborhoods, into our local creeks, reservoirs, lakes, and the Delta and the Bay; and as water drains from streets, parking lots, and lawns, pollutants are picked up and enter the storm drainage system through thousands of catch basins throughout Contra Costa County; and from there, this polluted water flows through a massive system of pipes, open channels and creeks into the Delta and the Bay; and

WHEREAS, these pollutants include trash such as cigarette butts, plastic, fast-food wrappers, and bottles; toxins such as motor oil, PCBs, antifreeze, fertilizer, and pesticides; microbes such as dangerous bacteria, viruses, sewage and pet waste; and heavy metals such as lead, mercury, arsenic, etc.; and

WHEREAS, the Program and joint permittees do not have adequate funding to pay for the services necessary to comply with requirements of the above-referenced NPDES permits and to provide the mandated level of clean water and pollution control services and facilities ("Services"); and

WHEREAS, on December 6, 2011, the Board of Supervisors adopted Resolution No. 2011/465 initiating proceedings to obtain approval of a new property related fee throughout Contra Costa County, approving the 2012 Community Clean Water Initiative Fee Report and fixing a public hearing for February 7, 2012, at 10 a.m. in the Board chambers to consider property owner protests to the proposed property related fee and adopted Resolution No. 2011/467, establishing Proposition 218 election procedures applicable to the proposed fee; and

WHEREAS, pursuant to the provisions of California Constitution Article XIII D the Board of Supervisors has provided a 45-day written mailed notice to each record owner of assessable parcels of real property subject to the Clean Water fee within the Flood Control District for the proposed 2012 Community Clean Water Initiative of a public hearing which was held at a regular meeting of the Board of Supervisors on February 7, 2012, at 10:00 a.m. at the Board of Supervisors Chambers located at 651 Pine Street in Martinez, California, at a regular Board meeting, on the issue of whether the proposed property related fee ("Clean

Water fee”) should be levied and collected as proposed in the Fee Report for fiscal year 2012-13; and

WHEREAS, the form of written mailed public notice of the public meeting contained the following information: (a) the total amount of fee proposed to be levied for fiscal year 2012-13; (b) the fee chargeable to each owner’s parcel; (c) the duration of the proposed Clean Water fee; (d) the reason for the Clean Water fee; (e) the basis upon which the amount of the proposed Clean Water fee was calculated; (f) the date, time and place of the public hearing as specified in this resolution; and (g) a summary of the effect of a majority protest; and

WHEREAS, the form of written mailed public notice of the public meeting contained the instructions that a majority protest exists if written protests are presented by a majority of owners of the identified parcels where the Clean Water fee is proposed; and

NOW, THEREFORE, BE IT RESOLVED the Contra Costa County Board of Supervisors (“Board”) acting as the governing board for the Contra Costa County Flood Control and Water Conservation District, does hereby resolve as follows:

SECTION 1. Tabulation of Written Protests. The tabulation of written protests by the Clerk of the Board is complete. A total of _____ written protests have been submitted representing _____% of the 306,823 owners of the identified parcels where the Clean water Fee is proposed to be imposed. Therefore, a majority protest has not been achieved.

SECTION 2. Voter Approval for Clean Water Fee. Pursuant to the provisions of California Constitution Article XIII D, the Contra Costa County Flood Control and Water Conservation District shall conduct an election to obtain property owner balloting for approval of the Clean Water fee consistent with the procedures described in Resolution No. 2011/467.

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.

Contact: Mitch Avalon (925) 313-2203

ATTESTED: February 7, 2012

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

By: , Deputy

cc: David Twa, Julie Bueren, Mitch Avalon, Mike Carlson, Tom Dalziel, Don Freitas