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POTENTIAL FUNDING SOURCES ANALYSIS AND RECOMMENDATIONS

Town of Moraga

Storm Drain Funding Feasibility
Study (CIP 17-201)

April 2017

Prepared by:



Task 1 Report



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EXECUTIVE SUMMARY

The Town of Moraga (“Town”) has engaged a consultant, SCI Consulting Group, to study, make recommendations, and assist in the implementation of strategies to fund improvements and operations of its storm drainage system. The Town has performed considerable research and analysis leading up to this point.

Following are three key milestones:

- In 2009 the Revenue Enhancement Committee (REC) published a report that identified several areas of needs and potential revenue strategies to fulfill those needs. This report included a section on storm drainage.
- In 2015, the Town completed a Storm Drain Master Plan to better understand the condition and capacity of this critical infrastructure system. This Master Plan outlined a Capital Improvement Program that identified \$26 million of needed improvements to the current storm drainage system. This Master Plan lays the foundation for review of the storm drain system and any future actions the Town takes toward establishing a funding mechanism for these important infrastructure improvements.
- In early 2016, the Town conducted a public opinion survey of registered voters in Moraga to evaluate community satisfaction and priorities pertaining to infrastructure and general governmental as well as financial issues. This survey found that maintaining and repairing the storm drain system was the community’s third highest priority, out of the 26 areas surveyed, which is remarkably high compared with other similar communities in California – storm drainage infrastructure typically is not well-understood nor well-supported by the public. Further, the community’s satisfaction with the current storm drainage was one of the lowest of those surveyed. These two findings tell us the community understands the importance of the storm drainage system and desires improvements.

SCI proposes the pursuit of additional revenue for storm drainage infrastructure be approached in four tasks. Task 1 would be a feasibility analysis that would present various funding options with pros and cons of each, and make recommendations for the best course forward (i.e., most likely a balloted measure such as a special tax or balloted property-related fee). Task 2 would incorporate these recommendations into focused public opinion research including stakeholder meetings and a survey, to better understand the community’s priorities and the community’s willingness to invest in this critical infrastructure. Based on the results of this survey, the Town would decide whether and how to move forward with Task 3 and 4, which would include the implementation of a reliable, comprehensive revenue measure, and the associated community outreach, respectively.

This Task 1 Report analyzes and evaluates various funding mechanism alternatives and makes initial recommendations. The experiences and approaches used by similar agencies who provide storm drainage services are also presented. Moreover, this Report closely evaluates special taxes and property related fees, as well as several other approaches that do not require a balloting and are limited by regulations rather than voter- or property owner-driven rate limitations. Development-driven and legislative approaches are also presented. It is anticipated that a new balloted property related fee – possibly augmented by several non-balloted approaches – will be required to fully fund the storm drainage budgetary requirements. This hypothesis will be tested in Task 2, a targeted

public opinion survey. Finally, the schedule and timing of the selected funding mechanism, and other important considerations, are presented.

A summary of this Report's major recommendations includes:

- Conduct working group and stakeholder meetings
- Conduct a mailed survey to better evaluate:
 - Community priorities and associated messaging
 - Optimal rate
 - Preference of balloted property related fee versus special tax
- Use results of mailed survey, stakeholder meetings and other analysis to develop and execute an educational outreach plan
- Implement a variety of "non-balloted" approaches to reduce financial burden of storm drainage services
- Implement procedures to ensure adequate funding for all storm drainage associated with new development
- Conduct a property related fee balloting (or special tax) to fund storm drainage
- Include a cost escalator schedule or mechanism
- Include the use of rate zones or other distinguishing factors
- Carefully consider the pros and cons of a rate expiration date (also known as a "Sunset Clause")
- Include a Discount Program to encourage better local storm drainage management

1.0 INTRODUCTION AND OVERVIEW

BACKGROUND

The Town of Moraga's ("Town") storm drainage system is comprised of an integrated system of storm drain pipes, culverts, ditches and creeks. The Moraga area began experiencing residential development in the 1960s and 1970s while still an unincorporated area of Contra Costa County. As the community grew, the storm drainage system was developed along with the neighborhoods and two commercial areas while still maintaining many native creek segments. This development pattern resulted in Moraga staying close to its rural roots, and its storm drainage system is reflective of this rural character. This is evidenced by the large number of open creek segments that cross streets and roadways through the numerous culvert sections. Much of the Town's storm drainage system is made up of pipes under Town streets, although some pipes run under private properties. In some cases, storm drain pipes under private property carry only storm runoff from private property and are not considered to be part of the Town's system.

In 2009, the Town established an Ad Hoc Revenue Enhancement Committee ("REC") with the purpose of recommending potential strategies for enhancing existing and creating new revenue sources to the General Fund and special purpose needs. As a part of this process, the REC assessed the Town's major infrastructure needs and identified the storm drainage system as an area that is rapidly deteriorating and in need of major repair and replacement. The Town has recently adopted a developer impact fee for storm drainage, but it does not have reserves set aside for repairs or replacement.

On average, the industry life expectancy of a storm drain system is approximately 60 years. The majority of the Town's storm drain pipes were installed approximately 50 years ago, and the system is approaching the end of its useful life. The aging condition of the system became readily apparent in 2006, with the very visible failure of a 96-inch-diameter pipe at the entrance to the Rheem Shopping Center. Furthermore, in 2016, the El Niño winter rains contributed to the 5' wide by 20' long by 15' deep sinkhole developed at the Rheem Boulevard and Center Street intersection.

FUNDING NEEDS

In 2015 the Town adopted a Storm Drain Master Plan that was completed by Schaaf & Wheeler. The Master Plan identified a Capital Improvement Program ("CIP") totaling \$26 million worth of improvements and repairs, with nearly \$9 million categorized as high priority. These amounts have been adjusted for inflation¹ from the year of the Master Plan (2015). The adjusted CIP is summarized in the table below. Research into the property interests in certain cases is ongoing, and the funding needs will be modified as these issues are resolved.

¹ A 4% adjustment, based on the Engineering News Record's Construction Cost Index, was provided by Schaaf & Wheeler.

TABLE 1 – STORM DRAIN MASTER PLAN CIP

CIP Category	High Priority	Moderate Priority	Low Priority	Overall Cost
Capacity	\$ 2,964,000	\$ 5,314,400	\$ 3,068,000	\$ 11,346,400
Condition	1,497,600	41,600	780,000	2,319,200
Street Pavement	291,200	104,000	156,000	551,200
Recurring Problems	-	156,000	-	156,000
Creek Culverts	4,461,600	5,751,200	2,381,600	12,594,400
TOTAL	\$ 9,214,400	\$ 11,367,200	\$ 6,385,600	\$ 26,967,200

In addition to the CIP, the Master Plan also recommends instituting an ongoing, annual maintenance, inspection, and asset replacement program totally \$240,000 annually to further improve the Storm Drain system operations. Again, these amounts have been adjusted for inflation² from the Master Plan year (2015). These are summarized in the table below.

TABLE 2 – ANNUAL INSPECTION, CLEANING, AND ASSET REPLACEMENT PROGRAM

Action	Cost
Video Recording (10,000 - 15,000 ft.)	\$ 15,900
System Cleaning (1.5 weeks)	15,900
Technical Assessment / Recommendations	10,600
Asset Replacement / Repairs	212,000
TOTAL Annual Cost	\$ 254,400

In addition to the financial needs of the physical infrastructure system described above, the Town also has a significant unfunded need associated with storm drainage water quality. This is manifested in its NPDES permit³ and the various requirements contained therein. In 2011, the Town participated in a county-wide needs analysis that analyzed the NPDES permit requirements and the fiscal needs of each municipality. Based on that analysis, it is estimated that the Town would require another \$155,000 per year to be compliant with its NPDES permit.

² A 6% increase was estimated based on the San Francisco Bay Area Consumer Price Index.

³ NPDES stands for the National Pollutant Discharge Elimination System as specified in the Federal Clean Water Act. The Town is one of 20 co-permittees named on the Contra Costa County NPDES permit issued by the State Water Boards.

PROJECT COORDINATION, GOALS AND CONSTRAINTS

In late 2016, the Town retained SCI Consulting Group to investigate additional funding mechanisms that could address the storm drainage funding challenges described above. The SCI contract encompasses Task 1 but also includes the option for three future Tasks:

Task 1: Funding Source Analysis and Recommendations

Task 2: Public Opinion Survey

Task 3: Revenue Measure Implementation

Task 4: Community Outreach

This Task 1 Report provides analysis and advice on various potential funding mechanisms for storm drainage services and projects. Ultimately, the results and recommendations of this Report should be combined with the results of the public opinion (mailed survey) research in Task 2 to guide the Town into and through Task 3 (Revenue Measure Implementation) and Task 4 (Community Outreach), if shown to be feasible.

FUNDING CHALLENGE

This Task 1 Report will evaluate several options for funding the storm drainage program as proposed in the Master Plan. While a balloted funding measure – either a property related fee or a special tax – is very likely to be the primary funding mechanism, other non-balloted funding sources will be evaluated as well. The formula below has been developed to express the funding challenge:

$$\begin{aligned}
 &\text{REVENUE FROM PROPOSED BALLOTTED STORM DRAINAGE REVENUE MECHANISM}^4 \\
 &+ \text{OTHER EXISTING REVENUE}^5 \\
 &+ \text{SAVINGS FROM IMPLEMENTING NON-BALLOTTED APPROACHES} \\
 &= \text{TOTAL REVENUE (REQUIRED PROGRAM REVENUE)}
 \end{aligned}$$

COMMON CURRENT FUNDING SOURCES FOR STORM DRAINAGE SYSTEMS

Below is a list of the most common funding sources for storm drainage:

COMMONLY USED

- General Fund
- Existing Rates and Fees (typically pre-Proposition 218)
- Federal and State Grants, etc.

FOR ANY NEW DEVELOPMENT PROJECTS

- Developer Impact Fees
- Developer Formed Community Facilities Districts and/or Benefit Assessments

⁴ Most likely a balloted special tax or property related fee.

⁵ Other revenue includes miscellaneous fees, etc.

ADDITIONAL DEDICATED LOCAL REVENUE MECHANISMS FOR STORM DRAINAGE SYSTEMS

BALLOTTED APPROACHES (NEEDED FOR PRIMARY SOURCE OF FUNDING)

- Property Related Fee (Property Owner: 50% threshold, Prop 218 compliant))
- Special Tax (Registered Voter: 66.7% threshold, Prop 13 and 218 compliant)

NON-BALLOTTED APPROACHES (TO AUGMENT BALLOTTED PRIMARY SOURCE OF FUNDING)

- NPDES Activities such as Wastewater, Water and/or Refuse
- Non-Traditional Approaches

A BALLOTTED FUNDING APPROACH WILL LIKELY BE NEEDED

Although a number of non-balloted approaches are discussed in detail in Section 2.0 of this report, it is most likely that a balloted approach (e.g., a property related fee or special tax) will be needed to generate required funding. Non-balloted approaches are important to reduce the overall burden but likely cannot generate sufficient funding.

STORM DRAINAGE FOR LOCAL FLOODING VERSUS STORMWATER POLLUTION

Storm drainage facilities and operations are burdened with the dual responsibilities of preventing local flooding, all while limiting the distribution of polluted stormwater and urban runoff as required by law under the National Pollutant Discharge Elimination System (NPDES). In fact, many public agencies manage these two inherently inter-related roles with different staff and funding. Most emphasis and discussion for funding by public agencies in recent years has focused on satisfying the relatively new stormwater-related NPDES Permit requirements (pollutant monitoring, trash reduction, public education), not funding for the direct operations and maintenance of the storm drainage system itself.

However, as explained in Section 3.0, the most successful and highly supported stormwater-related political efforts in the last 10 years (i.e., Burlingame, Palo Alto, Ross Valley) have been for storm drainage systems, not for primarily NPDES permit requirements, and have been messaged to the public accordingly. Integrating both aspects (flooding and pollution management) into a single approach is likely optimal for the Town. The public opinion mailed survey, described below, will work to identify whether there is more support in Moraga for funding for the storm drainage system, or pollution management, or most likely, a combination of both.

ROLE OF PUBLIC OPINION SURVEY

The primary purpose of the Task 2 public opinion survey is to produce an unbiased, statistically reliable evaluation of voters' and property owners' interest in supporting a local revenue measure. Additionally, should the Town decide to move forward with a revenue measure, the survey data provides guidance as to how to structure the measure so that it is consistent with the community's priorities and expressed needs. Specifically, the survey should:

- Gauge current, baseline support for a local revenue measure associated with specific dollar amounts (How much are property owners willing to pay?)
- Identify the types of services and projects that voters and property owners are most interested in funding
- Identify whether voters and property owners are more responsive to preventing local flooding or to improving water quality, or a combination of both

- Expose respondents to arguments in favor of—and against—the proposed revenue measure to gauge how information affects support for the measure
- Identify whether local residents prefer the measure as a property related fee or a special tax
- Estimate support for the measure once voters and property owners are presented with the types of information they will likely be exposed to during the election cycle

ROLE OF COMMUNITY INFORMATION

As part of Task 1, the Town Manager, with the assistance of other Town staff and SCI, will convene a working group or task force made up of community members that are viewed as opinion leaders and participants in community matters. This working group will provide critical advice as to how to best shape the funding measure, craft the community information program, set rates and other features of the measure. This group will meet at least three times over the coming months, most likely at critical decision junctures. Approximately a dozen community members will be invited.

If the Town decides to pursue a balloted funding mechanism, a corresponding community information effort will be required. The community outreach plan should be based upon the results of the Task 2 mailed survey, focus groups, meetings with various stakeholders, etc.

The decision of whether to pursue a property-related fee with a property owner balloting, or a special tax, with a registered voter balloting, will have a profound effect on the outreach. The outreach efforts would be informational, and would not include any advocacy consistent with limitations that apply to the use of public funds.

Although the Town should reach out to environmental groups, it is unlikely that a ground swell of support would be provided by the groups. More likely, homeowners associations (“HOA”s), service organizations and other local “quality of life” groups interested in protecting their properties from local flooding will be most helpful with local outreach.

A summary of important elements of community outreach is provided below.

DEVELOP AN OUTREACH PLAN AND SUPPORT DOCUMENTS

The Town should develop and execute a specific informational outreach effort for the storm drainage fee mechanism. For many municipalities, it is not feasible to obtain large numbers of supportive volunteers to walk, ring doorbells and speak with property owners directly, and/or volunteer at phone banks. However, the Town of Moraga has shown that a concerted grass roots effort can occur for an issue of common concern (as evidenced with the Measure K effort of 2011 and 2012). So, these types of efforts should be considered. In addition, the Town should develop other types of communication tools: handouts, frequently-asked-questions (FAQs) sheets, fact sheets, press releases, feature articles, newsletter articles, descriptive e-mails (suitable for use by local groups), web site information, etc. It must be stressed that these materials would be factual and informational only and would not advocate.

Generally speaking, the information provided should “tell the story” in the following ways:

1. The storm drainage system is important to protect our local neighborhoods
2. The aging storm drainage system needs repair and replacement
3. The Town has performed limited but critical repair and replacement on its storm drain system within its constrained budget

4. More funding is needed to effectively and efficiently address system inadequacies

ENGAGE ELECTED OFFICIALS

Town Council members, County Board of Supervisors, and even state and Federal level elected officials should be engaged in this effort.

ENGAGE LOCAL MEDIA

Local newspapers, and most importantly, small local neighborhood newspapers and newsletters, should be fully engaged to distribute information.

ENGAGE LOCAL STAKEHOLDERS

The most effective outreach and education approach for a balloted storm drainage funding mechanism is to engage and work with existing local groups like HOAs, business associations, neighborhood groups, etc., and use their existing e-mail lists and newsletters. In addition to dedicated community meetings, efforts should be made to attend regularly-scheduled neighborhood group meetings.

UNDERSTAND AND RESPOND TO POTENTIAL OPPOSITION

Part of the community outreach planning should be the identification of opposition and the development of factual responses to opposition arguments. There is no one-size-fits-all approach to confronting opposition, so the Town will need to remain flexible and poised to react to a potentially dynamic situation.

A STORM DRAINAGE UTILITY?

In many states, the establishment of a “Storm Drainage Utility” legally facilitates the imposition of a fee on affected properties, simply by a vote by the governing agency. In other words, a storm drainage utility is established as an independent government agency and then the City Council or County Board of Supervisors can impose a fee by their own action. These storm drainage utilities often have centralized management, outreach and coordination, and much of the same “look and feel” of a traditional water or wastewater agency. However, in California, there is no legal advantage to the formation of a storm drainage utility because any fee structure must be approved through a ballot measure in compliance with Propositions 13 and 218 (as explained in detail in Section 2, below).

However, there could be some advantage of incorporating the “storm drainage utility” approach in the message to the community. Storm drainage activities have not historically been viewed by the public (or the public agencies for that matter) as being on par with other utilities such as water, wastewater and electricity/natural gas. In the past two decades, the ever-increasing regulations on stormwater combined with the significant capital needs identified by the Town make storm drainage more analogous with those traditional utilities.

While there may be some advantage, it is not recommended that the Town establish a formal storm drain utility. The Town has no other utilities that it manages, and there are no outwardly visible signs to the community (such as utility bills) that the Town is in the “utility business.” Further, a new “silo” of governance would conflict with the longstanding “minimal government” philosophy identified in the Town’s General Plan. However, the part of the “utility” approach that may be of some benefit is raising awareness of the Town’s responsibilities and efforts to keep the community safe and dry. This awareness, or branding, effort will be launched simply through the efforts being put forth as part of this funding measure project.

2.0 STORM DRAINAGE FUNDING APPROACHES

INTRODUCTION TO POTENTIAL FUNDING SOURCES

Dedicated local revenue mechanisms that are available to the Town can be divided into three primary groups: balloted, non-balloted, and development-driven. (Legislative approaches and grants are also briefly discussed in this report.)

Balloted revenue mechanisms are legally rigorous, and legal challenges to voter-approved fees have rarely been successful. However, the balloting requirement significantly limits the total revenue that may be generated, as it is limited by the political "willingness to pay" of the local voters or property owners. Amendments to the California Constitution enacted by Proposition 13 and Proposition 218 dictate the required processes for balloted revenue mechanisms.

There two most common types of balloted measures for storm drainage are special taxes (primarily defined and regulated through Proposition 13 language) and property related fees (primarily defined and regulated through Proposition 218 language).

- Special tax elections are typically conducted at polling places, but can be conducted by mail, and require two-thirds of registered voters' support, with one vote per registered voter. A special tax in support of bond financing, often called a "G.O. Bond" for short, is also discussed - but is limited to funding capital improvements only.
- Property related fee elections are typically conducted by mail, with a threshold of more than 50% support (i.e., 50% + 1) of property owners subject to the fee, and one vote per parcel. Proposition 218 also provides the alternative for property related fee approval by two-thirds of the electorate residing in the area affected by the fee, but this election alternative generally is not selected due to the higher approval threshold.

There are several other types of general taxes available to a municipality such as a sales tax, utility user's tax, transient occupancy tax or vehicle license fee. These can be balloted as general taxes where they usually only need a 50% majority for passage, or proposed for a specific purpose where they would need a two-thirds majority. In either case, these are often proposed for general municipal services (e.g. public safety, roads, etc.), for which they are often a good fit. In addition, these other general taxes often have revenue limitations that make it less suitable for an infrastructure needs program such as storm drainage. On the other hand, storm drainage is typically thought of as a property related service (similar to water, sewer and garbage collection), and therefore has a natural nexus to parcel taxes or property related fees, which can be flexibly proposed to match the community's priorities and willingness to pay.

Another mechanism, the Proposition 218-compliant benefit assessment, is discussed briefly in this report, but is not legally or politically appropriate.

Non-balloted approaches, while not subject to local voters'/property owners' "willingness to pay" limitations include increased legal risk. Non-balloted approaches include financial re-alignment of storm drainage improvements combined with non-balloted fees.

The outline below includes an overview of potential funding sources to address the current budgetary needs for storm drainage.

I. Balloted Approaches

1. Special Taxes including:
 - a. Parcel-Based Taxes
 - b. General Obligation Bonds
 - c. User Taxes
 - d. Transient Occupancy Taxes and/or Sales Taxes
 - e. Vehicle License Fees
 - f. Other Special Tax Issues
2. Property Related Fees - Balloted
3. Benefit Assessments

II. Non-Balloted Approaches

1. Re-Alignment of Storm Drainage Services
2. Dedicated Property Related Fees - Non Balloted
3. Regulatory Fees - SB 310
4. Regulatory Fees - Inspections

III. Development-Driven Approaches

1. Impact Fees
2. Permit Fees
3. Community Facilities Districts/Benefit Assessments

IV. Legislative Approaches

V. Other Approaches

1. Grants

VI. Other Issues Affecting All Approaches

I. BALLOTTED APPROACHES

1. SPECIAL TAXES

Special taxes are decided by registered voters and require a two-thirds majority for approval. Traditionally, special taxes have been decided at polling places corresponding with general and special elections. More recently, however, local governments have had significant success with special purpose, special taxes by conducting them entirely by mail and not during primary or general elections. In any case, special taxes are well known to Californians but are not as common as property related fees for funding of storm drainage activities. Special taxes to fund NPDES stormwater services and infrastructure have been successfully implemented in Culver City, Los Angeles, Santa Cruz and Santa Monica.

PARCEL BASED TAXES

Most special taxes are conducted on a parcel basis with a uniform “flat” rate across all parcels, or varied rates based upon property use and/or size. Parcel taxes based upon the assessed value of a property are not allowed. Parcel based taxes (as opposed to sales taxes, etc.) are the most common and most viable type of special tax for funding storm drainage activities. As such, most discussion of special taxes in this report will focus on parcel taxes.

ADVANTAGES

- Legally rigorous. Special taxes, if approved by two-thirds of the registered voters within a community, are very reliable and very rarely legally challenged successfully. Special tax revenue has not been subject to state level “take-aways” like ERAF.
- Very little administrative overhead. Once approved, a tax does not require an extensive Fee Report or other administrative overhead.
- Well known. Most property owners are aware and comfortable with (but not necessarily supportive of) the special taxes and the special tax process.

CHALLENGES

- Questionable political support at required rate and revenue. Generally speaking, the two-thirds majority threshold for approval is very politically challenging. Since they typically appear on general election ballots, special taxes are subject to significant outside influence from media and opposition groups during voting, and are more vulnerable to other measures and candidates that share the ballot.
- Adequate tax rates. Since special taxes require a two-thirds majority, the rate and total revenue have been significantly less than with a property related fee that requires only a simple majority. Both Santa Cruz and Santa Monica have very large renter populations with a very high propensity for voting, and renters tend to be more supportive than property owners of new taxes. In the Town of Moraga, this is not the case, and it is anticipated that the community is much more likely to satisfy the 50% property owner threshold of a property related fee than the 66.7% registered voter threshold of a special tax for the same stormwater quality measure. The Task 2 Opinion Research should confirm this assertion.

REVENUE PROJECTIONS AND TIMING

Special tax elections held at polling places are conducted on the statutorily designated dates (typically in November for the general election and either March or June for the primary). If the Town ultimately decides to pursue a special tax, it is highly recommended that a special all-mail election be considered. Special all-mail ballot elections are often less expensive and allow for more optimization of the election date, as well as having the advantage of presenting a single issue to the voters.

Upon completion of the Task 2 polling, revenue projections for special taxes will be made.

REQUIRED DOCUMENTS FOR A PARCEL BASED SPECIAL TAX

- Ordinance or Resolution stating:
 - Tax type, tax rates, collection method, election date and services provided
- Notice to the Registrar of Voters of measure submitted to voters
- Measure Text including:
 - Ballot question (75 words or less)
 - Full ballot text (300 words or less) including rate structure
 - Arguments in favor or against (pro and con Arguments)
 - Independent analysis
- Tax Report

BORIKAS DECISION AND THE ISSUE OF UNIFORMITY

In June of 2013, the State Supreme Court declined to overrule a lower court's decision to overturn a parcel tax for the Alameda Unified School District. The District had imposed a tax in 2008 in which larger commercial property were taxed at a higher rate than residential or smaller commercial properties. The tax was overturned because it failed to satisfy a "uniformity" requirement for taxes for school districts. This action needs to be monitored because if a stricter uniformity requirement is implemented, it could weaken the Town's ability to generate sufficient revenue via a parcel-based tax.

OTHER CONSIDERATIONS AND FUTURE LEGISLATION

The California Constitution currently requires a two-thirds majority voter approval for cities, counties, and special districts to impose a special tax. An exception to this requirement is incurring indebtedness for school districts. General obligation bonds for school district's capital projects only require 55% of voter approval to be repaid through a special tax. There have been previous unsuccessful attempts to lower the required voter approval for all or some special taxes down to 55% as well. For example, in 2013 ACA 8 aimed to lower voting requirements on special taxes paid to construct, improve, replace, and maintain public infrastructure. Several other bills were also introduced proposing to reduce approval requirements to 55%, typically associated with a particular service, including ACA 3, ACA 18, SCA 3, SCA 4, SCA 7, and AB 1188.

GENERAL OBLIGATION BONDS SUPPORTED BY A SPECIAL TAX

In California, special taxes can be linked directly to the sale of general obligation bonds to finance the construction of infrastructure. In 2004, the City of Los Angeles successfully passed "Measure O" which provided funding for a variety of capital improvements related to water quality. Arguably, voters are more likely to support general obligation bond special taxes than parcel-based taxes at equivalent rates.

However, since special taxes for general obligations bonds can only be used for the financing of capital improvements, this mechanism could only be used to fund the CIP portion of the needs – not the maintenance of the storm drainage infrastructure nor the water quality (NPDES) compliance requirements.

In other words, the passage of a G.O. Bond would not satisfy the Town's overall storm drainage funding goals, because this source could not fund ongoing operations and maintenance. However, it is possible that community priorities and a revised funding strategy could dictate that pursuit of a G.O. bond measure is optimal. Results of the public opinion survey should help guide this decision.

USER TAXES

User taxes typically impose a tax on a specific activity or use. Storm drainage management does not lend itself well to this model, as the use of storm drainage services is more passive than active, and it is difficult to measure and assign every storm drainage management activity or improvement to specific users.

A user tax based, at least in part, on a proportion of water consumption is possible. However, the linkage to flooding and pollution prevention is less clear.

Another example of a user tax that is currently being evaluated is in El Dorado County. El Dorado County is considering the concept of a "Tahoe Basin User fee" with a portion of the revenue supporting stormwater quality services. In other words, tourists travelling into the Tahoe Basin would be charged an entry toll at a finite number of designated entry points, including Highway 50 into South Lake Tahoe. It is unlikely that this plan will be implemented in the Tahoe Basin, and even less likely such a user tax could work in the Town of Moraga.

TRANSIENT OCCUPANCY TAXES AND/OR SALES TAXES

A transient occupancy tax ("TOT") is charged when occupying a room or rooms or other living space in a hotel, inn, tourist home or house, motel or other lodging for a period of 30 days or less. A sales tax is a consumption tax charged at the point of purchase for certain goods and services. The sales tax amount is usually calculated by applying a percentage rate to the taxable price of a sale. Both of these mechanisms are particularly popular in areas with considerable tourist activity because it is perceived that a portion of the tax load will be carried by "out of town" people and entities.

Sales tax and hotel occupancy taxes have considerable internal political challenges and difficulty establishing at least a portion of it as dedicated to stormwater program requirements. A sales tax would require the difficult two-thirds voter support, as would a transient occupancy tax. These mechanisms are considered less viable than a parcel tax.

VEHICLE LICENSE FEES

One novel approach that worked for San Mateo County is the Vehicle Registration Fee. Established in 2003, AB 1546 authorized the City/County Association of Governments of San Mateo County to assess up to \$4 in motor vehicle fees. The purpose of the fee was to establish a pilot program that would fund congestion management activities to reduce traffic congestion, and to provide funding for the State-mandated Countywide Stormwater Pollution Prevention Program (STOPPP) in San Mateo County. Although renewed in 2009 with a majority support, new legislation will require all such future efforts to obtain a two-thirds majority, and are considered politically difficult,

Subsequent similar efforts in Alameda, Contra Costa, Marin, Napa, Sacramento, and Santa Clara Counties have also failed, either in the State assembly or senate, or by governor veto. Essentially,

the Jarvis Taxpayers Association has been able to politically message that a two-thirds majority vote should be required for an increase to vehicle registration fees.

2. PROPERTY RELATED FEES - BALLOTTED

A Proposition 218-compliant, property owner balloted, property related fee is likely the most viable revenue mechanism to fund storm drainage for the Town. Accordingly, considerable detail is provided below regarding this approach. Typically, it is implemented as a property owner balloting requiring a simple majority for approval. (A two-thirds registered voter election can also be used to approve a property-related fee, but is significantly more politically challenging.)

HISTORICAL CONTEXT OF PROPERTY RELATED FEES

Proposition 218, approved by California voters in 1996, is well known for establishing clear administrative and legal requirements to implement a common funding mechanism called a "Benefit Assessment." What is less well-known is that Proposition 218 also created a new mechanism called a "Property Related Fee." A property related fee is a fee or charge imposed upon a parcel "as an incident of property ownership."

Since Proposition 218's passage, property related fees have been widely implemented and used for water, sewer and refuse collection services. In the 2002 Proposition 218 case, *Howard Jarvis Taxpayers Association v. City of Salinas* (98 Cal.App.4th 1351), the Court of Appeal for the Sixth Appellate District held that a "storm water drainage fee" was illegally imposed by the City of Salinas. The plaintiff, Howard Jarvis Taxpayers Association ("HJTA") contended that the storm drainage fee imposed by the City of Salinas was a "property-related" fee requiring voter approval. In its decision, the Appellate Court sided with the HJTA, further explaining "we must conclude, therefore, that the storm drainage fee 'burdens landowners as landowners,' and is therefore subject to the voter-approval requirements of Article XIII D [section 6(c)]." This decision clarified the position that a property related fee is the appropriate vehicle for storm drainage services, not a benefit assessment, and that the fee is subject to the balloting requirement.

PROPERTY RELATED FEE PROCESS

The property related fee process requires public approval in two distinct steps, both of which must be completed successfully for the fee to be approved. The first step is a public notice mailed to each property owner followed by a public hearing 45 days later held by Town Council. If a majority of all affected property owners protest the proposed fee at this initial protest hearing, the proposed fee cannot be imposed, and the process is concluded for that year. If a majority protest is not received, the local agency may, at its discretion, choose to submit the fee to a balloting of either all property owners subject to the proposed fee or all registered voters.

The second step of the process is the balloting. If a mailed-ballot procedure by property owners is used (and this option, not the registered voter option which requires two-thirds of registered voters' support, with one vote per registered voter, is usually selected), the mailed ballot must contain the amount of the proposed fee to be imposed on the owner's property or properties, the basis for calculating the proposed fee, the reason for the fee, and a place upon which an owner can indicate his/her support or opposition for the proposed fee. A simple majority of ballots cast by property owners is required to approve the fee. The balloting must be held at least 45 days after the public hearing.

REQUIRED DOCUMENTS FOR A PROPERTY RELATED FEE

- Mailed Notices of Rate Proposal/Opportunity to Protest/Public Hearing (see Appendix 1 for examples)
- Fee Report and Presentation for Public Hearing
- Report to City Council (assumes < 50% protest)
- Mailed Ballots (assumes Council approval/direction to submit to vote) (see Appendix 1 for examples)
- Ordinance or Resolution Adopting Fees (assumes >50% support)

ADVANTAGES

- Property related fees are the most commonly used mechanism for funding storm drainage programs. Although special taxes have been used, they have been used less often, and in communities with large and very supportive renter populations such as Los Angeles, Santa Cruz and Santa Monica.
- Legally rigorous. Probably because the HJTA v. Salinas case explicitly called out a balloted property related fee, and since the plaintiff in this case was the primary taxpayers association in the state, there have not been any substantive legal challenges of this mechanism's use for storm drainage services.
- Politically viable. The approval threshold for a property related fee is 50%, with one vote per fee-eligible parcel. This mechanism is likely more politically viable than a special tax. Task 2 analysis work will evaluate and likely confirm this.

CHALLENGES

Unfamiliar Process: One potential criticism of the property related fee is that property owners are generally unfamiliar with the process, and opponents can exploit this. However, with the recent dramatic increase in voting by mail in California, this is less of a major issue. Nonetheless, political opponents can exploit this unfamiliarity and focus the public's attention on the Proposition 218 process, and away from the proposed local flooding protection – this effectively derailed recent efforts in Contra Costa County and Los Angeles County.

In the case of Contra Costa County, the opponents (in this case the anti-tax Editorial Board of the Contra Costa Times) characterized the balloting process as flawed because it was not handled by the County Registrar of voters, signatures were required on the ballot (not secret ballots), there were no pro and con arguments on the ballot materials, and the tabulation was performed by a private accounting firm. All of these items, as explained to the Editorial Board of the Contra Costa Times, are legally required by Proposition 218 as sponsored by the Howard Jarvis Taxpayers Association.

Large Public Properties Including School Sites: A fundamental challenge with the property related fee is the legal requirement to charge all properties using a standardized methodology based on the relative cost of providing the applicable service to the parcel, and that publicly owned properties are subject to the fee. As a result, school sites, due to their high levels of impervious area, tend to have very high calculated fee amounts for storm drainage service. Sensitivity will need to be applied when evaluating fees and, in particular, fee reduction measures available to properties to mitigate both runoff and fee rates, consistent with applicable legal limitations, including Proposition 218.

LEGAL SCRUTINY

Property related fees for storm drainage management are well established and legally stout. However, special attention must be paid to ensure the Proposition 218 process is carefully followed. Proposition 218-driven mechanisms are typically subjected to greater legal scrutiny than are special taxes.

REVENUE PROJECTIONS AND TIMING

The basic fee rate should be determined by balancing the budgetary requirements of the Town and the political realities of support levels within Moraga. Various rates will be tested in the survey prior to the balloting. Within the State, fees and taxes for storm drainage system management including NPDES have ranged from \$25 per year to over \$200 per year. Although fee levels have not been developed in any detail, preliminary estimates put them in the range of \$60 (for High Priority CIP only) to \$230 (for entire CIP + Maintenance + NPDES Compliance).

The table below lists the required tasks and timeline to implement a property related fee.

TABLE 3 - BALLOTTED - PROPERTY RELATED FEE TASKS

Typical Duration	Task
6 months prior	Community Outreach
3 months prior	Develop Fee Report, Supporting Resolutions, Notice and Ballot
	Governing Body considers approval of Fee Report and calls for mailing of notices
+/- 10 days	Mail Notice of Proposed Fee and Date of Public Hearing to all property owners (45 day notice period)
45 Days	Public Hearing and call to mail ballots (assumes < 50% protest)
+/- 10 days	Mail Ballots to all property owners (45 day ballot period)
45 Days	Balloting period ends; Ballot tabulation begins; 50% +1 required for approval with 1 vote per fee-eligible parcel

The Town has latitude as to when ballots would be mailed, although, as noted above, it is assumed that the Town would seek Council approval to issue ballots following the rate hearing. As such, a schedule should be planned to avoid controversial elections, other ballot measures, etc. as well as April 15 income tax time and property tax deadlines such as December 10, or any other timing that could cause confusion on the part of the property owner.

3. BENEFIT ASSESSMENTS

As discussed in the preceding section on property related fees, the HJTA v. Salinas decision effectively determined that the benefit assessment is not the legally applicable mechanism for storm drainage services. To our knowledge, there have not been any significant, agency-wide benefit assessment districts created to manage municipal storm drainage in California since this decision was made.

II. NON-BALLOTTED APPROACHES

While non-balloted approaches may result in substantial financial advantage, they should not be viewed as taking the place of balloted approaches. Instead, they should be explored in tandem with ballot approaches. The purpose of implementing non-balloted approaches is to minimize financial requirements (and the associated rate) of the balloted storm drainage fee or tax.

Over the last two decades, a number of public agencies in California have realigned services that were in their storm drainage program to water, wastewater, and refuse collection and have established new or increased fees, and/or re-negotiated existing franchise agreements for such services. This opportunity may be available to the Town as well.

The reason for this is simple: the Proposition 218 process requirements are less onerous for water, wastewater, and refuse collection rates than for other property related services, because they are exempted from the balloting requirement. Known as the "sewer, water, refuse exception," it is described in Proposition 218 as:

"...Except for fees or charges for sewer, water, and refuse collection services, no property related fee or charge shall be imposed or increased unless and until that fee or charge is submitted and approved by a majority vote of the property owners of the property subject to the fee or charge or, at the option of the agency, by a two-thirds vote of the electorate residing in the affected area."

Of course, it does little good to simply re-align storm drainage activities to other enterprises if these enterprises have little access to corresponding increased revenue. Accordingly, these re-alignments have been for, and should be focused on, entities that have an opportunity to raise the corresponding revenue needed to support these additional services, such as wastewater, water, and refuse collection.

In the Town of Moraga, water and wastewater services are provided by special districts (East Bay Municipal Utility District for water, and Central Contra Costa Sanitary District for wastewater), and the Town has no control or authority over utility rates within the Town for these services. Therefore, opportunities for realigning storm drainage services to water and sewer enterprises are minimal, and are not considered in this report.

Refuse collection is provided by Republic Services through an exclusive franchise. While the Proposition 218 requirements are clear for water and wastewater utilities, they are less clear for private refuse collection franchisees. The legal need for a franchisee to conduct a Proposition 218 noticed public hearing is debated in California and is outside the scope of this report. The most conservative approach would be to conduct a Proposition 218 noticed public hearing even when a franchisee is providing the services, if the public agency has any control or authority over the franchisee's rates.

In any event, Proposition 218's noticed public hearing process does not entail the same expense, political risk, and financial "willingness to pay" constraints as a special tax or balloted property related fee.

This approach requires the Town to conservatively review current storm drainage program activities, and where reasonably and rationally appropriate, consider working with service providers and/or re-

aligning some of these activities to refuse collection, and then increase the fees for these services accordingly. Any such re-alignments of activities and/or improvements should be bona fide, well supported, and well-reviewed. Moreover, any new or increased fees for refuse collection may require educational, political and stakeholder outreach, even though a balloting is not required.

OPPORTUNITIES FOR RE-ALIGNMENT OF STORM DRAINAGE SERVICES REFUSE COLLECTION SERVICE PROVIDERS

Listed below are examples of storm drainage services that potentially could be included in new or increased refuse collection rates - and do not need to receive ballot approval. Also, a nexus would need to be established and documented between these activities and individual properties. For example, catch basin cleaning would be linked with drainage area properties, etc.

- Re-align catch basin trash removal as well as removal and replacement of filters to refuse collection/solid waste provider.
- Re-align other services that remove trash from water runoff to refuse collection/solid waste provider.
- Re-align trash pollution inspections to refuse collection/solid waste provider.
- Re-align street sweeping activities (as a form of trash collection and disposal).

The structure by which the Town would accomplish this could vary. In one scenario, these tasks could be performed by the solid waste provider (Republic Services) paid for by increased rates. Another option would for the Town to continue to perform these activities with Town staff or other contractors, but have them paid for through the solid waste rates by way of a funds transfer or franchise fee. Finally, the Town could establish its own solid waste fee (separate from the Republic fee) to support these activities.

ADVANTAGES

No balloting requirement. These strategies would reduce the financial burdens of the Town's storm drainage programs while not incurring the risk, cost and rate limitations of a balloting.

CHALLENGES

Burden of reorganization. The reorganization of activities and operations from the storm drainage program to solid waste providers will result in organizational and budgetary changes and potentially increased initial costs due to the reorganization.

Local political fallout. There may be political constraints to significant increases in refuse collection rates. One option is to plan the transfer of services and rate increases over several years. For example, a public agency can coordinate the transfer of refuse collection operations from storm drainage programs to refuse providers through more "regularly scheduled" rate increases. Although it may not be easy to make these changes, it is indeed procedurally easier to increase funding for wastewater, water or refuse collection (no balloting required) than to increase funding for storm drainage (balloting required). Moreover, any fee increases should be enveloped with extensive educational, political and stakeholder outreach before, during and after the rate increase.

Reduction of centralized management of storm drainage program. The reorganization of storm drainage related activities to refuse collection, even if only for funding purposes, may result in some loss of managerial quality control for the overall scope of activities and improvements needed for NPDES permit compliance and stormwater quality programs.

Does not cover all storm drainage program costs. These strategies would likely apply to recently increased activities associated with trash and other pollutant controls in the NPDES permit (inspections, monitoring, program management). They do not apply to ongoing storm drainage activities such as operations, maintenance and capital improvements, which represent the largest share of storm drainage costs. They should be implemented in combination with other funding sources.

LEGAL RESTRICTIONS

Several years ago, the City of Encinitas added a fee onto their garbage collection fee to pay for stormwater management, and the City was legally challenged. The lawsuit was settled out of court when Encinitas agreed to conduct a balloting (which subsequently lost), and Encinitas was forced to refund the already collected fees. In this case, rather than redistributing specific and appropriate activities from stormwater to refuse collection, Encinitas incorrectly only used the solid waste collection fee as a mechanism to collect a fee for stormwater services. There have been legal challenges to other non-balloted efforts (e.g., Salinas, and Solana Beach), so the Town is advised to proceed cautiously with this approach and to fully justify and support any services allocated to refuse collection. The Town should only realign services where there is a clear, bona-fide component that is driven by refuse collection services. At this point, the outside limitations of the definitions of the "sewer, water, refuse exception" have not been legally established.

1. REGULATORY FEES - INSPECTIONS

Public agencies throughout California often reimburse themselves for the costs of inspections and permits using regulatory fees approved and published as part of a "Master Fee Schedule." The costs of certain stormwater inspection activities can be defrayed by charging inspection fees on individual properties. This approach can minimally assist in reducing the Town's financial burden. However, the passage of Proposition 26 has added some question about the long term legal viability of even these types of regulatory fees.

The Town could pay for some of the inspections required by the NPDES permit using regulatory fees.

III. DEVELOPMENT-DRIVEN APPROACHES

The Town should work to ensure that new development covers the costs associated with all storm drainage costs, including future long term replacement costs associated with that development. Impact Fees and Community Facilities Districts or Benefit Assessment Districts are effective tools to do this.

1. IMPACT FEES

Impact fees are one time only capital infusions which primarily affect new development and will only have a marginal effect on the overall funding of storm drainage activities. However, their significance can increase over time. Fees for improving wastewater and water systems, as well as for parks and schools, to accommodate new development are common examples of development impact fees. Historically, however, public agencies in California have not rigorously incorporated all storm drainage costs into local developer impact fees.

The Town updated its development impact fees in 2016, and includes a component for storm drainage for all new development in Town.

2. COMMUNITY FACILITIES DISTRICTS AND BENEFIT ASSESSMENT DISTRICTS

Many municipalities and special districts establish localized special tax and assessment “districts” that fund the maintenance and operations of various local infrastructure. (These appear as “direct charges” on County property tax bills.) The special taxes are primarily Community Facilities Districts (more commonly known as “CFDs” or “Mello-Roos Districts”), and the assessments are primarily Landscaping and Lighting Assessment Districts. Both mechanisms are very effective and manageable, and are commonly used for larger residential developments throughout the State. Most importantly, they are routinely established during the residential development phase, while the developer owns all of the property, because they are politically challenging (requiring a balloting of all affected property owners) after the homes have been sold.

Although most of the funding from developer-driven revenue will pay for services specific to development, a portion can augment the overall storm drainage activities. For example, the impact fee may be justified to pay for the incremental cost of some storm drainage related infrastructure (e.g., a diversion structure), and the collected fee may be used for the rehabilitation of this infrastructure. CFDs and Benefit Assessment Districts are typically used to pay for the annual operations and maintenance of something that benefits the paying property, including pollution control facilities and retention structures. Care should be taken to clearly differentiate between what activities are funded by the CFD levy and a property related fee/tax, so that both can be collected from the affected property. Although sometimes incorrectly and unfairly described as “double taxation,” this situation is extremely common in California, and is a well know side-effect of Proposition 13. In any case, CFDs are slightly preferred over benefit assessments because they provide slightly broader flexibility in use and are slightly less expensive to annually administer.

IV. LEGISLATIVE APPROACHES

Over the last ten years, at least three bills have been introduced to add "stormwater" to the "sewer, water, trash exception" within Proposition 218. All have failed to garner the needed political support. Even if the state legislature approved such a bill, it would still require statewide approval from registered voters. While a constitutional amendment may be possible, it would be highly challenging. Both Proposition 13- and Proposition 218-related constitutional code is well-defended by politicians, taxpayer's groups and well-motivated individuals. Any and all proposed exceptions are viewed as an attack on the existing legislation and would likely encounter a strong negative reaction.

Recently there has been a concerted effort by stormwater proponents to put a ballot measure before California voters that would offer an alternative to Proposition 218. This approach would leave Proposition 218 (which modified Article XIII of the Constitution) in place, and would modify Article X of the Constitution by offering an alternative method of adopting fees. The measure would address three recent criticisms of Proposition 218:

1. Tiered water rates to promote conservation
2. Low-income discounts (life-line rates)
3. The balloting requirement for stormwater funding

Unfortunately, public opinion surveys showed that there was not adequate support for such a measure to obtain voter approval, and this effort has been delayed.

In February 2016, SB 1298 was introduced by Senator Hertzberg, which would have revised the Proposition 218 Omnibus Bill (Government Code Section 53750) to define "Sewer" as including services and facilities for surface or storm waters. This would have allowed stormwater fees to be established or increased without going to a ballot (similar to water and sewer rates). This bill took advantage of the ambiguity of Proposition 218 regarding stormwater systems (as acknowledged by the Salinas Court), and sought to make clear its status under the law. The Howard Jarvis Taxpayers Association (the authors of Proposition 218) strongly opposed the bill and threatened litigation against the first agency that attempted to take advantage of it. Ultimately, the bill's sponsor withdrew the bill. However, Senator Hertzberg introduced a similar bill in 2017 (SB 231).

V. OTHER APPROACHES

1. GRANTS

GRANTS AND PROGRAMS

California has a limited mix of State grants and programs which provide funding opportunities for local storm drainage programs. Proposition 84, Proposition 1B, and Proposition 1E allocate funding to support stormwater management activities and projects. Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, authorized the sale of \$5.4 billion in general obligation bonds, to be used to fund water-related projects. One element of Proposition 84 establishes that a portion of the revenue be dedicated specifically to the reduction and prevention of polluted stormwater to lakes, rivers, and the ocean. Proposition 1B, approved by voters in November of 2006, is titled the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006. This Act includes some limited opportunities for stormwater such as urban greening improvements that help control stormwater peak flows and pollutant loads. Proposition 1E, also approved by voters in November of 2006, is the Disaster Preparedness and Flood Prevention Bond Fund of 2006 and provides some focused opportunities for funding of stormwater projects. Most of the funding associated with these propositions is delivered through competitive or targeted grants and programs.

State grants are typically awarded through a highly competitive process, often require matching local funds, tend to be focused on capital expenses, are often narrowly focused in terms of scope and services, and can have significant administrative overhead. In addition, most grants are seldom designed to fund the management and operations of a storm drainage program or the maintenance of storm drainage infrastructure. Nonetheless, the revenue opportunities provided by grants is significant enough that they should be considered part of the Town's efforts.

If State grants are pursued, applications should be written to maximize flexibility in use of the funds so the grant award can contribute towards annual storm drainage program expenses. The Town should also consider coordinating with other affected local agencies to put forth larger and potentially more competitive grant applications.

The Town may also consider supporting any effort to create new Statewide Bond measures with storm drainage components. However, there is very little political momentum for such a proposition at this time. The Town should work to identify applicable Federal grants and compete, in coordination with other affected local agencies, for funding. Also, the Town should consider working with local elected officials to pursue provisions that direct approved funds to be spent on specific projects, often called earmarks.

However, grant fund, alone, are not sufficient for most projects of programs. Grants typically require some sort of local matching funds, that must come from other sources. Similarly, loans require a revenue stream for repaying the debt. In other words, these valuable funding programs must be leveraged against a baseline, sustainable and dedicated funding stream such as user fees or taxes. Neither type of funding can stand alone. Grants and loans usually require other funding, and user fees are typically insufficient to fund capital improvements and other environmental pilot programs. Therefore, a multi-pronged approach is highly recommended

VI. OTHER ISSUES:

TIMING AND SCHEDULE

Balloted property related fees are often structured to be included on the annual tax bills. This is particularly true for agencies that do not already have a monthly billing system in place. If that were the case, the Contra Costa County Auditor requires levies to be submitted by August of that fiscal year in order to be placed on tax bills. Accordingly, if the Town chooses this option, it will want to begin the noticing and ballot work by December of the year prior to the first year of taxation.

If the mailed survey indicates that a special tax is viable, and the Town chooses to pursue the tax approach, it should consider consolidating with the November 2017 election. However, the County does not conduct a general election in odd years since all local agencies have their city council elections in even years. That means that a November 2017 election would be a special election just for Moraga, which would be significantly more expensive. In addition, turnout is typically much lower for off-year elections, and that can undermine support for a community funding initiative such as this. Alternatively, the Town should consider an all-mail special election with the advantages of better control of timing and messaging, and a single issue.

The selection of the balloting date is one of the most important factors affecting the success of any measure. Potential competition with other measures, income and property tax due dates, seasons and holidays, etc. should all be evaluated when choosing a balloting date.

A COST ESCALATOR IS RECOMMENDED

Infrastructure-intensive utilities are driven by many different forces than those that drive the Consumer Price Index (CPI) including the need for capital investment programs, regulatory programs, and the economics of sustainability, conservation, and commodity constraints. Due, in part, to these other drivers, rates for utilities have not traditionally been tied to a straightforward CPI, but rather have been expressed as a specific rate amount for a given year based on actual projected costs.

Water and Wastewater have a Prop 218 exemption from the balloting requirement for increasing rates. This exemption allows those two utilities to continue its historic pattern of periodic calculated rate increases based on numerous factors. Storm drainage, however, does not have the same exemption, and any rate increases must be presented to property owners through a balloting procedure. It is for this reason that many agencies have not increased storm drainage fees since 1996. Therefore, it is highly recommended that the Town incorporate an escalator mechanism into any rate structure that is proposed.⁶ The simplest to explain to property owners and to administer annually is a CPI, which would allow for annual rate increases without annual balloting. A CPI escalator is legally defensible with property related fees, regulatory fees, and special taxes.

However, a CPI approach would make it difficult to accommodate infrastructure-driven cost increases in coming years. An alternative approach would be to include a rate adjustment schedule that would include specific increases in future years that meet the Town's needs. (This approach,

⁶ Government Code section 53739 allows property related fees to be adjusted for inflation "pursuant to a clearly identified formula" stated in a voter-approved fee schedule, subject to specified limitations.

commonly used by water and sewer providers, often communicates to the property owner in table form with the proposed rate corresponding to each year for the next four or five years.) One drawback to this approach is that fiscal master planning has a finite horizon. While master plans may have 20-30 year horizons, they are often updated at five year intervals to account for fluctuations in infrastructure needs, regulatory requirements, and community growth patterns. When projecting rate increases more than five or ten years out, it is difficult to maintain the highest level of confidence in the associated fiscal projections, and confidence is a valuable currency when proposing a ballot measure.

At this point in the process, it is difficult to make a concise recommendation for the escalator mechanism. It would depend on the escalating costs and how they affect the proposed rates in the foreseeable future. It would also depend in part on the proposed rate structure itself, as some structures may be based on variables that intrinsically accommodate increasing storm drainage needs. Finally, it would depend on the political considerations that come with any ballot measure. Historically, the majority of survey data supports the fact that a CPI escalator introduces minimal decay in overall support. But there is no valid data on how pre-scheduled rate increases or some hybrid of the two mechanisms would affect support. Task 2 of this effort includes a mailed survey. That survey can include questions about rate escalators and the parameters surrounding them, and the results would help determine the level of support for various escalator mechanisms.

A SUNSET PROVISION IS NOT RECOMMENDED, BUT SHOULD BE CONSIDERED

A “Sunset Provision” is a mechanism used to increase political support by setting an expiration date for a measure, and can be used with a property related fee, regulatory fee, or tax. Sunset provisions typically range from five years (like the property related fee for the City of San Clemente) to as much as 20 years in some rare cases. However, the political advantage may be slight and does not outweigh the negative aspect of the increased costs and political risk of having to re-ballot at the termination of the sunset period.

Further, if the Town is considering using debt financing to accelerate the CIP, any sunset would need to be as many years out as the term of the debt. Debt of this magnitude would warrant a 20- to 30-year debt structure, and such a long sunset clause would be somewhat irrelevant.

RATE ZONES SHOULD BE CONSIDERED

Proposition 218-compliant funding measures have recently come under increased legal scrutiny, particularly in relation to property related fees. A recent case in San Juan Capistrano involved tiered water rates that were ultimately ruled to be unconstitutional in the absence of a clear administrative record supporting why it costs more to serve certain customers more than others. Other cases have been brought challenging the amount of funds transferred from a rate-supported enterprise to a City's general fund. While there have been very few court challenges to storm drainage fees, it is clear that the rate structure must consider various cost factors, and establish a clear nexus between the property (or class of properties) and the rate proposed.

In the case of Moraga, this could mean that neighborhoods that maintain all or a portion of their own storm drain system locally (possibly through an HOA) may need to be treated differently than neighborhoods that have Town-maintained storm drains in their neighborhood. Similarly, properties that have been developed in the past ten years that have been required to include storm drainage mitigation and treatment measures may have a different impact on the storm drain system than

similar properties developed before these NPDES requirements. As the fee engineering is developed, there may be other similar factors to be considered as well.

A “DISCOUNT MECHANISM” SHOULD BE CONSIDERED, BUT MAY NOT BE COST-EFFECTIVE

Consistent with the efforts of obtaining higher quality stormwater and reduced peak flows, a discount or “rate reduction” program should be considered which rewards property owners implementing stormwater management measures on their properties with a lower fee, based on the reduced cost of providing storm drainage service. Any such program would need to be coordinated with whatever rate structure the Town decides on to ensure that it fits with the rationale and is compliant with Proposition 218.

The advantages of such a program include improved water quality, improved engagement by the community, as well as a rate more tailored to individual usage. Also, discount programs tend to be well received by the electorate, although most people do not participate. The down side of such a program is that the benefit may not justify the cost of administering this program, because the inspection of property-specific improvements is expensive and time consuming. Nonetheless, a couple of public agencies including the cities of Portland, Oregon, South Lake Tahoe and Palo Alto have successfully implemented discount programs. The community’s interest level for a discount mechanism will be evaluated as part of the mail survey opinion research.

The significant elements of discount program case studies are described below:

PORTLAND, OREGON:

- Single family residences are charged a fixed monthly rate of \$8.78 based on 2,400 square feet of impervious area.
- Residential properties only get credit for roof runoff space, while commercial properties get roof and paved area credit (can receive up to 100% off stormwater utility fee).
- Partial credits for tree coverage, having <1,000 sq ft of impervious area, installing drywells and soakage trenches, redirecting stormwater into gardens, etc.
- Funded through Clean River Rewards – Portland’s stormwater utility discount program.
- The maximum discount is 100% of the on-site stormwater charge.
- The main emphasis is the “Downspout Disconnection Program.”
- Property owners fill out a checklist of improvements and sign it as true. They are subject to announced inspections. Essentially, based upon the property owner’s input in the standard form, they get a calculated discount.

<http://www.portlandoregon.gov/bes/article/390568>

PALO ALTO, CALIFORNIA

- Credit available to residential and commercial properties for installing approved items by certified specialists (rain barrels, permeable pavement, cisterns and green roofs).
- Department is funded with revenue from monthly storm drainage Fees.

“As part of the Storm Drainage Fee Increase ballot measure approved by a majority of Palo Alto property owners in April 2005, a special program to encourage innovative storm water measures was created. The program is funded with revenue from monthly Storm Drainage Fees, at a rate of \$125,000 per year. The goal of this program is to help Palo Alto residents, businesses, and City departments to implement measures that will reduce the amount of runoff that flows into the storm drain system or improve the water quality of that runoff.”

Example measures include:

- Capturing rainwater in rain barrels or cisterns for use on landscaping and gardens.
- Constructing or reconstructing driveways, patios, walkways, and parking lots with permeable paving materials, so that rainwater soaks into the ground.
- Constructing a green (vegetated) roof to absorb and filter rainfall.
- To achieve this goal, starting August 1, 2008, the City of Palo Alto Storm Drain Utility is offering stormwater rebates to residents, businesses, and City departments for the qualifying measures listed above.
- Submit an application.
- Get approval to go ahead.
- Submit supporting documentation, including receipts, etc.

<http://www.cityofpaloalto.org/gov/depts/pwd/stormwater/rebates/default.asp>

<http://www.cityofpaloalto.org/civicax/filebank/documents/13099>

SOUTH LAKE TAHOE:

- Due to the unique and environmentally sensitive nature of the Lake Tahoe Basin, a number of special government agencies exist to protect the environment. To protect Lake Tahoe for future generations, the Tahoe Regional Planning Agency requires all developed parcels to install and maintain significant BMPs. The BMPs are tracked by TARPA including inspections and fines. There has been considerable public opposition to these requirements.
- Rebate of \$500 ONLY available to those with income at the median and under level, and complete BMP certification process.
- Funded through Prop 13 and Tahoe Regional Conservation District.
- BMPs can be as simple as putting gravel under drain spouts, planting native grasses, etc.

http://www.trpa.org/documents/press_room/2007/BMP_Rebate_7-19-07.pdf

<http://www.tahoebmp.org/>

COMMUNICATIONS AND MESSAGING ARE CRITICAL FOR SUCCESS

All of the approaches described in this report will require significant and thorough community communications and messaging.

Common water quality messaging includes:

- Protect sources of clean drinking water from contamination and pollution.
- Remove dangerous pollutants, toxic chemicals, and infectious bacteria from water reservoirs and waterways.

- Keep trash and pollution off our shorelines and out of creeks, lakes, coastal waters and the Bay.
- Reduce illegal discharges of pollution into water sources through improved monitoring, investigation and prosecution.
- Inspect and test potable water quality on a regular basis to ensure that it meets Federal and State clean water requirements.
- Catch, clean up, and reuse rainwater runoff to irrigate landscapes, which will conserve our clean drinking water.
- Organize volunteer Clean Up Days to remove trash from shorelines and the Bay
- Install Trash Capture devices in storm drains or implement other measures to remove trash and pollution before they enter our waterways.
- Protect and improve water quality in the San Francisco Bay.

Common Local Flood Control Messaging:

- Protect property from local flooding.
- Prevent local flooding so emergency vehicles can respond to 911 calls in your neighborhood.
- Protect our neighborhoods from localized flooding.
- Reduce the flow of trash, debris and pollutants into our creeks, rivers, manmade lakes and the Delta.
- Meet or exceed increasingly strict State and Federal Clean Water standards.
- Repair and replace deteriorating drainage pipes.
- Protect general funds by avoiding penalties – up to \$25,000 per day – for non-compliance with State and Federal Clean Water requirements.

Communications and messaging will be also tested during the mailed survey, tentatively scheduled for the spring of 2017. This research will serve to develop the Action Plan for the implementation of a ballot measure.

3.0 SIMILAR EFFORTS BY OTHER AGENCIES

RECENT STORM DRAINAGE FUNDING EFFORTS IN CALIFORNIA

There have been relatively few voter-approved local revenue mechanisms in the past 15 years established to support storm drainage programs in California. The table below lists the major efforts throughout California.

TABLE 4 - RECENT STORM DRAINAGE MEASURES

Municipality	Status	Annual Rate	Year	Mechanism
San Clemente	Successful	\$ 60.15	2002	Balloted Property Related Fee
Carmel	Unsuccessful	\$ 38.00	2003	Balloted Property Related Fee
Palo Alto	Unsuccessful	\$ 57.00	2003	Balloted Property Related Fee
Los Angeles	Successful	\$ 28.00	2004	Special Tax - G. O. Bond
Palo Alto	Successful	\$ 120.00	2005	Balloted Property Related Fee
Rancho Palos Verde	Successful , then recalled and reduced	\$ 200.00	2005, 2007	Balloted Property Related Fee
Encinitas	Unsuccessful	\$ 60.00	2006	Non-Balloted Property Related Fee adopted in 2004, challenged, ballot and failed in 2006
Ross Valley	Successful, Overturned by Court of Appeals, Decertified by Supreme Court	\$ 125.00	2006	Balloted Property Related Fee
Santa Monica	Successful	\$ 87.00	2006	Special Tax
San Clemente	Successfully renewed	\$ 60.15	2007	Balloted Property Related Fee
Solana Beach	Non-Balloted, Threatened by lawsuit, Balloted, Successful	\$ 21.84	2007	Non-Balloted & Balloted Property Related Fee
Woodland	Unsuccessful	\$ 60.00	2007	Balloted Property Related Fee
Del Mar	Successful	\$ 163.38	2008	Balloted Property Related Fee
Hawthorne	Unsuccessful	\$ 30.00	2008	Balloted Property Related Fee
Santa Cruz	Successful	\$ 28.00	2008	Special Tax
Burlingame	Successful	\$ 150.00	2009	Balloted Property Related Fee
Santa Clarita	Successful	\$ 21.00	2009	Balloted Property Related Fee
Stockton	Unsuccessful	\$ 34.56	2009	Balloted Property Related Fee
County of Contra Costa	Unsuccessful	\$ 22.00	2012	Balloted Property Related Fee
Santa Clara Valley Water District	Successful	\$ 56.00	2012	Special Tax
City of Berkeley	Successful	varies	2012	Measure M - GO Bond
County of LA	Deferred	\$ 54.00	2012	NA
Vallejo San & Flood	Successful	\$ 23.00	2015	Balloted Property Related Fee
Culver City	Successful	\$ 99.00	2016	Special Tax
County of El Dorado	Studying	NA	NA	NA
County of Orange	Studying	NA	NA	NA
County of San Mateo	In Process	NA	NA	NA
City of Sacramento	In Process	NA	NA	Balloted Property Related Fee
County of Ventura	Studying	NA	NA	Balloted Property Related Fee

DISCUSSION - WHY DID IT SUCCEED OR FAIL

BURLINGAME, PALO ALTO AND ROSS VALLEY

These three efforts were all successful at a relatively high rate, and provide helpful direction for the Town. All three primarily address local flooding with some stormwater quality elements. All three of these are relatively small, affluent, Bay Area communities that are similar to Moraga. In the case of Burlingame, a significant amount of door-to-door public outreach was required to gain property owner approval.

CULVER CITY, SANTA CRUZ AND SANTA MONICA

Culver City, Santa Cruz and Santa Monica have relatively high numbers of renters living in apartment buildings which make a special tax more attractive than a property-related fee. All three conducted successful special taxes, at varying rates, emphasizing prevention of beach closures.

Culver City passed Measure CW with 74% approval in November 2016; a \$99/single-family residence (“SFR”) parcel tax for water quality improvements. The measure was branded as “Clean Water, Clean Beaches,” like the slogan used by the City of Los Angeles in their Measure O campaign. More specifically, the measure was “to protect public health/groundwater supplies and prevent toxins and pollutants from contaminating local waterways, creeks and beaches, by improving storm drains/infrastructure to capture/clean urban runoff; preserving open space; and complying with clean water laws.” Other rates were \$69 for multi-family residential dwelling unit and \$1,096 per acre for non-residential properties.

Santa Cruz passed Measure E with 76% approval in 2008; a \$28/single-family residence (“SFR”) parcel tax for beaches. The question on the ballot was, “To protect public health and the environment by reducing pollution, trash, toxics and dangerous bacteria in our river, bay and ocean; helping to keep beaches clean; protecting fish and wildlife habitat; shall the City of Santa Cruz adopt a Clean River, Beaches and Ocean Tax, with revenues spent locally under independent citizen oversight? The annual rates will be \$28 for single-family parcels, \$94 for other developed parcels, and \$10 for undeveloped parcels.” In the ballot text, it said the tax is to “be used exclusively for the purpose of reducing and preventing water pollution and managing stormwater runoff.”

Santa Monica passed Measure V with 67% approval in 2006; a parcel tax for clean water/groundwater recharge/beaches that was \$87/SFR in 2009. Taken from the Santa Monica website is a description of the Measure: “Measure V raises property tax revenue to be used solely for the purpose of implementing urban runoff water quality improvements in the City in accordance with the City’s Watershed Management Plan adopted in 2006. It is the most equitable source of funding to pay for new urban runoff treatment projects that will prevent our unhealthful water pollution, from reaching Santa Monica beaches and the Santa Monica Bay.”

DEL MAR

The City of Del Mar used a mail ballot process in 2008 for two separate issues. The first pertained to their then-current clean water fee, assessed at a rate of \$20.90 bi-monthly, and the other to a proposed increase to \$27.23 bi-monthly with language allowing for CPI increases. They decided to ballot their then-current fee because they increased the rate without balloting in 2003, and questions had been raised about its legality in regards to Prop 218 after a 2006 Supreme Court case that ruled stormwater fees could not be increased without voter approval.

Both ballot questions gained high support; voters approved then-current fees with 68.8% approval and approved the fee increase with 62.4% approval. Del Mar utilized a successful public outreach effort with messaging towards preventing pollution, ensuring clean drinking water, and NPDES permit requirements and threat of expensive fines.

HAWTHORNE

The City of Hawthorne used a mailed ballot process in 2008 for a “clean water fee.” It would have funded storm drain and pipeline improvements to reduce the risk of flooding and reduce contamination in water runoff. Hawthorne heavily focused on stormwater infrastructure and State-mandated clean water programs. The fee structure for the measure was composed of tiered rates, with a standard home on a 6,000 square foot lot being charged \$2.50 per month and larger properties from \$2.50 to \$10 per month. The measure failed with a majority, 55.3%, voting against it.

SAN CLEMENTE

San Clemente has been very successful with its stormwater measure, and has had it renewed twice by property owners as it has a five-year sunset. However, this measure is primarily focused on preventing beach closures and is not particularly relevant to Moraga.

CARMEL AND ENCINITAS

These efforts were for small cities, were highly politically contentious with ineffective outreach, and ultimately failed.

RANCHO PALOS VERDE AND SANTA CLARITA

These efforts were reasonably well executed in politically conservative communities and were successful.

COUNTIES OF CONTRA COSTA AND LOS ANGELES

Both of these efforts were ultimately unsuccessful and suffered from criticism of the elements of the property-related fee process. Los Angeles also suffered from a lack of support from some of the co-permittee cities involved.

COUNTIES OF ORANGE AND VENTURA

These efforts are currently under way and have stalled due to disagreements amongst co-permittee cities.

SANTA CLARA VALLEY WATER DISTRICT

Santa Clara Valley Water District passed a parcel tax for “safe, clean water and natural flood protection” (Measure B) in November of 2012. Using a messaging platform of ensuring a safe, reliable water supply and immediate need of funding for critical infrastructure projects, they were able to garner support of 73.7% of participating registered voters. Another important aspect in the messaging of this Measure was that its purpose is to replace an existing tax that was due to expire in 2016.

Part of their effort went towards producing an “Action Plan” that provided detail on what the funding from the Measure would be used for. They listed priorities and their corresponding projects, estimated costs of these projects, detail on fee structure and frequently asked questions. It also includes acknowledgements to their many endorsers and sponsors throughout the effort, which included several popular newspapers that produce both print and electronic articles.

Many articles were produced in favor of Measure B. They highlighted how safe, clean water is critical to the economy of the Silicon Valley as well as the new, streamlined staffing and spending within the District. Previously known for high salaries, excessive spending and extreme benefit packages, the District brought in a new CEO that cut staff and needless expenditures. An issue that could have ruined their outreach efforts was successfully spun in a positive light.

By working with local communities, the District was able to message towards real priorities that were present within their borders. Emphasizing safe, clean, healthy water and the inherent need of funding for critical infrastructure that would otherwise be postponed were their keys to success. Putting forward an established plan made the public more comfortable with supporting this Measure because they could see where their money was going. Keeping the environment healthy by ensuring a clean, vital resource allowed voters to connect with this effort and feel like they were voting for a good cause.

STOCKTON

Stockton has been plagued with well-publicized financial challenges, which ultimately eroded any chance of a successful new tax or fee for any service. In this case, Stockton attempted a property related fee, with strong messaging for storm drainage infrastructure, at a relatively low rate, and it was soundly rejected.

VALLEJO SANITATION AND FLOOD CONTROL DISTRICT

The Vallejo Sanitation and Flood Control District, an independent, special district, that handles wastewater treatment and stormwater conveyance for the Vallejo area, passed a storm water rate restructuring in 2015 with a 57% support level. The District had a storm drain fee in place for many years at a flat rate of \$1.97 per parcel per month. In 2015 the District worked to implement a new rate structure that would keep the single-family residences at the same \$1.97 per month, but create other rate levels for multi-family, commercial, industrial, and other land uses that would increase overall revenue. They promoted this measure as creating a fair and equitable rate structure, implying that commercial and industrial parcels had not been paying their fair share.

WOODLAND

The City of Woodland established a Storm Drain Advisory Committee in 2007 to review current funding and maintenance issues and establish a plan to increase rates to solve these issues. Woodland currently has a storm drainage fee of \$0.49 per month, which has not increased since 1994. Focusing heavily on critical infrastructure needs and lack of funding, the City Council approved going out for ballot at a rate of \$5 per month, which would help pay back a loan from the General Fund for storm drain maintenance and fund what are seen as critical infrastructure projects. There was 59% majority disapproval of the increase by participating voters, which left the storm drain fee at the original \$0.49 per month.

STORM DRAINAGE FEES FOR OTHER CALIFORNIA AGENCIES

In addition to the agencies listed above in Table 4 that have gone to the ballot for new or increased storm drainage fees, there are several other municipalities throughout the State that have existing storm drainage fees in place. The table below lists some of those agencies. Amounts are annualized and are for single family residential or equivalent.

TABLE 5 - LOCAL STORM DRAINAGE FEES

Municipality	Annual Rate	Type of Fee
Bakersfield	\$ 200.04	Property Related Fee
Culver City	\$ 99.00	Special tax
Davis	\$ 84.94	Property Related Fee
Elk Grove	\$ 70.08	Property Related Fee
	\$ 190.20	Property Related Fee
Hayward	\$ 28.56	Property Related Fee
Los Angeles	\$ 27.00	Special tax
Palo Alto	\$ 136.80	Property Related Fee
Redding	\$ 15.84	Property Related Fee
Sacramento (City)	\$ 135.72	Property Related Fee
Sacramento (County)	\$ 70.08	Property Related Fee
San Bruno	\$ 46.16	Property Related Fee
San Clemente	\$ 60.24	Property Related Fee
San Jose	\$ 91.68	Property Related Fee
Santa Cruz	\$ 109.08	Special Tax
Stockton *	\$ 221.37	Property Related Fee
Vallejo Sanitation and Flood Control District	\$ 23.64	Property Related Fee
West Sacramento	\$ 144.11	Property Related Fee
Woodland	\$ 5.76	Property Related Fee

* This is the calculated average rate for the City of Stockton, which has 15 rate zones with rates ranging from \$3.54 to \$651.68 per year.

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4.0 SUMMARY OF RECOMMENDATIONS

This Task 1 Report presents analyses and evaluations of various funding mechanism alternatives. The alternatives included the evaluations of special taxes including G.O. Bonds and property related fees, as well as several other approaches that do not require a balloting. Balloted approaches will rely more on public opinion polling that will be analyzed as part of Task 2. The recommendations contained in this Report will need to be combined with the findings in Task 2, Public Opinion Survey, to form the basis of Task 3, Revenue Measure Implementation and Task 4, Community Outreach.

RECOMMENDED FUNDING MECHANISM

The Town will need to rely primarily on a balloted funding measure. Non-balloted approaches presented include re-alignment strategies, as well as development-driven and legislative approaches. However, these do not appear to have the potential for any significant revenue. The most feasible is the refuse collection re-alignment opportunities, however it is not associated with the Capital Improvement Program, which is the largest share of the costs. In anticipation of substantive funding gaps, the Town should strongly consider pursuing the non-balloted approaches to the extent feasible. Whether a balloted measure is plausible or not, the use of non-balloted approaches will set in place a broad base of funding options.

It is recommended that the Town continue to consider both a special tax and a property related fee. The Task 2 survey will assist in determining which one is most advantageous. While the property related fee appears to have an advantage – requiring only 50% approval – it is often true that the registered voter universe is more amenable to a revenue measure than the property owner universe. However, it should be noted that in Moraga those two universes are nearly identical.

One additional mechanism should not be discounted yet – General Obligation bonds. Because this revenue measure is heavy with capital projects, this could be a good fit depending on the rate levels.

OTHER RECOMMENDATIONS

The following items are preliminarily recommended as potential elements in a funding measure. They should be included in the Task 2 survey to evaluate their feasibility before making a final determination.

- Include a cost escalator schedule or mechanism.
- Include rate zones or other distinguishing mechanism.
- Do not include a fee expiration date (also known as a “Sunset”), unless highly desired by community.
- Include a Discount Program to encourage better local storm drainage management.

NEXT STEPS AND TIMELINE

It is recommended that the Town Council proceed to Phase 2, Public Opinion Survey, in order to complete the feasibility analysis of a Storm Drainage funding measure. The timelines below show the critical steps and tentative dates for Task 2 and Task 3, the Funding Measure Implementation. SCI has proposed another task, Task 4, for Community Outreach. This is not shown on the timeline because that work will be tailored to fit the needs and desires of the Council and community, and will be conducted throughout the entire project in one form or another. The Town Manager’s Working

Group and stakeholders' meetings begun in Task 1 will be invaluable in determining the comprehensive community outreach program.

OVERALL NEXT STEPS

- Continue Town Manager's Working Group and other focus groups or stakeholder meetings.
- Set preliminary rate structure for survey purposes.
- Conduct public opinion survey to better evaluate:
 - Community priorities and messaging.
 - Funding measure elements.
 - Optimal rate.
- Finalize rate structures for storm drainage.
- Use results of mailed survey, focus groups and other analysis to develop and execute community outreach plan.
- Conduct a property related fee balloting (or special tax) to fund storm drainage.
- Implement a variety of "non-balloted" approaches to reduce financial burden of storm drainage services.

TENTATIVE TIMELINES

A tentative timeline has been developed for each of the two primary funding mechanisms: Property related fee, and special tax. The special tax timeline is based on the Town conducting a special all-mail election, therefore the election date does not coincide with the more familiar June or November dates.

TABLE 6 – TENTATIVE TIMELINE FOR PROPERTY RELATED FEE TASKS

Task	Dates	Comments
<u>TASK 1 - Feasability Study</u>		
Working Group	ongoing	Periodic meetings
Stakeholder's Meetings	ongoing	Ongoing
Town Council	May 2017	Receive Task 1 Report, Authorize Task 2 Survey
<u>TASK 2 - Public Opinion Survey</u>		
Prelim Rate	May - Jun 2017	Prelim rate structure for survey purposes
Draft Survey	May - Jun 2017	SCI drafts survey & info item
Town Council	Jun 2017	Review Survey - Authorize mailing
Survey Phase	Jul - Sep 2017	Print, mail, receive, tabulate & analyze results
Town Council	Sep 2017	Receive Survey results, authorize Task 3
<u>TASK 3 - Rate Measure Implementation</u>		
Fee Report	Sep - Nov 2017	
Town Council	Nov 2017	Approve Fee Report, authorize Notice of Public Hearing
Notice Period	Nov 2017 - Jan 2018	Min 45 days after mailing notice
Public Hearing	Jan 2018	Town Council authorize Balloting (if no majority protest)
Ballot Period	Jan - Feb 2018	
Tabulation	Feb 2018	
Town Council	Mar 2018	Receive ballot results, impose fees (if approved)

TABLE 7 – TENTATIVE TIMELINE FOR SPECIAL ALL-MAIL TAX ELECTION

Task	Dates	Comments
<u>TASK 1 - Feasability Study</u>		
Working Group	ongoing	Periodic meetings
Stakeholder's Meetings	ongoing	Ongoing
Town Council	May 2017	Receive Task 1 Report, Authorize Task 2 Survey
<u>TASK 2 - Public Opinion Survey</u>		
Prelim Rate	May - Jun 2017	Prelim rate structure for survey purposes
Draft Survey	May - Jun 2017	SCI drafts survey & info item
Town Council	Jun 2017	Review Survey - Authorize mailing
Survey Phase	Jul - Sep 2017	Print, mail, receive, tabulate & analyze results
Town Council	Sep 2017	Receive Survey results, authorize Task 3
<u>TASK 3 - Rate Measure Implementation</u>		
Fee Report & Ordinance	Sep - Nov 2017	
Town Council	Nov 2017	Approve Fee Report, adopt ordinances to call an All-Mail election
Mail Ballot Materials	Jan - Feb 2018	
Election Date	Mar 2018	
Tabluate Ballots	Mar 2018	
Town Council	Mar 2018	Receive ballot results, impose fees (if approved)

5.0 APPENDIX 1 – EXAMPLES OF BALLOTS AND NOTICES

- City of Stockton Notice and Ballot
- Ross Valley Notice



Municipal Utilities Department
2500 Navy Drive
Stockton, CA 95206

PSRST STD.
U.S. POSTAGE
PAID
STOCKTON, CA
PERMIT NO. 269

Notice of Public Hearing

Learn more about a proposed Clean Water fee for City of Stockton utility customers.

Notice of Public Hearing

The City Council will hold a public hearing at **5:30 p.m., Tuesday, August 17** in the City Council Chambers, 425 N. El Dorado Street, Stockton. Written protests regarding the proposed Clean Water fee may be mailed or delivered in person to the Office of the City Clerk, 425 N. El Dorado Street, Stockton, and must be received by the City Clerk at or before the close of the public hearing on August 17.

The proposed new fee will not take effect if a majority of property owners file a written protest. A written protest must contain the parcel number or physical address of the property, and property owners must either be identified on the last equalized County assessment roll, or provide proof of ownership.

If a majority protest is not achieved, the City will ask property owners to vote on the proposed new fee. Ballots will be mailed to each affected property owner, as required by state law. If a majority of returned ballots are in support of the new Clean Water fee, the new fee will be implemented. Revenues generated by the new fee will be subject to strict accountability requirements, including independent financial audits and citizens' oversight to ensure that all funds are expended on Clean Water programs.

At the Public Hearing, all interested persons will be provided an opportunity to express comments, concerns, or protests to the proposed fee. At the conclusion of the hearing, the City Council will consider the adoption of the proposed fee. If protests against the proposed fee are submitted by a majority of owners of affected parcels, the Council will not approve the proposed fee.

Clean Water Fee Hotline
(209) 487-0788

Please read this notice for more information about the proposed new Clean Water fee.

Why Is a New Fee Necessary?

The City of Stockton recognizes that new fees are difficult, especially during tough economic times. However, the costs to comply with State and Federal Clean Water regulations have continued to increase. The City can be fined up to \$25,000 per day for failure to comply with these strict regulations.

The City recently conducted a stormwater rate study to analyze current and future revenues and expenses. The study recommended the new fee.

Utility Rate and Fee Website
www.stocktongov.com/mud

Clean Water and Prevention of Localized Flooding

The City of Stockton's Clean Water system (also known as the stormwater system) is a network of catch basins, drainage pipes and pump stations that prevents local flooding in our neighborhoods during rainy weather. If not properly maintained and operated, the storm drainage system will not be able to prevent localized flooding, and will transport trash and harmful pollutants into our creeks, rivers, manmade lakes and the Delta. Increasingly strict State and Federal regulations require improvements to this system. If these improvements are not implemented, the City will face costly fines that can drain general funds intended for other critical City services.

The City is proposing a modest new fee for Clean Water services. Clean Water fees will pay for the collection and safe disposal of water runoff. The City is committed to preventing localized flooding, and protecting our rivers, creeks and the Delta.

The new fee will be used to:

- Protect our neighborhoods from localized flooding
- Reduce the flow of trash, debris and pollutants into our creeks, rivers, manmade lakes and the Delta
- Meet or exceed increasingly strict State and Federal Clean Water standards
- Repair and replace deteriorating drainage pipes and pump stations
- Protect general funds by avoiding penalties - up to \$25,000 per day - for non-compliance with State and Federal Clean Water requirements

C0_CleanWater_inFINAL.pdf 1 4/23/10 4:07 PM

Property Type	Rate July 1, 2010	Proposed 2011	Net Increase 2011	Proposed 2012	Net Increase 2012
Single Family - \$/Parcel	\$0.00	\$2.88	\$2.88	\$3.23	\$0.35
Multi-Family ⁽¹⁾ - \$ Living Unit	\$0.00	\$2.88	\$2.88	\$3.23	\$0.35
Non-Residential ⁽²⁾					
Commercial (90% Density Factor)	\$0.00	\$2.88	\$2.88	\$3.23	\$0.35
Industrial (79% Density Factor)	\$0.00	\$2.88	\$2.88	\$3.23	\$0.35
Institutional (62% Density Factor)	\$0.00	\$2.88	\$2.88	\$3.23	\$0.35

[1] Includes all residential accounts not single-family (i.e., duplex, fourplex, apartment homes, etc.)

[2] Non-residential accounts are billed based on total acreage times the density factor divided by an ERU equivalent to determine the number of billed ERUs

These fees may be adjusted, effective 2012-2013, by the consumer price index, not to exceed 4% in each succeeding year, to reflect the actual costs of services, if needed.

**New Clean Water Fee Hotline
(209) 487-0788**

What is Water Runoff Pollution?

Water runoff describes the water that flows into storm drains from rain, sprinklers, garden hoses and other sources of water. As water runoff flows, it collects various pollutants and eventually dumps into a local storm drain. Storm drain pipes quickly transport these pollutants – without treatment – into nearby rivers, manmade lakes, creeks and the Delta.

Common Sources of Water Runoff Pollution

- Sediments, dirt, sand, silt and construction waste
- Pet waste
- Pesticides and fertilizers
- Automobile fluids – oil, grease, gasoline & antifreeze
- Grass clippings, leaves and other yard waste
- Metals
- Household hazardous wastes (HHW) like paints and solvents
- Debris such as plastic bags, six-pack rings, bottles and cigarette butts

Effects of Water Runoff Pollution

- Bacteria and other pathogens can wash into swimming areas and the Delta and create health hazards.
- Sediment can cloud water and destroy aquatic habitats.
- Nutrients from fertilizer, pet waste and grass clippings can cause excessive algae growth, which robs water of oxygen needed by fish and other aquatic organisms.
- Ducks, fish, turtles and birds can choke or suffocate on debris like plastic bags and six-pack rings.

Will the Clean Water Fee be used by the City, County or State for other purposes?

No. Clean Water fees can only be used for operations, maintenance and projects related to the collection, treatment and disposal of water runoff generated by City residents.



Public Hearing
5:30 p.m.
Tuesday, August 17, 2010
City Council Chambers
425 N. El Dorado Street
Stockton, CA

How Is My Fee Calculated?

The proposed new Clean Water fee is dependent upon how much a property type contributes to polluted water runoff (see information on left) and is measured by a property type's impervious surface, such as driveways and building roofs, etc. For example, property types with large parking lots send more water runoff into the storm drain system than property types with lawns and trees.

Did You Know?

1991 was the first and last time the City of Stockton approved a stormwater fee. That rate has remained the same for 20 years while the cost of providing service has increased.

Official Clean Water Fee Ballot

City of Stockton Clean Water Fee for Stormwater Services



The City of Stockton is proposing a new monthly Clean Water Fee for stormwater services. Per state law, affected property owners are being asked to vote on the proposed increase. Please read the enclosed Clean Water Fee Ballot Information Guide for more information.

Ballots must be **received** by or before 4:30 p.m., Monday, October 25

- 1) Mail your fee ballot to the address shown on the enclosed return envelope so that it is **received** by or before Monday, October 25, 2010.
- 2) Deliver it in person to the address shown on the enclosed return envelope so that it is **received** by or before 4:30 p.m., Monday, October 25, 2010.

Voting Instructions

- 1) Verify that the owner name, address, and parcel number(s) listed on the fee ballot are correct. If they are not correct, please call the Clean Water Fee Hotline at (209) 487-0788.
- 2) Clearly check the box next to the word "YES" or "NO" to approve or disapprove of the proposed clean water fee. Please use ink.
- 3) Sign and date the fee ballot. Only official fee ballots which are signed and marked with the property owner's support or opposition will be counted. After marking your vote, separate the ballot at the perforated line and FOLD so that your vote is on the inside of the fold. Place the fee ballot in the return envelope provided. Affix postage and return by mail, or hand deliver to the address on the return envelope.
- 4) If you make a mistake in completing your fee ballot or wish to change or withdraw your clean water fee ballot, please call (209) 487-0788.

Signature Instructions

- 1) If the property is owned by an individual, the individual must sign.
- 2) If a property is held by a husband and wife, either may sign.
- 3) If two or more persons own the property as tenants-in-common or as joint tenants, any one tenant-in-common, or joint tenant, may sign for all.
- 4) If the property is owned by a corporation, the fee ballot may be signed for the corporation by an officer or officers authorized to make contracts or by resolution of the corporation's board of directors.
- 5) If the property is owned by another legal entity, the fee ballot may be signed by any person authorized by law to make contracts for the entity.
- 6) If the property is owned by a public agency, the fee ballot may be signed by any person authorized by law to make contracts for the agency or by resolution of the agency's Governing Board.

Tear portion below and return in envelope provided

Official Clean Water Fee Ballot

- ☐ **YES**, I approve the proposed monthly Clean Water Fee for stormwater services.
- ☐ **NO**, I do not approve the proposed monthly Clean Water Fee for stormwater services.

I hereby declare, under penalty of perjury, that I am the property owner or owner's authorized representative of the parcel(s) identified on this official ballot. Date _____

Signature of Owner/Authorized Representative (DO NOT PRINT)

Name of Owner/Authorized Representative (PRINT)

Proposed Monthly
Fee effective
January 1, 2011
\$2.88

Proposed Monthly
Fee effective
July 1, 2011
\$3.23

These fees may be adjusted, effective fiscal year 2012 - 2013, by the consumer price index from the Bureau of Labor Statistics, U.S. City Average, Other Goods and Services, 1982-84 base, not to exceed 4% in each succeeding year, to reflect the actual costs of services, if needed.

Owner Name

Joe Smith
123 Oak St
Stockton, CA 91234

Parcel Number/ Physical Address


123-456-788
123 Oak Street
Stockton, CA 91234

Town of Moraga

Storm Drainage Funding Feasibility Study – Potential Funding Sources
April 2017



ROSS VALLEY FLOOD PROTECTION and WATERSHED PROGRAM



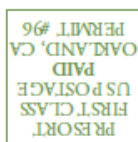
County Vote on Flood Protection Program


On January 1, 2006, a flow of about 763,000 gallons per minute broke creek banks and flooded our streets. Engineers have now identified first-phase flood protection solutions for the Ross Valley that could contain a flood of last year's magnitude. Projects can only be undertaken with sufficient funding, which will come from local, State and Federal sources. Property owners may soon be asked to vote on a storm drainage fee to help fund the Ross Valley Flood Protection and Watershed Program.

More Information

You'll find complete information about community meetings and possible flood protection solutions, as well as the full storm drainage report on the project website: www.RossValleyWatershed.org

Official Notice to Property Owners




 County of Marin
 Department of Public Works
 P.O. Box 4186
 San Rafael, CA 94913

ROSS VALLEY FLOOD PROTECTION and WATERSHED PROGRAM

Watershed Partners

Many Ross Valley communities, environmental and volunteer organizations worked together during the past year to develop the Flood Protection and Watershed Program.

- County of Marin
 - > Board of Supervisors
 - > Department of Public Works
 - > Flood Control District Zone 9
 - > Marin County Stormwater Pollution Prevention Program
- City of Larkspur
- Town of Ross
- Town of San Anselmo
- Town of Fairfax
- San Anselmo Flood Protection Technical Advisory Committee
- Friends of Corte Madera Creek Watershed
- California State Coastal Conservancy
- Kentfield Planning Advisory Board
- Coalition for Corte Madera Creek
- Sleepy Hollow Community
- Ross Valley Watershed Flood Mitigation League
- Congresswoman Lynn Woolsey
- National Oceanic and Atmospheric Administration
- National Weather Service
- State of California Office of Emergency Services
- US Army Corps of Engineers

Your Proposed Fee

Proposed Storm Drainage Fee:

\$ a year
 (\$ a month)

Dear Ross Valley Resident and Property Owner,

As a community, we have made tremendous strides toward flood protection solutions in the year since our creeks overflowed their banks. We'd like to thank the hundreds of you who volunteered your time and those who joined us at four community meetings since last winter. We'd also like to thank the Board of Supervisors of the Marin County Flood Control and Water Conservation District, and the members of the town councils of Fairfax, Larkspur, Ross and San Anselmo for their guidance and support.

Working with a broad range of environmental and citizen groups, County staff, engineers, the cities and towns of Ross Valley, and community members like you, we now have a first list of flood protection solutions that could contain a flood similar to last year. We have more work to do, but we've made a very significant start with your help and support.

Our goal is to both reduce damage due to flooding *and* enhance the natural creek environments we all value, restoring habitat and improving fish passage—a Ross Valley that's safe, prepared and beautiful.

Now, we as a community must find ways to fund those solutions. We're in a unique position right now because last November, Californians passed Propositions 1E and 84, which make billions of State dollars available for flood protection. However, many California communities are struggling with similar flood protection issues and there will be much competition for every bit of State and Federal money available. A local source of revenue, such as a storm drainage fee, could allow Ross Valley to successfully compete for millions of dollars that would otherwise go to other communities.

As a property owner, you may soon be asked to vote on the proposed storm drainage fee. The amount you would be asked to pay is shown on the left as "Your Proposed Fee." Thank you very much for taking the time to read the information provided here. For more information, please visit the website at www.RossValleyWatershed.org.

Sincerely,



Farhad Mansourian, Director
 County of Marin Public Works

ROSS VALLEY FLOOD PROTECTION and WATERSHED PROGRAM

NOTICE TO PROPERTY OWNERS OF PUBLIC HEARING

The County of Marin Flood Control District Zone 9 is proposing to establish an annual watershed-wide, storm drainage fee to fund the Ross Valley Flood Protection and Watershed Program. Flood Zone 9 encompasses the City of Larkspur, the Towns of Ross, San Anselmo and Fairfax, and the unincorporated County areas of Kentfield, Sleepy Hollow, San Anselmo, and Fairfax. The proposed storm drainage fee would be collected on the County of Marin tax roll each year, beginning with tax year 2007-2008.

The California Constitution requires that the proposed storm drainage fee go through a two-step approval process: first, a public hearing and protest procedure and second, a property owner vote.

The Board of Supervisors of the Marin County Flood Control and Water Conservation District will hold a Public Hearing on:

May 1, 2007 at 11:00 AM
Board of Supervisor's Chambers
Marin County Civic Center
Room 329
3501 Civic Center Drive, 3rd Floor
San Rafael, California

The Board will hear public testimony and receive written protests about the proposed storm drainage fee. Any prop-

erty owner may file a written protest about the storm drainage fee with the Clerk of the Board at any time before the start of the public hearing. The protest must identify the property and the property owner and be signed by the owner of the property or an authorized representative of the owner of the property. It may be mailed to:

Clerk of the Board
Board of Supervisors
P.O. Box 4186
San Rafael, CA 94913-4186

Or hand delivered to:

Clerk of the Board
Marin County Civic Center Room 329
3501 Civic Center Drive
San Rafael, CA 94903.

If a majority of property owners do not protest, the Board will order a mail-returned, property owner vote on the proposed storm drainage fee.

Calculating the Storm Drainage Fee

In the Ross Valley Watershed, creeks and streams are part of the natural drainage system that sends stormwater runoff to the Bay. A storm drainage fee would be paid by properties that contribute runoff to the storm drainage system.

The fee for your property is related to the estimated amount of stormwater runoff it generates (your exact proposed fee is on the first page). Land that is developed (for example, with a house, commercial building or parking lot)

creates "impervious areas" where water cannot soak into the land, resulting in stormwater runoff. A storm drainage fee would be based both on the size of your property and how heavily it is developed (its impervious percentage).

The vast majority of single-family residential properties in Ross Valley would pay \$125 or less per year. Virtually all condo owners would pay about \$33 a year. And the fee is capped at \$180 a year for all residential properties. Adjustments for inflation will be limited to no more than 3 percent a year as determined by the Board of Supervisors and the fee will end in 20 years unless it is extended by a vote of property owners.

Analysts developed a table that groups properties into four types of land use (single family residential, condominiums, multi-family buildings and commercial/industrial property) and then into five size categories, with a flat fee for each size category (see table).

In Ross Valley, the median residential lot is 1/5 acre and is about 38% impervious—the fee would be \$125 annually and all other fees are developed in proportion to that. Larger residential property rates are modified by a lower impervious percentage because they have proportionally more open space. For example, in Ross Valley a 1-acre residential lot is about 16% impervious. However, large parcels still produce more runoff than do small parcels and thus would be charged a somewhat higher fee, capped at \$180. On the other hand, commercial properties are usually more heavily built on than residential properties. As a result, they have a high impervious factor and would usually be charged a higher fee than would a similar size residential lot.

All multi-family and commercial properties over 1 acre will be reviewed individually to determine their impervious factor and fee. The full storm drainage fee report will be available at Clerk of the Board's office and at Department of Public Works offices in Room 304 at the Civic Center. The report will also be available at the project website at www.RossValleyWatershed.org.

The Return-by-Mail Ballot Process

If the Board of Supervisors of the Marin County Flood Control and Water Conservation District determines that the Ross Valley Flood Protection and Watershed Program and storm drainage fee should proceed with a vote of property owners, ballots will be mailed in early May. Your ballot will have the exact fee for your property for 2007-2008.

In conformance with California law, ballots are mailed to the property owner of record, which is not always the person living in or conducting business in a building on that property (renters do not vote because they don't pay the fee directly). There is one vote per property and you do not need to be a registered voter. Passage requires a simple majority of returned ballots. You may return your completed ballot by mail or in person to the Clerk of the Board at the address given above on page 2. Ballots must be

received by the deadline set forth in the ballot, which will be at least 45 days after the date the ballot is mailed to you.

About the Flood Protection and Watershed Program

The flooding Ross Valley experienced last winter occurred during a 100-year storm. Engineers use that term to describe a storm that has a 1% chance of occurring in any given year (not a storm that occurs only once in 100 years). In fact, Ross Valley has experienced three 100-year storms in the past decades (1982, 1986 and 2006). Much of the Ross Valley storm drainage system currently provides only about 5-year flood protection, meaning that it can be overwhelmed by a storm that has a 20% change of occurring in any year.

Engineers are now developing a series of flood protection solutions. Removing constrictions that block creeks could quadruple flood protection—and contain floods during 20-25 year storms (those with a 4-5% chance of occurring). Adding detention basins upstream to hold water and release it slowly, could provide 100-year flood protection.

Projects will be designed to:

- Reduce damage due to flooding
- Maintain natural creek functions
- Reduce pollutants entering the Bay

- Incorporate habitat enhancements
- Improve fish passage

All projects will go through a public review process and comply with all environmental requirements.

This is the first phase of solutions. With additional funding, engineers will continue to analyze creek constrictions farther into Fairfax, Sleepy Hollow Creek and other tributaries. In addition, large sections of Corte Madera Creek in Larkspur require intense dredging to ensure water quickly reaches the Bay. The full program will consist of five major elements: Capital projects, operations and maintenance, environmental preservation and restoration, financing, and program administration.

Phase 1 Locations

Increasing flow capacity at these locations, plus upstream detention basins that hold storm water and release it slowly, could contain a flood of last year's magnitude.

- 1 Redesign/replace Lagunitas Bridge fish ladder
- 2 Replace/enlarge Lagunitas Road Bridge (in design phase)
- 3 Madrone Avenue Bridge
- 4 Building Bridge #2 (private property in San Anselmo)
- 5 Downtown Fairfax culvert
- 6 Nokomis Avenue Bridge
- 7 Sycamore Avenue Bridge
- 8 Building Bridge #3 (private property in San Anselmo)

Further solutions for Fairfax, Sleepy Hollow and other tributaries would be developed, with sufficient funding.

Single Family Residential PROPOSED STORM DRAINAGE FEE

ACRES	ANNUAL FEE	MONTHLY FEE
0 – .15	\$107.69	\$8.97
.151 – .25	\$125	\$10.40
.251 – .50	\$147.84	\$12.32
.501 – 1	\$180	\$15.00
>1	\$180	\$15.00

The vast majority of single-family residential properties in Ross Valley would pay \$125 or less per year; the fee is capped at \$180 a year for residential properties.