



PUBLIC WORKS DEPARTMENT

CITY HALL

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CITY COUNCIL STAFF REPORT

Meeting: August 21, 2018

Subject

Storm Water Management Fee Study and Ballot Initiative

Recommended Action

Staff recommends Council take the following actions:

1. Authorize staff to hire a consultant for a contract amount not to exceed \$225,000 to complete a property related storm water management fee study and balloting process by June 30, 2019; and
2. Adopt Resolution No 18-XXX approving a Budget Adjustment in the amount of \$225,000 to complete a storm water management fee study and balloting process.

Background

On June 5, 2018 a study session on potential revenue measures related to business license tax and storm drain charges was conducted. The business license fee was subsequently discussed by Council separately from storm drain charges and Council directed staff to report back with recommendations as soon as practicable to increase storm water charges to full cost recovery for the program. At this study session, storm drainage service charges were described as funding about one-half of storm water pollution prevention costs (referred to as Non-Point Source (NPS) program costs in the budget). NPS costs are incurred to comply with State storm water pollution prevention requirements. In FY18/19 these costs are estimated to be \$727,000 with storm drainage charges generating only \$372,000. The balance of approximately \$355,000 is subsidized by the general fund. Other storm water related expenses are also subsidized by the general fund.

Total general fund subsidy of all storm water related expenses includes NPS costs plus operation and maintenance (O&M) cost plus capital costs ¹ which have cumulative costs ranging from \$713,000 in FY14/15 to a projected \$3.5M in FY23/24.

¹ Costs to improve the storm water system as a result of development are supported by development fees and have no impact to the general fund.

At the June 5th study session, Council indicated a willingness to review a process to double the storm drainage charge for residential premises from \$12 to \$24 per residential dwelling. Commercial and other premises were discussed to double as well. This was in part due to a survey completed by Voxloca that showed 62% of resident's surveyed expressed support for a storm drainage service charge increase and that 57% of those surveyed supported the charge increasing to \$24 or more (Attachment A).

Revenue, Cost and Comparison to Other Agencies

The storm drainage service charge was included in the City Ordinance beginning in 1992 and has remained unchanged through today. The below table summarizes the current annual fee, the number of premises included in each fee category and annual revenue.

Premises	Cupertino Municipal Code Chapter 3.36.030	Number of Parcels or Acres	Annual Revenue
Residential	\$12 per parcel	15,885 parcels	\$190,620
Apartment	\$144 per acre		
Commercial/Industrial	\$144 per acre	1,046.96 acres ¹	\$150,760
Vacant	\$36 per acre	871.17 acres	\$31,360
		TOTAL	\$372,740

¹Apartment are included with commercial/industrial.

FY14/15 to FY17/18 and Projected FY18/19 to FY22/23 Storm Water Program Costs are as follows:

Fiscal Year	Maintenance	Pollution Prevention	Capital Improvements		TOTAL
			Flood Prevention	Green Infrastructure ¹	
14/15	\$256,600	\$456,935		\$0	\$713,535
15/16	\$239,235	\$497,048	\$2,600,000	\$0	\$3,336,283
16/17	\$462,391	\$594,356		\$0	\$1,056,747
17/18	\$448,250	\$632,107	\$1,700,000	\$0	\$2,780,357
18/19	\$476,000	\$727,000	\$1,500,000	\$0	\$2,703,000
19/20	\$499,000	\$735,000	\$1,500,000	\$500,000	\$3,234,000
20/21	\$524,000	\$790,000	\$1,500,000	\$500,000	\$3,314,000
21/22	\$551,000	\$860,000	\$1,500,000	\$500,000	\$3,411,000
22/23	\$578,000	\$925,000	\$1,500,000	\$500,000	\$3,503,000

23/24	\$607,000	\$970,000	\$1,500,000	\$500,000	\$3,577,000
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¹Stormwater Municipal Regional (MRP) Permit requires a Green Infrastructure (GI) Plan by September 2019 and subsequent storm water capital improvements

The annual storm water property related fee for single family residential at Bay Area agencies ranges between zero and to \$163. Refer to Attachment B for a listing of California agency storm water charges. A sampling of nearby cities is as follows:

	Annual Charge for One Residential Unit
City of Palo Alto	\$163.80
City of Mountain View	\$0
City of Santa Clara	\$23.52
City of Sunnyvale	\$0
City of Los Altos	\$0
	<i>In Proposition 218 process to set new fee < \$100</i>
City of San Jose	\$94.44

City of Monte Sereno charges \$16.58; City of Campbell \$19.48; City of Saratoga \$0 and Town of Los Gatos \$20.37.

A doubling of our storm water fee will not get to full cost recovery for all storm water programs. For full cost recovery, it is likely that storm drain charges would need to increase to a charge similar to our neighbors in San Jose and Palo Alto.

Next Steps

Many agencies in California have been hesitant to increase the amounts for the storm water related fees. The requirements of Proposition 218 are onerous, outcomes have not been wholly successful and most agencies have been waiting for legislation to occur that would have storm water considered a property related fee like water and sewer. In October 2017 legislation was adopted in the form of SB231. This law allows agencies to increase storm water charges as long as property owners are noticed, a public hearing is held and majority of protest votes are not received. The Howard Jarvis Taxpayers Association has stated that any agency that applies this ruling will be challenged. Subsequently, no agency has successfully raised fees without following the Proposition 218 process. For fees to increase under Proposition 218, a written notice, a public hearing 45 days after the notice, consideration of protests, and an all-mail ballot with majority approval is required. The written notice must be sent to each parcel owner with information on the proposed charge increase amount, reason for increase, and public hearing information.

Upon review of Cupertino's cost to operate an effective storm water program, as well as how other agencies are successfully integrating both operating, permitting and capital

costs into their property related storm drainage fees, staff recommends a more detailed analysis of City costs and comprehensive community outreach be completed. The goal is to determine what property related storm water fee structure has the best chance to pass a Proposition 218 or SB231 process. The fee proposed would be a new fee structure – tentatively titled the Storm Water Management Fee, which would be implemented without replacing or affecting the existing charge that has been in place for over 26 years.

To complete this, staff further recommends that a request for qualifications for a storm water drainage fee study and balloting process be written and competitively distributed to consultants. The scope of work would include:

- Comprehensive storm water drainage fee study that would make recommendations to create new storm water fees (including annual inflationary adjustment in compliance with applicable laws)
- Strategic plan to meet the City's storm water regulatory compliance requirements, infrastructure improvements and ongoing operational and maintenance needs.
- Recommend prudent fund account reserve targets.
- Assist the City in preparing for and conducting either a Proposition 218 or SB231 process along with associated public outreach and meetings as needed to establish new property related storm water drainage fees.

Schedule

The overall process, including a public opinion survey, a storm water drainage fee study, a noticed public hearing and a voting process will take approximately one year to complete. June 30, 2019 is the deadline to send new charges to Santa Clara County in order for the charges to be included on the following year's County tax roll.

To be conservative, the following schedule represents a Proposition 218 process. An SB231 process could be shorter.

Date	Activity
August - September 2018	Advertise request for qualifications to conduct storm water drainage study and ballot process. Negotiate consultant fee to complete.
November 2018	Recommend desired consultant to Council. Start study.
December 2018-February 2019	Present progress and findings at community meetings.
February 2019	Complete storm drainage fee study.
February 5, 2019	Submit study with findings to Council

February 11, 2019	Mail notices for hearing
April 2, 2019	Hold hearing for majority protest & authorization to mail ballots
April 8, 2019	Mail ballots to property owners (if no majority protest)
May 27, 2019	Close balloting period and count ballots
June 4, 2019	Hold public hearing. Council adopts Resolutions approving new fees during public hearing (if ballot measures are approved by property owners). Amend Chapter 3.36 Municipal Code (first reading).
June 18, 2019	Amend Chapter 3.36 Municipal Code (second reading).
June 30, 2019	Deadline to send new charges to Santa Clara County in order for the fees to be included on the following year's County tax roll.
July 1, 2019	New fees are added to the Santa Clara County FY19-20 property tax bills

Exempted Properties

There are several property owners within Cupertino who are currently exempt and not paying storm drainage charges for some or all of their properties. These owners include Central Fire District of Santa Clara County, Cupertino Union School District, Fremont Union School District, Foothill Community College District, Midpeninsula Regional Park District, Santa Clara County, Santa Clara County Valley Water District, Cupertino Sanitary District, Southern Pacific Railroad Company, State of California, United States of America and the City of Cupertino. Under Proposition 218, all property owners who benefit from these programs are required to pay the new fees. Exempted properties under the SB231 process will need to be determined.

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 storm water program is currently underfunded, and the prospect of additional inflationary adjustment revenue from the new fees will help reduce funding deficits related to capital and operating needs. Continued general fund subsidized funding of storm water programs and improvements does result in a reduction in service in other critical areas. To complete a storm water management fee study and compliant

balloting process, the FY 18/19 Operating Budget needs to be amended to appropriate \$225,000 to Public Works operating account 100-82-804-700-702.

Prepared by: Roger Lee, Assistant Director of Public Works Department

Reviewed by: Timm Borden, Director of Public Works Department

Approved for Submission by: Amy Chan, Interim City Manager

Attachments:

A – Voxloca Business License Tax & Storm Drain Fee Survey May 2018

B – California Agency Storm Water Charges

C - Draft Resolution to amend FY 18/19 Operating Budget