



## Item No. 4 Town of Atherton

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

**TO: HONORABLE MAYOR AND CITY COUNCIL  
GEORGE RODERICKS, CITY MANAGER**

**FROM: ROBERT BARRON III, FINANCE DIRECTOR**

**DATE: OCTOBER 5, 2016**

**SUBJECT: REVIEW OF TOWN ALTERNATIVE REVENUE STRATEGY AND  
PROVIDE FEEDBACK**

#### **RECOMMENDATION**

Review of Town alternative revenue strategy and provide feedback to staff regarding revenue alternatives for future discussion and review.

#### **BACKGROUND**

During its September 21 City Council meeting, the Council reviewed the Business License tax strategy timeline plan and calendar for a possible ballot measure for November 2018. Included in the timeline was a broad based 18-month strategy plan for outreach, surveys, and possible review process to define the business license tax model, culminating in amending the business license ordinance. Staff believes the establishment of a strategy and timeline will allow for ample time to make adjustments and add additional meetings if necessary. Part of this timeline included review of additional revenue augmentation alternatives to the Town.

During the meeting, the City Council asked that staff return the two revenue alternatives staff reports to the Council for discussion at the October 5 Study Session. In 2014 the City Council held two revenue alternative discussions. The first was in March 2014 providing a broad overview of the various types of taxes and revenue options. The Council narrowed the list and directed staff to provide additional information. Staff returned in May 2014 with a focus on the Utility User's Tax, Business License Tax, Rents and Uses, and Benefit Assessment Districts.

The two Reports are attached for Council review and discussion. Beyond the draft business license tax measure, no additional research has been conducted.

#### **POLICY FOCUS**

Revenue enhancement alternatives are avenues many municipalities approach in hopes of not being self-reliant on property or sales tax. The purpose of this review is to explore revenue alternatives and understand the processes that are required to establish new revenue streams. The

policy focus for the City Council is how to proceed with exploring revenue alternatives, whether we do so through amending the business license tax or through other avenues listed in this report.

### **FISCAL IMPACT**

None at this time.

### **PUBLIC NOTICE**

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer), and regional elected officials.

### **ATTACHMENT(S)**

March 5, 2014 staff report "Revenue Enhancement Alternatives I"  
May 7, 2014 staff report "Revenue Enhancement Alternatives II"



## 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: MARCH 5, 2014**

**SUBJECT: REVENUE ENHANCEMENT ALTERNATIVES I**

#### **RECOMMENDATION**

Review and discuss; assist staff with narrowing the focus of the list.

#### **BACKGROUND**

When the City Council approved the balloting of the Parcel Tax for the November 2013 Election, the Council asked that there be a future discussion of revenue alternatives and a more thorough discussion of the parcel tax rate. Staff advised that it was appropriate to have these discussions in concert with the 2014/2015 budget discussions so that the discussion include not only revenue alternatives, but also expenditure reduction options, a budget reserve policy, impacts on Town operations and a good handle on future capital project needs.

This Staff Report and the Staff Report on the proposed Reserve Policy kicks off the 2014/2015 Budget Process. This Report is Part I of the revenue alternative discussion. **The intent of this Report is to provide the Council and public with a well-rounded education on the various types of revenue alternatives that are available and the process for implementation of each.**

**It is anticipated that the Council will be able to eliminate some of the alternatives strictly from a policy perspective and assist staff with narrowing the focus of the list so that we can concentrate additional efforts on estimating revenue potential more accurately and identify next steps should the Council decide to move forward with any alternative.**

From a public engagement and meeting process, the 2014/2015 Budget process looks as follows:

March 5, 2014 Study Session (Joint Meeting with Finance Committee)

- Discussion of the Proposed Reserve Policy

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- The proposed reserve policy will provide the Council with a framework for allocation of its unassigned general fund reserve. When there is an amount beyond the Town's basic reserve requirement (35%), the Finance Committee's policy asks the Council to walk through an analysis of capital improvement needs, underfunded pension obligations, underfunded retiree health obligations, and considerations for reduction in the parcel tax revenue requirements.
- Discussion of Revenue Alternatives Part I
  - A general discussion of various options and some clarification to staff on which ones to apply more focus.

### March 19 Regular Meeting & April 2 Study Session

- Civic Center Project Master Plan (Capital Project Impact and Needs Analysis)
- Bicycle | Pedestrian Master Plan (Capital Project Impact and Needs Analysis)
- Park Master Plan (Capital Project Impact and Needs Analysis)

### May 7 Study Session

- Drainage Master Plan (Capital Project Impact and Needs Analysis)
- Revenue Enhancement Alternatives Part II
  - A more detailed discussion of the focused options together with an implementation schedule and revenue projection for each.
  - It is anticipated that following this meeting, staff will proceed with a Staff Report recommending implementation of one or more of the alternatives.

### May 21 Regular Meeting

- Budget Kick-Off Report Part I
  - Staff Report covering the 2014/2015 Budget discussing the Town's General Fund and Operations Budget along with any alternatives for expenditure reduction.

### June 4 Study Session

- Budget Report Part II
  - Staff Report focusing on Capital Projects Needs and Special Funds Budgets
- Parcel Tax Discussion
  - A discussion of the Parcel Tax proposed needs and expenditures along with a discussion of what rate(s) to set for the 2014/2015 tax year.

### June 18 Regular Meeting

- Final Budget Report – Adoption
  - In this Report, the staff recommendation would be for adoption of the budget with any included expenditure reduction scenarios as well as a recommendation for approval to pursue various selected revenue alternatives.

- Staff Report to Set Parcel Tax Rate
  - Following the City Council’s discussion of June 4, the Staff Report would recommend a Resolution to Set the Parcel Tax Rate for the 2014/2015 Tax Year.

## **FINDINGS | DISCUSSION**

There are numerous revenue alternatives for Town consideration. Some are more logical than others with respect to their application in Atherton and others, while possible, would not generate sufficient revenue to make their implementation worthwhile for consideration.

The information in this Report provided as a general outline of many of the alternatives together with a summary of the process for implementation. The Report categorizes each option as to whether it is a tax, fee, grant, or assessment. In general, those are the specific categories from which a jurisdiction may derive revenue. The lead-in to each section provides an overview of how each would need to be implemented, e.g. City Council Public Hearing, Proposition 218 Protest Election, General Election, or other mechanism.

*This is not a primer on general local government finance and the Report does not delve into the details of the Town’s current expenditures in any given category. The Report assumes that the reader has an understanding of basic governmental finance and postpones the expenditure discussion for the budget process itself.*

In addition, there are many existing revenue streams via State subventions that are connected directly to State legislation and priorities that the Town cannot easily or at all adjust, e.g. Vehicle License Fees, Proposition 172 Sales Tax Rates, Educational Revenue Augmentation Funds (ERAF), property taxes, Gas Tax, Measure A, or Surface Transportation Program funds. These revenue streams are not addressed in this Report other than by way of reference and general summary.

As the Council is aware from the Fee Study recently conducted, fees, such as water, sewer, garbage, and ministerial or discretionary permits, are limited to the cost of providing the service for which the fee is intended. Taxes are not limited in the same way. Major sources of revenue for day-to-day operations and services come from property taxes, sales and use taxes, utility user taxes, transient occupancy taxes, business license taxes, franchise fees and other similar such taxes.

When evaluating each of the revenue alternatives, for comparison purposes, the table below provides a thumbnail of the Town’s major general fund revenue categories and their percent of overall general fund revenues.

<b>General Fund Category</b>	<b>Revenue</b>	<b>%</b>
Basic Property Taxes (Secured & Unsecured)	\$5,728,860	52.9%
Excess ERAF	\$700,000	6.5%
Property Tax In Lieu of VLF	\$768,250	7.1%
Property Transfer Tax	\$313,738	2.9%

<b>General Fund Category</b>	<b>Revenue</b>	<b>%</b>
Other	\$72,100	0.7%
<b>Total Property Tax</b>	<b>\$7,582,948</b>	<b>70.1%</b>
Sales & Use Tax	\$117,810	1.1%
Proposition 172 Local Safety	\$47,430	0.4%
In Lieu/Triple Flip	\$74,868	0.7%
<b>Total Sales Tax</b>	<b>\$240,108</b>	<b>2.2%</b>
Franchise Taxes – Utilities	\$234,600	2.2%
Franchise Taxes – Cal Water	\$106,590	1.0%
Franchise Taxes – Garbage	\$312,834	2.9%
Franchise Taxes – Cable	\$116,841	1.1%
<b>Total Franchise Taxes</b>	<b>\$770,865</b>	<b>7.1%</b>
<b>Intergovernmental Revenues (VLF, SB90, etc.)</b>	<b>\$38,629</b>	<b>0.4%</b>
<b>Business Licenses</b>	<b>\$163,200</b>	<b>1.5%</b>
Home Occupation Permits	\$816	0.0%
Zoning & Planning Fees	\$178,046	1.6%
<b>Total Planning Fees</b>	<b>\$178,862</b>	<b>1.7%</b>
Building Permit Fees	\$749,595	6.9%
Grading & Drainage	\$69,930	0.6%
Plan Check Fee	\$378,945	3.5%
Other	\$27,825	0.3%
<b>Total Building Fees</b>	<b>\$1,226,295</b>	<b>11.3%</b>
<b>Police Fees/Fines</b>	<b>\$88,297</b>	<b>0.8%</b>
Encroachment Permits	\$171,360	1.6%
Other Permits	\$66,948	0.6%
<b>Total Public Works Fees</b>	<b>\$238,308</b>	<b>2.2%</b>
<b>Park Fees</b>	<b>\$70,788</b>	<b>0.7%</b>
<b>Miscellaneous (fees, leases, minor grants)</b>	<b>\$216,174</b>	<b>2.0%</b>
<b>Total Operating Revenues</b>	<b>\$10,814,475</b>	<b>\$10,814,475</b>

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In addition to the above revenues, the Town's General Fund receives 60% of the Parcel Tax dedicated to public safety services at \$1,116,000. This represents 10.3% of the Town's basic revenues to the General Fund – the \$10.8 million – and 9.4% when added to the total.

As the Council moves through the list, it is also important to recognize the source of the revenue. For example, user fees for rentals at the Park may generate more revenue from non-resident users, whereas a utility user tax, an increase to the franchise fee, licenses and permits, etc. will come from residents. Some have an easily identifiable source, others do not.

### Tax Revenue Alternatives

Tax revenue is an important source of funding. Taxes fall into one of two categories: general or special. The Town can use tax revenue from a general tax for any legitimate public purpose. *A simple majority of voters must approve any decision to impose, increase, or extend a general tax.*

A special tax differs in that it is a tax imposed for a specific purpose. *A two-thirds (2/3rds) vote is required to adopt, increase, or extend a special tax.* The distinction between general and special taxes was created under Proposition 13 in 1978, and in 1996, Proposition 218 clarified the differences even further.

	General Tax	Special Tax
Use of Revenues	Unrestricted Use	Specific Purposes Only
Voter Approval Required	Majority	Two-Thirds
Other Requirements	Must be consolidated with a regularly scheduled general election of City Council members.	Funds must be segregated.

*In any given year, if the Town desires to collect a previously approved tax at a rate lower than what was authorized by the voters, the Town needs to be very clear in its official actions that the rate is being "suspended" for a certain period of time and not being permanently lowered. The Parcel Tax is one example of a special tax that can be lowered temporarily. If the Town collects a previously approved tax at a rate lower than was authorized by the voters without a statement that clarifies the intent and purpose of the suspension, a future increase back to the approved amount may trigger a Proposition 218 vote requirement.*

### Property Taxes

**Description:** An ad valorem tax imposed on real property and tangible personal property.

**Authority:** California Constitution

**General/Special Tax and Use of Revenues:** Ad valorem property taxes are general taxes.

The property tax is a tax on certain kinds of property based on its value (ad valorem). Property taxes are considered a State tax administered by counties. Cities do not impose property taxes

and they cannot increase the property tax except in very limited areas. Taxable property includes “real property” (land and the buildings that are on it), as well as things like boats, aircraft and business equipment. Under Proposition 13, the maximum tax rate permitted on real property for general purposes is one percent (1%) of the property's assessed value. For property that has been owned prior to 1978-79 (pre-Proposition 13), the starting point is what the property was worth in 1975-76. There is an annual adjustment for inflation that cannot exceed two percent per year. Proposition 13 also prohibits the enactment of any additional ad valorem property tax, transaction tax or sales tax on the sale of real property.

Changes in assessed value above the two percent limit are allowed for the market value of improvements. Property that declines in value may be reassessed downward. In 1978, California voters approved Proposition 8 that allows the County Assessor to reduce the value of properties below their Proposition 13 taxable values when the real estate market declines. However, such reductions may be recaptured as the market improves. County Assessors have procedures for requesting a downward adjustment in value that would result in a reduction in the property tax.

Proposition 13 transferred the authority to determine where property tax revenues go to the Legislature. Generally, property taxes are allocated within a county based upon the historical share of the property tax received by local agencies prior to Proposition 13. However, those allocations have changed over the years; the most significant change being the ERAF property tax shift. Proposition 1A restricts the Legislature to following certain procedures before allocating property tax from counties, cities, and special districts to schools; and before changing the allocations between counties, cities, and special districts. This measure protects against future reduction or diversion of property tax and sales tax.

In 1992, in response to a severe budget deficit, the State met its legal obligation to fund schools by diverting specified amounts of local property taxes into an “Education Revenue Augmentation Fund” or ERAF in each county. ERAF funds are then transferred to local school entities. Although intended as a temporary measure, the tax shift remains in effect. In fiscal year 2007-08 the tax shift cost cities, counties and special districts more than \$7 billion. In counties where the property values are sufficient such that revenue to the State is enough to meet its obligation under Proposition 90, a portion of the ERAF funds are returned to the local agencies from whence they came. That is the case in only three counties in the State (Marin, Napa, and San Mateo). Because ERAF is a State-created fabrication, the funds held by the State are always in jeopardy of being reclaimed by the State to the detriment of the agencies within the three counties noted above.

The Town receives approximately \$5.6 million in secured and unsecured property tax revenue, another \$750,000 through the State’s Property Tax | VLF Swap and still another \$700,000+ in ERAF revenue – overall, approximately \$7 million. The Town is not able to adjust its property tax revenue receipts and, while at this time we receive more in ERAF than we budget, we consistently budget conservatively given the ups and downs in property tax projections year to year.

Due to the nature of Atherton being surrounded by other jurisdictions, it has a contiguous sphere of influence and there is no opportunity for growth by new development. The only growth

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anticipated is through the purchase of existing properties, razing of existing homes and new homes being reconstructed on the property. This increases assessed property values, but tax increase speculation is not a good measure for revenue augmentation as it puts too much reliance on the speculative sale and change of ownership of the property.

*Because the Town cannot make adjustments to the basic property tax, staff does not consider adjustments to revenues received from property taxes a likely source for revenue augmentation.*

**Sales and Use Tax**

**Description:** A tax imposed on the total retail price of any tangible personal property.

**Authority:** California Constitution

**General/Special Tax and Use of Revenues:** The basic 1% local Bradley-Burns rate is a general tax. It is unrestricted revenue and is put into the Town’s General Fund. Local Transactions and Use Tax rates, discussed next, are imposed locally and are not considered the same as the basic Bradley-Burns sales and use taxes.

The Board of Equalization administers the allocation of sales and use taxes. The distribution of local sales and use tax revenues are “settled” on a quarterly basis, with monthly estimated “advance” payments and a subsequent settlement payment to cover the difference between estimated and actual collections.

The components of the **California Sales and Use Tax** is as follows:

State: General Fund	4.4375%
State: Local Revenue Fund	1.5625%
State: Local Public Safety Fund	0.50%
Local: County Transportation Fund	0.25%
Local: City/County General Funds	0.75%
<b>Statewide Base Rate</b>	<b>7.5%</b>
Local: Transactions and Use Taxes	Up to 2% combined
<b>Total Sales and Use Tax Rate</b>	<b>From 7.5% to 9.5%</b>

Through various State subventions and formulaic allocations, the Town receives funds from some of the above categories (gas tax, Proposition 172 Public Safety, and the Proposition 57 “Triple Flip.”

The current Town Sales and Use tax rate is 9.00%. The Town receives approximately \$47,000 in Proposition 172 Sales Tax for Public Safety, \$75,000 in Proposition 57 “Triple Flip” In Lieu Sales Taxes which is .25% tax, and \$167,000 in Gas Tax. The Town’s revenue from the basic local sales tax (the 1% above) is \$118,000.

*Since the Town is unable to make adjustments to any of the above, staff does not consider adjustments to revenues received from the basic sales tax formula a likely source for revenue augmentation.*

### **Transactions and Use Tax**

**Description:** A tax imposed on the total retail price of any tangible personal property.

**Authority:** California Constitution

**General/Special Tax and Use of Revenues:** Locally enacted, by ordinance and election, transactions and use taxes may be levied as general taxes (unrestricted use) or special taxes (restricted uses). The local transactions and use taxes are considered “add-on” taxes and administered in tandem with the sales and use taxes discussed above.

Transactions and use taxes will generally apply to merchandise that is delivered in a jurisdiction that imposes such a tax. In general practice, the application of the tax and its collection will not differ from the basic sales and use tax. However, in the case of the sale or lease of a vehicle, vessel, or aircraft, a transactions and use tax is charged and allocated based on the location in which the property will be registered.

The Town can impose transactions and use taxes at a rate of 0.25% or a multiple thereof up to the maximum of 2% (including any amount imposed by the County and Local Districts). The current rate stands at 9% such that the Town can only impose a tax at a rate of 0.5%. There are three existing San Mateo County Transactions and Use Taxes ongoing at 0.5% each. In San Mateo County, Half Moon Bay has imposed a 0.5% tax and the City of San Mateo has a 0.25% tax. If imposed for a general purpose, the tax must be approved by a majority vote of the electorate. If imposed for a specific purpose, the tax must be approved by a two-thirds vote.

Because the Town does not have retail, the imposition of a local transaction and use tax measure would likely only affect purchases with a local registration point for vehicles, vessels, or aircraft, the local sale of art, and Internet purchases. The tax is charged and allocated based on the location in which the property will be registered. The Town will only be allowed to increase a tax of 0.5% because a local tax may not exceed the more than 2% above the State Tax of 7.5%. The increase in tax augmentation would most likely be through the registration of the purchased vehicle, vessel or aircraft and would be done at the time of purchase. This could be an increase in revenue if residents purchase new vehicles frequently. Determining the fiscal possibilities for the tax would require additional research, but it is unlikely that this would be a significant revenue alternative.

*Staff does not consider the levy of a transaction and use tax a likely source for revenue augmentation.*

### **Business License Tax**

**Description:** A tax on businesses for the privilege of conducting business within the City.

**Authority:** Government Code

**General/Special Tax and Use of Revenues:** Business license taxes may be imposed as general taxes or special taxes. When imposed for regulatory purposes they can be imposed as regulatory fees with the revenues limited to covering the cost of the regulatory program.

The typical business license tax is based on gross receipts or levied at a flat rate, but sometimes based on the quantity of goods produced, number of employees, number of vehicles, square footage of the business or some combination of factors. The Town's business license is levied at a flat rate by category of business ranging from \$25 to \$250 depending on the timing of the application and category. The Town's business license would likely be considered a tax because it is not imposed as a regulatory fee to cover the costs of administering the program.

There are limitations to the imposition of a business license tax that covers such operations as insurance companies, banks, financial corporations, non-profit organizations, utilities, and highway carriers.

Most cities in California impose a business license tax. On average, the business license tax provides around 3.1% of the City's revenues. For Atherton, due to the lack of a retail sector, revenues are limited to approximately \$163,000 per year or 1.5% of total revenues. The Town can, and should, make adjustments to its business license tax to address the variances of categories and business types together with the possibility of adjusting the tax rate itself. However, significant revenue enhancement is unlikely due to the nature of business in Atherton only being general contractors, sub-contractors or sole proprietors.

*Staff does not consider an increase in the Town's business license tax to be a likely source for significant revenue augmentation.*

### **Utility Users Tax**

**Description:** A tax imposed on the use of utility services.

**Authority:** Government Code

**General/Special Tax and Use of Revenues:** Utility users taxes may be imposed as a general or special tax. Nearly all existing utility user taxes have been imposed as general taxes.

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.

Most utility user tax rates range from 1% to 11% and vary amongst the particular utilities to which the tax applies. The most common rate is 5% applied to all utilities. On average, the utility

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user tax provides about 15% of general-purpose revenue in cities and towns that levy it. In San Mateo County (2013), there are five communities with an active utility user 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

Determining the exact fiscal possibilities for the tax would require additional research, but it is likely that this could be a significant revenue alternative on par with the parcel tax. For Portola Valley, the Utility Users Tax represents a cost of \$188.29 per capita (2010-11 data). As of August 2013, there are 154 cities/towns that have enacted a Utility Users Tax. Most are on telephone, electricity, and gas.

*Staff considers the implementation of a utility users tax to be a viable alternative significant revenue augmentation.*

**Transient Occupancy Tax**

**Description:** A tax imposed on occupants for the privilege of occupying room(s) in a hotel, motel, inn, etc.

**Authority:** Revenue and Tax Code

**General/Special Tax and Use of Revenues:** Transient occupancy taxes may be imposed as general taxes or special taxes. Nearly all transient occupancy taxes have been imposed as general taxes.

Cities may impose the transient occupancy tax (TOT) on persons staying 30 days or less in a hotel, motel, inn, tourist home, or other lodging facility. Rates are set at a city's discretion and may include a specific amount as well as a percentage. Over 400 cities impose a TOT. The most common rate is 10% while some are as high as 15%. Communities with higher TOT rates are typically those dependent on the tourist industry.

In order for the Town to impose a TOT it would first need to allow the industry to operate in the community. A way to do this is to permit, through zoning, the operation of "bed and breakfast" inns. There is no clear indication that this would be a successful change and there would likely be significant hurdles to such a dramatic change in allowed uses within a residential area.

*Because of the significant land use and general plan issues involved, staff does not consider the imposition of a transient occupancy tax a likely source for future revenue augmentation.*

### **Real Property Transfer Tax**

**Description:** A tax imposed on the purchaser of real property based on the value of that property.

**Authority:** Charter Cities, California Constitution

**General/Special Tax and Use of Revenues:** Property transfer taxes may be imposed as general taxes or special taxes.

Charter cities may enact a real property transfer tax. Courts have determined that such a tax, when enacted by a charter city, does not violate the State Constitution or Government Code that prohibits a transaction tax on the sale of real property, but applies only to general law cities.

Twenty-two (22) charter cities impose a property transfer tax. All cities have imposed a documentary transfer tax. The documentary transfer tax provides about 2% of general purpose revenue on average. In small communities, it provides less than 1/10 of 1% of general revenues, except fast-growing or wealthy communities. For Atherton, the documentary transfer tax provides about 4% of our property tax revenues, \$313,000.

For the twenty-two (22) charter cities, the real property transfer tax provides about 10-15% of general revenues. San Mateo has a property transfer tax set at \$5.00 for each \$1,000 in value. Albany's is set at \$11.50 for each \$1,000, Berkeley at \$15.00 and Piedmont at \$13.00. Rates vary significantly with most at \$1.00 or less.

If the Town established a Real Property Transfer Tax at \$10.00 for each \$1,000 in value this could represent a significant source of revenue for the Town. In 2012, there were 83 transfers of ownership with a sales value of \$420,568,545. At \$10.00 for each \$1,000 in value that represents \$4.2 million in revenue. Sales vary significantly from year to year such that the amount of revenue could have large swings dependent on the sales market.

A final hurdle beyond the election requirement for the implementation of a real property transfer tax is the requirement that at this time, the Town needs to be a charter city to enact the tax.

*Should the Town move in the direction of become a charter city, staff considers the real property transfer tax a likely source for future revenue augmentation.*

### **Parcel Tax**

**Description:** Special *non ad valorem* tax on parcels of property generally based on either a flat per-parcel rate or a variable rate.

**Authority:** Government Code

**General/Special Tax and Use of Revenues:** Parcel taxes may be levied for general purposes or restricted to a particular purpose. However, regardless of use, parcel taxes require two-thirds voter approval.

A parcel tax is a particular type of tax based on either a flat per-parcel rate or a rate that varies depending upon use, size, and/or number of units on each parcel. The Town's parcel tax is a rate that varies. A parcel tax that is based on value violates Proposition 13's 1% limit on ad valorem property taxes. The State Constitution specifies that only two types of taxes may be imposed upon a parcel of property – 1) an ad valorem property tax imposed pursuant to Proposition 13, and 2) a special tax receiving two-thirds voter approval. As a result, parcel taxes are considered special taxes.

For the parcel tax, the taxpayer need not actually use the services, but can be required to pay the tax based on the mere availability of the services. However, if the services are used, a parcel tax must be proportional to the use of services by the taxpayer. Although parcel taxes are imposed to support a wide variety of city services, among available revenue alternatives, parcel taxes are not as common as other locally imposed taxes. Parcel taxes are however, the primary method of collecting additional operating revenues for schools and special districts because of their more limited taxing authority.

The Town has a parcel tax that raises approximately \$1,860,000 per year. Revenue from the parcel tax is dedicated to capital infrastructure (40%) and public safety (60%), \$744,000 and \$1,116,000, respectively. The Town's parcel tax rate is a variable rate dependent on use and size of a particular parcel. The Town must return to the voters every four years to renew the tax and annually, has the option of setting the rate at or below the rate approved by voters.

In any given year, if the Town desires to collect at a rate lower than what was authorized by the voters, the Town needs to be very clear in its official actions that the rate is being "suspended" for a certain period of time and not being permanently lowered. If the Town collects at a rate lower than was authorized by the voters without a statement that clarifies the intent and purpose of the suspension, a future increase back to the approved amount may trigger a Proposition 218 vote requirement.

The Town must set the rate each June in order to be placed on the County's tax rolls for the following tax year. If the Town were to eliminate or reduce the existing Parcel Tax, it is recommended that it be replaced with another stable revenue stream that would return the same amount (\$1,860,000) every year. The current Parcel Tax revenues do not vary year to year and are unaffected by swings in the market. Other tax revenues, such as property transfer taxes, sales tax, or business licenses do result in revenue swings due to market conditions. *Staff considers adjustments to revenues received from the parcel tax as a likely source for future revenue augmentation if the Town chose to revise the amount of the parcel tax.*

## **Benefit Assessment Districts**

**Description:** A charge levied on real property for a local public improvement or service that specially benefits that property.

**Authority:** State Constitution, Government Code

**Use of Revenues:** Revenues must be used for the specific purpose for which they are collected.

Benefit Assessment Districts (also called Special Assessment Districts) are levied to pay for specifically identified public improvements or services that specially benefit the properties or businesses subject to the assessment. Most commonly this is in the area of landscaping, lighting, utility undergrounding, vector control, or flood control.

The key distinction between a benefit assessment and other types of revenue measures, such as taxes or fees, is that an assessment is based on the special benefit that a property will derive from the improvement or service provided by the assessment.

As mentioned above, examples of typical districts include landscaping, street improvements, lighting, utility undergrounding, vector control, sewer, flood control, or drainage. The rationale is that the assessed property receives a special benefit over and above that received by the general public. The general public should not be required to pay for special benefits for a few, and the few specially benefited should not be subsidized by the general public.

Assessments are levied consistent with the requirements of Proposition 218 and are typically collected on the property tax rolls. An agency can create an assessment district that includes only a small portion of the jurisdiction or the boundaries of the district may be coterminous with the boundaries of the jurisdiction (citywide).

Under the various assessment laws, a city typically must re-levy the assessments each year at a public meeting. The re-levy process is less onerous than the initial creation of the district; however, in order to increase or extend a benefit assessment, Proposition 218 must be followed.

There are various State laws that come into play in the creation of assessment districts and each was created for specific purposes. These include: the Streets & Highways Code, Proposition 218 (notice, protest and hearing provisions), Special Assessment Investigation, Limitation and Majority Protest Act, Improvement Act of 1911, Municipal Improvement Act of 1913, Improvement Bond Act of 1915, Landscape and Lighting Act of 1972 (landscaping, lighting, and park and recreational facilities), and the Benefit Assessment Act of 1982 (drainage, flood control, street lighting and maintenance).

Staff has previously outlined for the Council the process by which we would form a Utility Underground Assessment District. Utility Underground Districts are formed as Assessment Districts consistent with the above.

In general, the process for formation of assessment districts is as follows:

1. *Initiation.* Proceedings are initiated by petition signed by the persons proposed to be assessed or by action of the City Council.

2. *Preparation of Engineers' Report.* A registered professional engineer must prepare a report for presentation to the legislative body containing the information required by the applicable assessment law. Most typically, a description of the improvements, a cost estimate for the improvements, a diagram depicting the boundaries of the district, the method of spreading the assessments, and an assessment roll listing all the parcels.
3. *Intention Resolutions.* Before sending notice of the proposed assessment and the public hearing on the assessment, the City Council must approve one or more required resolutions that declare the Town's intent to levy the assessments, approve the Engineers' Report, schedule the public hearing, and make other findings as required by law.
4. *Recordation of the Boundary Maps.* Where required, the City Council must record the boundary map of the district.
5. *Public Notice.* The City must give notice to the record owners of any affected parcel by mail at least 45 days prior to the date of a public hearing on the proposed assessment. The notice must include:
  - a. The total assessment of the district.
  - b. Charge for each parcel.
  - c. Duration of the assessment.
  - d. Reason for the assessment.
  - e. Basis of calculation.
  - f. Date, Time, Place of Hearing.
  - g. Summary of voting procedures and effect of majority protest.
6. *Public Hearing.* On the date stated in the notice, the City Council must conduct a public hearing to consider any and all objections or protests to the proposed assessment. Sealed ballots must be returned before conclusion of the public hearing and tabulated after the conclusion of the public hearing. Ballots must remain secret until the close of the public hearing and must be made public after they are tallied.
7. *Protest Procedures.* No assessment may be imposed if a "majority protest" exists. A majority exists if ballots submitted in opposition exceed ballots submitted in favor of assessment with the ballots weighted according to proportional financial obligation of the affected property.
8. *Levy of Assessment.* After complying with the notice, protest and hearing requirements, the City Council would adopt a resolution that establishes the district and levies the assessment.
9. *Recordation.* For bonded assessments, the Town is required to record the assessment with the County as a levy against the property.
10. *Cash Collection.* Once approved, notice is given to property owners that they have 30 days to pay their assessments in cash in full. The Town can then issue bonds for all assessments that remain unpaid.
11. *Issuance of Improvement Bonds.* The Town can issue bonds secured against the unpaid assessments. Annual assessment installments are collected on the property tax roll to pay the debt service on the bonds.

There are various areas for which the Town could utilize assessment districts. For example:

- Street Lights
- Bicycle and Pedestrian Paths

- Park Improvements
- Drainage Improvements

Benefit assessment districts are viable source for capital improvement projects as well as ongoing maintenance of improvements. The amount of the assessments would vary dependent on the improvements considered and could be imposed as an ongoing revenue stream for maintenance of the improvements. *Staff considers adjustments to revenues received from an assessment district as a likely source for future revenue augmentation for specific purposes.*

## Fees, Charges, and Rates Revenue Alternatives

### User and Regulatory Fees

**Description:** A fee paid to a municipality by a person to receive a particular public service, including fees paid for municipal utility services.

**Authority:** State Constitution, Government Code

**Use of Revenues:** Revenues must be used for the specific purpose for which they are collected.

Fees for utility service can include both one-time fees, such as a connection fee, and an ongoing service fee – commonly called rates. Fees for the ongoing water, sewer, refuse collection, drainage and other services usually have a direct connection to land ownership and are likely property-related fees subject to Proposition 218.

User fees are commonly charged in connection with participation in a program or activity – such as a fee for recreation services or classes. The amount of revenue generated from the fee may not exceed the estimated reasonable cost of providing the service or, in the case of a regulatory fee, mitigating the impact of the fee payer’s activity. The Town’s recently completed Fee Study assures that our fees are currently in line with this requirement. Regulatory fees must be reasonable, fair and equitable in nature and proportionately representative of the costs incurred by the Town. The Town can include not only the direct cost but also any incidental costs that may be incurred.

Although facility rental fees are called “fees,” they are more akin to rents received for the use of a facility. Facility rental fees for the use of public property are considered rent and are generally set at the discretion of the public agency. They can be set at comparable market rates for similar rental venues.

The Town already imposes fees for services based on the fee study. These fees are based on the direct and indirect costs for providing the service and cover any service the Town offers. However, as the Council is aware, we are expanding rental opportunities at Holbrook-Palmer Park through a 3<sup>rd</sup>-party vendor and will be evaluating rental rates as that contract progresses. One such additional revenue at the Park could be a day use permit for areas of the park, for example picnics or birthday parties. Significant revenue enhancement is not likely with a day use

permit, but the addition would allow the Town to recover costs for any operational expenses for the use of park areas.

*Staff believes that the Town is charging appropriate fees for all of its services. However, staff also believes that additional revenue can be generated through park uses. As the 3<sup>rd</sup>-party contract evolves, staff will evaluate the established rental rates to ensure that they are commensurate with market conditions for similar venues. While this will not be a significant source of revenue, these revenues will offset current General Fund expenditures dedicated to park maintenance and capital improvements.*

### Property Related Fees

**Description:** A levy imposed on a parcel or upon a person as an incident of property ownership for a property-related service.

**Authority:** State Constitution, Government Code

**Use of Revenues:** Revenues must be used for the specific purpose for which they are collected.

Proposition 218 created a “sub-set” of fees and charges known as “property-related fees.” When dealing with this sub-set of fees, there are substantive and procedural requirements imposed. There are specific exemptions such as:

- Development Impact Fees
- Electric or Gas Service Fees
- User Fees for Service Delivered to the User that are *not* property-related
- Utility Connection Fees or Capacity Fees
- Regulatory Fees

The Town’s refuse collection fees are subject to the requirements of Proposition 218 as they are “property-related” fees.

*Staff does not consider the imposition of property-related fees to be a likely source for future revenue augmentation. However, as the requirements promulgated under the Regional Water Quality Control Board pursuant to the National Pollution Discharge and Elimination Systems Act (commonly known as stormwater regulations) evolve, staff may consider moving forward with a property-related fee to offset the cost of regulation and monitoring.*

### Development Impact Fees

**Description:** Dedications of property or fees, other than taxes or special assessments, charged to compensate for new demands on public resources resulting from the development of land and property and imposed as a condition of development approval.

**Authority:** State Constitution, Government Code

**Use of Revenues:** Revenues must be used for the specific purpose for which they are collected.

California land use law allows the levy of development impact fees to mitigate or provide in lieu compliance. These include such theorized fees as traffic impact, school impact, road impact, or park dedication fees. When imposing such a fee, the agency must make certain specific findings supported by a fee study to tie the fee imposed to the Town's general plan and/or capital improvement program. Generally, such fees may be levied for the construction of capital improvements connected with the development, but may not be levied for continued maintenance or operation.

Given the Town's strict residential development codes and limited non-single-family development opportunity in the community, the ability for the Town to impose development impact fees is limited. However, in the past, the Town had imposed a Road Impact Fee. The Town stopped collection of the fee due to legal concerns with its adoption and methodology. Current permits *do not* include a road impact fee component. If the Council feels that pursuing a proper Road Impact Fee is worthwhile, staff can pursue additional information for consideration. *Absent the possibility of a Road Impact Fee, staff does not consider the imposition of development impact fees to be a likely source for future revenue augmentation.*

#### Regulatory Fees

**Description:** A charge imposed on a regulated action to pay for the cost necessary to regulate the activity or mitigate the impacts of the fee payer on the community.

**Authority:** State Constitution, Government Code

**Use of Revenues:** Unrestricted.

Regulatory fees are imposed to benefit and protect the community, in its entirety, from the deleterious and damaging effects of a particular activity. As articulated earlier, regulatory fees are limited to covering the cost of the program. The cost funded by the fee may include all costs incident to the issuance of the license, permit, investigation, inspection, administration, and maintenance of a system of supervision and enforcement. It does not matter if a fee does not benefit those charged as long as the fee is commensurate with the burden imposed by the activity of those charged. Example of regulatory fees include:

- Development processing fees (building permits, zoning variance, planning services, etc.)
- Parking permits
- Alarm permits
- False Alarm Fees
- Alarm Monitoring Fee
- Commercial regulation permits
- Solicitor, peddler, or vendor permits

Of the above fees the Town can institute alarm permit fee for residents who have a security alarm system in their home. While we charge for the initial connection, the Town does not charge for the monitoring (unlike the private sector).

In addition, the Town does not charge a fee for false alarm response. The Town could develop a schedule that allows a certain number of false alarms in a given period without charge but beyond that amount there is fee. The Town could also consider metering or permit parking at Town Center during business hours.

The Town's recent fee study addressed all current Town fees to ensure they were compliant with the requirement for program cost recovery. While there may be areas that the Town can expand its fees – such as with the upcoming mobile food vendor permit, alarm permit fees, monitoring fees, false alarm response fee, and parking permit fees - *staff does not consider the expansion of regulatory fees to be a likely source for significant future revenue augmentation. For any new service provided or proposed, staff would recommend a commensurate cost recovery fee to ensure fiscal neutrality.*

## **Other Revenue Alternatives**

### Franchise Fees

**Description:** Payment to a municipality as “rent” or “toll” for the use of the streets and rights of way of a municipality.

**Authority:** Public Utilities Code; Public Resources Code

**Use of Revenues:** Unrestricted.

There are numerous utilities governed by the franchise fee provisions: cable and video, solid waste, electric, gas, water, and oil.

For cable and video, the State has intervened with the Digital Infrastructure and Video Competition Act of 2006 (DIVCA). A state-issued franchise grants the right to provide video service and to use the public rights of way in the area specified by the franchisee. In exchange, the franchisee must pay a franchise fee to cities that own that right-of-way. The Town may and does require encroachment permits and regulate the time, place and manner of any activity. The franchise fee is regulated by the State at 5% of gross revenues or the percentage paid by an incumbent cable operator under a prior franchise agreement, whichever is less. The Town receives approximately \$115,000 per year from the cable franchise.

For solid waste, the Town may also impose a franchise fee. The fees charged for the service delivery are considered property-related fees as described above and changes to those fees are subject to the requirements of Proposition 218. The franchise fee is a pass-thru fee. The Town charges a franchise fee of 10% and receives approximately \$313,000 per year from the refuse franchise. The Town can increase its solid waste franchise fee.

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Franchise fees from state-issued gas, electric, telephone and oil franchises are limited to 2% of the franchisee's gross annual receipts. The CalWater franchise fee is set at 2% and other utilities at 1%. The Town receives approximately \$340,000 per year from these franchises.

*Since the Town is limited in its ability to make adjustments to any of the above, staff does not consider adjustments to revenues received from franchise fees to be a likely source for significant revenue augmentation.*

### Licenses and Permits

**Description:** Licenses or permits are issued to regulate activities within a jurisdiction.

**Authority:** State Constitution, Government Code

**Use of Revenues:** Unrestricted.

Cities may regulate various activities and may charge fees to cover the costs of the regulatory services and programs. As mentioned prior, regulatory fees are limited to covering the cost of the regulatory program. Business licenses have been discussed earlier in this Report as a tax.

*Staff does not consider the expansion of licenses or permits to be a likely source for significant future revenue augmentation. For any new service provided or proposed, staff would recommend a commensurate cost recovery fee to ensure fiscal neutrality.*

### Fines, Forfeitures and Penalties

**Description:** Revenues received and/or bail monies forfeited upon conviction of a misdemeanor or municipal infraction.

**Authority:** Penal Code, Government Code

**Use of Revenues:** Generally unrestricted.

Fines paid and bail moneys forfeited following conviction of a misdemeanor or infraction committed within Town limits are generally allocated to the jurisdiction in which the offense occurred. The Town can establish the bail amounts for specific violations.

In addition, a violation of a municipal code may be cited as a criminal misdemeanor or infraction. If a civil citation is issued, the Town may and does establish the amount of the penalty. The Town may retain the entire amount of the citation.

The Town also administers parking citations. The Town establishes the violation amounts and retains all of the revenue (less the cost to process the citation).

The Town receives approximately \$15,000 in vehicle code fines and about \$41,000 in other fines and forfeitures via the County allocation.

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While controversial, the Town could address issues along El Camino Real through the installation of a red light camera. The Town could contract with the City of San Mateo for the processing of red light photo enforcement citations.

*Staff does not consider the expansion of fines, forfeitures and penalties to be a likely source for significant future revenue augmentation. Should there the Town encounter specific enforcement issues, particular penalties may be raised to ensure compliance; however, staff does not recommend a wholesale increase of penalties and fines as a revenue alternative.*

### Rents, Royalties and Concessions

**Description:** Revenues from rental or use of Town property or resources.

**Authority:** State Constitution, Government Code

**Use of Revenues:** Unrestricted.

The Town can receive revenue from a variety of payments for the use by a private person or enterprise of public property. For example, the Town rents facilities at the Park and receives revenue from this rental. Other communities have larger facility availability and/or varietal rental agreements. For example, communities with bus shelters, refuse services, or bus services may rent space for advertising. The Town could lease property for wireless communications such as the lease at Town Hall.

The Town is limited in this regard but could consider leases of additional space for wireless communications at the Park or within the new Civic Center. The Town could consider installing bus shelters along bus routes through the Town and leasing advertising space. The Town could consider the lease of commercial space within the new Civic Center for book sales (friends of the Library) or a coffee shop.

Commercial advertising and commercial uses in Atherton are a sensitive political topic. While there may be appropriate areas and acceptable uses, allowing these uses should involve a broader public discussion. *At this time, absent specific policy-driven direction, staff does not consider commercial rents or royalties to be a likely source for significant future revenue augmentation. However, expansion of rental revenue from the Park, as discussed above, could generate revenue dedicated to the Park to offset existing General Fund expenditures.*

### Gifts

**Description:** Contributions to the Town for a specific public purpose.

**Authority:** Government Code

**Use of Revenues:** Depends on the nature and stipulations of the gift.

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The Town may accept or reject any gift, bequest or devise made to or for the Town, or to or for any of its officers in their official capacities or in trust for any public purpose. If the gift, bequest or devise does not limit the uses to which the property received or the income or increase from it may be put, it may be put to any uses the Town desires.

Gifts to the Town are considered charitable contributions and are tax-deductible, so long as the gift is for entirely public purposes. *At this time staff does not consider gifts to be a continuing source of revenue augmentation; however, gifts will be the significant funding component of the Civic Center Project.*

**FISCAL IMPACT**

None.



## 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

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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

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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.)*

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- 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

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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**

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<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**

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.