



## Item No. 2 Town of Atherton

### **CITY COUNCIL STAFF REPORT – STUDY SESSION**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: GEORGE RODERICKS, CITY MANAGER  
ROBERT BARRON III, FINANCE DIRECTOR**

**DATE: May 7, 2014**

**SUBJECT: REVENUE ENHANCEMENT ALTERNATIVES II**

#### **RECOMMENDATION**

Review and discuss.

#### **BACKGROUND**

At the March 5, 2014 Study Session, the Council discussed a variety of revenue enhancement alternatives. Staff presented numerous revenue options for the Council's consideration and discussion. Staff asked that the Council assist with narrowing the list to allow staff to provide further focus on possible options. Revenue options fell within five distinct categories: taxes, fees and charges, rents, gifts, and assessment districts. Within each of the categories staff presented a variety of options. Examples included:

- Benefit Assessment Districts
- Development Fees
- Rents and Use Fees
- Alarm Permits
- Transient Occupancy Taxes
- Business License Taxes
- Utility User Taxes
- Sales & Use Taxes
- Franchise Fees
- Real Property Transfer Taxes
- Fines
- Other Regulatory Fees

As the Council is aware, property taxes comprise 70 percent (70%) of the Town's General Fund Revenue; and, given the Town's residential make-up, we are reliant on property taxes as the primary revenue source. Revenue diversification is important and exploring new and/or diversified revenue streams is one way to strengthen the Town's core strategy of Financial Stability.

As the Council discussed the various revenue options, it was important to be aware of the various sources of revenue, reasonableness of imposing the new tax or fee, and the timeline and/or

**Revenue Enhancement Alternatives II**

**May 7, 2014**

**Page 2 of 11**

regulatory requirements to enact it. Following discussion, the Council narrowed the list of options to the following focused categories:

- Viability of a **Utility User’s Tax**
- Modifications to the **Business License Tax**
- Validation of **Rents and Use Fees**
- Possibility of changes to the **Documentary Transfer Tax Rate**
- Implementation of **Benefit Assessment Districts**, where feasible
- Viability of the **Road Impact Fee**

The Council directed staff to conduct some additional research on the narrowed list and return with further recommendations. Staff researched the narrowed list and projected possible revenue with implementation. The financial projections are merely projections that are subject to change based on the source of the revenue and its volatility potential. For example, use taxes are inherently based on use that could fluctuate based on market or personal conditions. Fees are also based on use and will fluctuate in the same manner. The metrics used for calculating the estimates are based on known information.

Once again, the Council is asked to evaluate the various options and provide feedback. Following tonight’s meeting, staff will initiate specific action steps for implementing options.

**FINDINGS | ANALYSIS**

**Utility Users Tax**

The Town of Atherton currently does not have a utility users tax. Of the 58 counties and 482 cities, there are 4 counties (7%) and 154 cities (32%) that implement a utility users tax. A utility users tax may be imposed on the consumption of utility services. It may be imposed as a general purpose tax or a special tax earmarked for a special purpose.

The Town can impose a utility user tax on the consumption of utility services, including, but not limited to, electricity, gas, water, sewer, telephone (including cell phone and long distance), sanitation and cable television. The Town can set the rate of the tax and determine the use of the revenues received. City utility tax rates range from 1 percent (1%) to 11 percent (11%). There are several communities in the area that have a utility users tax.

<b>Agency</b>	<b>Rate</b>	<b>Revenue</b>
Daly City	5% base across all sectors, excluding sanitation	\$6,779,160
East Palo Alto	5% base across all sectors, excluding sanitation	\$1,591,204
Menlo Park	2.5% telephone, 3.5% remainder, excluding sanitation	\$1,148,454
Portola Valley	4.5% base across all sectors, excluding sanitation & water	\$723,214
Redwood City	4% telephone, 5% electricity & gas, 4% CATV, excluding sanitation & water	\$9,681,668

**Revenue Enhancement Alternatives II**

**May 7, 2014**

**Page 3 of 11**

The Town has franchise agreements with electricity, cable, and water. Revenues from these utilities are a percentage based on gross receipts. From PG&E for gas and electric, the Town receives 1% of gross revenues (approximately \$225,000). For cable via the Cable JPA, the Town receives 7% of gross revenues (approximately \$117,000). This includes the additional PEG funds. From CalWater for water service, the Town receives 2% of gross revenues (approximately \$116,000). Below is a table of “gross revenue” from each of the franchisees.

<b>Current Gross Revenues from Franchised Utilities</b>			
	<b>Fiscal Year 2011-12</b>	<b>Fiscal Year 2012-13</b>	<b>Fiscal Year 2013-14</b>
Gas & Electric (1%)	\$22,346,600	\$21,657,100	\$22,454,441
Cable (7%)	\$1,521,693	\$1,239,047	\$1,662,034
Water (2%)	\$5,270,900	\$5,440,250	\$5,808,350

The above data can be used to roughly extrapolate potential revenue from a utility users tax. The projected amounts do not take into consideration any possible “tiering” of the tax based on use.

<b>Potential Revenue from a 5% Flat Utility Users Tax</b>			
	<b>Fiscal Year 2011-12</b>	<b>Fiscal Year 2012-13</b>	<b>Fiscal Year 2013-14</b>
Gas & Electric	\$1,117,330	\$1,082,855	\$1,515,997
Cable	\$76,085	\$61,952	\$86,733
Water	\$263,545	\$272,013	\$330,811
<b>Total</b>	<b>\$1,456,960</b>	<b>\$1,416,820</b>	<b>\$1,496,241</b>

<b>Potential Revenue from a 2% Flat Utility Users Tax</b>			
	<b>Fiscal Year 2011-12</b>	<b>Fiscal Year 2012-13</b>	<b>Fiscal Year 2013-14</b>
Gas & Electric	\$446,932	\$433,142	\$449,089
Cable	\$30,434	\$24,781	\$33,241
Water	\$105,418	\$108,805	\$116,167
<b>Total</b>	<b>\$582,784</b>	<b>\$566,728</b>	<b>\$598,497</b>

The utility users tax could be implemented as a general tax used for a variety of municipal service needs at the discretion of the City Council or a specific purpose tax. The rate of the tax and its uses are determined by the Town. As a general tax, a simple majority of voters must approve any decision to impose, increase, or extend the tax. As a special tax, a two-thirds vote is required to impose, increase or extend the tax.

Similar to franchise fees, the tax would be collected by the utility provider as part of its billing procedure and remitted to the Town. Utilities to which the tax applied varies as some agencies also have a utility users tax on telephone services (including cell phone and long distance). If the Town wishes to pursue a utility users tax, we would specify at the outset what utility services will be taxed.

Staff believes the utility users tax is a viable revenue augmentation alternative. As a revenue source, a utility users tax is expected to be normal and more predictable because the use of

utilities is relatively stable. Fluctuations can be attributed to population and rate changes by the utility provider.

If the Council wishes to move forward with a utility users tax as a supplemental revenue source, the Council should consider a tax rate of 3 to 5 percent. If the Town wishes to move forward with a utility users tax as a replacement tax for the parcel tax, the Town should consider a tax rate of 7 percent.

When implementing a utility users tax, the Council can set a “cap” on the tax rate and implement the tax up to that cap. For example, the City of Menlo Park has a maximum tax of 3.5 percent on gas, electrical, and water usage and a maximum 2.5 percent tax on cable, telephone, and wireless services. Currently Menlo Park City Council has its tax set at 1 percent.

### Timeline

As mentioned, implementing a utility users tax requires a vote of the electorate. The threshold for approval (2/3 versus simple majority) is dependent upon whether the tax is a general or special tax. With required public education and preparatory work, staff estimates that the electorate could consider the utility users tax in June or November 2015 if so desired by the Council.

### **Business License Tax**

The Town currently imposes a tax on businesses that conduct business within our jurisdiction, including home occupations. The business license tax may be imposed as a general tax or special tax. Municipalities may impose this tax for revenue raising purposes. When originally implemented, the Town’s business license tax was imposed as a general tax.

The Town has four categories of business licenses. All are levied as a flat rate. Most communities levy their business license taxes as flat rates. The Town’s rate consists of a gross receipts multiplier of 5% and a maximum tax amount. The amounts below are the maximum tax rates based on the month(s) of application.

- *Category 1- Individual General Contractors and firms with 2 or more employees*
  - January through June - \$125
  - July through June - \$250
- *Category 2- Firms with 2 or more employees (subcontractors Class C only)*
  - January through June - \$75
  - July through June - \$150
- *Category 3- Sole Operators with no employees (Includes subcontractors (Class C) Home occupations, Real Estate Brokers, Maintenance Companies, Janitorial, Gardening/Landscaping, Pest Control, Tree Trimming, Pool Services, etc.)*

**Revenue Enhancement Alternatives II**

**May 7, 2014**

**Page 5 of 11**

- January through June - \$50
- July through June - \$100
  
- *Category 4- Sole Operators with no employees* (Includes handymen, delivery vehicles, solicitors, and horseshoers)
  - January through June - \$25
  - July through June - \$50

The Town's total business license revenues for the last three (3) years was the following:

<b>Fiscal Year 2010-11</b>	<b>Fiscal Year 2011-12</b>	<b>Fiscal Year 2012-13</b>
\$163,629	\$183,087	\$170,980

The Town has just over 1,200 business licenses issued with most being in categories 1, 2, or 3 – as contractors or subcontractors. Adjusting the tax such that there is an increase in the flat rate maximum would result in a slight revenue augmentation in the business license revenue. The majority of the revenue will come from general contractors and subcontractors that do work in the community through residential construction.

The following table reflects current revenue by category:

<b>Business License</b>	<b>Current Fee</b>	<b>Number of Applicants</b>	<b>Total Fees</b>
Category 1	\$125	46	\$5,750
	\$250	334	\$83,000
Category 2	\$75	97	\$7,250
	\$150	460	\$69,000
Category 3	\$50	144	\$7,200
	\$100	125	\$12,500
Category 4	\$25		
	\$50		
<b>Total</b>		<b>1206</b>	<b>\$185,225</b>

Using the same tax model, if the Town increased the maximum tax by \$100 across all categories and the number of applicants stays the same, business license revenue projections could reach \$305,000.

	<b>New Fee</b>	<b>Total Fees</b>
Category 1	\$225	\$10,350
	\$350	\$116,900
Category 2	\$175	\$16,975
	\$250	\$115,000
Category 3	\$150	\$21,600
	\$200	\$25,000

**Revenue Enhancement Alternatives II**

**May 7, 2014**

**Page 6 of 11**

Category 4	\$125	
	\$150	
<b>Total</b>		<b>\$305,825</b>

This represents an increase in revenue of approximately \$120,000. However, the Town could change its taxation model such that the Town collects a “business license application fee” – i.e. the time and materials cost it takes staff to process and issue the license and remove the maximum cap calculation leaving a straight gross receipts multiplier of 5% for the business license tax. For every \$200,000 in gross receipts, the Town would receive \$10,000. To reach the current level of business license revenue (\$185,000), there would need to be at least \$3.7 million in gross receipt revenue. Given the size of construction projects in the Town it is likely that this amount could be exceeded. The current business license form is structured such that most businesses do not report their gross receipts. Staff is “restructuring” the form to require the information for data collection and evaluation purposes.

The business license is considered a tax and any changes in the amount of the tax or its taxing structure would require a vote of the electorate. Just as with the utility users tax, with required public education and preparatory work, staff estimates that the electorate could consider changes to the business license tax in June or November 2015 if so desired by the Council. However, staff recommends that action on the business license tax be taken if only to improve its clarity and application; however staff recommends that such action be postponed in order to allow a period of data collection on a new form (1 business license year) so that we can make a more accurate decision on elimination of the cap.

**Rents & Uses**

Rents and use fees are common in communities, especially for permitted use of facilities. Rents and use fees are revenues from rental or use of property or resources. Rent charges that are payment for use of property is not a tax and voter approval is not required. Leases and licensed use of property through a written agreement with basic terms, permitted uses and prohibited uses, and insurance requirements are also not subject to voter approval.

As the Council is aware, the Town has limited facilities that could provide significant revenue augmentation. However, the rental or lease of facilities at Holbrook-Palmer Park does provide the Town with a revenue stream to help offset the cost of operational expenditures related to the Park. The Town receives both use revenue and rental/lease revenue from the Park. The Town rents space to Knox Playschool and uses revenue from the lease to offset operational costs in the Park (approximately \$80,000).

As the Town moves forward on the Park Master Plan and expands rental activity at the Park through Catering by Dana and Day Use Permits, the Town will have a better idea of revenue potential at the Park. The Town’s Master Fee Schedule sets the fees for the rental of Park facilities and provides a 15% resident discount. Staff recommends that we allow the current fee schedule and operations to run its course for a 1-year evaluation period. Following the evaluation periods staff will return with recommendations for fee adjustment.

That said, the Town could look into new possibilities as they arise such as lease of space for compatible telecommunications sites, “permit parking” at Town Hall, or seasonal camp or activity use at the Park.

Seasonal Camp Programs at the Park

The Town could offer use of the park fields for Kids Camps especially for the summer to community organizations and “For Profit Groups.” The fees could be created on a scale by age group and by residency status. In this way, the Town residents are not subsidizing use of the Town’s facilities by non-residents. Possible revenue scenarios are shown in the following tables.

**Weekly Soccer Camp (4 summer camps)**

<b>Soccer Camp (Half Day)</b>	<b>Fee</b>	<b>Kids Enrolled</b>	<b>Total</b>
Residents	\$150	15	\$2,250
Non-Residents	\$165	10	\$1,650
		Total	\$3,900
		<b>Four Camps</b>	<b>\$15,600</b>

**Weekly Soccer Camp (2 summer camps)**

<b>Soccer Camp (Full Day)</b>	<b>Fee</b>	<b>Kids Enrolled</b>	<b>Total</b>
Residents	\$210	15	\$3,150
Non-Residents	\$225	10	\$2,250
		Total	\$5,400
		<b>Two Camps</b>	<b>\$10,800</b>

Expansion of field use would need to be coordinated with existing uses by Lacrosse, Little League, and AYSO.

Fitness Camps

Another opportunity of rental income is offering the use of Park facilities for exercise classes/boot camps. The Town could enter into an agreement with a trainer to have use of facilities with rent including split of the fees for the class. There are number of independent trainers that look for places to hold boot camps and spacious community parks are what they use.

**Boot Camps (4 monthly sessions)**

	<b>Fee</b>	<b>Enrollees</b>	<b>Total</b>	<b>4 Camps Total</b>
Residents	\$150	10	\$1,500	\$6,000
Non-Residents	\$165	10	\$1,650	\$6,600

**Revenue Enhancement Alternatives II**

May 7, 2014

Page 8 of 11

<b>Total</b>			<b>\$3,150</b>	<b>\$12,600</b>
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These are just a couple of the expanded use opportunities at the Park. All uses would have to be coordinated. Further, as the Council is aware, the Town hired Catering by Dana to manage events and rentals at the Park. Catering by Dana does not specialize and is not engaged in the provision of recreational activities and classes at the Park. The Town handles that in-house as an additional duty spread across several employees. The Town does not have an organized recreation program or coordinator. Individuals and companies desirous of using the Park for classes (dog classes, dance classes, etc.) enter into separate rental agreements with the Town with a facility use fee associated with their activity. The Town does not promote or assist with the registration of attendees.

If the Council wishes to expand use and activity at the Park in this direction, staff recommends that an evaluation be done of staff time and resources necessary to manage the activity. Alternatively, the Town could contract for such services with the understanding that most vendors will seek to expand uses at the Park under a revenue-sharing scenario.

Wireless Communications Lease

Another revenue opportunity is to provide leasable space for compatible telecommunications facilities in the Park. Wireless providers are often looking for spaces to lease for the stationing of their communication antennas. An example of the type of revenue opportunity can be found in the Town's current lease with AT&T for an antenna site at Town Hall. Any installation at the Park would need to be aesthetically viable and compatible.

Current lease revenue from AT&T is currently \$3,876 per month with a 5 percent (5%) increase each year for total annual revenue of approximately \$47,000. A new antenna site lease at the Park could provide similar rental income.

Parking Space Lease at Town Hall

There are approximately 25 parking spaces at the Town Hall site that the Town could charge for extended hourly or daily use. A singular meter could be placed in the parking lot and the lot could be actively monitored for compliance. Assuming that all spaces are filled for 11 hours, 5 days per week, revenue could approximate \$143,000.

<b>Parking Spaces</b>	<b>Rental Fee</b>	<b>Revenue/Day</b>	<b>Yearly (5 days/week)</b>
25	\$2 per hour from 7 am to 6 pm (11 hours)	\$550	\$143,000

Rents and use fees are regulated locally through agreement and fee schedules adopted by the City Council at noticed public meetings. Use of the revenues are not restricted; however, the Town could restrict revenue at the Park to Park operational and capital costs. If the Council finds any of the above interesting, staff can move forward and return something for Council consideration.

### **Documentary Transfer Tax**

The documentary transfer tax is a tax imposed on documents recorded in the transfer of ownership in real estate. This tax is imposed by a county or city and is collected by the county recorders office and remitted to the designated cities and the county.

The documentary transfer tax is a general tax and is in proportion to the value of the property. Counties can levy a tax at a rate of \$0.55 cents per \$500 of the property value. A municipality is authorized to levy a tax at  $\frac{1}{2}$  the county rate, a rate of \$0.275 cents per \$500 value.

Currently, San Mateo County levies the tax at the maximum as does the Town.

### **Benefit Assessment Districts**

Assessment Districts include assessments that a local agency levies on a fixed area for a local public improvement or service that benefits that property. Assessment districts are not legal entities that separate them from the Town. These districts are formed on the basis of a special benefit that a property will receive from the improvement provided by the district. The Town of Atherton could utilize the creation of assessment districts for the purpose of capital improvements such as:

- Street Lights
- Park Improvements
- Drainage Improvements
- Bicycle and Pedestrian paths

This is a likely source of revenue augmentation that the Town could use toward the various master plans and capital improvement projects. As was outlined in the prior Revenue Report, there are numerous regulatory requirements that come into play when creating an assessment district. The process is quite lengthy and ultimately requires a vote of the property owners within the respective district. Assessments are levied according to Proposition 218 and collected via the tax roll.

Staff believes that assessment districts are valuable tools to fund localized improvement projects as noted above. As capital projects and master plans move forward and discreet projects are recommended, if an assessment district is considered a viable source of funding, staff will include it in the recommendation.

### **Development Impact Fees**

## Revenue Enhancement Alternatives II

May 7, 2014

Page 10 of 11

As the Council is aware, the Road Impact Fee previously imposed by the Town was rescinded on the basis of its collection methodology. The City Attorney has opined that any new fee would need to comply with the requirements of the law and would likely be a “tax” and not a “fee” unless the fee were directly related to the improvement being proposed on a particular property.

Communities regularly impose development impact fees for development that has a direct nexus impact on a particular service, service level, or infrastructure. The Town could develop an impact fee directly correlated to the impact a specific property development has on adjacent Town-owned infrastructure. This differs from the prior “road impact fee” in that the prior fee was calculated simply on the basis of project valuation. Instead, the development impact fee would be calculated based on specific development information – such as number of truck trips, grading activity, etc.

There is significant amount of analysis necessary to determine the amount of fee to collect based on the specific type and magnitude of activity. If the Council is interested in reinstating this type of fee, staff will return with a scope of work to complete an engineering analysis necessary as a pre-requisite to imposing any sort of fee of this type.

The Town currently collects and monitors fees related to development projects in the following areas:

- Tree Protection (Deposit and Flat Fee)
- Recycling Deposit
- Storm Water Compliance (Review/Inspection Fee)
- Landscape Screening Deposit
- Excavation/Damage Deposit

Deposits are returned at the completion of the project. If proposed, the development impact fee related to truck trips and traffic would not be a deposit but would instead be directed to road maintenance and infrastructure expenses.

### **FISCAL IMPACT**

The **utility users tax** is the Town’s likely source of revenue augmentation rivaling or exceeding the revenue of the current parcel tax - \$1.5 million to \$2 million. Modifications to the **business license tax** are suggested as a matter of course but may not provide a significant revenue augmentation and staff recommends that modifications be postponed awaiting further data - \$120,000+.

Changes to **rents and use fees** also need additional time for use analysis at the Park; however, opportunities along the way should be evaluated - \$150,000+. The **Documentary Transfer Tax** is already at the maximum rate and cannot be modified. The **Road Impact Fee** cannot be re-imposed in its current form but could be modified. Specific revenue projections would need to wait until after an engineering study is completed.

**Benefit assessment districts** would raise funds in proportion to the cost of the project, with the Town's participation and will be recommended as a matter of course with applicable projects.