

Office of the City Manager

TO BE DELIVERED AGENDA MATERIAL

Meeting Date: November 6, 2007

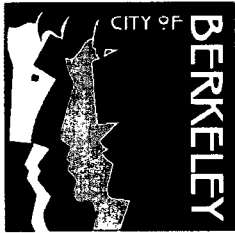
Item Number: 28

Item Description: Discussion Regarding Potential Ballot Measures for the November 4, 2008 General Municipal Election

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Office of the City Manager

ACTION CALENDAR
November 6, 2007

To: Honorable Mayor and Members of the City Council
From:  Phil Kamlarz, City Manager
Submitted by: Lisa Caronna, Deputy City Manager and Pamyla Means, City Clerk
Subject: Discussion Regarding Potential Ballot Measures for the November 4, 2008
General Municipal Election

RECOMMENDATION

1. Begin discussion and provide general direction regarding the preparation of City initiated ballot measures, including possible revenue measures, to be submitted to the voters at the November 4, 2008 General Municipal Election.
2. Direct the City Clerk to place the qualified Landmarks Preservation Referendum Petition on the November 4, 2008 ballot as required by law.
3. Allow a brief presentation on the conceptual design of the Warm Water Pool at the meeting tonight.

FISCAL IMPACTS OF RECOMMENDATION

An annual allocation from the General Fund in the amount of \$365,000 is included in the City Clerk Department budget for the conduct of the general municipal elections. Costs associated with adding measures to the November 4, 2008 General Municipal Election ballot are factored into the allocation, including the cost of a survey (about \$20,000) to poll voters and establish levels of support for key measures. (Budget Code 010-2101-410).

CURRENT SITUATION AND ITS EFFECTS

The next General Municipal Election for the City of Berkeley is scheduled for November 4, 2008. The following offices will be voted on:

Mayor
Council Districts 2, 3, 5 and 6
Rent Board (4 seats)
School Board (2 seats)

In order to provide Council with an ongoing opportunity to discuss and provide direction on election related issues, as well as maintain the election timelines for the November 4, 2008 General Municipal Election, staff will include an agenda item on each regular Council meeting agenda as necessary.

Staff requests that Council begin discussions on known and potential ballot measures, to discuss and provide direction for future Council consideration. Council-initiated measures typically require a significant amount of staff preparation and review time. Once measures have been determined, the City Attorney will prepare the measure text, title and summary, which is then reviewed and approved by the Council. Attachment 1 contains the timeline established to accommodate necessary actions.

1. Ballot Measures

A.) Known Measures

Two ballot measures will be on the November 4, 2008, General Election. To date, we know that the following question will be submitted to the voters:

1. Ordinance 6,958-N.S. Landmarks Preservation Referendum Petition

A referendum petition was filed on January 11, 2007 and qualified as sufficient on January 24, 2007. On February 13, 2007 Council voted to submit the measure to the voters at an election date to be determined. Council is asked to provide direction to staff to begin preparations to submit this question to the voters at the November 4, 2008, General Municipal Election.

2. Resubmission of Measure R from 2004 - Patient's Access to Medical Cannabis Act of 2004

The court has stated that it will order Measure R, the "Patients Access to Medical Cannabis Act of 2004" to be resubmitted to the voters in November 2008, and has asked the City to state what ballot materials, if any, need to be modified in light of the passage of time. The City Attorney has filed a response to the court's order stating that the court should allow new arguments pro and con, and rebuttals, and that the text of the existing ordinance, as shown on the ballot, should be amended to reflect amendments made by the Council in 2004 after the initiative had been drafted and began circulating. If the court accepts the City's suggestions, the submission of arguments and rebuttals to the City Clerk, would presumably be done in the normal manner and on the same time frame as for other measures on the November 2008 ballot. With respect to the amended text of the ballot measure, we expect the court would simply order that it be placed on the ballot. Thus no Council action would be required, unless the court orders otherwise. We expect to receive a final ruling in early 2008 and will report back at that time.

B.) Potential Ballot Measures

Staff is seeking direction regarding the following potential City initiated ballot measures and funding options for the November 4, 2008 General Municipal Election.

1. Watershed Management Plan (Clean Storm Water) Requires 2/3rds voter approval.

The Clean Storm Water fund has an unfunded operations and capital improvement need of \$2 - \$3 million annually, which could be closed by new revenues from a proposed special tax. (Attachment 3 is a report on needed storm drain improvements.)

The City of Berkeley established a clean storm water fee to fund compliance with the Alameda County Urban Runoff Clean Water Program, as well as repairs and improvements to the storm drainage system. This fee was established in 1991 and has been frozen by Proposition 218 since 1996, even though 75% of Berkeley residents voted against Proposition 218. Currently, the average fee for a residential dwelling is \$34 per year and generates approximately \$2 million. (See Attachment 4 for all property based taxes.) For more than a decade, the City has attempted to maintain services to comply with the Clean Water Act and mitigate flood hazards without increases for inflation or additional revenue for capital improvements. One-time funding from the transfer tax revenue has been added for the past three years to supplement the storm water program. This one-time revenue may not be available in future years.

Funding range: \$2 – 3 million annually

2. Public Safety Police

Additional funds would restore police staffing from previous budget cuts and increase services to the community. Additional officers could be used to provide police presence and enforcement in our business districts in order to address crime and disorder issues that impact quality of life and economic vitality; restore officers to the Drug Task Force to enhance the enforcement efforts that impact drug related violent crime; add sworn officers and community service officers to the patrol force in order to increase the ability of beat officers to work on crime and disorder problems; increase community support services such as crossing guards, and add officers for traffic enforcement to work on traffic calming and reducing injury collisions through enforcement.

Funding range: \$2.5 to \$5 million dollars annually depending on the scope of measures considered. See Attachment 5, excerpt from the Quarterly Crime Report presented to Council on September 18, 2007.

3. Radio Interoperability

Discussions are taking place within the county and the region that would allow multiple public safety agencies the ability to communicate with each

other during emergencies. The capital cost to the City of Berkeley would be approximately \$2.4 million with an annual cost of \$500K that would pay for replacement equipment and maintenance of the systems. This measure would serve both police and fire communications.

Funding need: \$2.4 million one-time and \$500K annually.

4. Public Safety Fire

This measure would address maintaining fire department staffing levels in order to keep all fire stations open that would otherwise be subject to rotating closures. Funding generated from this measure would also provide staffing enhancements to truck companies for greater rescue and response capability, restore staffing levels in the training / EMS division and Office of Emergency Services, and enhance advance life support (ALS) emergency medical services through the implementation of a First Responder Advance Life Support (FRALS) program. The FRALS would expand current paramedic services to include paramedic first responder capability to all of the city's fire stations, as well as improvements to the emergency operations center and other essential disaster preparedness facilities and equipment.

Funding range: \$1 to \$2 million annually

5. Youth Programs

Youth programs continue to be a high priority for the City of Berkeley. Currently, the City provides various youth services and youth safety programs, including violence prevention efforts and grants to community-based agencies that provide services to at-risk youth. However, the increase in criminal activity in various parts of the City reflects the need for additional resources for services focused on achieving positive long-term outcomes for youth. The Youth Program will utilize a multifaceted approach that incorporates academic success, prevention, intervention and treatment services, job training, employment, and other support services to ensure youth success and increase public safety.

Funding range: \$1.5 million to \$2 million

A combination of public safety measures and youth should be considered in the discussion on potential ballot measures. The City of Oakland passed a "Violence Prevention and Public Safety Act" in November 2004. The measure combined Fire, Police, and Violence Prevention Services (primarily for youth) and increased annual revenue by \$19.9 million. The funding included a combination of a dedicated parcel tax increase and a parking tax surcharge of 8.5% to those parking in commercial parking facilities. (This is additional to the existing 10% parking tax to remain in the general fund.)

As part of the process, we recommend a survey be conducted in February or March to determine voter support for any measures being proposed including consideration of a combination measure related to public safety.

6. Warm Water Pool Bond

Berkeley Unified School District approved a Berkeley High School South of Bancroft Master Plan which demolishes the Old Gym including the City operated Warm Water Pool. The Warm Water Pool meets special needs programs for seniors, disabled and infants who depend on the pool for their primary source of physical activity. The City is looking at constructing a new Warm Water Pool to replace the existing pool. A design was developed in conjunction with the users and vetted at three public meetings sponsored by the Commission on Disability.

The total cost for construction, including all soft costs for design and contingencies, is estimated at \$13.75 million. Additionally the purchase of land is estimated at \$1.25 million assuming the site is the corner of Milvia and Bancroft as approved in the BHS Master Plan. This represents a total project cost of \$15 million.

A bond measure for November 2008 election could authorize the issuance of \$15 million of general obligation bonds for land acquisition and construction of a Warm Water Pool facility, including a pool for diverse needs, restrooms, changing rooms, showers, and mechanical equipment. Cost to the homeowner would be an average of \$5.56 per \$100,000 of assessed value over the 30-year term. This measure would replace the voter approved \$3.25 million Warm Water Pool bond measure approved by the voters in 2000. An information item on the warm water pool is included in the Council packet this evening.

Funding need: \$15 million

7. Community Choice Aggregation Advisory Measure

Beginning in 2004, the Cities of Berkeley, Emeryville, and Oakland ("Cities") initiated a process to investigate offering retail electric services to customers located within the Cities through a program known as Community Choice Aggregation ("CCA"). The Cities' primary objectives in offering CCA service are to promote greater use of renewable energy and to offer stable, competitive electric rates to local residences and businesses. In 2006, Council authorized the development of a CCA business plan but decided that the decision on whether to create a CCA would be determined by Berkeley residents through an advisory ballot measure. The business plan will be available in early 2008.

Analyses of a CCA indicate that there are certain potential benefits as well as risks to ratepayers and the City. Staff has initiated discussions with PG&E to see if there are alternatives that can provide the community with the benefits of CCA without the attendant risks. These discussions will influence staff's recommendation on whether Council should authorize an advisory ballot measure on this project. We will return to the Council in spring of 2008 for further discussion on CCA.

8. Charter Amendment Regarding Redistricting Timelines

Currently, there is insufficient time allowed between the issuance of final census statistics and the deadline for completing the district line adjustments to meet the deadline for the next General Municipal Election of councilmembers as required in the charter. The Census Bureau will submit state population totals to the U.S. President for the 2010 Census by December 31, 2010. The City will receive Census data in the Spring 2011.

The redistricting will take approximately 18 months to complete. In accordance with the Charter, the Council may adjust the boundaries of the Council districts to ensure the eight districts continue to be as nearly equal in population as may be aligned with the Census data. A Charter amendment is necessary to extend the timeline and allow any redistricting to become effective 18 months after receipt of the final census data.

C.) Measures Discussed

The Board of Library Trustees has discussed a possible bond measure in the future, as part of a discussion about the branch Library in the Master Facility Plan; however, no vote on this topic has been taken.

Measures considered in the past and remaining unresolved for funding include the following measures:

Street Lighting: This special tax has not been increased since 1991 resulting in a reduction of services each year and a liability to the General Fund.

Old City Hall / Maudelle Shirek Building Seismic Retrofit: In November 2002 a measure to retrofit Old City Hall was placed on the ballot for a General Obligation Bond of \$21.5 million dollars. The Measure failed. The estimate to complete this project in 2011 is now estimated at \$30 million. Should the Council wish to pursue this measure, updated confirmation of cost is required.

Veteran's Building: The Veteran's Building is in need of seismic retrofitting. The estimate for this structure is \$17 million. Confirmation of cost is required.

D.) Outside Agencies:

Staff also contacted other agencies to obtain information on possible ballot measures that may impact the City of Berkeley. While it is still early, only the East Bay Regional Parks District (EBRPD) indicated they are considering a measure, an extension of Measure AA that passed in 1988, for the November 2008 ballot.

Additionally, if approved by the legislature and signed into law by the Governor, Assembly Bill 10, the Children's Hospital Bond Act of 2008, would be placed on the June 2008 ballot. If the bill is not signed in time to meet the timelines for the June 2008 election, efforts will begin immediately to qualify the initiative for the November 2008 election ballot. The Bond Act would authorize the issuance of bonds in the amount of \$980 million, for purposes of financing a specified

children's hospital grant program for hospitals that qualified for grants pursuant to the Children's Hospital Bond Act of 2004.

E.) Funding Options:

Funding options vary based on the type of measure and approach the Council may wish to take. General guidelines and examples on funding options are itemized below:

1) Property Based Tax or Bond:

A. **Ad valorem:** A tax calculated from assessed value established by the County Assessor's Office. It includes a countywide tax of 1%, plus the tax rates needed to pay debt service on the City, school districts and other special districts' debt service on general obligation bond obligations. The tax is typically stated at a rate of \$X per \$100,000 of assessed value.

B. **Per square foot of building:** A tax based on the square footage of the building and property use codes. The building square footage is multiplied by the tax rate to determine the amount of the tax.

C. **Per square foot of property:** A fee charged based on the lot square footage as opposed to building square footage.

2) **General Tax:** A "general tax" is any tax imposed for general governmental purposes and requires a simple majority of the votes cast by the voters.

3) **Special Tax:** A "special tax" is any tax imposed for specific purposes such as public safety, services, or other specific needs. The special tax is typically a fixed amount per identified property type and requires a 2/3rds affirmative vote of the votes cast.

4) **Mello Roos Tax:** A Community Facilities District (CFD) can be created under the Mello-Roos Community Facilities Act of 1982 to finance public improvements and services when no other source of money is available. A CFD cannot be formed without a 2/3rds majority vote of residents living within the proposed boundaries. Once approved, a special tax lien is placed against each property owned in the Community Facilities District, and property owners then pay a special tax each year for certain period of time generally from 15-20 years. The tax is based on a rate per square foot of building area.

5) Sales Tax:

Sales Tax Rates:

The City of Berkeley has a current sales tax rate of 8.75%. The maximum sales tax rate for California is 9.25%, which includes a base sales tax rate of 7.25% plus a 2% cap on district taxes. According to Revenue and Taxation (R&T) Code 7251.1, the combined rate of all transaction and use tax rate may not exceed 2%. Currently, Alameda County has three 0.50% transactions and

use taxes imposed, which leaves 0.50% available for rate increase to the City under the 2% cap. The tax generally must be imposed in multiples of 0.25%.

According to the State Board of Equalization (BOE) officials, there are six cities going to the voters in November 2007 with a ballot measure to increase the sales tax rate. Further, no city or county within the State of California has a sales tax rate higher than 8.75%.

Based on the City's Sales Tax revenue projections for FY2009 and FY2010, the City could expect to raise a minimum of an additional \$2.9 million with a .25% increase in the Sales Tax rate and \$5.8 million with an increase of .5%.

Requirements to Increase Sales (District) Tax

The City may increase the transactions and use tax under R&T Section 7285.9 or Section 7285.91:

- Section 7285.9- this allows a City to impose a tax for general purposes. The ordinance must be adopted by the City Council prior to the election. The ordinance cannot specify how the fund will be spent and the City Council will be allowed to spend the funds as they see fit. This requires a 2/3 vote of City Council and requires a simple majority vote of qualified voters in the City.
 - Section 7285.91- this allows a City to impose a tax for specific purpose(s). The ordinance must specify how the fund will be spent and the ordinance must include an expenditure plan. The funds can be used for several different projects within the City (e.g., Public Safety, Parks, transportation, etc). However, every purpose that the funds will be used for must be specified in the ordinance and the City Council cannot spend the funds for any other purpose. This requires a 2/3 vote of City Council, a 2/3 vote of qualified voters in the City, and requires an expenditure plan be included in the Ordinance.
- 6) General Obligation Bonds: The City can seek a required 2/3 voter approval for the authorization to issue general obligation bonds to fund specific projects identified in the election authorization. Annual ad valorem taxes are collected to make debt service payments on the bonds over time. This ad valorem tax is a property-based tax based on assessed values. For example, a General Obligation Bond to raise \$30,000,000 would require an annual average tax of approximately \$11.66 per \$100,000 of assessed value.

F.) Other Factors to Consider:

- Overall cost to taxpayers will be evaluated. Should the council decide to move forward with any new taxes, a study will be completed describing the overall cost to the taxpayer. Additionally, a comparative city-to-city review will be conducted comparing our residential taxes and fees with adjacent jurisdictions.

- Annual inflation factor – use of the CPI or other options (such as an annual flat rate percentage increase)
- Sunset provisions for the measures
- Low-income exemptions on new taxes to be assessed
- Split role tax rate for commercial and residential properties as is currently used for the existing Library services tax
- Effective date of the tax measures
- Refuse Fees and the Transfer Station Rebuild Project: The City is looking at the likely rebuilding of the Transfer Station to meet the Zero Waste goals and rebuild the aging facility. Refuse rates will be impacted as a result of adjusting future fees to pay for the new facility. Estimates currently range from 10 to 15% increase due exclusively to the debt payment on a new \$30-\$40 million dollar facility. Other standard increases adjusting for inflation and increased operational costs are also being reviewed as conformance with Proposition 218. Information on rates will be presented early next year.

It is anticipated that any measures directed by Council to be submitted to the voters will be included on the November 4, 2008 General Municipal Election ballot. For information, a statewide Primary Election is scheduled for June 3, 2008. Council may submit measures to the voters of the City of Berkeley at this statewide election if a determination can be made that an urgent need exists for holding an election on a day other than the regular municipal general election day. This finding must be adopted by a two-thirds vote of the Council (City Charter Article III, Section 4(c)).

BACKGROUND

In addition to the deadlines contained in the State Elections Code, the City of Berkeley has several internal deadlines and requirements that must be met in order to place a measure on the ballot.

The preparation of ballot materials requires a great deal of communication between staff and council as well as many hours of staff time to prepare and revise these materials. The attached timelines will enable the city to prepare ballot measure materials with careful consideration and integrity in a timeframe that adheres to agenda deadlines and allows for the best possible outcome.

Council will have the opportunity to continue its discussion and review of proposed ballot measures at future meetings. In between these meetings, staff will continue its work to respond to input from the Council in order to have the most fully developed language for the ballot titles, analysis by the City Attorney, and draft ordinance language.

The City Attorney advises that in order to provide adequate public notice of any measures being considered, Council should submit Council reports making proposals to be discussed at these meetings. Likewise, staff will submit reports for Council approval of ballot text, title and analysis.

CONTACT PERSON

Pamyla Means, City Clerk, 981-6909

Lisa Caronna, Deputy City Manager, 981-7000

Attachments:

- 1: November 4, 2008 Calendar
2. List of Potential Ballot Measures
3. Storm Drain Improvements April 25, 2006 Council Report
4. Annual Current Taxes
5. Excerpt, Police Department September 18, 2007 Quarterly Crime Report

CITY OF BERKELEY
CITY CLERK DEPARTMENT
GENERAL ELECTION CALENDAR - PUBLIC

ATTACHMENT 1

November 4, 2008

Offices to be Elected

Mayor

Council Districts 2, 3, 5, 6

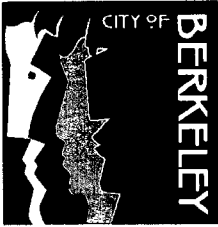
Rent Board (4 seats)

School Board (2 seats)

<u>DAYS PRIOR TO ELECTION</u>	<u>DATE</u>	<u>ACTION TAKEN</u>
210	April 8, 2008	Review Election Policies & Notify Council / Staff of Timelines for Measures
180	May 8, 2008	Suggested Last Day to file petitions regarding measure. Qualified petitions received after this date will be accepted, but may not be on the November ballot. EC 9265, 9266, 9114
158 103	May 30, 2008 July 24, 2008	Signature In-Lieu of Filing Fee - Candidate may collect signatures during this period to offset the \$150 filing fee. Valid signatures are worth \$1 each. Charter Art. III, Sec. 6.5
	June 10, 2008	Council to adopt resolution specifying election policies/procedures for candidate elections.
	June 24, 2008	Council to adopt resolutions calling election and requesting consolidation. EC 10002, 13113
	July 8, 2008	Last Day for council to adopt regulations for candidate statements. EC 13307, Charter Art. III, Sec. 6.5
	July 8, 2008	Council Meeting date to adopt resolution calling election for ballot measure. Staff to present Impact Report on initiative measures. Council to comment on City Attorney analyses and financial implications. Ballot text, title, and summary to be in final format.
113 88	July 14, 2008 August 8, 2008	FILING PERIOD - CANDIDATE NOMINATION PAPERS EC 10220 et seq., Charter Art. III, Sec. 6.5
	July 31, 2008	Last day to file Semi-Annual Campaign Statements. GC 84200
87 83	August 9, 2008 August 13, 2008	Extended candidate filing period. Candidate filing is extended if an incumbent eligible for re-election does not file nomination documents prior to 5:00 p.m. on August 8, 2008. Incumbents are not eligible to file during the extended period. EC 10225
85	August 11, 2008	Last day to withdraw (but not change) candidate statement for offices whose filing closed on E-88. EC 13307
83	August 13, 2008	Last day for city to amend or withdraw measure. EC §9605

<u>DAYS PRIOR TO ELECTION</u>	<u>DATE</u>	<u>ACTION TAKEN</u>
82	August 14, 2008	Last day to withdraw (but not change) candidate statement if nomination period extended to E-83. EC 13307
81	August 15, 2008	Last day to file direct arguments on city ballot measures. EC 9280-9287
75	August 21, 2008	City may cancel election if there are insufficient candidates for all offices and no ballot measures. EC 10229
71	August 25, 2008	Last day to file rebuttal arguments and Impartial Analysis. EC 9280-9287
70 60	August 26, 2008 September 5, 2008	Public review period for all ballot materials, including ballot measure arguments and impartial analysis, candidate statements, Code of Fair Campaign Practices, and nomination petitions submitted as of the 88th day prior to the election. (Nomination petitions may be viewed only, not copied) EC 9295, 9286, 13311
57 14	September 8, 2008 October 21, 2008	Filing Period for Write in Candidates. EC 8601
40	September 25, 2008	First Pre-Election Campaign Statement due. GC §84200.8
40 21	September 25, 2008 October 14, 2008	Voter Information & Sample Ballot Pamphlet mailing period. EC §13303-04, 13306
29 7	October 6, 2008 October 28, 2008	Absentee Ballot may be obtained by mail between these dates. After Oct. 28 absentee ballots may be obtained at the office of the Registrar. EC §3001
15	October 20, 2008	Last Day to Register to Vote. EC §§2102, 2107
12	October 23, 2008	Second Pre-Election Campaign Statement due. GC §84200.8
7	October 28, 2008	City Clerk must publish list of campaign contributions of \$50 or more in newspaper of general circulation. BMC Section 2.12.065
Election Day	November 4, 2008	Election Day EC §1000
28	December 2, 2008	Last day for County to certify election results to city. EC §15372
35	December 9, 2008	Council to certify results. EC §10262, Charter Art. III, Sec. 10
	January 31, 2009	Semi-Annual Campaign Statement due. GC 84200

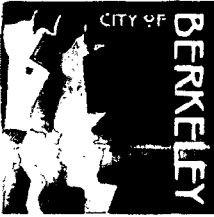
Updated 8/14/07



Office of the City Manager

**Potential Ballot Measures
November 8, 2008 General Municipal Election**

	Title	Date Confirmed by Council
1.	Ordinance 6,958-N.S. Landmarks Preservation Referendum Petition	2/13/2007
2.	Charter Amendment Regarding Redistricting Timelines	
3.	Watershed Management Plan (Clean Storm Water) Special Tax	
4.	Public Safety Police	
5.	Radio Interoperability	
6.	Public Safety Fire	
7.	Youth Programs	
8.	Warm Water Pool Bond Measure	
9.	Community Choice Aggregation Advisory Measure	
10.	Resubmission of Measure R from 2004- -Patient's Access to Medical Cannabis	Resubmitted to the voters per court order
	Other Measures Considered: <ul style="list-style-type: none"> • Street Lighting • Seismic Retrofit of the Veterans Building and the Maudelle Shirek Building • Library Bond Measure 	




Office of the City Manager

PRESENTATION

April 25, 2006

To: Honorable Mayor and
Members of the City Council

From:  Phil Kamlarz, City Manager

Submitted by: Claudette Ford, Acting Public Works Director

Subject: Storm Drain Improvements

INTRODUCTION

Recent winter storms heightened public awareness and concern about the condition of our storm drain system. In December 2005 we experienced a series of storm events that resulted in flooding and hillside failures, which strained the City's ability to respond effectively. Staff studied the issues and provides the following in this report:

1. A current assessment of the condition of our storm drain system; and
2. An estimate of what improvements the current and proposed capital budget can provide in the short term.

SUMMARY

The City's storm drain system, which is over 80 years old, includes approximately 100 miles of underground pipes, 1,200 manholes, 2,800 catch basins, 2,300 cross-culverts (an inlet on one side of an intersection and an outlet on the other), and 467 drain inlets. Many portions of the system are severely overdue for rehabilitation. Because of the system's age and deterioration, moderate to heavy rainstorms, as recently experienced, cause flooding and blockages in hundreds of trouble spots throughout the city.

In order to address all current known system deficiencies, it is estimated that a total capital outlay of \$50 million, or about \$5 million per year for the next ten years, would be needed for repairs and replacement. To address this problem, staff has developed a plan to address small- to mid-sized problems. Beyond that, capacity improvements to the storm drain system, estimated in 1994 to cost approximately \$34 million (in 1994 dollars), would require new and substantial funding sources. These potential long-term projects are addressed below under the Background section. To summarize, an estimated \$84 million would be required to repair the system and improve its capacity.

CURRENT SITUATION AND ITS EFFECTS

The City experienced especially heavy localized flooding in December 2003, February 2004, and in December 2005. The December 2003 and February 2004 storm events were a 10-year and a 25-year storm event, respectively, while the December 2005 storm event was a 15-year event. Certain areas in West Berkeley were especially hard hit this past December. Heavy rains, combined with a high tide of

5.8 feet when the outfall (where water collects prior to entering the Bay) was under water, caused disastrous effects. The water quickly overwhelmed the storm drain's capacity. Furthermore, the City's storm drain system is old and seriously in need of repair and in many areas is at or over capacity. Finally, leaves and other debris clogged many catch basins and inlets requiring added maintenance. These conditions placed an extreme burden on the system. In its current deteriorated form the system is unable to meet demands placed on it by heavy storm waters.

BACKGROUND

Approximately \$1.9 million a year is allocated to Public Works for both personnel (primarily maintenance staff) and capital projects for the storm water program. The Clean Storm Water Fund revenues are supported by fees and capped at 1996 levels by Proposition 218, which allows increases only by approval of 2/3 vote of Berkeley citizens. Because these revenues have remained flat through these years, our maintenance levels tend to drop as a result of inflationary pressures.

The following is a breakdown of short- and long-term capital improvements needed to improve the storm drain infrastructure, and a discussion on our maintenance efforts.

Short-Term Capital Improvements. Funding for the short-term projects include \$1.4 million and \$292,000 (one-time allocation for FY 2007) in Capital Improvement Funds (610), and \$200,000 per year from the UC Agreement starting in FY 2007 (for 15 years). The agreement with the Berkeley Unified School District provides another one-time \$300,000. The budget for FY 2008 allocates \$500,000 in General funds and \$200,000 from the UC Agreement for a total of \$700,000.

Attachment 1, Table 1, provides a list of sites prioritized for repair and maintenance work for the next two fiscal years. The fund amounts include the allocation for FY 2006, but these monies cannot be encumbered until FY 2007.

Long-Term Capital Improvements. There are two categories of long-term projects:

1. Current Storm Drain System and Public Creek Culvert Repairs – Estimated \$50 million. There are locations in the storm drain system and public creek culverts which are known to need repairs (See Attachment 1, Table 2). There are approximately 462 sites, varying in degree of needed and costly repairs.
2. Potter Street and Strawberry Systems Capacity Improvements – Estimated \$34 million (in 1994 dollars). Storm drain lines at or near capacity will continue to flood. Of particular concern are the Potter Street line (the San Pablo Avenue line connecting to Potter), and the Strawberry storm drain line. Capacity related improvements for these two systems are costed out in Attachment 1, Table 3. The source of information is the 1994 report prepared by CH2M Hill. Staff recommends that the 1994 modeling be updated in the near future to determine which capacity improvements would be cost effective to implement, and to revise the estimate of the costs.

Flooding is also occurring on the lower section of Codornices Creek. The Cities of Berkeley and Albany are working with Caltrans to have additional culverts placed under I-80 to increase its capacity.

Maintenance Issues

Current Maintenance Needs. The City has approximately 2,800 catch basins, 2,300 cross culverts, and 467 inlets/outlets. To prevent or reduce localized flooding, maintenance crews regularly clean these areas by removing leaves and litter from streets. The following tables show what maintenance crews can accomplish daily during dry and wet periods.

Dry Periods (approximately 36 weeks/year) – One Crew (2 persons)

<u>Maintenance Item</u>	<u>Per Day</u>	<u>Per Week</u>	<u>Per Year*</u>
Inlets/outlets	16	80	2,880
Catch basins	16	80	2,880
Junction boxes	3	15	540
Culvert feet	240	1,200	43,200

Wet Periods (approximately 14 weeks/year)– Four Crews (8 persons)

<u>Maintenance Item</u>	<u>Per Day</u>	<u>Per Week</u>	<u>Per Year*</u>
Inlets/outlets	20	100	1,400
Catch basins	10	50	700
Junction boxes	4	20	280
Culvert feet**	183	915	12,810

*These numbers may represent multiple visits to the same problematic sites.

**Harder to service during rain due to breakdowns.

In years with normal precipitation with dry periods averaging 36 weeks, current staff are able to maintain these tasks. In normal years prior to and during the rainy season, Corporation Yard staff increase storm drain maintenance and monitoring to reduce the number of blockages and back ups. This is accomplished by shifting resources from dry weather operations to wet storm drain maintenance operations.

However, it is during unusual rain events, such as occurred this past winter, that current staff have difficulty maintaining storm drains to prevent flooding. It is important to note that the maintenance crews who attend to storm drainage problems during heavy rains sometimes find that the physical structures are in such disrepair that maintenance is difficult or impossible. In other words, unless the physical infrastructure is in fair to good condition, maintenance cannot be done. Capital improvements are essential to good maintenance.

On-Call Emergency Contract. Due to the heavy flooding experienced this past winter, the City hired an on-call contractor to help City crews clean drain pipes. The \$24,000 contract runs through the end of this fiscal year. This is in addition to the maintenance activities of the Corporation Yard.

Street Sweeping Issues. The most cost effective way to remove leaves and debris from the streets is by street sweeping. Although parked cars are ticketed on street sweeping days, streets are not always swept effectively because some cars are not moved. This activity is also hampered by the long leaf-dropping season in the Bay Area. The City has numerous species of street trees that drop leaves at different times from late August through February each year.

Adopt-a-Drain Program. Another method for controlling leaves and litter to reduce localized flooding is to promote and expand the City's Adopt-a-Drain program. This program is based on volunteers clearing their adopted catch basin or inlet. The work typically involves sweeping or raking up debris and bagging it for pick up by City crews. This program started in late 2005. To date 31 volunteers have signed up for the program.

POSSIBLE FUTURE ACTION

Additional revenue sources are needed to increase the capital funding for storm drain repair work. Proposition 218, as discussed above, restricts Council from enacting fees or assessments to pay for most local services, including improvements to the storm water system. This restriction may be eliminated with the passage of ACA No. 13, a resolution being proposed to California voters to amend the State Constitution to allow local governments to enact fees and charges related to "flood control, storm water drainage, or surface water drainage as exempt" from the current procedures and approval process. This legislation is currently in committee and is expected to expire September 2006 in committee if no action is taken. The Council may consider encouraging our legislators to enact ACA No. 13 to help local governments repair and maintain deteriorating infrastructure.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Fiscal impacts would include the cost associated with a proposition measure on the election ballot for a bond measure or increased stormwater fee measure, or a minimum funding level of \$500,000 per year from the General Fund.

CONTACT PERSON

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Lorin Jensen, Supervising Civil Engineer, 981-6411

Attachments:

- 1: Table 1 – FY 2007/2008 Construction Program
- Table 2 –City-Wide Storm Drain System Repair Locations
- Table 2 – Potter & Strawberry Systems Capacity Improvements (1994 CH2M Hill Report)

Table 1
Construction Program Priorities
FY 2006 to FY 2008 Allocations

Site	Description	Amount
1188 Cragmont	Repair creek culvert/Improve street drainage	\$55,000
9th/Heinz	Valley gutter	150,000
10th/Heinz	Valley gutter	60,000
8th/Heinz	Valley gutter	60,000
7th/Heinz	Catch basin work	30,000
Prince/Dohr	Valley gutter	45,000
Total Funding FY 2006	General Fund	\$400,000
10th/Grayson	Valley gutter	65,000
Ward/Fulton	Valley gutter (2)	130,000
4th/Jones	Storm line extension	145,000
4th/Virginia	Storm line extension/catch basin	55,000
Dwight/MLK	Gallery catch basins (3)	55,000
Cedar/Spruce	Valley gutter	65,000
LaLoma	Creek culvert repair	50,000
Shattuck 1200	Catch basin/pipe repair	67,000
Arch/Corona Ct	Catch basin repair	25,000
9th/Channing	Cross culvert	130,000
Oregon/Shattuck	New cross culverts (2)	155,000
Piedmont/Garber	Valley gutter	65,000
Dana/Ward	Valley gutter	65,000
10th/Carleton	Valley gutter	65,000
Ward/MLK	Cross culvert	155,000
Total Funding FY 2007	General Fund - \$500,000	
	General Fund - 292,000 (one-time mid-budget)	
	UC Agreement- 200,000 (@year/15 years	
	BUSD - 300,000	\$1,292,000
Milvia/Blake	Valley gutter	65,000
6th/Hearst	Cross culverts (2)	165,000
Curtis/Francisco	Valley gutter	65,000
Russell/Shattuck	Cross culvert	65,000
Bancroft/Bolivar	Catch basins (3) - 200 ft of pipe	135,000
Stuart/California	Cross culverts (2)	135,000
Bonita/Berkeley Way	Valley gutter	70,000
Total Funding FY 2008	General Fund - \$500,000	
	UC Agreement- 200,000	\$700,000

Table 2
City-Wide Storm Drain System Repair Locations

Category	Number of Known Sites	Average Estimated Cost Per Site	Estimated Total Construction Costs
Cross Culvert Repair locations	101	65,000	\$6,565,000
Storm Drain piping point repairs	60	40,000	2,400,000
Storm Drain piping sections	21	1,000,000	21,000,000
Street Flooding Areas (Various Reasons)	168	45,000	7,560,000
Creek open channel or Creek Culvert repair locations	5	2,000,000	10,000,000
Ground Water	97	\$ 22,950	2,226,150
	<u>452</u>		<u>\$49,751,150</u>
		Average Capital Budget Per Year for 10 Years	\$ 4,975,115

Table 3
Potter & Strawberry Systems Capacity Improvements (1994 CH2M Hill Report)

	Est. Const. Costs
Potter System	
Oregon St Relief Storm Drain Sewer	\$13,400,000
Potter Street Overflow Diversion	2,100,000
Aquatic Park Pumping Station and Force Main	4,200,000
Derby Street Improvements	700,000
Parker Street Improvements	500,000
Prince Street Bypass	400,000
Potter Subtotal	<u>21,300,000</u>
Strawberry System	
Walnut St/Hearst Av Relief Storm Drain	3,700,000
Lower Hearst Av Relief Storm Drain	4,700,000
Addison St Relief Storm Drain	3,900,000
Strawberry Subtotal	<u>12,300,000</u>
Total Capacity Improvements	\$33,600,000

**ANNUAL IMPACT OF CITY OF BERKELEY FEES TAXES ON HOMEOWNER
FY 2005 - FY 2011**

(excludes other jurisdictions: School District, Peralta College, etc.)

Home average square feet = 1900 SF	ACTUAL			PROJECTION			
	2005	2006	2007	2008	2009	2010	2011
Average Home Assessed Value	\$263,365	\$286,110	\$311,284	\$317,509	\$323,859	\$330,336	\$336,943
Exemption:	-7,000	-7,000	-7,000	-7,000	-7,000	-7,000	-7,000
Average Home Assessed Value (Net)	\$256,365	\$279,110	\$304,284	\$310,509	\$316,859	\$323,336	\$329,943
Property Tax	\$2,564	\$2,791	\$3,043	\$3,105	\$3,169	\$3,233	\$3,299
1995-96 Rate: 1.2263%							
1997 Rate: 1.00%							
Seismic Safety Bond (Schools)							
Measure S - Civic Center ^(See Note)	109	119	106	82	81	80	78
Seismic Improvements							
Measure G - Fire ^(See Note)	77	70	53	50	49	48	48
Seismic Improvements							
Measure Q - Fire Equipment	24	24	24	24	24	24	24
Sanitary Sewer	238	245	245	245	252	252	252
Parks Tax	188	192	198	204	210	217	223
Emergency Disabled Services	18	19	19	20	21	22	23
Street Light Assessment District	21	21	21	21	21	21	21
Refuse Disposal	232	251	271	271	285	299	314
Library Tax	251	264	275	287	298	310	323
Paramedic Tax	50	51	53	55	56	58	60
Stormwater Program Fee	34	34	34	34	34	34	34
TOTAL	\$3,805	\$4,080	\$4,342	\$4,398	\$4,501	\$4,598	\$4,698

GENERAL ASSUMPTIONS

Very low income households exempt from Sanitary Sewer Fee, Library, Paramedic, and Park Taxes

Basic 1% County Property Tax based on an average assessed value (City receives 32.5% of the 1%)

Sanitary Sewer: \$0 increase in FY 2008; projected annual 3% increase thereafter

Parks & Paramedic Tax: 3.2% increase in FY 2008; projected annual 3% increase thereafter (based on Consumer Price Index)

Emergency Disabled & Library Tax: 4.42% increase in FY 2008 projected 4% thereafter (based on Personal Income Growth)

Refuse Fees: \$0 increase in FY 2008; projected 5% annual increase thereafter

Note:

The decision to refund the Measure G General Obligation Bonds (Election of 1992, Series C) and the Measure S General Obligation Bonds (Election of 1996, Series A, B, and C) will decrease the combined General Obligation Bond Taxes by 19.3% in FY2008, and by an average of 12.5% on the years thereafter until the bonds are repaid. During FY2008, that would result in a savings of \$70.51 and \$101.03, respectively, for homes assessed at \$700,000 and \$1,000,000. In FY2008, the tax rate for Measure G bonds will decline to .0161% from .0175% in FY 2007; the Measure G Bonds Tax rate will decline to .0263% in FY 2008, from .00350% in FY 2007.

POTENTIAL OPTIONS

<input type="checkbox"/> Bike Patrol: Seven (7) Additional Officers	\$1,200,000
<input type="checkbox"/> Special Response Team – Business Districts: One (1) Sergeant and three (3) Officers with Overtime	825,000
<input type="checkbox"/> Eliminate Target Savings	414,000
<input type="checkbox"/> Citywide Crime Suppression Team: One (1) Sergeant and three (3) Officers with Overtime	825,000
<input type="checkbox"/> Drug Task Force: Restore two (2) Officers	340,000
<input type="checkbox"/> Patrol: Seven (7) Additional Officers	1,200,000
<input type="checkbox"/> Detective Positions: Two (2) Officers	340,000
<input type="checkbox"/> Traffic Patrol: Two (2) Officers	<u>340,000</u>
TOTALS:	\$5,484,000