north tahoe
PUBLIC UTILITY DISTRICT
est. 1948

RECREATION AND PARKS DEPARTMENT FUNDING

Problem Statement

In the early 1990s, the State of California faced diminished revenues unable to keep pace with rising costs for schools, prisons and other mandated services. With polling of the voters showing opposition to tax increases to balance the States deepening deficits, it devised a plan to balance its budget with property tax revenues historically used for public services consistent with local government programs. This "tax grab" set the stage for many entities to scramble to find ways to cut expenditures and/or find new sources of revenue. The question at the time was how local services could be protected.

About 24 years ago the NTPUD endured the first of three planned, annual tax raids thought to equate to 40% of the property tax when fully implemented. Being generally viewed as an enterprise district, the State claimed lost revenues could be made up with locally approved rate increases. The NTPUD, however, had a non-enterprise function of recreation which not only relied on property tax but had few possibilities for raising revenue without a special election. Non-enterprise districts faced a 10% tax shift as a result.

With the aid of special legislation, the NTPUD was protected from that shift being fully implemented beyond year 1 by gaining an exemption from the shift. The premise of the exemption at the time was that the NTPUD would continue to adhere with the clean water standards set out in a previously adopted Porter-Cologne Act if it was allowed full use of property tax to export sewage out of the Tahoe Basin. This Act was aimed at protecting water quality from contaminants such as sewage. Being in the sewer export business at Lake Tahoe, the exemption protected the NTPUD from the shift.

The District had historically used property tax to fund a portion of all District services, including sewer, water and recreation. Subsequent to the exemption being secured, the District decided to fund each of its major services as enterprise functions in that each would stand on its own with rates, special taxes and fees. The exception to this is that the sewer department also benefitted from the total of the annual property tax collected each year. Note: This year's property tax is anticipated at approximately $3.8m.

For the enterprise functions to be successful, sewer rates were dropped and a new special tax was approved by the voters for recreation in a manner that netted no increase to the property owner. Water rates were also set to meet operational and capital needs. Utility rates have been raised by election since then, but the special tax for recreation has only risen by a 2% cost of living adjustment. The recreation department continues to operate at 1994 funding levels forcing skeleton crews to manage aging facilities without any reserves available for asset replacement.

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For fiscal year FY2015-2016, the Board of Directors formally loaned the recreation department $200k. This was the amount staff recommended was the minimum necessary to maintain the minimal level of service described above. Fully funding operating deficits which would return staffing levels to that of the 1990s would require roughly twice that amount or $400k per year. If capital asset replacement is funded as expressed at depreciation values in the budget, an additional $480k is needed annually. With this investment, staff could proceed with repairs and renovation to infrastructure at the NTEC and NTRP.

Discussion

In 2015, 24 years later, the District finds itself in need of funding sources for recreation. Recreation reserves are depleted and no capital asset replacement account is funded. One potential solution, transferring property tax back to recreation, was re-visited. Four major findings have been uncovered that could help policy makers and the public answer the elemental question for NTPUD Recreation Department funding. That being if property tax is used for anything other than sewer, would the current property tax exemption be at risk? Findings in support of property tax use without risk include:

1. The Legislative Counsel's Office (attorneys for the State Legislature) has been briefed on the District's situation and fundamental question. It has stated unequivocally the use of property tax is entirely the decision of the District without regard to ERAF and State actions taken in the mid-1990s. This opinion is available for review if requested.
2. The Placer County Auditor's Office, the agency directed by State Law to withhold property tax from local governments as ERAF to be sent to California, states they do not monitor how any district uses property tax and would not report any differently for purposes of changing allocations to the allocation developed in the 1990s.
3. The attorneys for BBK have analyzed the question of whether any change in the use of property tax by NTPUD for other services such as recreation could impact the exemption. The y were also asked to review the documents from both the Legislative Counsel and Placer County Auditor. Having nearly 200 attorneys at their disposal, staff was assured the question was given to the person or persons with the greatest knowledge in this specialty area. The multi-page response, which is available at any time for review, reiterates what other experts have said. The use of Property Tax is entirely at the discretion of the NTPUD Board of Directors and that there is no identifiable risk to the exemption being lost or that this action would affect what the Auditor withholds.

The next legitimate question raised is "what if the State goes broke again and decides the come for more property tax in the future"? Could actions today with property tax affect a possible exemption in the future? While this this could always happen, safeguards were put in place to stop future tax raids. In a deal worked out by the Governor, legislature and local government, the final phase of the tax shift would be implemented without litigation if everyone supported asking the voters for a change in the State Constitution. This change being that, if approved, it would be against State Constitution should Property Tax ever be transferred again. The response is as follows:

1. The people of the State of California voted to prohibit by constitutional amendment to stop any future transfer or raid on local property tax. This was approved overwhelmingly.

With this as a basis for decision-making, the Board of Directors of the NTPUD can spend property tax as they see fit for authorized services without fear of voiding any exemption authorized 24 years ago.

Despite having the ability to use property tax without jeopardizing the exemption, the impact of transferring any amount of property tax to recreation will have an immediate impact on sewer department revenue and the District's Reserve Fund. The true impact can't be determined without:

1. Deciding the amount of Property Tax to be transferred.
2. Updating the current rate study conducted nine years ago to uncover the difference between annual CIP and operating expenses versus revenue from the remaining property tax and existing rate revenue. Note: This is the time the District could review justifications for rate strategies and impacts of drought mandates.
3. Understanding the true impacts of the demise of Placer's RDA and how much new property tax can pass through to the District.
4. The District's Engineering and Operations Department assessing the cost of completing current projects and the realistic amount of work it has capacity for annually. This aimed at fully completing assigned projects annually.
5. Review of Reserve Fund requirements and potentially adopting a policy for the prudent accumulation and management of these monies.

Conclusions

The North Tahoe Regional Park and the North Tahoe Event Center are District assets. Multiple grants and District funds have been used to make improvements along with other District sources. One can argue that some portion of the operating deficits of both facilities could be a sewer department liability. Another way of stating this is the NT EC hosts 95% of its use for non-recreation activities. These non-recreation uses include activities like District meetings, agency meetings, weddings, celebrations, graduations, etc. Much of the spoils from utility operations are stored and processed in the Park which by its very nature is a long term obligation for the NTPUD from historical sewer treatment and operations.

The point of the conclusion is the District's operations and maintenance programs are intertwined from years of shared use. Property tax which is paid by ALL sewer customers and property owners can benefit everyone. Every community found in this analysis which operates public recreation facilities and programs, uses property tax at some level. The role of property tax revenue for recreation is that it is paid by everyone and as such is the most logical revenue source to ensure facilities are maintained to a safe level consistent with the public's desire. Stated another way, if the public were asked to "pay as you go" for true and actual costs at the Event Center and Regional Park, it would preclude most people, particularly children and those on fixed income, from participation.

An analysis of this District's recreation needs versus the funding to ensure long term safe programs and infrastructure, falls roughly $800k short annually. If the Board of Directors decides to remain in the recreation business, and it wants parks and facilities that are safe and affordable, then suitable and stable funding is required.

Once a standard level of service is funded with adequate labor, supplies, equipment and capital asset replacement, District staff can build value back into its recreation department. It can plan for new programs and facilities with grants and partnerships. It can create situations where local businesses can thrive and home values can appreciate. It supports family-friendly programs. With the enhancements to downtown Kings Beach, business investment should logically follow. The NTEC can work in conjunction with local business and lodging purveyors to generate income thereby reducing the facilities' reliance on Property Tax. Similarly, with partnerships like adventure courses in the NTRP, these revenues can be used for facility enhancement after basic infrastructure has been repaired and/or replaced.

Recommendation

1. The District must make a commitment to recreation. It should decide what it will look like and what the level of maintenance should be. It should evaluate the effectiveness of subsidizing Boys and Girls Club funding. Finally, it should assign revenues necessary to maintain the facilities and infrastructure at a level that is safe and affordable for everyone to use.

   The use of roughly 1/3 of the property taxes will not affect the tax shift exemption and the State Constitution secures property tax from future State raids.

   If Property Tax is envisioned, a rate study is needed and most likely a 218 election held to make sewer operations and its capital improvement program whole. This would cause a rise of sewer rates to a level comparable to neighboring entities.

2. If Property Tax is not used for recreation, the District will need to budget between $85k-$130k to raise the existing measure "C" tax with a needs assessment, education campaign and election. In order to fund that same level of safe and affordable facilities, including capital asset replacement, the current (approximately $90) annual fee would need to be raised to about $240 annually.

3. Another recommendation is to test, by survey, the amount voters will tolerate and attempt to pass that much by election in June 2016. If successful, but insufficient, make up the difference with property tax. While a viable option, an expensive risk if unsuccessful.

Implementation

The upcoming strategic workshop will offer the opportunity to discuss this item. Staff ultimately needs direction whichever way the Board decides.

One late breaking piece of new information is the District's budget for the fiscal year ending June 2016 is a projected increase in Property Tax, reported by Placer County, of 10% over the prior year. This should equate to $350-$400k. Coupled with over $200,ooo of unbudgeted revenue from the dissolution of Placer RDA, these combined amounts can come close to funding a fair percentage of Recreation's shortfall with new and unplanned revenue.

10/9/15