



PUBLIC WORKS DEPARTMENT
CITY HALL
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CITY COUNCIL STAFF REPORT

Meeting: July 16, 2019

Subject

Announce the results of the tabulation of ballots submitted for the proposed 2019 Clean Water and Storm Protection Fee; and:

- 1) Consider a resolution accepting the tabulation results for the proposed 2019 Clean Water and Storm Protection Fee, a property-related fee conforming to Article XIII D, Section 6 of the California Constitution, and ordering the levy of the fee for fiscal year 2019-20; and
- 2) Hold the second reading of Ordinance No. 19-2183 adding Chapter 3.38 of the Municipal Code to Establish the Clean Water and Storm Protection Fee and adopt the Ordinance.
- 3) Consider a resolution amending the FY 19-20 Annual Operating Budget to convert one part-time Maintenance Worker I level position to a full-time position.

Recommended Actions

1. Receive the City Clerk's announcement of the tabulation results; and
2. Adopt Resolution No. 19-XXX accepting the tabulation results for the proposed 2019 Clean Water and Storm Protection Fee, a property-related fee conforming to Article XIII D, Section 6 of the California Constitution and ordering the levy of the fee for fiscal year 2019-20; and
3. Conduct the second reading and enact Ordinance No. 19-2183: Adding Chapter 3.38 of the Municipal Code to Establish the Clean Water and Storm Protection Fee; and
4. Adopt Resolution No. 19-XXX amending the FY 19-20 Annual Operating Budget to convert one part-time Maintenance Worker I level position at a current cost of \$29,830 per year to one full time Maintenance Worker I level position at a starting cost of \$99,840 per year.

Background

On June 5, 2018 a study session on potential revenue measures including storm drain charges was conducted. At this study session, Council directed staff to report back with recommendations as soon as practicable to increase storm water charges to achieve full cost recovery for the program. At the Council meeting of August 21, 2018, staff presented a report titled the "Storm Water Management Fee Study and Ballot Initiative" with several recommended actions that had the

potential to increase property related storm water fees in FY 19-20. These actions included the funding and completion of:

- A statistically valid survey to determine the level of support and priorities by the public for a ballot measure to fund the clean storm water and storm protection program;

And upon receiving favorable results and future Council direction, funding and completion of:

- Storm water management fee report (Fee Report) that would determine equitable charges to various property uses as required by Proposition 218; and
- Outreach and community education for a citywide balloting process

At the conclusion of the August 21, 2018 presentation, Council authorized the completion of the survey and directed staff to report back with the survey results. The survey was completed with three new storm fees ranging from \$50 per year to \$109 per year being considered. The results were presented to Council on January 15, 2019 and staff received authorization to proceed with preparation of a Proposition 218 property-related storm water management Fee Report for an amount of up to an additional \$50 per year charge for a typical residential parcel.

The Fee Report was presented to Council on March 5, 2019, at which time Council took several actions to initiate a Proposition 218 proceeding to establish a new property-related fee to fund the clean water and operation/maintenance elements of the storm water program. The Council's actions were:

- Approved the Fee Report by SCI Consulting Group, which recommended a fee structure based on a \$44.42 annual fee for an average single-family home and subject to annual increases by an amount equal to the change in the Consumer Price Index for all Urban Consumers for the area including Santa Clara County, not to exceed a maximum increase of three percent (3%) in any single year; and
- Adopted Resolution No. 19-022 formally initiating the Proposition 218 process by declaring the intent of the City to seek property owner approval of the proposed 2019 Clean Water and Storm Protection Fee, approving the Fee Report by SCI Consulting Group which recommended a fee structure based on a \$44.42 annual fee for an average single-family home, setting a public hearing for May 7, 2019, and directing mailing of a notice to all affected property owners about the hearing and their right to protest; and
- Adopted Resolution No. 19-023 establishing procedures for conducting a Proposition 218 ballot proceeding.

Notices of the proposed fee and the public hearing for it were mailed more than 45 days in advance of the hearing. The public hearing was held at the Council meeting on May 7, 2019, and on that date the Council adopted Resolution 19-041 finding that a majority protest did not exist, and ordering the City to conduct a property-related fee mail ballot proceeding.

On May 20, 2019 the ballots were mailed to the record owners. The balloting period ended at 5:00 p.m. on July 5, 2019, after which the ballots were tabulated. The results of the tabulation are 51.15% for and 48.85% against, and will be announced by the City Clerk.

2019 Clean Water and Storm Protection Fee Ordinance (Fee Ordinance)

The first reading of an Ordinance adding Chapter 3.38 of the Municipal Code to Establish the Clean Water and Storm Protection Fee was held at the Council meeting on May 7, 2019. The votes were tabulated and the ballot measure passed. The City Council will hold the second reading of Ordinance No. 19-2183 and it may be adopted by the City Council.

Hiring of New Full Time Maintenance Worker

Currently the Storm Drain Maintenance Division of Public Works is staffed with a 0.25 Supervisor, one Maintenance Worker I, and one Part-time Maintenance Worker I. Because residents surveyed indicated a preference for proactive maintenance, the Clean Water and Storm Protection Fee (as calculated in the Fee Report) includes additional annual funding to convert the existing part-time staff to a full-time staff position. Conversion of the part-time position to the full-time position will provide more proactive maintenance of drain cleaning and outfall inspection. All costs associated with this position are included in the new fees to be collected from property owners.

Enhanced Services

The proposed funding measure will provide for enhanced services. These include more efficient street sweeping, more frequent cleaning of storm drain inlets, and increased environmental education programs to meet the requirements of the City's Municipal Regional Stormwater Permit.

The multi-year street sweeping agreement expired on June 30, 2019. Currently, a three-month agreement to perform street sweeping is in place. If the proposed fee is collected, a new multi-year sweeping agreement will be solicited that will require more efficient street sweeping as early as September 2019.

Next Steps

- Adopt the draft Resolution (Attachment A) accepting the tabulation results for the proposed 2019 Clean Water and Storm Protection Fee, a property-related fee conforming to Article XIII D, Section 6 of the California Constitution, and ordering the levy of the fee for fiscal year 2019-20, and
- Hold the second reading of Ordinance No. 19-2183: "An Ordinance of the City Council of the City of Cupertino Establishing Chapter 3.38 of the Municipal Code to Adopt the Clean Water and Storm Protection Fee" (Attachment B) and adopt the Ordinance.
- Adopt the draft Resolution (Attachment C) amending the FY 19-20 Annual Operating Budget to convert one part-time Maintenance Worker I level position at a current cost of \$29,830 per year to one full time Maintenance Worker I level position at a starting cost of \$99,840 per year.

Sustainability

There are no negative effects from this action. Proper funding of storm water pollution prevention programs and improving existing storm water infrastructure will improve the water quality of storm runoff entering the Bay and reduce the likelihood of property loss due to flooding.

Fiscal Impact

The Clean Water and Storm Protection program is currently underfunded. The proposed fee, with the provision of additional inflationary adjustment revenue not to exceed the actual increase in costs, will reduce funding deficits. The proposed fee will generate an estimated revenue of approximately \$1.1 million per year. If the proposed fee is not collected, the general fund will need to continue to provide a subsidy and, consequently, cause a reduction of the availability of funding for other important programs. The amount of the Clean Water and Storm Protection Fee may be increased by an amount equal to the change in the Consumer Price Index (CPI) for all Urban Consumers for the area including Santa Clara County, not to exceed a maximum increase of three percent (3%) in any single year. Adjustments will only occur if actual additional costs are incurred. In any year in which the City Council does not change the Clean Water and Storm Protection fee rate, pursuant to the voter-approved CPI allowable annual increase, the previously adopted fee shall continue in full force and effect for the next fiscal year. The City Council is not required to enact a CPI increase each year.

Increased street sweeping efficiency and other program enhancements are expected to increase program costs by \$150,000 per year. Included in this cost is funding to convert an existing part-time position to a full-time position in the Public Works Storm Drain Maintenance Division. These increases in cost are included in the new fee and do not result in an increase of costs to the general fund.

Prepared by: Roger Lee, Director of Public Works
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Approved for Submission by: Deborah Feng, City Manager

Attachments:

- A. Draft Resolution No. 19-XXX Accepting the Tabulation Results; and Ordering the Levy of the Clean Water and Storm Protection Fee for Fiscal Year 2019-20
- B. Ordinance No. 19-2183: "An Ordinance of the City Council of the City of Cupertino Establishing Chapter 3.38 of the Municipal Code to Adopt the Clean Water and Storm Protection Fee,"
- C. Draft Resolution No. 19-XXX Amending the FY 19/20 Operating Budget Adopt Resolution No. 19-XXX Amending the FY 19/20 Annual Operating Budget to convert one part-time Maintenance Worker I level position to on FTE Maintenance Worker 1 Position to the Street Division – Storm Drain Maintenance Operating Budget

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