



<b>Town of Moraga</b>	<b><u>AGENDA ITEM</u></b>
<b>Ordinances, Resolutions, Requests for Action</b>	<b>XI. C.</b>

Meeting Date: February 16, 2011

**TOWN OF MORAGA**

**STAFF REPORT**

**To: Honorable Mayor and Council Members**

**From: Jill Keimach, Town Manager  
Jill Mercurio, Public Works Director/Town Engineer**

**Subject: Update on Revenue Enhancement Community Outreach to  
Neighborhoods (RECON) Efforts and Request for Direction**

**Request**

Receive an update and presentation from the Revenue Enhancement Community Outreach to Neighborhoods (RECON) subcommittee and provide direction to staff for continued efforts, if desired.

**Background**

In the spring of 2010, the Revenue Enhancement Community Outreach to Neighborhoods (RECON) conducted six, facilitated focus groups to query Moraga residents regarding their knowledge of the Town's finances and fiscal needs. In addition to the six separate focus groups, more than 650 residents participated in an online survey provided by one of the facilitators of the focus groups. On July 28, 2010, the RECON Committee presented the results of the focus group studies and the online survey to the Town Council.

The Council recommended that staff prepare a financing plan to address road and stormdrain (infrastructure) maintenance, including the studies (and associated funding) necessary to review the needs, cost estimates and appropriate financing mechanisms for an infrastructure program.

At the October 13, 2010 Special Town Council Meeting, then-Town Manager, Mike Segrest, presented additional information regarding the overall outreach plan and funding for continuing the efforts, especially for the engineering analysis and future consulting work.

The Committee has spent recent months analyzing various infrastructure finance mechanisms that may be appropriate for a long-term infrastructure program.

1 Staff utilized Randy Leptien (of Leptien, Cronin, and Cooper) who has served as  
2 the Town’s Lighting Assessment District Engineer since the lighting district was  
3 established in 1979; and the volunteer efforts of Sam Sperry (of Meyers Nave) a  
4 public finance attorney who has previously assisted the Town in municipal  
5 financing alternatives.

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7 The Committee considered two funding alternatives – 1) a special benefit  
8 assessment district as allowed under the Benefit Assessment Act of 1982, or 2) a  
9 Community Facilities District as allowed under the Mello-Roos Community  
10 Facilities Act of 1982.

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12 The Town currently utilizes a special assessment district with the Town’s street  
13 lights. A special assessment district requires that each property paying such  
14 assessment receives a “special benefit” to their property that others may not  
15 receive. Any benefit that all properties receive – a “general benefit” – the Town  
16 must pay without the assessments collected from the properties.

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18 An assessment district is limited by the Proposition 218 process, which requires  
19 that no more than 50% plus one vote of the ballots received disapprove the  
20 assessment – a “majority protest” – to pass. If no such majority protest occurs,  
21 then the assessment is approved.

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23 A community facilities district involves a special tax (special in this case because  
24 the money would be collected specifically for infrastructure improvements) and  
25 requires a 2/3 vote to pass. The tax is not apportioned based on the specific  
26 benefit to each property, and can be based on a reasonable approach to overall  
27 benefits to the properties. In the case of infrastructure improvements, a number  
28 of parcel characteristics would be considered in developing the tax, such as if the  
29 parcel is developed or undeveloped, or the type of land use (single family  
30 residential, condominium, etc.)

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32 Although assessment districts have been the financing tool of choice for a  
33 number of applications for a number of years, three recent court decisions have  
34 invalidated special assessments in a number of situations. One of the main  
35 contentions has been the definition of the “general benefit,” and even when  
36 legally well-defined, the Courts have challenged the studies and allocations.  
37 Therefore the assessment district mechanism has come under very close legal  
38 scrutiny, and the legal risk with pursuing this mechanism seems to outweigh the  
39 advantages of a simple majority-type of vote.

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41 There are also other funding methods that may be appropriate to our needs,  
42 such as parcel taxes. A parcel tax is typically either a flat rate per parcel, or can  
43 vary depending on use, size, and/or number of units on the parcel.

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46 **Discussion**

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48 The pros and cons of each funding mechanism are summarized below.

<b>Issues</b>	<b>Special Benefit Assessment District</b>	<b>Community Facilities District</b>	<b>Parcel Tax</b>
Approval Process	Lack of a “majority protest”	2/3 voter approval	2/3 voter approval
Legal Risks	Engineer’s Report under heavy scrutiny. High risk.	Reasonable apportionment. Negligible risk.	Negligible risk.
Annual Costs	Annual Engineer’s Report identifying apportionment and public hearings for such. (Moraga Street Light AD costs are in the \$20,000/yr range)	Minimal. Fees collected on tax bill. Funds sent to Town.	Minimal. Fees collected on tax bill. Funds sent to Town.
Pros	Requires majority approval.	CFD District boundaries can be determined by Town Council. Assessments are based on parcel characteristics, not by individual parcel details. Legally more defensible.	Town-wide. Typically legally defensible.
Cons	Difficult to determine legally defensible assessment on a parcel-by-parcel basis. Any property owner would be able to challenge assessment.	Requires 2/3rds voter approval.	Parcel tax that generates enough funds to maintain infrastructure is often too high to pass per parcel. Requires 2/3rds voter approval.

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If the Council would like to pursue these funding alternatives, each approach would require an Engineering Study to develop a method of apportionment. An assessment district would require a level of detail to be provided by consultants or staff regarding the specific improvements to be made adjacent to each parcel which would double the engineering costs of the project.

In addition to the engineering report required to determine an appropriate method of apportionment, the Council may want to consider hiring a consultant and polling expert to assist the Town in identifying the appropriate revenue measure (CFD, Parcel Tax, or other measure), in identifying the right election mechanism (mail ballot or traditional poll election) and in learning about the receptiveness of the community to various revenue measures and levels. The consultants would assist the Town in meeting its goal to create a long-term sustainable revenue source to maintain and enhance the Town’s infrastructure needs.

1 **Fiscal Impact**

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3 Staff believes that the next phases of work toward alternative funding  
4 mechanisms would involve less than \$50,000 in the consultant costs discussed  
5 above. To date, all research and analysis has been handled by the RECON  
6 group, with a lot of pro bono work from a number of Moraga citizens.

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8 **Alternatives**

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10 The Council can authorize staff to continue pursuing alternative funding  
11 mechanisms, and ask that staff bring back contracts for the professional services  
12 needed for continued outreach and involvement with the community.

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14 Alternatively, the Town Council could choose to do nothing, and allow staff to  
15 continue with the funding mechanisms currently in place.

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17 **Recommendation**

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19 Provide direction to staff for future efforts, if applicable.

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22 **Attachments**

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24 Attachment A: Memo from Sam Sperry; Basis for Recommendation to Utilize  
25 CFD/Special Tax Structure For Proposed Street Repair and Maintenance  
26 Program Funding, dated January 12, 2011