FLOOD CONTROL ADVISORY BOARD
MINUTES
March 26, 2003

Chairman Melvin Martin called the monthly meeting of the Flood Control Advisory Board to order at 2:04 p.m. on Wednesday, March 26, 2003.

Board Members Present: Melvin Martin, Chairman; Scott Ward, Secretary; Kent Cooper; Hasan Mushtaq (for Tom Callow), Ex Officio; Paul Cherrington, Ex Officio.

Board Members Absent: Shirley Long, Vice Chairman; Tom Callow, Ex Officio; Hemant Patel.

Staff Members Present: Mike Ellegood, Chief Engineer and General Manager; Julie Lemmon, General Counsel; Dick Perreault, CIP/Policy Manager; Tim Phillips, Deputy Chief Engineer and General Manager; Russ Miracle, Division Manager, Planning and Project Management; Joe Young, Chief Financial Officer; Sally Stewart, Public Information Officer; Melissa Lempke, Public Information Officer; Josh Van Kylen, Web Author, Diane Smith, Public Information Office, Dianna Cunningham, Property Management Branch Manager; Marilyn DeRosa, Planning Project Manager, Felica Terry, Planning Project Manager, Joe Munoz, Public Information Office Manager, Linda Reinbold, Administrative Coordinator and Alicia Robertson, Clerk of the FCAB.

Guests Present: Joy Rich, Chief, Regional Development Services Agency, Maricopa County; Jeannette Fish, Maricopa County Farm Bureau; Ed Fritz, MCDOT; Alan Morrice, DMJM & HARRIS; Linda Potter, HDR; Teri George, DEA; Brian Fry, Dibble & Associates; Roger Baele, David Evans and Associates.

Mr. Ellegood introduced the Employees of the Quarter: Roy Arnold, Operations and Maintenance and Michael Duncan, Engineering Division. Congratulations to Roy and Mike. Mr. Ellegood also extended kudos to Julie Cox for her efforts as the Employee of the Quarter Committee Chairman.

1) EYE TO THE FUTURE 2020: REGIONAL PLANNING ELEMENT

Joy Rich, Chief, Regional Development Services Agency presented elements to the Regional Plan. The purpose of the Regional Planning Element is to: Increase county leadership on important public policy matters; to mitigate impacts of local policy decisions on county-provided services and infrastructure; develop long-term planning coordination with other governments; to fill a leadership vacuum and; to help implement Maricopa County's strategic priorities. Ms. Rich continued with information explaining who would be involved and what will be required to accomplish the goals set for the Regional Planning Element.

Discussion:
Ward: How is the workload of the Planning and Development Department?
Rich: We have remained fairly steady in our permit volume over the last twelve (12) months. Last week things have been slow, particularly in the entitlement phase, zoning request, and plating. We have received three (3) applications in the last two weeks. We usually receive as many as fifteen (15). We are bringing on some temporary staff to help with what we have today. We are cautious about bringing on to many because of the recent declines in applications.
Ward: When you are working with these applicants, obviously you have a vision of 20/20, are you trying to implement with those applications?
Rich: Yes. One of the main things that we do when we have development applications is to refer them out to the cities for their comments. We are really stewards of the unincorporated areas until the cities and towns take them over. We rely very heavily on strong input and base our staff recommendations on a large part from input from the cities.
Ward: Sometimes applicants go through the County but really it's a piece of property affected by the general area or the planning area of a municipality. The harmony between your office and the individual municipalities is key, especially to regional flood control.
Rich: That is a major element of the comprehensive plan. Anywhere there is an application that is within a municipal planning area, their plan rules essentially, and we need to work cooperatively with them. The County is not in the service providing business; we don't provide water, sewer and all those things. Ultimately, urban level development needs those services and obviously we need to work cooperatively with the cities to assure that they get those.

ACTION: No action required – for information and discussion only.

2) APPROVAL OF THE MINUTES OF THE MEETING OF FEBRUARY 26, 2003

ACTION: It was moved by Mr. Cooper and seconded by Mr. Cherrington to approve the minutes as submitted. The motion carried unanimously.

Discussion:
Ellegood: There was a question asked at the last meeting and I did not have a definitive answer. I was asked how much we have spent to date to apply for the NPDES permit on behalf of the County. As of the end of February, we have spent $174,620. This is a combined cost of in-house labor, legal cost through Julie Lemmon's contract and an outside consultant. We have budgeted $290,620 this fiscal year, to deal with all of the clean water permit issues. We will end up close to what was budgeted when we are done.

3) FLOODPRONE PROPERTY ACQUISITION RESOLUTION

Marilyn DeRosa, Planning Project Manager, presented Floodprone Property Acquistion Program, Amendment 1 to the Alternative Flood Control Works Program, Resolution, FCD 95-01A. The original program (Resolution FCD 95-01) was developed to provide limited District funding for voluntary, non-structural flood mitigation measures, such as property acquisition, for residents located in floodprone areas where structural CIP projects were not cost-effective and were considered unfeasible, but risks to public safety and health due to flooding were present. Resolution FCD 95-01A would allow: 1) negotiations and preparations of IGA's with local

jurisdictions for property acquisition under the Program, 2) inclusion of funds in the Five-Year CIP Budget for property acquisition under the Program, and 3) the Floodprone Properties Acquisition Program to be used in place of the Alternative Flood Control Works Program, and as a supplement to the District's Procedure for Identifying and Prioritizing Potential Five-Year CIP Projects.

Discussion:
Cooper: What legal responsibilities do we have to take people out of a floodplain?
DeRosa: One of our primary missions is flood mitigation. We look at ways to take people out of harms way that are also cost effective. When we balanced this against the traditional brick and mortar type of flood mitigation it looked good. It met the needs of our mission.
Lemmon: The District does not have a legal obligation to remove people from the floodplain. In the situation Marilyn is talking about the hazard is made by nature and we are just identifying it. We did not put the people in the hazardous situation. However, the Board of Directors has the authority to buy properties when it is deemed by the Board of Directors to be in the best interest of the District.
Cooper: You showed us the cost effective rational. Lets say thirteen (13) homes are eligible and nine (9) of them accept the offer. What happens to the other four (4) that were given the opportunity and they choose not to take it?
Lemmon: It is voluntary, so there is not condemnation or eminent domain used. If they choose to remain once the hazard has been identified, the Board of Directors has agreed that that is the correct policy if they choose to stay in a hazardous situation after being given due notice.
Cooper: It seems to me that if you have a $10 million structure and $2 million worth of property acquisitions that you pay for, and then half the people choose to move out and half of them choose to stay, I'm not sure how that satisfies the requirement for not building a structural solution.
Ellegood: You are right, this was an issue back in 1993 that was debated with great enthusiasm by our Board of Directors and the newspapers. In a broader since, a buyout policy has been public policy across the country. It is a policy that FEMA uses as well as the US Army Corps of Engineers. Essentially, we are following the federal model, which is generally accepted public policy. In this instance, we are opening it up to our client cities. We believe there are residences in a lot of our cities where the same policy should apply. We have had enough experience now with two acquisition programs (New River and Upper Skunk Creek) that Marilyn DeRosa has been able to write some equations that work as a criteria. The fundamental debate is: Is this public policy? Is this the responsibility of government?
Cooper: If the Board of Supervisors says it is, then it is. It seems to me that recommendations in terms of improvements to the policy are appropriate.
Ward: Ms. Rich how did these people get the building permit?
Rich: I'm assuming that this was done before delineation occurred. In the absence of delineated floodplains, a drainage review is done relative to the drainage regulations, but there is no floodplain data with which to assess the danger. Every permit that is taken in is referred over to District for review, both floodplain and drainage administration review at this point. Where there is no data, this occurs.
Ward: I didn't ask that question to put the stress on you. My frustration is that we are in a high inflationary period. Property values are going up all the time. There needs to be something in the criteria to protect homeowners that follow more logical guidelines, as opposed to those that go out and build with out a permit and expect the government to fix their problems in the future.
Ellegood: I have seen a number of instances very recently, as the result of recent rains, where it was not clear where the water goes. It was a sheet flow situation, if you look at the Rio Verde it is very hard to predict where the water is going to go. It is a gray area as to whether someone knowingly goes in there and builds and then we are the good guys and we bail them out, or did

they do all the prudent things and they just happened to be in a problem area. In many cases, a home has been built and upstream a subdivision goes in or something else happens and it is just enough to change the drainage and create a problem for these people. I think we need some kind of a safety net.
Cherrington: Is it true from your information that 82% of the stream corridors are not mapped?
DeRosa: Yes.
Cherrington: So this problem can be going on in 82% of the streams on the county map without requiring the permit you are asking about. Do we have a feel for how many of these structures might be in that 82%?
Ellegood: No, we don't know how many homes are being built in the areas. A portion of the total square miles in Maricopa County is state or federal land and is not developed. Typically what happens is a rain event, and then suddenly everything literally comes out of the woodwork.
Mushtaq: Do you have a sense of what kind of funding level you would be recommending in the future to the Board?
DeRosa: We have discussed the different possibilities for funding. We wanted to move away from a set aside amount. We wanted to make the program flexible enough to respond to the needs of the residents in a timely matter.
Perreault: This is an item that we have had a lot of discussion internally on. The way that we should do this is go through our normal priorization for the CIP, but concurrently we would be taking applications and receiving requests for this program, which we would consider at the same time. There, may in the future, be a line item for it in the budget for the CIP. Some years it may be a minimal amount and other years it may be more expensive, it will be somewhat dependent on the number of applications we've gotten and what our recommendations to you and the Board of Directors are, as far as a year-to-year cycle.
Martin: It should be defined as to what you are referring to when you say residential. A residential status should be classified in someway. We don't want someone excluded because they have a home-type business run out of their home.
Ward: I don't want to see people take advantage of the system and get rewarded for it.
Martin: Julie, do you agree with me the only way to cure that is to amend the item?
Lemmon: You would want to direct the District Staff to amend the Exhibit A guidelines, not the resolution itself but just the guidelines that are incorporated in the item. The Staff can amend and then bring them back to you or go ahead after the amendment.
Ellegood: I'm glad you picked up on this and certainly we have talked about that aspect and a number of other things too. I would certainly support the amendment. If you would like to table the item for a month, or if you are comfortable with the program but would like it amended we can certainly do that, we would provide the data to you next month.
Cooper: I recommend that we direct the Staff to make the amendment and send it on.
Lemmon: I have noted that along with a required building permit, you would like to see residential defined to include perhaps some non-conforming uses.
Martin: Residential should include, people are living on the property. If it is a warehouse and it has the tenant's furniture in it, then obviously it is not residential property.
Lemmon: On the building permit issue, sometimes the situations that are presented to us are of people that have just moved to the state recently and perhaps don't know that they bought a house that was built originally without a building permit. Would you like that situation addressed as well?
Martin: I would think the title company would pick up on that if they have a title policy.
Ward: Mike, lets say there are ten (10) houses in an area and we buy nine (9) of the ten (10). The one house left has a family of eight (8) living in it, we do not buy the house because the homeowner did not get a permit. Can the Board of Supervisors be liable for that situation if a flood were to occur?
Ellegood: I would like to ask Julie that question.

Lemmon: Giving a legal opinion off the cuff on something that has serious impact would not be a good idea. If you would like I can research that and give you a written opinion. I prefer not to speculate.
Ward: I think we should research our liability issue and come back.

ACTION: It was moved by Mr. Ward and seconded by Mr. Cooper to postpone Amendment 1 to the Alternative Flood Control Works Program, until the April 23, 2003 FCAB meeting. The motion carried unanimously.

4) RIO VERDE DRAINAGE RULES OF DEVELOPMENT

Felicia Terry, Planning Project Manager, presented the Rio Verde Drainage Rules of Development. Recently, due to the proximity to the City of Scottsdale and rural setting, the Rio Verde area population has increased significantly and the area is rapidly developing single lot family residences and subdivisions. Steep slopes, highly erosive soil, sheet flow conditions and numerous braided, sandy bottom washes, characterize the area. Development is believed to be contributing significantly to the impact on Rio Verde's drainage needs and flood protection.

The purpose of the Rio Verde Area Drainage Master Plan (ADMP) is to identify flooding problem sources, and potential hazards in the Rio Verde area. Until the ADMP is completed, the District is identifying a range of community-based solutions, which could reduce or eliminate damage to property or loss of life from storm water flooding, thus helping existing and future area residents. The ADMP will develop a variety of methods to manage flooding and drainage problems in the area.

Discussion:
Mushtaq: The area is challenging as far as the hydrology and drainage is concerned, what kind of 404 indications do you see?
Terry: We are actually talking to the U.S. Army Corps of Engineers to see if that is something to look at. Subdivisions and larger developments are definitely doing it. For the individual houses, we are just making them aware of it.
Ellegood: A great deal of the success to the approach that the District is using is the ability to develop and properly regulate the drainage aspects of this. A key issue that is unresolved is whether Drainage Administration will remain with the District, or will it be transferred to Planning and Development. I think that Rio Verde is the "poster child" for leaving the drainage administration with the District. For each development that occurs there is analysis, Felicia is involved, we understand the issues and if the seal of approval is given, we can be pretty sure that that individual is going to be out of harms way. Without that authority, I don't think that the implementation of this program would work as well; at that point we would have to use other techniques to protect the public, which would probably impact property values.
Martin: How did you arrive at an area of disturbance greater than 40% being what is necessary to require retention to minimize the increase in flow that is generated from the removal of vegetation and disturbance of the soil?
Felicia: We calculated how much water was running off a lot with existing conditions, and then we calculated how much water was running off a lot with post development conditions. We did different percentages and found that around 50% we saw very significant flow increase and velocity. After estimating different percentages of lot disturbance we determined 40% did not significantly increase the amount of runoff from a lot.

ACTION: No action required – for information and discussion only.

5) BETHANY HOME OUTFALL CHANNEL ACQUISITIONS

Dianna Cunningham, Property Management Branch Manager presented the Bethany Home Outfall Channel Acquisitions. Residents were informed of this project by newsletters and public meetings that were held between the years of 1999 and 2002. All of the residents in the area were notified which properties would be acquired as part of the project. The Lands Division is in the process of acquiring 72 single family residences currently. Theses properties are located between 67th Avenue and 73rd Avenue along the Grand Canal in the heart of Maryvale. It is estimated that demolition of properties will begin in the beginning of the year 2004, so that construction can begin by the end of that year.

Discussion:

Cherrington: The properties are rented out?

Ellegood: These are properties that are being acquired to construct something, so they may or may not be in a floodplain. We are buying these properties to construct the regional drain.

Martin: Do you rent it to the owner that you bought out?

Cunningham: Yes, for a short period of time.

Ellegood: Clearly, what you don't want is an empty house sitting in a neighborhood somewhere for security reasons.

Ward: Did I hear correctly that nine (9) homes were purchased for $4 million?

Cunningham: It was not nine (9) homes. There were nine (9) properties that where purchased for $4 million. I believe that three (3) or four (4) of them were actually single-family residences on large lots.

ACTION: No action required – for information and discussion only.

Subsequent to the March 26, 2003 FCAB meeting Scott Vogel reported the 72 homes, some of which will be rented out, are within a floodplain. Risk to the renters of these homes is minimal, there is zero velocity flow and a large lead-time before flooding occurs.

6) MEDIA COVERAGE OF RECENT EVENTS

Joe Munoz, Public Information Office Manager presented Media Coverage of Recent Events. Joe shared various clips from several of the local media stations of the February storms and the Flood Drill Exercise recently performed by the Operations and Maintenance Division.

ACTION: No action required – for information and discussion only.

7) COMMENTS FROM THE CHIEF ENGINEER AND GENERAL MANAGER

Mr. Ellegood began by announcing the sale of the Camelback Ranch South property. A public auction was held on March 18th at the Flood Control District. The property was approximately 200 acres, and was located on the southwest corner 107th Avenue and Camelback Road in the City of Phoenix. The property sold for $12.9 million. It was appraised at $8.5 million.

Mr. Ellegood continued with information on an ongoing legislation issue. The City of Tucson has introduced legislation that would require Special Flood Control Districts to return money to the cities that they get it from. This will complicate the regional nature of flood control. Julie Lemmon added that the bill has not been introduced, but they have a striker bill they are looking for a sponsor for.

Mr. Ellegood also apprized the FCAB of the Mosquito Management Program developed by the District. The program involves extensive public education and a specific method of mitigating each of the District's sites that are prone to growing mosquitoes.

Mr. Ellegood informed the group of organizational changes made during the past month. Joe Tram has been very involved with ongoing litigation with Gillespie Dam and some of the illegal mining in the river. Joe's litigation responsibilities have taken the majority of his time. To help alleviate some of the workload, Tim Phillips will step in and assume the responsibility for managing the Regulatory Division; Tim will remain the Deputy Chief Engineer, as well.

Mr. Ellegood also announced the Laveen Area Conveyance Channel project is moving forward. Advertising begins on April 17th and construction begins in June of 2003.

ACTION: No action required – for information and discussion only.

8) SUMMARY OF RECENT ACTIONS

Actions of the Board of Supervisors were included in the FCAB packet.

9) OTHER BUSINESS AND COMMENTS FROM THE PUBLIC

There was no other business or comments from the public.

The meeting was adjourned at 3:50 p.m. by general consent.

Scott Ward Secretary of the Board	Alicia Robertson Clerk of the Board