



REPORT TO COUNCIL

City of Sacramento

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STAFF REPORT
February 14, 2006

Honorable Mayor and
Members of the City Council

Subject: Guiding Principles Related to Flood Control

Location/Council District: All

Recommendation:

Staff recommends adoption of guiding principles related to flood control to use in evaluating proposed legislation or regulations regarding a variety of flood control issues.

Contact: Jessica Hess, Media and Communications Specialist, 808-8260

Presenters: Gary Reents, Director, 808-1433

Department: Utilities

Division: Administration

Organization No: 3311

Summary: The attached guiding principles have been developed by the League of California Cities to evaluate flood control legislation. Staff believes these principles support issues of local concern, as well as the Mayor and Council's goals to improve and expand public safety and to enhance livability in Sacramento. Staff requests that the City Council adopt the attached principles.

Committee/Commission Action: Law and Legislation Committee, presented on 2/7/2006. Committee recommended approval by City Council.

Background Information:

The principles in Attachment 1 were developed by the League of California Cities to use in evaluating legislation and regulations regarding flood control.

The League developed these principles to address areas such as funding for urban levees, mandatory flood insurance, city liability for flood related impacts, and planning and development within flood zones.

City staff participated in the League of California Cities workgroup to develop these guiding principles. Staff believes that these principles also reflect the City's interests on proposed legislation or regulations. Adoption by City Council would guide staff in evaluation of legislation. The City's position on a particular piece of proposed legislation or regulation would continue to be determined by the language contained in that proposed piece of legislation or regulation.

Financial Considerations:

None

Environmental Considerations:

None at this time

Policy Considerations:

None. These guidelines will help Staff to evaluate individual pieces of legislation related to flood control. Each proposed piece of legislation or regulation will continue to be evaluated on its own merits.

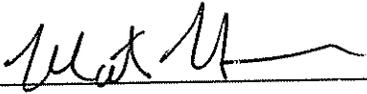
Emerging Small Business Development (ESBD):

Not applicable. There are no goods or services being purchased as a direct result of this report.

Respectfully Submitted by: 
Jessica Hess
Media and Communications Specialist

Approved by: 
Gary A. Reents
Director of Utilities

Recommendation Approved:



Marty Hanneman, Assistant City Manager
For: Ray Kerridge, Interim City Manager

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ATTACHMENT 1

PRELIMINARY POLICIES AND GUIDING PRINCIPLES OF THE LEAGUE OF CALIFORNIA CITIES ON ISSUES RELATED TO FLOOD CONTROL

**Recommendations of the League of California Cities Flood Control Working Group
Amended and Adopted by the
League Environmental Quality Policy Committee
and the
League Housing, Community and Economic Development Policy Committee
January 13, 2006**

Working Group Members Participating in Discussion

Ken Cooley, Rancho Cordova
Gary Reents, Sacramento
Elizabeth Patterson, Benicia
Pete Guisasola, Rocklin
Rob Jensen, Roseville
Jon Tice, Jr., Dixon
Dave Doolittle, Yuba City+
Susan Lien Longville, San Bernardino
Lynn Osborn, Danville+
Judy Mitchell, Rolling Hills Estate*+

* = chair LCC EQ Committee

+ member, League Board of Directors

Introduction

The following reflects the recommendations of the League's Flood Control Working Group regarding policies and guiding principles for the League to use in evaluating proposed legislation or regulations regarding a wide variety of flood control issues. The Working Group's recommendations were amended and adopted by the League's Environmental Quality and HCED Policy Committees. The amendments adopted by the two policy committees were both technical and substantive. One addition was added to reflect recognition of the importance of the delta and delta levees to California. These Preliminary Policies and Guiding Principles will be considered by the League Board of Directors at their February meeting.

The Policies and Guiding Principles included in these recommendations are to be considered as starting points for League engagement in legislative discussions. In all cases, final League positions will depend upon the wording of the proposed legislation. In other cases, final League positions will depend how the issues identified in this document (or updates of the document) are addressed.

Because of the complexity of the topic, this is a classic example of the legislative motto: "The devil is in the details." Thus, in many cases, the League will undertake additional technical or policy review by the Working Group or others before adopting a formal position. We anticipate that as new concepts are proposed or as more information becomes available on current legislative concepts that these Guiding Principles will be updated. The Policies and Guiding Principles will be used by staff so that the League is fully engaged in the legislative discussions regarding flood control.

In developing these recommendations, the Working Group strove to find the right balance between the need to permit development of housing with the need to avoid intentionally putting people at risk due to inadequate flood protection.

Statement of General Principles

- The League believes our citizens have a reasonable expectation that their state and local officials will work to protect them from flooding.
- The League believes that flood protection and management is a statewide issue, involving flood infrastructure issues related to levees, urban/suburban/rural creeks, streams and rivers, and alluvial fans.
- The League believes that it is important to recognize that levee failures in the Sacramento-San Joaquin River delta have water quality, water supply and economic impacts that may have statewide effects beyond the local or regional levee break situation.
- Flood control issues require planning, evaluation and solutions that take a statewide perspective.
- In assessing problems and proposing solutions, it is important to consider the differences between infill development and new, greenfield development.
- The public safety and health of our citizens and the economic health of our communities and our state depend upon good flood protection. This includes the potentially devastating impacts of floods on our homes and businesses.
- The League supports efforts to improve communication, cooperation and better coordinated planning between different government agencies involved in flood management. The League believes that there must be a genuine partnership between state and local agencies in addressing flood control issues.
- The League believes cities must ask the right questions and have the means to obtain accurate information prior to approving development in floodplains. This involves educating elected officials and staff about whether their city is located in a floodplain, the local flood control infrastructure, the agencies that are responsible for providing flood protection, the status of levees and other structures that provide flood protection, emergency response and evacuation protocols, and how their city would be impacted by flooding.
- The League believes that city officials should understand that a 100-year flood zone does *not* mean a low, once-in-100-years risk of flooding. The designation *actually* means a 1 percent chance of flooding in any given year, which translates into a 26 percent chance of flooding over the life of a typical 30-year mortgage.
- The League generally endorses the recommendations of the State's Flood Control Task Force, especially those recommendations involved in updating the CEQA Checklist and General Plan Guidelines and building codes.

Flood Maps

- It is critical to have accurate maps that reflect current flood risk information, especially since many areas have experienced growth and build out, thus impacting the accuracy of past flood maps. The League supports efforts to improve and update FEMA flood maps, including the use of best available maps.
- The League is uncomfortable at this time with using the term “reasonable foreseeable flooding” in mapping, since the term is not based upon an objective and quantifiable standard, which is used to calculate a 100-year or 200-year flood map.
- The League is uncomfortable at this time with an across the board change from a 100 year to a 200 year standard for flood protection planning. While the League has concerns about the impacts of such a change, we are willing to consider this issue when legislative language is available for evaluation.

Insurance

- The League would not oppose state-imposed mandatory insurance for residential and commercial structures located in a 100-year flood zone, even if the area is certified to have 100-year protection, as long as consideration for low-income residents is included. This is especially important relative to liability at the state and local levels.

Liability

- The League opposes efforts to shift additional liability to cities from the State for flood related impacts.

Funding

- The League believes that the state has a responsibility to contribute to funding for upgrades to existing levee and other flood protection infrastructure and to fund updated mapping and flood protection planning.
- The state must meet its obligation to pay flood subventions to local governments, including payment of past, unpaid subventions.
- The League supports using financial incentives, such as receiving priority for state funding, to encourage local government to undertake flood related planning activities, especially if such funding would promote housing and public safety.
- Because of the statewide benefits of California’s flood protection infrastructure, the League supports the concept of statewide financing for flood protection infrastructure through appropriate funding mechanisms.
- While the League acknowledges that there may be some priority areas for allocation of state funds, the League believes that local governments must have input on how state funds will be allocated within the state, perhaps similar to how funding decisions are made for transportation projects.

- The League recognizes that eligibility for state funds may require a local match. Or, even without availability of state fund, local governments may wish to raise their own local revenue to upgrade flood control infrastructure and ensure ongoing operations and maintenance funding. Thus, it is critical that the limitations of Proposition 218 on the ability of local governments to raise needed flood protection revenue be addressed, such as through legislation like ACA 13 (Harman), which would exempt flood control and storm water fees from the voter approval requirement of Proposition 218.
- The League recognizes that existing revenue sources for flood control infrastructure improvements and maintenance are insufficient. Thus, the League is intrigued with the concept of a statewide assessment fee as way to fund levee and flood control infrastructure improvements and ongoing operation and maintenance costs. In evaluating any proposal, we suggest consideration of the following.
 - Because of the statewide public health and safety impacts of California's flood control system, we believe a statewide assessment is more appropriate than a Central/Sacramento Valley only assessment.
 - However, the League recognizes that any assessment could be structured on a graduated, sliding scale, depending upon impacts and benefits.
 - Such an assessment must be a dedicated revenue source and there should be a guarantee that contributing regions would receive their fair share of funds, especially to fund operating and maintenance expenses.

Planning

- The League supports appropriate efforts to streamline the process for obtaining permits to upgrade and maintain levees and other flood control infrastructure.
- The League supports requiring cities to adopt feasible measures, as determined by the city, that result in less flood or storm run-off and more natural absorption, such as through the use of permeable paving materials, design and other measures. Examples of these measures are included in the Ahwahnee Principles, which were the subject of Annual Conference Resolution 3, adopted by the League in 2005.
- The League encourages and supports efforts to promote regional floodplain approaches to risk evaluation and planning.
 - The League recognizes that agencies that operate flood control infrastructure are frequently not the same agencies that have land use decision-making authority and that communication between those agencies should improve.
- The League supports requiring those agencies that own or operate levees and flood control infrastructure periodically to report to the state and local governments that are behind those levees information about the integrity of their levees and flood control infrastructure. If those agencies are not able to provide this information, then this reporting should be provided by the State Reclamation Board.
- The League opposes giving the Reclamation Board new authority to approve or disapprove development projects in floodplains.

- The League supports a change in law to *require* the State Reclamation Board to comment on EIRs for developments that are behind levees and within their jurisdiction.
- The League supports a change in law to *require* agencies that own and operate levees and flood control infrastructure to comment on EIRs for developments within their service areas.
- The League supports requiring cities to amend their General Plans to include the following flood related topics, if they do not already address these topics.
 - amending the Safety Element to include emergency and disaster response plans related to flooding;
 - amending the Conservation Element to include requirements to adopt feasible water conservation and flood water absorption measures, such as those included in the Ahwahnee Principles.
- The League supports updating the General Plan Guidelines and CEQA Checklist/Guidelines to better address flood control issues.
- The League supports updating uniform building code standards to reflect appropriate flood control prevention standards.
- The League believes that legislative proposals related to development within floodplains should consider the differences between infill development and greenfield development. In making this statement, however, the League is aware of potential environmental justice issues, which should be considered when evaluating any proposals that could result in dual standards for flood protection.
- The League supports creation of a state agency ombudsman to assist local agencies with flood protection infrastructure problems due to conflicting state or federal agency regulations and requirements.
- The League supports requiring all cities within floodplains to adopt a flood risk management plan. Such a plan would include such items as emergency response protocols, siting of critical health and public facilities, emergency evacuation plans and could include regional responses where appropriate.

Development in Flood Zones

In addition to previous statements that relate to planning and development in floodplains, the League adopts the following preliminary principles regarding proposals that address development in floodplains, including the “Show me the flood protection” concept.

The “show me the flood protection” concept proposes that before development can be approved, a city or county must show that there is adequate flood protection. If there is not adequate flood protection, the local government would be required to demonstrate that a plan is in place to be implemented and funded to provide that protection. This is similar to the “show me the water” law that was adopted several years ago for developments of 500 or more units.

- Before the League is comfortable taking a position to support or oppose the concept of “show me the flood protection”, there are a number of issues and questions that must be satisfactorily addressed. These include the following:
 - What would be the process and certification standards for adequate flood protection? Who would make the certification?
 - What about liability – who would be liable if a flood occurs even if the certification was provided?
 - Would the protection standard be a 100-year flood or a 200-year flood?
 - Such a proposal is related to updated and accurate flood maps. How will the task of updating flood maps be financed and accomplished?
 - What about differences between infill development in flood zones and new greenfield development in flood zones?
 - Would local governments be able to use improved building standards as a way to mitigate or offset potential flood impacts?
 - What about a regional or integrated watershed management planning approach to assessing and providing flood protection. Upstream development, levee conditions and levee maintenance and other flood control conditions impact flood potential in downstream areas. Thus, it is possible that an area wide assessment and plan could be developed that could be used by participating jurisdictions, rather than requiring each city to conduct its own assessment and develop its own plan.
 - In any “show me the flood protection” proposal, cities should have a “safe harbor” protection for the impacts of development restrictions due to flood control issues on the number or cost of housing. That is, acknowledgement of possible constraints on housing density, on the number of homes or the cost of housing should be included as part of Housing Element review and RHNA numbers. This is a key issue of importance to the League.

Other

- The League believes improved communication among the various state and local government agencies responsible for flood control infrastructure and land use authority is essential.