



DATE: June 22, 2021

TO: Mayor and City Council

FROM: Director of Maintenance Services

SUBJECT: Stratford Village Prop. 218 Hearing: Proposition 218 Public Hearing to Receive and Tabulate Property Owner Ballots Regarding Formation and Levying of Assessments for the Stratford Village Flood Control Facilities Improvement Assessment District (MD1-2021), Adopt a Resolution Establishing the Stratford Village Flood Control Facilities Improvement Assessment District (MD1-2021), Approving the Final Engineer's Report, Ordering the Levy and Collection of Assessments for Fiscal Year 2022, and Appropriating the Budget

RECOMMENDATION

That Council conducts a public hearing pursuant to Proposition 218 to consider objections and protests to the proposed Stratford Village Flood Control Facilities Improvement Assessment District (MD1-2021). If tabulation of the property owner ballots results in approval of the proposed assessment, that Council adopts a resolution establishing the proposed Assessment District, ordering the levy and collection of the approved assessments for Fiscal Year 2022 (Attachment II), appropriating the budget for FY 2022 (Attachment III), and approving the Final Engineer's Report (Attachment IV).

SUMMARY

Maintenance District 1 ("District") was established in 1995 as a financial funding mechanism to fund the operation, maintenance, administration, and the capital repair and replacement of the Stratford Village Storm Water Lift Station (SWLS). This critical flood protection infrastructure was constructed specifically as a condition of approval when this neighborhood was built. Twenty-five years later, the funds generated from the annual assessment revenue are no longer sufficient to provide proper operation, maintenance, administration, and the capital repair and replacement of the District's storm water drainage and pumping infrastructure.

The Engineer's Report ("Report") has been prepared by SCI Consulting Group (SCI) (Attachment IV). The Report proposes a new assessment to upgrade and restore this neighborhood's flood control infrastructure to the condition, efficiency, reliability, and effectiveness that was originally intended.

If the proposed assessment is approved by property owners, the Council may proceed with the forming of Assessment District MD1-2021. If 50% plus one of the weighted returned ballots vote yes, Council may approve two resolutions (Attachment II and III) approving the establishment of the new assessment district, approving the Final Engineer's Report, ordering the levy and collection of the approved assessments, and appropriating the budget for FY 2022. The FY 2022 assessment rate will be set at \$498.00 per property, totaling \$86,652 in annual assessment revenue. By approving the proposed assessment, property owners agree to accept a \$379,000 temporary transfer of funds from the Storm Water Fund. These transferred monies will be used to pay for needed capital improvements. The increased assessment will provide the funding mechanism to pay back the Storm Water Fund through annual payments over twelve years.

If the proposed assessment is not approved by property owners, staff will move forward with the process of levying the existing MD1 Assessment District for FY 2022. Should a weighted majority plus one of returned ballots vote no, staff will return to Council on July 6, 2021 with the existing MD1 Assessment District's Preliminary Engineer's Report and Resolution of Intention and set July 20, 2022 as the public hearing date to approve and order the levy and collection of the original MD1 assessment for FY 2022. The FY 2022 annual assessment rate would remain at \$243.92, totaling \$42,442 in assessment revenue. By voting no, the property owners agree not to fund the needed capital improvements by not increasing their annual assessment.

BACKGROUND

The Stratford Village neighborhood is located within a large drainage basin, with the Ward Creek¹ drainage facilities running along the western edge of the neighborhood. In 1992, as part of the Stratford Village neighborhood pre-development analysis, it was determined that the neighborhood was located below the 100-year flood zone. Due to the increased risk of flooding, the conditions of development required extensive grading to raise the elevation of the property to receive building approval from the City.

Development of the neighborhood was eventually made possible with the construction of a dedicated SWLS, built in 1995, designed solely to service this specific development. The SWLS was constructed at the end of Pacheco Way to pump storm water runoff from the developed area adjacent to Alameda County Flood Control and Water Conservation District's (ACFCWCD) Line B, Zone No. 3A, Ward Creek. The SWLS was designed with capacity to only process the stormwater runoff generated by the 174-lot development, a portion of Ruus Lane, Stratford Road, and the Stratford Village Park. No added capacity was constructed for runoff from other areas outside those mentioned above.

The Stratford Village SWLS, located at the end of Pacheco Way in the southwestern corner of Stratford Village, pumps water out of the neighborhood and into a drainage facility (Ward

¹ [URL](#) – Ward Creek – Old Alameda Creek Watershed

Creek). The ACFCWCD², through an agreement with the City provides a range of construction, repair, maintenance, operations, and upgrades to the district's storm drainage and pump station improvements. These improvements protect the usefulness, utility, desirability, and livability of all properties within its jurisdictional area by preventing flooding.

The District was formed as a financial funding mechanism for the property owners to fund the station's operation, maintenance, administration, and capital repair and replacement in perpetuity. This station is the only privately built SWLS in the City, initially funded by the developer, and able to be operated and maintained, with capital items being repaired and replaced solely with assessment revenue collected by the benefited property owners.

Presently, each of the 174 property owners contribute \$243.92 per year for the operation, maintenance, administration, and capital repair and replacement of this critical flood protection infrastructure. Annually, \$42,442 in assessment revenue is collected. These funds are maintained and spent only for the operation, maintenance, administration, repair, and replacement of this neighborhood's SWLS. The annual maximum charge rate ("Maximum Base Assessment") was established when the District was established in 1995 and cannot be legally increased without official property owner approval completed through a formal assessment balloting procedure. Twenty-five years later, the funds generated from the annual assessments are no longer sufficient to properly operate and maintain the Stratford Village SWLS and to provide for repair and replacement of its critical infrastructure assets.

On May 4, 2021³, the City Council adopted Resolutions No. 21-068 and No. 21-069, initiating proceedings pursuant to Government Code Section 53753, and Prop. 218 (California Constitution Article XIIC and XIID; Government Code Section 53753) preliminarily approving the Engineer's Report, providing Notice of Public Hearing in compliance with Prop. 218, approving the mailing of notices and ballots, and adopting Proposition 218 Assessment Ballot Proceedings Procedures for the Stratford Village Flood Control Facilities Improvement Assessment District (MD1-2021). Council also set the public hearing date for June 22, 2021 to count the ballots.

DISCUSSION

Properties in the Stratford Village neighborhood are currently at an increased risk for flooding if the SWLS is not operating properly. The proposed Assessment will fund an increase in maintenance, operations, and improvement activities to reduce the likelihood of SWLS failure and reduce the threat of flooding. This funding increase will thereby significantly reduce the risk of property damage potential and loss of life associated with floods. Proper flood control operation, maintenance, and capital repair and replacement helps to protect, and specifically benefits, all properties in the District.

² [URL](#) – ACFCWCD Site

³ [URL](#) – Consent Item 21-150, Initiating Proposition 218 Proceedings for Maintenance District No. 1 on May 4, 2021.

Based upon input from the Stratford Village neighborhood, the City has decided to proceed with the formation of a new, proposed District (MD1-2021), which incorporates two critical modifications to the existing district's assessment including:

1. **Inflation Calculation** – A cost-of-living adjustment mechanism to ensure that the flood control infrastructure is properly funded over time for operations, maintenance, administration, and capital repair and replacement.
2. **Capital Investment** – A capital investment of \$379,000 to fund critical rehabilitation and upgrades to the existing lift station. These improvements will be funded through a temporary transfer of moneys from the City's Stormwater Fund to be repaid from future assessment revenues. The repayment will be charged at a variable interest rate capped at 2.25%. The repayment amount will be adjusted annually based on the City's investment portfolio weighted average rate of return, measured each July. The City's portfolio contains investments in the Local Agency Investment Fund (LAIF) and other investments.

An Engineer's Report has been prepared by SCI (Attachment IV) which serves as the basis for this proposed district's updated assessment to fund a specific portion of these critically needed improvements. The Engineer's Report details the cost estimate and the proposed FY 2022 annual assessment of \$498.00 per property with an annual cost of living adjustment each year thereafter. The new District, if approved by property owners, would repeal and replace the existing MD1 Assessment District with a new proposed Assessment District, designated as "Stratford Village Flood Control Facilities Assessment District," MD1-2021.

The written assessment notice, ballot, and addressed, stamped return envelope was mailed to property owners of record on May 5, 2021. The mailing of the ballots on May 5 fulfills the 45 days requirement for ballots to be mailed at least 45 days prior to the scheduled public hearing date.

The purpose of tonight's public hearing is to consider objections and protests to the proposed assessment. At the conclusion of the public testimony, the City Clerk will open and count the ballots received. During the count, this public hearing item will be paused to allow time for the City Clerk to open and tabulate the received ballots. Once counted, this report will be continued to allow the City Clerk to announce the results and for the Council to consider the item by the end of tonight's meeting.

Approval of the increased annual assessment requires a total of 50% plus one of the weighted returned ballots to vote yes. If a 50% majority plus one of weighted returned ballots vote yes, the Council may proceed with forming the MD1-2021 Assessment District by approving the establishment of the new district, approving the Final Engineer's Report, and ordering the levy and collection of the approved assessments for Fiscal Year 2022. Following the Council's approval, the assessment roll would be forwarded to Alameda County for collection with annual property taxes.

If the ballot measure is not approved, staff will move forward with the process of levying the existing MD1 assessment for FY 2022. If 50% plus one of weighted returned ballots vote no, staff will return to Council on July 6, 2021 with the existing MD1 Preliminary Engineer's Report and resolution of intention and set July 20, 2022 as the public hearing date to approve and order the levy and collection of the original MD1 assessment.

FISCAL AND ECONOMIC IMPACT

There is no impact to the General Fund (100), as monies related to this Maintenance District are preserved in a dedicated Special Revenue Fund (270).

If the Prop 218 ballot passes and the Council approves the attached two resolutions (Attachment II and III), the assessment rate will be approved at \$498.00 per property and a "temporary transfer of funds" will be processed in FY 2022 from the Storm Water Operating Fund (615) to the MD1-2021 Fund (270). The temporary transfer of funds (\$379,000) would be repaid over 12 years at a variable interest rate capped at 2.25%. The repayment amount would be adjusted annually each July based on the City's weighted average rate of return for the City of Hayward Investment Portfolio, which includes investments in LAIF and other investments.

If the Prop 218 ballot fails, the existing MD1 assessment rate of \$243.92 per property will be the assessment rate, to be approved through future proceedings on July 6 and 20th. This assessment rate is not sufficient to pay for the needed \$379,000 in capital improvements nor fund the annual repayments needed for a \$379,000 transfer of funds.

PUBLIC CONTACT

Through a variety of community outreach efforts, staff has sought to inform and receive input from Stratford Village property owners and Council regarding the best path forward to protect Stratford Village from flooding. These endeavors have included three mailers, three virtual community meetings, a dedicated webpage, flyers delivered twice to each of the 174 properties doors, use of electronic message boards parked in the neighborhood, and three Council meetings (to include this report). The following details staff's community outreach efforts:

1. **February 12:** Mailed informational letter to community, advertising February 25 community meeting.
2. **February 25:** Community Meeting #1: provided a virtual forum for community input via Zoom.
3. **March 23:** Council Meeting #1: provided an informational report and next steps.
4. **March 26:** Posted information about the Stratford Village Flood Prevention Project on the City's website⁴.

⁴ [URL](#): Stratford Village Flood Prevention Project Website

5. **March 29:** Advertised webpage and April 14 community meeting on social media via Next Door.
6. **April 2:** Mailed informational flyer to all property owners advertising April 14 community meeting.
7. **April 12:** Posted door flyers on each of 174 properties and on community mailboxes and placed two electronic message boards in the neighborhood to advertise the April 14 meeting.
8. **April 14:** Community Meeting #2: provided a virtual forum for community input via Zoom.
9. **May 4:** Council Meeting #2: request formal start to Proposition 218 election proceedings from the Council.
10. **May 5:** Mailed written assessment notice and ballot.
11. **May 11:** Posted door flyers on each of 174 properties and on community mailboxes and placed two electronic message boards in the neighborhood to advertise the May 18 meeting.
12. **May 18:** Community Meeting #3: provided a virtual forum for community input via Zoom.

NEXT STEPS

If a 50% majority plus one of the weighted returned ballots approve the proposed assessment, the Council may proceed with forming the proposed MD1-2021 Assessment District by approving the establishment of the new district, approving the Final Engineer's Report, ordering the levy and collection of the approved assessments, and appropriating the budget for Fiscal Year 2022. Following Council's approval, the assessment roll will be forwarded to Alameda County for collection with annual property taxes.

If the ballot measure is not approved, staff will move forward with the process of levying the existing MD1 assessment for FY 2022. Should 50% plus one of the returned weighted ballots vote no, staff will return to Council on July 6, 2021 with the existing MD1 Preliminary Engineer's Report and Resolution of Intention and set July 20, 2022 as the public hearing date to approve and order the levy and collection of the original MD1 assessment.

Prepared by: Denise Blohm, Management Analyst

Recommended by: Todd Rullman, Director of Maintenance Services

Approved by:



Kelly McAdoo, City Manager