



**DISCUSSION ITEMS**

**Agenda Item # 11**

**AGENDA REPORT SUMMARY**

**Meeting Date:** June 25, 2019

**Subject:** Resolution No. 2019-27: Storm Drainage Fee

**Prepared by:** Aida, Fairman, Interim Engineering Services Director

**Approved by:** Chris Jordan, City Manager

**Attachment(s):**

1. ~~Resolution No. 2019-27 (Successful)~~
2. Resolution No. 2019-27 (Unsuccessful)

**Initiated by:**

City Council

**Previous Council Consideration:**

April 26, 2018; May 22, 2018; October 9, 2018; and April 23, 2019

**Fiscal Impact:**

~~If the ballot proceeding results in a majority support for the Storm Drainage Fee, there will be new revenues of approximately \$1.133 million for the City's storm drainage services. This would supplant approximately \$700,000 in General Fund monies that had previously been appropriated for storm drainage expenses.~~ None

**Environmental Review:**

Stormwater fee is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guideline 15378 as the adoption of any fee does not meet the definition of a "project" because it serves as the creation of new government funding mechanism or constitutes other government fiscal activities that does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. Further, any fee adoption would also be exempt under CEQA Guideline 15273(a)(4) as rates or charges to obtain funds for capital projects.

**Policy Question(s) for Council Consideration:**

- If the ballot proceeding results in a majority support for the Storm Drainage Fee, does the Council wish to proceed with levying the fee for Fiscal Year 2019-20?

**Summary:**

- Council adopted a Stormwater Master Plan in 2016 and expressed interest to explore options to develop a dedicated revenue source to fund the Stormwater Program
- A Citywide clean water and storm drainage opinion polling was conducted in April 2018

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**Reviewed By:**

City Manager

CJ

City Attorney

CD

Finance Director

SE

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- The survey found that Los Altos property owners strongly desire increased investment in storm drainage infrastructure, and are willing to pay for it especially at a rate less than \$100 per year per parcel
- Based on the survey, Council directed staff to move forward with developing a property-related fee for the Stormwater Program which requires property owners' approval
- On October 9, 2018, Council:
  - Approved a Stormwater Fee Report;
  - Adopted a resolution initiating proceeding in accordance with Article XIID of the Constitution and setting the date for the public hearing, and directing the mailing of a notice to the owners of real property affected by the proposed Storm Drainage Fee; and
  - Adopted Resolution No. 2018-40 establishing procedures for conducting a ballot proceeding in accordance with Article XIID of the Constitution
- On April 23, 2019, Council:
  - Conducted a public hearing and received written protests for the proposed Storm Drainage Fee;
  - Introduced and waived further reading of Ordinance No. 2019-457 adding Chapter 3.52, Storm Drainage Fee, to Title 3, Revenue and Finance, of the City of Los Altos Municipal Code; and
  - Directed the City Clerk to submit the Storm Drainage Fee to the affected property owners in a mail ballot proceeding in accordance with Article XIID of the State Constitution, Section 53755.5 of the Government Code and City of Los Altos Resolution No. 2018-40

**Staff Recommendation:**

Receive and accept results of tabulation of the Los Altos Storm Drainage Fee ballot proceeding and, if the ballot proceeding results in a majority support for the Storm Drainage Fee, adopt a resolution certifying the ballot results and directing staff to schedule a hearing to place the fees on the 2019-20 tax bills. If the ballot proceeding results in no majority support, adopt an alternate resolution certifying the ballot results with no further action.



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### **Purpose**

Receive and accept results of tabulation of the Los Altos Storm Drainage Fee ballot proceeding and, if the ballot proceeding results in a majority support for the Storm Drainage Fee, adopt a resolution certifying the ballot results and directing staff schedule a hearing to place the fees on the 2019-20 tax bills. If the ballot proceeding results in no majority support, adopt an alternate resolution certifying the ballot results with no further action.

### **Background**

On April 23, 2019 after a public hearing, the Council introduced Ordinance No. 2019-457 adding Chapter 3.52, Storm Drainage Fee, to Title 3, Revenue and Finance, of the City of Los Altos Municipal Code, and directed the City Clerk to submit the Storm Drainage Fee to the affected property owners in a mail ballot proceeding in accordance with Article XIID of the State Constitution, Section 53755.5 of the Government Code and City of Los Altos Resolution No. 2018-40.

On May 3, 2019 the City mailed 11,135 ballot packets that included a ballot, a ballot guide, and a postage prepaid return envelope to affected property owners. Ballots were received by the City Clerk until 5:00 pm on June 18, 2019. Tabulation of the ballots began on June 19, 2019 at 9:00 am in the Los Altos Youth Center. The results of the ballot proceeding will be announced at the City Council meeting.

### **Next Steps**

The City Clerk will announce the results of the ballot proceeding at the meeting. Two alternate resolutions have been prepared; one to be considered if the measure passes, the other to be considered if the measure does not pass. The final Resolution, with votes tally, will be presented at the Council meeting.

If the measure passes, the City will need to submit the Storm Drainage Fee levies to the Santa Clara County Auditor for inclusion on the 2019-20 property tax bills. In future years, there will be an annual administrative task including a report to the Council containing the recommended fees and a list of all parcels subject to the fees, and a public hearing on the matter of placing those fees on the annual property tax bills. These tasks will be coordinated with the annual budget process.

If the measure fails, there are no next steps in the process.

On June 19, 2019, ballots received were tabulated. The tabulation shows that 4,609 valid ballots were returned. 2,039 yes votes were received and 2,570 no votes were received. A revised Resolution certifying the results has been prepared for Council adoption.



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## Options

1. **The Measure Passes.** If more votes are cast in favor of the measure than against, the measure will be deemed to have passed, and the Council will have gained jurisdiction to levy the Storm Drainage Fee. A resolution has been prepared that does the following things:
  - a. Accepts the results of the tabulation process conducted by the City Clerk.
  - b. Adopts the Storm Drainage Fee Ordinance.

In addition, staff will be directed to schedule a hearing to place the fees on the 2019-20 tax bills. These elements form the basis for the annual revenue requirement of \$1.133 million for Fiscal Year 2019-20 (the first year for which revenues would be collected).

**Advantages:** The City's clean water program will be able to better fulfill its mission for storm drainage services and its mandate under the NPDES program as administered by the Regional Water Quality Control Board. The additional revenues will allow the City to re-appropriate approximately \$700,000 of General Fund monies previously appropriated for storm drainage expenses.

**Disadvantages:** None identified

2. **The Measure Does Not Pass.** If fewer votes are cast in favor than against the measure, it will be deemed to have failed. In this event, the Storm Drainage Fee cannot be levied, and the Storm Drainage Fee Ordinance will not be adopted. A resolution has been prepared that accepts the results of the tabulation process and takes no further action in the matter.

Based on the results of the tabulation, ~~the Council will be able to pursue one of these two options~~ Council should adopt Resolution No. 2019-27 certifying the ballot tabulation results of the City of Los Altos Storm Drainage Fee, stating that the Storm Drainage Fee Ordinance is not adopted, and taking no further action on the Storm Drainage Fee matter.

## Recommendation

Based on the results of the tabulation of the ballots, Council should adopt Resolution No. 2019-27 accepting the results of the tabulation and either certify the ballot results and direct staff schedule a hearing to place the fees on the 2019-20 tax bills (if successful) or certify the ballot results with no further action (if unsuccessful).

**RESOLUTION NO. 2019-27**

**A RESOLUTION CERTIFYING THE BALLOT TABULATION RESULTS OF THE CITY OF LOS ALTOS STORM DRAINAGE FEE, STATING THAT THE STORM DRAINAGE FEE ORDINANCE IS NOT ADOPTED, AND TAKES NO FURTHER ACTION ON THE STORM DRAINAGE FEE MATTER**

**WHEREAS**, the City Council on October 9, 2018 adopted Resolution No. 2018-39 initiating proceedings in accordance with Article XIIIID of the Constitution; and

**WHEREAS**, the City Council on October 9, 2018 adopted Resolution No. 2018-40 establishing procedures for conducting a ballot proceeding in accordance with Article XIIIID of the Constitution; and

**WHEREAS**, the City conducted a public hearing on April 23, 2019 and heard testimony from residents and property owners regarding the proposed Storm Drainage fee, and a majority protest was not formed; and

**WHEREAS**, the City Council introduced Ordinance 2019-457 on April 23, 2019, after a duly noticed public hearing; and

**WHEREAS**, pursuant to the provisions of California Constitution Article XIIIID, the Council has provided a ballot to each record owner of parcels of real property located within the boundaries of the City subject to the fee, and the returned ballots have been received and tabulated; and

**WHEREAS**, specifically, on May 3, 2019, 11,135 ballots were mailed to the owners of all parcels that are subject to the proposed fee, and the deadline for receiving ballots was June 18, 2019 at 5:00 p.m. at the office of the City Clerk; and

**WHEREAS**, the City Clerk oversaw the tabulation of the ballots, which were tabulated at Los Altos Youth Center, a location accessible to the public;

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Los Altos that the canvass of the Storm Drainage fee ballots submitted by property owners is complete and certified by the City Clerk, and the votes cast are as follows:

Total Number of Valid Ballots Processed:	4,609
Total Number of "Yes" Votes Processed:	2,039
Total Percentage of "Yes" Votes Processed:	44.24%
Total Number of "No" Votes Processed:	2,570
Total Percentage of "No" Votes Processed:	55.76%
Total Number of "Invalid" Ballots Processed:	51

**FURTHER RESOLVED** that 4,660 fee ballots were returned and received prior to the close of the balloting period on June 18, 2019 at 5:00 pm which represents a 41.85% ballot return rate on the 11,135 ballots mailed. Of the fee ballots returned, 51 ballots were declared invalid, in that they were either not marked with a “Yes” or “No”, were marked with both a “Yes” and a “No,” were not signed, or the property ownership and barcode information was illegible.

**FURTHER RESOLVED** that the City Council certifies the tabulation of the ballots as conducted by the City Clerk.

**FURTHER RESOLVED** that, as determined by ballots cast, 44.24% of the votes cast by property owners were in support of the measure. Since a majority protest, as defined by Article XIII D of the California Constitution, does exist, this Council does not thereby acquire jurisdiction to order the levy of the City of Los Altos Storm Drainage Fee.

**FURTHER RESOLVED** that the City of Los Altos Storm Drainage Fee Ordinance is not hereby adopted.

**I HEREBY CERTIFY** that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the \_\_\_ day of \_\_\_\_, 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Lynette Lee Eng, MAYOR

Attest:

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Jon Maginot, CMC, CITY CLERK