

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

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Use of Permanent Road Division Zones for Maintenance of Local Roads

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Purpose

To establish criteria under which the County will consider the use of Permanent Road Division Zones for maintenance of local roads in existing developments.

Background

From time to time, local neighborhoods in existing developments where there are no means for pooling resources to maintain the local roads may request the County's assistance in formation of a Permanent Road Division Zone to provide road maintenance.

On February 17, 1998 (20), the Board of Supervisors approved the use of Permanent Road Divisions as a mechanism for landowners to provide for the maintenance of their local roads. On February 15, 2000 (44), the Board of Supervisors established a Permanent Road Division and established Permanent Road Division Zones as the preferred type of district to use for local road maintenance on privately-maintained roads. Formation requirements are found in state law, under Streets and Highways Code Section 1160-1197. On May 4, 2016 (7), the Board of Supervisors added an option to add a special tax to finance the improvement and maintenance of private roads.

Definitions

Unless the context otherwise requires, the terms employed in this policy shall have the meanings specified below:

"Assessment" is a charge levied on a property to pay for improvement or services that benefits the property. An assessment may be imposed if 50 percent or more of the weighted ballots of the property owners support the assessment. An assessment shall not be imposed if there is a majority protest.

"County Maintained Road" means a public road that has been made a part of the County's system of maintained roads in accordance with Streets and Highways Code Section 941.

"Permanent Road Division" or PRD is a district formed in accordance with Streets and Highways Code Section 1160-1197 to provide for road improvements and/or maintenance in a geographically defined area. PRDs may be further divided into zones.

"Permanent Road Division Zone" or "PRD Zone" is an area within the countywide permanent road division that is established for specific road improvements and/or maintenance.

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“Private Road” means a private road that has been made available for public use in accordance with the Streets and Highways Code Section 1160.

“Special Tax” is a charge on an individual property that is imposed for a specific purpose, such as in this case, for private road maintenance. A special tax must be approved by two-thirds of the registered voters.

Policy

It is the policy of the Board of Supervisors that a Permanent Road Division Zone (PRD Zone) can be formed by landowners for maintenance and/or improvements on local roads in existing developments. Requests to form a PRD Zone are initiated by request of benefiting landowners. Services are provided by the Department of Public Works and are financed solely by funds collected through the PRD Zone.

Formation of a PRD Zone is based on approval of the Board of Supervisors and will only be considered if the following conditions are met:

1. Roads proposed for a PRD Zone must be accessible via a county-maintained road, with no stretch of private road that does not have a public easement as a bridge between the county-maintained road and the proposed PRD Zone.
2. Roads proposed for a PRD Zone must be open to the public, with no gates or other impediments to use by the public or County.
3. PRD Zone formation is consistent with Streets and Highways Code Sections 1160-1197.

In addition to the conditions above, landowners requesting the formation of a PRD Zone will adhere to the following procedures:

1. PRD Zones must include a committee and designated chairperson. Committee meetings must be open to all affected landowners.
2. Upon a request for PRD Zone formation, County staff will conduct a site visit to estimate the amount of funding needed for the roadway maintenance and/or improvements.
3. Landowners must provide the County with a community-initiated expression of interest requesting formation of a PRD Zone. The expression of interest must be signed by 60% or more of the landowners to be assessed. The expression of interest will describe the roadway facilities to be improved and/or maintained and an estimated cost proposal.

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4. Once a signed expression of interest with 60% or more of landowners is received and deemed complete, County staff will prepare an analysis of what type of levy (special tax, assessment or both) is available to the landowners.
 - a. In cases where the general public uses the private road and it is determined that there is a general benefit, only a special tax can be used to form a PRD Zone.
5. Landowners will sign a petition indicating whether they prefer a special tax or assessment:
 - a. If Special Tax – A Special Tax Report is developed and petition to consent to special tax signed by at least two-thirds of the landowners is needed to go to the Board and request a special tax election.
 - b. If Assessment – An Engineer's Report is developed and a petition to consent to assessment signed by 60% of the landowners is needed to go to the Board and request assessment ballot proceedings.
 - c. Costs for Engineer's and Special Tax reports are a part of the formation costs.
6. Once a petition with the sufficient threshold of landowner signatures is received, County staff will bring a Resolution of Intention to the Board and request approval to conduct assessment ballot proceedings or special tax election.
 - a. Assessment Ballot Proceeding – The Board will proceed with the formation of the PRD Zone unless ballots received at the public hearing and not withdrawn represent a majority protest. A majority protest exists if weighted ballots submitted in opposition to the assessment exceed ballots in favor of the assessment. In tabulating, the ballots shall be weighted according to the proportional financial obligation of the affected properties. In no case may a majority protest be overruled by the Board of Supervisors. Tabulations shall be made and ballot results certified by an objective third party, usually a consultant firm representing the County.
 - b. If Special Tax Election – The Board will proceed with the formation of the PRD Zone if two-thirds of the qualified electorate in the service area vote to approve the special tax. The special tax election will be held under applicable sections of the state election law.

COSTS

All costs associated with formation, administration and maintenance of a PRD Zone, including incidental expenses, engineering and special tax reports, shall be borne by the landowners of benefiting properties; if the formation is not approved, costs will be paid for by the General Fund.

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LOANS

The Board established the Permanent Road Division Internal Service Fund in 1999. The fund allows property owners to borrow money to pay for their road work program rather than waiting until they have accumulated sufficient funds. In addition to this loan program, Permanent Road Division landowners can borrow money from a lending institution pursuant to California Streets and Highway Code Section 1179.6.

There is a \$500,000 limit for the Permanent Road Division fund. To meet demand, the following guidelines for loan obligation from the Internal Service Fund have been established: limit of \$100,000 loan obligation for total project cost under \$500,000; limit of \$200,000 loan obligation for total project costs above \$500,000; and loan term from Internal Service Fund and lending institutions not to exceed five years.

DISSOLUTIONS

The County's Permanent Road Division includes zones that were originally formed as County Service Areas, some in the 1960's and 1970's, before state law required property owners to approve ballots for assessments. Some of these have very limited funding available to fund on-going operation and maintenance. From time to time, an existing PRD Zone may become insolvent or underfunded. This is normally because assessments are at the limit established by previous ballot, and ballot measures to increase assessments have failed. In these cases, staff will notify property owners of the potential dissolution and then bring a proposal for dissolution to the Board.

A PRD Zone can be dissolved at the request of the affected landowners. In these cases, a petition signed by at least a majority of the landowners within the PRD Zone or the signatures of owners of more than 50 percent of the assessed valuation is required to initiate dissolution.

Once it is determined that dissolution is to occur, County staff will proceed with the dissolution process:

1. Dissolution can only occur after any outstanding debt of the PRD Zone is repaid.
2. County staff will review the financial status of the PRD Zone to determine if there are funds available to complete any final road maintenance and/or improvements.
3. A letter will be sent to the landowners notifying them of the intention to dissolve the PRD Zone and date of the Board of Supervisors meeting to consider the dissolution. There will be a second meeting where the Board will be asked to adopt a resolution to dissolve and repeal the related ordinance.
4. After dissolution is complete, County staff will determine the amount, if any, of refunds due to landowners.

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EXCEPTIONS

The Board of Supervisors recognizes that it is not possible to anticipate all situations that may arise and that from time to time the Board may make exception when the application of the policy would result in unusual and unreasonable hardship.

PROCEDURE

The Director of Public Works will administer all proceedings for the implementation of this policy.

Sunset Date

This policy will be reviewed for continuance by 12-31-23.

Board Action

05-12-70 (73)

06-16-70 (73)

12-04-84 (17)

03-22-88 (37)

04-04-95 (28)

08-11-98 (32) deleted

11-17-99 (11)

06-23-04 (12)

02-24-10 (2)

05-04-16 (7)

12-14-16 (16)

CAO Reference

1. Department of Public Works