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Details

File #: 2019-7046**Type:** Regular Agenda Item**Body:** [City Council](#)**On agenda:** 7/16/2019**Title:** Recommendation to Approve Water Quality and Flood Protection Fee Report; Adoption of Resolution Declaring Intention to Initiate a Proceeding to Obtain Approval of the City's 2019 Water Quality and Flood Protection Fee, a Property-Related Fee Conforming to Article XIII D, Section 6 of the State Constitution; Adoption of Resolution Ballot Procedures for the City's 2019 Water Quality and Flood Protection Fee; and Call for a Public Hearing Tentatively Scheduled for October 1, 2019. (Public Works 351)**Attachments:** 1. [Exhibit 1 - Draft Stormwater Fee Report](#), 2. [Resolution - Initiating Fee Process](#), 3. [Resolution - Initiating Fee Process - REVISED](#), 4. [Resolution - Adopting Ballot Procedures](#), 5. [Presentation](#), 6. [REVISED Presentation](#), 7. [Correspondence](#)

Text

Title

Recommendation to Approve Water Quality and Flood Protection Fee Report;

Adoption of Resolution Declaring Intention to Initiate a Proceeding to Obtain Approval of the City's 2019 Water Quality and Flood Protection Fee, a Property-Related Fee Conforming to Article XIII D, Section 6 of the State Constitution;

Adoption of Resolution Ballot Procedures for the City's 2019 Water Quality and Flood Protection Fee; and

Call for a Public Hearing Tentatively Scheduled for October 1, 2019. (Public Works 351)

Body

To: Honorable Mayor and Members of the City Council

EXECUTIVE SUMMARY

The City of Alameda's (City) stormwater fund is failing to keep up with the significant operations, capital, and regulatory requirements of the stormwater system. The City's risk in maintaining an out-of-date stormwater system is only compounded by climate change's rising seas and more frequent, intense storms.

The City's existing stormwater fee has remained flat at approximately \$56 annually per single family home for nearly fifteen years. As a result, the stormwater fund is depleted and running a deficit. Without additional revenue, the City will be forced to eliminate and/or significantly cut its street sweeping and storm drain maintenance programs. Similarly, the adopted Fiscal Year (FY) 2019-21 budget included \$0 in stormwater funds for new capital improvements because there is simply no money available in the fund for this work.

State law requires that any increase in the stormwater fee must be approved by a ballot and be supported by a fee study. A scientific survey (or poll) conducted in May/June 2019 shows that a ballot of property owners for a property-related fee is viable at between \$36-\$78 annually, given the vote is a simple majority vote and after accounting for the poll's margin of error. That survey also shows that a ballot of registered voters for a parcel tax in the same fee range is not viable, given it is a supermajority vote and after accounting for the survey's margin of error.

Staff recommends advancing a new property-related fee which would increase the City's stormwater fees of between \$45 - \$78 annually for an average single-family home, as this range has considerable support from property owners and tenants. At the \$45 rate, this would ensure continuity of our storm drain and street sweeping programs. At the \$78 rate, a significant portion of capital improvements required of the City's out-of-date stormwater system would be funded. The additional fee ranging between \$45 to \$78 would create a combined annual stormwater fee of between \$101 and \$134. City Council will return to set the exact rate at a public hearing tentatively scheduled for October 1, 2019.

BACKGROUND

The City has had a stormwater fee since the early 1990s, prompted by the onset of federal stormwater regulations directed at municipal separate storm/sewer system operations. The City's most recent assessment shows that this stormwater fund is running a \$1,000,000 annual deficit. The City's stormwater fee has remained flat at approximately \$56 annually per single family home for nearly fifteen years, with no escalator to account for increases in labor, benefits, material costs, and

vendors. If the original fee had included an allowable escalator, the existing stormwater fee would generate another \$1,000,000 annually.

The City's stormwater system is comprised of 11 pump stations, 26 pumps, 126 miles of storm drains, 2 lagoon systems, 278 outfalls, 2,879 catch basins, and 1,967 manholes. It also includes the 200+ miles of curb and gutter that assist with stormwater runoff.

The City's stormwater system has at least \$30,000,000 in high-priority unmet needs including pump stations and pipes from the 1940s and earlier. At the same time, the State Regional Water Quality Control Board continues to mandate more rigorous requirements for trash capture, pollution control, and green infrastructure that, if not met, may lead to fines as much as \$50,000 per incident.

The City's existing stormwater fee simply cannot keep up with these significant operating, capital, and regulatory requirements. The current revenue generated from the fee is not even sufficient to fund Public Works' existing operation and maintenance of the stormwater system, and the department's clean water program and municipal stormwater permit responsibilities. Without action to raise more stormwater revenue (or use another funding source), the City may be forced to eliminate and/or significantly reduce its street sweeping and storm drain maintenance programs.

The need for additional revenue for the stormwater system was identified in the last three cycles of capital budgets (FY2015-17, 2017-19, and 2019-21). In addition, the City Council discussed the stormwater fee and its possible adjustment in the context of various revenue measures between February and July 2018.

On April 16, 2019, the City Council approved a contract amendment with SCI Consulting Group to develop a stormwater fee study report, conduct a citywide community survey, and return to City Council with survey results and options for moving forward.

The two options for a stormwater revenue measure are a property-related fee and a parcel tax. The basics of each option, as well as the pros and cons of both, are shown in the table below. Another option is under State Senate Bill 231, approved by the legislature and Governor in 2017, which clarifies that storm drains are sewers for the purpose of Proposition 218. In the future, after clearing significant litigation and judicial hurdles, it may be a viable option for adjusting stormwater rates. However, the "objection only" election provided for in Senate Bill 231 is not recommended because of the potential significant legal risk the City would incur by pursuing this option now.

Options	#1: Property-Related Fee	#2: Parcel Tax
Who Votes?	Property Owners	Registered Voters
Vote threshold?	Simple majority (50% of votes cast)	Supermajority (66.7% of votes cast)
How balloted?	Mail-in ballot at any time	General or special election
When?	Oct 2019 at earliest	• March 2020 (primary) • November 2020 (general)
Cost	\$38,000	\$200,000-\$600,000 (depending on election and what else is on the ballot)
Exemptions Allowed	None, all must pay a fee including public agencies, seniors, and low income.	Exemptions can include public agencies, seniors, and low income.
Pros	• Flexible time frame • All property owners receive ballots • 50% vote threshold	• Registered voters who are not property owners get to vote
Cons	• Registered voters who are not property owners do not get to vote	• 2/3 supermajority vote • Cost

After a thorough review and analysis of the City's storm drainage program revenues, expenses, and needs including operations and maintenance (O&M) and capital improvement program (CIP), the SCI team developed a preliminary rate model and rate levels to evaluate the feasibility of funding various program levels through user fees. After some initial stakeholder outreach and feedback, the SCI team developed a survey instrument to test community support for program priorities and various rate levels with the community.

SCI mailed a survey on May 18, 2019. The mailing was sent to two universes of potential voters: property owners and registered voters. 12,000 surveys were mailed; 9,000 to property owners (of which approximately 8,000 included registered voters) and 3,000 to registered voters who were not property owners.

The survey was crafted to test opinions in two areas: 1) rate levels and willingness to pay, and 2) support for various programs, projects, and goals of the storm drainage program. In testing rate levels, two rate ranges, paired with program goals, were selected based on our feasibility analysis. This was accomplished by splitting our sample into two equal groups of 6,000 surveys each:

- An additional fee of \$36 per parcel per year, which did NOT include mention of a CIP
- An additional fee of \$78 per parcel per year, which DID include mention of a CIP

Results from the property owner universe help explain the viability of Option #1: Property Owner Fee. Results from the registered voter universe help explain why Option #2: Registered Voters is not viable. The survey results showed varying levels of support depending on the group and the rate level. The results are shown in the table below with margins of error at 3-3.5% at the 95% confidence level, which is better than many of the phone surveys (or polls) that have been conducted for the City in the past.

Citywide Survey	An additional fee of \$36 annually	An additional fee of \$78 annually
Property-related fee - Simple Majority (50%)		
Support	59.5%	56%
Oppose	40.5%	44%
Margin of error = 3.07%		
Parcel Tax - Supermajority (66.7%)		
Support	67.4%	63.9%
Oppose	32.6%	36.1%
Margin of error = 3.5%		

The results show that both property-related fee amounts (\$36 and \$78) are viable even after accounting for the margin of error. The \$36 fee showed a higher rate of support (59.5%), but the decline in support for the \$76 fee was modest (59.5% to 56%) relative to doubling of the rate.

The results show that the parcel tax is not viable at either fee amount. At the higher rate of \$78, the support level is 63.9%, a few points less than the required two-thirds supermajority. At the lower rate of \$36, support (67.4%) barely surpasses the supermajority but, after discounting by the survey's 3.5% margin of error, it is no longer viable.

The survey also tested renters support. With 2,998 surveys mailed to tenants, 229 were returned, and found 81.4% support (18.6% opposition) to the \$36 rate and 72% support (28% opposed) for the \$78 rate. Given the lower rate of return on these surveys, this result has a margin of error of up to 10%. Nevertheless, this result suggests renters may have high levels of support for a stormwater revenue measure.

Staff also distributed a survey through social media. Of 200 respondents, 56% favored a \$78 annual rate, and 43.5% opposed. This survey was not intended to be scientific, thus it does not include a margin of error.

DISCUSSION

Based on survey results, staff recommend a fee range of between \$45 - \$78 for the average single-family property. This fee range is viable, helps preserve our street sweeping and storm drain maintenance programs, and, depending on the exact fee level City Council approves at an October 1 public hearing, could generate enough funds for important capital upgrades to the stormwater system's pumps, pipes, and pump stations that help protect the City from flooding.

To prepare a stormwater revenue measure, SCI developed the legally-required comprehensive fee report. This report covers Proposition 218's significant legal requirements as it applies to these fees. It also describes the needs and revenue requirement for the stormwater system by compiling nine planning studies performed by the City since 2008 and refining those based on staff input. The fee report identifies need of approximately \$5.4 million annually, split between operation and maintenance (78%) and capital improvements (22%). This is contrasted with current revenues of approximately \$2.6 million, resulting in an annual shortfall of approximately \$2.8 million.

The fee report also proposes a rate structure based on a simple principle: a parcel's share of the costs is proportionate to the amount of storm runoff it contributes to the City's system. This is modeled by estimating how much impervious surface (such as driveways, roofs and other hard surfaces) is on each parcel.

The fee report recommends an annual cost-of-living adjustment based on the Consumer Price Index for the San Francisco Bay Area.

While Proposition 218 does not allow traditional rate incentives, the fee report does include two rate credits that work within the Proposition 218 framework: low impact development (LID) and parcels that drain directly to the Bay. LID includes constructing measures on a site that retain rainwater allowing it to filter out pollutants through a landscape, be used as an alternate water supply, or replenish the groundwater. Parcels that drain directly to the Bay are credited because their burden on the stormwater system is less. The credits are 25% for LID and 57% for direct-drain parcels.

The procedure for a Proposition 218-compliant property-related fee is unlike most ballot measures and involves two steps. First, should the City Council approve tonight's Fee Report, the City mails notices to all affected property owners at least 45 days prior to a City Council public hearing, tentatively scheduled for October 1. Among more information, the notice will describe a fee range of \$45-\$78 annually and the cost-of-living adjustment for the additional annual fee.

Second, if there is no majority protest at that October 1 public hearing, the City Council will decide on a final rate, then mail ballots to all affected property owners based on that rate. The ballot is successful if more votes are cast in favor than opposed, and each parcel gets one, unweighted vote. The due date for ballots to be returned must be at least 45 days after the public hearing.

In addition to the Fee Report, most cities adopt a rate ordinance that codifies the rates and related procedures. This is typically done upon conclusion of the public hearing midway through the process. The ordinance then becomes the document on which property owners vote. If City Council approves tonight's item, staff will prepare a draft ordinance for the City Council to consider at the October 1, 2019 public hearing.

The proposed timeline is shown below.

July 16	Approve fee report and resolutions
Early Aug	Mail notice of public hearing
Aug to Sep	Public education
Oct 1	Hold public hearing on ballots and first reading of ordinance
Oct 10	Mail ballots
Nov 25	Close of ballot period
Dec 17	City Council certifies ballots and orders fees

ALTERNATIVES

City Council could adopt resolutions initiating proceedings; and adopting Proposition 218 procedures for the Water Quality and Flood Protection Measure; and call for a public hearing tentatively scheduled for October 1, 2019 to evaluate an additional storm water fee which increases the total stormwater fee between \$36 and \$78 annually.

Instead of seeking to evaluate a range of fee increases, the Council could choose to evaluate a single specific rate between \$36 and \$78 annually.

City Council could move forward with no stormwater measure.

City Council could move forward with a parcel tax. For a parcel tax to make the March 2020 ballot, staff would have to return to City Council for final approvals no later than November or December 2019. For the parcel tax to make the November 2020 ballot, staff would have to return to City Council for final approvals in July 2020.

FINANCIAL IMPACTS

The costs of the survey, rate study, and ballot proceeding are included in prior City Council authorizations. If the fee should be approved by property owners at the maximum rate authorized by the fee report, the City's storm drain program will realize an approximate \$2.9 million increase in revenue annually.

MUNICIPAL CODE/POLICY DOCUMENT CROSS REFERENCE

Alameda Municipal Code section 18-25 Stormwater Ordinance.

ENVIRONMENTAL REVIEW

This activity is not a project and is exempt from the California Environmental Quality Act (CEQA) pursuant to section 15378 (b)(4) of the CEQA Guidelines, because it involves governmental fiscal activities (approving funding mechanisms), which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

CLIMATE IMPACTS

To meet the challenge of sea level rise, rising groundwater, and more frequent and intense storms, the City's funding of its stormwater pumps, pump stations, and pipes must be commensurate with its maintenance, operations, and capital needs. By increasing revenue to get closer to the stormwater system's current and projected needs, this action is one of the most important, near-term actions recommended in the City's draft Climate Action and Resiliency Plan.

RECOMMENDATION

Approve Water Quality and Flood Protection Fee Report; adopt resolutions initiating proceedings; and adopting Proposition 218 procedures for the Water Quality and Flood Protection Measure; and call for a public hearing tentatively scheduled for October 1, 2019.

CITY MANAGER RECOMMENDATION

The City Manager recommends that the City Council move forward with approving the Water Quality and Flood Protection Fee Report; adopt resolutions initiating proceedings; and adopting Proposition 218 procedures for the Water Quality and Flood Protection Measure based on the information provided.

One additional option the City Council could consider is to establish a specific rate increase at this meeting rather than setting the range at the October 1st City Council meeting.

Respectfully submitted,
Liam Garland, Public Works Director

By,
Liam Garland, Public Works Director

Financial Impact section reviewed,
Elena Adair, Finance Director

Exhibit:

1. Draft Stormwater Fee Report

cc: Eric Levitt, City Manager