



Sutter Butte Flood Control Agency

A Partnership for Flood Safety

Board of Directors Agenda Summary May 9, 2012

1 PM Regular Meeting

Meeting Location:
City of Yuba City Council Chambers
1201 Civic Center Boulevard, Yuba City, CA

The agenda is posted in the building of the Sutter Butte Flood Control Agency at 1227 Bridge Street Suite C, Yuba City, and at the Sutter County Library, 750 Forbes Avenue, Yuba City. The agenda summary, backup materials, and approved minutes are also posted on the Sutter Butte Flood Control Agency website at sutterbutteflood.org. Materials related to an item on this agenda and submitted to the Board of Directors after distribution of the agenda packet are available for public inspection in the office of the Board Clerk at 1227 Bridge Street, Yuba City, during normal business hours. In compliance with the American with Disabilities Act, the meeting room is wheelchair accessible and disabled parking is available. If you have a disability and need disability related modifications or accommodations to participate in this meeting, please contact Sarah Modeste at the Sutter Butte Flood Control Office, 1227 Bridge Street, Suite C, Yuba City, CA 95993 or admin@sutterbutteflood.org. Requests must be made one full business day before the start of the meeting.

<u>County of Sutter</u> 1. Larry Montna 2. James Gallagher Alts. Larry Munger, Stan Cleveland	<u>County of Butte</u> 1. Bill Connelly 2. Steve Lambert
<u>City of Yuba City</u> 1. John Miller 2. John Dukes Alts. John Buckland, Tej Maan	<u>City of Gridley</u> 1. Owen Stiles Alt. Jerry Anne Fichter
<u>City of Live Oak</u> 1. Gary Baland Alt. Ray Rogers	<u>City of Biggs</u> 1. Mike Bottorff Alt. Bo Sheppard
<u>Levee District 1</u> 1. Francis Silva 2. Al Montna Alt. Barbara LeVake	<u>Levee District 9</u> 1. David Lamon 2. Chris Schmidl Alt. David Schmidl

Persons wishing to address the Board during consideration of matters listed on the agenda will be allowed to do so. Testimony should always begin with the speaker giving his or her name and place of residence. Requests for assistive listening devices or other accommodations, such as interpretive services, should be made through the Sutter Butte Flood Control Agency office at (530) 755-9859. Requests should be made at least 72 hours prior to the meeting. Later requests will be accommodated to the extent feasible.

1 PM REGULAR MEETING/CALL TO ORDER

Roll Call
Pledge of Allegiance

CONSENT CALENDAR

The Consent Calendar groups together those items which are considered noncontroversial or for which prior policy direction has been given to staff and that require only routine action by the Board. The Chair will advise the audience that the matters may be adopted in total by one motion; however, the Board may, at its option or upon request of a member of the public, consider any matter separately.

- 1) Approval of the minutes for the Regular Board Meeting of April 11, 2012

PRESENTATION, DISCUSSION & ACTION ITEMS

- 2) Receive and file monthly management report
- 3) Approval of amendments to FY 2011-12 and FY 2012-13 budgets to incorporate payments to Levee District 1 for the remaining local costs of the Star Bend Set Back Levee Project and repayment of outstanding long-term debt in FY 2011-12
- 4) Approval of Agency policies as recommended by auditor
 - a. Capital Asset Policy
 - b. Fraud Reporting Policy
 - c. Purchasing Policy
 - d. Business Resumption Plan
- 5) Report on in kind contributions for Sutter Basin Feasibility Study including the approval of Amendment 6 to TO2 and Amendment 1 to TO8 for Peterson Brustad
- 6) Recommended actions and process for updating agency staffing

INFORMATIONAL AND POSSIBLE APPROVAL ITEMS

- 7) Update on environmental and regulatory processes
- 8) Engineering update
- 9) Other reports from Agency staff and consultants
 - a. Update to Board on conflict of interest waivers granted
- 10) Report (if necessary) by the Citizens' Assessment District Advisory Committee (CADAC)
- 11) Report (if necessary) by member agencies
- 12) Report (if necessary) by the USACE
- 13) Report (if necessary) by DWR

CORRESPONDENCE

- 14) Report on correspondence sent by and received by the Board

PUBLIC COMMENT

Members of the public will be allowed to address the Sutter Butte Flood Control Agency's Board of Directors on items of interest to the public that are within the subject matter jurisdiction of the Board. Any member of the audience who may wish to bring a matter before the Board that has not been placed on the agenda may do so at this time; however, State law provides that no action may be taken on any item not appearing on the posted Agenda.

ADJOURNMENT



Sutter Butte Flood Control Agency

A Partnership for Flood Safety

May 9, 2012

TO: Board of Directors

FROM: Mike Inamine - Acting Executive Director

SUBJECT: Approval of the minutes for the regular Board meeting April 11, 2012

The proposed minutes for the regular Board of Director's meeting on April 11, 2012 are attached for your review, modification and/or approval.

Recommendation

We recommend that the Board approve and authorize the Chair to sign the minutes.

Thank you.

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**MINUTES OF THE BOARD OF DIRECTORS OF THE
SUTTER BUTTE FLOOD CONTROL AGENCY
REGULAR MEETING OF
April 11, 2012**

The Sutter Butte Flood Control Agency (Agency) Board of Directors (Board), State of California, met on the above date in Regular Session at 1 p.m. in the City of Yuba City Council Chambers, Yuba City, California.

MEMBERS PRESENT

County of Sutter:	James Gallagher, Larry Montna
County of Butte:	Bill Connelly, Steve Lambert
City of Yuba City:	Tej Maan, John Dukes
City of Gridley:	Owen Stiles
City of Live Oak:	Gary Baland
City of Biggs:	Mike Bottorff
Levee District 1:	Francis Silva, Al Montna
Levee District 9:	David Lamon

MEMBERS ABSENT: Directors John Miller, Chris Schmidl

STAFF PRESENT: Mike Inamine, Acting Executive Director & Director of Engineering; Scott Shapiro, Agency Counsel; and Sarah Modeste, Staff Analyst

REGULAR SESSION

Vice Chair James Gallagher opened the meeting at 1:15 p.m. and led the Board and audience in the pledge.

CONSENT CALENDAR

On motion of Director Gary Baland, seconded by Director John Dukes and carried by those present, the Board approved the Consent Calendar as follows:

1) Approval of the minutes for the Regular Board Meeting of March 14, 2012

PRESENTATION, DISCUSSION AND ACTION ITEMS

2) Receive and file monthly financial report

Acting Executive Director Mike Inamine opened the meeting with an overview of the meeting topics. Budget Manager Seth Wurzel provided an overview of the Agency's cash position; the Agency has \$4.8 million in the bank based on February expenses and the to-date amount totals \$1.8 million. The Agency received its first portion of FY 2011-12 assessment payments, and will receive the second in July 2012. The next revenue source for the Agency is the State's initial payment from the design agreement.

Mr. Inamine reviewed the Agency's earned value and comparison of estimated project cost information. Director David Lamon asked for clarification on the Agency's administrative costs. Mr. Inamine confirmed that the total administrative costs were based on the recently adopted five-year budget.

No action taken on this item.

3) Adopt Agency position on the Draft Central Valley Flood Protection Plan

Agency Counsel Scott Shapiro provided an updated copy of the Board of Director's position on the Draft Central Valley Flood Protection Plan based on Board comments during the workshop that was held from 9-11 a.m. on April 11, 2012. Mr. Shapiro then reviewed the comments.

No public comment.

Director Gary Baland thanked Mr. Shapiro for his work incorporating Board comments.

Mr. Shapiro thanked the Board for their time and comments on the Plan; the Board's approved position will be submitted to the Central Valley Flood Protection Board and posted on the Agency's website.

A motion was made by Director Steve Lambert to approve the Agency's position on the Draft Central Valley Flood Protection Plan and direct staff to submit it to the Central Valley Flood Protection Board and post it to the Agency's website. The motion was seconded by Director John Dukes and was carried by those present.

4) Approval of the loan agreement for short-term financing

Mr. Wurzel stated that the Agency is ready to move forward with short-term financing and asked for Board's approval of the loan agreement. He stated that the Agency's initial draw would be \$2.9 million; the draw would reimburse the Agency for its closing costs as well as the amount spent to date. The loan will close on April 19, 2012 and the first allotment will be wired shortly thereafter. He added that the Agency plans to have permanent financing in the future, and this short-term line of credit is a cash flow and financing tool for the Agency. Staff feels that the line of credit interest rate is very good, and lower than current member agency loans.

Director Owen Stiles asked for detail to support the initial \$2.9 million; Mr. Wurzel stated that he is required to provide that same detail to the bank and can also provide to the Board.

No public comment.

A motion was made by Director Al Montna to the loan agreement for short-term financing. The motion was seconded by Director John Dukes and carried by those present.

5) Approval of repayment agreements with City of Yuba City, Sutter County and Levee District 1

Mr. Wurzel explained that the Agency had three agreements before the Board that would establish a repayment schedule for funds borrowed from the City of Yuba City, Sutter County and Levee District 1. The money was used as start-up funds for the Agency.

The repayment would include interest incurred to date as well as the principle balance. In order for the member agencies to budget for the repayment, each agency must show an executed agreement for audit purposes. The Agency will use assessment revenues to repay the loans.

No public comment.

A motion was made by Director John Dukes to approve the repayment agreements with City of Yuba City, Sutter County, and Levee District 1. The motion was seconded by Director Owen Stiles and carried by those present.

6) Approval of process for administrative adjustments to the assessment district

Kim Floyd, the Agency's public information manager, introduced the item and stated that each year the Agency reviews its assessment rolls and updates it as necessary. This year, staff identified 19 parcels that were inadvertently excluded from the district for two reasons:

1. 50 percent or more of the property falls outside the assessment district boundaries with no protected structures, a basis for exclusion because these properties were thought to receive a de minimis benefit. In other words, properties were judged to receive such minor benefit that it was not possible to calculate the benefit and therefore no assessment was proper. However, upon further review, it was found that some of the excluded properties include damageable structures that are clearly located within the assessment district boundaries. These structures and their contents will receive benefit from levee repairs and the related avoidance of flood damages, and must be assessed according to the benefit received.
2. The flood depth maps for the assessment district did not show a flood depth for the property, a legitimate basis for finding no benefit and thus excluding from the District. However, a more detailed review indicated that the property would be subject to significant flood and includes damageable structures. These structures and their contents will receive benefit from levee repairs and the related avoidance of flood damages, and must be assessed according to the benefit received.

With the knowledge and in accordance with Proposition 218 law, those parcels must be included in the assessment district. On March 28, 2012, letters were sent to the 19 property owners stating that their property would be included in the FY 2012-13 assessment rolls, and parcel specific information. The letter also included a phone number that property owners could use should they have any questions. To date,

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staff had not received any calls to the number. The property owners were also invited to attend the April 11, 2012 Board meeting to provide comment.

Assessment district engineer Bob Cermak presented several examples of the 19 parcels and explained how staff determined that they should be included in the district.

Mr. Shapiro asked that the Board direct staff to proceed with the inclusion of the 19 parcels in the FY 2012-13 assessment rolls.

No public comment.

A motion was made by Director Owen Stiles to direct staff to proceed with the inclusion of the 19 parcels in the FY 2012-13 assessment rolls. The motion was seconded by Director Tej Maan and carried by those present.

7) **Report on Washington D.C. agency briefings**

Mr. Shapiro provided an overview of the 11 meetings Agency representatives conducted while in Washington D.C. from March 19-21, 2012.

Mr. Inamine added that the trip to Washington D.C. was very important as the Agency has already experienced positive outcomes. The USACE Sacramento District received a call from Washington D.C. emphasizing the importance of the feasibility study, and as a result, district staff followed up with Mr. Inamine regarding progress and scheduling.

Director James Gallagher stated that the meetings with Steve Stockton and Rock Salt of the USACE were very important to the feasibility study. He added that he heard from both men that the feasibility study is a priority and will be completed in a timely manner. Director Gallagher stated that Representative Garamendi asked specifically about the Draft CVFPP's inclusion of a Cherokee Bypass and the Agency was able to respond with its concerns. Director Gallagher added that Congressman Herger continues to be very supportive of the project.

No public comment.

No action taken on this item.

INFORMATIONAL AND POSSIBLE APPROVAL ITEMS

8) **Update on right of way activities**

Mr. Inamine provided an update and clarification on the Agency's right of way approach. He reviewed past activities and Board discussions regarding right of way.

9) **Other reports from Agency staff and consultants regarding current Sutter Butte Flood Control Agency activities**

a. **Update to Board on conflict of interest waivers granted**

Mr. Shapiro stated that in addition to its work with the Agency, Downey Brand also works with others within the Sutter Basin. Two conflict of interest waivers have been signed since the last Board meeting. At the March 14 Board Meeting, the Board authorized the executive director to execute the conflict of interest agreements and report to the Board at the following meeting. The two waivers signed were presented and discussed at the March meeting: (1) Downey Brand serves as general counsel for Sutter Extension Water District, which owns land within the Agency's assessment district boundaries, and (2) Downey Brand represents the Robert D. Griesa Trust which has majority ownership in Yuba Sutter Body Shop which is also located within the Agency's assessment district.

10) **Engineering update**

Mr. Inamine stated that it is important for the Board to be up to speed on both administrative and project related Agency activities, so this will be a standing agenda item.

11) **Report (if necessary) by the Citizens' Assessment District Advisory Committee (CADAC)**

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CADAC Chair Jon Munger stated that the next CADAC meeting is on April 18 at the SBFCA office (1227 Bridge Street, Suite C, Yuba City) at 11:30 a.m. He reported that the Levee District 1 appointed a new representative to the CADAC in place of Ben Moody. It was brought to the attention of the CADAC that two members work for SBFCA member agencies which was a conflict with the CADAC's charter and bylaws. The second position, from Butte County, has not yet been filled. Agency staff provided a copy of a letter from the Sutter County Taxpayers Association indicating that the two members needed to be replaced.

Director Baland added that his CADAC representative, Malcolm Weston, stepped down due to scheduling difficulties. Director Baland introduced Sandi Fredrickson as the new Live Oak representative.

12) Report (if necessary) by Levee District No. 1 regarding setback levee project at Star Bend (an early implementation project)

Nothing to report at this time.

13) Report (if necessary) by the USACE Project Manager regarding current status of the Feasibility Study for the Sutter Basin.

No one from the USACE was in attendance at the meeting.

14) Report (if necessary) by the DWR Senior Project Manager regarding current DWR activities.

Scott Rice thanked the Board for its time during the morning CVFPP workshop.

CORRESPONDENCE

15) Report on correspondence sent by and received by the Board.

Mr. Shapiro stated that the Agency had received two items. The first item was a letter from the Sutter County Tax Payers regarding CADAC membership, and the second was a letter from Levee District 1 regarding the Agency's payment for the local cost share. Mr. Shapiro indicated that Agency staff was fully supportive of the payment to LD1, but the letter had arrived the morning of April 11, 2012 so it will be discussed and provided at the May 9, 2012 Board meeting.

PUBLIC COMMENT

No public comment.

ADJOURNMENT

With no further business coming before the Board, the meeting was adjourned at 2:40 p.m.

JOHN MILLER, CHAIR

ATTEST BY: _____

SARAH MODESTE, STAFF ANALYST



Sutter Butte Flood Control Agency

A Partnership for Flood Safety

May 9, 2012

TO: Board of Directors

FROM: Mike Inamine - Acting Executive Director

SUBJECT: Receive and file financial report and earned value project management and reporting update

Recommendation

We recommend the Board receive and file the March Financial Report and receive staff's monthly management report.

Background

Staff's framework for reporting on the financial status of the Agency and the progress of FRWLP1 was presented to the Board in January 2012. Staff will report on the following four metrics:

- **Current Working Capital Position:** Provide an update as to the liquidity of the agency and ability to cover current obligations. This information is presented with a financial report prepared in coordination with Yuba City finance staff and is attached.
- **Earned Value:** Provide a comparison of the amount of tangible work that was planned with what was actually accomplished to determine if cost and schedule performance is as planned.
- **Budget:** Provide a summarized status of the overall budget of the project and a comparison to original forecasts. Also provide a comparison of local costs over time as cost share percentages are refined.
- **Cash Flow Projection:** Provide an estimate of the cash needs of both the Agency and the project over time. This estimate forms the basis for Agency financial planning.

Staff will provide an update of the items at the Board meeting.

Fiscal Impact

This is an informational item only with no fiscal impact to the Agency



Sutter Butte Flood Control Agency

A Partnership for Flood Safety

May 9, 2012

TO: Board of Directors

FROM: Mike Inamine - Acting Executive Director

SUBJECT: Amendments to the Fiscal Year 2011-12 & 2012-13 Budgets

Recommendation

Approve the proposed amendments to the Fiscal Year 2011-12 and 2012 -13 budgets to provide for the following:

- \$615,000 payment to Levee District 1 for the Star Bend Setback Levee Project in FY 2011-12; and,
- A shift of SBFCA's repayment of its outstanding debt owed to member agencies from FY 2012-13 assessment revenues to FY 2011-12 assessment revenues.

Background

Payment to Levee District 1

The SBFCA Board adopted the Fiscal Year 2011-12 budget at its March 14, 2012 meeting. At that time staff made the assumption that LD 1's Star Bend project was complete and that as part of that project, as is the case with all EIP projects, the State had retained 10 percent on its share of costs. As a result, it was assumed that there were no additional local share costs of the project, and that the State would owe LD1 money. Based upon this assumption, SBFCA staff incorporated into the FY 11-12 Budget a shift of \$1,969,885 from the Star Bend payment capital program (the current budget at the time) to the Corps Study and EIP Project capital programs.

At SBFCA's April 11, 2012 Board meeting, the Board received correspondence from LD 1 indicating that it had a remaining local cost share need of approximately \$615,000 for its project. SBFCA staff learned that the State had over funded its share (even while incorporating retention into its advance payments to LD 1) of the project and as a result LD 1 owed the State money. Given this fact, SBFCA still owes LD1 for the local share of LD 1's project so that it can make the required refunding payment to the State and close out the project.

Based upon the above facts and circumstances, staff recommends the following changes to the FY 11-12 budget:

Account	Description	Amount	Changes from Current Budget
99-1065-65501	Contribution to LD 1 - Set Back Levee at Star Bend	\$615,000	Increase of \$615,000
Transfers			
Transfers	Description	Amount	Changes from Current Budget
w/in 731	Transfer in from Star Bend Project	\$60,539	Decrease of \$615,000
w/in 731	Transfer out from Star Bend Project	(\$1,354,885)	Increase of \$615,000

If approved by the Board, SBFCA will plan to make this payment before the end of fiscal year 2011-12 and work with LD 1 on the appropriate timing.

Fiscal Impact

This additional expenditure was not previously included within the current 5-year budget in. The expense will be paid from assessment revenues and will have the impact of lowering the ending working capital cash balance by the same amount. The additional expense represents an additional 0.2 percent increase in the overall 5-year budgeted expenditures (totaling more than \$273 million). This increase is within the tolerances of the budget estimate currently represented by the 5-year budget. Over the period of the 5-year budget, the conservative estimate for the ending working capital balance is approximately \$2,000,000. With this change incorporated, the ending working capital balance would be lower by the amount of the expense.

Member Agency Loan Repayment Budget Adjustment

As part of the adopted fiscal year 2012-13 budget, the repayment of outstanding member agency loans with Yuba City, Sutter County and LD 1 were budgeted to be paid from assessment revenues received in that fiscal year. The loans are to be repaid with interest accruing at the same rate as the Sutter County pooled treasury rate. The Sutter County pooled treasury, as reported in the January 2012 Sutter County Treasurer’s Investment Report, yielded approximately 2.03 percent. In April, the Agency closed on a short term borrowing with Rabobank with interest payable at 30-day LIBOR plus 1.5 percent. Currently, the 30-day LIBOR rate is approximately 0.24 percent. As a result of these favorable financing terms received as part of the Agency’s short term line of credit, staff would like to reserve the option to repay a portion of the outstanding loans with assessment revenues from FY 2011-12.

At the Board’s April 11, 2012 meeting, the Board approved repayment agreements with the member agencies that required repayment of the loans no later than half paid by January 31, 2013 and the remainder by June 30, 2013. Earlier repayment of these loans is allowed would benefit SBFCA with lower interest costs as well as Sutter County, Yuba City and LD1 with earlier revenues.

Fiscal Impact

The shift of debt repayment from fiscal year 2012-13 to 2011-12 would result in interest cost savings of approximately \$25,000 based upon a comparative analysis that assumes borrowing from the short term line of credit would otherwise increase and accrue interest at a lower interest rate versus keeping the current debt outstanding with the affected member agencies an additional six (6) months at a higher interest rate.



Sutter Butte Flood Control Agency

A Partnership for Flood Safety

May 9, 2012

TO: Board of Directors

FROM: Mike Inamine - Acting Executive Director

SUBJECT: Approval of certain policies per the management recommendations of the independent auditor

Recommendation

Approve the attached policies covering, Business Preparedness & Resumption, Fraud Reporting, Purchasing and Capital Assets.

Background

On February 8, 2012, the Board received audited financial statements covering all prior years of the Agency's operations and a management report on the internal controls of the Agency prepared by the independent audit firm Moss, Levy and Hartzheim. The management report presented several recommendations, one of which had components that had not yet been fully addressed by the Agency. This recommendation advised the Agency to implement seven policies covering:

- a. Capital assets
- b. Fraud reporting
- c. Purchasing policy
- d. Computer use
- e. Disaster recovery plan
- f. Drug free workplace
- g. Labor regulation policies associated with grants

Of the seven recommended policy topics, two, Computer Use and Drug Free Workplace, have since been developed and are incorporated within the Agency's employee handbook. The handbook was developed in preparation of hiring the Director of Engineering. One of the recommended policy topics, Labor Regulation policy, is recommended only in the event it is required by grant conditions and requirements. None of the Agency's current grants require a labor regulation policy at this time. The remaining four policies covering;

- a. Capital assets
- b. Fraud reporting
- c. Purchasing
- d. Disaster Recovery Plan (hereby referred to as a Business Disaster Resumption & Preparedness Plan)

are presented for the Board's consideration. The following discussion provides a brief overview of each policy.

Capital Asset Policy

The Capital Asset Policy is designed to aid the Agency by clarifying the Agency's definition of

capital assets and accounting procedures for capital assets. Proper capital asset accounting provides the Agency with the data necessary to:

1. Prepare financial reports
2. Safeguard sizable investments
3. Identify custodial responsibility
4. Assist with risk management/insurance activities
5. Formulate future acquisition and retirement policies
6. Recover costs from Federal and State programs

The policy sets the relevant thresholds for identifying what types of purchases are to be considered capital assets for accounting purposes, and identifies the responsible staff person for implementing the policy.

Purchasing Policy

The purpose of the Purchasing Policy is to provide the Agency a means of assuring continuity and uniformity in its purchasing practices, to define the responsibilities of the various staff of the Agency, and to provide related procedures for purchasing materials and supplies and contracting for services including professional services.

The Purchasing Policy covers topics such as the thresholds for obtaining multiple bids for materials and services, and the associated procedures/guidelines for contracting professional services, procedures and criteria for sole sourcing, the criteria for qualifying the lowest responsible bidder, and procedures for administering protests of awards. The Policy also outlines the responsibilities of the Executive Director and relevant Agency staff.

Fraud Reporting Policy

The Fraud Reporting Policy sets strict guidelines on how the Agency would deal with suspected dishonest use of its resources by employees and contract staff. The policy states the Agency's goals when dealing with suspected fraud and the Agency's definition of fraud. The policy states the responsibility of Agency staff to report fraud and the procedures to report it. The Policy also sets forth the protection afforded by the Agency for anyone that, in good faith, reports suspected fraud. The responsibility for administering the policy falls to the Executive Director, however, the Chair of the Board, Treasurer and General Counsel of the Agency are the identified parties to whom suspected fraud is to be reported.

Business Disaster Resumption & Preparedness Plan

Because the Agency relies heavily on technology and is working on an aggressive schedule to implement its project, it is important that the Agency has a plan to provision for the possibility of compromised access to critical information and data. The plan sets forth the responsibility for ensuring electronic information is stored in such a manner where it is always accessible to the Executive Director and establishes the minimum criteria for ensuring continuity. Because the Agency relies heavily upon the resources made available by contract service providers, the plan also sets criteria on contract staff's provision for information storage and redundancy.

Staff recommends that the Board adopt the attached policies and take the necessary actions to implement them.

Fiscal Impact

The enclosed policies have no impact on the Agency's approved budget as they identify no specific purchases or additionally needed services to implement that are not already included within the budget.