



Staff Report

RESOLUTION OF THE CITY OF BELMONT STATING ITS INTENTION TO ESTABLISH A SEWER TREATMENT FACILITY CHARGE EFFECTIVE TAX YEAR 2009-10

Honorable Mayor and Council Members:

Summary

The resolution presented for consideration with this staff report proposes a rate structure for the City's proposed Sewer Treatment Facility Charge and schedules a public hearing for the charge on April 14, 2009. This Resolution also establishes the rules for tabulating protests against the rates. Should Council approve the resolution staff would then mail notice of the hearing to each property owner connected to the sewer system and would commence direct public outreach to provide information regarding the South Bayside System Authority (SBSA) Capital Improvement Program (CIP), including public workshops/meetings to inform property owners about the proposed rates.

Background

On January 13, 2009 the City Council heard presentations regarding the status of the South Bayside System Authority Capital Improvement Program and development and review of the Rate Analysis to determine an appropriate charge to fund the program. The City Council approved the report prepared by HF&H Consultants entitled New Sewer Treatment Facility Charge, dated January 7, 2009 and directed staff to return to the City Council at the February 10, 2009, City Council meeting with an authorizing resolution stating the City's intention to implement a Sewer Treatment Facility Charge effective tax year 2009-10 for the Council consideration.

Discussion

Pursuant to Section 6 of Article XIID of the California Constitution, the City must give notice by mail to each property owner of record as of the last equalized assessment roll. A copy of the proposed Notice language is attached. Property owners have the right to submit written protest against the proposed charge and may do so by mail or in person to the City Clerk not later than the conclusion of the Public Hearing. At the Public Hearing, the City will consider all protests against the proposed charge. If written protests against the charge are presented by owners of a majority of the affected parcels, the City Council may not impose the revised charges. The majority protest would require 4,126 written protests.

The Sample Notice included with the Staff Report, was prepared by outside counsel and then reviewed by an ad-hoc committee consisting of City Staff and others involved in the project, along with the City Treasurer – John Violet, and the City Clerk - Terri Cook. The final Notice is planned to be in a tri-fold format, for ease of mailing and ease of display of the information enclosed within. In addition City Staff has established links and other information on the Hot Topics portion of the City web page, where City residents may easily find background and other information regarding the SBSA CIP and the proposed charge. Should the City Council approve the resolution, the web page site will be activated once the Notice has been mailed, and public outreach including contacting the highest rate payers as well as other public forums for comment and input will be planned.

As a matter of policy, the City will give notice of the time and place of the Public Hearing to all property owners and rate payers within the City by the publishing of this Resolution once in the local newspapers for two consecutive weeks not less than 10 days before the date of the Public Hearing, and by posting a copy of this Resolution on the official bulletin board customarily used by the City Council for the posting of notices.

Subsequent to completion of the Rate Analysis, clarification of the proposed use of the funds was provided by the City Finance Director. The proposed Sewer Treatment Facility Charge is based on proposed projects identified in the SBSA CIP, some of which may be classified as maintenance expense rather than as a capital expense for financial statement purposes. However, the authorizing Notice contains language that the charge provides funding to pay for rehabilitation, replacement and other costs of the wastewater treatment plant, pump stations, outfall pipeline and plant influent force main pipeline. This work may include proposed maintenance projects and other cost related to the facilities maintained by SBSA.

General Plan/Vision Statement

No impact.

Fiscal Impact

Approval of this action does not establish rates however, should the City Council implement the rate structure shown in the Notice, the revenue received will match the requirement for fiscal year 2009-10 for the South Bayside System Authority Capital Improvement Program estimated at 3.1 million dollars in the first year.

Public Contact

Posting of City Council agenda.

Recommendation

Adopt the Resolution as presented to schedule the public hearing and propose the rate structure, and approve clarification to the Rate Analysis Report to define uses of the charges to provide funding to pay for rehabilitation, replacement and other costs of the wastewater treatment plant,

pump stations, outfall pipeline and plant influent force main pipeline.

Alternatives

1. Take no action.

Attachments

- A. Resolution Scheduling a Public Hearing and Proposing Rate Structure
 - Exhibit A to Resolution– Rate Structure
 - Exhibit B to Resolution – Rules for Tabulating Protests
- B. Proposition 218 Notice (sample), entitled Notice of Public Hearing, Proposed Sewer Treatment Facility Charge

Respectfully submitted,

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RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT STATING ITS INTENTION TO IMPOSE A SEWER TREATMENT FACILITY CHARGE EFFECTIVE TAX YEAR 2009-10

WHEREAS, the South Bayside System Authority (SBSA) has informed the City that an extensive capital program is required to extend the operating life of the sewer treatment facilities used by the City and other members of SBSA; and,

WHEREAS, the City's share of the cost of the capital program is estimated to be \$45.2 million; and,

WHEREAS, it is not possible to absorb this cost into the City's existing sewer budget; and,

WHEREAS, the City Council desires to impose a new Sewer Treatment Facility Charge to fund these necessary expenses.

NOW, THEREFORE, BE IT RESOLVED that by the City Council of the City of Belmont:

1. The foregoing recitals are all true and correct.
2. The City Council proposes the imposition of the Sewer Treatment Facility Charge at the annual rate described in Exhibit "A" to this Resolution, which is incorporated herein by reference. It is proposed that the Sewer Treatment Facility Charge be collected annually on the property tax roll in addition to the City's sewer service charge.
3. On April 14, 2009, at 7:30 PM or as soon thereafter as may be practicable in the City Council Chambers located at, One Twin Pines Lane, Belmont, CA, the City Council will hold a public hearing pursuant to Article XIID of the California Constitution with respect to the proposed charge. At this hearing, all interested persons will be permitted to present oral and written testimony with respect to the proposed charge.
4. The City Council further directs staff to give notice of the hearing in the manner required by law.
5. The City will accept and tabulate protests against the proposed charge pursuant to the procedures set forth in Exhibit "B" to this Resolution, which is incorporated herein by reference.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting thereof held on February 10, 2009 by the following vote:

AYES, COUNCILMEMBERS: _____

NOES, COUNCILMEMBERS: _____

ABSTAIN, COUNCILMEMBERS: _____

ABSENT, COUNCILMEMBERS: _____

CLERK of the City of Belmont

APPROVED:

MAYOR of the City of Belmont

EXHIBIT "A"

PROPOSED SEWER TREATMENT FACILITY CHARGE RATE SCHEDULE

Figure 1. Treatment Facility Charges Per Billing Unit

Customer Class	Billing Units	Annual Rate per Billing Unit	Customer Class	Billing Units	Annual Rate per Billing Unit
Residential			Commercial (continued)		
Single Family Home	Dwelling Unit	\$249.58	Light Manufacturing	1000 ft ²	\$95.02
Multi-Unit Residential	Dwelling Unit	\$174.92	Lumber Yard	1000 ft ²	\$50.66
Condominiums	Dwelling Unit	\$200.96	Warehousing	1000 ft ²	\$71.95
Mobile Home Parks	Spaces	\$224.47	Open Storage	1000 ft ²	\$471.17
Commercial			Drive-in Theatre	1000 ft ²	\$33.65
Hotel/Motel/Rooming House	Rooms	\$143.24	Night Club	1000 ft ²	\$562.51
Store	1000 ft ²	\$137.53	Bowling/Skating	1000 ft ²	\$447.41
Supermarket	1000 ft ²	\$571.01	Club & Lodge Halls	1000 ft ²	\$50.96
Shopping Center	1000 ft ²	\$553.33	Auditorium, Amusement	1000 ft ²	\$562.51
Regional Mall	1000 ft ²	\$537.59	Golf Course and Park	1000 ft ²	\$360.94
Office Building	1000 ft ²	\$89.23	Campground, Marina, RV Park	Sites, Slips, or Spaces	\$106.97
Medical, Dental, Veterinary	1000 ft ²	\$276.30	Convalescent Home	Beds	\$152.24
Restaurant	1000 ft ²	\$1,435.29	Horse Stables	Stalls	\$64.69
Indoor Theatre	1000 ft ²	\$201.17	Laundromat	1000 ft ²	\$6,144.35
Car Wash			Mortuary, Funeral Home	1000 ft ²	\$131.67
Tunnel - No Recycling	1000 ft ²	\$5,943.18	Health Spa, Gym with Showers	1000 ft ²	\$964.84
Tunnel - Recycling	1000 ft ²	\$4,376.43	Health Spa, Gym without Showers	1000 ft ²	\$299.01
Wand	1000 ft ²	\$1,125.02	Convention Center, Fairground, Racetrack, Sports Stadium/Arena	Avg. Daily Attendance	\$15.19
Bank, Credit Union	1000 ft ²	\$161.69	Institutional		
Service Shop, Vehicle Maint. & Repair	1000 ft ²	\$172.25	College/University	Students	\$28.35
Animal Kennels	1000 ft ²	\$161.69	School	1000 ft ²	\$163.69
Gas Station	1000 ft ²	\$284.52	Library, Museum	1000 ft ²	\$105.57
Auto Sales	1000 ft ²	\$97.27	Post Office (Local)	1000 ft ²	\$161.69
Wholesale Outlet	1000 ft ²	\$161.69	Post Office (Regional)	1000 ft ²	\$64.69
Nursery/Greenhouse	1000 ft ²	\$41.24	Church	1000 ft ²	\$65.59
Manufacturing	1000 ft ²	\$517.00			

EXHIBIT “B”

GUIDELINES FOR THE SUBMISSION AND TABULATION OF PROTESTS

Submission of Protests

1. Any property owner may submit a written protest to the City Clerk, either by delivery to the office of the City Clerk or by submitting the protest at the public hearing. Protests must be received by the end of the public hearing. No postmarks will be accepted.
2. Each protest must identify the affected property (by assessor’s parcel number or street address) and include the signature of the record property owner. Email protests cannot be accepted. Although oral comments at the public hearing will not qualify as a formal protest unless accompanied by a written protest, the City Council welcomes input from the community during the public hearing on the proposed charges.
3. If a parcel served by the City is owned by more than a single record owner, each owner may submit a protest, but only one protest will be counted per parcel and any one protest submitted in accordance with these rules will be sufficient to count as a protest for that property.
4. In order to be valid a protest must bear the original signature of the record owner with respect to the property identified on the protest. Protests not bearing the original signature of a record owner shall not be counted.
5. Any person who submits a protest may withdraw it by submitting to the City Clerk a writing request that the protest be withdrawn. The withdrawal of a protest shall contain sufficient information to identify the affected parcel and the name of the record owner or record customer who submitted both the protest and the request that it be withdrawn.
6. A charge protest proceeding is not an election.
7. To ensure transparency and accountability in the charge protest tabulation, protests shall constitute disclosable public records from and after the time they are received.

Tabulation of Protests

1. The City Clerk shall determine the validity of all protests. The City Clerk shall not accept as valid any protest if the City Clerk determines that any of the following conditions exist:
 - a. The protest does not identify a property served by the City.
 - b. The protest does not bear an original signature of a record owner of the parcel identified on the protest.
 - c. The protest does not state its opposition to the proposed charges.
 - d. The protest was not received by the City Clerk before the close of the public hearing on the proposed charges.
 - e. A request to withdraw the protest is received prior to the close of the public hearing on the proposed charges.
2. The City Clerk’s decision that a protest is not valid or does not apply to a specific charge shall constitute a final action of the City and shall not be subject to any internal appeal.

3. A majority protest exists if written protests are timely submitted and not withdrawn by the record owners of a majority of the properties subject to the proposed charge.
 4. At the conclusion of the public hearing, the City Clerk shall complete the tabulation of all protests received, including those received during the public hearing and shall report the results of the tabulation to the City Council upon completion. If review of the protests received demonstrates that the number received is manifestly less than one-half of the parcels served by the City with respect to the charge which is the subject of the protest, then the Clerk may advise the City Council of the absence of a majority protest without determining the validity of all protests.