

ORDINANCE NUMBER 6

Formerly ORDINANCE NO. 15

(Adopted August 18, 1988)

An Ordinance of the Bethel Island Municipal Improvement District establishing objectives, criteria and procedures implementing the California Environmental Quality Act (Pub. Res. Code sec. 21000 et seq.).

Be It Ordained by the Board of Directors of the Bethel Island Municipal Improvement District as follows:

Section 1-- Findings and Purpose.

a) The Bethel Island Municipal Improvement District ("District") may approve and/or carry out projects which are subject to the provisions of the California Environmental Quality Act ("CEQA"); and

b) CEQA requires local implementation by the adoption of objectives, criteria and procedures for the administration of local responsibilities thereunder; and

c) The regulations for the implementation of CEQA ("Guidelines" 14 Cal. Admin. Code. sec. 15000 et seq.) provide that public agencies may adopt the Guidelines through incorporation by reference; and

d) The District desires to establish objectives, criteria and procedures implementing CEQA.

Section 2-- Adoption by Reference. The Guidelines, as they exist upon the date of adoption hereof and from time to time may be amended, revised, or superseded, are hereby adopted as the objectives, criteria and procedures for the administration of the responsibilities of the District under CEQA, and are hereby incorporated herein by this reference. All references hereinaf-

ter to sections or subdivisions of sections are to said Guidelines unless otherwise indicated.

Section 3-- Definitions.

a) Words and terms defined in the Guidelines (sec. 15350 et seq.) shall have the same meanings herein as in the Guidelines. Said words and terms are identified herein by capitalization of the first letters of said words or the words of said terms.

b) In addition to the definitions incorporated herein by reference to the Guidelines, the following words and terms shall have the following meanings: .LM6 (i) District-- The Bethel Island Municipal Improvement District.

(ii) Board-- The Board of Directors of the District. The Board is the lead agency for all Projects carried out or approved by the District.

(iii) Secretary-- The Secretary of the District.

(iv) Environmental Review Officer ("ERO")-- The Board, or any person designated by the Board, including consultants, employees of the District, or members or committees of the Board, who are responsible for implementing this Ordinance, as specified herein. decisions or advising .

(v) Guidelines-- Chapter 3, entitled, "Guidelines for the Implementation of the California Environmental Quality Act" (commencing with Section 15000) of Division 6, Title 14, California Administrative Code.

Section 4-- General.

a) Except as otherwise provided, the provisions of this Ordinance shall apply to Discretionary Projects proposed to be carried out by the District, or subject to approval by the District.

b) The Board may determine that any or all Environmental Documents with respect to a proposed Project may be prepared by a consultant or consultants or other qualified persons pursuant to agreement with the District. In the case of Private Projects, all costs associated with the preparation of such Environmental Documents pursuant to an agreement shall be borne by the Applicant and such costs as may be incurred by the District in connection with the preparation of such Documents shall likewise be borne by the Applicant in accordance with the provisions of paragraph 4 above. Duties or acts specified herein to be those of, or performed by, the ERO shall be performed by a consultant or other qualified person as may be provided in any such agreement.

c) Within fifteen (15) days of its adoption, this Ordinance shall be posted for seven (7) consecutive days, with the names of the Directors voting for and against it, in three (3) public places in the District. This Ordinance shall take effect upon expiration of such posting.

Section 5-- Fee Schedule.

a) For any Private Project which is not subject to a statutory, Categorical or Emergency Exemption, an Applicant shall pay a non-refundable fee calculated at an hourly rate approved by the Board based upon the cost to the District for a preliminary

review (sec. 15060) and an Initial Study (sec. 15063) conducted by the ERO. Said fee shall be paid at the time the Applicant applies to the District for issuance of the permit or other entitlement for use related to the proposed Private Project.

b) For all Private Projects which require the preparation of Environmental Documents in addition to a Preliminary Review and an Initial Study, an Applicant shall pay to the District a non-refundable fee calculated at an hourly rate approved by the Board based upon the cost to the District for preparation of such Documents. Costs of printing or other reproduction of all copies of Environmental Documents shall be borne by the Applicant. The fee paid pursuant to the provision of subdivision (a) above shall be credited to the total amount payable under this subdivision. A deposit equal to the estimated amount to be paid under this subdivision shall be paid upon notification by the District to the Applicant that the proposed Project requires the preparation of Environmental Documents. The balance due, if any, of said fee shall be paid in installments during preparation of the Documents or in a lump sum upon completion thereof, as the ERO shall determine. All amounts payable shall be due within thirty (30) days of billing therefor.

c) In the event all or some Environmental Documents for a Private Project are to be prepared by a consultant pursuant to an agreement entered into between the District and such consultant, the Applicant shall pay to the District the total estimated sum for the preparation of such Documents (including the costs of printing or other reproduction) prior to entering into such

agreement by the District. In the event the actual amounts to be paid by the District pursuant to such agreement exceed the sum so deposited, the Applicant shall pay the difference upon notification thereof by the District, and in the event said final amount is less than the amount so deposited, the District shall remit to the Applicant the difference between the actual amount and the amount deposited upon completion of the Environmental Documents. No part of the fees paid to the District pursuant to the provision of subdivisions (a) or (b) above shall be credited to any sums to be deposited or paid pursuant to this subdivision, and the entire fee paid pursuant to subdivisions (a) or (b) above shall be retained by the District.

Section 6-- Statutory and Categorical Exemptions. Any Project which is determined by the the ERO to be Statutorily or Categorically Exempt from the requirements of CEQA under the Guidelines (sec. 15260 et seq.; sec. 15300 et seq.) shall be exempt from the requirement for an Initial Study to determine if the project may have a Significant Effect on the Environment. Upon approval of any such Project carried out by the District, the ERO shall file a Notice of Exemption (sec. 15062, 15374) and, in the case of such Private Projects, direct the Applicant to file a Notice of Exemption at the Applicant's cost.

Section 7-- Preliminary Review. Within thirty (30) days of receipt of an application for a permit or other entitlement for use for a Private Project the ERO shall conduct a preliminary review of the application (sec. 15060, 15061). Upon report from the ERO, the Board shall determine if the Project is Statutorily Exempt or Categorically Exempt from the requirements of CEQA, the

Guidelines and this Ordinance. If the Project is determined to be so exempted, upon approval of the Project, the ERO shall file the Notice of Exemption specified in section 6 of this Ordinance.

Section 8-- Initial Study.

a) Upon completion of the preliminary review, and for any Project not Statutorily Exempt or Categorically Exempt from the requirements of CEQA, the ERO shall conduct an Initial Study to determine if the Project may have a Significant Effect on the Environment (sec. 15063 et seq.). The ERO may use any procedure he or she deems appropriate to assist him or her in making such determination which procedure may, but shall not necessarily be limited to, the use of questionnaires, checklists, or other information-obtaining or collecting devices, including forms or other documents prepared by or under the authority of the Secretary for Resources of the State of California pursuant to CEQA or the Guidelines.

b) All Applicants shall cooperate with, and assist the ERO in obtaining the information or data as he or she may require and which is reasonably related to the determination to be made. The ERO may, upon the finding by him or her that an Applicant has failed to cooperate, or furnish such information or data, cease processing the Applicant's application, and in such cases shall promptly notify the Applicant and the Board in writing of his or her decision.

Section 9-- Negative Declaration Process.

a) If the ERO determines that a proposed Project will not have a Significant Effect on the Environment he or she shall

prepare a draft written Negative Declaration with respect thereto in accordance with CEQA and the Guidelines (sec. 15070 et. seq.). Upon completion of the draft Negative Declaration and such consultation with Responsible Agencies as may pertain thereto, the ERO shall give notice to all organizations and individuals who have previously requested such notice in writing, and shall also give notice thereof by at least one of the following procedures:

- (i) Publication of notice of the proposed adoption of the Negative Declaration at least once, in the official newspaper of the District, not less than ten days prior to consideration by the Board of the Negative Declaration;
- (ii) Posting of such notice on and off the site in the area where the Project is to be located; or
- (iii) Direct mailing of such notice to owners of property contiguous to the site of the Project as such owners are shown on the latter's equalized assessment roll of the county in which the site is located, or the State Board of Equalization for properties subject to that agency's jurisdiction.

b) The ERO shall make the draft Negative Declaration or copies thereof available for public inspection subject to reasonable requirements, rules, regulations or fees established by the Board. Copies of any Negative Declaration, or any portion thereof, shall be made available to any person upon payment therefor of the costs of printing or reproduction incidental thereto.

c) Written comments or other statements with respect to the

draft Negative Declaration and to the proposed finding that the Project which is the subject thereof will not have a Significant Effect on the Environment shall be received from any person until action by the Board on the proposed Negative Declaration has been completed. The aforesaid public review period shall not be less than ten (10) days, except that for Projects with respect to which a draft Negative Declaration is submitted to the State Clearing House for review by state agen

d) The Board may hold a public hearing on the question of approval or disapproval of a proposed Negative Declaration. Said public hearing, if any, shall be held not less than ten (10) days after notice of the proposed adoption of the Negative Declaration. The public hearing shall, unless otherwise directed by the Board, be held at the regular meeting of the Board. Notice of the public hearing shall be published once in the official newspaper of the District; provided, however, that the Board may direct that such published notice be given in additional newspapers or by other additional means. Unless otherwise directed by the Board, publication of the hearing shall be given at least ten (10) days prior thereto.

e) On the date and the time and place for which notice thereon has been given, the Board shall review the draft Negative Declaration and either approve or disapprove said Negative Declaration. In the event of disapproval, an EIR for the Project shall be prepared.

f) In the event of approval of a Negative Declaration for a Private Project the ERO shall transmit a copy of the approved

Negative Declaration to the Applicant.

g) Upon approval of a Private Project or a determination to carry out a Project of the District for which a Negative Declaration has been approved, the ERO shall file a Notice of Determination (sec. 15075, 15373) which includes, among other matters, a statement that a Negative Declaration has been prepared for the Project pursuant to the provisions of CEQA. Said notice shall include the additional information specified in the Guidelines (sec. 15075) and shall be filed with the Clerk of Contra Costa County.

Section 10- EIR Process.

a) If, either during the preliminary review or at the conclusion of an Initial Study, the ERO determines, applying the standards described in the Guidelines (sec. 15064), that a proposed Project may have a Significant Effect on the Environment, the ERO shall submit to the Board a report describing the Project and recommending preparation of an EIR.

b) If the Board concurs in the recommendation for the preparation of an EIR, it shall direct the ERO to transmit a Notice of Preparation in accordance with the Guidelines (sec. 15080, 15375) and an EIR shall be prepared for the Project. The EIR shall be prepared in accordance with the provisions of this subdivision and the Guidelines.

c) If the Board determines that an EIR is not required for the Project, the Board shall state its findings supporting such determination and shall declare the Project Statutorily Exempt, Categorically Exempt, or subject to the preparation of a Negative Declaration, as the Board shall determine.

d) In the event the ERO determines that meetings between representatives of Responsible Agencies are required as a result of responses to the Notice of Preparation, the ERO shall convene such meetings no later than thirty (30) days after the request therefor (sec. 15082(c)).

e) Upon receipt and collection of all necessary information and data, the ERO shall prepare a draft EIR (sec. 15084).

f) Upon completion of the draft EIR the ERO shall:

(i) File with the Secretary for Resources of the State of California a Notice of Completion in accordance with CEQA and the Guidelines (sec. 15085, 15372);

(ii) Transmit or cause to be transmitted copies of the draft EIR to Responsible Agencies, Trustee Agencies, and other state, federal, and local agencies which exercise authority over resources which may be affected by the Project (sec. 15086), and to organizations or persons known by the ERO to be interested in the Project, requesting comments therefrom regarding the EIR. For purposes hereof, the ERO shall compile listings of agencies, particularly local agencies, which have legal jurisdiction and/or special expertise with respect various Projects and Project locations.

g) The ERO shall make the draft EIR available for public inspection following publication of the Notice of Availability subject to reasonable requirements, rules or regulations estab-

lished by the Board. Copies of any EIR, or any portion thereof, shall be made available to any person upon payment therefor of the costs of printing or reproduction incidental thereto.

h) Upon the filing of the Notice of Completion the Board shall cause to be published a Notice of the Availability of the draft EIR (sec. 15087). The Notice of Availability shall be published once in an official newspaper of the District. The Board may also direct that such Notice be given in additional newspapers or by other additional means. Unless otherwise directed by the Board, the ERO shall require that comments with respect to a draft EIR be made to him or her not more than thirty (30) days from the date of the Notice of Preparation except in unusual circumstances (sec. 15087(c)) or as required by the State Clearing House.

i) The Board may set a public hearing for review of the draft EIR by the Board when practicable following publication of the Notice of Availability of the draft EIR, but not less than twenty (20) days thereafter. Said public hearing, if any, shall, unless otherwise directed by the Board, be held at a regular meeting of the Board. Notices of the public hearing shall be published once in an official newspaper of the District. The Board may also direct that such notices may be given in additional newspapers or by other additional means. Unless otherwise directed by the Board, publication of the notice of the hearing shall be given at least ten (10) days prior thereto. At the hearing, if any, evidence, both written and oral, shall be received on the matters discussed in the draft EIR for which the hearing was set, on the potential Effect on the Environment of

the Project, and on any other relevant matter. The hearing shall be conducted in accordance with the procedural requirements of the Board or its Chairman.

j) Written comments with respect to a draft EIR, the Project for which it was prepared, and the Project's potential Effect on the Environment may be submitted by any person prior to or at the public hearing, or at any time prior to the expiration of the comment period established pursuant to subdivision (h) of this section, and should be as specific as possible.

k) As soon as practicable after expiration of the comment period, the final EIR, consisting of the draft EIR together with written statements or comments submitted prior thereto or in connection therewith, a summarization of oral evidence presented (if any), responses thereto, and such amendments, additions, or changes to the draft EIR as the Board may determine, shall be certified by the Board as a final EIR.

l) For Projects for which the Board is the Lead Agency the Board shall review and consider the information contained in the final EIR prior to approving or disapproving the Project which is the subject thereof (sec. 15090). Such approval or disapproval may be made at any time following certification of completion of the final EIR.

m) In the event the Project which is the subject of the EIR is to be approved or carried out by a person or agency other than the District, the Board shall make a determination as to the adequacy and sufficiency of the EIR (sec. 15090), but need not make recommendations with respect to the Project to which it pertains.

n) Failure of an Applicant for a permit or any other entitlement for use for a Private Project to comply with any reasonable requirement of the ERO to furnish such information and data as the ERO deems necessary for the preparation of a complete EIR shall be grounds for the ERO to cease preparing the EIR and cease processing the application until such time as said information and data have been furnished; provided that the ERO shall promptly notify both the Applicant and the Board in writing of this decision and the reasons therefor.

Section 11-- Notice of Determination. Upon approval of, or determination to carry out, a Project which is subject to the provisions of this Ordinance, the ERO shall file a Notice of Determination with the Clerk of Contra Costa County, in accordance with the provisions of CEQA and the Guidelines (sec. 15075, 15094, 15373).

Section 12-- Lead Agency. In every instance where the District is designated the Lead Agency when more than one public agency is involved in undertaking or approving a Project, the provisions of this Ordinance shall govern the environmental review process and, when required, the preparation of Environmental Documents. In every instance where the District is designated a Responsible Agency for a proposed Project, the provisions of this Ordinance shall govern, to the extent applicable, the environmental review process.

Section 13-- Time Limitations.

a) Environmental review and preparation of Environmental Documents pursuant to this Ordinance shall be conducted and completed within applicable time limitations established by CEQA and

the Guidelines. In accordance therewith, the following time limitations shall govern the performance of the acts hereinafter described:

- (i) The preliminary review conducted by the ERO pursuant to section 7 of this Ordinance shall be completed within thirty (30) days from the receipt of the application for a permit or other entitlement for use with respect to a Private Project.
- (ii) The ERO shall determine within thirty (30) days after accepting an application as complete whether the Project which is the subject thereof shall require the preparation of an EIR or Negative Declaration or whether a previously prepared EIR or Negative Declaration shall apply thereto (sec. 15102).
- (iii) When acting as a Responsible Agency the District shall provide a response to a Notice of Preparation to the Lead Agency within thirty (30) days after receipt of the Notice (sec. 15103).
- (iv) When acting as a Lead Agency or in response to a request from a Lead Agency, a Responsible Agency, a Trustee Agency, or by a Project Applicant, the District shall convene a meeting with agency representatives to discuss the scope and content of environmental information necessary in the preparation of an EIR no later than thirty (30)

days after receiving a request for such meeting or, in the case of meetings convened at the District's request, as soon as possible following a determination for the necessity of a meeting.

(v) For a Private Project a Negative Declaration must be completed and ready for approval within 105 days from the date when the District accepted the application therefor as complete (sec. 15107).

(vi) For a Private Project the District shall complete and certify the final EIR within one (1) year after the date when the District accepted the application as complete; provided, however, that said one year time limit may be extended once for a period of not more than ninety (90) days upon approval by the Board with the consent of the Applicant (sec. 15108).

b) Pursuant to the provisions of Section 15111, any Private Project which requires a decision with respect to the approval thereof under time limits which are so short that adequate review of the Project under CEQA would be difficult, and in such cases where the District is the Lead Agency, the Board shall deem an application for a Project not received for filing under the governing legislation until such time as progress toward completing the environment review or preparation of Environmental Documents required by CEQA is sufficient to enable the District to finish the CEQA process within the shorter time limitations (sec. 15111).

Section 14-- Interpretation. The provisions of this Ordi-

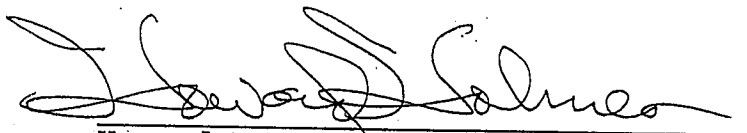
nance shall be interpreted, administered and implemented consistent with the provisions of CEQA and the Guidelines. In the event of any conflict between a provision or provisions of this resolution and CEQA and/or the Guidelines, CEQA and the Guideline shall govern.

Section 15-- Severability. The paragraphs, subparagraphs, sentences, clauses and phrases of this Ordinance are hereby declared severable, and if any paragraph, subparagraph, sentence, clause or phrase of this Ordinance shall be adjudged or declared unconstitutional or otherwise invalid by a judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of its remaining paragraphs, subparagraphs, sentences, clauses or phrases.

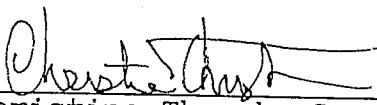
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PASSED AND ADOPTED by the Board of Directors of the Bethel Island Municipal Improvement District on August 18, 1988, by the following vote:

AYES: Holmes, Davis, Foster, McNamara, Sipes
NOES:
ABSENT:


Howard Holmes
President, Board of Directors

ATTEST:


Christine Thresh, Secretary