



Contra
Costa
County

To: Board of Supervisors
From: FINANCE COMMITTEE
Date: December 3, 2013

Subject: Policy Governing Special Revenues Administered by the Board of Supervisors

RECOMMENDATION(S):

ADOPT attached formal policy governing special revenues, as recommended by the Finance Committee.

FISCAL IMPACT:

None.

BACKGROUND:

On December 9, 2008, following a discussion about a proposal to allocate County Regional Enhancement funds to provide industrial education and vocational training to West County youths, the Board of Supervisors referred to the Internal Operations Committee (IOC) a review of how special revenue or "trust" funds are expended by the County and the possible development of a policy or protocol regarding the allocation and expenditure of such funds. As the referral was made after the IOC's final scheduled meeting for 2008, the Board referred the matter to the 2009 IOC for action. The IOC began studying the matter and compiled historical records on an array of Board-administered special revenues, which was provided to each Board of Supervisors member in a special reference binder. The committee developed a draft policy including findings and recommendations for protocols for establishing and allocating special revenues, and also clarifying some

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 12/03/2013 APPROVED AS RECOMMENDED OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Mary N. Piepho, 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: December 3, 2013

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

Contact: Lisa Driscoll, County Finance
Director (925) 335-1023

By: June McHuen, Deputy

cc: Robert Campbell, Auditor-Controller

BACKGROUND: (CONT'D)

of the terminology typically associated with special revenues. Prior to making the final recommendations to the Board, the IOC desired to have the Finance Committee review the proposed findings and recommendations and provide constructive feedback to the IOC. The IO Committee also asked the County Administrator to review and comment on the proposed policy. Both the Finance Committee and County Administrator provided comments on the draft policy.

On December 15, 2009, prior to the IO Committee returning their recommendations to the full Board of Supervisors, the Board of Supervisors adopted the County's current policy (attached). The Board of Supervisors acknowledged that most special revenue funds have been established to mitigate the impact of projects approved in certain areas of the County and that most funds have been intended for uses that will benefit the quality of life for the communities in which the project is approved and special revenue funds originated. The Board affirmed that existing special revenue funds are to be administered by the Supervisors serving in the district for which a special revenue fund was created.

Because it has been nearly four years since the Board formally reviewed these funds, the County Administrator requested and was granted a referral to the Finance Committee to review special revenues administered by the Board of Supervisors and a review of the current policy governing the use of special revenues.

As part of a Finance Committee referral from the full Board of Supervisors on October 14, 2013, the Finance Committee met and reviewed a draft policy regarding governing special revenues. The Committee made revisions to the draft policy and requested that staff return to the Finance Committee in December for further changes. On November 14, 2013, the Finance Committee reviewed the updated draft policy, made slight revisions, and requested that the new proposed policy be sent to the full Board for review and adoption. If adopted, the proposed policy points will be incorporated into the County's formal Budget Policy. The 2013 draft special revenue policy and the 2009 current special revenue policy are attached.

CONSEQUENCE OF NEGATIVE ACTION:

The County will be required to continue to rely on institutional knowledge regarding historical special revenues. Additionally, the current purposes defined for special revenues are overly board, which may result in unintended expenditures.

CHILDREN'S IMPACT STATEMENT:

None.

CLERK'S ADDENDUM

ADOPTED the formal policy governing special revenues, as amended for item 3.e. to now read "Affirm that fees developed for Countywide use will be administered by the full Board of Supervisors, with the goal of spending the money equally among supervisorial districts, unless specified otherwise when the fee is established".

ATTACHMENTS

2013 Draft Policy Governing Special Revenues

Current (2009) Policy Regarding Special Revenue Mitigation Funds

COUNTY POLICY GOVERNING SPECIAL REVENUES

FINDINGS

1. As BOS membership has changed and County support staff has turned over, institutional knowledge about historical special revenues has been lost, philosophies between current Supervisors and their predecessors about allocating Community Benefit fees, e.g., Livable Communities Trust and Industrial Job Training & Education Fee, have changed, and new Supervisors often have very little information about the historic special revenues they have inherited within their Districts.
2. Many of the terms used to describe what we collectively refer to as “special revenues” are erroneously used interchangeably, causing confusion in the way certain funds are treated. For example, terms such as special appropriations, mitigation fees, trust funds, special revenue funds, community benefit funds, area of benefit fees have been used interchangeably when they actually have distinct differences that indicate whether or not the source of funds are general purpose revenues and affect how much discretion the Board may have over their allocation.
3. The County policies that govern the allocation and expenditure of special revenues are:
 - a. the Process for Determining Compensation to Impacted Communities, to Be Paid by Benefitting Communities, as Mitigation for Waste Division adopted by the Board in 1989,
 - b. the Policy Related to Practice of Allocating General Fund Revenue to Specific Communities or Programs adopted in 2005,
 - c. the County Budget Policy adopted in November 2006, and
 - d. specific procedures established by Order of the Board of Supervisors for a particular special revenue, e.g. Keller Canyon Mitigation funds, Crockett Cogeneration funds, West Contra Costa Transfer Station Mitigation funds.
4. Mitigation fees help to mitigate the impacts of a development project on the affected community.
5. Developers sometimes desire to contribute Community Benefit Fees in order to promote community awareness and demonstrate a willingness to integrate into the community by sponsorship of local groups, and funding of community programs and services, and school projects.
6. Mitigation and Community Benefit Fees add costs to projects that may often be passed on to consumers.
7. When the purposes defined for special revenues are overly broad, unintended expenditures may result.
8. Special Board appropriations of general-purpose revenue for specific programs or activities places those programs or activities on a priority level that is equal to mandated programs and activities.
9. Special revenues are not, as a rule, highlighted and discussed during the annual budget deliberations because they are generally less discretionary than General Purpose revenues.

10. During times of severe fiscal crisis, programs funded with special revenues will be more insulated from budget reductions than programs funded from the General Fund.
11. While mitigation fees shall not be levied, collected, or imposed for general revenue purposes, nothing specifically prohibits the Board from expending mitigation fees to enhance mandated services if those services are consistent with the purposes of the mitigation fee.
12. Some mitigation fees are required as a result of project impacts identified in an EIR or other environmental analysis of the project.

RECOMMENDATIONS

1. Adopt the following definitions to be used in County policies with regard to special revenues:
 - a. Mitigation fee: A monetary exaction other than a tax or special assessment, whether established for a broad class of projects by legislation of general applicability, such as Area of Benefit mitigation fees (County Ordinance Code §913-2.404)¹, Drainage fees, and Park Dedication fees, or imposed on a specific project on an ad hoc basis, that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of mitigating the impacts of the project on the affected community. Such fees are not intended to be a general-purpose revenue measure for the host community.
 - b. Trust Fund: Funds held in trust for any beneficiary or for any purpose, in a separate fund and not commingled with any public funds, earning interest, and to be paid to the beneficiary of such trust upon the termination thereof, including moneys held as trustee, agent or bailee by the state, any county, city or town, or other political subdivision of the state, or any commission, committee, board or office thereof or any court of the state, when deposited in any qualified public depository. Trust funds are limited to the following purposes as defined by Governmental Accounting, Auditing, and Financial Reporting: Pension, Investment, Private-Purpose and OPEB Irrevocable funds.
 - c. Special Revenue Fund: Funds used to account for the proceeds of specific revenue sources (other than special assessments, expendable trusts, or major capital projects) that are legally restricted to expenditure for specified purposes. Examples of special revenue funds are those established for the purpose of financing schools, parks, or libraries.
 - d. Community Benefit Fee: Voluntary payment(s) made by a developer or project sponsor that benefit a defined community, either through capital or community program improvements. These funds, typically, have been intended for uses that will benefit the quality of life for the communities in which a project is approved. In the past, these funds have been identified for such uses as economic development, health care, education, infrastructure, transportation, etc.

¹ *Area of Benefit mitigation fees are to be used specifically to improve the capacity and safety of the arterial road network within a defined boundary area as development occurs in order to mitigate traffic impacts generated by new development projects.*

- e. Special Board Appropriation: A designation by the Board of Supervisors dedicating a portion of one or more General-Purpose Revenue sources to a specific program or activity, and/or to benefit a specific geographic area.
 - f. Special Revenues: Collectively, all of the preceding revenues.
2. Re-affirm Paragraph 5 of the County Budget Policy prohibiting special Board appropriations, which states, "The County will not directly allocate a specific General-Purpose Revenue source to specific programs/communities. The policy would not apply to mitigation revenue that is derived from a project and intended to offset the environmental impacts from the project on the "host" community."
 3. Adopt a policy governing the Authorization for Mitigation and Community Benefit Fees and Their Allocation:
 - a. Affirm that revenues from existing fees are to be administered by the Supervisor serving in the district for which the fee was created, unless specified otherwise when the fee was established or as an action of the Board of Supervisors, and may require Board of Supervisors approval prior to expenditure.
 - b. Affirm that revenues from existing fees are to be used with the support and authorization (to be signified by sponsorship or co-sponsorship of a Board Order/Proposal) of the current Supervisor serving in the district where the fee originated, unless specified otherwise when the fee was created or as an action of the Board of Supervisors.
 - c. Affirm that when fees are created in the future, the authorizing Board Order or Resolution must specify:
 - the type of fee (mitigation or community benefit)
 - in what geographic area the funds are to be used, e.g., countywide or limited to one or more supervisorial districts or areas within a supervisorial district;
 - the specific purpose of the fee;
 - the recommended process for allocating the funds; and
 - the department that will be responsible for administration of the funds;
 - measurable performance outcomes that demonstrate how the fee revenue has mitigated the project impacts and otherwise benefited the affected community.
 - d. Affirm that no new fees are to be negotiated or created without input or consultation with the current Supervisor serving in the district where the land development project is located.
 - e. Affirm that fees developed for Countywide use will be administered by the full Board of Supervisors. These fees will be assigned to and administered by a particular County department.
 4. Accept the compendium of current special revenue funds for FY 2009/10 and pursue opportunities to secure new mitigation and community benefit fees, where appropriate.

5. Amend the County Budget Policy, adopted in November 2006, to include the following new policy:

“Each February, Contra Costa County shall prepare and make a formal budget report to the Board’s Finance Committee detailing earned revenues and expenditures for all mitigation and community benefit fees, trust and special revenue funds, and special Board appropriations during the prior fiscal year. The report shall identify amounts that were diverted from General-Purpose revenue in order to satisfy a special Board appropriation or other special revenue program. The Finance Committee shall review prior-year expenditures for consistency with the approved purpose of the fees, funds or special Board appropriations, and will forward recommendations for the subsequent budget year to the Board of Supervisors for consideration in the annual budget process. Contra Costa County shall distribute updates to the Board-Administered Special Revenue Reference Book annually.”