

Key Issues
San Anselmo/ Zone 9 Funding Agreement
Memorial Park Dual-Use Detention Basin Project
6/26/2014

1. If the PROJECT is terminated before completion, any funds reimbursed to San Anselmo and the DISTRICT by DWR must be returned to DWR. Under the terms of the DWR grant agreement San Anselmo is responsible for reimbursing DWR; however, payment of the reimbursement to DWR will be made as follows:
 - If the PROJECT is terminated before completion primarily due to a technical infeasibility related reason, a construction related reason, or CEQA/NEPA significant impacts that are not mitigated by an adoption of a Statement of Overriding Considerations, then the DISTRICT will contribute 100% of the total amount to be returned to DWR.
 - If the PROJECT is terminated before completion primarily due to Town of San Anselmo Town Council's unwillingness to take formal action to approve the project despite its technical feasibility, or lack of construction or CEQA/NEPA impacts, then the Town of San Anselmo will contribute 100% of the total amount to be returned to DWR.
2. The project is broken up in to three phases:
 - Phase 1 - Environmental and planning work,
 - Phase 2 - Final design and permits,
 - Phase 3 - Construction.
3. At this time we need to make a determination on how to proceed with funding Phase 1. Based on our conversations with the Town of San Anselmo and consistent with our program policies we've identified 2 options as we move forward:

Option 1.

The DWR will contribute 50%:	$\$1,482,000 \times 50\% =$ \$741,000
The DISTRICT will contribute 30%:	$\$1,482,000 \times 30\% =$ \$444,600
The San Anselmo will contribute 10%:	$\$1,482,000 \times 10\% =$ \$148,200
<i>And put project on hold until....</i>	
Secure grants totaling 10%:	$\$1,482,000 \times 10\% =$ \$148,200

Option 2.

The DWR will contribute 50%:	$\$1,482,000 \times 50\% =$ \$741,000
The DISTRICT will contribute 40%:	$\$1,482,000 \times 40\% =$ \$592,800
The San Anselmo will contribute 10%:	$\$1,482,000 \times 10\% =$ \$148,200

4. San Anselmo has informed us that they do not have the ability to provide a local match for the design or construction of the project. When we complete Phase 1 work we will return to the PAC and the AB to obtain a recommendation on how to proceed with final design and construction funding. At this time these we do not need to make a decision but these are two options moving forward:

Option 1.

The DWR will contribute 50% of total project cost.
The DISTRICT will contribute 30% of fee funded expenses.
And put project on hold until....
Secure grants totaling 20% of eligible expenses.

Key Issues
San Anselmo/ Zone 9 Funding Agreement
Memorial Park Dual-Use Detention Basin Project
6/26/2014

Option 2.

The DWR will contribute 50% of total project cost.

The DISTRICT will contribute 50% of fee funded expenses.

In addition, San Anselmo will pay for all non-flood fee eligible or grant funded expenses¹ under either option.

¹ These are expenses not covered by Ross Valley Fee Measure, like the snack shack expansion.

Draft responses

**QUESTIONS IN REGARD To
THE CORTE MADERA CREEK/ ROSS VALLEY
FLOOD CONTROL PROJECT**

By Ross Asselstine and others.
Nov 21, 2013

1. The Flood Fee amount appears to have been set by a brief survey of people that live in the Corte Madera Creek Watershed. One of the questions was in effect: "What fee amount would you be willing to pay" (or similar). The Flood Fee was set by this survey, put on a ballot, passed, and the fee was adopted. This process was flawed....and got us into this mess. The public is now facing two issues: their continued empathy for those that have their homes or businesses flooded and grossly inadequate funding to accomplish the goal. Like many flood-prone areas across the county, flood protection issues are rooted in the problem of property built in harm's way. Most new flood solutions no longer include prevention of the flood as a primary goal. Construction of buildings in many flood plains are no longer permitted, at times whole towns have been relocated out of a flood plain. Is the source of our current dilemma the wrong question was asked in the survey? The right question to have asked now appears to be one of the following:
 - a. "Are you willing to act on all of the following measures: a) pay a Flood Fee of about three to four times what you are paying now for the next twenty years, b) pay the same amount you pay now forever to maintain the prevention systems and c) vote to pass new local bond measures to re-build local parks and public facilities?"
 - b. "To show your compassion for those in the flood zone and avoid the disruption of the work to build the flood mitigation measures, would you be willing to pay the current Flood Fee in perpetuity to off-set the yearly flood insurance costs of those that live in the flood plain?"
 - c. (this one is so rouge, I put it in an appendix at the end of this list so you can ignore it if you want to.)

This is a horrible situation for everyone in the watershed, but this is where we are. Any one of the questions above are ridiculous and it's impractical to think that either of the first two would even make it to a ballot. The last one is bordering on the ridiculous but is very close to what many, many people feel. This is a really unfortunate situation with an un-achievable goal, ton of money in play, and a lot of emotion on the line. What can all we do?

Work together to make significant progress at major flood damage reduction with the money the community has provided. The community can then decide if they would like to go further.

3. We were told in 2011 by the MC DPW project manager that "there is a solution!" Less than two years later, we now know we obviously don't have enough money to pay for what was proposed in 2011 and the effects to public facilities are detrimental. Why are portions of the design moving forward when so much of the project appears to be not feasible? *In 2011 a comprehensive program of multiple projects was identified that will provide the 100 year level of flood protection for the Ross Valley. The existing flood fee provides funding to proceed with several of the measures included in the comprehensive program, and serves as leverage as a local match towards state and federal grants. Through a series of public meetings, staff has received direction to initiate further study with the most critical of these measures.*

5. MC DPW has repeatedly stated: "this is the path we are on". Considering the problems that are known and the questions that are being raised here, it seems entirely reasonable that many believe that "the path needs to be changed because it's highly likely to be ineffective and inequitable use of funds". *The path we're on is based on the technical work to date, community input, and direction from the Flood Zone 9 Advisory Board i.e., prevent or greatly reduce damage from the 100-Year flood (1% Annual Chance Flood).*

7. The 2011 Capital improvement Plan, the basis for guiding this project, did not state that any significant work was excluded from the estimate; on page 35 it stated:

"Capital costs were estimated for all Capital/Improvement Plan Study

measures, including detention basins, in-channel measures to increase conveyance capacity, and sediment and capacity management in the earthen channel. These estimates cover all costs associated with initial project implementation include planning, environmental review, regulatory permitting, right-of-way acquisition, design, construction, and construction management. A contingency cost has been added."

Why have the estimates gone up so significantly and why are we now being advised that everything related to the birds, the bees, the fish, damn safety, playgrounds, trees, natural vegetation, landscape design, tennis courts, bleachers, lighting, backstops, irrigation, new grass, new playgrounds, maintenance, on and on and on.....are just a few of the reasons the project is multiple times over budget. *If the Scope of Work of a project changes, the cost will change. The scope has not changed on all the projects described in the 2011 Capital Improvement Plan. There have been changes in two of the projects, that did increase the estimated cost by the Town of San Anselmo (Memorial Park) and the District (Phoenix Lake) to improve the quality of the project and to qualify for large funding grants that require projects have multiple benefits. Actual project costs are unknown until the contractor's bids are opened.*

8. As the project's estimated costs for initial elements have increased on average over 400%, is it reasonable to assess that the persons that put together the initial estimates are either not competent and or could be perceived to have been deceptive? *The initial estimates are at the Conceptual level. In engineering practice, projects progress through development phases wherein the level of detail increases with each phase and the costs are re-estimated at each phase. A broad outline of these phases is: Concept Creation, Feasibility Confirmation, 30% of Design work, Environmental Review (CEQA) and resource agency permit acquisition, 60% design review, 90% design review, 100% design review and acceptance, project bidding, project construction, post-construction monitoring and reporting, operations and maintenance. Actual project costs are unknown until the contractor's bids are opened. We have no response regarding the accusations about the professional consulting firm who conducted the study. We feel personal attacks are*

not productive.

10. Clarify why the public should trust an engineering firm that appears to have erroneously estimated costs. There appears to be a conflict of interest: if the original reports included costs now excluded there would have been a glaring negative cost benefit and the project would have likely been more carefully considered if not ceased all together. Contract extensions to this same firm continue each year and both this firm and MC DPW refuse to prepare a comprehensive new estimate for all work. This was requested in early 2011. One is tempted to consider that under-estimating the true costs of the project may have only provide significant benefit to the persons being paid to manage and design the project. To avoid this possible conflict, when will a professional, independent estimating company be contracted to advise the public, without the bias and or poor effort by the current firm and project management team? *It's important that the civil engineering project process be understood and the costs be viewed in the proper perspective. See question 8. We have no response regarding the accusations about the professional consulting firm who conducted the study.*

- 15 Can work on the project move forward now and then obligate the public to future maintenance costs in advance of public approval of those on-going costs? .. *Yes, further study can commence. As with any public works project, it must be maintained after constructed.*

18. When is the bond measure to re-build Memorial Park going to be on the ballot in San Anselmo? *We are not aware of any proposed ballot measure being contemplated by San Anselmo to rebuild Memorial Park.*

19. If the bond measure in San Anselmo to re-build Memorial Park does not pass, does this mean that the detention basin work in Memorial Park cannot proceed? *We are not aware of any proposed ballot measure being contemplated by San Anselmo to rebuild Memorial Park. Flood Zone 9 is prepared to contribute towards the project costs and work with the Town of San Anselmo. .*

24. Is it true that the dredging of the open, tidal water in Corte Madera was included in

the CIP and is now not part of the ten year plan? *Dredging of the earthen channel of Corte Madera Creek is a long-standing obligation of Flood Zone 9 and the Marin County Flood Control District as part of its contract with the U.S. Army Corps of Engineers for the Corte Madera Creek Flood Control Project. It has been known to the Flood Zone 9 Advisory Board and Board of Supervisors for many years. The dredging of Corte Madera Creek is included in the 10-year Work Plan reviewed by the Flood Zone 9 Advisory Board on December 16, 2013.*

25. Why has the dredging been excluded from the ten year plan if all funds for the Flood Fee are going to be expended? Does this mean the dredging will never be conducted or another fee will have to be assessed at some time? *See above response to Question 24.*
28. The improvements of the channel known as Army Corp Unit 4: an increase of capacity in the open concrete culvert in Ross to the estuary, are excluded from the scope of work of this project. What trees and landscaping will be lost if this project moves forward? *This is unknown at this time. This will be determined during the design, environmental review, and Resource Agency permitting phases of the project.*
31. Is it also true that the flood insurance will be eliminated or reduced on many parcels due to the current and future Flood Fees paid for by others? *If and when the extents of the FEMA 100 Year Floodplain are reduced by the CIP proposed projects and measures, a map amendment must be pursued with FEMA. Early consultations with FEMA Region IX have been encouraging. If the map amendment is accepted by them, parcels no longer inundated by the 100-Year-Flood will see their flood insurance premiums reduced or eliminated.*
36. The state of California has a code of ethics for public service and the on-line process for certification to be a public servant includes the following statements:

Fairness and Public Service: What It Means

What does it mean for a public official to be "fair" as a public official? Here are some thoughts:

- Make decisions based on the merits of the issues.*
- Support the public's right to know and promote meaningful public involvement.*
- Excuse yourself from decisions when you or your family's financial interests may be affected by your agency's actions.*

Responsibility and Public Service: What It Means

What does it mean for a public official to be "responsible" as a public official? Here are some thoughts on things you can do:

- Work to improve the quality of life in the community and promote the best interests of the public.
- Promote the efficient use of agency resources.
- Do not promise that which you have reason to believe is unrealistic.

Is this process being conducted in the manner noted above? Yes Are FZ9 Board meetings held in accordance with the principles listed? Yes

37. The project has a technical advisory team made of members of the community with related skills. What appears to be missing is a Financial Advisory team, and possibly a Project Management advisory team, as those areas of this project are significantly under-performing. Can this be seriously considered? *The Technical Working Group was created to provide input on community specific knowledge and concerns related to the program and specific projects. Other aspects of project development, budget and financing are being administered through the District or the Cities and Towns managing the projects consistent with procedures and practices that are implemented for all major infrastructure projects delivered by the organization.*

LOCAL QUESTIONS

TOWNS OF KENTFEILD, LARKSPUR AND CORTE MADREA

Questions that these towns could ask of the MC DPW project managers:

18. Dredging of the estuary in our town was a major portion of the scope of the work identified in the Capital Improvement Plan. It was budgeted and identified as work to be performed. Is it true that this work is not in the new "Ten Year Work Plan" and that plan is anticipated to spend all Flood Fee funds generated over twenty years? The dredging of Corte Madera Creek is included in the 10-year Work Plan reviewed by the Flood Zone 9 Advisory Board on December 16, 2013.
19. It is true that the cost to maintain the mitigation measures in the Ten Year Work Plan could cost almost as much as the current Flood Fee? *Mitigation measures are*

determined during the environmental review process. This has not been determined yet but, generally speaking, it normally costs less to maintain a project than to build one.

21. Are maintenance fees for flood mitigation measures expected to run in perpetuity? *Operations and Maintenance of flood mitigation facilities will be the shared responsibility of the Ross Valley/Flood Zone 9 partners.*
30. What are the true estimated costs to design, construct, and maintain this project? Which project? *See response to question #8*
31. What can we afford to build and maintain with the money we have voted for and what will be the true benefit? *See the 10 Year Work plan for the current list of projects that can be paid for with the fee revenue based on current knowledge of the scope of the projects and secured grants. The goal of the 10 Year Work Plan is to eliminate flooding from the 25-Year-Flood. This level of protection will greatly reduce damages in larger floods.*

APPENDIX A

Question 1) continued:

- c) "We are really emotional about the floods that have always happened in this valley and want to: a) spend a good portion of \$42 million dollars, b) tell you we'll only need \$100 million to solve the problem, then c) watch numbers rise meteorically from there each year until we have spent a lot of money just studying things. We will propose digging up every significant public space and do almost nothing disruptive in areas where flooding occurs. We will not update our costs frequently nor re-assess the goals and likely outcomes like any other professional effort than involves a complex problem and a lot of money. We will change the cost benefit analysis method if cost increase but benefits *don't*. When costs rise 400% on some items we will allow for a 25% increase on the remaining items. Once you vote for this fee, we will be running in a single direction without a holistic view and review to see what better and more viable options are available. We will hold public meetings and write your questions down but not get back to you with answers. We will speak at meetings extensively, you will be limited to two minutes. You are going to have to come to a lot of public meetings and we will give you the impression that you appear as if you are selfish, a gadfly or ill-informed before we consider getting you a few answers. Are you in?" *This does not appear to be a question for DPW staff.*