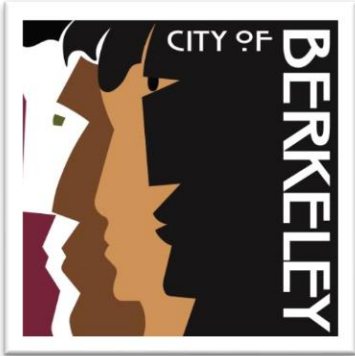


Cracking the Funding Nut: Lessons from 2018 Measures



Presented by:

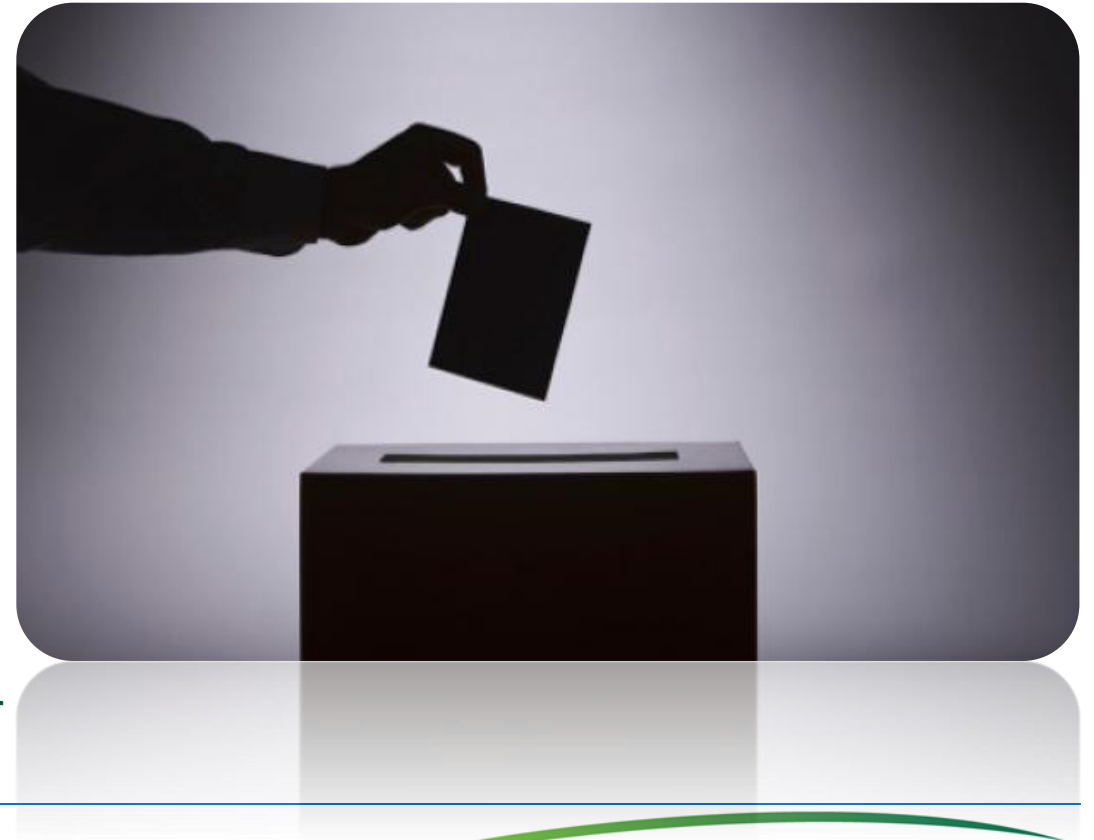
Jerry Bradshaw, SCI Sr. Engineer

Edric Kwan, Town of Moraga Public Works Director / Town Engineer

Sean O'Shea, City of Berkeley, Fiscal Manager – Public Works

Update on Recent Balloted Storm Drainage Funding Efforts

California Society of Municipal Finance Officers Annual Conference



January 9, 2019

Today's Agenda

- Prop 218 Refresher
- Case Studies
 - Town of Moraga
 - City of Berkeley
 - Lessons Learned
- Senate Bill 231
 - Looking Ahead



Prop 218 Refresher

- 1996 Voter Initiative (Howard Jarvis Taxpayers Ass'n)
- Make it harder for government to
 - Increase taxes
 - Impose fees, charges and assessments
- New Category Created – “Property-Related Fees”
 - Require a Protest Hearing AND a Ballot Proceeding
 - HOWEVER, Water, Sewer and Garbage Rates are Exempt from Ballot Req't
- Storm Drainage Not Mentioned – Courts Settled Issue in 2002
- **Bottom Line – Storm Drainage Fees Require a Ballot**



**But what about
SB 231...??**

Fee Process



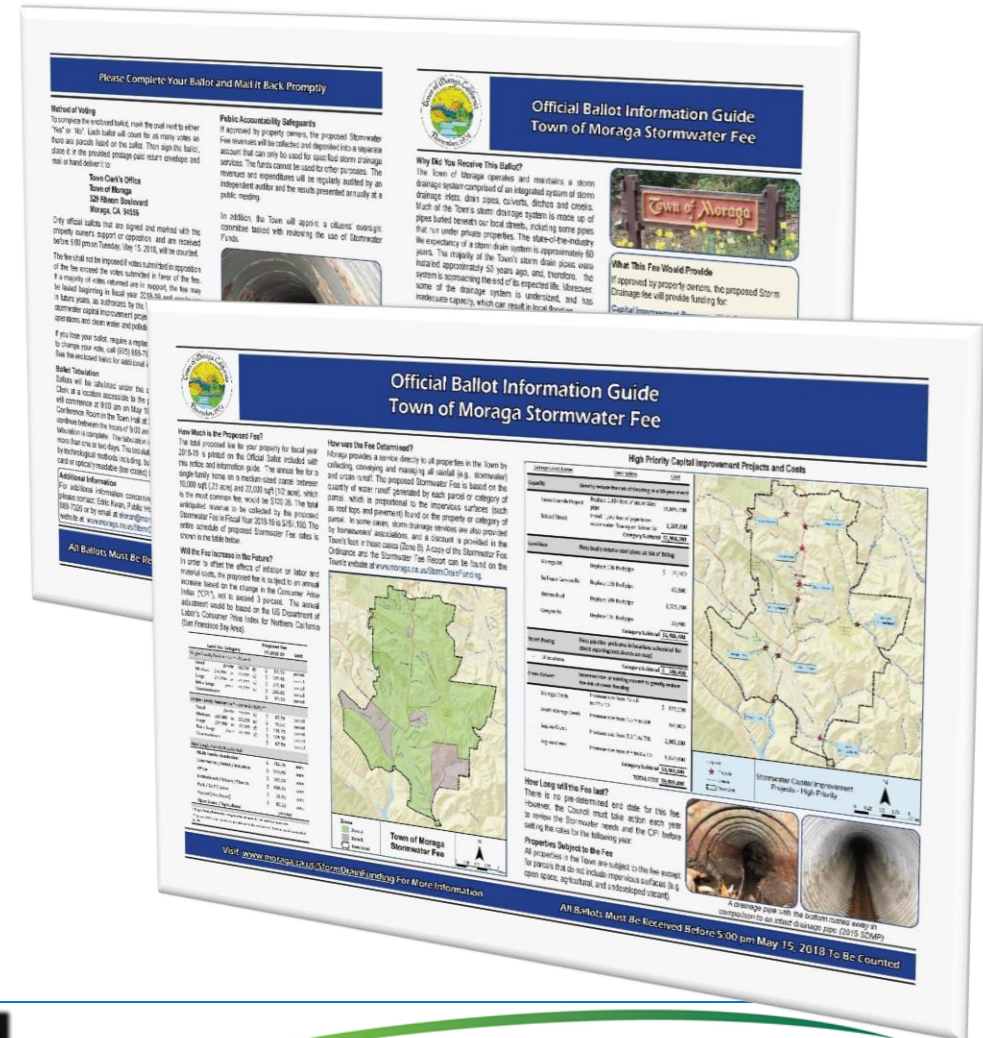
How to Establish a Fee - Balloted

- **How Much Money Do You Need..??**
 - Thorough needs analysis
- **Develop Fee Structure**
 - Revenue requirement
 - Apportion Costs (by some fair method)
 - Impermeable surface
 - Pollutant or trash loading
 - Credit for LID and Green Infrastructure
 - Fee Report (Cost of Service Analysis)
 - Governing Board Approve Fees



Prop 218 Process

- Multi Step Process (after Fee Report)
 - Mail notices of fee structure & public hearing
 - “Protest Hearing” (45 days after notices)
 - Mail Ballots (another 45 days)
 - Tabulate and finalize ballot measure
 - Requires 50% majority
- Usually Takes 4 to 8 Months



Case Studies

- Town of Moraga



- City of Berkeley



Town of Moraga

- Affluent Hill Community in Contra Costa County
 - Incorporated in 1974
 - Inherited County Storm Drain System
 - Lots of Corrugated Metal Pipes
- History of Sink Holes
- Storm Drain Master Plan (2015)



Moraga Fee Structure

- Public Opinion Survey (59% support)
- Fee Study in 2017
 - \$120 Basic Single Family Residential rate (annual)
 - HOAs with private drainage and roads – Zone B (\$99)
 - Large Property Owners
 - St Mary's College - \$40,000 for 1 campus
 - Local Developer - \$29,000 on 101 parcels
 - School District - \$21,000 for 4 campuses
 - Local Commercial Owner - \$17,000 on 15 parcels
 - High School - \$16,000 on 1 campus
 - Town - \$14,000 on 12 parcels

Land Use Category		Proposed Fee FY 2018-19	Unit
Single-Family Residential *			
Small	(Under 10,000 sf)	\$ 82.13	parcel
Medium	(10,000 to 22,000 sf)	\$ 120.38	parcel
Large	(22,000 to 31,000 sf)	\$ 145.48	parcel
Extra Large	(over 31,000 sf)	\$ 150.31	parcel
Condominium		\$ 82.13	parcel
Single-Family Residential* - Zone B (HOA)**			
Small	(Under 10,000 sf)	\$ 67.59	parcel
Medium	(10,000 to 22,000 sf)	\$ 99.07	parcel
Large	(22,000 to 31,000 sf)	\$ 119.73	parcel
Extra Large	(over 31,000 sf)	\$ 123.70	parcel
Condominium		\$ 67.59	parcel
Non-Single-Family Residential			
Multi-Family Residential		\$ 715.76	acre
Commercial / Retail / Industrial		\$ 940.88	acre
Office		\$ 685.94	acre
Institutional / School / Church		\$ 409.31	acre
Park / Golf Course		\$ 29.91	acre
Vacant (developed)		\$ 50.22	acre
Open Space / Agricultural			exempt

Moraga Results

- Fee Measure Lost by a Whisker
 - 1,607 “YES” Votes (48%)
 - 1,744 “NO” Votes (52%)
- Organized Opposition (Smart Moraga)
 - Opposed most of Town’s actions
 - Stormwater Fee was ‘cause du jour’
 - Lots of lawn signs (never seen before)
- Organized Proponents
 - Led by 2 Council Members
 - Lots of lawn signs, too



Moraga Lessons

- Community Outreach
 - Thorough stakeholder outreach
- Organized Opposition
 - Hard to push back on – include them in Stakeholders..??
 - Probably were going to Oppose in any event
- Survey
 - Phone method left out non-resident property owners
 - Adjustment factor applied
- Process & Local Press
 - Not a problem in this case



City of Berkeley

- College Town on San Francisco Bay
- Dense Urban Setting
- Localized Flooding and Sinkholes, Aging Infrastructure
- Environmentally Sensitive Population
 - Watershed Management Plan (2012)



City of Berkeley

- Public Opinion Survey (57% support)
- Fee Study in 2018
 - \$43 Basic Single Family Residential rate (annual)
 - Adding to existing \$50 fee
- Combined with Street Light Assessment
 - Large Property Owners
 - U.C. Berkeley - \$272,000 for 1 campus + 65 other parcels
 - School District - \$57,000 for 36 parcels
 - City - \$47,000 on 178 parcels
 - Bayer Health- \$37,000 on 6 parcels
 - 14 Other Owners - \$4,000 to \$14,000

OFFICIAL PROPERTY OWNER BALLOT

Based upon the results of two recent engineering and financial studies, the City of Berkeley is proposing new dedicated funding for storm drainage and street lighting maintenance and infrastructure. We appreciate your participation in the balloting for both of these proposed measures, which will be tabulated independent of each other.

CITY OF BERKELEY 2018 CLEAN STORMWATER FEE	CITY OF BERKELEY STREET LIGHTING ASSESSMENT 2018
<p>In order to:</p> <ul style="list-style-type: none">• Prevent local flooding by maintaining, rehabilitating, and replacing our storm drainage infrastructure; and• Keep trash and other pollutants from flowing into local creeks and the Bay, where it can harm fish and other wildlife; <p>Do you approve the proposed annual Clean Stormwater fee for your property or properties listed below?</p> <p><input type="radio"/> YES, I approve the proposed annual stormwater fee including future annual adjustments for inflation equal to the increase in the Consumer Price Index, not to exceed 3% per year.*</p> <p><input type="radio"/> NO, I do not approve the proposed annual stormwater fee.*</p>	<p>In order to:</p> <ul style="list-style-type: none">• Provide effective street lighting to enhance pedestrian, bicycle, and traffic safety; and• Repair and replace street lights to maintain well-lit streets for safe, livable and vibrant neighborhoods. <p>Do you approve the proposed annual Street Lighting assessment for your property or properties listed below?</p> <p><input type="radio"/> YES, I approve the proposed annual street lighting assessment, including future annual adjustments for inflation equal to the increase in the Consumer Price Index, not to exceed 3% per year.*</p> <p><input type="radio"/> NO, I do not approve the proposed annual street lighting assessment.*</p>

*The proposed fee amount is printed below. The annual CPI adjustment for each property may be calculated based upon the sum of the existing fee/assessment and the proposed 2018 fee/assessment.

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.

Signed _____ Date _____ Print Name _____

INSTRUCTIONS FOR THE COMPLETION AND RETURN OF OFFICIAL BALLOTS ARE ON THE OTHER SIDE OF THIS PAGE

FOLD SO THAT THIS SIDE IS ON THE INSIDE OF THE FOLD BEFORE PLACING THIS BALLOT IN THE RETURN ENVELOPE

Berkeley Results

- Fee Measure Won Easily
 - 5,933 “YES” Votes (61%)
 - 3,445 “NO” Votes (39%)
- No Organized Opposition
- No Organized Proponents

Streetlight Measure Squeaked By

- \$102,000 “YES” Votes (50+%)
- \$101,000 “NO” Votes (50-%)
- No Organized Opposition
- No Organized Proponents



Berkeley Lessons

- Community Outreach
 - Conducted extensive Stakeholder Outreach
 - City staff worked very hard on the measure
- Organized Opposition - None
- Survey
 - Mail method worked well (included ALL property owners)
- Process & Local Press
 - Not a problem in this case



~~Berkeley never met a
“Tax” it didn’t like..!!??~~

Ballot Measure Conclusions



- Do your homework
 - Strategic Needs Planning
 - Know Your Community Groups (Smart Moraga)
 - Understand Community's Trust of City Hall
- Break a Sweat
 - Devote Staff Resources to the Job at Hand
 - Stakeholder Outreach is Critical
 - Identify Potential Opposition and Plan to Address It

Senate Bill 231

Refuse Collection

Sewer

Water

Trash Capture

Capture & Re-Use

Groundwater Recharge

Drainage O & M
NPDES Compliance
Capital Investment
Flood Control

Stormwater

Non Balloted

SB 231

Property-Related Services

Senate Bill 231 (Hertzberg)

- Adds Definition of Sewer to Prop 218 Omnibus Act
 - Storm Drainage is now defined as a type of “Sewer”
 - Does Not Modify Constitution (Prop 218)
- Cites Salinas Decision (2002) as weak and flawed
- Cites More Recent Court Decisions as Supporting SB 231
 - Griffith v Pajaro (2013) – Groundwater Recharge is Exempt
 - Crawley v Alameda Co Waste Auth (2015) – Centralized Hazardous Waste Fee is Exempt
- **Bottom Line – Stormwater Fees Qualify for Exemption from Ballot**



But Wait.....

- Howard Jarvis Protests
 - SB 231 Violates Constitution
 - Promises to Sue Agencies Who Don't Go to Ballot

What to Do..??

- Implementors Should Plan on Becoming a Test Case
 - “Institutional Fortitude”
 - Strategically select stormwater services for fee
 - Conduct a VERY rigorous fee study
 - Involve legal counsel throughout process
 - Work with SB 231 Working Group
- Or Wait for Someone Else to Do All That
 - Take your Storm Drain Fee to the Ballot



Post SB 231 Strategies

- Lack of balloting = lack of political cover for electeds
- Bolster political coverage several ways:
 - Survey community for priorities and level of support
 - Stakeholder outreach
 - Community education
- Still do your homework
 - Planning (strategic, financial, infrastructure)
- Engineering and Legal rigor
 - Prop 218 is still out there



Final Thoughts

- With or without SB 231....Two Questions:
 - Does the public consider this service to be essential..???
 - Does the public trust the Agency to spend their money wisely..???
- Never forget...It's their community – you're just the hired help
 - Your professionalism
 - Doing their work
 - And they're watching (most of the time)
- **Now it's YOUR turn. Questions..??**

