



Staff Report

CONSIDERATION OF RESOLUTIONS INITIATING PROCEEDINGS FOR THE ANNUAL LEVY OF FIRE SUPPRESSION ASSESSMENTS FOR FY 2006/2007

Honorable President and Board Members:

Summary

The Board has been presented a Preliminary Engineer's Report (the "Report") related to a proposed Fire Suppression Assessment pursuant to provisions of Title 3, Division 1, Part 1, Article 3.6 of the California Government Code. This report identifies all properties that benefit from the fire suppression services provided by the Belmont Fire Protection District; outlines the benefits conferred on these properties, and in compliance with the State Constitution determines the assessments to each property based on the proportional benefit received by each property when compared to all properties within the service area of the Belmont Fire Protection District.

The comprehensive analysis within the Report uses national and local data to derive a benefit nexus to establish assessments to each property use classification to fund the proposed budget, as defined within the Report.

In compliance with Proposition 218, the property owners of the affected properties must approve the Fire Suppression Assessments outlined in the Report prior to the imposition of such assessment. The Board must set a time and place to conduct a Public Hearing on the Fire Suppression Assessment and each property owner must be mailed out a Notice and Ballot at least 45 days prior to the scheduled Public Hearing. Before the Board are four Resolutions related to the Ballot proceedings and the proposed Fire Suppression Assessment. Collectively, the Resolutions, initiate the proceedings for the proposed Fire Suppression Assessment, approve the Preliminary Engineer's Report, declare the Board's intention to conduct a property owner balloting, set a time and place for a Public Hearing, and approve procedures applicable to these proceedings.

Staff recommends approving the resolutions in order to conduct a property owner balloting on the imposition of the proposed Fire Suppression Assessment.

Background & Discussion

The District provides fire protection services throughout the boundaries of the entire District, which includes the City of Belmont and certain unincorporated areas of the County. As a result of increasing demands being placed on the District, the cost of providing fire suppression services and the potential budget cuts resulting from the State budget crisis and desire on the part of the District to enhance the level of fire protection services within the District, staff desires to initiate proceedings for the imposition of a Fire Suppression Assessment pursuant to the provisions of Government Code 50078 et. Seq. and California Constitution Article XIID (“Proposition 218”). The Code provides for the formation of an assessment and for the levy and collection of assessments by the County of San Mateo for the Belmont Fire Protection District to generate sufficient revenue to pay for fire suppression services, and equipment. Staff anticipates generating approximately \$1 million from the levy of the proposed assessment. Should the assessment be approved, the District would not receive any funds from the Assessment until 2006/2007 budget cycle.

The Board received a report at the June 27th meeting which discussed the proposed fire services assessment preliminary results and the 10 Year Budget Proforma for the Belmont-San Carlos Fire Department. Based on the discussion at that meeting, staff has included four proposed assessment scenarios provided by MuniFinancial. The amounts of the scenarios are \$1.0 million and \$1.1 million and using two different methodologies for commercial property (Attachment B, Exhibit 2-4). The first methodology allocated the assessment for commercial properties based on building square footage. The second methodology is based on number of parcels. The total amount raised by category is the same under either methodology. The Preliminary Engineer’s Report (Attachment B) assumes the proposed assessment at \$1.0 million dollars and uses commercial property on a square footage basis (Attachment B, PP.9). MuniFinancial will amend this report based on the direction provided by the Board.

Other consulting firms were contacted and interviewed by city staff, but MuniFinancial was deemed to be the most appropriate in terms of price, expertise and experience in the field of Fire Suppression Services.

Fiscal Impact

The proposed cost to the District for the formation of the Fire Suppression Assessment would be \$20,559 and includes all direct expenses related to the printing and mailing of the Proposition 218-required notices and ballots to property owners affected by the proposed assessment. In addition, should the District decide to conduct an opinion poll of the property owners related to this assessment, the additional cost to the District would be \$13,000. This decision would be made by the District later in the process. Assuming approval of the proposed assessment the cost of hand billing the property owners would be approximately \$18,000. The total cost of formation, opinion polling and hand billing (\$51,559) services may be included in the levy of the assessment assuming property owner approval.

Public Contact

Posting of City Council agenda.

Recommendation

Approve the attached resolutions and provide direction on the proposed assessment in order to conduct a property owner balloting on the imposition of the proposed Fire Suppression Assessment.

Alternatives

1. Continue to provide fire suppression services at diminishing levels of service with no additional funding.
2. Seek alternative revenue sources, such as special tax measures requiring 2/3 vote.
3. Provide the Staff with alternative direction.

Attachments

- A. Resolution Initiating Proceedings for the Proposed Annual Levy of Fire Suppression Assessments for the Belmont Fire Protection District for FY 2006/2007
- B. Resolution to Approve Preliminary Engineers' Report, Fiscal Year 2006/2007, and to Support Fire Suppression Assessments for the Belmont Fire Protection District
- C. Resolution Declaring its Intention to Conduct a Property Owner Balloting on the Matter of a New Assessment and to Levy Annual Assessments for FY 2006/2007
- D. Resolution Adopting Procedures Applicable to the Completion, Return, and Tabulation of Assessment Ballots for the Proposed Fire Suppression Assessment for the Fiscal Year 2006/2007 Levy

Respectfully submitted,

Thomas Fil
Finance Director

Maureen Cassingham
Interim Executive
Director

Staff Contact:

Thomas Fil, Finance Director
650-595-7435
tfil@belmont.gov

BELMONT FIRE PROTECTION DISTRICT RESOLUTION NO. _____

**RESOLUTION OF THE BELMONT FIRE PROTECTION DISTRICT
INITIATING PROCEEDINGS FOR THE PROPOSED ANNUAL LEVY OF FIRE
SUPPRESSION ASSESSMENTS FOR THE BELMONT FIRE PROTECTION
DISTRICT FOR FISCAL YEAR 2006/2007**

WHEREAS, the Board of Directors is initiating proceedings to propose to levy the Belmont Fire Protection District Fire Suppression Assessment pursuant to the provisions of Title 5, Division 1, Part 1, Article 3.6 of the Government Code of California, beginning with Section 50078 (hereinafter referred to as the “Code”) that provides for the levy and collection of assessments by the County of San Mateo for the Belmont Fire Protection District (hereinafter referred to as the “District”) to pay the maintenance and services of improvements, and operations related to fire suppression activities within the Belmont Fire Protection District; and

WHEREAS, the Board of Directors has retained MuniFinancial (hereinafter “Assessment Engineer”), for the purpose of assisting with the establishment of the assessments and to assist the Belmont Fire Protection District with the preparation of an Engineer’s Report (hereafter referred to as the “Engineer’s Report”) to support the assessment in accordance with the requirements of the California Constitution, Article XIID.

NOW, THEREFORE, BE IT RESOLVED that the Belmont Fire Protection District authorizes the following:

Section 1. The Board of Directors hereby orders the Assessment Engineer to assist the Board with the preparation of the Engineer’s Report concerning the establishment and levy of fire suppression assessments for the District in accordance with the Code and the California Constitution, Article XIID.

Section 2. The proposed activities include, but are not limited to, the purchasing of fire suppression equipment, paying the salaries and benefit costs of fire fighting personnel, and paying the costs for operating, maintaining and equipping fire suppression equipment.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the Belmont Fire Protection District at a regular meeting thereof held on July 25, 2006 by the following vote:

AYES, DIRECTORS: _____

NOES, DIRECTORS: _____

ABSTAIN, DIRECTORS: _____

ABSENT, DIRECTORS: _____

Secretary, Belmont Fire Protection District

APPROVED:

President, Belmont Fire Protection District

BELMONT FIRE PROTECTION DISTRICT RESOLUTION NO. _____

**RESOLUTION OF THE BELMONT FIRE PROTECTION DISTRICT
TO APPROVE PRELIMINARY ENGINEER'S REPORT, FISCAL YEAR 2006/2007,
AND TO SUPPORT FIRE SUPPRESSION ASSESSMENTS FOR THE BELMONT FIRE
PROTECTION DISTRICT**

WHEREAS, the Board of Directors has, by previous Resolution, proposed to be levied Fire Suppression Assessments for the Belmont Fire Protection District and initiated proceedings for Fiscal Year 2006/2007 pursuant to the provisions of Title 5, Division 1, Part 1, Article 3.6 of the Government Code of California, beginning with Section 50078 (hereinafter referred to as the "Code"); and

WHEREAS, said Code provides for the levy and collection of assessments by the County of San Mateo for the Belmont Fire Protection District to pay the maintenance and services of all improvements, and operations related thereto; and

WHEREAS, the Board of Directors has retained MuniFinancial for the purpose of assisting with the establishment of the assessments and to assist the Board with the preparation of an Engineer's Report (Exhibit 1) in accordance with the California Constitution Article XIID; and

WHEREAS, there has now been presented to this Board of Directors the Engineer's Report for the Belmont Fire Protection District Fire Suppression Assessment, Fiscal Year 2006/2007; and

WHEREAS, the Board of Directors has carefully examined and reviewed the Engineer's Report as presented, and is preliminarily satisfied with the Report, including each and all of the budget items and documents as set forth therein, and is satisfied that the assessments have been spread in accordance with the benefits received from the improvements, operations, maintenance and services to be performed within the Board, as set forth in said Report.

NOW, THEREFORE, BE IT RESOLVED that the Belmont Fire Protection District authorizes the following:

Section 1. The foregoing recitals are all true and correct.

Section 2. The Engineer's Report as presented, consists of the following:

- a. A Description of the Assessment and Improvements; and
- b. The Annual Budget (Costs and Expenses of Services, Operation and Maintenance); and
- c. The method of apportionment for calculating the assessment for each of the assessed parcels within the Board for Fiscal Year 2006/2007.

Section 3. The Engineer's Report is hereby preliminarily approved. All property owners subject to the new assessment shall be balloted pursuant to California Constitution Article XIID.

Section 4. This Engineer's Report is hereby ordered to be filed in the Office of the Board Secretary as a permanent record and to remain open to public inspection. The Board Secretary shall certify to the passage and adoption of this Resolution, and the minutes of this meeting shall so reflect the presentation of the Engineer's Report.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the Belmont Fire Protection District at a regular meeting thereof held on July 25, 2006 by the following vote:

AYES, DIRECTORS: _____

NOES, DIRECTORS: _____

ABSTAIN, DIRECTORS: _____

ABSENT, DIRECTORS: _____

Secretary, Belmont Fire Protection District

APPROVED:

President, Belmont Fire Protection District

BELMONT FIRE PROTECTION DISTRICT RESOLUTION NO. _____

**RESOLUTION OF THE BELMONT FIRE PROTECTION DISTRICT
FOR PROPOSED BELMONT FIRE PROTECTION DISTRICT FIRE SUPPRESSION
ASSESSMENT, DECLARING ITS INTENTION TO CONDUCT A PROPERTY OWNER
BALLOTING ON THE MATTER OF A NEW ASSESSMENT AND TO LEVY ANNUAL
ASSESSMENTS FOR FISCAL YEAR 2006/2007**

WHEREAS, the Board of Directors has, by previous Resolution, initiated proceedings for Fiscal Year 2006/2007, pursuant to the provisions of Title 5, Division 1, Part 1, Article 3.6 of the Government Code of California, beginning with Section 50078 (hereinafter referred to as the "Code") that provides for the levy and collection of Fire Suppression Assessments by the County of San Mateo for the Belmont Fire Protection District to pay the maintenance and services of all improvements, and operations related thereto; and,

WHEREAS, the Board of Directors has retained MuniFinancial for the purpose of assisting with the establishment of the assessments and to assist the Belmont Fire Protection District with the preparation of an Engineer's Report in accordance with the requirements of the California Constitution, Article XIID.

NOW, THEREFORE, BE IT RESOLVED that the Belmont Fire Protection District authorizes the following

Section 1. The Board of Directors hereby declares its intention to seek the Annual Levy of the Fire Suppression Assessment pursuant to the Code, over and including the land within the Belmont Fire Protection District fire service area boundaries, and to levy and collect assessments on all such land to pay the costs of the following: the operation, maintenance and servicing of fire suppression services, improvements, equipment and operations related thereto.

Section 2. The boundaries of the assessment area are located within the boundaries of the Belmont Fire Protection District fire service area.

Section 3. An assessment ballot proceeding is hereby called on behalf of the Board on the matter of confirming assessments for any property within the Belmont Fire Protection District fire service area subject to a new assessment pursuant to California Constitution Article XIID.

The assessment ballot proceeding on the matter of authorizing the levy of the assessments, pursuant to California Constitution, Article XIID, Section 4 consists of a ballot, included with mailed notice, distributed by first class mail to the property owners of record subject to the proposed assessment. Each property owner's ballot is weighted by the amount of his or her proposed assessment. Each property owner may return the ballot by mail or in person to the Belmont Fire Protection District Board Secretary not later than the conclusion of the Public Hearing on the matter on November 14, 2006. The Public Hearing is scheduled to begin on Tuesday, November 14, 2006, at 7:30 p.m., or as soon thereafter as feasible at One Twin Pines

Lane, Belmont, California. At the conclusion of the Public Hearing, the Board Secretary or an impartial designee shall tabulate the ballots to determine if a majority protest exists. The ballots shall be weighted according to the proportional financial obligation of each affected property. A majority protest exists if, upon the conclusion of the hearing, weighted ballots submitted in opposition to the assessment exceed the weighted ballots submitted in favor of the assessment.

Section 4. The proposed assessments and a full detailed description of the methodologies for calculating the Assessments are presented in the Engineer's Report, on file in the Office of the Board Secretary.

Section 5. The Board of Directors hereby declares its intention to conduct a Public Hearing concerning the levy of assessments for the Board in accordance with Government Code, Section 54954.6 and California Constitution, Article XIID, Section 4(e).

The Board shall give notice of the time, date and place of the Public Hearing by posting a copy of this resolution on the official bulletin board customarily used by the Board of Directors for the posting of notices and by publishing this resolution in a local newspaper. As defined by Government Code Section 54954, those properties subject to a new assessment shall be mailed a notice of the Public Hearing and a property owner ballot not less than 45 days before the date of the public hearing pursuant to California Constitution, Article XIID. Property owners being balloted for a new assessment must return their ballots to the Board Secretary prior to the conclusion of the public input portion of the Public Hearing, after which they will be tabulated. At the Public Hearing, all interested persons shall be permitted to present written and/or oral testimony regarding the proposed assessment.

Section 6. Notice is hereby given that a Public Hearing on these matters will be held by the Board of Directors on Tuesday, November 14, 2006, at 7:30 p.m., or as soon thereafter as feasible at One Twin Pines Lane, Belmont, California.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the Belmont Fire Protection District at a regular meeting thereof held on July 25, 2006 by the following vote:

AYES, DIRECTORS: _____

NOES, DIRECTORS: _____

ABSTAIN, DIRECTORS: _____

ABSENT, DIRECTORS: _____

Secretary, Belmont Fire Protection District

APPROVED:

President, Belmont Fire Protection District

BELMONT FIRE PROTECTION DISTRICT RESOLUTION NO. _____

**RESOLUTION OF THE BELMONT FIRE PROTECTION DISTRICT
ADOPTING PROCEDURES APPLICABLE TO THE COMPLETION, RETURN AND
TABULATION OF ASSESSMENT BALLOTS FOR THE PROPOSED FIRE
SUPPRESSION ASSESSMENT FOR THE FISCAL YEAR 2006/2007 LEVY**

WHEREAS, Proposition 218 was adopted on November 6, 1996, adding Articles XIIC and XIID to the California Constitution; and

WHEREAS, Articles XIIC and XIID of the California Constitution impose certain procedural and substantive requirements relating to assessments (as defined therein); and

WHEREAS, Section 4C of Article XIID of the California Constitution and Government Code Section 53753 provide the opportunity for the Belmont Fire Protection District Board of Directors to develop a summary of the procedures for the completion, return, and tabulation of Assessment Ballots to be included with the notice requirements of Article XIID of the California Constitution; and

WHEREAS, the Board of Directors of the Belmont Fire Protection District (“Board”) finds it to be in the interest of the District to record its decisions regarding the procedures for the completion, return and tabulation of Assessment Ballots for the Fire Suppression Assessment for the Fiscal Year 2006/2007 levy.

NOW, THEREFORE, BE IT RESOLVED that the Belmont Fire Protection District authorizes the following:

Section 1. It is the Board of Director’s intent in adopting this resolution, to adopt procedures applicable to the completion, return and tabulation of Assessment Ballots that are consistent with, and in compliance with, Articles XIIC and XIID of the California Constitution and with the Proposition 218 Omnibus Implementation Act. It is not the intent of the Board of Directors to vary in any way from the requirements of Articles XIIC and XIID or the Proposition 218 Omnibus Implementation Act and the provisions of this Resolution shall be interpreted in accordance therewith.

Section 2. The following guidelines shall apply in giving notice of an assessment:

- A. The record owner(s) of each parcel to be assessed shall be determined from the last equalized property tax roll. Only property owners shall receive notice.
- B. The notice shall be sent at least forty-five (45) days prior to the date set for the public hearing on the assessment.
- C. The notice provided by this section and in accordance with Article XIID, Section 4, of the California Constitution, shall supersede and be in lieu of any other statutes

requiring notice to levy or increase an assessment, including but not limited to the notice required by the state statute authorizing the assessment and Government Code section 54954.6.

D. Failure of any person to receive notice shall not invalidate the proceedings.

Section 3. The following procedures are applicable to the completion, return, and tabulation of Assessment Ballots required by Article XIID of the California Constitution:

A. Assessment Ballot. The following guidelines shall apply to the Assessment Ballot:

- i. At least forty-five (45) days prior to the date of the public hearing on the proposed assessment, the Assessment Ballot required by Article XIID, Section 4(D) of the California Constitution shall be mailed to all property owners affected by the proposed assessment whose name(s) and address(s) appear on the last County of San Mateo equalized, secured property tax assessment roll. If the person who receives the Assessment Ballot is not the property owner, (i.e. the property has been sold), the person receiving the Assessment Ballot should promptly notify the new property owner and the Board Secretary. If the property is identified to have split interest parties due to differing ownership interests in different parts of the property (such as an ownership interest in the land and a separate ownership interest in a mobile home on the land), a ballot will be sent to the first name and address listed on the Belmont website. However, if the property has split interest parties due to split ownership interests in the ENTIRE property, a ballot will be sent to each ownership interest. Each ballot will represent a proportion of the total proposed assessment whereas the proportion of the assessment is equal to the proportion of the parties' ownership interest in the property.
- ii. All Assessment Ballots must be returned to the Board Secretary, or his/her designee by mail or in person, sealed in the envelope, provided not later than the end of the public input portion of the Public Hearing. If the envelope is lost, the property owner can request an envelope from the Board Secretary. The Board Secretary may accept Assessment Ballots sealed in an envelope where the outside envelope is clearly marked that it contains an Assessment Ballot. Assessment Ballots must be addressed or hand delivered to: Board Secretary, One Twin Pines Lane, Suite 375, Belmont, California 94002.
- iii. The Assessment Ballot must be signed under penalty of perjury. For properties with more than one owner of record or split interest parties, Assessment Ballots will be accepted from each owner of record. Each owner of record is entitled to vote. The Board Secretary, or designee, shall apportion the voting rights between the owners based upon the respective

record interests as the Board Secretary deems correct, proper, and appropriate. Multiple property owners may indicate their proportional property interest on the Assessment Ballot.

- iv. The Board Secretary may issue additional Assessment Ballots to “additional property owners” whose name(s) does not appear on the last equalized, secured property tax assessment roll, for the County of San Mateo. These additional Assessment Ballots shall be issued upon presentation of adequate information that the requesting party is an additional owner of record. Additional Assessment Ballots may be obtained from the Board Secretary located at One Twin Pines Lane, Suite 375, Belmont, California 94002.
- v. A tenant of real property shall not have the power or authority to submit an Assessment Ballot.
- vi. A property owner of record may delegate his/her Assessment Ballot vote to an authorized agent provided the authorization:
 - a. Is in writing;
 - b. Clearly identifies by first and last name the authorized agent;
 - c. Identifies the property by APN number or other information adequate to identify the property; and
 - d. Is signed by the property owner under penalty of perjury, and such writing is attached to the Assessment Ballot.
- vii. Only original Assessment Ballots with original signatures (i.e. no photocopies, facsimiles and e-mail) will be accepted. Assessment Ballots received after the Public Hearing with a postmark of the Public Hearing date will not be considered.
- viii. The Board Secretary may issue a duplicate Assessment Ballot to any property owner whose original Assessment Ballot was lost or destroyed. The new Assessment Ballot shall be issued upon presentation of adequate information that the requesting party is an owner of record. The new Assessment Ballots shall be clearly marked as “Duplicate Assessment Ballot”.
- ix. An Assessment Ballot proceeding is not an election.
- x. The Assessment Ballot shall remain sealed until tabulation as provided in subsection B below. During and after the tabulation, the Assessment Ballot shall be treated as a disclosable public record, as defined in Government Code §6252, and equally available for inspection by the proponents and the opponents of the proposed Assessment once the ballot tabulation process is complete.

B. Tabulating Assessment Ballots. The following guidelines shall apply to tabulating Assessment Ballots Assessment Ballot. The following guidelines shall apply to the Assessment Ballot:

- i. An impartial person, including, but not limited to, the Board Secretary or other person designated by the Board who does not have a vested interest in the outcome of the proposed Assessment shall tabulate the Assessment Ballots submitted, and not withdrawn, in support or opposition to the proposed Assessment.
- ii. The Board Secretary, or the designated person, shall begin tabulating the Assessment Ballots at the conclusion of the Public Hearing referenced in Section C below.
- iii. The Board Secretary, or the designated person, shall determine the validity of all Assessment Ballots. The Board Secretary, or the designated person, shall accept as valid, all Assessment Ballots except those in the following categories:
 - a. An Assessment Ballot or authorization that does not contain an original signature;
 - b. An unsigned Assessment Ballot and/or authorization;
 - c. An Assessment Ballot which lacks an identifiable “yes, I support” or “no, I oppose” vote (i.e. both boxes marked or neither box marked);
 - d. An Assessment Ballot which appears tampered with or otherwise invalid based upon its appearance or method of delivery or other circumstances; or
 - e. Assessment Ballots not in actual receipt of the Board Secretary prior to the conclusion of public testimony at the Public Hearing.
- iv. The Board Secretary, or the designated person’s, decision, after consultation with the Board Attorney, that an Assessment Ballot is invalid, shall be final and may not be appealed to the Board of Directors.
- v. A property owner who has submitted an Assessment Ballot may withdraw the Assessment Ballot and submit a new Assessment Ballot up until the conclusion of the public testimony at the Public Hearing on the assessment.
- vi. A property owner’s failure to receive an Assessment Ballot shall not invalidate the proceedings conducted under this resolution and Section 4, Article XIID of the California Constitution.

C. Public Hearing on Assessments.

- i. At the Public Hearing, the Board of Directors shall hear all public testimony regarding all objections or protests, if any, to the proposed assessment and accept Assessment Ballots until the close of public testimony.
- ii. The Board of Directors may impose reasonable time limits on both the length of the entire hearing and the length of each speaker’s testimony.
- iii. If additional time is necessary for public testimony, the Board of Directors may continue the Public Hearing to a later date to receive additional public testimony and information.
- iv. At the conclusion of the Public Hearing, the Assessment Ballots shall be tabulated.
- v. If, according to the final tabulation, the Assessment Ballots submitted against the proposed assessment exceed the Assessment Ballots submitted in favor of the proposed assessment, weighted according to the proportional financial obligation of the affected property, a “majority protest” exists, and the Board of Directors shall not impose the new assessment on parcels affected by the proposed assessment.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the Belmont Fire Protection District at a regular meeting thereof held on July 25, 2006 by the following vote:

AYES, DIRECTORS: _____

NOES, DIRECTORS: _____

ABSTAIN, DIRECTORS: _____

ABSENT, DIRECTORS: _____

Secretary, Belmont Fire Protection District

APPROVED:

President, Belmont Fire Protection District