

STAFF REPORT

Date: December 13, 2023

To: Mayor and City Council

Thru: Doug Thornley, City Manager

Subject: **Staff Report (For Possible Action): Acceptance of the Stormwater Utility Business Impact Statement (BIS) and finding that the adoption of the Stormwater Utility Ordinance does not impose a direct and significant economic burden upon a business nor directly restrict the formation or expansion of a business.**

From: Jon Simpson, Engineering Manager

Department: Utility Services

Summary:

A Business Impact Statement (BIS) for a proposed ordinance amending Reno Municipal Code (RMC) Title 12, by adding Chapter 12.17, Stormwater Utility, creating a Stormwater Utility, and establishing the amount and basis for the fee, was conducted in October and November 2023 for the proposed City of Reno Stormwater Utility. This staff report and attached BIS and *City of Reno Stormwater Utility Rate Structure and Financial Plan Implementation* report prepared by Raftelis on November 29, 2023, (Raftelis Report) provide details of the proposed Stormwater Utility and the BIS. Staff recommend acceptance of the BIS and finding that the adoption of the ordinance does not impose a direct and significant economic burden upon a business nor directly restrict the formation or expansion of a business.

This staff report is in conjunction with Items E.1, Resolution establishing the Stormwater Enterprise Fund per Nevada Revised Statutes (NRS) 354.612 and approval of the Fund Policy for the Stormwater Enterprise Fund; E.3, Determination in compliance with NRS 354.613, finding that the fee increase is not prohibited by law, necessary for the purpose of the Stormwater Utility, and the fees deposited will be used solely for the purpose the fees are collected; and E.4, An Ordinance amending RMC Title 12 entitled “Public Works and Utilities, Chapter 12.17. Stormwater Utility, creating a stormwater utility establishing the amount and basis for the stormwater utility fee, together with matters which pertain to or are necessarily connected thereto,” also on today's Council agenda.

Alignment with Strategic Plan:

Fiscal Sustainability

Infrastructure, Climate Change, and Environmental Sustainability

Previous Council Action:

December 14, 2022: Presentation, discussion, and potential direction to staff regarding the Stormwater Utility proposed rates and program elements.

January 27, 2021: Council presentation, discussion, and approval of proposed Public Outreach and Communications Plan for Implementation of City of Reno Stormwater Utility.

August 26, 2020: Council approved an Agreement with Raftelis Financial Consultants in the amount of \$865,406 for Implementation of a City of Reno Stormwater Utility.

July 30, 2020: Council directed staff to bring an Agreement for Implementation of a City of Reno Stormwater Utility for Council's consideration at a future meeting.

March 13, 2019: Keith Readling, Vice President of Raftelis, presented Raftelis' findings from the Stormwater Utility Implementation phase, including possible methods and rates.

July 25, 2018: Council approved an Agreement with Raftelis for \$125,760 to conduct a feasibility study for the formation of a stormwater utility for the City of Reno.

Background:

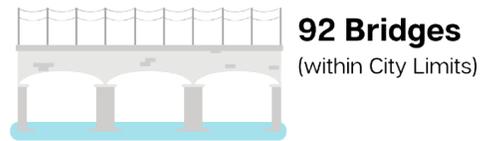
The City of Reno owns, operates, and maintains:

City Owned and/or Maintained Stormwater Infrastructure

Storm Drains & Culverts*



Bridges



Irrigation Ditches



Creeks / Manmade Channels



Basins



The City has no dedicated funding source to Repair, Replace, or Rehabilitate (RRR) the City-owned infrastructure. Currently, approximately 8% of the Sewer Fund is used for Maintenance and Operations, Engineering, and Environmental Permitting for the City's stormwater system, and only a small amount is allocated for known stormwater Capital Improvement Program (CIP) projects. Over the last 20 to 30 years, localized and citywide drainage reports, studies, and recurrent flooding locations have been identified that are in need of RRR. In addition, the city is experiencing increased intensities and frequencies of storm events with higher snow lines, resulting in more frequent flooding and increased maintenance activities, and with all new development, additional infrastructure is dedicated to the city without any funding mechanism for RRR.

Feasibility Study

In 2018, Council directed staff to work with a consultant to conduct a feasibility study for the formation of a City of Reno Stormwater Utility. The Feasibility Study was completed on June 23, 2019, and recommended a fee in the \$8 to \$10 range per equivalent residential unit (ERU), based on impervious surface. This fee range was developed to allow the City to effectively complete necessary operations and maintenance and complete a limited CIP based on \$127M to be completed over 20 years.

Stormwater Utility Implementation Work Plan

In August 2020, Council approved an agreement with Raftelis and directed staff to conduct a

Stormwater Utility Implementation Work Plan. As part of the Implementation Work Plan, Council approved a Public Outreach and Communications Plan in January 2021, to inform the public, stakeholders, and affected groups about the proposed Stormwater Utility. Also under the work plan effort, CIP costs were updated to 2020 costs, then again to account for historic cost increases due to the pandemic and associated supply chain issues, resulting in a \$470M program.

First Business Impact Statement

Based on feedback received during public and stakeholder outreach efforts, the \$470M program cost, and an assumed CIP completion duration of 20 years, the first BIS process was conducted from December 2022 to January 2023. This program included the following:

- \$13.46 rate per ERU
- \$470M CIP to be accomplished in 20 years
- Assumed inflation and rate increases tied to the consumer price index (CPI)
- A Low-Income Assistance Program
- A tiered residential rate for small, medium, and large properties
- Non-Single Family Residential (NSFR) Crediting for water quality/quantity mitigation
- NSFR 3-year rate ramp-up
- National Transportation Network credits for Reno-Tahoe Airport Authority (RTAA) properties
- Washoe County School District (WCSD) education credits

A full description of the first proposed Stormwater Utility program, ordinance, and crediting policy can be found in the attached Raftelis Report. Feedback received from this BIS indicated that the rate was too high, and the crediting program was too complex and onerous for businesses.

Second Business Impact Statement and Proposed Ordinance

Given the feedback from the first BIS, City staff and Raftelis re-evaluated the proposed rates, duration to complete the identified \$470M program, and the more complex portions of the crediting policy. This resulted in a less extensive crediting program, an extended CIP completion timeline, and a reduced rate of \$9.80 per ERU.

The City then issued a second BIS in October 2023, soliciting feedback on the proposed rate, program changes, and updated proposed ordinance. Details of these events and modeling scenarios with details of the CIP, program elements, and crediting can be found in the attached Raftelis Report. General elements of the final proposed Stormwater Utility Ordinance are highlighted below:

Impervious Area Basis:

- Fees based on impervious area as an equitable and defensible way to account for the

demand each property places on the City's stormwater infrastructure.

- Single Family Residential (SFR) property fees based on an average impervious area of 3,500 square feet per residential property or one (1) ERU.
- NSFR fees based on a formula using $\text{Number of ERUs} = \frac{\text{Total Impervious Area}}{3,500 \text{ Square Feet of Impervious Area}}$, rounded up to the next whole number. NSFR properties include businesses, government buildings, apartment complexes, and other similar types of properties.

Based on the City's current impervious area mapping, the citywide calculated ERU totals are as follows:

PROPERTY TYPE	ERUs
Single Family Residential	63,009
Non-Single Family Residential	136,414
Total	199,423

Capital Improvement Program

The City developed a CIP with known projects in over 50 locations across the city, resulting in an estimated cost of \$470M. Please see the Raftelis Report for more information on each CIP project cost and location. The program assumes completion of one to three phased projects per year for 32 years, based on a prioritization of risk and need. All CIP projects will be included in the annual budgeting process for approval by Council.

The Stormwater Utility fund will be re-evaluated on a frequent basis to ensure the program is being accomplished without unnecessary accumulation of funds. Should rate adjustments be required, staff will bring fee adjustments to Council for consideration. The fee is not anticipated to end or sunset since the current \$470M CIP addresses the known backlog of projects and existing infrastructure will continue to age, additional stormwater maintenance and rehabilitation needs will be identified, and continual management of the stormwater system will be required beyond that which is identified in this CIP Plan.

Recommended Program Elements and Fees

The program's goal is to provide dedicated stormwater revenue to properly recover the costs of stormwater management and currently known CIP projects. This program included the following:

- \$9.80 fee per month per ERU, billed quarterly
- Assumed inflation and rate increases tied to the CPI

- Deferred fee collection until January 1, 2025
- \$470M CIP to be accomplished in 32 years
- A Low-Income Assistance Program
- National Transportation Network credits for RTAA properties
- WCSD education credits

The table below provides the anticipated 5-year cash flow for the proposed program:

Year	2025**	2026	2027	2028	2029
Revenue	10,730,339	22,504,239	23,594,353	24,755,165	25,965,877
Maintenance and Operations, Engineering, Billing, Irrigation Ditch Agreements, and Other Indirect Costs	\$6,599,425	\$6,172,741	\$6,351,090	\$6,534,618	\$6,723,477
Capital Improvement Project Yearly Expenses (W/Inflation)	\$4,200,000	\$13,980,618	\$16,331,121	\$17,297,934	\$18,309,012
End-of-Year Balance	1,550,942	3,043,185	3,087,772	3,133,654	3,180,869

**Assumes 6 months of fee collection

Discussion:

The BIS process was mailed to 3,510 property owners within the city of Reno and published in the *Reno Gazette-Journal* (RGJ) on October 13, 2023, soliciting feedback on the Stormwater Utility Proposed Rate and Ordinance. The City received 14 responses through our online feedback form, 3 phone calls, and 4 emails, of which 10 are “for-profit businesses” and therefore included in the BIS.

The City also received comments from WCSD, the RTAA, the Reno Housing Authority (RHA), and 55 public comments. These comments are addressed in the attached Raftelis Report.

This BIS provides a summary of the comments received; the estimated economic effect of the proposed ordinance on businesses; the methods considered to reduce the impact of the proposed ordinance; the annual estimated costs to enforce the proposed ordinance; the total annual amount the fee expects to collect and the manner in which the money will be used; concurrency with other federal, state, or local standards; and reasons for the conclusions regarding the impact on businesses.

The attached BIS addresses the economic effects, both adverse and beneficial, of the proposed ordinance, a description of methods considered or used to help reduce the impacts, the estimated

annual cost to enforce the ordinance, the fees generated, and reasons for establishing the ordinance.

As noted above, the City owns 685 miles of storm drains, 92 bridges, 163 miles of creek and channels, 35 miles of irrigation ditches, and numerous basins. It is well known that as infrastructure ages, it becomes far more cost-effective to repair, replace, or rehabilitate on a scheduled basis and not allow infrastructure to degrade beyond repair. A dedicated Stormwater Utility and associated fund will allow the City to accomplish the known backlog of existing infrastructure deficiencies, and maintain, repair, rehabilitate, replace, and upsize critical stormwater infrastructure to mitigate localized and widespread flooding. If the City does not implement a Stormwater Utility and collect the needed revenue to fund the capital improvements, the known backlog of projects will continue to increase in cost, existing infrastructure will continue to deteriorate, and we will continue to experience infrastructure degradation, deficiencies and failures, resulting in increased flooding impacts to businesses and property owners within the city.

Financial Implications:

The proposed ordinance change would increase the fee for all property owners in the city. The proposed rate fee for an SFR home is \$9.80 per month. The fee for NSFR (multi-family, commercial, industrial) will be based on the impervious footprint of the parcel. There would be no financial implication for builders/developers as the fee will not go into effect until the property has been issued its occupancy permit when the owners move in and then pay the fee.

If the City does not establish a Stormwater Utility with dedicated fees to address maintenance and operations, engineering, environmental permitting, and known CIP projects:

- Known CIP costs will continue to increase.
- The current level of service will continue to degrade, and citizens will incur losses.
- Recurrent flooding areas will continue to experience frequent flooding requiring resources to be spent on temporary solutions.
- Infrastructure will continue to age and fail.
- New flooding areas and/or infrastructure past serviceable life will be identified, all adding to the growing cost of stormwater infrastructure management within the community.

The financial implications of adopting the proposed ordinance and new fees will allow the City to start collecting the necessary rate for stormwater to fund the CIP projects over the next 32 years which includes the annual CPI adjustment to account for inflationary costs that will impact the cost of CIP projects.

Legal Implications:

NRS requires local governments to consider whether any action they take will significantly burden businesses. Before a governing body adopts a proposed rule, the governing body must determine whether the proposed rule will: (1) impose a direct and significant economic burden upon a business; or (2) directly restrict the formation, operation, or expansion of a business.

In compliance with NRS 237.080, a notice was published in the RGJ and direct mailings were completed. The notice and the draft proposed ordinance amendment were also posted on the City of Reno website. Further, public outreach to the business community was conducted.

Comments were received from businesses with regard to a business impact. In accordance with NRS 237.090, a BIS was prepared and made available for public inspection with the Clerk prior to the adoption of the proposed ordinance. A copy is attached hereto.

NRS 354.613 provides that a local government that is increasing a fee imposed for the purpose for which an enterprise fund was created must determine that the increase is not prohibited by law, the increase is necessary for the continuation or expansion of the purpose for which the enterprise fund was created, and that the fees that are deposited in the enterprise fund are used solely for the purpose for which the fees are collected. As set forth in the Discussion section above, the requirements are met.

Recommendation:

Acceptance of the BIS and finding that in compliance with NRS 237.080, a BIS was prepared and in accordance thereto, the Council hereby finds that this Stormwater Utility Ordinance does not impose a direct and significant economic burden upon a business nor directly restrict the formation or expansion of a business.

Proposed Motion:

Move to accept the Business Impact Statement and find that in compliance with NRS 237.080, a Business Impact Statement was prepared and in accordance thereto, the Council hereby finds that this Stormwater Utility Ordinance does not impose a direct and significant economic burden upon a business nor directly restrict the formation or expansion of a business.

Attachments:

Business Impact Statement

City of Reno Stormwater Utility Rate Study Implementation report prepared by Raftelis on November 29, 2023