



Legislation Details (With Text)

File #:	24-107	Version:	1	Name:	Adopting & Initiating Stormwater Fee Amendment Balloting Procedures
Type:	Staff Report	Status:	Filed	In control:	City Council
On agenda:	4/2/2024	Final action:	4/2/2024	Enactment date:	Enactment #: Reso 2024-030 & Reso 2024-031
Title:	Adopt Two Resolutions: 1. Intent to Initiate Proposition 218 Process for Stormwater Fee Amendment and Approve the Stormwater Fee Report; and 2. Adopt Balloting Procedures for the Proposed Stormwater Fee Amendment				
Indexes:					
Code sections:					
Attachments:	1. A - Reso Intent to Initiate Prop 218 Proceedings, 2. B - Reso Adopting Balloting Procedures, 3. C - Stormwater Fee Report - Final 3-12-24, 4. D - Stormwater Fee Flyer 2-23-24, 5. E - Initiate Prop 218 Process Presentation				

Date	Ver.	Action By	Action	Result
4/2/2024	1	City Council	Approved	Pass

Adopt Two Resolutions: 1. Intent to Initiate Proposition 218 Process for Stormwater Fee Amendment and Approve the Stormwater Fee Report; and
2. Adopt Balloting Procedures for the Proposed Stormwater Fee Amendment

RECOMMENDATION: Adopt a Resolution to initiate a proceeding for the approval of a Stormwater Fee Amendment and approve the Stormwater Fee Report, and adopt a Resolution approving ballot procedures.

BACKGROUND AND ANALYSIS

The City of San Leandro operates and maintains a stormwater system, which provides vital services to safeguard neighborhoods from flooding and to protect local waterways from pollution. The system consists of complex infrastructure including surface drains, underground pipes and conduits, pump stations, creeks and channels, which captures the City's drainage before it enters San Francisco Bay. The City's stormwater system requires long-overdue improvements to address flood control limitations and aging infrastructure.

A Stormwater Fee was adopted by the City Council in 1993. The fee generates approximately \$1.1 million annually; it has not been increased in 30 years. The revenue is far short of the estimated \$4.8 million annual cost to manage the stormwater system. The Storm Water Enterprise Fund has been operating at an annual deficit and has a projected negative \$2.5 million fund balance.

The Public Works Department began working with Schaaf & Wheeler and HF&H Consultants LLC (HF&H) on an analysis of the City's stormwater system and to understand the funding needs and options for revenue generation. Staff presented an overview of the Storm Drain Master Plan to the City Council Facilities and Transportation Committee on February 7, 2024. The draft Stormwater Fee

Report was presented to the City Council on March 4, 2024. At the March 4 Council meeting, Council directed staff to proceed with the next steps towards implementing a potential stormwater fee amendment to partially fund the City's stormwater system needs.

Stormwater Fee Report

A fee report is necessary to meet Proposition 218 requirements and must be based on the final stormwater fee rate proposed in the mailed ballot proceeding. The Stormwater Fee Report (Attachment C) completed by HF&H serves as the basis for the Proposition 218 Property Related Fee Balloting. The revenues required to fund the proposed stormwater utility, including baseline Operations and Maintenance, additional operating needs, and annual capital projects are approximately \$4.8 million.

The Stormwater Fee Report included an option to generate \$3.2 million annually, which is the amount sufficient to fund the needed annual operations and maintenance costs, the \$4.5 million in very high priority capital improvement projects, and the \$24.0 million in high priority projects. This option would increase the current single-family equivalent Stormwater Fee rate from \$26.33 to \$49.92 annually, a monthly increase of \$1.97 per single-family parcel of greater than 3,200 sf and less than 7,200 sf (79% of the single-family parcels in the City). While this option would not provide full funding of the system's needs, it would ensure that the highest priority projects are addressed. The City would likely need to consider another amendment to the Fee in the next 5-10 years. At that time, additional system and climate adaptability information currently not available could be considered.

Rate Structure - The goal of implementing the stormwater rate is two-fold. First, to address the operating service level, capital improvement, and regulatory needs as described in the Stormwater Fee Report; and second, to ensure that the fee charged continues to reflect how properties within the City interact with the stormwater infrastructure. The proposed rate structure uses surveys conducted on property types, sizes, and characteristics to develop a basic unit of measure, the single-family equivalent or "SFE" unit. This basic unit of measure is then used to calculate the units of measure for all types of land uses.

The annual revenue requirement for the utility is divided by the total SFEs to calculate the per-year and per-month cost for each SFE. The per-month, per SFE cost is then multiplied by the SFEs per parcel or per acre, for each land use category, to determine the stormwater rate for that parcel. The proposed rates included in the Stormwater Fee Report are summarized below.

Table 1 - Stormwater Fee Schedule

Land Use Category		Current Fee	Proposed Fee FY 2024-25	Additional Monthly Cost
Single-Family Residential		\$ per parcel	\$ per parcel	
Small	< 3,200 sq. ft.	\$26.33	\$26.07	(\$0.02)
Medium	3,200 to 7,200 sq. ft.	\$26.33	\$49.92	\$1.97
Large	> 7,200 sq. ft.	\$26.33	\$75.15	\$4.07
Non-Single-Family Residential		\$ per Acre	\$ per Acre	
Apartments/Condos		\$157.98	\$505.70	
Commercial		\$210.64	\$621.02	
Municipal		N/A	\$621.02	

Schools	N/A	\$392.88
Parks	N/A	\$117.81
Golf Courses	N/A	\$12.48
Vacant - Developed Parcels	N/A	\$12.48
Undeveloped Parcels/Open Space		No Charge

Consumer Price Index-U (CPI-U), and Annual Cost Banking - Under state law, rate structures may be developed with annual increases when tied to CPI, or other price indices. The proposed Stormwater Fee Amendment includes the concept of CPI “banking.” The stormwater fee would be subject to an annual adjustment tied to the change in the annual CPI-U for San Francisco-Oakland-Hayward (not seasonally adjusted). The maximum adjustment will not exceed 3% in any year. However, for the years that the CPI-U exceeds 3%, the amount over 3% will be “banked” as unused CPI and used to offset occasions when the annual CPI-U increase is below 3%. Every year, the actual fee amount must go through a public process and can only be changed by the City Council.

Public Outreach - A [Stormwater Fee | San Leandro, CA <https://www.sanleandro.org/1296/Stormwater-Fee>](https://www.sanleandro.org/1296/Stormwater-Fee) webpage is available to provide information on the proposed Stormwater Fee Amendment. The webpage includes an overview of the proposed amendment, FAQs, an informational flyer as well as links to public meetings and documents. The Stormwater Fee Amendment flyer was updated and is included as Attachment D for your information. City representatives have been meeting with large property owners, community groups and other public agencies to discuss the proposed Stormwater Fee Amendment.

Compliance with Proposition 218

In 1996, California voters passed Proposition 218, also known as the “Right to Vote on Taxes” Act. Proposition 218 requires that the City mail a written notice of any proposed stormwater fee increases to affected property owners at least 45 days prior to a scheduled public hearing, during which time property owners may submit written protests opposing proposed rate increases. At the public hearing, currently scheduled for May 20, 2024, Council will consider all protests related to the proposed rates. If a majority of parcel owners protest the rate increases, the new fee cannot be approved.

Additionally, Proposition 218 requires that jurisdictions obtain voter approval (by a majority vote) for new or increased property related fees, unless those fees are for sewer, water or refuse collection services. Fees associated with sewer, water, and refuse collection services can be enacted through a majority protest process. However, stormwater system fees continue to be treated differently than sewer, water, and refuse fees, requiring a majority approval vote from property owners prior to the implementation of the fees.

Next Steps

After receiving approval from Council, the Proposition 218 Notice will be distributed, initiating the rate setting process for the coming fiscal years. In order to provide a minimum 45-day review period, the required Proposition 218 public hearing is scheduled for the May 20, 2024 regular Council meeting, at which time the Council will determine whether a majority of parcel owners protest the proposed fee increases.

A summary of the next steps follows:

1. Mail Notice of Public Hearing to all property owners by April 5, 2024.

2. Hold a Public Hearing on May 20, 2024 and if a majority protest is not received, the next step would be a potential authorization to initiate a mail balloting process pursuant to Proposition 218.
3. Mail ballots and ballot guide sent to all property owners by May 24, 2024
4. Ballots due to City Clerk by 5:00 pm on July 8, 2024.
5. Ballots tabulated on July 9, 2024
6. At the July 15, 2024 regular Council meeting, Council to accept tabulation of ballot results. If the mailed ballot proceeding is successful, Council to consider approval of the Stormwater Fee Amendment.
7. Amended Stormwater Fee to be collected as part of the 2024-2025 Property Tax Assessment.

BUDGET IMPACT:

If the proposed Stormwater Fee Amendment is approved by property owners and adopted by the City Council, the annual stormwater fee revenues will increase from \$1.1 million to \$3.2 million in Fiscal Year 2024-2025 and will be adjusted annually thereafter by the Consumer Price Index, not to exceed 3% annually.

ENVIRONMENTAL DETERMINATION:

This action is not a project subject to CEQA, because it is an organizational or administrative activity that will not result in direct or indirect physical changes in the environment. (CEQA Guidelines Section 15378(b)(5).)

ATTACHMENTS:

- Attachment A - Draft Resolution Initiating Fee Process
- Attachment B - Draft Resolution Adopting Prop 218 Balloting Procedures
- Attachment C - Stormwater Fee Report - Final March 12, 2024
- Attachment D - Stormwater Fee Amendment Flyer
- Attachment E - Presentation