

AGENDA
CITY OF FERNDALE – HUMBOLDT COUNTY CALIFORNIA – U.S.A.
DRAINAGE COMMITTEE MEETING

Location:	Ferndale City Hall	Date:	April 2, 2026
	834 Main Street	Time:	2:30 pm
	Ferndale, CA 95536	Posted:	March 30, 2026

We welcome you to the meeting. Members of the Public may be heard on any business item on this Agenda during the Drainage Committee consideration of the item. The public may also directly address the Committee on any item of interest to the public that is not on the Agenda during the public comment time; however, the Committee generally cannot take action on an item not on the agenda.

A person addressing the Committee will be limited to five (5) minutes unless the Chair of the Committee grants a longer period. While not required, we would appreciate it if you would identify yourself with your name when addressing the Committee.

This City endeavors to be ADA compliant. Should you require assistance with written information or access to the facility, or a hearing amplification, please call 786-4224 24 hours prior to the meeting.

TO SPEAK ON ANY ISSUE, BE ACKNOWLEDGED BY THE CHAIR BEFORE PROCEEDING TO THE PODIUM, STATE YOUR NAME FOR THE RECORD (optional), AND DIRECT YOUR COMMENTS ONLY TO THE COMMITTEE.

1. CALL TO ORDER - CHAIRMAN
2. ROLL CALL – PHILLIP OSTLER, TOM STEPHENS, JAMES BASS, BILL BECKER, WAYNE AMBROSINI, MICHAEL SWEENEY, AND JOHN MAXWELL
3. MODIFICATIONS TO THE AGENDA
4. APPROVAL OF MINUTES –Minutes of the December 4, 2025, Drainage Meeting
5. PUBLIC COMMENT. *(This time is for persons who wish to address the Committee on any matter not on this agenda and over which the Committee has jurisdiction - Drainage. Items requiring action not listed on this agenda will be placed on the next regular agenda for consideration, unless a finding is made by at least 2/3rds of the Committee that the item came up after the agenda was posted and is of an urgent nature requiring immediate action.*
6. BUSINESS
 - A. Discuss Drainage Assessment Fees
 - B. Discuss Lake Christie Acquisition & Appoint two Members to Research
 - C. Discuss Winter Storm Events
7. CORRESPONDENCE
8. COMMENTS
8. ADJOURN

**The next regular meeting of the Ferndale Drainage Committee will be on
 May 7, 2026**

MINUTES**CITY OF FERDALE – HUMBOLDT COUNTY U.S.A.****DRAINAGE COMMITTEE MEETING****Minutes**

December 4th, 2025

Chair Tom Stephens opened the meeting at 2:30 pm. Those present were Tom Stephens, John Maxwell, Jim Bass, Michael Sweeney, Councilman Philip Ostler, Interim City Manager Kristene Hall, and Deputy City Clerk Lauren Boop

MODIFICATIONS TO THE AGENDA: None

APPROVAL OF MINUTES: Approval of September 9th, 2025 Meeting Minutes (**Becker/Bass**) Unanimous

PUBLIC COMMENT: None

BUSINESS:

- A. Arlington Street Drainage Project Update:
Brett Vivyan of GHD came to discuss the status of the “Ferndale Water Quality and Drainage Improvement Project,” a State Water Board funded grant the city is in the process of completing. He summarized the project for the committee and discussed issues to get the grant complete. There has been a delay getting final approval of the project from the Ferndale Fairgrounds Board, and it was determined a meeting is needed with City of Ferndale Staff and Humboldt County Public Works’ head Tim Madsen, County Supervisor Rex Bohn, and the Fair Board to get on the same page in regards to the scope and results of the proposed project, and to finalize MOU provisions.
- B. Recent Storm Activity
Chair Tom Stephens noted there was 2.28 inches of rain “pretty much overnight” and the Francis Creek reached a height of 7.1 feet. He further noted another hour of rain could have seen flooding. The creek monitoring system is still non-operational.
- C. East Side Drainage
Joseph Alexander provided his large excavator and cleared the affected area. Chair Tom Stephens noted that the area is draining well.
- D. Mattole Road Culvert Maintenance
The culvert on Mattole Road is currently being investigated for repair by Humboldt County Public Works. The committee agreed this may help in mitigating the flooding on Francis Street.

CORRESPONDENCE: None

COMMENTS: Chair Tom Stephens requested update on any City of Ferndale action on the 218 Process and Francis Street Drainage situation. City Manager Hall told him Prop 218 is not the process needed to raise Drainage rates to address issues in city, but she will have a joint meeting where Ryan Plotz, city counsel, City Council, and the Drainage Committee can discuss next steps to address the issue. City

Manager Hall also told Chair Tom Stephens the city will not be addressing any flooding issues on Francis Street until more information is gathered and any action from the concerned parties moves forward.

ADJOURN: Chair Tom Stephens adjourned the meeting at 3:43 pm

Respectfully Submitted,

Deputy City Clerk Lauren Boop



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**CONFIDENTIAL MEMORANDUM
ATTORNEY-CLIENT COMMUNICATION**

TO: City of Ferndale Drainage Committee
CC: Mayor and City Council
FROM: Ryan Plotz, City Attorney
DATE: March 2, 2026
RE: Discussion Memorandum Regarding the Existing Drainage Assessment (Measure V); Alternative Financing Mechanisms

I. PURPOSE

This memorandum advises the Drainage Committee on two related questions: (1) the legal process that must be followed to increase the existing per-parcel drainage charge established by Measure V in November 1997; and (2) a general discussion regarding alternative financing mechanisms the City could pursue if it chooses to restructure the existing charge rather than simply increase it. As explained below, the Measure V charge constitutes a special tax under California law. Any increase to that charge requires approval by two-thirds of the City's voters at a general or special election. The City also has the option, however, of replacing the special tax with a different financing vehicle—either a Proposition 218 assessment or a property-related fee—which carries different procedural requirements, different voter thresholds, and different structural constraints.

II. BACKGROUND AND LEGAL CLASSIFICATION OF MEASURE V

In November 1997, the voters of the City of Ferndale approved Measure V at the general election by a vote of 336 in favor (72.26%) and 129 against (27.24%). Measure V posed the following question to the voters:

“Shall the City create a storm drain utility within the City of Ferndale and assess \$25.00 per fiscal year per parcel, for the purpose of providing funding for storm drain maintenance, repairs and improvements?”

Since that time, the City has been collecting a \$25.00 per parcel annual drainage charge on the Humboldt County tax roll. Resolution 2024-13, adopted by the City Council on July 17, 2024, reaffirmed the City Manager's authority to collect this charge and directed the Humboldt County Tax Assessor to continue its collection.



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A threshold legal question is how Measure V's \$25.00 annual per-parcel charge is properly classified under California law, because that classification determines the process required to increase it. In 2013, this office, in consultation with Michael Colantuono, Esq.—a specialist in California municipal finance law—concluded that Measure V constitutes a special tax, subject to collection pursuant to California Government Code § 53750(h)(2)(B). See Letter from Russell S. Gans to Jay Parrish, City Manager (July 18, 2013). This conclusion has been reaffirmed in connection with the City's recent review of the drainage charge. The \$25.00 per-parcel fee is neither a property-related fee nor an assessment within the meaning of Proposition 218 (California Constitution, Articles XIII C and XIII D).

The charge is classified as a special tax for the following reasons. First, a Proposition 218 assessment must be proportional to the special benefit conferred on each parcel. True assessments require an engineer's report demonstrating that the charge does not exceed the proportional special benefit received. Measure V imposes a flat \$25.00 charge on every parcel, without regard to size, use, impervious surface area, or benefit received. This flat, non-benefit-proportioned structure is inconsistent with a valid Proposition 218 assessment. Second, the ballot measure was placed before voters without the benefit-finding infrastructure required for a true Proposition 218 assessment—no engineer's report, no proportional benefit calculation, no Article XIII D balloting process. Third, the structure of Measure V—a voter-approved flat per-parcel levy for a specific governmental service—is consistent with the definition of a special tax under Article XIII A, Section 4 of the California Constitution and Government Code § 50075 et seq.

III. PROCESS TO INCREASE THE EXISTING SPECIAL TAX

A. Voter Approval Requirement.

Under Article XIII A, Section 4 of the California Constitution (Proposition 13) and Article XIII C, Section 2(d) (Proposition 218), any increase to a special tax requires approval by two-thirds (2/3) of the qualified electors voting on the measure at a general or special election. The City Council has no authority to increase the charge unilaterally. Government Code § 50077 imposes the same requirement.

B. Engineer's Report Not Legally Required, But Advisable.

Because a special tax need not be proportioned to the special benefit conferred on each parcel, no engineer's report is legally required. Nonetheless, this office strongly recommends commissioning a drainage engineering and financial needs study before proceeding. Such a study will identify the City's actual funding shortfall, justify the proposed rate to voters, and demonstrate fiscal responsibility.



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C. Election Requirements and Timeline.

The measure may be submitted to voters at a statewide general election or at a special municipal election called for that purpose. The City Council must adopt a resolution calling for the election no later than 88 days before the election date (Elections Code § 9222). Consolidating with a statewide election is generally less expensive and achieves higher turnout. The measure requires a two-thirds supermajority to pass. If approved, the City Council may then implement the new rate by resolution and direct the County to update the tax roll.

IV. ALTERNATIVE FINANCING MECHANISMS

The City is not limited to simply increasing the existing Measure V special tax. The Committee and Council may wish to consider whether a different legal structure would better serve the goals of an adequate, sustainable storm drainage funding program. The two principal alternatives are a Proposition 218 assessment under Article XIII D, Section 4, and a Proposition 218 property-related fee under Article XIII D, Section 6. For the reasons explained below, this office considers the Proposition 218 assessment to be the more legally defensible of the two alternatives, while the property-related fee approach presents significant legal obstacles given the current flat per-parcel fee structure and would require a complete redesign of the levy.

A. Proposition 218 Assessment (Article XIII D, Section 4).

Under Article XIII D of the California Constitution, a local government may levy a special assessment against real property to fund improvements or maintenance that confer a special benefit on the assessed parcels. Storm drain maintenance and improvements are a well-recognized category of assessable activity. The key requirements are:

Engineer's Report Required.

The City must retain a licensed engineer to prepare a detailed report identifying: (i) the improvements and services to be funded; (ii) the total cost; (iii) the benefit to be conferred on each parcel; and (iv) the proportionate share of cost allocated to each parcel based on special benefit. No parcel may be assessed in excess of the reasonable cost of the proportional special benefit conferred on it. General benefits to the public at large may not be funded through the assessment.

Balloting Process.

Following preparation of the engineer's report, the City must mail written notice and a ballot to each affected property owner. The ballot is weighted by the proposed assessment amount. The City Council may not impose the assessment if a majority protest exists—that



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is, if weighted ballots submitted in opposition exceed those in favor. Under this process, only property owners of assessed parcels vote, ballots are weighted by assessment amount, and a simple majority of weighted ballots in favor is sufficient (assuming no majority protest)—a potentially lower threshold than the two-thirds voter requirement for special taxes.

Annual Rate Adjustments.

Once established, the rate may generally be adjusted annually (e.g., for inflation) if the engineer's report and the establishing ordinance so provide, without returning to the ballot for each incremental change—a significant operational advantage over the special tax structure.

Transitioning from the Special Tax.

If the City elects to replace Measure V with a Proposition 218 assessment, it would need to repeal or discontinue the Measure V special tax (which may itself require voter action) and implement the assessment through the full Article XIII D process. Alternatively, the City could let the Measure V levy expire and begin the assessment formation process concurrently to avoid any funding gap.

B. Proposition 218 Property-Related Fee (Article XIII D, Section 6).

In theory, a storm drainage fee may be structured as a property-related fee or charge under Article XIII D, Section 6. A property-related fee is a levy imposed on a parcel as a condition of service, rather than a special assessment for an improvement. However, this office has significant reservations about the defensibility of this approach as applied to Ferndale's circumstances, as discussed below. The key formal requirements are:

Nexus to Service.

The fee must not exceed the cost of providing the service to the parcel and must bear a reasonable relationship to the service received. Unlike an assessment, a property-related fee does not require strict proportionality to "special benefit"—but it does require a demonstrable nexus between the fee amount and the cost of service attributable to the parcel.

Notice and Public Hearing.

The City must provide written notice to all affected parcel owners and hold a public hearing. A majority protest (written protests from owners of parcels representing more than 50% of the total proposed fees) will defeat the fee.



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No Supermajority Election Required (With One Exception).

Generally, a property-related fee may be imposed by the City Council following the notice-and-hearing process without a public vote, as long as no majority protest exists. However, Article XIII D, Section 6(c) requires a vote if the fee is for a service not directly related to the parcel. Courts have generally held that storm drain fees can qualify as property-related fees, though careful legal and engineering analysis is required to support that conclusion.

Flexibility in Rate Structure.

Unlike the flat per-parcel structure of Measure V, a property-related fee can be structured to reflect the actual cost of service—for example, by sizing the fee based on impervious surface area, parcel size, or land use category. However, this flexibility also underscores a central problem with the current structure, as discussed below.

Legal Concerns with This Approach.

This office has significant reservations about the defensibility of a property-related fee for Ferndale's storm drainage program, for the following reasons.

First, the existing flat \$25.00 per-parcel fee almost certainly cannot survive the proportionality test as a property-related fee. Article XIII D, Section 6(b) requires that the amount of a property-related fee “shall not exceed the proportional cost of the service attributable to the parcel.” A small vacant lot and a large commercial property with acres of impervious parking surface generate dramatically different amounts of runoff and impose dramatically different burdens on the storm drain system. Charging them the same flat amount has no defensible cost-of-service basis. Transitioning to a property-related fee would therefore require a complete redesign of the fee structure—the existing per-parcel levy could not simply be relabeled or increased as-is.

Second, storm drainage infrastructure has a general benefit component—flood control protects public streets, downstream parcels, and the community broadly—that is not attributable to any specific parcel. Article XIII D, Section 6(b)(2) prohibits using property-related fee revenue to fund general governmental services. Depending on how the City's system is analyzed, a portion of the costs may need to be funded from another source, reducing the share recoverable through the fee and complicating the nexus analysis.

Third, the California Supreme Court's decision in *Richmond v. Shasta Community Services District* (2004) 32 Cal.4th 409 underscores that property-related fees must be carefully tied to actual services delivered to or immediately available to each specific parcel. While that case arose in the water connection context, its reasoning has been applied



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broadly to scrutinize whether storm drain fees genuinely reflect parcel-specific service costs rather than a general community benefit. A flat per-parcel fee of the Measure V type is precisely the kind of structure courts have questioned under this framework.

For these reasons, this office does not recommend pursuing the property-related fee path unless the City is prepared to undertake a comprehensive cost-of-service study and completely restructure the fee—at which point the engineering work involved is comparable to what would be required for a full Proposition 218 assessment, which offers a more established legal framework for storm drainage programs of this type.

C. Eliminating or Suspending the Measure V Special Tax.

If the City pursues either of the Proposition 218 alternatives, it must address the continued existence of the Measure V special tax. Two general approaches are available:

Voter Repeal.

Because Measure V was approved by voters as a special tax, the cleanest approach is to place a repeal measure before the voters simultaneously with any new assessment or fee formation process. Article XIII C, Section 3 provides that voters may reduce or repeal any local tax by majority vote through the initiative process, and the City Council may also place a repeal measure on the ballot.

City Council Suspension or Non-Collection.

Some authorities have suggested that a City Council may choose not to collect a voter-approved special tax, effectively suspending it—particularly if a replacement funding mechanism is in place. This approach carries legal risk, as it could be challenged as an unlawful modification of a voter-approved measure. This office recommends against relying on this approach without further legal analysis.

D. Dual-Track Approach: Retain the Measure V Special Tax and Supplement with a New Proposition 218 Assessment.

A fourth option—and one that deserves serious consideration—is to leave the existing \$25.00 Measure V special tax in place without modification and form a new, separate Proposition 218 assessment district to generate supplemental funding for the City's storm drainage program. Neither the California Constitution nor Proposition 218 prohibits this layered approach. The two levies would operate independently: the special tax continues to be collected on the County tax roll as it always has, while the new assessment is established through the full Article XIII D, Section 4 process and billed as a separate item.



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The principal advantage of this approach is that it avoids the two-thirds voter supermajority requirement entirely. Because the City is not increasing the special tax—it is simply continuing to collect it at the existing \$25.00 rate—no voter action is required to maintain it. The supplemental assessment, properly formed and balloted, is subject only to the majority-protest threshold applicable to Proposition 218 assessments, not the two-thirds voter approval required for special tax increases.

The engineer's report for the new assessment must, however, account for the existing special tax revenue. Under Article XIII D, Section 4(a), no parcel may be assessed in excess of the reasonable cost of its proportional special benefit. The total drainage funding burden on each parcel—special tax plus new assessment—must remain within that cap. The most defensible approach is to treat the \$25.00 special tax as a general revenue offset that reduces the total cost to be recovered through the assessment: the engineer calculates the City's full storm drainage funding need, subtracts the revenue generated by the existing special tax, and sizes the new assessment to cover only the remaining gap on a proportional-benefit basis. This framing avoids any argument that the combined levy exceeds the available benefit headroom on any individual parcel.

The Lytel Foundation's existing \$25,000 per year in-lieu arrangement should also be addressed in the engineer's report. The Foundation's parcels would be assessed separately based on proportional benefit like any other large property owner, and the in-lieu arrangement may need to be renegotiated or restructured to reflect the new supplemental levy.

The primary administrative drawback of this approach is that it results in two separate drainage-related line items on every property tax bill, which can generate public confusion and friction. It is therefore best understood as either a permanent supplemental structure (if the \$25.00 base remains adequate for some portion of costs) or as a transitional mechanism—with the City ultimately consolidating into a single, properly engineered assessment and retiring the Measure V special tax through voter repeal once the new assessment is established.

V. COMPARATIVE SUMMARY OF OPTIONS

The following summarizes the key characteristics of each option for the Committee's consideration:

Option 1: Increase Existing Measure V Special Tax

Voter threshold: Two-thirds (2/3) supermajority of all qualified electors. Engineer's report: Not legally required, but recommended. Rate structure: Must remain flat per-parcel unless voters approve otherwise. Annual adjustments: Require a return to the ballot for any future



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increase. Complexity: Moderate (ballot measure process). Legal risk: Low if properly implemented.

Option 2: Replace with Prop 218 Assessment (Art. XIII D, § 4) — Preferred Alternative

Voter threshold: Majority of weighted ballots from property owners only (no majority protest). Engineer's report: Required; must demonstrate proportional special benefit by parcel. Rate structure: Flexible; can vary by parcel characteristics. Annual adjustments: Can be built into the establishing resolution without returning to the ballot. Complexity: High. Legal risk: Low if properly engineered. This office considers the Proposition 218 assessment the most legally appropriate replacement vehicle for the Measure V special tax, as it has a well-established legal framework for storm drainage programs and its proportional-benefit methodology directly addresses the structural deficiency of the existing flat per-parcel charge.

Option 3: Replace with Prop 218 Property-Related Fee (Art. XIII D, § 6) — Not Recommended Without Further Analysis

Voter threshold: No election required if no majority protest (written protests from owners of more than 50% of assessed parcels defeat the fee). Cost study: Required to demonstrate cost-of-service nexus. Rate structure: Must be restructured from scratch; the existing flat per-parcel charge is not defensible as a property-related fee. Annual adjustments: Can be built into the fee schedule. Complexity: High; requires complete fee redesign and cost-of-service study comparable in scope to a Proposition 218 assessment. Legal risk: Highest of the four options. The existing flat per-parcel structure fails the Article XIII D, Section 6(b) proportionality requirement; the general benefit component of storm drainage raises additional nexus concerns; and the *Richmond v. Shasta* line of cases subjects this type of fee to heightened judicial scrutiny.

Option 4: Retain Measure V Special Tax and Supplement with New Prop 218 Assessment (Art. XIII D, § 4)

Voter threshold: No voter action required to maintain the existing special tax; new assessment subject to majority-protest threshold only (weighted property owner ballots). Engineer's report: Required for the supplemental assessment; must account for existing special tax revenue and size the assessment to cover only the remaining funding gap on a proportional-benefit basis. Rate structure: \$25.00 special tax continues flat per-parcel; supplemental assessment can be proportioned by parcel characteristics. Annual adjustments: Built into the assessment establishing resolution. Complexity: Moderate to



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high (full Art. XIII D assessment process required for the supplemental levy). Legal risk: Low to moderate if the engineer's report properly accounts for the existing tax revenue and demonstrates that the combined levy does not exceed proportional special benefit on any parcel. Best suited as either a permanent supplemental structure or a transitional mechanism pending consolidation into a single assessment and retirement of the special tax by voter repeal.

VI. RECOMMENDATIONS

This memorandum is intended to provide the Committee with the legal framework necessary to formulate a recommendation to the City Council. The ultimate decisions—whether to pursue an increase, which financing mechanism to adopt, and whether to commission an engineering study—rest with the City Council. The Committee's role is to advise the Council on the appropriate path forward. With that in mind, this office offers the following observations to guide the Committee's deliberations:

First, regardless of which path is ultimately selected, an engineering and financial needs study will be a necessary step. The results of such a study will determine the appropriate rate, inform the selection of the most suitable financing mechanism, and provide the City Council with the factual basis it will need to act. The Committee may wish to recommend to the Council that this study be initiated as a threshold matter.

Second, if the Committee is inclined to recommend a path that avoids a two-thirds voter election, Options 2 and 4 both achieve that goal through the Proposition 218 assessment framework. Option 4—retaining the existing \$25.00 special tax and supplementing it with a new assessment sized to cover the funding gap—may be the more practical near-term approach, as it preserves the existing revenue base without any voter action and limits the new assessment process to only the additional amount needed. Option 2 (full replacement assessment) is the cleaner long-term structure. Option 3 (property-related fee) is not recommended for the reasons discussed in Section IV.B.

Third, the Committee should be aware that if Option 2 is pursued, the Measure V special tax would need to be addressed to avoid overlapping levies—most cleanly through voter repeal placed on the same ballot. Under Option 4, no immediate voter action on the special tax is required, though eventual consolidation into a single levy would be the logical long-term goal.

Fourth, if the Committee is inclined to recommend simply increasing the existing special tax (Option 1), that path requires a two-thirds voter supermajority and a ballot measure placed before the electorate at a general or special election. This office can assist the City Council in preparing the necessary documents if that path is selected.



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This office is available to present any of these options in greater detail to the Committee or the City Council, and to assist with implementation once a direction is selected.

VII. OTHER DRAINAGE FEE CONSIDERATIONS

The Measure V special tax and the Proposition 218 alternatives discussed above are distinct from the separate drainage impact fees established by the City's Storm Drainage Fee Ordinance (Ordinance 94-01), which imposes fees on new subdivisions and new construction pursuant to Government Code §§ 66483 and 66488 and the Mitigation Fee Act (Government Code §§ 66000–66007). Those fees are governed by different legal frameworks and update procedures. This office recommends a separate review of those fees as well.

VIII. CONCLUSION

The existing \$25.00 per-parcel annual drainage charge established by Measure V is a special tax under California law. Any increase to that charge requires two-thirds voter approval at a general or special election. However, the City has three additional options that avoid the two-thirds voter threshold. This office recommends the Drainage Committee focus its analysis on Options 2 and 4, both of which utilize the Proposition 218 assessment framework under Article XIII D, Section 4. Option 4—retaining the Measure V special tax and supplementing it with a new, proportionally engineered assessment sized to cover the additional funding gap—may represent the most practical near-term path, as it preserves existing revenue without voter action and limits the scope of the new assessment process to only the supplemental amount needed. Option 2 (full replacement assessment) is the cleaner long-term structure. A property-related fee (Option 3) is theoretically available but presents the highest legal risk of the four options and is not recommended without further analysis. In all cases, commissioning an engineering and financial needs study is the essential first step, and this office recommends the Drainage Committee initiate that process promptly.