TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER DEPARTMENT: PUBLIC WORKS

DATE: MARCH 18, 2002 CMR:175:02

SUBJECT: PROPOSAL FOR FUNDING FUTURE STORM DRAIN IMPROVEMENTS

RECOMMENDATION
Staff recommends that Council:

1. Approve the conceptual strategy outlined in this report for funding future storm drain improvements, including the creation of a Blue Ribbon Committee to work with staff to develop a refined funding proposal and implementation strategy for storm drain improvements.

2. Provide the staff with suggested members for the Blue Ribbon Committee; staff will put the Committee together and return to Council for final review.

BACKGROUND
The City’s storm drain capital improvement, maintenance and water quality protection programs are funded through the Storm Drainage Fund, an enterprise fund established by Council in 1989. Storm drains are one of the City’s six basic utilities. Revenue is generated by the Storm Drainage Fee, which is collected through monthly City utility bills. The current fee is $4.25 per month for a single-family residential parcel. Multi-family residential and commercial parcels are charged based on the amount of impervious area on each parcel. The fee has not been increased since 1994. The current monthly rate is insufficient to cover the Fund’s operating costs, and there is currently no new funding available for capital improvements. The FY 01-02 budget includes a subsidy of approximately $910,000 from the General Fund to cover Storm Drainage Fund operating costs. The City’s 1993 Storm Drain Master Plan identified approximately $72 million in storm drain capital improvements needed to replace deteriorated infrastructure or increase storm drain system capacity.

In November 1996, California voters passed Proposition 218, a Constitutional amendment that covers property-related fees, assessments, and taxes. The amendment dictates that a property-related fee cannot be imposed or increased without the approval of a majority of property owners subject to the fee. Analysis by the City
Attorney’s Office in 2000 indicated that the Storm Drainage Fee should be classified as a property-related fee subject to the provisions of Proposition 218. As a result, the City conducted a property owner election in September 2000, seeking approval to increase the Storm Drainage Fee from its current level of $4.25 per month up to $9.00 per month. The measure required an affirmative response from a simple majority of those property owners who returned ballots. The ballot measure was unsuccessful, with an approval rate of only 37 percent. The election results are summarized in Attachment A.

Although the Storm Drainage Fee election was unsuccessful, recent polling by Evans/McDonough Company indicates that a large segment of the community believe that storm drain improvements are important. In the poll of 600 likely voters in Palo Alto, storm drains ranked second behind only the Emergency/911 Dispatch Center on a ranked list of nine unfunded infrastructure improvement projects. The pollster also concluded from the results that “city voters are aware of and are concerned about the condition of storm drains.” Based on this feedback, staff continues to search for a viable mechanism to increase funding for storm drain improvements.

Staff has been studying options for conducting another property owner election for approval of an increase in the Storm Drainage Fee. In addition, the City Attorney’s Office has been tracking an ongoing court case, Howard Jarvis Taxpayers Association vs. City of Salinas that may have a direct bearing on whether the Storm Drainage Fee is subject to Proposition 218. The case is currently in the appeal stage, with resolution expected in six to nine months. The outcome of this court case may simplify the process by which Council could increase the Storm Drainage Fee. Staff will continue to keep Council informed as these legal proceedings progress.

DISCUSSION
Staff has analyzed the September 2000 Storm Drainage Fee election in an attempt to identify why it was unsuccessful. Staff believes that, in contrast to the staff-led outreach effort of 2000, the community will be more receptive to an inclusive, citizen-driven, grass roots campaign. It will also be critical that the scope and size of the funding proposal be crafted to resonate with the majority of community members. Therefore, staff recommends convening an 11-member Blue Ribbon Committee consisting of community and neighborhood leaders, other involved stakeholders, and a Council liaison to assist in the development of a plan to fund storm drain improvements. The Blue Ribbon Committee, working with staff from the Public Works and Administrative Services Departments and the City Manager’s Office, will make recommendations to the City Manager on the scope, size, and timing of the funding proposal.

Selection of the members of the Blue Ribbon Committee is an important first step in the process of developing a successful funding proposal. Staff believes that the Blue
Ribbon Committee must be comprised of members with a variety of backgrounds, areas of expertise, and perspectives in order to represent the diversity of the community. For example, as a group the committee should represent the following interests:

- Various land uses (e.g. residential, commercial, etc.)
- Various neighborhoods (including both north and south Palo Alto)
- Technical expertise
- Financial expertise
- Various age groups
- Various demographics (e.g. income level, renter vs. owner, etc.)

On an individual basis, Committee members should have the following traits in common:

- Interested in storm drainage as a community issue
- Able to make necessary time commitment to attend meetings
- Able to listen and build consensus in a group setting
- In touch with the “pulse of the community”
- Respected in the community

The Blue Ribbon Committee will work with staff to develop a funding proposal for future storm drain improvements. Staff will meet with the committee members over a four to six month period to provide information about the existing storm drain funding mechanism, the capital improvements recommended in the Storm Drain Master Plan, other non-capital storm drainage needs, and the requirements of Proposition 218. The committee will use this information to formulate a community-based recommendation to the City Manager on the scope, size, and timing of the funding proposal. Specifically, the committee should address the following elements:

- Size, scope, and duration of capital improvement program
- Scope of enhancements to storm drain maintenance and other program elements
- Identification of funding mechanism
- If property owner election is recommended:
  - Timing of election
  - Amount of monthly Storm Drainage Fee

In addition, the committee will be asked to make recommendations on the following:

- What type of “sunset clause” should be incorporated into a fee increase proposal and what will happen to the rate at “sunset”? 
What is an appropriate fee escalation factor to apply to the proposed rate schedule?

Should there be an independent oversight body to periodically monitor the implementation of the storm drain improvements and, if so, what group should assume this function?

Should storm drain improvements be funded on a pay-as-you-go basis or through the sale of bonds?

Staff will convene the committee in April. The committee would meet with staff over a four to six month period to formulate a recommended plan for storm drain funding. If a property owner election is selected as the preferred strategy, the election would have to be conducted in accordance with the provisions of Proposition 218. Proposition 218 specifies the required steps in the election process, including written notification of property owners and a protest hearing, and other constraints that control the timing of the process. Attachment B lists the mandatory steps for a property owner election conducted in accordance with Proposition 218. Although the exact timing of a Storm Drainage Fee election would be subject to input from the Blue Ribbon Committee, staff anticipates that an election would likely occur in early Spring 2003. The Council members are encouraged to suggest potential members for the committee. At a later stage, staff anticipates the need to retain a pre-campaign advisor to assist with community polling and development of a ballot measure prior to the formation of a citizen's campaign committee. This model has been effective in preparing for a possible November 2002 bond measure for libraries and other community facilities.

**RESOURCE IMPACT**

No additional resources will be required to support the Blue Ribbon Committee.

**POLICY IMPLICATIONS**

Identification of funding for storm drain capital improvements is consistent with the Comprehensive Plan: Policy N-24 states that the City should “improve storm drainage performance by constructing new system improvements where necessary and replacing undersized or otherwise inadequate lines with larger lines or parallel lines.” Program N-36 further states that the City should “complete improvements to the storm drainage system consistent with the priorities outlined in the City’s 1993 Storm Drainage Master Plan, provided that an appropriate funding mechanism is identified and approved by the City Council.”

**ENVIRONMENTAL REVIEW**

Consideration of financial options does not require California Environmental Quality Act (CEQA) review. Individual storm drain capital improvement projects will be subject to environmental review as they are implemented.

**ATTACHMENTS**
Attachment A: September 2000 Election Results
Attachment B: Proposition 218 Property Owner Election Process and Timeline

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