



**City of Belvedere
City Council Meeting
Other Scheduled Items
Monday, March 11, 2024**

To: Mayor and City Council

From: Rebecca Markwick, Director of Building and Planning
Robert Zadnik, City Manager

Reviewed By: Andrew Shen, City Attorney

Subject: **Item No. 6.A. - Discussion and Possible Action Regarding the City of Belvedere Mills Act Program**

Recommended Motion/Item Description

1. Consider the staff report on the City's Mills Act Program.
2. Direct Staff to modify the City's Mills Act Program and return to City Council at a later date with modifications; or
3. Direct staff to return to the April City Council meeting with an ordinance discontinuing the City's Mills Act Program.

Background

The Mills Act is a California state law that allows cities to enter into contracts with the owners of historic structures. (See Gov. Code § 50280, et. seq.) Under these contracts, private property owners receive an economic incentive, through a property tax reduction, to restore, preserve, and maintain their historic properties.

At its regularly scheduled meeting on July 10, 2023, the City Council ("Council") received a [report](#) from staff about the City's Mills Act Program. To summarize, due to staffing challenges, Belvedere's current approach does not require property owners to provide active plans or proof of satisfactory restoration, nor does the City have a fully developed inspection or monitoring program. As a result, the City cannot guarantee that money saved on property taxes goes toward a property's rehabilitation.

After deliberating on the issue, the Council requested that staff return at a later date with potential modifications to standards and policies related to future Mills Act Agreements ("MAAs"), as well as an analysis of the merits of discontinuing the program. The Council also asked staff for guidance on the treatment of existing Mills Act Program participants should the program be discontinued.

Discussion

Option 1: Modify Existing Program

As part of the staff's work in assessing how to improve Belvedere's program, it examined state law and the characteristics of other Mills Act Programs throughout the state. There are approximately [90 municipalities in California](#) with Mills Act Programs, with a great deal of variation in program specifics. However, key elements exist in nearly all programs that the City has been unable to incorporate into its Mills Act program, as follows:

1. Defined scopes of work. Property owners must provide 10-year plans of qualifying scopes of work that rehabilitate, restore, and maintain their properties. Qualifying scopes of work are those that prolong the life of the building. Examples include facade restoration, seismic retrofit, window repair and restoration, entrance replacement, roof replacement, new foundations, and materials conservation, such as murals, frescos, and decorative plasterwork. Properties that have already been fully restored do not qualify for Mills Act tax benefits. Interior scopes of work are typically excluded, except for critical infrastructure upgrades to wiring and plumbing to ensure the integrity of the building. All scopes of work must be completed per the [Secretary of the Interior's Standards for Rehabilitation](#) and the [California Historical Building Code](#).
2. Value of rehabilitation versus tax savings. The value of the proposed work must meet or exceed the expected tax savings over the initial ten years of the contract, and the work must be completed during this initial term. Some municipalities require permits to be pulled and work to be completed over a shorter timeframe.
3. Inspections. [Per state law](#), onsite inspections of the premises by the municipality must be completed before a new agreement is signed and every five years thereafter to determine the owner's compliance with the contract. Many municipalities also require annual reporting by property owners on progress toward rehabilitating, restoring, and maintaining their properties.
4. Administrative fees. Property owners can be charged a fee not to exceed the reasonable cost of administering the program, including processing of designation requests, contracts, monitoring, and enforcement, as needed. Most agencies have a specific fixed fee schedule.

Other common features include placing a cap on the assessed value of eligible properties, prioritizing properties based on equity considerations, and annual enrollment windows.

Should the Council wish to modify the existing program, various best-in-class models from other municipalities can be replicated. Key elements that will need to be developed include:

- Strengthened guidance to the Historic Preservation Committee, Planning Commission, and Council on assessing the eligibility of properties for historic designation.
- Strengthened guidance to the Historic Preservation Committee, Planning Commission, and Council on qualifying rehabilitation, restoration, and maintenance work.
- A new application packet, including a new contract.
- A more comprehensive fee schedule.
- A robust monitoring process.
- Revisions to [Chapter 21](#), Historic Preservation, of the Belvedere Municipal Code.
- Administrative Policy Manual revisions to outline the internal processes to ensure the program is implemented and maintained effectively.

Staff estimates that developing these more robust program elements will take approximately six months, which will be returned to the Council for further review.

Option 2: Discontinue Program

As discussed above, the Mills Act Program seeks to encourage owners of qualified historic properties to actively rehabilitate, restore, and maintain their properties in return for property tax relief to help defray some of these costs. At present, the City does not require active plans or proof of satisfactory work to qualify for a MAA, nor does it have an active inspection or monitoring program through the course of the agreement. This results in the City's potential loss of tax revenue without necessarily receiving the public benefit of rehabilitation and maintenance of historic structures.

While appreciating the community's desire to maintain Belvedere's historic homes, developing, maintaining, and monitoring a more robust Mills Act Program will require a renewed investment of staff time, as well as that of the Historic Preservation Committee, Planning Commission, and Council, all of which will need to review applications against a more rigorous standard. The Council must decide whether developing and enforcing a more robust Mills Act Program is a good use of city resources or whether discontinuing the program is a better course.

It is important to note that discontinuation of the Mills Act Program to new applicants does not prohibit property owners from continuing to seek historic designation. The Historic Preservation Committee will continue to do this important work, as well as review planning applications for work at properties with historic designation.

It should also be mentioned that Belvedere is not alone in struggling to administer its Mills Act Program appropriately. For example, [Los Angeles' Mills Act Program](#), the largest in the state, is under review and has not accepted any new contracts since 2020. Its concerns focus on program sustainability, with few inspections completed, and program equity, with savings disproportionately benefitting wealthier property owners.

Treatment of Existing Program Participants

The Council also requested advice on how to manage properties currently benefitting from Mills Act tax relief should the program be discontinued. Although it is unclear if current program participants have completed qualifying work, contracts were entered into in good faith, and staff recommends these contracts be honored at least for the initial 10-year term. It is City practice, but not stated in the Municipal Code (this was misreported in the July 10, 2023 staff report), that agreements run for 15 years, with the required notice of non-renewal issued in the fifth year. For streamlining and administrative efficiency, staff recommends that non-renewal notices (similar to the attached sample) be issued immediately to all current participants, providing the required 10-year notice, thus ending the program entirely by FY2034/35.

Fiscal Impact

It is difficult to predict the community's future interest in entering into MAAs should the City require proof of qualifying work in an amount that matches or exceeds the tax savings. The number of program participants will likely fall over time, thereby modestly increasing the City's collected tax revenues.

If the program is discontinued and notices of nonrenewal are issued to all existing participants, the program's cost will gradually fall to zero over the next decade. The program currently costs \$375,000 in forgone annual property tax revenue, of which \$78,000 is a direct loss to Belvedere (the City receives 20.7% of residents' property taxes). These savings could be reassigned to other City priorities after the existing MAAs begin to expire.

Recommended Action

Direct staff to modify the Mill's Act program and return to the City Council at a later date with proposed modifications or direct staff to return to the April City Council meeting with an ordinance discontinuing the City's Mills Act Program.

Attachments

- [List of Belvedere Historical Designation properties](#)
- [List of Belvedere Mills Act properties](#)