Stormwater as a Utility
POSSIBLE or impossible???

2018 Public Works Officers Institute
March 29, 2018
Overview

• Intro - your Speakers
• The Contra Costa Experience
• Aging Infrastructure - City and County
• Senate Bill 231 Implementation
• Shifting the Mindset - Funding Stormwater in 2018
• Wrap up and Questions
Intro - your Speakers

• **Mike Carlson**  
  Deputy Director

• **Sean Bothwell, Policy Director**  
  California Coastkeeper Alliance

• **Jason Drew, Principal**  
  NCE
What is a Green Street?
This is a Green Street to our residents!
Anatomy of California Water Portfolio

Water Portfolio

- Drinking Water Sector
- Stormwater Sector
- Sanitary Sewer Sector
- Quality
- Groundwater
- Drainage
- Flood
Contra Costa County Experience
Communities in the Flood Plain

- Post WW II building boom
- 1955/1958 floods galvanized support

Walnut Creek Flooding,
Downtown Walnut Creek 1958
Contra Costa County Experience
Communities in the Flood Plain

- Post WW II building boom
- 1955/1958 floods galvanized support
- 80% - 90% federal investment

Drop Structure Under Construction
$1 Billion Investment 1951 - 2010

Adjusted to 2010 dollars
State DWR Report Findings

- 1 in 5 Californians live in a floodplain
- $570 Billion in structures at risk of flooding
- $50 Billion needed for identified and developed projects
- $100 Billion needed for known problems without developed solutions

Alhambra Creek Flooding, Downtown Martinez 1997
Showing Signs of Age

San Pablo Creek at Via Verde Drive, Richmond in 2011 - $12 million repair cost
Showing Signs of Age

Lafayette Creek at Mountain View Drive, Lafayette in 2012 - $750,000 repair cost
Showing Signs of Age

City of Moraga Sink Hole – on Rheem Blvd
Occurred in 2016, Repair in 2017 for $3 Million
Showing Signs of Age

San Ramon Creek Drop Structure, Alamo in 1995 - $500,000 repair cost
Infrastructure Replacement Need
based on 75 year service life

1954  2010  2029  2085

$1 Billion

Infrastructure Investment

$2.4 Billion

Capital Replacement
Infrastructure Age at 2020

- 0-25 years, 4%
- 26-50 years, 59%
- 50+ years, 37%
State Expenses Comparison

Water Supply

Wastewater

Flood Management

CA Natural Disasters Damages

Source: Cal EMA 10 year Disaster History, 2013
How our Flood Protection is Funded

Percent of Entire Tax Bill - Based on $500,000 home in Walnut Creek

- Bay Area Air Quality: $10 = 0.16%
- CCC Mosquito Abatement Dist.: $13 = 0.21%
- County Clean Water: $35 = 0.57%
- County Flood Control: $46 = 0.75%
- BART: $55 = 0.88%
- EBMUD Water: $78 = 1.3%
- East Bay Regional Parks: $188 = 3.0%
- CCCSD Sewer: $472 = 7.6%
- City of Walnut Creek: $536 = 8.7%
- Fire/Emergency: $670 = 11%
- County General Fund: $779 = 13%
- Schools: $3305 = 53%

Percent of Entire Tax Bill - Based on $500,000 home in Walnut Creek
Society’s Investment in Stormwater

Annual Costs Based on $500,000 home/family in Walnut Creek

Co Flood: $46  Garbage: $360  Sewer: $472  Water: $750  Cab/Ph/Net: $1,440  PG&E: $1,800  Cell Phone: $2,400
Contra Costa County Example

• 2012 Clean Water Funding Initiative
• Property related fee (only $1 to $2 per month)
• Ballot sent to all County property owners
• Process time: 1 ½ years
• Cost: $1.5 million
• Outcome: 60% “No” votes
Current Water Portfolio

Drinking Water Sector

Stormwater Sector

Sanitary Sewer Sector

Quality

Groundwater

Drainage

Flood

Cities, Counties, Flood Control Districts

Wastewater Utilities

Water Utilities

Rate Structure

Voting Exempt

No Rate Structure

Rate Structure

Voting Exempt

Resource

Management

Funding

Process
Stormwater is......

Groundwater Supply

Regional Flood Protection

Community Drainage

Stormwater Quality
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SENATE BILL 231 IMPLEMENTATION

March 29, 2018
Sean Bothwell, Policy Director
Email Contact: sbothwell@cacoastkeeper.org
• Proposition 218 created a new category of revenue mechanism called a “property-related fee,” and required that any new or increased fee be approved by voters or property owners.
  o One extremely important aspect of Proposition 218 is that it specifies that sewer, water, and refuse collection are exempted from the challenging voter approval requirement.
• PROPOSITION STEPS
  o Prepare justification for fee
  o Give notice of majority protest hearing by mail
  o Conduct majority protest hearing
  o If no majority protest, impose fee
  o If not for water, sewer or trash, conduct registered voter election or property owner election on fee
Salinas imposed a fee on the property tax roll measured by impervious coverage to cover the cost to comply with its stormwater permit.

6th District ruled this the charge was a tax requiring voter approval and not a "sewer" fee partly exempt from Prop. 218.

Prop. 218 does not define "sewer" or storm sewer.
• Prop. 218 defines the “water” services which may be funded from a fee partly exempt from Prop. 218 broadly.
• Gov. Code, § 53750(m): “‘Water’ means any system of public improvements intended to provide for the production, storage, supply, treatment, or distribution of water from any source.”
• Codifies *Griffith v. Pajaro*

• Amended GC 53750(m) to add “from any source” to definition of “water” in Prop. 218 Omnibus Implementation Act.
• County MRFs and transfer stations provided household hazardous waste management services at those sites funded by a fee on the property tax roll.
• Lawsuit argued the fee was not for a property related service, but was a tax, because no service was directly provided to the properties, but at MRFs and transfer station.
• Court upheld fee, defining “refuse removal” services partially exempt from Prop. 218 using a Health & Safety Code definition of “refuse.”
• Amended Prop. 218 to define the “sewer” fees which do not require voter approval to include “stormwater.”
• SB 231 is akin to Crawley
• It defines “sewer services,” drawing on an existing statutory definition and does so broadly to include sanitary and storm sewers.
• It disagrees with Salinas and will require a published appellate decision to prevail.
<table>
<thead>
<tr>
<th>Sean Bothwell (CCKA)</th>
<th>Geoff Brosseau (CASQA)</th>
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<tbody>
<tr>
<td>Allison Chan (Save the Bay)</td>
<td>Steve Cruz (CBIA)</td>
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<td>Matt Fabry (BASMA)</td>
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<td>Adam Link (CASA)</td>
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<td>Dave Smith (U.S. EPA)</td>
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<td>Jerry Bradshaw (CSI)</td>
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<td>Erin Evans-Fudem (League of California Cities)</td>
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<td>Michael Lauffer (State Water Board)</td>
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<td>Mitch Avalon (Contra Costa Public Works Dept.)</td>
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<td>Jeff Odefey (American Rivers)</td>
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FUTURE

EARLY 2018
IDENTIFY TEST CASE MUNICIPALITY

EARLY 2018
PROP. 218 PROCESS TO ADOPT A SB 231 STORMWATER FEE

2018
SELF VALIDATION TRIAL COURT PROCEEDINGS

END OF 2020
SUPREME COURT PROCEEDINGS (IF NECESSARY)

EARLY 2019
APPELLATE COURT PROCEEDINGS

2022
SB 231 IMPLEMENTATION STRATEGY

WATER SUPPLY

STORMWATER

SEWER

SOLID WASTE
RESOURCES FOR TEST CASE MUNICIPALITY

- Legal Consultation
- Grassroots Outreach to Gain Community Support
- Outreach to Gain Business Support
- Communications Strategy to Gain Public Official Support
- Amicus Brief Support
Jason Drew, Principal NCE

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Shifting the Mindset

Funding Stormwater in 2018

Jason Drew CPESC
CPSWQ
Principal
Realities of Funding Stormwater

• Underfunded (if at all)
• Regulations – More & more stringent
• Costs rapidly increasing
• Financial need > Public/Political support
Problem solved...

- SB 231
- Proposed Constitutional amendment
- Repeal of Prop 218
- Win the lottery

...Not really
Are You Prepared to Fund Your Program?
Traditional Approach

• Source of funds
  • Compete for General Fund $
  • Apply for grants
  • Road fund

• Supportive argument
  • Permit driven

• Funding initiatives - Limited
  • Internal focus

Engineering & Environmental Services

www.cityofsacramento.org/finance/budget
<table>
<thead>
<tr>
<th>Municipality</th>
<th>Status</th>
<th>Annual Rate</th>
<th>Year</th>
<th>Mechanism</th>
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<td>Successful</td>
<td>$60.15</td>
<td>2002</td>
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Success Rate = <50%

* Of the ones we know about
So I’ll just make my program a Utility using SB 231!

• Still a process
• Need political support
Ask Yourself the Tough Questions?

- Elevator speech
  - What we do?
  - Who does it?
  - Why its important?
- Program with specificity? **Elements**
- Specific **benefits** they receive?

- Program costs annually?
  - With detail?
  - With certainty?
  - Are the numbers defensible?
  - Have you considered everything?
- How much do I receive now?
  - Is it enough?
  - Is it reliable?
What to Shift

• How we...
  • THINK
  • TALK
  • SELL

... Stormwater
Context for Shifting

1. “Homeless” service
2. Competing
3. Poor job of marketing
4. Lower priority
5. Programs not well defined
6. Lack compelling message
7. Public’s confidence of government LOW
So What Do We Do?
1. Clearly Define the Program

• Don’t think like a Stormwater Guru

• Be comprehensive

• What services are you providing?

• Who is receiving service?
  • Residents
  • Land owners
  • Businesses
  • Visitors
2. Justify of Need

• How much do you need?
• What do you have now?
  • What sources?
• What’s the delta?
3. Compelling Argument
4. Branding & Messaging
5. Take a Different Approach

- Work outside in
- Key Stakeholders
- Strong Outreach Plan

- Be politically savvy
- Refine branding and messaging
Thank you!
Questions

- **Mike Carlson**
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- **Sean Bothwell**
  - sbothwell@cacoastkeeper.org

- **Jason Drew**
  - JDrew@ncenet.com