

**RESOLUTION NO. 14-12**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILLBRAE  
ADOPTING PROCEDURES GOVERNING THE COMPLETION, RETURN AND  
TABULATION OF ASSESSMENT BALLOTS FOR THE PROPOSED FIRE  
SUPPRESSION ASSESSMENT**

**WHEREAS**, Proposition 218 was adopted on November 6, 1996, adding Articles XIIC and XIID to the California Constitution which impose certain procedural and substantive requirements relating to assessments (as defined therein); and

**WHEREAS**, Section 4C of Article XIID of the California Constitution and Government Code Section 53753 establish the ground rules and provide the opportunity for the City to develop a summary of the procedures for the completion, return, and tabulation of Assessment Ballots to be included with the notice requirements of Article XIID of the California Constitution; and

**WHEREAS**, for purposes of clarity and transparency, the City Council of the City of Millbrae ("City") finds it to be in the interest of the City to set forth these procedures governing the completion, return and tabulation of Assessment Ballots for the Fire Suppression Assessment.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Millbrae:

The City Council does hereby determine and order as follows:

1. It is the City Council's intent in adopting this Resolution, to establish procedures applicable to the completion, return and tabulation of Assessment Ballots that are consistent with the requirements of Articles XIIC and XIID of the California Constitution and with the Proposition 218 Omnibus Implementation Act (Government Code Section 53753). It is not the intent of the City Council to vary in any way from the requirements of Articles XIIC and XIID or the Proposition 218 Omnibus Implementation Act and the provisions of this Resolution shall be interpreted in accordance therewith.

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

A. The record owner(s) of each parcel to be assessed shall be determined from the last equalized property tax roll. Only property owners shall receive notice.

B. The notice shall be sent by first class mail at least forty-five (45) days prior to the date set for the public hearing on the assessment.

C. The notice provided by this section, which is in accordance with Article XIID, Section 4, of the California Constitution, shall supersede and be in lieu of any other notice as may be required by other statutes pertaining to the levy or increase of an

assessment, including but not limited to the notice specified in the statute authorizing the assessment and Government Code section 54954.6.

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

3. The procedures set forth below are applicable to the completion, return and tabulation of Assessment Ballots required by Article XIID of the California Constitution.

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

(1) At least forty-five (45) days prior to the date of the public hearing on the proposed assessment, the Assessment Ballot required by Article XIID, Section 4(D) of the California Constitution shall be mailed to all property owners affected by the proposed assessment whose name(s) and address(s) appear on the last equalized, secured property tax assessment roll for San Mateo County. If the person who receives the Assessment Ballot is not the property owner, (i.e., the property has been sold), the person receiving the Assessment Ballot should promptly notify the new property owner and the City Clerk.

(2) All Assessment Ballots must be returned to the City Clerk or his/her designee ("City Clerk") by mail or in person, sealed in the envelope provided not later than the close of the Public Hearing identified in Subsection C below. If the envelope is lost, the property owner can request an envelope from the City Clerk. The City Clerk may accept Assessment Ballots sealed in an envelope where the outside envelope is clearly marked that it contains an Assessment Ballot. For reasons of transparency and to facilitate a property owner's ability to withdraw or change his/her vote pursuant to rule 3.B.(4) below, the outside envelope shall depict the parcel number for which the vote is being cast. Mailed Assessment Ballots must be addressed to: City Clerk, 621 Magnolia Avenue, Millbrae, CA 94030.

(3) The Assessment Ballot must be signed under penalty of perjury. For properties with more than one owner of record, Assessment Ballots will be accepted from each owner of record. Each owner of record is entitled to vote. The City Clerk shall apportion the voting rights for that parcel between the owners based upon the respective record interests as the City Clerk deems correct, proper, and appropriate. However, if only one owner of record votes, the City Clerk shall tabulate that vote on behalf of the entire parcel. Multiple property owners may indicate their proportional property interest on the Assessment Ballot.

(4) The City Clerk may issue additional Assessment Ballots to "additional property owners" whose name(s) does not appear on the last equalized, secured property tax assessment roll. These additional Assessment Ballots shall be issued upon presentation of adequate information that the

requesting party is an additional owner of record. Additional Assessment Ballots may be obtained from the City Clerk: City Clerk, 621 Magnolia Avenue, Millbrae, CA 94030.

(5) A tenant of real property shall not have the power or authority to submit an Assessment Ballot.

(6) A property owner of record may delegate his/her Assessment Ballot vote to an authorized agent provided the authorization:

- (a) Is in writing,
- (b) Clearly identifies by first and last name the authorized agent,
- (c) Identifies the property by APN number or other information adequate to identify the property, and,
- (d) Is signed by the property owner under penalty of perjury, and such writing is attached to the Assessment Ballot.

(7) Only original Assessment Ballots with original signatures (i.e., no photocopies, facsimiles and e-mail) will be accepted.

(8) The City Clerk may issue a duplicate Assessment Ballot to any property owner who provides a reasonable basis to conclude that their original Assessment Ballot was lost or destroyed. The new Assessment Ballot shall be issued upon presentation of adequate information that the requesting party is an owner of record. The new Assessment Ballots shall be clearly marked as Replacement Assessment Ballots.

(9) An Assessment Ballot proceeding is not an election.

(10) The Assessment Ballot shall remain sealed until tabulation as provided in subsection B below. As the sealed Assessment Ballots are returned to the City Clerk, the outside envelopes of the sealed ballots shall be treated as a public record subject to disclosure, as defined in Government Code §6252, and available for inspection by any member of the public. During and after the tabulation, the Assessment Ballot itself shall also be treated as a public record subject to disclosure pursuant to Government Code §6252, and available for inspection to any member of the public once the ballot tabulation process is complete.

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

(1) An impartial person, including, but not limited to, the City Clerk or other person designated by the City who does not have a vested interest in the outcome of the proposed Assessment, shall tabulate the Assessment Ballots submitted, and not withdrawn prior to the close of the public hearing, in support or opposition to the proposed Assessment.

(2) The City Clerk or the designated person shall begin tabulating the Assessment Ballots upon the close of the public hearing referenced in Subsection C below.

(3) The City Clerk or the designated person shall determine the validity of all Assessment Ballots. The City Clerk or the designated person shall accept as valid all Assessment Ballots except those in the following categories:

- (a) An Assessment Ballot or authorization that does not contain an original signature;
- (b) An unsigned Assessment Ballot and/or authorization;
- (c) An Assessment Ballot which lacks an identifiable "Yes, I support" or "No, I oppose" vote (i.e., both boxes marked or neither box marked);
- (d) An Assessment Ballot which appears tampered with or otherwise invalid based upon its appearance or method of delivery or other circumstances; or
- (e) Assessment Ballots not in actual receipt of the City Clerk prior to the close of the public hearing referenced in Subsection C below.

The decision of the City Clerk or the designated person, after consultation with the City Attorney, that an Assessment Ballot is invalid shall be final and may not be appealed to the City Council.

(4) A property owner who has submitted an Assessment Ballot may withdraw the Assessment Ballot and submit a new Assessment Ballot up until the close of the public hearing on the Assessment.

(5) A property owner's failure to receive an Assessment Ballot shall not invalidate the proceedings conducted under this resolution and Section 4, Article XIID of the California Constitution.

C. Public Hearing on Assessments.

(1) At the public hearing, the City Council shall hear all public testimony regarding all objections or protests, if any, to the proposed Assessment and accept Assessment Ballots until the close of the public hearing.

(2) The City Council may impose reasonable time limits on both the length of the entire hearing and the length of each speaker's testimony.

(3) If additional time is necessary for public testimony, the City Council may continue the public hearing to a later date to receive additional public testimony and information.

(4) Following the close of the public hearing, the Assessment Ballots shall be tabulated.

(5) If, according to the final tabulation, the Assessment Ballots submitted against the proposed Assessment exceed the Assessment Ballots submitted in favor of the proposed assessment, weighted according to the proportional financial obligation of each affected property, a "majority protest" exists, and the City Council shall not impose the new assessment on parcels affected by the proposed Assessment.

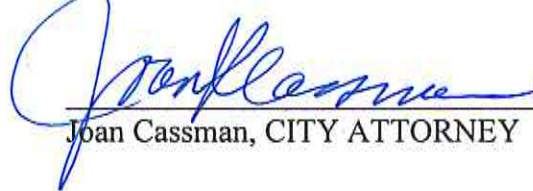
**PASSED AND ADOPTED** this 11th day of February, 2014.

  
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Wayne Lee, MAYOR

**ATTEST:**

  
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Angeles Louis, CITY CLERK

**APPROVED AS TO FORM:**

  
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Joan Cassman, CITY ATTORNEY

I do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Millbrae this 11<sup>th</sup> day of February 2014, by the following vote:

AYES:	COUNCILMEMBERS:	Lee, Gottschalk, Colapietro, Oliva, and Hober
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None
EXCUSED:	COUNCILMEMBERS:	None

  
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CITY CLERK