



TOWN HALL MEETING

PRIVATE SEWER LATERAL (PSL) SPECIAL ASSESSMENT

TUESDAY, FEBRUARY 21, 2023 - 6:00 PM

ALL HOMEOWNERS ARE INVITED TO ATTEND THE MEETING

IN-PERSON

Community of Harbor Bay Isle
3195 Mecartney Road
Alameda, CA 94502

UPDATED REMOTE LOGIN*

JOIN FROM PC, MAC, LINUX, IOS OR ANDROID:

<https://meetings.ringcentral.com/j/1468028583>

TELEPHONE: +1(623) 404-9000 (US WEST)

Meeting ID: 146 802 8583

(BE SURE TO PROVIDE YOUR NAME & ADDRESS ON THE SIGN-IN SCREEN)

The Board of Directors, Mike Fisher from Waterworks Engineers and Andrea O'Toole from O'Toole Rogers LLP will be available to provide a brief presentation regarding this EBMUD mandated project, proposed \$13,000 Special Assessment, and answer your questions.

*This is an in-person meeting. While we hope to provide a virtual option for attending the meeting via Ring Central, please be aware that specialized equipment to facilitate a "hybrid" style meeting has only recently been received by the Community of Harbor Bay Isle and there may be difficulty hearing the meeting, seeing any slides or having your questions heard or recognized. We apologize if this is the case and urge everyone to submit questions in advance to our manager Amanda Meng at Ameng@harborbay.org.

It is expected that there will be a second Town Hall on Tuesday March 14 at 6:30 after ballots have been mailed. This will likely be a virtual meeting to answer additional questions as well as to accommodate those that could not attend the February 21 meeting.

Please feel free to contact Amanda with any additional questions at Ameng@harborbay.org or 510-865-3363.

PRIVATE SEWER LATERALS (PSL) PROGRAM AT A GLANCE

Why the Project

An EBMUD Ordinance requires BLB to assess and rehabilitate its private sewer lateral system, submit a corrective action work plan, pass EBMUD verification testing, and receive a compliance certification. The project in BLB includes 143 sewer laterals, sewer mainlines, and manholes.

Why the Special Assessment

The design and rehabilitation cost estimate to comply with EBMUD Ordinance is \$2.8 million. The Association does not have sufficient reserves to fully fund the corrective work. The BLB Board intends to apply up to \$1 million of existing cash reserves to the project. The remaining amount of \$1.8 million will require a Special Assessment of \$13,000 per unit.

Vote on Special Assessment

Per BLB CC&Rs, the assessment must be approved by the homeowners. In order to achieve a quorum for a vote, a minimum of 72 homeowners must vote. Of those voting, a majority is required to approve the assessment. Ballots will go out later in February.

Consequences of Failure to Approve PSL Special Assessment

Since the Association will not have sufficient funds to undertake the EBMUD mandated project, the Board must raise the funds by increasing regular monthly assessments by 20% per year and approve a 5% of budgeted gross expenses special assessment annually for this year and several subsequent years in order to maintain sufficient reserves. Such increases will negatively affect home values and marketability. Additionally, the project may be delayed and costs will likely increase significantly.

Why Not an HOA Bank Loan for Funding Project

For a loan, significant monthly principal and interest payments will further reduce reserves to under 30% of fully funded reserves and delay maintenance of buildings and infrastructure such as painting and trim repair/replacement, road resurfacing, pool resurfacing, and future projects. Thus, assessment increases comparable to those for failure to approve a Special Assessment will be required. Assuming a 7% loan, loan payments will exceed cash funding by 26%.

Payment Options if Special Assessment Approved

Based on a current schedule for the Project, payment of \$13,000 will be due on or about July 5, 2023. Methods of payment may include:

- Paid in full using homeowners' available funds, or
- Homeowners obtain private financing through a home equity loan or other means, or

- Homeowners enter into a payment plan with the HOA that includes recording a voluntary lien on their property to secure their obligation to pay. (See next paragraph for more info on this option).

Payment Plan with HOA

Participating homeowners will need to be current on all assessments, including penalties and fines.

Loan participants will make monthly principal and interest payments on a seven-year loan payment plan at a current bank loan rate of approximately 7%.

Participants will be responsible for the following fees:

- Attorney fees for drafting and recording the loan note
- CHBIOA administrative set up fees and fees for processing monthly payments
- Bank fees, if any

The cost of upfront fees is expected to be less than \$700, but have not yet been finalized.

Project Schedule

Mobilization expected to start in May 2023, construction in July 2023, and completion within a year.

Disruptions During Construction

The Association will make every effort to communicate with homeowners and manage disruptions when and wherever they occur.

For sewer system rehabilitation projects of this type, there will be unavoidable construction traffic and noise in the neighborhood. Parking areas may be needed for staging equipment. Excavations will occur in some pavement areas, driveways, common areas, and sidewalks, requiring patches or plating. Two to five locations will be disrupted on any given day.

During sewer pipe lining and verification testing, homeowners will not be able to use their plumbing (sinks, showers, washers, dishwashers, toilets, etc.). Usually this will be for less than one day, but likely for at least 4 hours.

Please refer to the Q&A Document for additional information on these and other topics related to the Sewer Lateral Project.

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QUESTION	ANSWER
Why is BLB required to assess and repair our Private Sewer Laterals?	In 2009, the EPA and California Regional Quality Control Board ordered EBMUD, the six cities that make up the greater Bay Area and one sewer district to assess and rehabilitate old, cracked, sanitary sewer system components for each residential parcel. In response, EBMUD passed a private sewer lateral ordinance laying out the framework for meeting the EPA's requirements. This included a timeline and procedures for public and private entities and requires that each sewer system component be assessed and rehabilitated with the appropriate method, pass a verification test with a EBMUD inspector present, and obtain a compliance certificate. For most private homeowners in the region this entails repairing only the portion of the sewer lateral to their property line most often occurring at time of sale. However, our Association is in a unique position given that it is considered a "common interest development" with a combined length of sewer laterals greater than 1,000 feet. This required that our Association complete a condition assessment of our sewer assets and submit to EBMUD a Corrective Action Work Plan detailing our plan to make all repairs necessary to pass verification testing and obtain a compliance certificate for all sewer assets. The Association is not only responsible for the repairs of the private sewer lateral from each home but also the sewer mains and manholes located in the Association's bounds that collect sewer flow from the laterals and discharge into the city owned sewer system
How will the money from the special assessment be used?	The 2023 Special Assessment will be used specifically to fund the implementation of the Corrective Action Work Plan submitted by Water Works Engineers and approved by EBMUD November 2021. This \$2.8 Million compliance initiative includes project management, construction, and inspection costs for obtaining a 20-year Certification by EBMUD Inspectors for all PSL components of Brittany Landing Bay HOA. This scope of work for the rehabilitation at BLB includes 143 sewer laterals (3,424 linear feet), 143 sewer clean outs, 3,529 linear feet of sewer main lines and 35 sewer manholes.
What happens if the Special Assessment is not approved?	The only source of funding for our HOA expenses is membership assessments. We have insufficient funds on hand to undertake this mandated project. The Board can raise regular assessment up to 20%/year and approve a 5% of budgeted gross expenses special assessment annually without a vote of the membership and will have no choice but to raise funds in this manner. This will result in regular member assessments totaling \$841/unit/month in 2023 including the CHBIOA assessment (the previously 2023 approved 4.5% increase would need to be amended to a 20% increase if the Special Assessment is not approved) to \$1,402/unit/month in 2026 (assuming no change in the \$71 CHBIOA fee) and further delaying the project. Such high assessments will have a negative impact on home values and marketability.

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	<p>In addition, without a member-approved special assessment the project will need to be delayed. Contract prices will increase at an estimated rate of 8%/year and total project costs will likely increase even more due to further deterioration in the sewer system. Other scheduled projects such as painting and trim repair/replacement, road resurfacing and pool resurfacing may also need to be delayed.</p> <p>Although a bank may be willing to fund the project without a special assessment, comparable assessment rate increases will be required to maintain a reserve level over 30% of fully funded reserves (reserve levels under 30% are considered weak and associated with the need to impose special assessments).</p>
Why is the special assessment \$13,000?	<p>Rather than allocate the EBMUD \$2.8 Million project across the 142 homeowners for a Special Assessment cost of approximately \$19,775 each, the Board of Directors will utilize a portion of the currently available association reserves towards funding this large project. The balance of funding needed is \$1,846,000, resulting in a \$13,000 Special Assessment for each homeowner.</p>
Why aren't there cash funds available to pay for this project?	<p>Unlike regular maintenance of our buildings and infrastructure such as painting, siding replacement, roofs, this is an unanticipated and extraordinary expense resulting from an EBMUD consent decree with EPA and an EBMUD Ordinance adopted in 2013 and last amended in 2019. The Board has been raising dues since 2019 in an effort to build reserves to pay for the project but until recently the Board did not have a good engineer's estimate of project cost. BLB as well as the other members of the PSLWG (PSL Working Group, a group of 5 HBI HOA's that came together to leverage size and save costs by working together and using some of the same professional consultants under separate contracts) retained Waterworks in late 2020 to file the Corrective Action Work Plan with EBMUD and finalize the design and cost estimate of the project. The Board intends to use up to \$1.0 Million in cash reserves in addition to \$1,846,000 in Special assessments to pay for the project reducing reserves to a 28% funding level at the end of 2023. Work on the project began in 2016 with video assessment of all laterals and mains.</p> <p>Through January 2023, \$182,625 has been spent on video assessment of the lines, engineering design and cost assessments and filing of Corrective Action Plan required by EBMUD, engineering and attorney fees in contract negotiations.</p>

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<p>What happens if the special assessment is approved but a homeowner cannot or refuses to pay it?</p>	<p>The Board has determined a funding plan to allow homeowners to select from different payment options to offer flexibility to homeowners whose individual financial situations will vary. The Board will work with owners experiencing financial hardship and who have a demonstrated need to determine whether an alternative payment arrangement will work for the association and homeowner. All homeowners will need to participate in the special assessment. Collection of the special assessment is subject to state law and governing documents and, should it become necessary, the association will pursue collection of the assessments accordingly.</p>
<p>Assuming the assessment is approved, what are my options for paying the assessment?</p>	<p>Based on the current schedule, on or about July 5, 2023 the special assessment payment of \$13,000 will be due from each Member. The Board is pursuing a 7-year bank loan for those individuals that cannot or who choose not to pay the special assessment in full when due. Those homeowners will need to enter into a payment plan with the HOA and cover their share of costs associated with the loan and payment plan including the recording of a voluntary lien on their property securing their obligation to pay. The Board encourages homeowners to pay your special assessment in full. Each homeowner may want to look into obtaining your own financing since it provides more flexibility in the payment terms and may also provide tax benefits. Our research indicates that credit unions appear to be more likely to provide a home equity loan than commercial banks.</p> <p>Please consult your tax advisor as to the tax treatment of a special assessment.</p>
<p>What happens if we don't comply with the EBMUD ordinance.</p>	<p>In addition to judicial remedies available to EBMUD, EBMUD may impose civil penalties of up to \$10,000 per day on the Brittany Landing Bay Homeowner's Association. Although we have until July 2029 to complete the project before any penalties could be imposed, we have been working on this project since 2016 and would expect prices to increase due to inflation and further deterioration to the system. Any delay would also jeopardize our ability to complete the project by the required deadline.</p>

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What happens if the project comes in over budget?	If additional expenditures occur during the bank construction loan drawdown period, the HOA could use the loan for such project overruns. Some amount of the Association’s Reserve Fund cash may also be used but this would further reduce the HOA reserve funding levels. Waterworks Engineers provided the Board with a 90% design cost estimate for assets requiring rehabilitation based on 2016 video of the assets and other available sources of information (Base Case). They also provided the Board with a cost based on total rehabilitation of the assets. While the Guaranteed Maximum Price (GMP) contract will protect the HOA for any price differential for the assets included in the Base Case, the HOA remains “at risk” for any other assets requiring rehabilitation and the GMP applies only to the material/labor unit prices for such rehabilitation. For budget purposes, we have assumed the total rehabilitation and are therefore confident that the project can be accomplished within budget.
What happens if the project comes in under budget?	The projected 2023 yearend reserve balance after project completion is \$1.7 Million or 28% of fully funded reserve. Reserve balances less than 30% of fully funded reserves are associated with a high risk of a special assessment. If the project comes in under budget the surplus will remain in the reserve for other reserve expenses reducing the likelihood of another special assessment and potentially mitigating future assessment increases. The projected HOA major maintenance projects scheduled for 2024-2026 includes \$600,000 for painting/power wash/ caulking and trim repair in 2025, \$700,000 for asphalt street repaving in 2026/27 and \$3.5M in 2033 for roof replacement for 142 residences. The reserve fund provides for the repair and replacement of 99 capital components.
What kind of vote is necessary to approve the assessment?	As defined by California Civil Code 5605, passage of the special assessment requires a majority of a quorum to approve the special assessment. A quorum is 72 Members. From the submitted secret ballots, a majority of those who vote is required to approve the special assessment.

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<p>Why doesn't the Board take out a loan paid from regular HOA assessments?</p>	<p>A 7-year loan with an estimated 7% interest rate “costs” 26% more than a cash funded project due to interest payments. A special assessment with an option to finance their special assessment through the HOA Loan or through their own home equity loan seems like the best solution. It allows those that choose to pay the special assessment up front to minimize their costs and for those that choose to pay for the project over time to finance the project with a payment plan option through the HOA bank loan. Individuals may secure their own financing for their assessment through their bank or credit union. Individuals may be able to get a better rate than the HOA, can customize the term of the loan to something other than 7 years, and may have certain tax advantages.</p> <p>Homeowners should consult with their tax advisor as to the potential tax deductibility of a home equity loan or other financing.</p>
<p>What has the Board, on behalf of the HOA, accomplished to date to address this unforeseen expense?</p>	<p>Outreach/schedule with other Homeowner Associations which have completed the EBMUD Compliance</p> <p>Provided monthly Board updates on Condition Assessment, Corrective Action Work Plan, and Legal preparations for EBMUD Compliance</p> <p>October. 2018 - meeting with BLB homeowners</p> <p>April 2019- meeting with BLB homeowners</p> <p>July 2019 -BLB joined a PSL Working Group (PSLWG) of originally 4 HOAs in Harbor Bay Isle to provide economies of scale to select engineering, project management, and attorney services to comply with the Ordinance.</p> <p>November 2019-filed PSL Statement of Responsibility to EBMUD</p> <p>May 2020 -PSLWG interviewed 5 engineering firms that responded to Request for Proposal (RFP) for project management</p> <p>July 2020-Retained attorney to work on PSL contract review and PSL financing</p> <p>December 2020- BLB entered into contract with Water Works Engineers</p>

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	<p>July 2021 -EBMUD submitted Condition Assessment Work Plan (CAWP) filed by Water Works Engineers</p> <p>November 2021- EBMUD approved submitted CAWP for PSL Renovation</p> <p>November 2021 -CC&Rs amended to transfer responsibility for PSL sewer cleanout from HO to HOA</p>
<p>How will a special assessment impact the sale of my property?</p>	<p>As the EBMUD Ordinance compliance impacts all properties in its service area, it will not have an adverse impact on the marketability of the properties. In the event that the special assessment is not passed, however, the only way which the project could be funded is through monthly assessment increases of 20% per year and an annual 5% of budgeted gross expenses Board-approved special assessment. This could have a detrimental impact on market values at BLB since the HOA monthly fee would increase by about 90% by 2026.</p>
<p>Who will handle the accounting for loan payments?</p>	<p>The Community of Harbor Bay Isle Homeowners Association accounting department will manage the monthly payment process for homeowners who elect a loan payment plan option. BLB homeowners entering in the loan payment plan program will be responsible for the supplemental accounting fees and interest.</p>
<p>Are there any requirements to participate in HOA loan?</p>	<p>As indicated above, the homeowner will need to enter into a payment plan/Note with the HOA. The homeowner will need to be current on all assessments including any penalties and fines. The homeowner will also be responsible for the attorney fees for drafting and recording the note, CHBIOA administrative set up fees and any additional bank fees. These fees are expected to be less than \$700 but have yet to be negotiated. There will likely be an administrative fee of \$5-\$10/month depending on the number of participants.</p>
<p>Why do I need to pay if my PSL is in perfect condition</p>	<p>In an HOA – it’s all for one and one for all when it comes to common area infrastructure. For example, if one homeowner has a failing roof, the HOA is obligated to repair the roof and we all share in the cost. In addition, because we have private streets we must also test and rehabilitate the sewer mains and manholes inside the development.</p>
<p>My friend on the “Big Island” owns a home and they are not being</p>	<p>The rules for HOAs are different than homes not in an HOA. Non-HOA homes are required to test and repair their laterals when the home sells or there is remodeling in excess of \$100,000 or change in meter size. Homes will get a certificate good for up to 7 years for laterals that were partially repaired or passed “as is”, while complete replacement of the lateral with testing verification will receive a 20-year certification. HOAs that have responsibility for the private</p>

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required to rehab and test their PSL.	sewer laterals will get a 20-year certificate from EBMUD upon completion of all the work outlined in the Corrective Action Work Plan and any additional repairs necessary for every asset in the system to pass EBMUD witnessed certification testing. Unfortunately, these lines must be tested again in 20 years, however, the work being implemented is designed for a 50-year service life increasing the likelihood that the lines will pass “as is” in 20-years’ time.
What is the project Schedule if Special Assessment Approved?	It is currently expected that the contract will be signed after the special assessment is approved. Mobilization is anticipated to start in May and construction to commence in July and be completed within a year. Assessments will be due by July to coincide with commencement of construction. If the assessment is not approved the project will be delayed and it is anticipated the cost will increase significantly.
Why is a Design Build (DB) Guaranteed Maximum Price (GMP) Contract approach being undertaken	<p>The Board and other members of the PSLWG selected Design Build and a GMP contract based on potential savings of at least an estimated \$440,000, based on the Engineer’s 90% Design estimate, from both an expedited schedule reducing inflationary risk and ability of contractor to pre-order certain materials.</p> <p>Most public sector construction projects follow the Design Bid Build (DBB) project delivery methodology where an owner and designer fully develop the scope of the project, advertise for bids, and choose the lowest responsive bidder. However, Water Works’ experience and several factors unique to this project increasingly made a DB methodology attractive for the HOAs in the PSLWG.</p> <p>Water Works pulled all available resources (field investigation, existing drawings, etc.) and produced mapping to a degree of detail as reasonably possible. However, the status and location of some of the sewer assets in the BLB remained unknown. In these instances, Water Works has given a best educated guess and in a DBB scenario the Contractor would have to add some contingency while bidding and possibly even issue a change order during construction resulting in a hostile dispute-laden environment. In addition, these unknowns made the project cost hard to accurately determine. In Water Works’ experience, Underground utility rehabilitation projects such as sewer are difficult to accurately price. Often times conditions in the ground are different than in existing documentation. An unknown final project cost was unacceptable for our Association given our financing options to pay for this project. It was at this point that a DB with GMP methodology was proposed by Water Works with performance-based requirements (i.e., passing the EBMUD verification test).</p>

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	<p>Design Build shifts some risks and control to the DB team. Our Association would only have one contract and a single point of responsibility decreasing our administrative and legal burden. Furthermore, DB encourages collaboration between the Engineer and Contractor often resulting in fewer claims and disputes. WaterWorks believes this will address the unknowns previously mentioned. Finally, a GMP for each unit of prescribed work gives our Association a much more concrete cost estimate to serve as a basis for funding procurement. As the name implies, a GMP means that the DB team have agreed that, based on the repairs recommended, they will ensure that the performance requirement (passing EBMUD test) is met no matter how conditions change.</p> <p>Based on our experience with the engineering firm and reference checks, the Board believes we have such a team.</p> <p>According to a study by Penn State that compared Design Bid Build (DBB) to DB, DB projects had a 6% reduction in change orders, delivered 33% faster overall, and cost 6% less. https://www.beckgroup.com/wp-content/uploads/2015/06/DesignBuildVsDesignBidBuild.pdf</p> <p>Although we did not receive multiple bids for the project, the total rehab price appears consistent with earlier quotes from New Pipes in 2018, after adjusting for construction inflation. The GMP contract guarantees only unit prices. Change orders can be expected in both Design Build and Design Bid Build approaches to contracting. Although public entities generally utilize Design Bid Build there are many factors that enter into that decision including political considerations. Furthermore, it is unclear as to how many qualified firms would submit bids, particularly in the current environment of supply chain issues, California Construction Cost increases of 13.4% in 2021, labor shortages and the size of a project may be too big and relatively complex for local plumbing companies and potentially too small for larger general contractors.</p> <p>Design Build shifts some risks and control to the Design Build team. Design Build does work best for a team that works collaboratively to accomplish the best outcome. Based on our experience with the engineering firm and reference checks, the Board believes we have such a team.</p>
What sort of disruption will there be during construction?	<p>There are three general types of disruption to the public we expect:</p> <ol style="list-style-type: none">1. There will be general construction traffic and noise impacts in the neighborhood while the construction is happening. This will last for the entire construction duration. We do not expect any significant number of road closures but do expect some traffic control and additional vehicle traffic and parking as well as material staging

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areas. Where excavations have been made into the pavement, temporary paving will be used to patch the trench until a large area of repaving can be defined and repaved with permanent paving on a day with appropriate paving weather. Those temporary paved trenches will leave a bit of a rougher ride down the street during the construction period, especially in areas which have required significant trench excavation in the paved area. In active construction areas, plating may also be needed over open trenches which also can cause an irregular ride while driving over them.

2. While digging in each front yard for the clean-out location, there will be disruption to the front yard, landscaping and potentially sidewalk closures, partial or full driveway blockages, etc. This will be different for each home depending on cleanout location and depth. This will last for a few days to a week. Depending on the number of crews and pace of work, we would expect 2-5 locations to be disrupted on any given day. Efforts will be made to communicate with homeowners and manage the disruption when it occurs.
3. During the sewer lining process and the verification/air testing of the lateral, the customer will not be able to use their plumbing (sinks, showers, washers, dishwashers, toilets, etc.). This will be less than 1 day in almost all cases but will generally be at least 4 hours. If the air test cannot be coordinated with EBMUD at the time of construction, it will require a second shut-down for that location