

From: Phil Koen

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Cc: Catherine Somers <catherine@losgatoschamber.com>, Laurel Prevetti <LPrevetti@losgatosca.gov>

Subject: Agenda Item 17, November 5 Council Meeting

Dear Honorable Mayor and Council Members,

Many possible conflicts stem from a misunderstanding about the basic nature of BID's. Let me summarize my understanding of a BID.

As the name indicates, a Business Improvement District, is a Town program under which the Town establishes a geographic area wherein business owners or commercial property owners are assessed a "fee" to fund special services or improvements that are not being provided by the Town and that directly benefit them. For example commercial property owners might be interested in paying for a higher level of maintenance than is currently being provided for flowers, plantings and sidewalk cleanliness in the downtown area. As the name Los Gatos Property Business Improvement District indicates, the properties within the BID are owned and used for commercial purposes.

What makes no sense is for the Town to contribute all of the Town's downtown parking lots, the civic center, the adult and youth recreation centers and other public property, none of which are commercial and all of which are used exclusively for the benefit of the general public, to the BID. The Staff has provided no rational for including these properties in the proposed BID, which would result in the Town being the single largest property contributor (21%) to the BID. This raises the following questions which need to be addressed.

1. Why is this BID being structured as a "property" business improvement district as opposed to a "business" improvement district? What protection is being put in place to insure the "fee" assessed the property owners will not be passed on to the tenants who will have no vote on approving the BID? If the Town wants broad based business support for the BID, it would make more sense to make the BID a "business" improvement district since there are more business owners than property owners in the Town.
2. As stated above, what is the business rational for including the identified Town properties in this special assessment district which will result in an annual assessment on the Town of approximately \$90k? If the Town did not have the funds available to pay for these "special services", does the Town have funds to pay for the assessment?
3. State law states that public property shall be exempt from any assessment unless the Town can demonstrate by clear and convincing evidence that these publicly owned parcels in fact receive a "special" benefit. For example how would the public parking lots or civic center benefit from destination marketing or destination development as outlined in the draft Service Plan.? What clear and convincing evidence exists?

Lastly, I was surprised to see that the current steering committee has only three people, two of the three being property owners. Why doesn't this committee include a number of business owners who are not property owners? After all, the goal of the BID is to improve the Town's downtown business environment.

In closing, I am supportive of the concept of the BID, but the assessment map should only include businesses not properties. Every BID that I have reviewed, including the Palo Alto BID, only includes businesses not property.

Additionally, there is no reason for the Town to include public property and incur an unnecessary assessment totaling \$450k over the initial 5 year period. This assessment appears to be nothing more than a transfer payment which will benefit the 117 commercial property owners with no special benefit conferred upon the publicly owned parcels.

I look forward to hearing an answer to these questions.

Thank you.

Respectively,

Phil Koen