



STAFF REPORT

INTRODUCTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELMONT ADDING SECTION 21.93, RELATING TO THE SEWER TREATMENT FACILITY CHARGE, TO ARTICLE 4 OF CHAPTER 21 OF THE BELMONT MUNICIPAL CODE AND ADOPTING A SCHEDULE FOR THE SEWER TREATMENT FACILITY CHARGE

Honorable Mayor and Council Members:

Summary

On April 14, 2009, the City Council held a public hearing with respect to the City's proposed Sewer Treatment Facility Charge. After the Council received testimony from members the public, the city clerk tabulated written protests against the charge and determined that there was no majority protest against the charge.

Following discussion, the City Council continued its consideration of the charge to the April 28, 2009 meeting.

The April 14, 2009 staff report on this matter is attached.

Background

See April 14, 2009 staff report, attached.

Discussion

See April 14, 2009 staff report, attached, for details of the Sewer Treatment Facility Charge proposal.

Note that adoption of the proposed ordinance required four votes. The ordinance is designed to raise sufficient funding to pay for all costs currently allocated by the South Bayside System Authority (SBSA) to the City. This includes force main costs that have been questioned by the City Council. However, adoption of this ordinance does not, in itself, authorize any payment to SBSA. In the event the City is not required to incur the fully projected SBSA costs, the City Council may later be able to reduce the amount of the charge and/or cause the charge to sunset earlier than planned.

General Plan/Vision Statement

There is no impact from this report. Maintenance of existing City's infrastructure is consistent with the City's goals and policies.

Fiscal Impact

In order to meet the City's financial obligations to the South Bayside System Authority in connection with SBSA's the capital program, the City will need to issue debt against the Sewer Treatment Facility Charge or some other stream of revenue. Until the charge is adopted by ordinance, the City will not be able to borrow against the charge.

In addition to the \$935,108.48 already billed to the City by SBSA, SBSA has informed the City that it may be billing the city for additional project costs in June. Depending on the amount of that bill, the City may not have enough sewer fund balance to timely pay that additional bill if it is unable to issue new debt.

Should the City Council implement the rate structure shown in the Notice, the revenue received will be sufficient to fund the requirements of the South Bayside System Authority Capital Improvement Program estimated at \$45.2 million dollars. Staff's recommendation to defer the collection of the Sewer Treatment Facility Charge for all property owners for two years will be accomplished by deferring the payment of debt service for two years. While debt service will be deferred two years, issuance of capital appreciation (Bridge Financing) bonds will take place later this year. This capital appreciation bond financing is a way to obtain project funds immediately while delaying the new fee.

Staff will return to Council at a later date this year with a report on the capital facilities debt financing plan.

Public Contact

As described in the staff report, public outreach meetings were conducted, Hot Topics links were established, and phone contacts provided. In accordance with City policy, in addition to mailing the legally required public Notice, the City published the Resolution approved on February 10, 2009 in the local newspapers for two consecutive weeks not less than 10 days before the date of the Public Hearing, and posted a copy of the Resolution on the official bulletin board customarily used by the City Council for the posting of notices.

Recommendation

It is recommended that the City Council introduce the ordinance in Attachment A implementing a Sewer Treatment Facility Charge effective FY 2011-12, with a sunset date of FY 2047-2048.

Alternatives

1. Take no action.
2. Introduce the ordinance attached as Attachment A, with amendments to Sections 4 and 5 setting the Sewer Treatment Facility Charge to be effective FY 2009-10 and to sunset FY 2045-46.
3. Introduce the ordinance per the staff recommendation or alternative 2, amended to include the language set forth in Attachment B setting forth a framework for a Sewer Treatment Facilities Economic Recovery Program and direct staff to develop recommendations for such program and bring back to council for approval.

4. Further continue consideration of Sewer Treatment Facility Charge (based on the April 14 hearing) to the next Council Meeting.
5. Postpone action and direct staff to schedule and give mailed notice of a new Proposition 218 hearing to be held on a specified future date.

Attachments

- A. Ordinance adding section 21.93 relating to the Sewer Treatment Facility Charge
 - Exhibit A to Ordinance– Rate Structure
- B. Sewer Treatment Economic Recovery Program
- C. April 14, 2009 Staff Report

Respectfully submitted,

Mark Mandell
Special Counsel

Staff Contact:
Karen Borrmann
Assistant Director of Public Works
650-595-7469
kborrmann@belmont.gov

Brooke Lazzari
Deputy Finance Director
650-595-7434
blazzari@belmont.gov

ORDINANCE NO. _____

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
BELMONT ADDING SECTIONS 21-94, 21-95 AND 21-96,
RELATING TO THE SEWER TREATMENT FACILITY
CHARGE, TO ARTICLE 4 OF CHAPTER 21 OF THE BELMONT
MUNICIPAL CODE AND ADOPTING A SCHEDULE FOR THE
SEWER TREATMENT FACILITY CHARGE

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 necessary sewer treatment expenses; and,

WHEREAS, Section 5471 of the California Health & Safety Code permits the City Council of the City of Belmont to set charges for sewer service by ordinance; and

WHEREAS, on April 14, 2009, the City Council held a full and fair public hearing, properly noticed as required by law, at which all persons interested, were given an opportunity to provide oral and written testimony with respect to the Sewer Treatment Facility Charge; and

WHEREAS, the City Council desires to impose and adopt a schedule for the Sewer Treatment Facility Charge; and,

NOW, THEREFORE, the City Council of the City of Belmont does ordain as follows:

SECTION 1: Section 21-94 is added to Article 4 of Chapter 21 of the Belmont Municipal Code to read as follows:

“SECTION 21-94. SEWER TREATMENT FACILITY CHARGE

In addition to any other charge imposed pursuant to this Article, the City Council may, by

ordinance adopted pursuant to Section 5471 of the California Health & Safety Code, adopt a Sewer Treatment Facility Charge. Proceeds of the Sewer Treatment Facility Charge shall be expended by the City only to fund the rehabilitation, replacement, and other associated costs (including financing and operating costs) of wastewater treatment plants, pump stations, outfall pipelines, plant influent force main pipelines, and other treatment facilities that serve the City of Belmont. Proceeds of the Sewer Treatment Facility Charge shall be separately accounted for from proceeds of any other sewer service charge imposed pursuant to this Article. The Sewer Treatment Facility Charge shall be collected in the same manner as a sewer service charge imposed pursuant to this Article, and nonpayment or late payment of the Sewer Treatment Facility Charge shall be subject to the same penalties as apply to such sewer service charges.”

SECTION 2: Pursuant to Section 21-94 of the Belmont Municipal Code, the City Council hereby imposes an annual Sewer Treatment Facility Charge at the rate set forth in Exhibit A to this Ordinance, which is incorporated herein by reference. The initial charge shall be collected on the 2011-12 property tax roll.

SECTION 3: The City will collect the charge established by section two of this Ordinance until the City Council determines that all capital charges, debt service requirements and operating expenses associated with the City’s 2009 Capital Improvement Plan for sewer service have been retired. However, in no event shall such charge be imposed after tax year 2047-48.

SECTION 4: As the primary purpose of this Ordinance is to impose a service charge to fund the replacement or reconstruction of existing sewer treatment facilities that will be located on the same site as the facilities replaced and will have substantially the same purpose and capacity as the facilities replaced, adoption of this Ordinance (and the imposition of the service charge) is exempt from environmental review under the California Environmental Quality Act pursuant to Section 15302 of the California Code of Regulations. The South Bayside System Authority has

determined that the adoption of its Capital Improvement Program, which will be partially funded by the service charge imposed by this ordinance, is categorically exempt from environmental review. Each capitol project funded, in whole or in part, by the service charge will undergo additional separate review under CEQA, if applicable, at such time as the Authority (or other applicable agency) considers those capital projects for approval.

SECTION 5: The City Council hereby finds and determines that:

- A. The City has complied with each of the requirements of Section 6 of Article XIID of the California Constitution, including the notice requirement set forth in Section 6(a)(1), with respect to the actions taken by this Ordinance.
- B. The Sewer Treatment Facility Charge is a property-related charge for sewer service that is established at a rate that does not exceed the amount permissible under Article XIID for such a charge. The Sewer Treatment Facility Charge is not a tax.
- C. Revenues derived from the Sewer Treatment Facility Charge will be used only for the purpose set forth in section one of this ordinance and will not exceed the amount that required for that purpose. The purpose set forth in section one of this ordinance is not a general governmental service, as that term is used in section 6(b)(5) of Article XIID of the California Constitution.
- D. The amount of the Sewer Treatment Facility Charge imposed upon any parcel or person as an incident of property ownership does not exceed the proportional cost of the service attributable to the parcel.
- E. No Sewer Treatment Facility Charge is imposed upon any parcel unless sewer treatment services is actually used by or immediately available to the parcel.
- F. A majority protest, as defined by Section 6(a) of Article XIID of the California Constitution does not exist with respect to the Sewer Treatment Facility Charge.

SECTION 6: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Belmont hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.

SECTION 7: Pursuant to Section 36937 of the Government Code of the State of California, this Ordinance shall take effect and be in full force and effect thirty (30) days after its final passage.

SECTION 8: The City Clerk shall cause this Ordinance to be published and posted in accordance with the requirements of Section 36933 of the Government Code of the State of California.

Introduced this 14th day of April, 2009.

* * * * *

PASSED AND ADOPTED as an Ordinance of the City of Belmont at a regular meeting thereof held on the _____ day of _____, 2009.

AYES, COUNCILMEMBERS: _____

NOES, COUNCILMEMBERS: _____

ABSENT, COUNCILMEMBERS: _____

ABSTAIN, COUNCILMEMBERS: _____

Mayor of the City of Belmont

ATTEST:

Clerk of the City of Belmont

EXHIBIT "A"
SCHEDULE OF SEWER TREATMENT FACILITY CHARGE

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			

Attachment B

Sewer Treatment Facilities Economics Recovery Program Add To The End Of Preamble:

WHEREAS, in light of the current economic recession, the City Council desires to create a framework for reducing the economic impact of the Sewer Treatment Facility Charge upon non-residential sewer customers that are essential to the economic recovery of the City.

Additional Sections To Be Added Between Section One And Section Two Of The Ordinance

Section [2]: Section 21-95 is added to Article 4 of Chapter 21 of the Belmont Municipal Code to read as follows:

“SECTION 21-95. SEWER TREATMENT FACILITIES ECONOMIC RECOVERY
FUND

- (a) Though and including Fiscal Year 2016-17, the City Council may allocate funds from the general fund or any lawful source to a special fund that shall be denominated the “Sewer Treatment Facilities Economic Recovery Fund.”

- (b) Moneys in the Sewer Treatment Facilities Economic Recovery Fund shall be expended solely for the rehabilitation, replacement, and other associated costs (including financing and operating costs) of wastewater treatment plants, pump stations, outfall pipelines, plant influent force main pipelines, and other treatment facilities that serve the City of Belmont. To achieve this purpose, all or part of the balance of the fund may be transferred to the Sewer Treatment Facility Charge fund maintained pursuant to Section 21-94 of this Code.

- (c) To the extent a balance remains in the Sewer Treatment Facilities Economic Recovery Fund at the close of Fiscal Year 2016-17, that balance shall be returned to the general fund of the City and shall be available for any lawful purpose.”

SECTION [3]: Section 21-96 is added to Article 4 of Chapter 21 of the Belmont Municipal

Code to read as follows:

“SECTION 21-96. SEWER TREATMENT FACILITIES ECONOMIC RECOVERY PROGRAM

- (a) The City Council may, by resolution, determine that one or more classes of non-residential sewer customers are essential to the recovery of the City from the current economic recession.
- (b) For any fiscal year for which such a determination is in effect, any sewer customer that is a member of a designated class that may apply for a reduction of its Sewer Treatment Facility Charge.
- (c) The City Council, in any resolution described in paragraph (a) of this section, shall establish criteria by which such applications shall be evaluated and by which charge reductions will be calculated. Such resolution shall also set a deadline after which applications shall not be accepted with respect to a fiscal year and shall designate the department, officer, or body that will accept and evaluate applications.
- (d) The methodology for calculating charge reductions shall be designed so that in no event will the aggregate amount of the charge reductions made for any fiscal year exceed the balance of the Sewer Treatment Facilities Economic Recovery Fund for that fiscal year.

- (e) Any charge reduction authorized by this section shall be implemented either by a reduction of the amount charged on the customer's property tax bill or by a direct refund of charges already paid.
- (f) Each fiscal year, the city manager or his or her designee shall cause to be expended from the Sewer Treatment Facilities Economic Recovery Fund an amount equal to the aggregate of all charge reductions made pursuant to this section for that fiscal year.”

Add To End Of Current Section Five Of Ordinance

G. Because any charge reduction made in connection with the Sewer Treatment Facilities Economic Recovery Program will be offset by an expenditure from the Sewer Treatment Facilities Economic Recovery Fund, the operation of the Sewer Treatment Facilities Economic Recovery Program does not increase the amount of the Sewer Treatment Facility Charge imposed upon any customer nor does it cause the amount of any such charge to exceed the amount permissible under Article XIID of the California Constitution.



STAFF REPORT

PUBLIC HEARING TO CONSIDER AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELMONT ADDING SECTION 21.93, RELATING TO THE SEWER TREATMENT FACILITY CHARGE, TO ARTICLE 4 OF CHAPTER 21 OF THE BELMONT MUNICIPAL CODE AND ADOPTING A SCHEDULE FOR THE SEWER TREATMENT FACILITY CHARGE

Honorable Mayor and Council Members:

Summary

On February 10, 2009 the City Council approved a resolution proposing a rate structure for the City's proposed Sewer Treatment Facility Charge and scheduled a public hearing with respect to the charge for April 14, 2009. The Resolution also established the rules for tabulating protests against the proposed charge. As directed by the Resolution staff mailed notices of the hearing to the owner of each property connected to the sewer system and commenced direct public outreach regarding the South Bayside System Authority (SBSA) Capital Improvement Program (CIP). Outreach included public workshops/meetings as requested by the City Council to inform property owners about the proposed rates.

Based on input received during the public outreach, staff recommends altering the planned implementation of the proposed charge. Staff proposes delaying the start and end date for the proposed charge. An ordinance has been prepared that will, subject to provisions of the protest requirements and City Council's approval, place into effect a Sewer Treatment Facility Charge. The City Council, in the recommendation section of the staff report, is provided with language allowing the Council to choose whether the charge will be effective fiscal year 2009-10 or to be effective fiscal year 2011-12. Staff's recommendation is to not have the charge commence until 2011-12. Staff further recommends that Council specify a fiscal year to be the final fiscal year in which the charge can be levied.

Background

In proposing the new charge, the City has complied with each of the relevant requirements of Section 6 of Article XIID of the California Constitution (which was adopted by the voters in 1996 as part of Proposition 218). Consequently, the City mailed notice of the proposed charge to each property owner of record as of the last equalized assessment roll.

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. The City received forty-five (45) written protests at the writing of this report. If written protests against the charge are presented by owners of a majority of the affected parcels, the City Council may not impose the charges. The majority protest would require 4,128 written protest be received, or one more than 50% of the total properties of record numbering eight thousand two hundred and fifty-four (8,254).

Discussion

On January 13, 2009 the City Council heard presentations regarding the status of the South Bayside System Authority (SBSA) Capital Improvement Program (CIP) 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 LLC (HF&H) 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. On February 10, 2009 the City Council approved a resolution stating the City's intention to establish a Sewer Treatment Facility charge and set the public hearing date for April 14, 2009. The proposed ordinance attached to the staff report for the City Council's consideration was drafted by specialized legal counsel, and complies with the requirements of Proposition 218. Included in that ordinance as Exhibit A are the annual rates proposed for consideration by the City Council.

Public Outreach

After approval of the mailing of the Notice setting the public hearing date and giving other legally required information, the City Staff commenced public outreach. City Staff has posted 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 South Bayside System Authority (SBSA) Capital Improvement Program (CIP) and the proposed charge. The Notice that was mailed to each property also included the phone number of the City Clerk and of NBS, the City's consultant for public outreach on this project. The proposed charge was described in a newspaper article in the Daily News as well as other newspapers and on the Channel 7 News. The proposed SBSA CIP has been featured in other articles in the newspaper and at meetings conducted or attended by SBSA staff since around January 2007 when the capital program was first announced. Public meetings as requested by Council were also conducted.

As a matter of policy, the City also provided notice of the time and place of the Public Hearing by publishing of the Resolution approved on February 10, 2009 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 the Resolution on the official bulletin board customarily used by the City Council for the posting of notices.

Public Input

The comments received from the public by telephone and in letters included concerns that the timing of the charge was poor, and objection to the process, including concern with the Notice. There were fewer than twenty calls with questions to NBS, many of which were informational in nature. City Departments, including the office of the City Clerk, Finance, and Public Works also all responded to phone calls.

The City Council requested that public meetings be set up with those who will be paying the highest rates, and to that end those who are proposed to pay more than \$5,000 per year for their Sewer Treatment Facility Charge were invited to meet in small groups so information could be presented and questions answered. Five meetings were conducted by City Staff with the participation of representatives from SBSA and HF&H. Meetings were held with the property owners of the schools, ice skating rink operator, light manufacturing facilities, multi-story office, professional office, hotel, nursing homes, shopping centers, supermarkets, restaurants, and apartment building owners who it is estimated will pay in excess of \$5,000. Twenty property owners or the property owner representatives attended the meetings and several others contacted the City by phone or e-mail with questions or other comments. In addition, Staff reviewed the proposed charge with the Notre Dame De Namur College at a meeting with the City of Belmont.

Recommendation in Response to Comment

The primary input that was received during outreach was that the timing of the proposed program and the charge is extremely poor, due to the recession. A number of people expressed that the charge was unfair to either business or residences. After discussion it appeared that most of those raising concerns were convinced that the capital improvement program was necessary and the charge development was determined fairly, but that it would be difficult for some businesses to pay and could impact their ability to compete with similar businesses that were not subject to this charge. Finally, some noted that other cities within SBSA boundary are not implementing similar charges, and they questioned the need for a charge of this magnitude and the timing.

One of the concerns raised by a number of residents and businesses was a belief that the charge was unfair to some class of users. The development of the charge was based on a Best Practices approach that is utilized by many jurisdictions. In development of the charge, the rate was structured such that proceeds from the Sewer Treatment Facility Charge will have minimal fluctuation from year-to-year, as requested by the City Council. The approach recommended by HF&H Consultants, LLC uses a methodology recognized in the industry that is based on estimated flow and strength concentrations for wastewater for each customer class. The methodology was developed and refined by the Los Angeles County Sanitation Districts, which

has performed many studies to support the flow and strength concentration data upon which the charge is based. The rate structure that results is one of fixed rates per unit for each class (not based on metered water use data for individual rate payers) based on studies of different classes of users.

The rate structure uses single-family residential flow and strength characteristics as the baseline, assigning single-family residences one equivalent dwelling unit (EDU). Parcels in other customer classes are converted to EDUs using a formula that expresses their flow and strength characteristics relative to that of a single family residence. Once these flow and strength factors are determined for each class, the calculation of the proposed rates per billing unit is relatively simple.

The strength factor for each customer class is multiplied by the number of billing units (dwelling units, 1,000 square feet, etc.) in that class to reach the number of EDUs for the class. The EDUs from all classes are totaled. The annual revenue requirement is divided by the total number of EDUs to reach the annual rate for one billing unit. This amount is multiplied by each class' strength factor to arrive at the rate per unit for each class. Establishment of the billing unit is based upon the methodology that is proposed for adoption by the City of Belmont and no parts of the methodology have been adjusted to favor or penalize any particular class of users. All customers pay the same cost per gallon of flow and per pound of loading regardless of class. The difference between customer bills is the consequence of their loading and the number of billing units associated with the parcel.

In response to concern that the timing of the charge is poor given the current economic climate, Staff proposes to pursue alternative financing mechanisms (bridge financing) that would allow the City to defer debt service payments and the collection of the proposed charge for all users until a later date. In order to pursue such funding the maximum rate will need to be approved, and bonds will be sold in the autumn of 2009. There would be additional financing cost associated with such an approach, but the amount is estimated to be minimal in relation to the cost of the program. This two year deferral in debt service payment is a one time option, and once the bonds are sold the City will need to impose the approved rates beginning no later than 2011. The estimated end date for the retirement of the debt would also need to be extended.

In addition, the City Council received comments regarding the proposal to have the charge be implemented without a sunset date. Section 5 of the ordinance enacting the charge includes language establishing a sunset date as follows: The City will collect the charge established by section two of this Ordinance until the City Council determines that all capital charges, debt service requirements and operating expenses associated with the City's 2009 Capital Improvement Plan for

sewer service have been retired. However, in no event shall such charge be imposed after tax year 2047-48. The end date is to be specified based on the City Council approval, and is recommended to range between 2046 and 2048, or whenever the debt service is retired, whichever is sooner.

Another option the City Council may wish to consider is development of a Sewer Treatment Facilities Economic Recovery Program for certain classes of users as designated by the City Council. The recommended delay in the implementation of the charge for all property owners as recommended by Staff, would allow development of a program to assist those who would qualify for assistance. Language has been included as alternative recommendation 4 that would allow language to be added to the ordinance that would allow, but not obligate the City, to develop and approve such a program by future resolution. Pursuant to such a program, the City Council could allocate money from the general fund to a special economic recovery fund that could be used to fund a reduction of the sewer charge for classes of users designated by the City Council that are essential to the City for recovery from the current economic recession. If the City Council wishes to develop such a program, they may wish to delay the development of the program and the criteria under which applications for the charge reduction would be calculated until a future date, so that the economic condition may be better known.

Finally, Staff contacted all of the member agencies within the South Bayside System Authority, and the response from the City of San Carlos and from the City of Redwood City was that rate increases of 7% for San Carlos and 9% for Redwood City are planned for FY 2009-10. For future years those cities are still evaluating the impact of the program on rates. How rates are adjusted will also depend on the jurisdictions existing reserves and other program needs. With the recommended deferral of the debt service payment the implementation of rates to fund the SBSA CIP in Belmont will fall more into line with the timing of increased rates that will be necessary in other member agencies jurisdiction.

Sub-Committee and Commission Review

On March 31, 2009 the Infrastructure Sub-committee met to review comments that had been received during the outreach meetings. Staff reviewed several options with the Infrastructure Sub-Committee to secure input on proposed measures that may alleviate the other concerns raised. The proposed amendments that were reviewed with the sub-committee are incorporated into the proposed ordinance recommended for approval. On April 2, 2009 the proposal to delay the charge was reviewed with the Finance Commission at which time they recommended that Council adopt a two year deferral program.

General Plan/Vision Statement

There is no impact from this report. Maintenance of existing City's infrastructure is consistent with the City's goals and policies.

Fiscal Impact

Should the City Council implement the rate structure shown in the Notice, the revenue received will be sufficient to fund the requirements of the South Bayside System Authority Capital Improvement Program estimated at \$45.2 million dollars. Staff's recommendation to defer the collection of the Sewer Treatment Facility Charge for all property owners for two years will be accomplished by deferring the payment of debt service for two years. While debt service will be deferred two years, issuance of capital appreciation (Bridge Financing) bonds will take place later this year. This capital appreciation bond financing is a way to obtain project funds immediately while delaying the new fee.

Staff will return to Council at a later date this year with a report on the capital facilities debt financing plan.

Public Contact

As described in the staff report, public outreach meetings were conducted, Hot Topics links were established, and phone contacts provided. In accordance with City policy, in addition to mailing the legally required public Notice, the City published the Resolution approved on February 10, 2009 in the local newspapers for two consecutive weeks not less than 10 days before the date of the Public Hearing, and posted a copy of the Resolution on the official bulletin board customarily used by the City Council for the posting of notices.

Recommendation

At the conclusion of the public hearing and after hearing any testimony, should sufficient protests be submitted in opposition of the rates, the City should stop further proceedings of the rate proposal. Otherwise it is recommended that the City Council introduce the ordinance implementing a Sewer Treatment Facility Charge per Attachment A effective FY 2011-12, with a sunset date of FY 2047-2048.

Alternatives

After holding public hearing and determining if there is a majority protest:

1. Take no action.
2. Introduce the ordinance attached as Attachment A, with amendments to Sections 4 and 5 setting the Sewer Treatment Facility Charge to be effective FY 2009-10 and to sunset FY 2045-46.
3. Introduce the ordinance per the staff recommendation or alternative 2, amended to include

the language set forth in Attachment B setting forth a framework for a Sewer Treatment Facilities Economic Recovery Program and direct staff to develop recommendations for such program and bring back to council for approval.

Attachments

- A. Ordinance adding section 21.93 relating to the Sewer Treatment Facility Charge
 - Exhibit A to Ordinance– Rate Structure
- B. Sewer Treatment Economic Recovery Program

Respectfully submitted,

Karen Borrmann
City Engineer

Thomas Fil
Finance Director

Jack R. Crist
City Manager

Staff Contact:

Karen Borrmann
Assistant Director of Public Works
650-595-7469
kborrmann@belmont.gov

Brooke Lazzari
Deputy Finance Director
650-595-7434
blazzari@belmont.gov