



REPORT TO COUNCIL

City of Sacramento

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Consent
September 25, 2007

Honorable Mayor and
Members of the City Council

Subject: Responses to the Findings and Recommendations of the Sacramento Grand Jury Final Report 2006-07

Location/Council District: Sacramento Region

Recommendation:

Approval of responses to findings and recommendations contained in the 2006-07 Grand Jury Report pertaining to the City of Sacramento.

Contact: Eileen Teichert, City Attorney, 808-5346

Patti Bisharat, Director of Government Affairs, 808-8197

Presenters: NA

Department: City Manager's Office

Division: Government Affairs

Organization No: 0301

Description:

Issue: On June 29, 2007, the Sacramento County Grand Jury issued the 2006-07 Grand Jury Final Report. Included in two portions of the report are findings and recommendations which are specific to the City of Sacramento (North Natomas: Development Gone Awry and The Flood Risk in Sacramento County). The California Penal Code requires specific responses to these findings and recommendations be submitted to the Presiding Judge of the Sacramento Superior Court by October 1, 2007.

Policy Considerations: One of the duties of the Grand Jury is to inquire into, and investigate if necessary, the operations of local government agencies and officials to ensure that activities are valid and services are efficiently and legally provided. Responses to the Grand Jury findings and recommendations are required by law and provide an opportunity for clarification and correction.

Environmental Considerations: Not applicable.

Rationale for Recommendation: A team of representatives from the City Manager's Office, City Attorney's Office, Utilities Department, Development Services Department, Fire Department and Planning Department have reviewed the findings of the Grand Jury and developed a response that reflects the City's policies, corrects misinformation and addresses the issues raised.

Financial Considerations: Not applicable.

Emerging Small Business Development (ESBD): Not applicable.

Respectfully submitted: 
Patti Bisharat
Director of Governmental Affairs

Recommendation Approved:

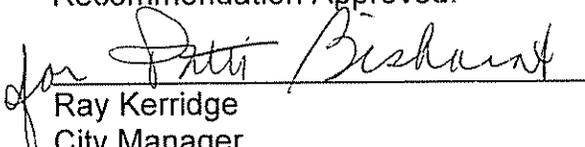

Ray Kerridge
City Manager

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City of Sacramento
Responses to Findings and Recommendations of the
2006 – 2007 Sacramento Grand Jury Report
“North Natomas: Development Gone Awry” pgs 19-29

Finding 1

The planning and implementation of the development of North Natomas, and the push to develop to the Sutter County line, constitute the fiscalization of land use. In May 1986, the city rejected the no project alternative (Alternative A) and the limited development alternative (Alternative B) for fiscal reasons. The city noted when it made findings on May 13, 1986, (Resolution No. 86-348, adopting findings of fact and statement of overriding considerations supporting the NNCP and conforming to the general plan amendments), that the North Natomas area was going to grow in the unincorporated areas and other places in the region and that the city would not fiscally benefit unless it allowed the development to proceed on land within the city with full build out in the entire Natomas basin.

Response to Finding 1

The City disagrees that the planning and implementation of development of North Natomas constitutes the “fiscalization of land use” as defined in the report, as the development decisions that were made “with an eye toward healthy and balanced communities” in addition to the necessary fiscal analysis of such development.

Additionally, the Grand Jury finding refers to the 1986 community plan which is outdated information. As a result, the findings are not based on the current community plan or financing plan. In May 1994, the City Council adopted an update to the North Natomas Community Plan which is significantly different from the 1986 community plan. The Financing Plan was approved in October 1994 and was updated most recently in 2005. The Grand Jury was provided a copy of the most recent plans.

Recommendation 1.

An independent fiscal and compliance audit needs to be conducted to determine whether the city has met the stated fiscal goals and whether development has actually been completed and built in a timely and proper manner. This audit needs to be conducted by persons versed in land use and development, fiscal issues related to development, and familiar with municipal financing. Further, the audit needs to be conducted and overseen by some entity or independent persons not in association with the city.

The audit should observe the actual results of development and compare the results to the stated goals for developing North Natomas.

The following issues need to be addressed in the audit:

1. Has the development enhanced the city’s ability to attract major industrial

employers?

2. Does the area contain optimum amounts of land devoted to parks, recreational facilities and open space?
3. What has been and will be the fiscal impacts of the development on the city, i.e., is the revenue derived from the development supporting not only the capital cost of the infrastructure required for the development, but also the ongoing cost of maintaining that infrastructure including the development and maintenance of the regional park?
4. Do the actual tax revenues generated by the development of North Natomas provide an ongoing revenue surplus for use throughout the city?
5. Has the jobs-to-housing ratio goal of 60% been achieved?
6. Have the various fiscal devices that the city used to assist the developers provided a clear audit trail to determine that builders/developers did what they were supposed to do with the money and in a timely and proper manner?

The audit report should be made readily available to the public at the same time it is given to the city.

Response to Recommendation 1.

Again, the City disagrees with this Grand Jury finding as it refers to the 1986 community plan which is outdated information. The Grand Jury was provided a copy of the most recent plan approved in 1994. As a result, the findings are not based on the current community plan or financing plan. Many of the issues under the recommendation for an audit were eliminated when City Council adopted the 1994 Community Plan (for example, item 1) the focus on major industrial employers).

The City of Sacramento conducts an audit each year by an independent firm of certified public accountants to review revenue and expenditures which includes the North Natomas Development funds. The audit for FY2006-07 is underway. The City received an unqualified ("clean") opinion as part of the FY2005-06 audit.

Finding 2.

There is no information currently being provided to the California Central Valley Regional Water Quality Control Board as to the content of the water, sediment and soil in the drainage detention basins in North Natomas. The City may be allowing untreated surface water containing pollutants, such as pesticides, to reach the Sacramento River

Response to Finding 2

The City disagrees with this finding. The basins in North Natomas have been designed in accordance with specific criterion developed in compliance with the City's National Pollutant Discharge Elimination System Stormwater Permit, issued by the Central Valley Regional Water Quality Control Board (CVRWQCB), pursuant to the federal Clean Water Act (See Attachments 1-3). All urban runoff from the North Natomas development is treated in a water quality basin before it is discharged to the RD 1000 drainage canals, and from there to the Sacramento River. The City has proactively sampled the water quality through grab samples, in the North Natomas Water Quality

Detention Basins (Basins) over a 3 year period. The City also commissioned a study to determine the interaction between the Basins and ground water and to recommend monitoring and maintenance strategies (See Attachment 4). To date there has been no request or requirement to provide this information to the CVRWQCB.

Recommendation 2.

The City should develop and then conduct, on a regular basis, an analysis of the water, sediments and soil in the drainage detention basins and provide that information to the Central Valley Water Quality Control Board.

Response to Recommendation 2

A Water Quality Detention Basin Effectiveness study is underway at Basin 14 (See Attachments 5 and 6). This wet season will be the first of three seasons where inflow and outflow from the basin will be monitored for pollutant concentrations and pollutant removal efficiency will be established. There will be a parallel effort to characterize the sediment in the basins. The results of the study will be delivered to the CVRWQCB.

List of attachments

Attachment 1	City of Sacramento NPDES Stormwater Permit
Attachment 2	Wet Water Quality Detention Basin Effectiveness Study Scope of Work
Attachment 3	Wet Water Quality Detention Basin Effectiveness Study Work Plan
Attachment 4	North Natomas Stormwater Quality Evaluation Report Draft Technical Memos 1-4
Attachment 5	North Natomas Regional Water Quality Treatment Criteria
Attachment 6	Optimization of Stormwater Quality Enhancement By Detention Basin for the Sacramento Metropolitan Area

Finding 3

The plans to evacuate the area in case of a flood event are still being developed. However, to ignore the advice of DWR and to continue allowing building in the Natomas flood plain after the city has been put on notice that it does not meet the minimum flood protection status, raises the question of potential responsibility for flood related damages and loss of life.

Response to Finding 3

The City agrees that flood event evacuation plans continue to be developed but much of the planning work is complete. The City has developed flood inundation maps which show how the Natomas Basin would flood under various levee breach scenarios.

These maps will serve as a basis for Police and Fire to develop evacuation routes out of the basin.

Given the current status of the Natomas Basin levees, the floodplain managers (City of Sacramento, Sacramento County and Sutter County) have applied to FEMA to remap the basin into a new flood zone designation consistent with the proposed SAFCA project (described below in Response to Recommendation 3). During the period from 2007 to 2010, when 100-year protection is being restored to the Natomas Basin, development within the basin will comply with the National Flood Insurance Program (NFIP) and the City will only approve development consistent with current FEMA flood zone maps and regulations.

Recommendation 3

The city should immediately stop allowing any further building in the North Natomas flood plain. The restriction should remain in effect until the federal government certifies the flood protection as meeting the minimum 100-year flood level. The city could allow for continued planning, and the maintenance of existing structures. In addition, the city should build or retrofit community buildings to a height sufficient to enable the buildings to act as a shelter for people to gather until help arrives.

Response to Recommendation 3

Concur in part.

SAFCA's flood control program for the Natomas Basin is one component of a long-term, ongoing flood control plan for the greater Sacramento area to ultimately provide 200-year protection to the region. As the City and Counties work to achieve 200-year protection for the Natomas Basin, the regulatory flood zone designation, which governs development, has been a continual work in progress.

Improving levees that protect the City and the Natomas Basin began following the record storms of 1986 after which the Army Corps of Engineers (Corps) decertified the levee systems protecting the Sacramento urban area. In 1989 the Sacramento Area Flood Control District was formed, funded and embarked on its stated goal of achieving a minimum of 200-year level of flood protection for Sacramento. Since that time, SAFCA in partnership with the Corps and the State has spent over \$460 million in levee improvements and other flood control enhancements. These ongoing efforts have resulted in the restoration of a minimum of a 100-year level of flood protection for most of the Sacramento urban area.

In 1998, after a significant portion of the Natomas Basin levee project had been completed, the Corps certified the levees as providing 100-year protection for the Natomas Basin. At that time most of the basin was mapped by FEMA into a "shaded" X Zone, which allowed development to proceed.

Levee improvements completed in 1998 were only the beginning of the long term goal of providing 200-year protection to the Natomas Basin. Consistent with their mission of

ultimately providing 200-year protection, SAFCA conducted a study entitled Natomas Levee Evaluation Study dated July 14, 2006 to evaluate the levee system and determine the improvements needed to provide the basin with 200-year level of protection. SAFCA's study concluded that selected reaches of the levee system, certified in 1998, failed to meet freeboard criteria based on **new** hydraulic modeling and failed to meet **new** Corps criteria for underseepage. In addition, several erosion sites had developed since the 1998 certification. In a letter dated July 20, 2006, the Corps concurred with SAFCA's finding and informed FEMA that they would no longer support their 1998 certification of these levees. SAFCA has a project underway to improve the levees and SAFCA estimates that 100-year protection will be restored by 2010 and 200-year protection will be completed by 2012. Funding for these levee improvements has been secured through federal, state and local sources.

The City complies with the National Flood Insurance Program (NFIP). During the period from 2007 to 2010, when 100-year protection is being restored to the Natomas Basin, development within the basin will comply with the NFIP and the City will only approve development consistent with current FEMA flood zone maps and regulations.

Given the current status of the Natomas levees, the City of Sacramento, the County of Sacramento and Sutter County have applied to FEMA to remap the basin into a new flood zone designation. While it is recognized that these levees do not meet the new standard set by the Corps, the Natomas levees are structurally stronger than in any time in the past and will undergo improvement in the next three years to meet new Corps requirements for 100-year protection.

While FEMA has not yet determined which new flood zone designation to apply to the Natomas Basin, the City and Counties have requested an A99 Zone designation. The A99 Zone applies to existing levee systems which currently do not meet the 100-year standard but for which improvements are funded and underway. The City will comply with the NFIP and the new flood zone designation approved by FEMA.

Developers in North Natomas have been required to have a certain number of second story residential and commercial structures. These structures can serve as rescue areas in the event of a levee breach.

City of Sacramento
Responses to Findings and Recommendations of the 2006 – 2007 Sacramento County
Grand Jury Report
“The Flood Risk in Sacramento County”, pp. 41-45.

Finding 1

SAFCA has proposed increasing protection for the entire Sacramento flood risk area. Its goal is 100-year protection by 2008 and 200-year protection by 2021. Even though these levels of protection are less than what has been achieved at similar flood prone areas in the nation, they seem reasonable and achievable for Sacramento.

Response to Finding 1

Concur.

Recommendation 1

All government agencies, elected officers and residents in flood risk areas should support SAFCA in striving to reach the stated goal of providing 100-year and 200-year flood protection for the Sacramento area by 2008 and 2021, respectively, or sooner.

Response to Recommendation 1

Concur.

From its inception, the City of Sacramento has supported SAFCA in achieving the goal of providing 100-year and 200-year flood protection for the Sacramento area. The City of Sacramento participates in supporting the SAFCA Joint Powers Agreement (City Resolution No. 89-750) and also supports SAFCA through its floodplain management policies and General Plan policies. Most of the areas in the City of Sacramento currently have 100-year flood protection, with the recent exception of the Natomas Basin and a small area in south Sacramento. SAFCA has a plan for the Natomas Basin to achieve 100-year protection by 2010 and 200-year protection by 2012. SAFCA and the Army Corps of Engineers are currently working on flood control projects which will provide 100-year flood protection for most of the south area of Sacramento.

Finding 2

Both the City of Sacramento and the County of Sacramento are allowing building to continue in areas that do not have 100-year flood protection. This is especially true in North Natomas that was found to have less than 100-year protection in 2006. Potential flood depths of greater than 15 feet in that area place immense risk to both lives and property.

Response to Finding 2

Concur in part with respect to the City's allowance of building in areas with less than 100-year flood protection, where such building is permitted under current FEMA flood zone mapping and regulations.

SAFCA's flood control program for the Natomas Basin is one component of a long-term, ongoing flood control plan for the greater Sacramento area to ultimately provide 200-year protection to the region. As the City and Counties work to achieve 200-year protection for the Natomas Basin, the regulatory flood zone designation, which governs development, has been a continual work in progress.

Improving levees that protect the City and the Natomas Basin began following the record storms of 1986 after which the Army Corps of Engineers (Corps) decertified the levee systems protecting the Sacramento urban area. In 1989 the Sacramento Area Flood Control District was formed, funded and embarked on its stated goal of achieving a minimum of 200-year level of flood protection for Sacramento. Since that time, SAFCA in partnership with the Corps and the State has spent over \$460 million in levee improvements and other flood control enhancements. These ongoing efforts have resulted in the restoration of a minimum of a 100-year level of flood protection for most of the Sacramento urban area.

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Levee improvements completed in 1998 were only the beginning of the long term goal of providing 200-year protection to the Natomas Basin. Consistent with their mission of ultimately providing 200-year protection, SAFCA conducted a study entitled Natomas Levee Evaluation Study, July 14, 2006 to evaluate the levee system and determine the improvements needed to provide the basin with 200-year level of protection. SAFCA's study concluded that selected reaches of the levee system, certified in 1998, failed to meet freeboard criteria based on **new** hydraulic modeling and failed to meet **new** Corps criteria for underseepage. In addition, several erosion sites had developed since the 1998 certification. In a letter dated July 20, 2006, the Corps concurred with SAFCA's finding and informed FEMA that they would no longer support their 1998 certification of these levees. SAFCA has a project underway to improve the levees and SAFCA estimates that 100-year protection will be restored by 2010 and 200-year protection will be completed by 2012. Funding for these levee improvements has been secured through federal, state and local sources.

The City complies with the National Flood Insurance Program (NFIP). During the period from 2007 to 2010, when 100-year protection is being restored to the Natomas Basin, development within the basin will comply with the NFIP and the City will only approve development consistent with current FEMA flood zone maps and regulations.

Recommendation 2

The city and county should curtail all building in the North Natomas area until 100-year flood protection is certified by the Corps. A policy stopping all development immediately in North Natomas, as allowed by state law, is imperative. Extending the policy until 200-year protection is achieved is highly recommended.

Response to Recommendation 2

Concur in part with respect to curtailment of building inconsistent with FEMA flood zone designation and related regulations. The City participates in the National Flood Insurance Program (NFIP) and approves and will approve only such development that is consistent with current FEMA flood zone maps and regulations.

Given the current status of the Natomas levees, the City of Sacramento, the County of Sacramento and Sutter County have applied to FEMA to remap the basin into a new flood zone designation. While it is recognized that the existing levees do not meet the new standard set by the Corps, the Natomas levees are structurally stronger than in any time in the past and will undergo improvement in the next three years to meet new Corps requirements for 100-year protection.

While FEMA has not yet determined which new flood zone designation to apply to the Natomas Basin, the City and Counties have requested an A99 Zone designation. The A99 Zone applies to existing levee systems which currently do not meet the 100-year standard but for which improvements are funded and underway. The City will comply with the NFIP and the new flood zone designation approved by FEMA.