CITY COUNCIL AGENDA STATEMENT

CITY OF CHULA VISTA

March 2, 2021 File ID: **20-0418**

TITLE

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA AMENDING THE FISCAL YEAR 2020/21 CIP PROGRAM BUDGET TO ESTABLISH A NEW CAPITAL IMPROVEMENT PROJECT, "STORM WATER MANAGEMENT AND DRAINAGE FUNDING REPORT AND PUBLIC OUTREACH" (DRN0218); AND APPROPRIATING $100,000 FROM THE GENERAL FUND RESERVES TO DRN0218 (4/5 VOTE REQUIRED0

RECOMMENDED ACTION

Council adopt the resolution.

SUMMARY

On June 18, 1991, the City Council passed Ordinance No. 2463 establishing a Storm Drain Fee (Fee) and corresponding Storm Drain Revenue Fund (Fund) to finance the maintenance of the City's storm drain system (Municipal Separate Storm Sewer System (MS4)), and the planning costs associated with the compliance of the Regional Water Quality Control Board National Pollutant Discharge Elimination System (NPDES) Permit (Permit), issued on July 16, 1990, in accordance with the federal Clean Water Act. The City does not receive Federal or State funding to comply with the Permit. The Permit is periodically revised and amended, and each Permit revision has resulted in additional program requirements resulting in additional City expenditures to meet compliance.

The Fee has not been updated or changed since its establishment in 1991. Since that time, the cost of maintenance of the City's MS4 has increased due to the aging infrastructure, and the increased programmatic costs for compliance with the Permit. The annual City expenditures far exceed the revenue collected from the Fee. The Fund balance was $671,198 for Fiscal Year 2020 which represents about 30% of the current Storm Water Management Program expenses. Previous fiscal years also had similar deficits.

This resolution would authorize staff to retain a consultant to prepare a Storm Water Management and Drainage Funding Report (Report) to address the current and projected funding shortfall. When retained, the Consultant would review current practices statewide, analyze viable options, and recommend revisions and implementation strategies for the Storm Water Management Program. In addition to the Report, the Consultant would engage in public outreach to inform citizens of the importance of the storm drain system and the system's role in protecting our local waterways.

ENVIRONMENTAL REVIEW

The proposed activity has been reviewed for compliance with the California Environmental Quality Act (CEQA) and it has been determined that the activity is not a "Project" as defined under Section 15378 of the state CEQA Guidelines because it will not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Notwithstanding the foregoing, it has also been determined that the activity qualifies for an Exemption pursuant to Section 15061(b)(3) of the California Environmental Quality Act State Guidelines. Thus, no environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not Applicable.

DISCUSSION

Background

On June 18, 1991, City Council passed, approved and adopted Ordinance No. 2463 (Attachment 1) to establish the Storm Drain Revenue Fund ("Fund") and the Storm Drain Fee ("Fee") by adding Chapter 3.21 (Attachment 2) and Chapter 14.16 (Attachment 3) to the Chula Vista Municipal Code, respectively.

Currently, the Chula Vista Municipal Code Chapter 14.16 states that the owner or occupant of any parcel of real property that is connected to the City's wastewater system and to a water system maintained by the Sweetwater Authority, the Otay Municipal Water District, or the California American Water Company shall pay a Fee that will be collected in the Fund .

Storm Drain Fee Billing Structure

The Fee is in the City Master Fee Schedule (Attachment 4) and is collected with the sewer service billings. The Fee is computed as follows:

Single-Family	Multi-Family, Commercial, Industrial
Monthly …… $0.70	Monthly…….. $0.06/HCF
	Maximum Per month ……. $500.00

The rates that were established in 1991, were not indexed to inflation, and have not changed for almost three decades. Using the U.S. Bureau of Labor Statistics, prices in San Diego are roughly 160% higher now than in 1991. The monthly $0.70 that was assessed to Single-Family residences in 1991 would have been $1.82 currently if an inflation index had been included in the original ordinance.

The current ordinance does not include a fee for vacant land or lots that have only irrigation meters and no residential meters. Since these properties can potentially generate polluted runoff that enters the City's storm drain system and downstream waterways, degrading water quality and habitat for plants and animals, including them in the fee program should be considered.

Purpose of the Storm Drain Fee

In addition to establishing a Storm Drain Fee, Chula Vista Municipal Code Chapter 14.16 required system users to pay for the services of cleaning storm drain inlets, underground drainage systems, lined and unlined storm drainage channels or ditches, and the planning costs associated with compliance with the conditions imposed upon the City by the "early permit" issued to the City by the Regional Water Quality Control Board (RWQCB) on July 16, 1990, to establish a local-level National Pollutant Discharge Elimination System (NPDES), all in accordance with the federal Clean Water Act. For the past 30 years and several NPDES Permit re-issuances, the City has had to comply with these regulations by developing and implementing a Storm Water Management Program (Program). The current NPDES Permit is the San Diego RWQCB Order No. R9-2013 -0001 as amended by R9-2015-0001 and R9-2015-0100 NPDES No. CAS0109266 NPDES Permit and Waste Discharge Requirements for Discharges from the MS4s Draining the Watersheds Within the San Diego Region (Regional MS4 Permit), which was issued in 2013. The City of Chula Vista is a Copermittee of this Regional MS4 Permit, along with 17 Cities within San Diego Region, the County of San Diego, San Diego Regional Airport Authority, and San Diego Unified Port District. The Regional MS4 Permit expired in 2018, but has since been administratively extended. It is anticipated that a new Regional MS4 Permit will be re-issued in late 2021.

In general, the San Diego RWQCB re-issues the MS4 Permit every 5 years, which requires the City to update its numerous Program documents and Storm Water Ordinance (Chula Vista Municipal Code Chapter 14.20 – Attachment 5). With each update, there are additional cost implications for the City to make improvements to its Storm Water Management Program. Federal and state governments have not provided the Copermittees with NPDES-specific funding sources. The lack of additional NPDES compliance funding sources combined with three decades of no fee increases is not a sustainable model to maintain compliance.

As mentioned above, the City has developed and implemented the Program to comply with the Regional MS4 Permit. This City-wide Program details the activities and preventative measures designed to prevent and reduce pollution to local waterways within City boundaries. Some of the Regional MS4 Permit required activities that the City must complete annually include: storm drain inspections and maintenance which includes cleaning and removal of pollutants from inlets, outlets, catch basins, and treatment control Best Management Practices (BMPs); street sweeping; inspections of construction sites and commercial and industrial businesses within the City; enforcement of the City's Storm Water Ordinance ; monitoring of storm drain outfalls; and watershed and regional collaboration. Along with these activities is extensive data management and annual reporting on a jurisdictional and watershed basis to the San Diego RWQCB.

In addition to compliance with the Regional MS4 Permit, the City must keep up with the long-term maintenance and adequate operation of the numerous drainage facilities within the City. As a part of asset management, staff keeps an inventory of these drainage facilities and prioritizes them based on need for replacement. On a continuous basis, project proposals are added to the City's capital improvement budget and project management database (CIPACE). Drainage projects, in conjunction with other types of projects, are ranked based on the evaluation of the proposed assets' probability of failure, system capacity, and level of service requirements. Additionally, proposed CIP projects are reviewed for consistency with the City's General Plan and Specific Plan and City policies to later seek for funding sources and include in the Capital Improvement Program.

Fee Revenue & Expenses

During FY20, the Storm Drain Fund collected a total of $671,198 accounting for approximately 30% of the $2.4 million required to implement the Storm Water Management Program leaving a $1.7 million deficit to cover for the costs to replace deficient infrastructure and maintain existing facilities.

Over the past 30 years, the deficit to the Program has primarily been covered by the General Fund causing service level impacts to city services. On occasion, when a nexus is identified and justified, some of the Program work elements may have been funded from: special assessment districts; development deposits and fees; wastewater fees; Transnet funds; solid waste fees; grants; and Measure P funds. These supplemental sources of funding are rare and do not have any annual guaranteed funding levels to ensure the City's compliance with the Regional MS4 Permit.

Overcoming Funding Shortfalls

In order to develop a sustainable funding plan to address the aforementioned requirements, staff recommends soliciting consultant services for the development of a Storm Water Management and Drainage Funding Report to include the following:

- Define the needs of the City's Storm Water Management Program and the public drainage system;
- Identify the expenses associated with the successful operation of the Storm Water Management Program;
- Determine funding and revenue sources;
- Re-evaluate the Storm Drain Fee;
- Provide a multi-year Financial Plan; and
- Make recommendations for a rate structure including an assessment of customer impact, if the Storm Drain Fee is adjusted.

As part of the consultant's scope, limited community outreach will be conducted to relay the needs and benefits of the Storm Water Management Program. Staff anticipates the consultant services work will take approximately 12 months to complete. City staff will then return to City Council with the report's recommendations and proposals to implement modifications to the Program.

Recommendations

City staff recommends Council adopt the resolution to establish a new capital improvement project, "Storm Water Management and Drainage Funding Report" (DRN0218) and to appropriate $100,000 from the General Fund reserves to DRN0218.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the real property holdings of the City Council members do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

Approval to this resolution will result in the establishment of CIP DRN0218 and appropriate $100,000 from the General Fund Reserves to DRN0218.

ONGOING FISCAL IMPACT

There is no ongoing fiscal impact regarding this item. We do anticipate continued ongoing impacts to the General Fund related to increased compliance requirements with the MS4 Permit.

ATTACHMENTS

Attachment 1: Ordinance 2463 Adding CVMC Chapters 3.21 and 14.16 to Establish a Storm Drain Fee
Attachment 2: CVMC Chapter 3.21 – Storm Drain Revenue Fund
Attachment 3: CVMC Chapter 14.16– Storm Drain Fee
Attachment 4: Excerpt of Master Fee Schedule for Storm Drain Fees
Attachment 5: CVMC Chapter 14.20 – Storm Water Management and Discharge Control

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