To: Mayor and City Council

From: Craig Middleton, City Manager

Subject: Funding Approach - Critical Infrastructure Project

Recommended Action

Adopt a resolution indicating the Council's preference as to which funding approach for the Critical Infrastructure Project should be developed further for future consideration by the Council and public.

Summary/Background

On November 3, 2021, the City Council received a recommendation from the City's Finance Committee as to a preferred funding strategy for the Critical Infrastructure Project (CIP). The CIP is a project that would address weaknesses in the City's levees and seawall as well as vulnerabilities of major utility trunk lines. The Finance Committee recommended that the Council educate the public about two funding options and recommended further that, of these options, a real property transfer tax be pursued.

On November 29, 2021, the Council held a public meeting to discuss the two funding options that had been forwarded by the Finance Committee. The meeting was designed as an open forum with questions and answers along with general public comment. Several questions were posed by Councilmembers and the public, and were addressed by staff and consultants.

The two funding options that have emerged as the most equitable approaches for funding the $28M infrastructure project are: 1) a general obligation bond supported by an ad valorem tax, which would be levied annually on property owners at an estimated rate of $330 per $1M of assessed value, and 2) a 1% tax levied on the sale of real property at the time of sale, which would provide adequate general fund monies to support a lease financing that would raise $28M. Option 2 would require that Belvedere become a charter city.

Attached to this staff report for reference is the report from the Finance Committee's Task Force on Critical Infrastructure Financing and the staff report from the Council meeting on November 29th. These reports provide detailed information about the funding options.

It is important to note that either funding option would require that a measure be passed by Belvedere voters. The question before the Council tonight is which of the two approaches should be moved forward for further consideration and refinement, with the intention of developing a measure that Council could later determine whether to place on the November 2022 ballot.

Potential Next Steps

Were the Council to decide tonight which funding mechanism to pursue, staff would focus its efforts on steps needed to prepare a measure for Council consideration as a ballot initiative.

- Option 1 (GO Bond/Ad Valorem Tax): Staff and financial consultants/legal counsel would develop a tax measure for consideration by the Council in the Spring. The Council would need to act by mid-summer to place the measure on the November ballot. The measure would require the support of 2/3 of those voting in order to move forward.

- Option 2 (Real Property Transfer Tax/Charter City): Staff and consultants/legal counsel would develop a draft charter for initial Council consideration in the January/February timeframe. At least two public hearings would be required to consider the draft charter, after which the Council could finalize the charter and determine whether to place a charter city measure on the November 2022 ballot. In addition to the charter, the Council would review draft language for a real property transfer tax. The charter city and tax measure would likely be presented to voters as a single ballot initiative. Such an initiative would require a majority (50%+1) vote to move forward.

In developing a draft charter, which would afford the City enhanced local control over issues considered to be "municipal affairs," the focus would be on providing authority to enact a real property transfer tax (cannot be enacted by general law cities). With a narrowly focused charter, Belvedere would remain a general law city in most respects, except for its ability to enact the tax. Other charter elements could also be considered by the Council. Based on direction received from the Council, staff and consultants would develop a ballot measure for the Council to consider for placement on the November ballot.

In developing a real property transfer tax, the City's team would look to several examples close at hand – such as San Rafael, El Cerrito, San Francisco and other cities that have implemented such measures – to ensure that a ballot measure would be written with the benefit of the experience of these jurisdictions. Questions such as which party would be responsible for paying the tax (buyer, seller, both); what constitutes a sale or transfer; and how the tax would be administered would be worked out in coming months in consultation with legal and tax experts, some of whom have been working closely with these other jurisdictions.

Ongoing Efforts

Concurrent with the refinement of a funding mechanism, design work and environmental analysis will continue in the new year. This work will afford members of the community opportunities to comment as the project progresses. In addition, efforts to identify outside funding for the critical infrastructure project are continuing. Finally, staff is continuing its discussions with Tiburon to coordinate efforts, particularly relating to flood control aspects of the project.

Attachments:

A. Report: Belvedere Taskforce on Critical Infrastructure Financing
B. Staff Report: City Council meeting of November 29, 2021
C. Draft Resolution

Belvedere Taskforce on Critical Infrastructure Financing:
Recommendation to Finance Committee

Date: October 18, 2021

Background

On July 30, 2021, the City of Belvedere's Finance Committee established a Brown Act *Taskforce on Critical Infrastructure Financing* ("taskforce"), comprising four of its seven members (Bob McCaskill, Greg Ostroff, Sally Wilkinson, and John Wilton). The taskforce was assigned the job of analyzing options for financing critical infrastructure improvements to San Rafael Avenue and Lower Beach Road, a project which is estimated to cost $28 million, including a 30% contingency. The taskforce met four times in public session over the course of three months. Councilmember Jim Lynch attended meetings as a member of the public. This report provides a summary of its analysis and recommendations.

Professional Advisors

The taskforce relied on various outside advisors to complete its work, as follows:

- Bond Counsel: Brian Forbath of Stradling Yocca Carlson & Rauth
- Ballot Counsel: Sky Woodruff of Myers Nave
- Financial Advisor: James Fabian of Fieldman Rolapp & Associates
- Polling Consultant: Bryan Godbe of Godbe Research
- Political Consultant: Charles Heath of TBWB Strategies

Debt-Free Financing Options

The taskforce began its work by considering the scope to fund a $28 million critical infrastructure project (CIP) from the City's current budget and/or reserves. It concluded that the City's $8.6 million annual budget is fully assigned, and its $3.5 million operating reserve is intended to cushion against catastrophic loss, not finance capital improvements.

It discussed the appeal of grant funding and encouraged staff to aggressively pursue state and federal funding options, which it is doing with the help of a grant writer. At the same time, it acknowledged the improbability of securing $28 million in grants for such a local project. Given the urgency of the CIP, which will be shovel ready by 2023 and is expected to take two years to complete, the taskforce accepted that the City will likely have to borrow funds to pay for the project and must create a new revenue stream/or streams to repay that debt. The amount borrowed could be scaled down if grant funding is forthcoming.

Legal Restrictions on Local Government Taxes and Debt

The taskforce set about understanding the complex legal rules on issuing debt and introducing new taxes in California. <u>In broad terms, municipalities cannot issue debt without first introducing a new tax stream to pay debt service and the electorate must approve the tax by a two-thirds supermajority.</u> The rule is commonly known as the balanced budget rule or debt limit. It is intended to force municipalities to maintain budget balance, and only accumulate debt if at least two-thirds of the electorate consents ahead of time to pay the higher taxes needed to repay that debt, thereby ensuring intergenerational equity. Moreover, <u>only certain taxes can be pledged as sources of repayment for municipal debt</u>.

<u>Taxes that cannot be pledged as sources of repayment for debt</u> can typically be adopted with a simple majority vote of the electorate and are normally used to help fund general expenses on an ongoing basis. In practice, these tax streams <u>may also be leveraged in indirect ways to fund debt</u>, by using legal exceptions

to the debt rule to issue debt without a public vote. The “lease exception” is commonly used by municipalities to issue lease revenue bonds to pay for capital projects. The newly created tax receipts may, in effect, be used to make annual lease payments. The taskforce therefore concluded that it should study all possible tax streams, not just those authorized to be directly pledged to repay debt. After that, it would explore how to leverage the chosen revenue stream/streams to issue debt.

Debt Service Costs

In ballpark terms, the City’s financial advisors estimate that annual debt service on a $28 million bond will be approximately $1.5 million, based on 30-year maturity (matching the useful life of the assets) and a 3.5% interest rate (cushioning for a backup in market rates from current levels).

Desired Tax Features

The taskforce discussed the desired characteristics of a tax to pay for the CIP and agreed that taxpayer equity (who pays, who benefits), voter appeal, revenue certainty and administrative ease are all important considerations. It discussed the issue of who benefits from the infrastructure improvements and concluded that all residents gain when the City’s utility trunk lines (water, electricity, gas, sewage) and critical access roads are protected from the impacts of earthquakes and other hazards. That said, there was broad agreement that owners of more valuable properties, with more expensive assets at risk, should pay more tax than owners of less valuable properties.

Funding Streams

The taskforce discussed the range of possible tax streams capable of generating $1.5 million annually. It ruled out local add-on sales taxes, business taxes and transient occupancy taxes given the City’s minimal commercial activity. Utility user taxes were also discarded given the small number of residences in Belvedere. It identified four possible options: a parcel tax, a Mello-Roos tax, an ad valorem property tax, and a real property transfer tax.

Table 1: Taxes Levied by California Local Governments

Tax	Description
Ad Valorem Property Tax	A levy on property based on property’s assessed value and used for voter approved debt.
Parcel Tax	A levy on property, typically a fixed amount per parcel. Cannot be based on a property’s value.
Sales Tax	A levy on the retail sale of tangible goods.
Transient Occupancy Tax	A levy on the occupancy of hotels, motels, or other short–term lodging.
Utility User Tax	A levy on the use of utilities, such as electricity, gas, or telecommunications.
Business Tax	A levy on operators of businesses.
Mello-Roos Tax	A levy on property in a defined zone, typically a fixed amount per parcel. Cannot be based on property’s value.
Real Property Transfer Tax	A one-time levy on the sale of property based on the property’s sales price.

Source: Legislative Analyst’s Office

Option 1: Parcel Tax

A parcel tax is an annual tax levied at a fixed amount per parcel (or per room or per square foot). There are 935 taxable parcels in Belvedere, thus a parcel tax to fund the CIP would cost roughly $1,600 per parcel per year. Members felt that a parcel tax was not the right funding vehicle and were particularly concerned about the ability of elderly residents living on fixed incomes to pay the tax.

Table 2: Key Parcel Taxes in Belvedere 2021-22

Tax	Tax Per Parcel
Reed Union School District[1]	$624.58
Tamalpais Union High School District[1]	$483.68
Belvedere Fire Tax	$906.00
Sanitary District 5	$1,987.00
Belvedere Tiburon Library Agency	$66.00
Marin Municipal Water District	$75.00

[1]Seniors' exemption. Source: Marin County Tax Collector

Option 2: Mello-Roos Tax

A Mello-Roos tax is a levy on property in a defined zone, known as a Community Facilities District, used to finance infrastructure investment and some public services. The tax cannot be linked to property values, but otherwise the formula for apportionment is flexible, including its frequency. The taskforce was unable to create a formula which it believed was equitable. The option was dropped.

Option 3: Ad Valorem Property Tax

An ad valorem property tax is an annual levy on property charged in proportion to a parcel's assessed value (over and above the standard 1% ad valorem levy provided by Proposition 13). The proceeds must be used for voter-approved debt tied to a specific infrastructure project. The total assessed value of properties in Belvedere currently stands at $2.6 billion (2021-22 property tax roll), thus an ad valorem property tax to fund the CIP would cost taxpayers annually about 5.6 cents per $100 of assessed value, or put another way, $560 per $1 million of assessed value (assuming level debt service – see later discussion).

Table 3: Ad Valorem Property Taxes in Belvedere 2021-22

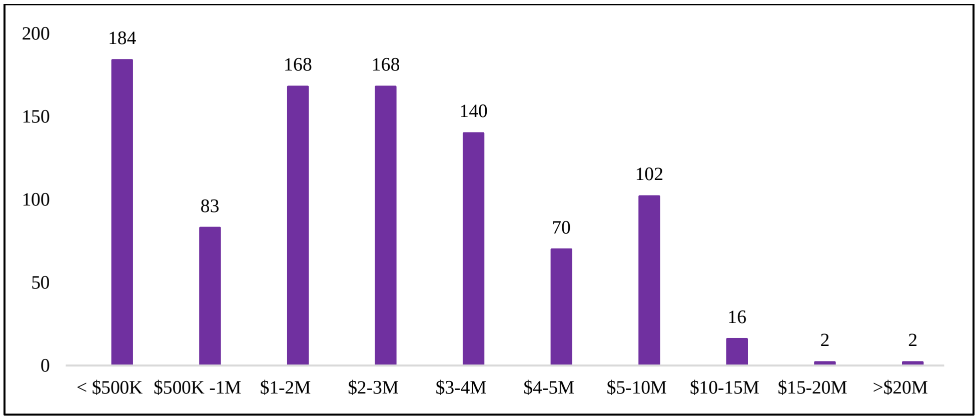
Tax	Tax Rate Per $100 of Assessed Value
Basic Tax	100.00 cents
School Bonds	7.66 cents
Health Bonds	2.18 cents

Source: Marin County Tax Collector

The taskforce reviewed the data on assessed values in Belvedere and noted the often-wide gap between a property's assessed value and its market value. Assessed values are based on 1978 property prices indexed for inflation. They are only rebased to fair market value when a property is sold or remodeled. Chart 1 shows the distribution of assessed values in Belvedere by valuation band, based on the 2020-21 property tax roll.

The taskforce discussed the imperfect nature of tying a tax to assessed values, but also noted that all properties do eventually change hands, and then the property tax burden shifts more heavily to those newly assessed properties. They also noted that an ad valorem tax cannot be used to fund ongoing maintenance of the capital improvements. Members saw value in the revenue certainty of this option (the tax is simply levied until the debt is repaid) and the ease of collection, as a new line item on property tax bills. They also noted that elderly people living on fixed incomes tend to live in properties that have not been reassessed for many years and would therefore pay significantly less tax. It concluded that, of the choices, this was an option worth pursuing in more detail.

Chart 1: Belvedere Assessed Values by Valuation Band (Number of Properties)



Source: City of Belvedere 2020-21 Property Tax Roll. Total assessed value of 935 taxable parcels = $2.53 billion

Option 4: Real Property Transfer Tax

A RPTT is a one-time levy on the transfer of real estate based on a property's selling price. Exclusions are given for transfers that do not constitute a sale. RPTTs are commonplace throughout California, albeit not in Marin, and are add-ons to the 0.11% documentary transfer tax that all cities charge. Buyers and sellers are most often made jointly and severally liable for the tax and the decision over who pays is part of the contract negotiation.

Table 4: California Cities with Real Property Transfer Taxes

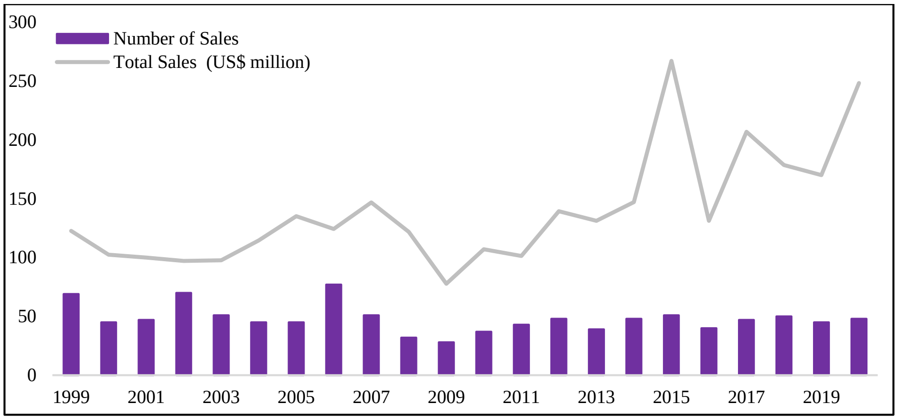
City	RPTT Rate	City	RPTT Rate
Alameda County		**Marin County**	
Alameda	1.20%	San Rafael	0.20%
Albany	1.15%	**Sacramento County**	
Berkeley	Banded from 1.50% to 2.50%	Sacramento	0.275%
Emeryville	1.20%	**San Francisco County**	
Hayward	0.85%	San Francisco	Banded from 0.50% to 6.00%
Oakland	Banded from 1.00% to 2.50%	**San Mateo County**	
Piedmont	1.30%	San Mateo	0.50%
San Leandro	0.60%	**Santa Clara County**	
Contra Costa County		Mountain View	0.33%
El Cerrito	1.20%	Palo Alto	0.33%
Richmond	Banded from 0.70% to 3.00%	San Jose	Banded from zero to 3.00%
Los Angeles County		**Solano County**	
Pomona	0.22%	Vallejo	0.33%
Redondo Beach	0.22%	**Sonoma County**	
Santa Monica	0.30%	Petaluma	0.20%
		Santa Rosa	0.20%

Source: California City Finance

The taskforce discussed the positive features of a RPTT. First, given the strength of Belvedere's real estate market, a tax on property sales could generate significant revenue. Belvedere sees about 50 property sales per year, with the average selling price now trending around $4 million, generating over $200 million in annual property sales. A 1.0% RPTT, for example, would therefore generate an estimated $2 million annually, easily covering debt service. Second, although only a fraction of taxpayers would pay the tax in any given year, Belvedere properties change hands, on average, every twenty years, so nearly everyone would eventually pay the tax. Third, the administrative lift would be low, with the tax collected by the

County of Marin alongside the existing documentary transfer tax (for a small per-transaction fee). Fourth, the tax could be used to fund ongoing maintenance of the capital improvements.

Chart 2: Belvedere Property Sales 1999-2020



Source: Author’s calculations using documentary transfer tax data provided by Marin County Recorder

The taskforce also discussed certain challenges associated with the RPTT option. First, property sales are not guaranteed, creating a volatile and uncertain RPTT revenue stream. Second, RPTT revenues cannot be directly pledged as a source of repayment for debt, so a more complex financial structuring would be required (see next). Third, under the California Constitution, only charter cities can adopt RPTTs, and the City of Belvedere is currently a general law city. Conversion, the taskforce learned, is relatively simple, with few downsides and some potential benefits in terms of greater local control. On balance, the taskforce felt the RPTT option was worth pursuing, in parallel with the ad valorem property tax option.

Table 5: Ad Valorem Property Tax vs RPTT (Key Features)

Feature	**Ad Valorem Property Tax**	**Real Property Transfer Tax**
Frequency of tax	Annual	Once, when property is sold
Revenue certainty	High	Volatile
Administration	Easy	Easy
Fairness	Medium/High	Medium/High
Source of repayment for debt	Yes	No
Fund ongoing maintenance	No	Yes
Complicating factors	None	Requires charter city conversion

Source: Author

Debt Financing

Next, the taskforce discussed how an ad valorem property tax and a RPTT could be leveraged to support debt.

1. Ad Valorem Property Tax/GO Bond Issue

An ad valorem tax is specifically designed as the funding source for a General Obligation (GO) Bond. By approving an ad valorem property tax, the taxpayer is essentially agreeing to tax itself at an amount necessary to make annual debt service on the bond, until the debt is repaid, at which point the tax sunsets. The bond is backed by the full faith and credit of the issuing municipality, based on its ability to levy the tax on its residents.

GO bonds can either be structured with level debt service or escalating debt service. **Level debt service** means that debt payments are roughly the same in nominal terms from year to year. As assessed values grow, the tax rate declines. According to the City's financial advisors, the annual tax rate on a $28 million GO level debt service bond would decline from an estimated 5.6 cents to 1.8 cents per $100 of assessed value (equivalent to $560 and $180 per $1 million of AV) over the 30-year life of the bond. With **escalating debt service**, the tax *rate* is kept broadly steady over time, thus nominal debt service payments increase over time as assessed values rise. The financial advisors estimate that the average annual tax rate using escalating debt service would be 3.3 cents per $100 ($330 per $1 million) of assessed value over the life of the bond. Because escalating debt service pushes more of the repayment stream into the outer years, interest costs - and therefore aggregate debt service costs - are higher than using level debt service. Nevertheless, the taskforce agreed that using escalating debt service was a superior option, to lessen the upfront burden on pocketbooks, and allow the tax charge to rise in line with rising incomes.

Overall, debt financing using an ad valorem tax as the source of repayment is straightforward and offers the lowest costs of financing available to a municipality. Based on Belvedere's overall excellent financial standing, the City is likely to secure a strong AA category credit rating. The same rating category would apply to the GO bond.

Table 6: Estimated Tax Rates to Service $28 million 30-Year GO Bond

Tax	**Level Debt Service**	**Escalating Debt Service**
Starting Tax Rate	5.6 cents per $100 of AV	3.6 cents per $100 of AV
Ending Tax Rate	1.8 cents per $100 of AV	3.3 cents per $100 of AV
Average Tax Rate	3.4 cents per $100 of AV	3.3 cents per $100 of AV
Total Debt Service	$46,300,000	$51,100,000

Assumes 4.0% annual growth in aggregate assessed values and 3.5% interest rate. Source: Fieldman Rolapp & Associates, Inc

2. Real Property Transfer Tax/Lease Revenue Bond

Issuing a debt financing using RPTT proceeds is more complicated. Under the California Constitution, RPTT revenues cannot be pledged directly as a source of repayment for debt. However, the City is permitted to issue lease-revenue bonds secured by $28 million of City assets and *de facto* use RPTT revenues as the source of repayment on the bonds. Because lease financing is considered an expense and not a debt under the California Constitution, lease revenue bonds do not need voter approval.

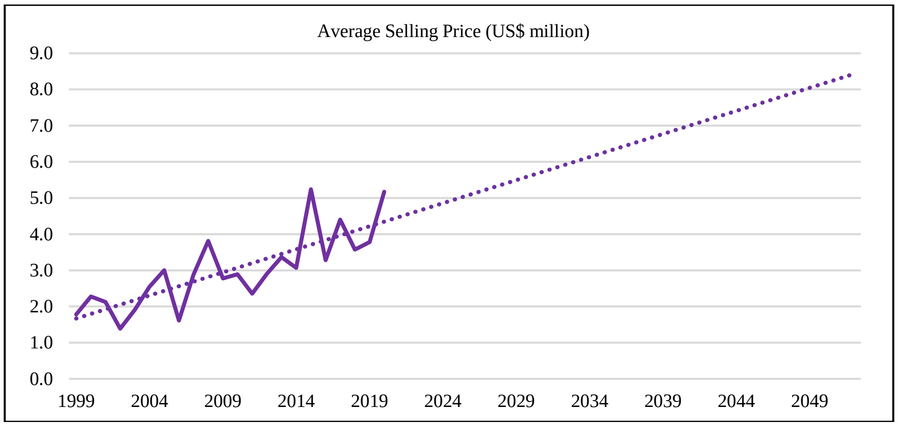
In vanilla terms, a lease revenue bond is a tax-exempt bond issued by a municipality that is secured with revenues generated by leasing out public assets to a third party. In practice, municipalities are allowed to lease those assets to themselves. The municipality leases the asset to a special purpose financing authority for a nominal fee, which leases the asset back to the municipality in return for annual lease payments. The financing authority can issue lease revenue bonds secured by those lease payments, up to the full value of the asset.

The taskforce worked with bond counsel to understand which City assets could be included in the lease. The upgraded levees could eventually become the leased asset, but not during construction, because the asset must be available for beneficial use for the lease to be valid. Other public assets would need to be assigned during construction. Staff determined that the combined value of City Hall, Community Park and Tom Price Park would likely exceed $28 million based on market comps, subject to appraiser verification. Lease financing arrangements are already in use at the City of Belvedere. In 2017, it signed a 15-year lease-leaseback of its corporation yard, with $2.6 million of funds released to pay down part of the City's unfunded pension obligation.

Under a lease financing structure, the lease would be secured by the City's general fund. RPTT revenues would flow into the general fund and would be critical in ensuring market confidence in the City's ability to make timely lease payments. The financial advisors advised adopting a **1 percent RPTT tax rate** given the volatility of the income stream, which they believe would allow the lease revenue bond to secure a debt rating just one notch lower than a GO bond. Financing costs would therefore be about 25 basis points higher than for a GO bond, based on conservative assumptions about market spreads. Unlike GO bonds, annual lease payments must be flat in dollar terms over time, ruling out the option of escalating debt service.

The taskforce discussed the real possibility that RPTT revenues exceed debt service costs by an increasing margin over time, as sales values move higher. The lease could be structured with various call provisions and the tax would sunset once the lease is paid off (subject to a vote of the electorate).

Chart 3: Trend Analysis of Average Selling Price of Belvedere Properties

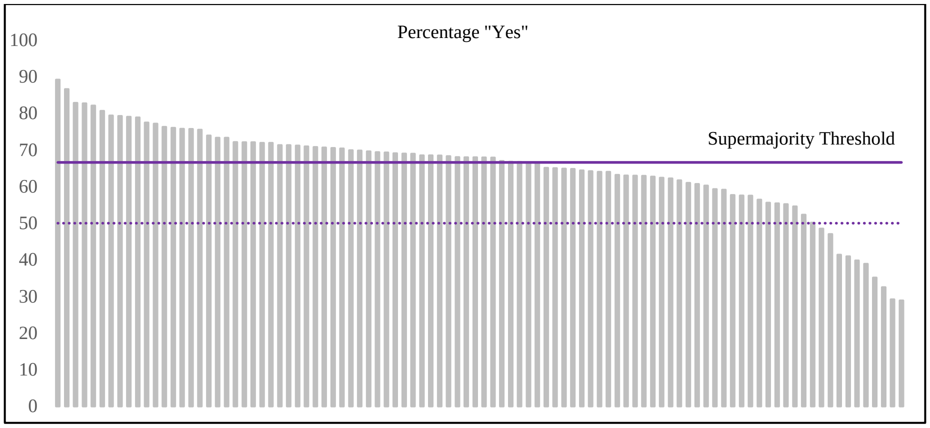


Source: Author's trend analysis based on historic documentary transfer tax data

Political Considerations

The taskforce moved on to discuss non-financial factors that might favor one tax over the other, notably vote thresholds and election timing. It learned that adoption of an ad valorem property tax requires supermajority (two-thirds) approval by Belvedere voters. There are four dates on which ad valorem property tax/GO bond elections can be held in any given year. The dates differ between odd and even years. By contrast, adoption of a RPTT requires only simple majority approval of the Belvedere electorate. Charter city conversion also requires simple majority approval, and the two questions can be combined into a single ballot question. The vote must coincide with the general election of City Councilmembers, held in November of even years i.e., the next opportunity would be November 2022. The taskforce discussed the difficulty of reaching a two-thirds threshold, based on historic election results. According to the California Debt and Investment Advisory Commission, between 2006 and 2020 there were 96 GO bond/ad valorem property tax measures on the ballot in California. 53 of them passed the supermajority threshold. Of the 43 failing measures, all but ten received majority voter approval. Super majorities are hard to achieve. Simple majorities are not.

Chart 4: California GO Bond Results 2006-2020



Source: California Debt and Investment Advisory Commission

Weighing the Options

The taskforce weighed the two tax options. Members were drawn to the simplicity and familiarity of the ad valorem property tax and the fact that it supports cheap, flexible financing. But members also surmised that the electorate might favor the RPTT option, as a one-time tax at a moment of high liquidity. Members also noted the fact that there is personal choice involved in the decision to sell a house, and thus pay the RPTT, whereas the ad valorem charge takes away personal choice. They also liked the fact that a RPTT could be used to support ongoing upkeep of the critical infrastructure improvements, which an ad valorem tax cannot. Members mused the idea of introducing both taxes at lower rates, but the City's consultants advised against putting two taxes on the ballot. Ultimately, the taskforce concluded that with two very credible tax options on the table, it should poll likely voters to see which option voters might prefer, before making its recommendation to the full finance committee.

Polling

Councilmembers Lynch and Wilkinson, alongside staff, worked with the City's pollsters, Godbe Research, to develop the poll. Brown Act considerations prohibited the full subcommittee from being involved in the design of the poll. The poll targeted likely voters in Belvedere and ran for 19 days in late September/early October. 268 returns were counted, representing a good sample size. Although the results are still being analyzed, the numbers look promising and both taxes appear to have good community appeal. Of the two options, the RPTT has greater chance of success at the ballot box because of the lower threshold (50%+1) that is required for passage.

Taskforce Recommendation

Based on its complete analysis, including likely success at the ballot box, the taskforce therefore recommends the City ask voters to approve adoption of a RPTT as a general tax, allowing it to issue lease revenue bonds to finance critical infrastructure improvements to San Rafael Avenue and Lower Beach Road.

SCHEDULED ITEMS | **BELVEDERE CITY COUNCIL**
NOVEMBER 29, 2021

To: Mayor and City Council

From: Craig Middleton, City Manager
Amber Johnson, Administrative Services Director

Subject: Background Information: Workshop on Funding Options for Critical Infrastructure Project

Recommended Action

Tonight's City Council meeting is a public workshop intended to review the emerging strategies for funding the City's Critical Infrastructure Project – a project that would strengthen levees to withstand earthquakes and take action to protect utilities, ensure emergency access, and prevent largescale flooding. The objective tonight is to discuss the two primary funding strategies and to hear from the public. No action is agendized for this meeting; it is anticipated that the Council may wish to select a funding strategy in December.

Summary/Overview

On November 3, 2021, the Council considered updated project designs for a project that has been under serious consideration for several years. The designs have progressed significantly since the Council approved a concept design for the project in the Fall of 2020. The project, the "Critical Infrastructure Project," is a comprehensive approach to protecting the City from current and future threats. By strengthening key access routes and utility arteries and providing additional protections against storm surges and waves, the project would not only ensure resilience of public assets but would also add value to every property in Belvedere.

As the design parameters of the Project have come into sharper focus, so has the projected cost. The current estimated cost, based on 60%-level designs and including a substantial 30% contingency, is $28M. Of this amount, some portion will likely be supported through grants. A grant writing consultant was hired last year and continues to work to obtain grant monies that would effectively reduce the total number of dollars that would be asked of Belvedere residents. Given that we, as of this writing, do not know what level of success that this effort will achieve, staff and the Finance Committee have assumed conservatively that all of the $28M will need to be raised through a funding mechanism that would involve a tax of some kind. The funding strategies that are being considered can be adjusted to reflect the final cost estimate, net of grant proceeds.

The Finance Committee created a task force earlier this year that researched funding options for raising $28M (or a subset of that amount) and determined that the most equitable approaches would be:

1. An ad valorem tax sufficient to support the repayment of 30-year bonds that would be issued by the City to pay for the Project. An ad valorem tax is based on assessed property value and would be paid by property owners each year for the 30-year life of the bond. It is estimated that, to raise sufficient funds to support a general obligation bond of $28M at an interest rate of 3.5%, the average annual tax would be $330 per $1M of assessed valuation.

2. A real property transfer tax would provide funding for the City's general fund, which would, in turn, enable the City to fund lease payments on city assets such as City Hall and Community Park. This "lease-leaseback" approach has already been used by the City to retire pension debt. It involves the City leasing assets to the Belvedere Financing Corporation (part of the City of Belvedere). The Corporation then leases the same assets back to the City in return for a certain lease payment. The stream of lease payments – over a period of years – is capitalized so as to provide a sum of money sufficient to accomplish the project. The real property transfer tax provides proceeds to the general fund of the City so that it has sufficient funds to pay the lease payments.

   A real property transfer tax is a tax levied when a property is sold. It is not levied unless the property is sold. The Finance Committee has determined that, based on the average number and sales prices of properties sold each year in Belvedere, a tax of 1% of the sales price, at time of sale, would be sufficient to fund the lease payments. This would support a project costing $28M.

Either of these two options would raise the $28M needed to fully fund the Critical Infrastructure Project. One of the options – the ad valorem/general obligation bond approach – would involve an annual property tax based on assessed value. The other option – the real property transfer tax/lease-leaseback approach – would involve a tax only upon the sale of a property. There would be no increase in annual property tax associated with this approach.

Another key difference among the two approaches relates to how funds can be used. Proceeds raised by a general obligation bond and supported by an ad valorem tax can be used to fund the construction of the Critical Infrastructure Project. They cannot be used to fund maintenance of the project once it is built.

Because the real property transfer tax is a general tax, meaning that proceeds are placed in the City's general fund, there is more flexibility as to how tax monies can be used. These monies could, for example, be used to fund maintenance of the improvements that are constructed.

Implementation

Once the City Council hears public comment and then selects a preferred funding approach, the voters of Belvedere would vote on whether or not to support it.

Approval of an ad valorem tax that would support a general obligation bond would require the support of 2/3 of those voting.

Approval of a real property transfer tax would require the support of a simple majority of those voting. Because only charter cities are authorized by the State Constitution to levy real property transfer taxes, voters would also, by majority vote, need to elect to become a charter city. Over a quarter of California cities are charter cities.

Charter Cities vs. General Law Cities

A charter city's municipal affairs are governed by a charter rather than by state law. A general law city is governed by state law as it applies to cities. Belvedere is currently a general law city. While charter cities could appropriately be viewed as having an enhanced level of local control as compared to general law cities, the state has the ability to determine what constitutes a municipal affair over which the charter may control. A number of cities have elected to create narrow charters that give them the authority to take certain actions that general law cities cannot take – such as levying a real property transfer tax. In these instances, the city is essentially a general law city in regards to issues/actions that are not specifically addressed in their narrowly-drawn charters. As mentioned, the charter must be adopted by majority vote of those voting in a municipal election; it can also be amended by majority vote.

If Belvedere were to become a charter city, it would join a long list of other such charter cities in California. In Marin County, San Rafael is a charter city; other nearby charter cities include Alameda, Albany, Palo Alto, Berkeley, Monterey and San Francisco.

For the purposes envisioned in this staff report – namely, providing funds sufficient for the construction and maintenance of the Critical Infrastructure Project – a narrow charter would be proposed. After two public hearings of the City Council at which the proposed charter would be discussed, the Council would place a combined charter city/real property transfer tax measure on the November 2022 ballot.

Attachments

A. Belvedere Taskforce on Critical Infrastructure Financing: Recommendation to the Finance Committee

B. Staff Report: Update and Key Feature Review of the "CIP" Design Plans & Cost, dated November 3, 2021

CITY OF BELVEDERE

RESOLUTION NO. 2021-XX

A RESOLUTION OF THE CITY OF BELVEDERE DIRECTING STAFF TO DEVELOP FUNDING APPROACH FOR CRITICAL INFRASTRUCTURE PROJECT

WHEREAS, the City Council has determined that a Critical Infrastructure Project is necessary to protect the City's key infrastructure from various threats, including earthquake, storms and related storm surge, and sea-level rise; and

WHEREAS, the Project is intended to protect against the disruption of utilities, ensure viability of emergency access routes, and safeguard against flooding; and

WHEREAS, the Finance Committee has reviewed several approaches to funding the Project and has recommended that the City Council consider two options and expressed a preference for one of these two options; and

WHEREAS, the City Council held a special public workshop on Critical Infrastructure Project funding on November 29, 2021; and

WHEREAS, either of the recommended funding options would require a vote of the public.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Belvedere hereby directs the City Manager to develop and present for further Council consideration and possible inclusion on a future ballot a draft measure that would provide funding that would enable the City to fund the Critical Infrastructure Project by means of a ___________________________.

PASSED AND ADOPTED at a regular meeting of the Belvedere City Council on December 13, 2021, by the following vote:

AYES: Steve Block, James Lynch, Nancy Kemnitzer, Sally Wilkinson, and James Campbell
NOES: None
ABSENT: None
ABSTAIN: None

APPROVED:___________________________
, Mayor

ATTEST:______________________________
Beth Haener, City Clerk