



Item No. 2 Town of Atherton

CITY COUNCIL/ATHERTON CHANNEL DISTRICT – STUDY SESSION

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

FROM: ROBERT OVADIA, PUBLIC WORKS DIRECTOR

DATE: FEBRUARY 6, 2019

**SUBJECT: ATHERTON CHANNEL DISTRICT FINANCING OPTIONS –
DISCUSSION AND DIRECTION**

RECOMMENDATION

Discuss and provide direction regarding district financing options.

BACKGROUND

On July 18, 2018, the Board received a report providing an overview of the Atherton Channel District and the need to identify additional resources to address maintenance and capital needs. The District receives a small share of the 1% property tax assessed on each of the parcels within the District Boundaries. The Town's FY 2018/19 operating budget estimates District Revenues at approximately \$83,000. These funds are used for channel cleaning and capital improvements, but revenues are insufficient to fund replacement of channel lining now fifty plus years old. The proposed water detention project within the Town has been proposed to be located within boundaries of the Atherton Cannel District. Maintenance costs of the proposed facility are estimated at approximately \$73,000 annually. At the meeting, the Board requested staff investigate the opportunity to expand the boundaries of the District to include additional properties that may drain to the channel, as well as additional revenue opportunities.

On October 3, 2018, staff provided additional information to the regarding boundary expansion. The report outlined that Subsidiary Districts were defined in California Government Code Section 16271, which requires that:

- (1) The entire territory of such district is included within the boundaries of a city, or
- (2) A portion or portions of the territory of such district is included within the boundaries of a city and such portion or portions:
 - (i) Represent 70 percent or more of the area of taxable or assessable land within such district, as shown on the last equalized assessment roll; and

- (ii) Contains 70 percent or more of the number of registered voters who reside within the district as shown on the voters' registrar in the office of the county clerk or registrar of voters.

As Town parcels constitute 1,354 (just under 55%) of the 2,470 parcels located in the District, the current composition of the District would not meet the standards for creation of a new subsidiary district. Thus expansion of the district boundaries may trigger the need to separate the district as its own special district. The report further stated that if the remainder of the taxable parcels with the Town were added to the District boundaries, Town parcels would constitute approximately 70% of the parcels. Addition of any parcels outside the Town to the District would then push below the 70% requirement. Thereby, expansion of the District is not an option.

The report also briefly discussed the ongoing efforts related to the Creation of a Joint Powers Authority related to storm water and sea level rise on both a jurisdictional and regional basis and the option of asking parcel owners within the District to increase their property taxes to provide the additional funds needed to maintain and improve the drainage facilities within the District limits.

The Council asked that Staff return with additional information regarding the process seeking property owner approval for such an increase.

ANALYSIS

Staff contacted NBS to discuss potential options for revenue generation for the District. NBS has more than 20 years in experience in assisting municipalities, special districts and other agencies in conducting user fee studies, developing revenue streams such as new special tax, assessment and fees, and administering such special financing districts. Tim Seufert of NBS will provide a short presentation regarding stormwater funding options, legislative requirements, and issues that the Town should consider as it decides on how to proceed in addressing District funding needs. He will be available to answer any questions the Council may have.

Proposition 218, the "Right to Vote on Taxes Act," passed by voters in 1996, requires local governments to get voter approval for new and increased taxes and assessments. Specifically, it requires the following:

1. **Voter Approval on Taxes.**
 - a. Prop. 218 requires all local governments, including charter cities, to get **majority voter approval** for new or increased general taxes. Revenue from "General Taxes" may be used for any governmental purpose.
 - b. Prop. 218 requires all local governments, including charter cities, to get **two-thirds voter approval** for new or increased special taxes. Revenue from "Special Taxes" are designated to be used for specific purposes. (There is current discussion of lowering this threshold to 55%, but that would require a constitutional amendment.)
2. **Stricter Rules on Benefit Assessments.** Benefit assessments by definition must be calculated based on the benefit received by the parcel as a result of the project financed

and/or services funded. Prop. 218 and recent court cases created a stricter environment for initiating or increasing benefit assessments. An agency must determine the specific benefit the project will have on individual parcels. A general enhancement to property values can no longer serve as the benefit.

3. **Increased Notification and Protest Requirements for Benefit Assessments.** Proposition 218 requires that agencies put all assessments and special taxes out to a vote or approval process prior to creation or increase. **Approval** of essentially 50% (of ballots returned) is required for new assessments. In most cases, the process will require individual notices be mailed to affected property owners. A formal protest hearing is also required to move forward with the charge or increase.
4. **Restrictions on Use of Property-Related Fees.** Proposition 218 prohibits local governments from imposing fees on property owners for services that are available to the public at large. Except for sewer, water and refuse collection services, fees assessed on properties require a **majority vote of property owners** or, at the public agency's option, **a two-thirds vote of the electorate**, in addition to compliance with the majority protest proceedings.

Options for increasing District revenue specifically include:

1. Special or parcel taxes
2. Special benefit assessments
3. Property-related fees

Tim Seufert will discuss these optional revenue sources as well as review other sources of revenues.

POLICY FOCUS

The Council's policy discussion should focus on revenue options and strategies for the Atherton Channel District.

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.

COMMISSION/COMMITTEE FEEDBACK/REFERRAL

This item ____ has or X has not been before a Town Committee or Commission.

- Audit/Finance Committee (meets every other month)
- Bicycle/Pedestrian Committee (meets as needed)
- Civic Center Advisory Committee (meets as needed)
- Environmental Programs Committee (meets every other month)
- Park and Recreation Committee (meets each month)
- Planning Commission (meets each month)
- Rail Committee (meets every other month)
- Transportation Committee (meets every other month)

ATTACHMENTS

None

The fundamental process

1

Develop
Priorities

2

Choose
Funding
sources
and
tool(s)

Priorities and policies

1



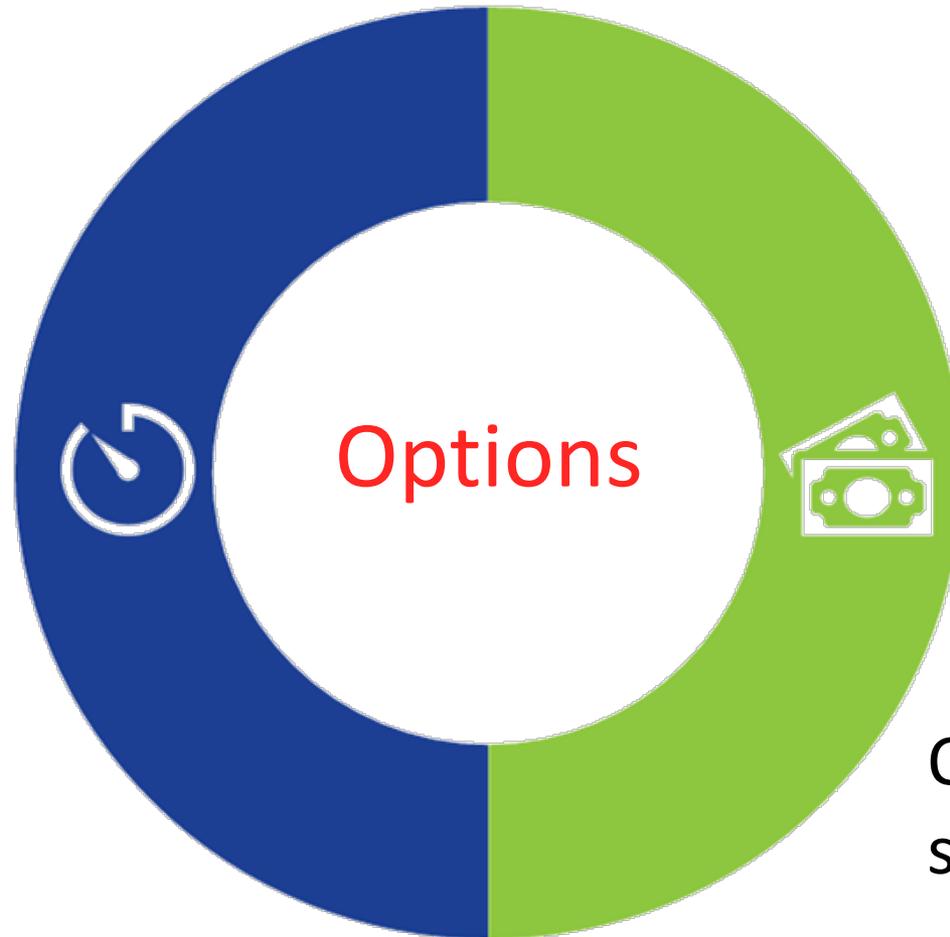
Community needs and desires, fully vetted...and plans

Choosing funding and financing tools



Capital vs. services

One-time
capital
investment



Ongoing
services

10 step plan

1

Water/Sewer/Trash Utilities

2

Development Impact Fees

3

Regulatory Fees

4

Property-related Fee

10 step plan | continued

5

G.O. Bonds

6

Community Facilities District/CFD

7

Special/Parcel Tax

8

Special/Benefit Assessment

10 step plan | continued

9

Grants

10

The General Fund

Special assessments

ARE BENEFIT-BASED

- General benefit
- Rigor of assessment engineering
- Still viable...

APPROVAL MECHANISM

- Property-owner
- Protest ballot
- 50% + protest?

SAMPLE PROJECTS

- Infrastructure, new and replacement
- Ongoing maintenance
- PBIDs/CBDs

CFDs and parcel taxes

NOT BENEFIT-BASED

- Reasonable metrics
- Achieves local goals and policies

APPROVAL MECHANISM

- Voter approved, still 2/3 required
- CFD landowner vote(s)

SAMPLE PROJECTS

- Schools and libraries
- New development
- Open space acquisition and maintenance

Property-related fee (*not* water, sewer, trash)

ANALYTICAL RIGOR

- Voluntary nature?
- Analytical analysis
- “Water supply” vs environmental or regulatory needs

APPROVAL MECHANISM

- “Property-based fees” balloted

SAMPLES

- Palo Alto Storm drain fee
- CSA fee