

SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT
ZONE 9 ADVISORY COMMITTEE

NOTICE IS HEREBY GIVEN that the Zone 9 Advisory Committee will hold a Regular Meeting at **1:30 PM** on **Wednesday, October 13, 2021** using **GoToMeeting** by accessing doing the following:

- To join from computer, tablet or smartphone: <https://global.gotomeeting.com/join/406607261>
- To dial in: United States: +1 (786) 535-3211, Access Code: 406-607-261

AGENDA

1. Introductions and Roll Call
2. Adoption of AB 361 – Virtual Meetings Resolution
3. Approval of August 11, 2021, Meeting Minutes
4. Endorsement of City's Annual Work Plan Fiscal Year 2022/23
5. Considerations for Developing a Budget Policy
6. Ongoing Updates
 - a. Sustainable Groundwater Management Act (SGMA)
 - b. Mid-Higuera Bypass Project
 - c. Creek Maintenance
 - d. Arundo Removal
 - e. East Fork Limited Study

7. Public comment

At this time, the public may address the Committee on any item not appearing on the agenda that is within the subject matter jurisdiction of the Committee.

8. Future agenda items

Next Regular Meeting

Wednesday, December 8, 2021 at 1:30 PM

GoToMeeting

To join from computer, tablet or smartphone: <https://global.gotomeeting.com/join/406607261>

To dial in: United States: +1 (786) 535-3211, Access Code: 406-607-261

“The purpose of the Zone 9 Advisory Committee: SECTION 1: To advise the County Board of Supervisors concerning all policy decisions relating to Zone 9. The Committee shall determine the needs, desires, and financial capabilities of the property owners in Zone 9 and, upon deliberation, shall convey to the Board of Supervisors their recommendations with respect to the objectives of said zone. SECTION 2: To recommend to the Board of Supervisors specific programs to alleviate and control flood damage within Zone 9 with recognition of the ecological and aesthetic values of the programs. Further, to recommend to the Board of Supervisors other programs within Zone 9 concerning the objects and purposes of the Flood Control District Act. SECTION 3: To recommend methods of financing programs for Zone 9.” – Excerpts from the By-Laws adopted March 1, 2011

SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT
ZONE 9 ADVISORY COMMITTEE

Meeting Minutes (DRAFT) – Wednesday, August 11, 2021

Members Present

Wayne Peterson, Chairperson, County At-Large
Brian Nelson, Vice Chairperson, City Staff
Carlyn Christianson, Member, City Council
Christine Mulholland, Member, City At-Large
Jon Hall, Member, County-At-Large
Steph Wald, Member, County-At-Large

1. Introductions and roll call

Wayne Peterson calls the meeting to order at 1:30 PM. Quorum established.

2. Approval of Meeting Minutes – June 9, 2021

Motion by: **Christine Mulholland**

Second by: **Carlyn Christianson**

The Committee approves the June 9, 2021, meeting minutes as amended (6-0-0).

3. Endorsement of Updated City Annual Work Plan and Reimbursement Agreement

Motion by: **Carlyn Christianson**

Second by: **Christine Mulholland**

The Committee endorses the Updated City Annual Work Plan and the Reimbursement Agreement (6-0-0).

4. Ongoing Updates

- Sustainable Groundwater Management Act (SGMA) Update

Mladen Bandov, County Public Works, updates the committee that the San Luis Obispo Valley Groundwater Basin Groundwater Sustainability Plan (GSP) draft is complete and will be released for public review on August 18, 2021 for a 30-day comment period. The Groundwater Sustainability Commission is recommending that both County and County Groundwater Sustainability Agencies (GSAs) receive

and file the draft GSP. County staff will present the draft at August 24, 2021 Board of Supervisors (BOS) meeting. There is an administrative action to be heard by the BOS on August 24, 2021 to modify the GSA boundaries based on annexations by the City.

- Mid-Higuera Bypass Project Updates

Brian Nelson, acting City Engineer, informs the Committee that they are working with DWR on the matching requirements of the tentatively awarded grant. The City received question from CNRA about how their grant would be potentially used in conjunction with the DWR grant if awarded. The design aspect of the project is on hold while the negotiations continue with building removal of Wally's bike shop. County staff is finalizing permit applications.

- Creek Maintenance Updates

Bob Hill, City of San Luis Obispo, updates the committee that the internal approval process to hire flood control technicians is currently being routed internally. The start of the season inspections starts September 1 through November. Physical work in the creek starts November 1. Brian Nelson updates the committee that silt removal projects are being finalized. There are a couple locations on the Prefumo arm, east of Los Osos Valley Road will remove approximately 1200 cy of silt. There are two additional silt removal downstream of Laguna Lake as well.

- Arundo Removal Updates

Jon Hall, Land Conservancy, informs the Committee Arundo removal will begin in late August. The Land Conservancy received the \$25,000 grant for the Arundo removal assistance and will continue to update the committee.

- East Fork of San Luis Obispo Creek Limited Study updates

Sarah Crable, County Public Works, updates the committee that the consultant, Schaaf and Wheeler, is currently working on the development of the existing conditions model using the field data collected from the July 9 and July 20 field surveys.

- Miscellaneous

- Budget Policy

Sarah Crable, County Public Works, reports that County Staff will present an outline of the budget policy to the committee at the October 13, 2021 meeting. The goal of the budget policy is to ensure that Zone's annual operational costs, funding of permitting and future studies, and project implementation support are

sustainable. A proposed timeline for developing the budget policy is provided in the agenda packet.

- Future Meetings

Sarah Crable, County Public Works, informs the committee that the moratorium on the Brown Act is set to expire September 30, 2021. Unless informed otherwise, the plan will be that all future committee meetings will be held in person with the ability to call in for public comment. Committee members will be required to be present in person to establish a quorum. Sarah will inform the committee if things change.

- Watershed related

Sarah Crable, County Public Works, informed the committee that the committee was carbon copied on a Cease-and-Desist letter from the County Public Works Department to Daniel DeVaul pertaining to alleged placement of fill material activities. A copy of the letter is provided in the agenda packet.

5. Public Comment

No public comment

6. Future Agenda Items

- SGMA GSP Presentation
- Building Policy
- Endorsement of the City's Annual Work Plan

Meeting adjourned at approximately 2:32 PM.

TO: Zone 9 Advisory Committee

FROM: Sarah Crable, Water Resources Engineer, County Public Works

DATE: October 13, 2021

SUBJECT: Agenda Item #2: Consider Adopting Resolution to Continue Meeting Virtually

Summary

On March 4, 2020, California State Governor Gavin Newsom issued a Proclamation of State of Emergency in response to the COVID-19 pandemic. That proclamation remains in effect to date. On March 17, 2020, Governor Newsom issued Executive Order N-29-20 that suspended the teleconferencing rules set forth in the California Open Meeting Law, the Brown Act (Government Code Section 54950 et seq.). On June 11, 2021, Governor Newsom issued Executive Order N-08-21, clarifying the suspension of the teleconferencing rules set forth in the Brown Act, noting that those provisions would remain suspended through September 30, 2021.

On September 16, 2021, Governor Newsom signed Assembly Bill 361 (AB 361), which allows legislative bodies subject to the Brown Act to continue meeting by teleconference, provided they make certain findings, including that meeting in person would present imminent risks to the health or safety of attendees. AB 361 requires that certain findings be made by the legislative body every 30 days.

This staff report is presented today for the Zone 9 Advisory Committee (Committee) to consider the finding that holding in person meetings would present imminent risks to the health or safety of board members, staff and all attendees of Zone 9 Advisory Committee public meetings.

Recommendation

Staff recommends that the Advisory Committee adopt the attached resolution, invoking the provisions of AB 361 related to the holding of teleconferencing/virtual public meetings.

IN THE ZONE 9 ADVISORY COMMITTEE
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

_____ day _____, 20__

PRESENT:

ABSENT:

RESOLUTION NO. _____

**A RESOLUTION OF THE ZONE 9 ADVISORY COMMITTEE ACKNOWLEDGING
GOVERNOR NEWSOM'S PROCLAMATION OF A STATE OF EMERGENCY AND AUTHORIZING
MEETINGS BY TELECONFERENCE FOR A PERIOD OF
THIRTY DAYS PURSUANT TO THE RALPH M. BROWN ACT**

The following Resolution is now offered and read:

WHEREAS, on March 4, 2020, Governor Newsom issued a Proclamation of State of Emergency in response to the COVID-19 pandemic; and

WHEREAS, the proclaimed state of emergency remains in effect; and

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20 that suspended the teleconferencing rules set forth in the California Open Meeting law, Government Code Section 54950 *et seq.* (the "Brown Act"), provided certain requirements were met and followed; and

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21 that clarified the suspension of the teleconferencing rules set forth in the Brown Act, and further provided that those provisions would remain suspended through September 30, 2021; and

WHEREAS, on September 16, 2021, Governor Newsom signed Assembly Bill 361 (AB 361), allowing legislative bodies subject to the Brown Act to continue meeting by teleconference if the legislative body determines that meeting in person would present imminent risks to the health or safety of attendees, and further requires that certain findings be made by the legislative body every thirty (30) days; and

WHEREAS, California Department of Public Health and the federal Centers for Disease

Control and Prevention (“CDC”) caution that the Delta variant of COVID-19, currently the dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations (<https://www.cdc.gov/coronavirus/2019-ncov/variants/delta-variant.html>); and

WHEREAS, the CDC has established a “Community Transmission” metric with 4 tiers designed to reflect a community’s COVID-19 case rate and percent positivity; and

WHEREAS, the County of San Luis Obispo currently has a Community Transmission metric of “high” which is the most serious of the tiers; and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, the Zone 9 Advisory Committee (“Zone 9”) deems it necessary to find holding in person meetings would present imminent risks to the health or safety of attendees, and thus intends to invoke the provisions of AB 361 related to teleconferencing.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by Zone 9 that:

1. The recitals set forth above are true and correct.
2. The Proclamation of State of Emergency in response to the COVID-19 pandemic issued by Governor Newsom on March 4, 2020, remains in effect.
3. Based on the recitals above, Zone 9 finds that meeting in person would present imminent risks to the health or safety of attendees.
4. Staff is directed to return at the next regularly scheduled meeting with an item for the Zone 9 to consider making the findings required by AB 361 to continue meeting under its provisions.

Upon motion of Member _____, seconded by Member _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

Wayne Peterson
Chairperson of the Zone 9 Advisory Committee

ATTEST:

Brendan Clark
Secretary of the Zone 9 Advisory Committee

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: _____
Deputy County Counsel

Dated: _____

TO: Zone 9 Advisory Committee
FROM: Brian Nelson, Acting City Engineer, City of San Luis Obispo
DATE: October 13, 2021
SUBJECT: Agenda Item #4: Endorsement of City’s Fiscal Year 22/23 Annual Work Plan



Public Works

919 Palm Street, San Luis Obispo, CA 93401-3218
 805.781.7200
slocity.org

Date: September 24, 2021
To: Brenden Clark, Water Resources Engineer – County of San Luis Obispo
From: Brian Nelson, Acting City Engineer - City of San Luis Obispo
Subject: 2022-2023 Zone 9 Budget Request

Based on the current status and future needs to continue making progress on several projects, the City is requesting the following funding from Zone 9 for the 2022-2023 Fiscal Year.

Project Name	Requested FY 2022/23
General Creek Maintenance	\$134,500
General Creek Maintenance in County Areas	\$60,000
Silt Removal	\$130,000
Mid Higuera Bypass	\$50,000
Total	\$374,500

General Creek Maintenance

\$134,500 to fund ongoing general creek maintenance which includes channel clearing, including removal of trees, vegetation, and arundo from creeks. Funding is planned to be used as follows:

1. Contract Labor - Channel Clearing: \$51,500
2. Channel Tree Removals: \$50,000
3. Vegetation Disposal: \$ 5,000
4. Arundo Removal: \$28,000

General Creek Maintenance in County Areas

\$60,000 to fund ongoing assessment and maintenance of creeks and waterways that come into or leave the City and cross County jurisdictional area. This will be an expansion of the existing work program the City currently undertakes in City-limits. Prioritization will be completed where flooding or backwatering has occurred in the past to ensure proper drainage exists. Funding is planned to be used as follows:

1. Creek Assessment and Mapping: \$3,000
2. Contract Labor - Channel Clearing: \$52,000
3. Vegetation Disposal: \$ 5,000

Silt Removal

Existing funding to support Silt Removal is approximately \$150,000. Each year City staff assess several creek locations for silt accumulation and focus future projects in the areas that have the highest benefit to the creek system. The existing funds, in addition to the requested appropriation of \$130,000, will support design surveys, permitting work, and silt removal construction work at

locations selected for a project in Fall 2022. Typically, yearly silt removal projects address 1-3 locations, with the construction cost directly related to the volume of silt removed and ease of access for construction equipment.

Mid Higuera Bypass

Mid-Higuera Bypass project is currently at a 90% design completion. County Staff have submitted for environmental permits and City Staff have begun property appraisals. Budget is currently available to support ongoing work to secure permits and complete the design, however, most of the existing design contingency funding has been utilized for grant support, permit application coordination, design revisions, and property exhibits in support of appraisal work.

Staff request \$50,000 for the Mid Higuera Bypass to replenish the design contingency and support any unforeseen revisions necessary to the project after July 2022. Any unspent funding would be utilized for the construction phase of the project. This request is separate from any one-time request for construction funding.

TO: Zone 9 Advisory Committee

FROM: Sarah Crable, Water Resources Engineer, County Public Works

DATE: October 13, 2021

SUBJECT: Agenda Item #5: Budget Policy

Funding Background

Prior to California Proposition 13, Flood Control Zone 9 (Zone 9) was a special tax district within the San Luis Obispo County Flood Control and Water Conservation District (FCD) with an ad valorem tax rate set by the County Board of Supervisors (BOS). Following the passing of Proposition 13, Zone 9 was apportioned a percentage of the total county-wide 1% general purpose collection. As of FY2122, Zone 9 is allocated 0.10742% or approximately \$496,533.

Zone 9 is considered the “child” district of “parent” district FCD. Although the (BOS) apportion out tax revenue directly to the Zone 9, child districts do not have any legal right to the property taxes coming to their district. The money within the parent district, FCD, can be utilized in any manner within the parent or child districts. The most current policy overseeing FCD spending is Resolution No. 2016-281 (Attachment 1). Sections 1 through 3 of this resolution describe use of available funds, prioritization of funding allocation, and mechanisms for facilitating initial project implementation. The aim would be to develop an analogous Zone 9 budget policy that provides for annual administration cost, meets annual operational obligations, plans for future studies or initial project implementation, and maintains solvency for the Zone.

Other Potential Funding Guidelines

The San Luis Obispo Creek Watershed Waterway Management Plan 2003 Volume I (WMP) (formally adopted by the County) describes potential local financing and funding sources that should be considered as the WMP’s list of “Preferred Projects” move forward in the planning and design stage, as recommended by the Zone 9 Advisory Committee.

- Zone 9 Funds (Chapter 8.4.1):
 - “The Zone in concert with the District can assume responsibility for powers of assessment and bonding for financing for facilities construction based on a vote of affected property owners. This includes an annual *ad valorem* assessment on all property in the district (zone) to pay administrative costs to carry out drainage improvement projects, including flood control and bank repair. Zone 9 also has the legislative authority to establish Benefit Assessment Districts. Zone 9 can act as the responsible local authority for projects constructed jointly with the State and Federal government.”
 - “Since the Zone includes both City and County unincorporated areas, revenues for maintenance projects are currently split 80% City and 20% county, based on revenue source.”

- “The City has typically been responsible for stream maintenance and bank repair on public lands within city boundaries, and Zone 9 for unincorporated areas.”
- “Major City or County projects (such as bridge replacement or flood control) are not funded by the annual *ad valorem* assessment. Funding could come from the City or County General Fund, from the sale of Bonds or other mechanisms.”
- Capital Improvement Program (CIP) (WMP Ch 8.4.2):
 - “Planning for major capital improvements is a formal process where the City or County identify long-term needs and expenditures, and establish them in a CIP account.”
 - “Financing for capital improvements can come from the sale of special municipal bonds, with revenue for major projects often assembled from a variety of General Fund sources, including sales and property taxes, use fees, grants and loans from the state and federal government, and redevelopment agency sources.”
 - “This funding method is best suited for projects with citywide benefits, such as bridges, or if there is a general obligation to repair community-based problems.”
- Benefit Assessment District (WMP Ch 8.4.3):
 - “Under this funding mechanism, the City or County builds the project on behalf of property owners, and then the property owners or businesses are assessed levies proportional to the benefits that they receive from the construction of direct and measurable benefit to the area.”
 - “Benefit Assessment District formation should be considered to pay for a portion of flood control improvements in the Mid-Higuera area, combined with other citywide generated funds. This is because the improvements are needed to offset ...to pay for a portion of flood control improvements in the Mid-Higuera area, combined with other citywide generated funds.”
- Mello-Roos District (WMP Ch 8.4.4):
 - “Drainage improvements in the Airport area, including modifications to the East Fork of SLO Creek, construction of regional detention facilities, and other non-drainage infrastructure could be considered for funding with a Mello-Roos District.”
- Landscape and Lighting District (WMP Ch 8.4.5):
 - “Appropriate for long-term intensive vegetation management in common areas.”
 - “Zone 9 Advisory Committee recommended the LLD funding concept be considered only for long-term maintenance of stream restoration work in the Airport area.”
- Stormwater or Drainage Utility Fees (WMP Ch 8.4.6):
 - “The Zone 9 Advisory Committee recommended that use of Drainage Utility fees be considered for creek restoration related water quality improvements, but not for flood management or bank repair.”

Considerations for the Committee

There are several considerations for setting up a budget policy for Zone 9. Staff has provided some initial guidelines for discussion based on the FCD policy and the adopted WMP:

- Annual Operational Costs
 - Trends
- Funding of Future Studies
 - Waterway Management Plan Update
 - Fisheries Restoration Grant Program – Watershed Management Plan
- Reserve
 - Logic for setting up a reserve amount
 - Reserve limit
 - Allocation of reserve spending
 - Allocation of funds available in excess of reserve limit
- Funding of Initial Project Implementation
 - Planning, design, and permitting
 - Requirements for cost contributions
 - Requirements for city or county general fund
 - Requirements for grants/loans
 - Requirements of a benefit assessment district
 - Requirements for loans

Next Steps

- Formation of a subcommittee
 - Annual costs and historic trends will be provided
- Proposed schedule

October 2021	Committee Agenda Item for Discussion: Boundaries and Initial Thoughts Formation of Sub-committee (if desired)
November 2021	Sub-committee review of annual costs and historic trends Sub-committee draft budget policy
December 2021	Draft Budget Policy Presentation
February 2022	Policy Approval by Committee
March 2022	Board of Supervisors Board Item

TO: Zone 9 Advisory Committee

FROM: Mladen Bandov, Water Resources Supervising Engineer, County Public Works

DATE: October

SUBJECT: Agenda Item #6a: Sustainable Groundwater Management Act (SGMA) Updates

Update

- The San Luis Obispo Valley Groundwater Basin (SLO Basin) Groundwater Sustainability Commission (GSC) held a regular meeting on October 6, 2021 and included the following:
 - Responses to comments and recommended changes to Draft SLO Basin Groundwater Sustainability Plan (GSP)
 - Recommendation that the SLO Basin Groundwater Sustainability Agencies (GSAs) adopt the GSP
 - Staff updates on
 - GSP adoption process and submittal due to the State by January 31, 2022
 - Annual Report due to the State by April 1, 2022
 - GSC's Conflict of Interest Code (COIC)
 - GSA boundary modification based on City annexations
 - Discussion about post-GSP adoption activities including GSC meeting continuation
- Both the County of San Luis Obispo Board of Supervisors and the City of San Luis Obispo Council as the GSAs for SLO Basin are anticipated to adopt the GSP each individually in early December 2021.
- The adopted SLO Basin GSP is required to be submitted to the California Department of Water Resources (DWR) by the statutory deadline of January 31, 2022
- DWR will be posting GSPs on the State's SGMA portal (<https://sgma.water.ca.gov/>):
 - For those plans that are accepted to be uploaded, DWR will be holding a public comment period on submitted GSPs.
 - Within two years of the submittal date, DWR will be required to review and evaluate GSPs for approval.

For additional information, please contact:

Mladen Bandov

Water Resources Supervising, County Public Works

mbandov@co.slo.ca.us

(805) 781-5116

TO: Zone 9 Advisory Committee

FROM: Brian Nelson, Acting City Engineer, City of San Luis Obispo
Blaize Uva, Environmental Specialist, County Public Works

DATE: October 13, 2021

SUBJECT: Agenda Item #6b: Mid-Higuera Bypass Project Updates

Update

- Grant Funding Applications
 - DWR Grant (\$6,078,707) – The City was awarded a Coastal Watershed Flood Risk Reduction grant and is working with DWR on the agreement process. Anticipated timeframe to executed agreement is 2-4 months.
 - CNRA Grant (\$6,000,000) – The City was not awarded the Urban Flood Protection grant despite reducing the grant request to \$2 million.

- Project Design
 - Wallace Group has submitted a scope amendment to complete the final design of the Mid-Higuera Bypass project. This includes:
 - Topographic survey
 - Legal descriptions for property negotiations
 - Utility letters and coordination
 - 95% PS&E revisions (awaiting regulatory comments on permit applications)
 - Parcel exhibits created for grant applications.
 - Right of entry and construction easement exhibits
 - Demolition plan for building removal
 - Hamner-Jewell is continuing the appraisal process for the three properties that will be directly impacted by the proposed design. Appraisals are anticipated in early October. This includes:
 - A proposed property swap between the City of SLO and Madonna Properties, near Bianchi Lane.
 - The removal of a structure at risk of bank failure owned by the Todd R. Trust.
 - Grading at 304 Higuera Street.

- Project Permitting
 - The 401 Certification (RWQCB), 404 Authorization (ACOE), and 1600 Lake and Streambed Alteration (CDFW) permit applications for the Mid-Higuera Bypass Project have been submitted to the regulatory agencies for review.
 - County staff is currently drafting a document demarcating roles and responsibilities (City, Construction Contractor, County) and estimating costs for implementation of the project's environmental requirements (ex. construction monitoring, potential violations, post-construction monitoring).

TO: Zone 9 Advisory Committee
FROM: Freddy Otte, Biologist, City of San Luis Obispo
DATE: October 13, 2021
SUBJECT: Agenda Item #6c: Creek Maintenance Updates

Update

The expanded partnership for Flood Control in the City/County has been approved by both the City and the County. I have started my flood control surveys in the creeks and have received approval to rehire my Flood Control Technicians. We plan to make contact with key landowners in key locations for improved review and response to where we have not had access before in the City. This is a good trial run for the expanded partnership, and we have a Right-of-Entry drafted for these efforts. We'll be more active in surveying and beginning vegetation management in the coming weeks as we ramp up.

TO: Zone 9 Advisory Committee
FROM: Jon Hall, Land Conservancy
DATE: October 13, 2021
SUBJECT: Agenda Item #6d: Arundo Removal Updates

Update

Survey and Treatments have begun. They will continue through October. Permitting for LOVR Arundo Removal Grant through USFWS got delayed by a year. That work will happen next year.

TO: Zone 9 Advisory Committee

FROM: Sarah Crable, Water Resources Engineer, County Public Works

DATE: October 13, 2021

SUBJECT: Agenda Item #6e: East Fork Limited Study Updates

Update

The East Fork Limited Study consultant, Schaaf & Wheeler, has wrapped up the modeling of the existing conditions with all survey data. Figures and animations of this existing conditions results will be provided to County staff in upcoming weeks. The next steps for the consultant are to study the various alternatives and viable list of capital improvement projects for County staff to consider. Cost estimates, a draft report, and presentation is now on track for the December Advisory Committee meeting. The report will be distributed to committee member for review prior to the meeting.