



Item No. 3 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: DECEMBER 4, 2019

**SUBJECT: REVIEW AND DISCUSSION OF A POSSIBLE TOWN OF ATHERTON
CONSTRUCTION AND DEVELOPMENT TAX; AND PROVIDE STAFF
WITH FEEDBACK AND DIRECTION FOR NEXT STEPS**

RECOMMENDATION

Review and discussion of a possible Town Construction and Development Tax; and provide staff with feedback and direction for next steps.

BACKGROUND

In 2014 the City Council began discussions on revenue alternatives to the General Fund. In March 2014, staff provided a broad overview of the various types of taxes and revenue options. The Council narrowed the list for review and in May 2014 staff returned with a focus on Utility User's Tax, Business License Tax, Rents and Uses, and Benefit Assessment Districts. In 2017, the City Council discussed a strategy plan for the Town's business license tax. As part of the strategy plan and focus on the Business License Tax, the Council asked for a more in-depth look at the business license structures of comparative communities. Staff presented a more in-depth look at the business license structures and the Council was presented with the business tax of several cities to help provide understanding and clarity of business tax options. After extensive review of the Business License structures and various models that might be usable in Atherton, the Council ultimately opted *not to move forward* with an update to a Business License Ordinance Tax Measure.

Municipalities review revenue alternatives regularly to help diversify revenue to the General Fund and Capital Improvement operations. The Town's previous review of revenue alternatives, such as Business License Tax, was an important step as the Town continues to explore ways to not be so heavily reliant on property tax revenues.

Generally, revenues can be categorized as a tax, a fee, a grant or an assessment. As you may recall, the Town had a Special Parcel Tax. The Special Parcel Tax was a revenue source that the Town used to primarily fund street and road projects as well as supplemental funding for Police Services.

ANALYSIS

Earlier this year it was discussed that the Town should continue to review additional revenue alternatives to the General Fund. From that discussion, the Council asked that staff return to the Council to discuss the possibility of a construction and development tax. There are two categories of taxes: 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.

It was suggested that a construction and development tax would be more logical than other revenue alternatives with respect to its application here in Atherton. A construction and development tax would be a tax derived from construction of residential properties as part of the construction process. This tax has the potential to generate revenue to augment or supplement revenue in the General Fund.

Construction and Development Tax

Description: Excise Tax imposed on the privilege or activity of development and/or the availability or use of municipal services.

Authority: California Constitution/Government Code

General/Special Tax and Use of Revenues: May be imposed as a general taxes or special taxes.

The construction or development tax is a type of tax on the privilege or activity of development and/or the availability or use of municipal services. This tax is generally imposed only on new construction and is based on number of units, number of bedrooms, or square footage. Development taxes are imposed for revenue raising purposes and need not bear any relationship to the cost of facilities, service or, other municipal purposes funded by tax revenues.

This tax is clearly distinguishable from a development impact fee. Development impact fees must be adopted pursuant to Government Code sections 66000 and are fees intended to mitigate the impacts of development and must not exceed the cost of providing the service or facilities necessitated by the development. Proceeds from development fees must be spent on such services and facilities.

Among growing municipalities, a development tax can provide substantial alternative revenues. It must be noted that these revenues are paid by a one-time project and are perhaps best spent on non-recurring programs or projects. Due to this, these revenues should not be used towards ongoing operations. The amount of revenue derived from these taxes will fluctuate year to year, like a Utility User's tax.

The construction and development tax would be applied to all permits based on the valuation of the permit. For illustrative purposes, staff is presenting a range of percentage-based tax projections on the previous fiscal year building permit valuations.

Construction/Development Tax			
	FY 16/17	FY 17/18	FY 18//19
Total Construction Valuation	\$154,673,154	\$180,241,730	\$132,298,674
0.50% Tax	\$773,366	\$901,209	\$661,493
1.0% Tax	\$1,546,732	\$1,802,417	\$1,322,987
1.5% Tax	\$2,320,097	\$2,703,626	\$1,984,480
2.0% Tax	\$3,093,463	\$3,604,835	\$2,645,973

The above is an estimate of what a construction and development tax would generate in alternative revenue based on construction valuation. Construction valuation in the Town varies year over year and as a result, the Town’s revenue based on the tax would fluctuate. Most of the Town’s development and construction growth is through the purchase of existing properties, razing of existing homes and new homes being reconstructed on the property.

For reference, the Special Parcel Tax generated \$1.86 Million in Special Tax revenue to the Town. A construction and development tax could be set up as a General Tax or Special Tax.

If set up as General tax, it can only be enacted as part of a General Municipal Election (not a Special Election). The earliest such a tax could be on the ballot would be the 2020 General Election. Below is a timeline for the upcoming 2020 Election.

Construction/Development Tax Strategy/Timeline	
Jan/Feb 2020	City Council Meetings to create the general tax framework and discuss/engage a tax consultant to assist. (2 meetings)
Feb/March 2020	Begin meetings with the Builder’s Roundtable and Community Groups to gather input. (2 meetings)
Apr/May 2020	Conduct a Community Workshop to Discuss Taxing Model (1 meeting)
May/June 2020	Gather Polling and Survey Data. Conduct 2 nd Workshop. (1 meeting)
June/July/Aug 2020	Finalize Ballot Language. Set Ballot Measure for November 2020. (3 meetings)

The above is a very rough timeline for the effort and it involves a number of assumptions.

Staff recommends the engagement of a professional tax consultant to assist with the process, public engagement, and ballot language. It is unknown at this time what that cost might be; however, staff does not have the expertise or the bandwidth to undertake the effort internally. A Special Election would allow for a longer timeline into 2021; but would push the measure into the Special Tax category.

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 the revenue alternative listed in this report. Staff will use the suggested methodology to construct a tax model for the tax measure. The Town should also establish a strategy plan for this tax measure for the 2020 general election.

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)
- Tree Committee (meets each month)

ATTACHMENT(S)

1. History of Building Permits and Valuations

**Town of Atherton
Building Safety & Inspection**

*Construction and Permit Summary
June 1, 2019 to June 30, 2019*

	Jun-19	Fiscal Year 2018-19
Total Construction Valuation¹:	\$8,130,134	\$132,298,674

REVENUE

Plan Check Fees Collected:	\$29,145	\$391,239
Permit Fees Collected:	\$83,493	\$1,148,882
Other Fees Collected:	\$7,404	\$54,952
TOTAL:	\$120,042	\$1,595,073

PLAN CHECK

Applications Received:	72	717
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PERMITS

Residential:		
New Single Family Residential Permits Issued:	1	24
New Accessory Structures Issued:	23	204
Addition / Alteration Permits Issued:	14	136
Reroof / Water Well / Grading Permits Issued:	15	128
Plumbing/Mechanical/Electrical Permits Issued:	20	184
Demolition Permits Issued:	9	46
Non-Residential:		
New Permits Issued:	2	9
TOTAL Permits Issued:	84	731

Total Open Permits as of 6/30/19	964
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INSPECTIONS

Inspections Performed:	757	8,964
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Footnotes:

¹Valuation: For permitted projects during this period.

Town of Atherton Building Safety & Inspection

*Construction and Permit Summary
June 1, 2018 to June 30, 2018*

	Jun-18	Fiscal Year 2017-18
Total Construction Valuation¹:	\$7,573,075	\$180,241,730

REVENUE

Plan Check Fees Collected:	\$47,811	\$546,670
Permit Fees Collected:	\$99,571	\$1,260,380
Other Fees Collected:	\$4,643	\$66,456
TOTAL:	\$152,025	\$1,873,506

PLAN CHECK

Applications Received:	52	795
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PERMITS

<u>Residential:</u>		
New Single Family Residential Permits Issued:	2	29
New Accessory Structures Issued:	27	241
Addition / Alteration Permits Issued:	9	118
Reroof / Water Well / Grading Permits Issued:	6	148
Plumbing/Mechanical/Electrical Permits Issued:	19	218
Demolition Permits Issued:	4	42
<u>Non-Residential:</u>		
New Permits Issued:	0	28
TOTAL Permits Issued:	67	824

Total Open Permits as of 6/30/18	847
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INSPECTIONS

Inspections Performed:	703	8,306
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Footnotes:

¹Valuation: For permitted projects during this period.

Town of Atherton Building Safety & Inspection

*Construction and Permit Summary
June 1, 2017 to June 30, 2017*

	Jun-17	Fiscal Year 2016-17
Total Construction Valuation¹:	\$11,591,462	\$154,673,154

REVENUE

Plan Check Fees Collected:	\$51,153	\$477,931
Permit Fees Collected:	\$123,136	\$1,177,551
Other Fees Collected:	\$7,800	\$92,364
TOTAL:	\$182,089	\$1,747,846

PLAN CHECK

Applications Received:	102	919
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PERMITS

Residential:		
New Single Family Residential Permits Issued:	3	31
New Accessory Structures Issued:	40	264
Addition / Alteration Permits Issued:	12	118
Reroof / Water Well / Grading Permits Issued:	18	139
Plumbing/Mechanical/Electrical Permits Issued:	18	241
Demolition Permits Issued:	8	41
Non-Residential:		
New Permits Issued:	4	10
TOTAL Permits Issued:	103	837

Total Open Permits as of 6/30/17	776
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INSPECTIONS

Inspections Performed:	972	10,273
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Footnotes:

¹Valuation: For permitted projects during this period.