

CSAC Webinar on Prop 218

May 21, 2015



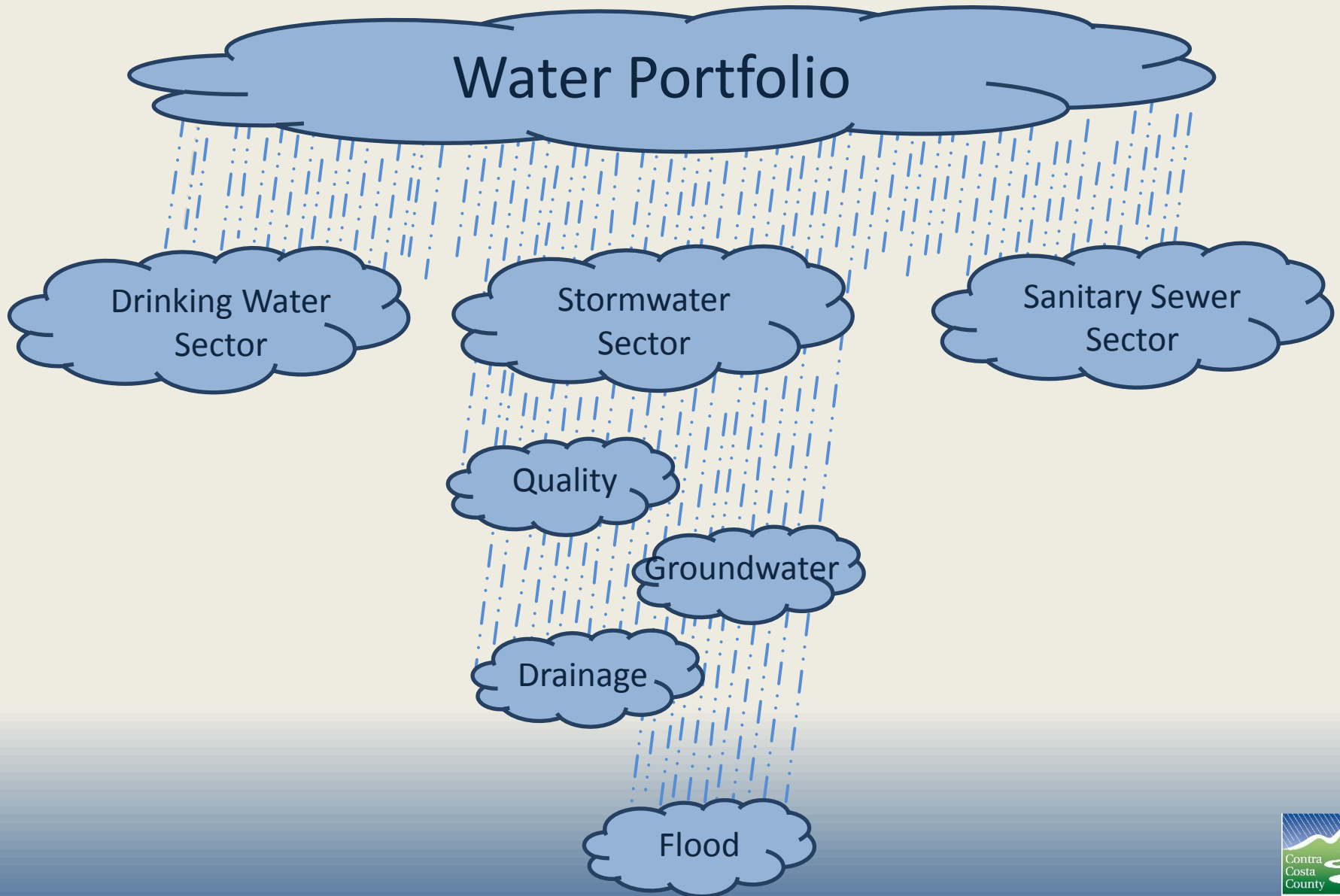
Proposition 218 and Property Related Fees

Any property related fee or charge requires approval of a majority vote of property owners or two-thirds vote of electorate in the service area **except** fees or charges for sewer, water, and refuse collection services.

- Stormwater fees/charges are property related fee, but are not “water” or “sewer” for purposes of the exemption.

Fee or charge cannot exceed “the proportional cost of the service attributable to the parcel.”

Anatomy of California Water Portfolio



Stormwater is.....



Groundwater Supply



Regional Flood Protection



Community Drainage



Stormwater Quality

Contra Costa County Sustainable Funding Need

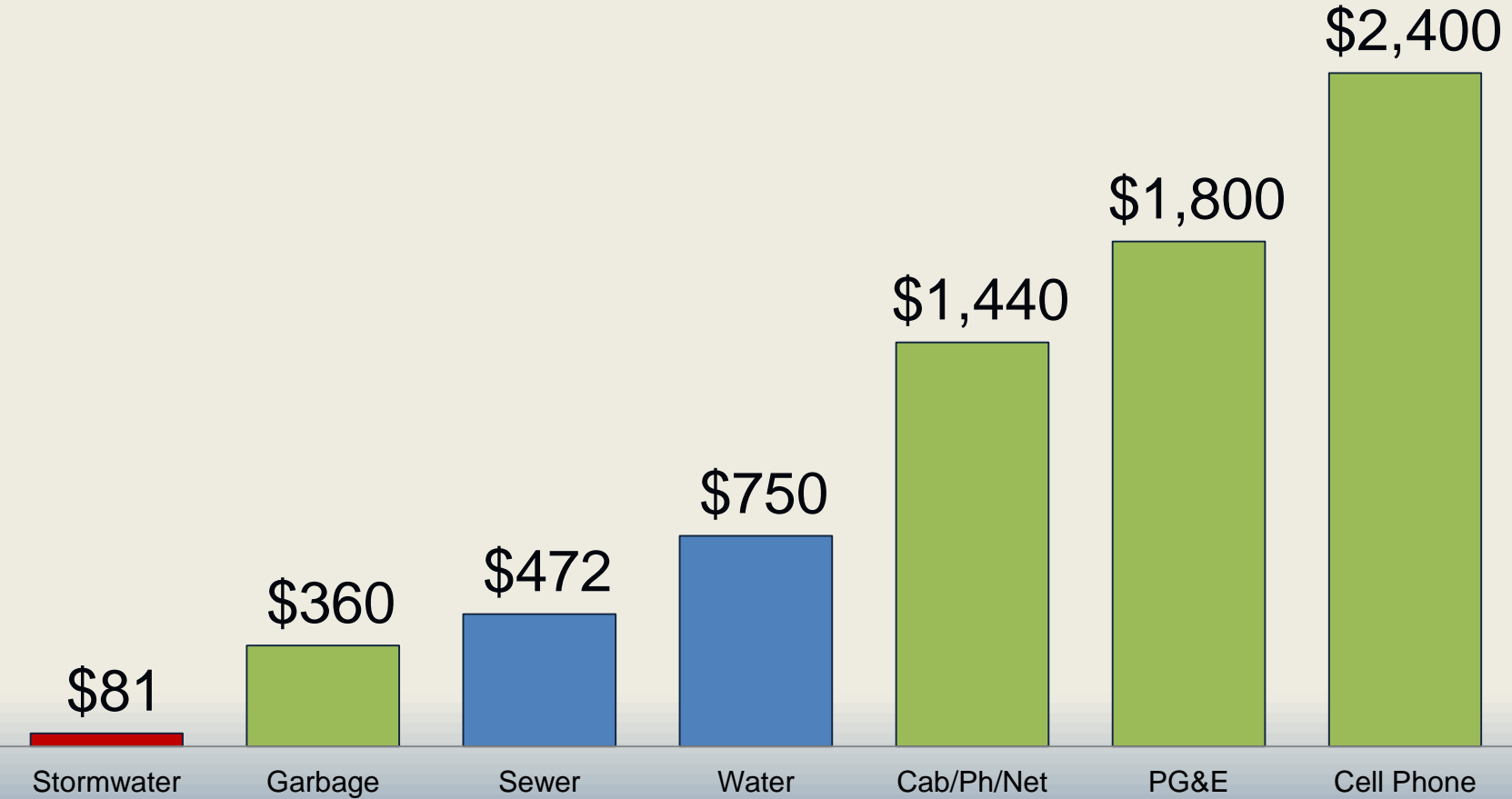
Flood Protection Services

- 79 miles channels, 29 basins
- \$1 Billion asset value (today's dollars)
- \$25 Billion property value protected
- \$2.4 Billion replacement cost
- **\$30 Million annual budget need**
- **\$4 Million current annual budget**
- **<\$26 Million> annual shortfall**

Stormwater Quality Services

- NPDES/MS4 permits from RWQCB
- **\$37 Million current permit costs** for 19 cities and County
- **\$14 Million annual revenue**
- **<\$23 Million>** covered by General Funds, Road Funds, etc.
- New permit due November 2015: Requires Green Infrastructure Plans
- **Note:** San Diego estimates compliance costs for new permit at \$200 Million/year

Society's Investment in Stormwater



Annual Household Costs Based on Family in Walnut Creek, Contra Costa County



Major Case Law Developments for Water Conservation Rates

- Metered water rates are property related fees subject to Prop. 218 (2006)
- Proportionality requirement applies to conservation-based tiered rates (2011)
- Rates based on usage must strictly relate to actual cost of providing service at each tier level (2015)

Lessons from *Capistrano*

- Strong Record Required
 - clear, compelling, specific support for each tier
 - burden is on the agency
 - based on actual usage, not agency budgets
- Constitutional Duty to Conserve (art. X, § 2)
Superseded by Prop. 218 if they Conflict
- “Penalty Rates” Are Not Permissible

Addressing the Funding Challenges

- Changes to Prop. 218
- Rate Plan Studies for Water Conservation Rates
- Local Police Powers / Drought Emergencies
- Legislative Options

Questions?



Jennifer Henning, Executive Director
County Counsels' Association
916-327-7535
jhenning@counties.org

Mitch Avalon, Consultant
County Engineers Association of California
925-313-2203
maval@pw.cccounty.us

www.cccounty.us/stormwaterinitiative