



PUBLIC WORKS DEPARTMENT

CITY HALL

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CITY COUNCIL STAFF REPORT

Meeting: January 15, 2019

SUBJECT

Discussion and consideration of a potential new property-related fee for clean water and storm drainage; approve funding of up to \$140,500 to complete a Proposition 218 compliant storm water management fee study and balloting process; receive completed public opinion survey findings of SCI Consulting Group concerning the proposed fee; and approve the following recommendations:

Recommended Action

1. Receive the findings of the survey; and
2. Authorize staff to retain SCI Consulting Group for a contract amount not to exceed \$140,500 to complete a Proposition 218 compliant property related storm water management fee study by March 2019 and completion of a potential balloting process as early as July 2019; and
3. Direct staff to bring the storm water management fee study back for Council consideration with an amount of up to an additional \$50 per year charge for a typical residential parcel and a new additional charge for apartment/commercial/industrial and vacant parcels as will be determined by the storm water management fee study; and
4. Approve Budget Modification 1819-036 and adopt Resolution No 19-XXX approving a Budget Adjustment in the amount of \$140,500 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, current property related storm fees of \$12 per residential parcel and \$144 per acre for apartments/commercial/industrial that have not changed since 1992 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 FY 18/19 these costs are estimated to be \$727,000 with property related storm fees 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. These cumulative costs have ranged from \$713,000 in FY 14/15 to a projected \$3.5M in FY 23/24.

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). A doubling of our storm water fee will not get to full cost recovery for all storm water programs. Additionally, the City currently has no funding mechanism in place to address the projects identified in the 2018 Storm Drain Master Plan. For full cost recovery and to have a dedicated source of funding for the clean storm water and storm drainage program that does not rely on the City's General Fund, it is likely that storm drain charges would need to increase to a charge similar to our neighbors in San Jose and Palo Alto. Attachment B details the revenues currently being collected, the annual storm water program costs and the annual storm water charges being collected by agencies in the Cupertino area.

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 funding measure to fund the clean storm water and storm drainage program;

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

- Storm water management fee study that would determine equitable charges to various property uses as required by Proposition 218; and
- Outreach and community education for a citywide balloting process by June 30, 2019

Staff had asked for up to \$225,000 to complete these actions but instead received direction to only complete the survey for an amount not to exceed \$20,000. The remaining recommended actions were not funded and staff was directed to report back to Council with survey results and recommended next steps.

Survey Summary

Staff retained SCI Consulting Group (SCI) to complete a valid survey. SCI was selected for this work due in part to successful storm water ballot initiatives completed for several California cities and for similar work in process for the City of Los Altos.

On December 4, SCI mailed surveys to approximately 12,000 property owners (commercial & residential) in Cupertino. One third of the surveys proposed funding just operations and maintenance, one third proposed funding the high priority need identified in the 2018 Storm Drain Master Plan in addition to operations and maintenance, and one third proposed funding for green infrastructure in addition to the high priority projects and operations and maintenance. Attachment C includes the three surveys sent to typical residential properties. A summary of survey results are below. A more detailed account of these results will be presented with this report at the Council meeting of January 15, 2019.

Survey No.	Dollar Amount Surveyed	Funds Generated	Items Funded	% Surveyed Likely in Support
#1	\$50.65	\$1,234,000	O&M	Just over 50%
#2	\$89.11	\$2,171,500	O&M plus priority infrastructure improvement	Over 40%
#3	\$109.63	\$2,671,500	O&M , priority infrastructure plus green infrastructure	Approx. 40%

Options and 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 at least 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 the December 2018 community survey, staff recommends proceeding with a property related storm water fee structure, which has the best chance to pass a Proposition 218 process. The fee proposed would be a new fee structure, tentatively titled the Storm Water Management Fee, would be implemented without replacing or affecting the existing charge that has been in place for over 26 years. For this to be successful, it is recommended that the new fee for typical residential parcels be determined by a detailed storm water management fee study, but be less than \$50 per parcel. Apartments/commercial/industrial and vacant parcels would have a similar prorated charge, also as determined by the fee study.

Other options that should be considered include:

- Proceeding now with a \$50 per year per residential parcel (along with similar increases to apartments/commercial/industrial and vacant parcels) fee that would provide cost recovery for current O&M costs along with a robust community outreach program; or
- Delay the increasing of property related storm water fees to either \$50, \$89 or \$110 per year for one to two years to allow staff time to conduct community outreach and education on storm water program needs and revenues and continue to subsidize the storm water program a minimum of \$700,000 annually; or
- Do nothing at all and continue general fund subsidy of storm water programs up to \$700,000 to \$3,500,000 annually depending on required infrastructure improvements.

If the City proceeds now with an increased property related storm water fee, as recommended by staff, the following work would be completed by SCI if authorized:

- 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 five-year 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 a Proposition 218 process along with associated public outreach and meetings as needed to establish new property related storm water drainage fees

The SCI proposal to provide these services is included in Attachment E along with a detailed scope of work.

Future Dates and Milestones

If the City Council directs staff to proceed with a proposed property-related fee for clean storm water and storm drainage, the future steps will be as follows:

- January - February: SCI Consulting Group drafts the fee report
- March 5: City Council considers accepting the fee report
- March 5: City Council approves resolutions initiating the ballot proceedings
- March 22: Public Hearing notices mailed to the public
- April: Staff conducts informational community meetings
- May 7: Public Hearing & announcement of whether there is a majority protest
- May 7: If there is no majority protest, City Council considers a resolution documenting no majority protest and authorizes ballots to be mailed
- May 17: Ballots are mailed
- July 5: Close of balloting period
- July 8-12: Tabulation of ballots
- July 16: City Council certifies ballot results and, the measure passes, considers a resolution ordering the fee to be included on the 2019-20 tax bills

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 O&M needs. Continued general fund subsidized funding of storm water programs and improvements results 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 \$140,500 to Public Works Developmental Services account number 100-82-804-700-702. Only up to \$129,250 will be expended of this amount if the measure does not pass, because no first year levy submittal and administration services will be needed. If the funding measure passes, it is estimated that the fee will generate revenue of approximately \$1,120,000 per year.

Prepared by: Roger Lee, Acting Director of Public Works
Approved for Submission by: Timm Borden, Interim City Manager

Attachments:

- A - Voxloca Survey Results
- B - Cupertino and Other Agencies Revenue, Cost and Comparison
- C - SCI Residential Surveys
- D - Draft Resolution
- E - SCI Proposal