



CITY OF SALINAS FINANCE COMMITTEE

DATE: NOVEMBER 4, 2019

DEPARTMENT: PUBLIC WORKS DEPARTMENT

FROM: HEIDI NIGGEMEYER, NPDES PROGRAM MANAGER

TITLE: STORMWATER FINANCIAL STUDY

RECOMMENDED MOTION:

No motion is required for this item. Comments and feedback from the Finance Committee on the next steps to be taken is requested.

DISCUSSION:

Implementation of the City's NPDES program costs approximately \$5M/year with additional Capital Improvement Project costs of \$3.5M. A majority of the funding for this program comes from the City's General Fund. The City has been investigating potential alternative funding mechanisms to support the NPDES program implementation and associated CIPS and relieve the General Fund. In July 2018, a Request For Proposals (RFP) was released by the Public Works Department to address the following three items: 1) determining "cost of service" (Proposition 26) fees for plan review and inspection services; 2) evaluating if a nexus exists between sanitary sewer rates and stormwater program funding; and 3) evaluating the feasibility of a stormwater utility and what that utility might be. In August 2018 the contract was awarded to SCI Consulting/Larry Walker Associates to develop a stormwater financial study to address these three items in the RFP. The goal of these efforts is to provide a sustainable funding mechanism for the City's stormwater program needs, which include but are not limited to NPDES Permit compliance, pollutant reduction efforts, flood damage prevention, low impact development requirements, stream restoration efforts and/or ongoing maintenance of stormwater control measures, and operation/maintenance of the City's storm sewer infrastructure.

"Cost of Service" Fees for Plan Review and Inspections:

Under Proposition 26, agency fees and charges are classified as local taxes *unless* they qualify under 1/7 exceptions. According to Exception #3 (Regulatory Costs), "a charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits," is allowed and is exempt from balloting requirements. A review of the stormwater program's fees for plan review and construction and business inspection services resulted in recommendations for some current fee adjustments, a restructuring of others, and the addition of new fees. The analysis estimated the likely amount of resources needed for a typical year and applied hourly cost factors to determine appropriate fees. The attached report outlines what the fees are and how they are structured for full cost recovery.

Sanitary Sewer and Storm Sewer Nexus:

An evaluation was made to determine if there was sufficient overlap between the stormwater program and the sanitary sewer services rates to justify a realignment of sanitary sewer revenues to fund the stormwater program. Although stormwater diversion projects are underway, there does not appear to be a financial nexus between stormwater program implementation and the sanitary sewer system, other than inspecting the storm sewer lines for sanitary sewer cross-connects. The impact of Senate Bill 231, which classified “storm sewer” as “sewer”, was evaluated. SB 231 appears to have opened the door to adopting a stormwater fee without utilizing the balloting process; however, the legal future of SB 231 is uncertain. Taxpayer advocates claim that it is unconstitutional under Proposition 218 and the likelihood of any such fee approach being litigated is very high. It is not recommended the City move forward along the SB 231 path.

Stormwater Utility Feasibility:

A stormwater utility can be viewed as a fully self-contained utility like most other municipal water and sewer utilities where all the services and programs are funded primarily with a user fee mechanism where the fees collected are kept in an enterprise fund. Currently Salinas, like most other municipalities in the State, funds a good portion of its stormwater program implementation activities from the General Fund. Some programmatic activities are funded through the Trash Franchise fees collected each year. Formation of a stormwater utility would allow funds normally taken from the General Fund to be realigned to support other City services.

California is dominated by Proposition 218 which requires fees for stormwater services to be submitted to voters in a ballot measure. The balloting requirement has caused most municipalities to forego this important dedicated and sustainable funding source. The most typical and appropriate funding mechanism is a property-related fee, identical to what is charged for water and sewer services – except with the added balloting requirement. An analysis shows the full cost of funding the stormwater program, including CIPs, via a stormwater utility only is approximately \$8.5M per year. A typical rate structure would require an annual fee of approximately \$170 for the average home to fund such a program – a rate that is higher than most communities have achieved in the State.

The path to establishing a stormwater utility has many steps, which are usually dictated by Proposition 218 and require four to eight months to complete. However, there is a lot of work that needs to occur before these final procedural steps are taken. Because of the ballot requirement, a stormwater fee should be introduced to the community early in the process through stakeholder outreach, community opinion surveys, and other types of community engagement. At the same time, the City must define the services to be paid for via the utility, perform a rigorous needs analysis, and finally, conduct a rate study. Only then can a municipality make a solid case to the community to approve a Proposition 218 ballot measure.

Several recommendations are made within the attached report. If all recommendations are implemented, it could take at least a year and a half to two years. Because of the high level of financial need with its resulting rate levels, it is doubtful that the full cost of the stormwater program can be funded solely from a stormwater utility – at least initially. There are potential funding sources to supplement a basic fee, such as a realignment of the trash franchise fees to

cover the costs of trash related NPDES program activities. A full discussion of this process, the recommendations being made, and potential stormwater utility structures are included in the attached report.

FISCAL AND SUSTAINABILITY IMPACT:

There are no fiscal and sustainability impacts.

ATTACHMENTS:

1. RFP – Stormwater Inspection Rate, Sanitary Sewer Nexus, and Utility Feasibility Study
2. Stormwater Financial Study - Final