



## Item No. 20 Town of Atherton

### **CITY COUNCIL STAFF REPORT – PUBLIC HEARING**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**THROUGH: GEORGE RODERICKS, CITY MANAGER**

**FROM: JUDI HERREN, ACTING CITY CLERK**

**DATE: JULY 19, 2017**

**SUBJECT: AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON CALLING FOR A SPECIAL MUNICIPAL ELECTION TO SUBMIT A MEASURE TO RENEW THE PARCEL TAX FOR AN ADDITIONAL FOUR YEARS AND INCREASE THE APPROPRIATION LIMIT TO PERMIT SPENDING THE PROCEEDS OF THE PARCEL TAX FOR THE SAME PERIOD; AND REQUESTING THE SAN MATEO COUNTY BOARD OF SUPERVISORS CONSOLIDATE WITH ANY OTHER ELECTION TO BE HELD ON NOVEMBER 7, 2017**

#### **RECOMMENDATION**

That the Council hold a public hearing and adopt the following ordinance – an Ordinance of the City Council of the Town of Atherton calling for a Special Municipal Election and order of submission to the qualified electors of the Town of Atherton a Measure to renew the Parcel Tax for an additional four years and increase the Appropriations Limit to permit spending the proceeds of the Parcel Tax for the same period; and requesting that the San Mateo County Board of Supervisors Consolidate with any other Election to be held on November 7, 2017.

#### **BACKGROUND**

In November 2013, the voters of the Town of Atherton adopted Ordinance 599 by a two-thirds vote, adopting a parcel tax for four fiscal years. The last fiscal year that the parcel tax will be in effect is Fiscal Year 2017-18. The parcel tax is a significant portion of the Town's total revenue, making possible the funding of the police department at its current levels as well as certain capital improvements.

The Council directed staff to place on its July 2017 agenda the ordinance and resolutions necessary to place before the voters a renewal of that parcel tax and an associated increase in the Town's appropriations limit (also known as the Gann limit.) The measures would go before the voters at a special municipal election consolidated with other San Mateo County elections on November 7, 2017.

For the Town to spend the proceeds of a parcel tax, the voters also need to approve an increase in the Town’s appropriation limit. Under Article XIII B of the California Constitution, the voters can raise the appropriation limit for no more than four years at a time. The attached ordinance therefore provide for a four (4) year extension of the parcel tax and a four (4) year increase in the appropriations limit.

#### Effective Date of Ordinance

The ordinance before the Council placing the measure on the ballot is effective immediately upon passage by the Council. The ordinance renewing the parcel tax would go into effect upon approval by two-thirds of those voting in the November 2017 election. The tax would be collected for Fiscal Years 2018-19 through 2021-22.

#### Amendments to Ordinance Regarding Total Available Revenues

It has been suggested that the Measure could be revised to include a paragraph within Section 4, Determination of Amount to be Raised, that would prompt the Council to consider other revenues sources as mitigation for the total amount of revenue required by the Town. For example, if the electorate were at some point in the future to adjust the revenue from the Business License Tax, the paragraph would trigger a review by the Council to adjust the amount of the parcel tax imposed by a similar amount.

The paragraph currently reads:

*“Each year following adoption of the Town’s annual budget, the City Council will determine the total amount of expenditures necessary to provide adequate levels of the municipal services identified in Section 2 above and capital improvements and deduct therefrom the projected revenue to be gathered from sources other than this special tax. The difference, if any shall be the maximum amount of funds to be derived from the tax authorized by this ordinance for such year.” (emphasis added)*

The Council may alter the verbiage in the above section for clarity or implementation if so desired. However, as it currently reads, if the Town’s electorate were to vote to adjust the business license tax thereby increasing revenue to the Town, the paragraph already triggers a review by the Council each year and allows the adjustment of the parcel tax by a corresponding amount. While not specific with respect to a future tax adjustment, it does allow the Council flexibility to adjust the parcel tax imposed each year.

#### **POLICY FOCUS**

The City Council’s policy discussion should revolve around the need for the Parcel Tax and the need to call the election for November 2017.

### **FISCAL IMPACT**

The November 2017 Election has a cost impact of approximately \$15,000. This has been budgeted in the FY 2017/18 Budget.

Additional fiscal impact issues for discussion of the Council is the Parcel Tax itself. As the Council is aware, the Parcel Tax provides \$1,860,000 per year in revenue for specified Capital Projects and Public Safety, with the bulk of the revenue, \$1,488,000 going to Capital Projects. In June 2017, the Council discussed the continued need for the Parcel Tax and identified \$2,730,000 in capital projects funded by the Parcel Tax in FY 2017/18. The Town's 5-Year Capital Improvement Program identifies \$5,915,000 in Parcel Tax funded projects in FYs 2018/19, 2019/20, 2020/21, and 2021/22. Projects identified include \$2,600,000 in road maintenance projects, \$2,400,000 in drainage improvement projects, \$770,000 in bicycle/pedestrian projects, \$75,000 in bridge improvement projects, and \$70,000 in accessibility improvements. Without the Parcel Tax, a funding source for the preceding projects would need to be identified.

If the Parcel Tax were not placed on the November 2017 ballot, the next opportunity for consideration by the electorate would be June 2018. The current Parcel Tax expires June 2018.

### **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.

### **ATTACHMENTS**

- Ordinance Placing Measure Before the Voters

**ORDINANCE NO. XXX**

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON CALLING FOR A SPECIAL MUNICIPAL ELECTION TO SUBMIT A MEASURE TO THE VOTERS TO RENEW THE PARCEL TAX FOR AN ADDITIONAL FOUR YEARS AND INCREASE THE APPROPRIATION LIMIT TO PERMIT SPENDING THE PROCEEDS OF THE PARCEL TAX FOR THE SAME PERIOD AND REQUESTING THE SAN MATEO COUNTY BOARD OF SUPERVISORS CONSOLIDATE WITH ANY OTHER ELECTION TO BE HELD ON NOVEMBER 7, 2017**

The City Council of the Town of Atherton does hereby ordain as follows:

**SECTION 1.** ELECTION CALLED. The City Council of the Town of Atherton submits the following ordinances to the voters of the Town of Atherton at a Special Election to be held on Tuesday, November 7, 2017.

**SECTION 2.** FULL TEXT OF THE MEASURE. The complete text of the proposed ordinance shall be:

**“AN ORDINANCE OF THE TOWN OF ATHERTON AUTHORIZING THE RENEWAL OF A PARCEL TAX TO CONTINUE TO PROVIDE FUNDING FOR TOWN POLICE AND EMERGENCY SERVICES, INCLUDING MAINTAINING NEIGHBORHOOD POLICE PATROLS AND THE TOWN’S ABILITY TO RESPOND TO EMERGENCIES, REPAIRING AND MAINTAINING STREETS, AND REPAIRING AND CONSTRUCTING STORM DRAINS, FOR FOUR YEARS, AND ALLOWING EXPENDITURES OF FUNDS DERIVED FROM SUCH TAX”**

The people of the Town of Atherton do ordain as follows:

**SECTION 1.** **AUTHORITY TO ADOPT MEASURE.** This ordinance and the tax authorized herein are adopted pursuant to the provisions of the California Constitution, Articles XIII A §4 and XIII C §2, XIII B and pursuant to Sections 50075 and following 53722 of the California Government Code.

**SECTION 2.** **INCREASE IN APPROPRIATIONS LIMIT.** Pursuant to Article XIII B of the California Constitution, the appropriations limit for the Town of Atherton will be increased for four fiscal years, commencing with the 2018-19 fiscal year, by the amount of money levied under a voter-approved parcel tax.

**SECTION 3.** **AUTHORIZATION TO LEVY SPECIAL TAX.** If, for any fiscal year commencing on or after July 1, 2018, the City Council shall determine that certain police, emergency response services, street repair and maintenance, and drainage facility repair and maintenance are necessary for the public good, welfare, and safety, and that the cost of providing such services will exceed the amount of funds generated through other revenue and income, and/or if capital improvements are required, the cost of which exceeds the amount of funds

generated through other revenues and receipts, then it may levy a special tax for such fiscal year on each parcel of property within the Town in the manner provided herein. This special tax shall be in addition to the annual tax rate allowed by law.

SECTION 4. DETERMINATION OF AMOUNT TO BE RAISED. Each year following adoption of the Town’s annual budget, the City Council will determine the total amount of expenditures necessary to provide adequate levels of the municipal services identified in Section 2 above and capital improvements and deduct therefrom the projected revenue to be gathered from sources other than this special tax. The difference, if any, shall be the maximum amount of funds to be derived from the tax authorized by this ordinance for such year.

SECTION 5. MAXIMUM TAX RATE/METHOD OF ASSESSMENT. After determining the amount of tax to be raised under Section 3, the City Council shall apportion said amount among the parcels of real property within the Town not exempted by law as follows:

MAXIMUM TAX IN GIVEN YEAR

	2017-18	2018-19	2019-20	2021-22
1. For each dwelling on a parcel with an area of less than 1/4 acre:	450	450	450	450
2. For each unimproved parcel with an area of less than 1/4 acre:	225	225	225	225
3. For each dwelling on a parcel with an area of 1/4 acre or more, but less than 1/2 acre:	570	570	570	570
4. For each unimproved parcel with an area of 1/4 acre or more, but less than 1/2 acre:	285	285	285	285
5. For each dwelling on a parcel with an area of 1/2 acre or more, but less than 2 acres:	750	750	750	750
6. For each unimproved parcel with an area of 1/2 acre or more, but less than 2 acres:	375	375	375	375
7. For each dwelling on a parcel with an area of 2 acres or more:	960	960	960	960
8. For each unimproved parcel with an area of 2 acres or more:	480	480	480	480
9. For each private club:	25,000	25,000	25,000	25,000

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| 10. | For each parcel available for tax owned by a utility which serves the Atherton community:                  | 450 | 450 | 450 | 450 |
| 11. | For each parcel available for tax owned by a utility which does not directly serve the Atherton community: | 750 | 750 | 750 | 750 |

The records of the San Mateo County Assessor, as of each year, shall determine whether or not any particular lot is unimproved for purposes of this ordinance.

SECTION 6. HEARING, TAX LIEN AND INCLUSION IN CITY TAXES. Prior to levying a special tax under this ordinance in any fiscal year, the City Council shall conduct a public hearing on the proposed tax. Such hearing shall be conducted after the City Council has adopted an annual budget for that year. Notice of such hearing shall be posted in at least three public places within the Town of Atherton at least fifteen days prior to the hearing. All of the information and material which the City Council intends to consider at such hearing and the amount of tax to be raised shall be made available to the public by being on file in the office of the City Clerk for at least fifteen days prior to said hearing. Following said hearing, the City Council may adopt a resolution fixing the amount of tax to be raised which shall not exceed the amount contained in the material on file in the Clerk’s office. Any tax levied under this ordinance shall become a lien upon the properties against which it is assessed and collectible in the manner provided by applicable law and by the levying resolution.

SECTION 7. COLLECTION. The City Council may elect to have any special tax authorized under this Chapter either collected by the Town or, in the alternative, by the Tax Collector of San Mateo County. If the services of the Tax Collector of the County of San Mateo are elected, the special tax may only be included on the annual tax bill sent out by such Tax Collector. A certified copy of the resolution electing to use the service of the Tax Collector of San Mateo County shall be filed with said Tax Collector prior to September 1st of the fiscal year for which the tax is assessed and shall include a list of all parcels of real property to be taxed and the amount of each parcel.

SECTION 8. FUNDING AND EXPENDING PROCEEDS. Proceeds of any tax levied under this ordinance shall be deposited in a Special Fund and expended only for the purposes stated in this ordinance.

SECTION 9. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any other provision or applications, and to this end the provisions of this ordinance are declared to be severable.

SECTION 10. DURATION AMENDMENT OR REPEAL. The authorization to levy a tax under this ordinance shall commence with the Fiscal Year 2018-19, beginning July 1, 2018 and shall continue through and including June 30, 2022.

This ordinance shall be adopted if approved as an initiative measure by two-thirds of the voters voting at a Special Election to be held on November 7, 2017, and go into effect ten (10) days after the City Council has, by resolution, declared that such initiative measure was approved by two-thirds of the voters voting thereon.”

**SECTION 3.** CONDENSED STATEMENT OF MEASURE. The manner in which the proposed measure shall appear on the ballot shall be:

<p>“To continue providing funding to maintain neighborhood police patrols and the Town’s ability to respond to emergencies, repairing and maintaining streets, and repairing and constructing storm drains, shall an ordinance be adopted to continue a Special Parcel Tax for four years and allowing for the expenditure of funds derived from such tax?”</p>	<p>YES</p>
	<p>NO</p>

**SECTION 4.** PUBLICATION. This ordinance shall be posted in at least three public places within the Town of Atherton, and shall become effective immediately upon its passage and approval. The City Clerk is authorized and directed to give notice of election in accordance with Chapter 2 (commencing with section 12100) of Division 12 of the California Elections Code.

**SECTION 5.** CONSOLIDATION. Due to the economics involved, the public interest would best be served by consolidating such Special Election with any other elections to be held on Tuesday, November 7, 2017 and by contracting with the County of San Mateo for election services. The Town of Atherton does hereby request the Board of Supervisors of the County of San Mateo to consolidate said Special Election with any other election to be held on November 7, 2017. The City Manager is hereby authorized and directed to enter into a contract with the Chief Elections Official of the County of San Mateo for the purpose of providing election services in connection with said Special Election.

**SECTION 6.** SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any other provision or application, and to this end the provisions of the ordinance are declared to be severable.

**SECTION 7.** EFFECTIVE DATE. This ordinance calling an election shall become effective immediately upon its adoption by the City Council of the Town of Atherton.

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*I hereby certify that the foregoing ordinance was adopted at a regular meeting of the City Council of the Town of Atherton held on July 19, 2017, by the following roll call vote:*

AYES: Councilmembers:  
NOES: Councilmembers:  
ABSTAIN: Councilmembers:  
ABSENT: Councilmembers:

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Michael Lempres, Mayor  
Town of Atherton

ATTEST:

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Judi Herren, Acting City Clerk

APPROVED AS TO FORM:

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William B. Conners, City Attorney