



AGENDA
ATHERTON CITY COUNCIL
JULY 21, 2004

6:00 P.M. *NOTE TIME*

Meeting Room
Town Administrative Offices

91 Ashfield Road
Atherton, California

Special Meeting

6:00 P.M. ROLL CALL Janz, Marsala, Carlson, McKeithen, Conwell

6:05 P.M. PUBLIC COMMENTS

6:15 P.M. CLOSED SESSION

**A. CONFERENCE WITH LEGAL COUNSEL – EXISTING
LITIGATION pursuant to Government Code Section 54956.9(a):**

**Teamsters Local 856 v. City of Atherton
San Mateo County Superior Court, Case No. 429950**

**B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED
LITIGATION**

**Initiation of litigation pursuant to Government Code Section
54956.9(c):
2 potential cases.**

**C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Pursuant to Government Code Section 54957.6 (f)**

City Attorney

RECONVENE TO OPEN SESSION

Report of action taken.

ADJOURN

*Agendas and staff reports may be accessed on the Town website at: www.ci.atherton.ca.us
☛ Please contact the City Clerk's Office at 650.752.0529 with any questions*

Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the Park Program Manager at (650) 752-0534. Notification of 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting. (29 CRF 35.104 ADA Title II)



AGENDA
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT

July 21, 2004

7:00 p.m.

TOWN COUNCIL CHAMBERS

94 Ashfield Road
Atherton, California

REGULAR MEETING

- 7:00 P.M. 1. PLEDGE OF ALLEGIANCE**
- 7:03 P.M. 2. ROLL CALL Janz, Marsala, Carlson, McKeithen, Conwell**
- 7:05 P.M. 3. PRESENTATIONS**
- A. Certificates of Appreciation for Outgoing Committee/Commission Members**
 - B. Proclamation for the Arts Committee – Big Daddy Jazz Festival**
 - C. Presentation by Menlo Park Rotary Club to Atherton’s Tree Committee**
- 7:15 P.M. 4. COUNCIL REPORTS**
- 7:25 P.M. 5. PUBLIC COMMENTS (only for items which are not on the agenda – limit of three minutes per person)**
- 7:35 P.M. 6. STAFF REPORTS**
- 7:45 P.M. 7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT
(Directed
by Resolution No. 99-6)**

The Arts Committee

8:00 P.M. CONSENT CALENDAR (Items 8 - 21)

- 8. APPROVAL OF MINUTES OF SPECIAL MEETINGS OF JUNE 14, 2004, JUNE 16, 2004, AND REGULAR MEETING OF JUNE 16, 2004**
- 9. APPROVAL OF BILLS AND CLAIMS FOR JUNE 2004 IN THE AMOUNT OF \$707,732**
- 10. ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR JUNE 2004**
- 11. ACCEPTANCE OF QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDED MARCH 31, 2004**
- 12. APPROVAL OF AN AGREEMENT FOR INFORMATION TECHNOLOGY SERVICES BETWEEN THE TOWN OF ATHERTON AND THE CITY OF PALO ALTO FOR FISCAL YEAR 2004-05**

Recommendation: Approve the Agreement between the Town of Atherton and the City of Palo Alto for Information Technology Services for the period of July 1, 2004 through June 30, 2005.

- 13. APPROVAL OF LETTER IN RESPONSE TO CIVIL GRAND JURY REQUEST (NARCOTICS INVESTIGATION REPORT)**

Recommendation: The City Council review and approve the staff recommended response to the Civil Grand Jury report dealing with the Narcotics Investigation Report.

- 14. APPROVAL OF LETTER IN RESPONSE TO CIVIL GRAND JURY REQUEST (SEXUAL ASSAULT REPORT)**

Recommendation: The City Council review and approve the staff recommended response to the Civil Grand Jury report dealing with the Sexual Assault Report.

- 15. CONSIDERATION OF AWARD OF CONTRACT FOR BARRY LANE – ATHERTON CHANNEL BOX CULVERT REPLACEMENT, PROJECT NO. 04-001, TO BIANCHI CONSTRUCTION IN THE AMOUNT OF \$254,960.15.**

Recommendation: Award the contract for the Barry Lane – Atherton Channel Box Culvert Replacement, Project No. 04-001, in the amount of \$231,781.95 to Bianchi Construction, the low bidder on the June 25, 2004, bid opening and authorize a construction contingency in the amount of \$23,178.20 for a total authorization of \$254,960.15.

16. **ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD A NOTICE OF COMPLETION, AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$13,292.42 FOR THE STREET CORPORATION YARD, PROJECT NO. 03-007**

Recommendation: Accept the work, authorize staff to record a Notice of Completion, and approve contract change orders in the amount of \$13,292.42 for the Street Corporation Yard Project No. 03-007

17. **APPROVAL TO RENEW AGREEMENT WITH NEAL MARTIN AND ASSOCIATES**

Recommendation: Approve agreement for professional services for Fiscal Year 2004-05 for Neal Martin and Associates and authorize an increase in certain hourly rates.

18. **ACCEPTANCE OF WORK AND AUTHORIZATION TO RECORD A NOTICE OF COMPLETION FOR THE 2004 STREET MICRO-SURFACING -- PROJECT NO. 03-012**

Recommendation: Accept the work and authorize staff to record a Notice of Completion for the 2004 Street Microsurfacing, Project No. 03-112

19. **REVIEW OF TOWN'S CONFLICT OF INTEREST CODE AND ADOPTION OF A RESOLUTION TO APPROVE APPENDIX "A" DATED JULY 2004 DESIGNATING POSITIONS IN THE CONFLICT OF INTEREST CODE**

Recommendation: Adopt the attached Resolution No. 04-__ approving Appendix "A" dated July 2004 designating positions and describing disclosure categories in the Conflict of Interest Code.

20. **APPROVAL OF TRANSFER AGREEMENT WITH THE CITY OF MENLO PARK REGARDING THE PEDESTRIAN SIGNAL ON VALPARISO AVENUE**

Recommendation: Authorize the Mayor to execute an agreement with the City of Menlo Park to accept a transfer of ownership of the pedestrian signal on Valparaiso Avenue near Arbor Road.

21. CONSIDERATION OF RESPONSE TO DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT (EIR/EIS) FOR THE PROPOSED CALIFORNIA HIGH-SPEED TRAIN SYSTEM

Recommendation: Approve a response to the Draft Program Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the proposed California High-Speed Train System that requests that California High Speed Authority to include the Altamont Pass Alternative in the environmental evaluation, to consider a trench section through Atherton, and to include additional comments on impacts of the High Speed Rail (HSR) system.

REGULAR AGENDA (Items 22 - 27)

8:10 P.M. 22. DISCUSSION OF ALTERNATIVES RELATIVE TO SPECIAL MUNICIPAL TAX FOR SUPPORT OF OPERATING AND CAPITAL EXPENDITURES (Continued from the Regular City Council Meeting of June 16, 2004)

8:30 P.M. 23. CITY COUNCIL DISCUSSION REGARDING POSSIBLE AMENDMENTS TO TOWN OF ATHERTON ORDINANCE NO. 549 INCLUDING SENIOR EXEMPTIONS RELATIVE TO THE BALLOT MEASURE FOR A SPECIAL MUNICIPAL TAX FOR SUPPORT OF OPERATING AND CAPITAL EXPENDITURES

Recommendation: Accept staff's report regarding research on parcel tax exemptions. Additionally, should the Council wish to consider any other possible amendments, Ordinance No. 549 is attached to this staff report for reference.

8:45 P.M. 24. DISCUSSION AND POSSIBLE ACTION REGARDING THE PROPOSED LIGHTING OF ATHLETIC FIELDS AT MENLO ATHERTON HIGH SCHOOL

9:00 P.M. 25. CONSIDER ADOPTION OF AN ORDINANCE RATIFYING THE MENLO PARK FIRE PROTECTION DISTRICT FIRE SPRINKLER SYSTEM REQUIREMENTS

Recommendation: Adopt Ordinance No. __ ratifying Ordinance No. 29 of the Menlo Park Fire Protection District amending District Fire

Prevention Code pertaining to automatic fire sprinkler system requirements.

9:20 P.M. CITY COUNCIL DISCUSSION - AUTHORIZING BALLOT ARGUMENTS RELATIVE TO THE BALLOT MEASURE FOR A SPECIAL MUNICIPAL TAX FOR SUPPORT OF OPERATING AND CAPITAL EXPENDITURES

9:35 P.M. 27. CONSIDERATION OF CANCELLATION OF THE REGULAR CITY COUNCIL MEETING OF AUGUST 18, 2004

9:40 P.M. 28. PUBLIC COMMENTS

9:50 P.M. 29. ADJOURNMENT

Agendas and staff reports may be accessed on the Town website at: www.ci.atherton.ca.us

☛ Please contact the City Clerk's Office at 650.752.0529 with any questions

Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the City Clerk's Office at (650) 752-0529. Notification of 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (29 CRF 35.104 ADA Title II)



**DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
JUNE 14, 2004**

6:00 p.m.

TOWN COUNCIL CHAMBERS

94 Ashfield Road
Atherton, California

SPECIAL MEETING

Mayor McKeithen called the meeting to order at 6:03 p.m.

- 1. PLEDGE OF ALLEGIANCE**
- 2. ROLL CALL**

PRESENT: James R. Janz
Charles E. Marsala (left the meeting at 6:17 p.m.)
Alan B. Carlson
Kathy McKeithen
William R. Conwell

City Manager Jim Robinson and City Attorney Marc Hynes were also present.

- 3. PUBLIC COMMENTS**
- 4. PUBLIC HEARING – PROPOSED FISCAL YEAR 2004-05 INTEGRATED OPERATING/CAPITAL BUDGET**

ADOPTION OF A RESOLUTION ADOPTING THE FY 2004-05 BUDGET

City Manager Jim Robinson thanked staff for its hard work in preparing the Proposed Budget for Fiscal year 2004-05. The proposed Operating Budget was approximately \$8.1 million and the Capital Budget was approximately \$4.2 million. There were no additional positions within the budget. The budget reflected carrying two vacancies in the Police Department and one vacancy in the Public Works Department; reducing from a full-time to 1/2-time City Clerk position starting mid-year; not including a Horticulturist

position, although \$16,000 had been retained for the services of a Horticulturist if needed; retaining existing staff; and recommending that one Police Officer be used as part of the Narcotics Task Force which would be 75 percent funded by that entity. Pension and health insurance costs have contributed to the budget increases. A negotiated agreement with Miscellaneous employees provided no salary increase for the next fiscal year. Negotiations were forthcoming with Management and Police Department employees. The Police Department was in the 5th and final year of a contract. Regarding the Parcel Tax, the Capital Improvement Program was in its last year and included over \$4 million of improvements: \$2.7 million in street improvements, and \$600,000 in Atherton Channel improvements.

Finance Director John Johns projected a carryover from Fiscal Year 2003-04 of \$205,000, representing approximately \$80,000 in higher revenues and approximately \$120,000 in lower expenses. There was no significant reduction in Motor Vehicle License fees, \$200,000 in parcel tax revenues was kept in reserve, and staff recommended keeping the reserve level at \$3.7 million for the upcoming year. An excess property tax withholding from the school district resulted in a one-time rebate of \$180,000. Salary and employee benefits represented an average 75-78 percent of the budget over the past two years. In order to control cost, vacant positions would not be filled. In the current year, four positions that were authorized were being held as vacant and unfunded and would save \$367,000 for the fiscal year and assumed funding one Police Officer for 25 percent of the year. The General Fund Balance for yearend, June 30, 2004, was higher than the average of the past 10 years. A Comparative Analysis of the General Fund Balance was located on Page 16 of the Proposed Budget. An Intermediate Range Financial Plan did not show a significant change from the financial plan presented to the Council last year. There was a high degree of confidence in projections; however, a sizable deficiency would result in Fiscal Year 2007-08. The challenge to find alternate revenue sources would continue. The transmittal letter provided a thorough description of the major changes and assumptions anticipated in the upcoming year. Overall, the financial environment would be fairly stable without significant changes in operations.

Staff responded to Council questions and clarified various items contained in the Proposed Budget. Discussion centered on ways to reduce salary and benefit costs. Negotiations with each employee group would continue as each came up for renewal of its contract. A recommendation in the Proposed Budget in the Police Department was to fund 20 of the 23 authorized positions, thereby reducing staff levels by 3. Vice Mayor Conwell suggested an independent efficiency expert might find additional savings, or possibly outsourcing police services with the Sheriffs Department, and asking each department for a 5, 7.5, or 10 percent reduction in its budget. City Manager Robinson said although contracting with another agency for police services

might be cost effective, duplicating the level of service residents have come to expect would be difficult. Staff would look into alternatives if Council so desired.

A concern was raised regarding the erosion of required financial reserves, which were projected to drop below the \$3.7 million level at the end of FY 2007-08. Finance Director Johns was confident in the 4-year financial plan. The exception was whether the parcel tax would be passed. The Building Department had a 6-month reserve and was expected to cover its operating costs. Discussion continued on various projected expenditures and revenues including revenues from property taxes and expenditures for vehicle replacement, health benefit costs, possible litigation costs, recovering maintenance costs from the library, etc. The projected increase in business license fees of \$40,000 included the addition of landscape contractors and the question was raised whether the actual costs could be captured. Finance Director Johns said the fee was based on an estimated value of permitted construction of \$100 million and charging 4/10 of one percent. The landscaping activity was approximately \$10 to \$20 million.

Discussion continued on various staff savings such as 100 percent of the Town Arborist's time being funded by the Building Department; 75 percent of a Police Officer being funded by the Narcotics Task Force; a reduction of the City Clerk position by 50 percent at mid-year; vacating a Park Maintenance position and elevating the incumbent to a Park Supervisor and contracting for park maintenance; and eliminating the \$16,000 set aside for horticulturist services.

The \$30,000 budget item for the San Mateo County Crime Lab fees was discussed. Police Chief Brennan indicated the County had not charged in the past, was trying to offset its fees, and estimated each city or town's fees for the upcoming year. Discussion centered on the exact amount to be budgeted, and whether the \$8,000 estimate given by the County was realistic. Another issue was Police Department overtime and other employment expenses of \$350,000. Chief Brennan explained the various types of temporary help needed to cover shifts due to vacations, leaves, etc. Overtime costs were accrued when officers went to court on their day off. Staff was asked to provide a report on overtime charges represented by an officer going to court and on what types of temporary help was needed. Methods for reducing the expenses were discussed. City Manager Robinson noted that \$300,000 of the increase to the Police Department Budget was directly related to pension benefit costs.

Mayor McKeithen called a short break in the meeting at 8:05 p.m. The Council reconvened at 8:17 p.m.

Further discussion and clarification continued on various budget line items. Regarding the parcel tax, Finance Director Johns said staff expected to manage the Town's financial position fairly well in the current fiscal year. The anticipated \$1 million shortfall for Fiscal Years 2006-07-08 was reduced to \$850,000 as a result of an agreement between the Governor and the League of California Cities that did away with the ERAF takeaway. Rather than losing \$900,000 over three years, staff expected a \$300,000 loss over two years, representing a substantial improvement in the Intermediate Range Financial Plan. The parcel tax would need to be raised from \$750 to \$1012 for the 1/2-acre but less than two-acre parcel to break even in Fiscal Year 2005-06 and to \$1100 in Fiscal Year 2007-08.

Council asked staff, for the City Council Meeting of June 16, 2004, to revise the chart on Attachment 3 of the packet, Analysis of Parcel Tax Options, to reflect the actual dollar amount needed to balance the budget for Category No. 5 for each of the four years of the parcel tax. Additionally, Council requested staff to prepare a pie chart for the General Fund Revenues and Other Financing Sources that would include the parcel tax.

Discussion centered on revenue sources such as the Property Transfer Tax, Building Permit Fees, Landscape Fees, Vehicle Code Fines, etc.

In preparation for the June 16, 2004, City Council Meeting, staff was asked to remove the \$16,000 budgeted for horticulturist services and to reduce the San Mateo County Crime Lab fees from \$30,000 to \$8,000. Finance Director Johns said he would prepare an itemization of all revenue increases, expense reductions, and make the necessary changes to the budget resolution for Council's approval.

Staff was commended on its work in compiling the Proposed Budget document.

Mayor McKeithen opened the public hearing at 9:55 p.m. No one came forward to speak, and Mayor McKeithen closed the public hearing at 9:55 p.m.

The Item was continued to the regular City Council Meeting of June 16, 2004.

- 5. ADOPTION OF A RESOLUTION APPROVING THE FISCAL YEAR 2004-05 APPROPRIATIONS LIMIT AND CALCULATIONS
(The item was deferred to the regular City Council Meeting of June 16, 2004.)**

6. **DISCUSSION OF PARCEL TAX FOR FISCAL YEARS 2005-09 AND ALTERNATIVE FUNDING/TAXING MEASURES FOR SUPPORT OF OPERATING AND CAPITAL EXPENDITURES**
(This item was deferred to the regular City Council Meeting of June 16, 2004.)

ADJOURNMENT

The meeting adjourned at 9:58 p.m.

Respectfully submitted,

Kathi Hamilton
Interim City Clerk

Agendas and staff reports may be accessed on the Town website at: www.ci.atherton.ca.us

☛ Please contact the City Clerk's Office at 650.752.0529 with any questions

Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the City Clerk's Office at (650) 752-0529. Notification of 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (29 CRF 35.104 ADA Title II)



DRAFT MINUTES
ATHERTON CITY COUNCIL

June 16, 2004

6:00 P.M.

Meeting Room

Town Administrative Offices

91 Ashfield Road
Atherton, California

Special Meeting

Mayor McKeithen called the meeting to order at 6:00 p.m.

ROLL CALL

PRESENT: James R. Janz
Charles E. Marsala
Alan B. Carlson
Kathy McKeithen
William R. Conwell

PUBLIC COMMENTS

There were no public comments.

CLOSED SESSION

The Council adjourned to Closed Session at 6:05 p.m. to discuss the following items:

- Litigation**
- A. CONFERENCE WITH LEGAL COUNSEL – Pending
Government Code Section 54956.9 (a)

Comcast Phone LLC vs. the State Board of Equalization et al
Alameda County Court Case No. R6041518362**
 - B. CONFERENCE WITH LEGAL COUNSEL – Anticipated
Litigation pursuant to Government Code Section 54956.9(c):
One (1) potential case.**

RECONVENE TO OPEN SESSION

No action was taken of either Item A or Item B.

ADJOURN

The meeting adjourned at 6:35 p.m.

Respectfully submitted,

Kathy McKeithen, Mayor

Agendas and staff reports may be accessed on the Town website at: www.ci.atherton.ca.us

☛ Please contact the City Clerk's Office at 650.752.0529 with any questions

Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the Park Program Manager at (650) 752-0534. Notification of 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting. (29 CRF 35.104 ADA Title II)



DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
JUNE 16, 2004
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

Mayor McKeithen called the meeting to order at 7:00 p.m.

1. PLEDGE OF ALLEGIANCE

2. ROLL CALL Janz, Marsala, Carlson, McKeithen, Conwell

PRESENT: **James R. Janz**
 Charles E. Marsala
 Alan B. Carlson
 William R. Conwell
 Kathy McKeithen

City Manager Jim Robinson and City Attorney Marc Hynes were also present.

3. PRESENTATIONS

A. Caltrain Hold-Out Station – Caltrain will present the plans for changing the station platforms to remove the “hold-out” restriction at the Atherton Station

Alan Fung, project manager for the Atherton Station, along with members of his staff, gave a Power Point presentation summarizing the purpose of the project, existing conditions, the benefits, and the future layout of the Atherton Station. The design and construction schedule was to begin in June 2004, with completion of the project targeted for June 2006.

The following persons spoke from the audience.

**Dick Sperisen, Atherton
Jerry Carlson, Atherton**

Mayor McKeithen asked Public Works Director Duncan Jones to work closely with Caltrain and to keep Council apprised as the project progressed.

4. COUNCIL REPORTS

- **Council Member Janz announced the next Caltrain Corridor Subcommittee meeting would be held on July 6, 2004, and reminded staff to invite the Train Riders Association of California (TRAC) members. He attended the May 26th Housing Endowment and Trust Fund (HEART) meeting for San Mateo County, a trust fund for housing development. The group voted a few months ago to make the acronym for the Fund HEART, not HEAT; however, there had not been any agreement on what the “R” represented.**
- **Council Member Marsala thanked staff for providing a tour for seven 2nd graders from Trinity School to learn how government worked. He rode the Baby Bullet Train on its inaugural run and commented on the smooth ride. Council Member Marsala attended City Clerk Sharon Barker’s retirement luncheon and noted the well-deserved remarks by Lou Paponis. The new Public Works building was dedicated earlier that day and was an environmentally sensitive design. The Facilities Finance Subcommittee met with the Park and Recreation Commission to begin the process of how to utilize a possible share of a State Parks grant for \$200,000. Future meetings and study sessions would be scheduled. Regarding the library, the County had received a few grants from several foundations to help fund its program on educating readers. Recruitment for a new director would begin in the summer. Council Member Marsala attended a meeting to finalize details to address program needs at Selby Lane School. He noted a tree was planted for Henry Carlson. Council Member Marsala thanked Etta Mae Bauer, Atherton Dames, for work on the June 20, 2004, Big Daddy Jazz Festival.**
- **Council Member Carlson also attended the Facilities Finance Subcommittee meeting and remarked one possible use for part of the \$200,000 grant was to make enhancements to the Pavilion.**
- **Vice Mayor Conwell attended the San Francisco Airport Roundtable meeting, noting that an Atherton resident made 300 complaint calls each month regarding aircraft noise. Another man called to suggest two programs for abating airplane noise, 1) boycott airlines and 2) initiate closing all small airports. He attended the City and County Association of Governments meeting and asked staff to agendize an**

item for the next City Council meeting regarding the disclosure of airport influence areas. Vice Mayor Conwell attended the Criminal Justice Commission meeting where he was elected chair for a second term. A prime project was alleviating overcrowding in the jails. One of the grantees of funds, the Redwood City PAL, made a presentation on how funds were expended to help over 3000 children each year.

- Mayor McKeithen attended a meeting at Menlo Atherton High School regarding the installation of lights on the football field. A citizens group would meet the next evening to discuss the issues of noise, parking, debris, and the lights. The Screening Committee met to fill vacancies on the Park & Recreation Commission and the General Plan Committee. The next General Plan Committee meeting would not be held at its regular time; a new date would be selected. The discussion would center on what types of special events would require a permit. Mayor McKeithen met with 120 Las Lomas School students on what it meant to be a mayor.

5. PUBLIC COMMENTS (only for items which are not on the agenda –limit of three minutes per person)

Margaurette Paponis, Atherton, spoke regarding the Big Daddy Jazz Festival.

6. STAFF REPORTS

- City Attorney Marc Hynes reported that no action had been taken as a result of the closed session held at 6:00 p.m.
- City Manager Jim Robinson announced that California Pavement Maintenance (CPM) would begin a slurry seal of street improvements on 21 streets within Atherton in the coming week. Notices were sent to residents affected by the project. With regard to Item No. 13 on the evening's agenda, bids were open the previous day for the 2004 street reconstruction projects and were less than the engineer's estimate.
- Public Works Director Duncan Jones noted the red-legged frog survey was underway for a two-day, two-night period. Adjacent property owners had been contacted.

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT (Per Resolution No. 02 31)

A. Holbrook-Palmer Park Foundation – Vit Eckersdorf, President

Vic Eckersdorf noted his two-year Presidential term was nearing its end. He reported his objectives during his term of office to

9. APPROVED BILLS AND CLAIMS FOR MAY 2004 IN THE AMOUNT OF \$830,307

10. ACCEPTED MONTHLY FINANCIAL REPORT FOR MAY 2004

11. APPROVED AMENDED AGREEMENT BETWEEN THE TOWN OF ATHERTON AND THE CITY OF REDWOOD CITY FOR VEHICLE MAINTENANCE SERVICES AND FUEL PURCHASING

Approved the amended agreement between the Town of Atherton and the City of Redwood City for vehicle maintenance services and fuel purchasing.

12. AWARDED CONTRACT FOR 2004 STREET MICROSURFACING PROJECT NUMBER 03-012

Awarded the contract for 2004 Street Microsurfacing Project No. 03-012 to California Pavement Maintenance Company, the low bidder, in the amount of \$75,000.

13. AWARDED CONTRACT FOR 2004 STREET RECONSTRUCTION - PHASE 1, PROJECT NUMBER 03-011

Awarded the contract for the 2004 Street Reconstruction – Phase 1, Project No. 03-011 to the lowest bidder, G. Bortolotto & Company, Inc., in the amount of \$65,605.48.

14. APPROVED CONTRACT BETWEEN THE TOWN OF ATHERTON AND KCL ASSOCIATES, INC., FOR BUILDING INSPECTION SERVICES

Approved the Independent Contractor Agreement between the Town of Atherton and KCL Associates Inc., for Building Inspection Services for Fiscal Year 2004-05.

15. APPROVED ABAG ELECTRIC PROGRAM “WINDUP” AGREEMENT AND ADOPTION OF A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AGREEMENT WITH ABAG TO CONCLUDE THE ELECTRIC PROGRAM

Approved ABAG Electric Program “Windup” Agreement and adopted Resolution No. 04-15 authorizing the Mayor to execute the agreement with ABAG to conclude the Electric Program.

16. APPOINTMENT OF COMMISSION/COMMITTEE MEMBERS

Accepted recommendation of the City Council Screening Committee to appoint Rodney Washburn to the Park and Recreation Commission.

PUBLIC HEARINGS (Items 17-19)

- 17. PUBLIC HEARING – ADOPTION OF A RESOLUTION ADOPTING THE FISCAL YEAR 2004-05 BUDGET AND ADOPTION OF A RESOLUTION APPROVING THE FISCAL YEAR 2004-05 APPROPRIATIONS LIMIT AND CALCULATIONS (This item was continued from the Special City Council Meeting of June 14, 2004, for adoption.)**

Finance Director John Johns reported that \$75,196 of reduced expenditures and \$26,000 of additional revenues were adjusted in the budget pursuant to Council's direction at the Special City Council Meeting of June 14, 2004. Items included increasing revenue estimates for Caltrans maintenance from \$9,000 to \$35,000, an increase of \$26,000 to revenues; decreasing, Town-wide, estimated expenditures for life insurance in the amount of \$33,000; reducing appropriations for crime lab fees in the amount of \$22,000; eliminating appropriations for the contract Horticulturist in the Public Works Department, Parks Program, in the amount of \$16,000; and eliminating appropriations for transportation expenses in the Planning and Building Departments in the amount of \$4,155. Finance Director Johns reviewed items in excess of \$4,000 in the Police Department's contract services and accounted for \$95,000 of the \$125,000 projected expenditures, which included the Town's share of Office of Emergency Services assessment, animal control, First Chance, and maintenance of the Computer Aided Dispatch System. A review of the Police Department's overtime expenditures indicated the \$108,000 budgeted in 2004-05 was \$1,000 less than the actual expenditures for overtime over the past four years and represented 10% of the department's salary expense for patrol. An itemization of expenditures according to fund category as identified in the budget resolution was included. A copy of the recommended budget, including Council's clarifications and changes, would be sent with Council's packet.

City Manager Jim Robinson indicated copies of the resolutions for adoption of the Fiscal Year 2004-05 Operating and Capital Budget and adoption of the Appropriations Limit and Calculations, including the recommended changes, were placed before Council for its consideration that evening.

Mayor McKeithen noted page 71 should be amended to reflect 2004.

Council discussion centered on whether the allocation for next year was consistent with the intent of how the money was to be spent. Finance Director Johns said within the allocation factor, staff had identified the capital projects to be funded by the parcel tax and adhered to the expenditure allocation plan. More money would be spent on capital projects than in past years due to funds authorized in previous years not being expended. The parcel tax brought in approximately \$4 million a year, and better use of the capital funds due to lower bids, etc., created a carryover.

Mayor McKeithen noted the parcel tax assessment for the 1/2-acre but less than 2-acre parcel would be \$750, the same as last year, and would generate \$1,858,000.

Mayor McKeithen opened the public hearing at 8:30 p.m.

Dick Sperisen, Atherton, spoke from the audience.

Mayor McKeithen closed the public hearing at 8:35 p.m.

MOTION – to adopt Resolution No. 04-12 establishing a Special Tax for Municipal Services for the Fiscal Year 2004-05 as set forth in Ordinance No. 520.

M/S Marsala/Conwell
Abstain: 0

Ayes: 5 Noes: 0 Absent: 0

Council Member Carlson Requested that Item Nos. 19 and 20 be heard together.

Mayor McKeithen called for a short break at 8:40 p.m. The Council reconvened at 8:47 p.m.

19. **PUBLIC HEARING – CONSIDER ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON CALLING AN ELECTION TO SUBMIT TO THE VOTERS AN ORDINANCE AUTHORIZING THE LEVY OF A SPECIAL TAX FOR MUNICIPAL SERVICES AND FOR THE EXPENDITURE OF FUNDS DERIVED FROM SUCH TAX**

City Manager Jim Robinson said the Council discussion would center on whether Council wanted to place the parcel tax ordinance before the voters in the upcoming November 2, 2004, election, as well as the appropriate amount to be levied. Previously, Council had received a staff report outlining options. Additionally, a report was submitted by the Audit Committee identifying its recommendations to renew the parcel tax for four

years and at the mid-range amount of \$930. The renewal of the parcel tax would begin in Fiscal Year 2005-06 and continue through Fiscal Year 2008-09. Staff prepared alternate ordinances, which were different in terms of assessments per parcel, as well as the amounts that would be generated by each of the options.

Finance Director John Johns noted that the General Fund Revenue and Expenditures Analysis for Fiscal Years 2004 to 2009 differed from the document included in the recommended budget in that the Financial Plan covered the full duration of the parcel tax. Additionally, all reserve requirements had been identified that were expected to exist over the duration of the parcel tax including the \$500,000 reserve required for insurance, the \$3.2 million reserve for cash flow and economic uncertainties, the \$450,000 reserve for future building inspections, and the \$500,000 reserve for compensated absences. When the total fund balance was compared with the required reserves, a better indication of the Town's financial position resulted. With a 5-year financial projection, staff was better able to ascertain how much was required to maintain a minimum reserve requirement vs. existing reserves. The list of options included in the second attachment did not vary significantly from the list of recommendations presented by the Audit Committee. Both were presented in order for the Council to better understand the effects of the three options with respect to the minimum reserve requirements. Option No. 1 contained no change in the parcel tax levy and would result in the Town having reserves on June 30, 2009, of \$1.7 million less than reserves called for by City Council policy.

Council Member Carlson clarified that many of the years were partially funded by the reserves; therefore, in terms of revenues supporting expenditures, the deficits were made up from the General Fund.

Finance Director Johns said the cumulative deficit from 2005 to 2009 would total over \$3 million. Option 2 called for drawing down the reserves to the absolute minimum which would result in \$5.8 million at the end of FY 2005-06 to \$4.7 million at the end of FY 2008-09, approximately \$250,000 a year over the next four years. Option 2 was the mid-range option endorsed by the Audit Committee.

Council discussion continued regarding reserve levels and the impact on parcel tax levies to maintain reasonable reserve levels, taking other long-term actions to supplement the parcel tax, and employees' compensated absences for vacation and holiday pay.

Mayor McKeithen opened the public hearing at 9:11 p.m. The following persons spoke from the audience.

**Dick Sperisen, Atherton
Jerry Carlson, Atherton
John Sisson, Atherton
Mike Barsotti, Atherton**

Mayor McKeithen closed the public hearing at 9:34 p.m.

Council Member Carlson believed the parcel tax was outmoded and the need to raise it would continue every four years. The consensus view seemed to be to put the parcel tax on in November at \$750 for the 1/2-acre but less than 2-acre parcel and return to the voters in March to supplement the shortfall. Council Member Carlson favored not going to the voters in November with a parcel tax, but rather developing a comprehensive plan that met the revenue needs of the Town to put before the voters in March. The business license tax option required a 50% vote, had a better chance of passing, and should be considered.

Council Member Marsala believed 90% of the plan was in place and favored putting the parcel tax on the ballot in November. There was adequate time to put the second part of the plan together. He believed in the parcel tax because it was equitable, whereas, the business license tax option taxed nonresidents for Town services.

Council Member Janz agreed an overall plan was needed and preferred something other than the parcel tax, a supplement or replacement. Current sources of revenue were not equitable. The Audit Committee recommended updating a survey done a few years ago, and a professional team could assess what funding sources were acceptable and available to the residents of the Town. Council Member Janz was concerned with relying on increasing license fees and taxing real estate commissions as a method of supplementing the parcel tax. More information was needed to fund the Town.

Council Member Conwell favored keeping the parcel tax at the current level in as much as it had been the answer over the years. but it was not enough. An increase in the business license tax did not directly affect the residents of the Town. He favored putting the parcel tax, at the current level, on the ballot in November and returning in March with a business license tax.

Mayor McKeithen did not believe the voter would pass a parcel tax of \$1100, the actual cost to fund services. There were not many options to bring in additional revenues, and not bringing the parcel tax to the voters in November would be doing a disservice to the community. She favored putting the \$750 parcel tax on the November ballot and then formulating a plan with as many solutions as possible by looking at the political and financial realities. Researching a public utilities tax, increasing road impact

fees, increasing all the building fees, increasing special event fees, and possibly changing the form of government were all possibilities to be considered.

Council discussion continued regarding various options. A \$932 parcel tax levy would maintain reserve levels mandated by ordinance and made sense from a marketing standpoint since the parcel tax was tax deductible and had not been substantially increased. Other financing options would be pursued and the parcel tax levy could be reassessed at a lower level by resolution as had been done in the past. By consensus, Council agreed to a \$930 parcel tax levy for the one-to-two acre parcel.

John Sisson, Atherton, spoke from the audience.

MOTION - to adopt an Ordinance No. 549 calling an election to submit to the voters an ordinance authorizing the levy of a special tax for municipal services and for the expenditure of funds derived from such tax for FY 2005-06 through 2008-09.

M/S McKeithen/Marsala Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

City Manager Jim Robinson read into the record the schedule for Section 4 of the ordinance: No. 1 was \$560, No. 2 was \$280, No. 3 was \$710, No. 4 was \$350, No. 5 was \$930, No. 6. was \$370, No. 7 was \$1200, No. 8 was \$600, No. 9 was \$12,500, No. 10 was \$560, and No. 11 was \$930.

Mayor McKeithen asked to receive the Piper Jaffray report in the July packet, as well as a report on the City of Los Altos' progress in its change in form of government and the Town of Hillsborough's real estate transfer tax.

REGULAR AGENDA (Item 20 and 21)

20. ADOPTION OF RESOLUTIONS PERTAINING TO THE NOVEMBER 2, 2004 SPECIAL AND GENERAL MUNICIPAL ELECTIONS AND SETTING BALLOT ARGUMENTS PROCEDURES

**MOTION - to adopt Resolution No. 04-13 calling for a General Municipal Election for the purpose of electing two (2) members of the Atherton City Council and
a Special Election for the purpose of submitting to the qualified voters of the Town of
Atherton an ordinance authorizing the levy of a Special Municipal Tax, to be held
November 2, 2004.**

M/S Marsala/Carlson Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

MOTION - to adopt Resolution No. 04-14 requiring candidates to pay the prorated cost of publication and distribution of the Statement of Qualifications and specifying the length of the Statement.

M/S Carlson/Marsala Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

MOTION – to authorize the City Council as the legislative body to author and sign ballot arguments and to direct the City Attorney to prepare an impartial analysis with respect to the Special Election to be held on November 2, 2004.

M/S McKeithen/Carlson Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

**21. DISCUSSION OF ALTERNATIVES RELATIVE TO A SPECIAL
 MUNICIPAL TAX
 FOR SUPPORT OF OPERATING AND CAPITAL EXPENDITURES**

The item was deferred to the regular City Council Meeting of July 21, 2004.

22. PUBLIC COMMENTS

None

23. ADJOURNMENT

The meeting adjourned at 10:35 p.m.

Respectfully submitted,

**Kathi Hamilton
Interim City Clerk**

Agendas and staff reports may be accessed on the Town website at: www.ci.atherton.ca.us

☛ Please contact the City Clerk's Office at 650.752.0529 with any questions

Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the City Clerk's Office at (650) 752-0529. Notification of 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (29 CRF 35.104 ADA Title II)

TOWN OF ATHERTON

CLAIMS LIST

June 2004

Payroll Checks	4271 – 4348	\$ 30,491
Electronic Transfers		307,885
A/P Checks	17672 - 17821	369,356

TOTAL

I, James H. Robinson, City Manager of the Town of Atherton, do hereby certify under penalty of perjury that the demands listed above, check numbers 4271 - 4348 (payroll) and 17672 – 17821 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$ 707,732; are true and correct, and that there are sufficient funds for payment.

James H. Robinson
City Manager

The above claims, check numbers 4271 - 4348 (payroll) and 17672 17821 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$ 707,732; are true and correct, and are authorized for payment.

Kathy McKeithen
Mayor, Town of Atherton

SOURCE OF FUNDS

101	General Fund	509,973
105	Tennis Fund	
201	Special Parcel Tax	39,434
202	Transportation	
203	Gas Tax Fund	
210	Road Construction Impact Fees	
211	Park Grants Fund	

213	Library Special Revenue Fund	1,200
401	General Capital Projects	614
402	Storm Drainage	
403	Atherton Channel District	
404	Park Playground Improvement	
406	Facilities Construction	139,973
610	Vehicle Replacement	
611	Computer Maint. & Replacement	3,588
612	Administrative Services	4,463
614	Workers Compensation Insurance	
715	Evans Estate	8,487
	TOTAL	707,732



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JOHN P. JOHNS, FINANCE DIRECTOR

DATE: FOR THE MEETING OF JULY 21, 2004

SUBJECT: MONTHLY FINANCIAL REPORT, JUNE 2004

RECOMMENDATION:

Receive the Monthly Financial Report for May 2004.

INTRODUCTION:

The attached schedules show revenues and expenditures and fund balance for all funds as of June 30, 2004.

HIGHLIGHTS

General Fund expenditures for the twelve months ended June 30, 2004, have amounted to \$7,084,840 or 93 percent of the \$7,596,290 budgeted for the fiscal year. For the twelve months ended June 30, 2004, General Fund revenues have amounted to \$7,788,451 or 101 percent of the \$7,691,362 estimated for the year. By comparison, General Fund expenditures amounted to 99 percent of budgeted expenditures for the twelve months ended June 30, 2004. Additionally, General Fund revenues amounted to 98 percent of estimated revenues for the twelve months ending June 30, 2004.

The revenue and expenditures reported herein do not include year-end accruals, nor have they been subject to the annual financial audit. Revenue and expenditure items realized but not yet recorded include an estimated \$200,000 in payments for services and supplies

that have been received but not yet paid for, as well as an estimated \$60,000 in interest income that has not been apportioned by the State of California Local Agency Investment Fund and by the San Mateo County Treasurer. Accordingly, we expect that our fund-balance carryover will equal or exceed the \$205,118 that we projected as part of the Fiscal Year 2004-05 budget.

FISCAL IMPACT:

None

Prepared by:

Approved by:

John P. Johns
Finance Director

James H. Robinson
City Manager

TOWN OF ATHERTON
Revenue Summary
For the Month ended June 30th, 2004

		2003-04	Current Period	Year to Date	%
Fund	Revenue Source	Estimate	Revenues	Revenues	Received
	Property Tax	\$ 3,035,934	4,413	\$ 3,165,831	104%
	Sales and Use Tax	200,640	-	141,816	71%
	Other Taxes	882,115	60,001	835,648	95%
	Licenses & Permits	1,541,673	300,683	1,864,413	121%
	Fines & Forfeitures	70,000	5,116	63,537	91%
	Revenue from Other Agencies	139,000	12,880	145,634	105%
	Charges for Services	472,700	42,662	332,143	70%
	Investment & Rental Income	347,300	8,497	222,221	64%
	Other Revenues	3,000	1,427	18,208	607%
	Total General Fund Revenues	6,692,362	435,679	6,789,451	101%
	Interfund (Operating) Transfers In	999,000	424,520	999,000	100%
101	General Fund Total	7,691,362	860,199	7,788,451	101%
	Special Revenue Funds:				
105	Tennis	9,000	1,075	16,865	187%
201	Special Parcel Tax	1,770,000	-	1,782,921	101%
202	Transportation	177,740	-	188,089	106%
203	Street Improvement (Gas Tax)	149,309	10,859	151,023	101%
209	Law Enforcement	100,000	-	100,416	100%
210	Road Construction Impact Fees	340,000	81,890	537,967	158%
211	State Park Grants Fund	93,040	-	-	0%
213	Library	200,000	-	392,550	196%
	Total	2,839,089	93,824	3,169,831	112%
	Capital Project Funds:				
401	Capital Improvement	-	-	-	
402	Storm Drainage	-	-	-	
403	Channel Drainage District	46,000	63	43,608	95%
404	Park Playground Improvement	-	-	1,500	0%
405	Middlefield Road Grants	-	-	1,514	
406	Facilities Construction	-	-	-	
	Total	46,000	63	46,622	101%
	Internal Service Funds:				
610	Vehicle Replacement	-	-	-	
611	Information Technology	96,043	92,346	123,128	128%
612	Administrative Services	283,128	219,117	283,128	100%
614	Workers Compensation Insurance	-	5,436	10,871	
	Total	379,171	316,899	417,127	110%
	Trust and Agency Funds:				
715	Evans Creative Design	74,000	10,592	43,250	58%
	Total	74,000	10,592	43,250	58%
	Total Revenues	11,029,622	1,281,577	11,465,282	104%

TOWN OF ATHERTON

Expenditure Summary

For the Month Ended June 30th, 2004

Fund	Description	2003-04 Budget	Current Period Expenditures	Year to Date Expenditures	% Spent
Department					
101	General Fund				
11	City Council	\$ 20,174	\$ 1,391	15,197	75%
12	City Manager	497,895	43,838	514,094	103%
16	City Attorney	175,551	19,176	122,306	70%
18	Finance	434,137	35,309	371,754	86%
25	Building	952,873	173,186	870,215	91%
40	Police	3,629,233	283,160	3,567,044	98%
50	Public Works	1,786,427	132,184	1,582,302	89%
	Contingency	100,000	-	41,928	42%
	Total General Fund Expenditures	7,596,290	688,244	7,084,840	93%
	Interfund (Operating) Transfers Out	-	-	-	0%
101	General Fund Total	\$ 7,596,290	\$ 688,244	\$ 7,084,840	93%
	Special Revenue Funds:				
105	Tennis	22,936	2,755	15,549	68%
201	Special Parcel Tax	1,986,917	490,272	1,695,381	85%
202	Transportation	177,740	97,378	221,166	124%
203	Street Improvement (Gas Tax)	180,080	13,400	50,507	28%
209	Law Enforcement	100,000	-	100,000	100%
210	Road Impact Fees	588,682	13,440	466,793	79%
211	State Park Grants	81,660	-	6,653	8%
213	Library Fund	15,720	1,709	57,990	369%
	Total	3,153,735	618,954	2,614,039	83%
	Capital Project Funds:				
401	Capital Improvement	284,451	4,614	48,506	17%
402	Storm Drainage	25,713	-	-	0%
403	Channel Drainage District	411,554	4,178	47,914	12%
404	Park Playground Fund	-	-	29,149	
405	Middlefield Road Grants	-	-	-	
406	Facilities Construction	287,267	157,266	202,522	70%
	Total	1,008,985	166,058	328,091	33%
	Internal Service Funds:				
610	Vehicle Replacement	10,000	-	74,758	748%
611	Information Technology	107,500	3,588	94,816	88%
612	Administrative Services	328,151	26,925	261,743	80%
614	Workers Compensation Insurance	-	-	-	
	Total	445,651	30,513	431,317	97%
	Trust and Agency Funds:				
715	Evans Creative Design	62,100	9,196	36,907	59%
	Total	62,100	9,196	36,907	59%
	Total Expenditures	12,266,761	1,512,965	10,495,194	86%

TOWN OF ATHERTON

Budget Summary

Fiscal Year 2003-04

June 30th, 2004

				Beginning				Ending	
Fund	Description			Fund Balance July 1, 2004	Revenues to Date	Transfers to Date	Expenditures To Date	Fund Balance to Date	
101	General Fund			5,284,633	6,789,451	999,000	7,084,840	5,988,244	
Special Revenue Funds:									
105	Tennis			10,543	16,865		15,549	11,859	
201	Special Municipal Tax			895,443	1,782,921		1,695,381	982,983	
202	Transportation			14,728	188,089		221,166	(18,349)	
203	Street Improvement (Gas Tax)			126,605	151,023		50,507	227,121	
209	Law Enforcement			22,911	100,416		100,000	23,327	
210	Road Construction Impact Fees			650,346	537,967		466,793	721,520	
211	State Park Grants			(5,362)	-		6,653	(12,015)	
213	Library Special Revenue Fund			723,832	392,550		57,990	1,058,392	
		Sub Total		2,439,047	3,169,831	-	2,614,039	2,994,839	
Capital Projects Funds:									
401	Capital Improvement			358,152	-		48,506	309,646	
402	Storm Drainage			48,225	-		-	48,225	
403	Channel Drainage District			405,865	43,608		47,914	401,559	
404	Park Playground Improvement			28,958	1,500		29,149	1,309	
405	Middlefield Road Grants			-	1,514		-	1,514	
406	Facilities Construction			274,654	-		202,522	72,132	
		Sub Total		1,115,854	46,622	-	328,091	834,385	
Internal Service Fund									
610	Vehicle Replacement			402,633	-		74,758	327,875	
611	Information Technology			78,723	123,128		94,816	107,035	
612	Administrative Services			134,052	283,128		261,743	155,437	
614	Workers Compensation Insurance			-	10,871		-	10,871	
		Sub Total		615,408	417,127	-	431,317	601,218	
Trust and Agency Funds									
715	Evans Creative Design			116,028	43,250		36,907	122,371	
		Sub Total		116,028	43,250	-	36,907	122,371	
Grand Total				\$ 9,570,970	\$ 10,466,282	\$ 999,000	\$ 10,495,194	\$ 10,541,058	



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JOHN P. JOHNS, FINANCE DIRECTOR

DATE: FOR THE MEETING OF JULY 21, 2004

SUBJECT: QUARTERLY INVESTMENT REPORT FOR THE THIRD QUARTER OF FISCAL YEAR 2003-04.

RECOMMENDATION:

Accept the quarterly investment report for the quarter ended March 31, 2004.

INTRODUCTION:

This is the quarterly status report of the Town's investments in the Local Agency Investment Fund (LAIF) and the San Mateo County Investment Pool (SMCIP) for the quarter ending March 31, 2004.

DISCUSSION

As of March 31, 2004, the Town had total investments of **\$10,080,090**. Interest earnings for the third quarter of Fiscal Year 2003-04 amounted to **\$60,929**. The funds are invested in the San Mateo County Investment Pool (SMCIP) and the Local Agency Investment Fund (LAIF).

During the third quarter of Fiscal Year 2003-04, the reported effective yield of LAIF amounted to 1.56 percent per annum. This compares to an average gross earnings reported by the San Mateo County Investment Pool of 2.62 percent per annum.

Investment at SMCIP: The San Mateo County Investment Pool is created and managed by the County Treasurer. As of March 31, 2004, the County's investment pool carried investments with a total par value of \$2.74 billion and an average duration to maturity of 1.9 years. The Town's investment with the San Mateo County Investment Pool as of March 31, 2004 amounted to \$6,169,203 or 61% percent of the town's total investment holdings.

Attachment 1 to this staff report provides a summary of the composition of the San Mateo County Investment Pool according to investment vehicle.

Investment in LAIF: Local Agency Investment Fund (LAIF) is created and managed by the California State Treasurer. As of March 31, 2004, LAIF had total assets of \$52.2 billion and an average duration to maturity of 159 days. The Town's investment balance with LAIF as of March 31, 2004 was \$3,910,887 or 39 percent of the total funds invested.

Attachment 2 to this report provides a summary of the composition of the LAIF according to investment vehicle.

FISCAL IMPACT:

Informational only.

Prepared by:

Approved by:

John P. Johns
Finance Director

James H. Robinson
City Manager

ATTACHMENTS:

1. Quarterly investment summary, San Mateo County Investment Pool
2. Quarterly investment summary, State of California Local Agency Investment Fund

SAN MATEO COUNTY TREASURER'S OFFICE
 FIXED INCOME DISTRIBUTION - SETTLED TRADES
SAN MATEO COUNTY POOL
 April 30, 2004

Summary Information

	Totals	Weighted Averages	
Par Value	3,472,820,333	Average YTM	2.3
Market Value	2,484,048,007.27	Average Maturity (yrs)	2.1
Total Cost	2,473,583,062.18	Average Coupon (%)	2.555
Net Gain/Loss	10,464,945.09	Average Duration	1.9
Annual Income	57,803,306.14	Average Moody Rating	Aa1
Accrued Interest	14,457,956.05	Average S&P Rating	AA+
Number of Issues	137		

Distribution by Maturity

<u>Maturity</u>	<u>Number</u>	<u>Mkt Value</u>	<u>% Bond Holdings</u>	<u>Average Y T M</u>	<u>Average Coupon</u>	<u>Average Duration</u>
Under 1 Yr	56	950,975,833.54	38.3	1.2	1.085 %	0.2
1 Yr - 3 Yrs	57	750,270,119.69	30.2	2.2	3.048 %	1.9
3 Yrs - 5 Yrs	39	733,479,531.54	29.5	3.7	3.126 %	3.7
7 Yrs - 10 Yrs	5	49,322,522.51	2.0	5.2	4.912 %	7.1

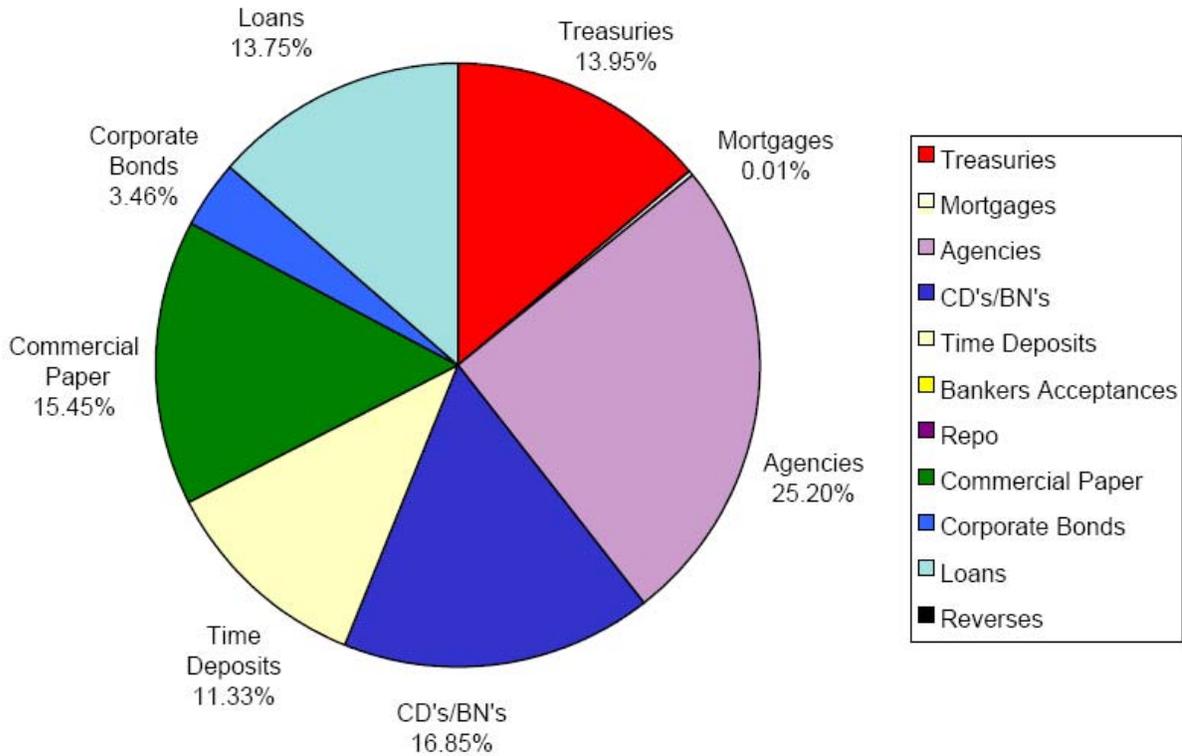
Distribution by Coupon

<u>Coupon %</u>	<u>Number</u>	<u>Mkt Value</u>	<u>% Bond Holdings</u>	<u>Average Y T M</u>	<u>Average Coupon</u>	<u>Average Duration</u>
Under 1%	14	597,247,533.44	24.0	1.0	0.268 %	0.1
1% - 3%	56	986,500,156.20	39.7	2.3	2.037 %	2.2
3% - 5%	44	699,552,948.83	28.2	3.3	3.606 %	2.9
5% - 7%	22	189,828,074.07	7.6	3.0	5.611 %	2.4
7% - 10%	1	10,919,294.74	0.4	2.1	7.750 %	1.1

Distribution by Duration

<u>Duration</u>	<u>Number</u>	<u>Mkt Value</u>	<u>% Bond Holdings</u>	<u>Average Y T M</u>	<u>Average Coupon</u>	<u>Average Duration</u>
Under 1	38	1,010,284,777.98	40.7	1.3	1.188 %	0.3
1 - 3	60	791,714,224.55	31.9	2.3	3.136 %	2.0
3 - 5	34	632,726,482.23	25.5	3.6	3.048 %	3.9
5 - 7	2	20,692,913.89	0.8	5.3	5.705 %	6.4

**Pooled Money Investment Account
Portfolio Composition
\$51.8 Billion
03/31/04**



Item No. 12



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JAMES H. ROBINSON, CITY MANAGER**

**FROM: GREGORY L. SAM, INTERIM ASSISTANT TO THE CITY
MANAGER**

DATE: FOR THE MEETING OF JULY 21, 2004

**SUBJECT: AMENDMENT TO AGREEMENT FOR INFORMATION
TECHNOLOGY SERVICES BETWEEN THE TOWN OF
ATHERTON AND THE CITY OF PALO ALTO FOR FISCAL
YEAR 2004/05**

RECOMMENDATION:

Approve Amendment No. 2 to the Agreement between the Town of Atherton and the City of Palo Alto for Information Technology Services for the period of July 1, 2004 through June 30, 2005, and authorize the Mayor to sign and execute Amendment No. 2 on behalf of the Town.

BACKGROUND:

In August 2002, the City Council approved entering into an agreement with the City of Palo Alto for Information Technology (IT) services for the period of September 16, 2002 through June 30, 2003. The purpose of the agreement was to obtain cost-effective, quality and reliable services by consolidating the Town's information technology needs through a nearby agency that had the resources to provide for such needs and understands the local government technology environment. In July 2003, the Council approved a one-year extension of the contract through Amendment No. 1, which expired on June 30, 2004. Staff has been pleased with the results of Palo Alto's IT services and is recommending that the contract be extended for one additional year from July 1, 2004 to June 30, 2005, through the proposed Amendment No. 2. Tremendous progress had been made in improving the Town's computer network since entering into the original contract in 2002.

ANALYSIS:

Last fiscal year, the contract amount for Palo Alto IT services was \$35,000, excluding after-hour calls. For FY 2004/05, the proposed contract amount is \$38,000 (see Exhibit B-2 attached). This represents an increase of \$3,000, or approximately eight percent (8%) from FY 2003/04. The City of Palo Alto has increased its IT service rates for all its municipal clients due to an increase in IT staff benefits, including PERS retirement costs, health premiums and worker's compensation coverage. This was on top of a similar increase last year, which was not passed on to its clients. Consequently, the City of Palo Alto has decided to raise its IT service rates.

Palo Alto initially proposed a one-year extension at \$46,450, for an increase of \$11,450 or approximately 25% from the previous year. However, staff negotiated a smaller increase by reducing on-site support service and forgoing a planned website redesign to save the Town \$8,450. These changes will have a minimal impact on the services required to effectively maintain and support the Town's computer system. All other terms of the contract and scope of work remain the same from the original agreement. Staff does not anticipate requiring Palo Alto IT services for extra consulting services beyond the scope of the proposed agreement for this fiscal year.

As mentioned earlier, staff has been pleased with the performance of Palo Alto's IT services. In 2003, the following additional improvements were made to the Town's computer system:

- A. Converted the Police Department to Lawnet.
- B. Installed a new server rack in Police and moved all the servers into the rack, providing a secure and protected location for the Town's servers.
- C. Setup a new exchange server and migrated users' e-mail from the old server to the new, bringing Atherton to a new height of e-mail and collaboration services.
- D. Installed Sonicwall Firewall to upgrade the Town's internet protection.
- E. Replaced PD Investigation's 10Mbit hub with a 100Mbit switch, removing a network bottleneck.
- F. Replaced approximately eight (8) PC's with new units, consistent with the Town's replacement schedule.

FISCAL IMPACT:

If approved by the Council, there will be an increase to the budget of \$3,000 for Palo Alto IT services for FY 2004/05. Funds for this expense have been appropriated in the FY 2004/05 Adopted Operating Budget.

Prepared by:

Approved by:

Gregory L. Sam
Interim Assistant to the City Manager

James H. Robinson
City Manager

Attachments: 1) Proposed Amendment No. 2 to Agreement
2) Agreement for Information Technology Services (September 2002)



Town of Atherton

**TO: HONORABLE MAYOR AND CITY COUNCIL
JAMES H. ROBINSON, CITY MANAGER**

**FROM: GREGORY L. SAM, INTERIM ASSISTANT TO THE CITY
MANAGER**

DATE: FOR THE MEETING OF JULY 21, 2004

**SUBJECT: APPROVAL OF LETTER IN RESPONSE TO GRAND JURY
REPORT ON NARCOTICS ARRESTS IN SAN MATEO COUNTY**

RECOMMENDATION

That the City Council consider and approve the staff recommended response to the San Mateo County Civil Grand Jury report on narcotic arrests in San Mateo County.

BACKGROUND

The San Mateo County Civil Grand Jury has recently completed a report on narcotic arrests in San Mateo County. The report contains findings and recommendations that the Town is required to respond to by August 31, 2004. Attached is the staff recommended response to the Grand Jury report. Since Council is considering canceling its August meeting, this may be our last opportunity for the Council to review and approve the Town's response before the upcoming deadline.

FISCAL IMPACT

None.

Prepared by:

Gregory L. Sam
Interim Assistant to the City Manager

Approved by:

James H. Robinson
City Manager

Attachments: 1) Proposed Letter of Response
2) Grand Jury Report on Narcotics Arrests in San Mateo County

3) Draft letter from Trisha Sanchez, Commander of the San Mateo County
Narcotics
Task Force, to Judge Jonathan Karesh.



Town of Atherton

**TO: HONORABLE MAYOR AND CITY COUNCIL
JAMES H. ROBINSON, CITY MANAGER**

**FROM: GREGORY L. SAM, INTERIM ASSISTANT TO THE CITY
MANAGER**

DATE: FOR THE MEETING OF JULY 21, 2004

**SUBJECT: APPROVAL OF LETTER IN RESPONSE TO GRAND JURY
REPORT ON SEXUAL ASSAULT CASES IN SAN MATEO
COUNTY**

RECOMMENDATION

That the City Council consider and approve the staff recommended response to the San Mateo County Civil Grand Jury report on sexual assault cases in San Mateo County.

BACKGROUND

The San Mateo County Civil Grand Jury has recently completed a report on sexual assault cases in San Mateo County. The report contains findings and recommendations that the Town is required to respond to by August 2, 2004. Attached is the staff recommended response to the Grand Jury report. Since the Council is considering canceling its August meeting, this may be our last opportunity for the Council to review and approve the Town's response before the upcoming deadline.

FISCAL IMPACT

None.

Prepared by:

Approved by:

Gregory L. Sam

James H. Robinson

Interim Assistant to the City Manager

City Manager

Attachments: 1) Proposed Letter of Response
2) Grand Jury Report on Sexual Assault Cases in San Mateo County
3) Letter dated June 11, 2004, from Chief Lee Violet, President of the San Mateo County Police Chiefs' and Sheriff Association, to Judge Jonathan Karesh.



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF JULY 21, 2004

**SUBJECT: AWARD OF CONTRACT FOR BARRY LANE - ATHERTON
CHANNEL BOX CULVERT REPLACEMENT - PROJECT
NUMBER 04-001**

RECOMMENDATION:

Pass a motion to award the contract for the Barry Lane - Atherton Channel Box Culvert Replacement Project, Project Number 04-001, in the amount of \$231,781.95 to Bianchi Construction, the low bidder on the June 25, 2004, bid opening and authorize a construction contingency in the amount of \$23,178.20 for a total authorization of \$254,960.15.

INTRODUCTION:

The adopted Capital Improvement Program includes funds for designing and constructing enlarged replacements for existing box culverts at the Elena Avenue and Barry Lane street crossings of the Atherton Channel. The need for these replacements was made clear by waters overflowing both street crossings during the last El Nino winter and was confirmed to be very high priority in the Nolte study.

ANALYSIS:

The Barry Lane - Atherton Channel box culvert is budgeted for construction in Fiscal Year 2004-05. The City Council approved the contract for design at the August 21, 2002, City Council meeting. The project was bid on June 25, 2004. One bid was received. Other contractors have indicated that they were too busy to bid at

this time. Industry contacts confirmed that concrete work is not competitive at this time due to the workload of the contractors.

Bianchi Construction constructed the Elena Avenue Box Culvert project. Staff was very satisfied with the work and the progress on the project.

FISCAL IMPACT:

An amount of \$210,000 in Parcel Tax funds is budgeted for this project in Fiscal Year 2004-05. Bids were received for the project on June 25, 2004. Bianchi Construction was the low bidder at \$231,781.95. This bid was 19% above the Engineer's Estimate prepared by Wilsey-Ham, the designer of the project, of \$188,381.50. The low bid is 10% above the project budget of \$210,000 from Parcel Tax funds budgeted for the project in the Fiscal Year 2004-05. In addition, a 10% construction contingency of \$23,178.20 would bring the total authorization to \$254,960.15.

Public Works staff and Wilsey-Ham engineers reviewed the bids and the Engineer's Estimate. The price shown in the estimate for the concrete was below the price paid for concrete on the Elena Avenue project last year. Adjusting the estimate to match the Elena Avenue bid prices results in a modified Engineer's Estimate of \$228,470. This results in the low bid being 1.5% over the Engineer's Estimate.

Staff determined that the main difference between the bids was in the price of concrete. Recent news reports have discussed an increase in the price of concrete recently due to increased construction activity in the United States and China. Additionally, the project has a U.S. Army Corps of Engineers' permit that will expire this fall, so the project needs to get underway this summer or additional costs will be incurred to extend the permit for another season. Staff recommends award of the contract because a re-bid would likely result in higher project costs.

Accordingly, staff requests an increase in the appropriation for the Barry Lane Box Culvert Project in the amount of \$44,960.15, the difference between the current project budget and the low bid plus construction contingency. Increasing the appropriation for the Barry Lane Box Culvert project can be accomplished without impacting the Fiscal Year 2004-05 portion of the Town's four-year capital program by using a portion of the \$127,941 in Parcel Tax savings that were realized from the 2004 Street Reconstruction Project – Phase 1, awarded in June 2004. These savings were not known at the time the 2004-05 budget was assembled, therefore the additional Parcel Tax funds available are not shown in the budget.

Prepared By:

Approved:

Duncan L. Jones, PE
Public Works Director

James Robinson
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
CITY MANAGER, JAMES ROBINSON**

FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF JULY 21, 2004.

**SUBJECT: ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD
NOTICE OF COMPLETION AND APPROVAL OF CONTRACT
CHANGE ORDERS IN THE AMOUNT OF \$13,292.42 FOR THE
STREET CORPORATION YARD - PROJECT NUMBER 03-007.**

RECOMMENDATION

Pass a motion accepting work, authorizing recordation of a notice of completion and approving contract change orders in the amount of \$13,292.42 for the Street Corporation Yard - Project Number 03-007.

INTRODUCTION

The Council awarded a contract in September 2003 to John Plane Construction for the new Street Corporation Yard work. The authorized contract amount was \$568,616.00. There have been seven authorized work directive changes totaling \$13,292.42, bringing the total to \$581,908.42. Work under the contract has been completed.

ANALYSIS

The original contract price was for \$568,616.00. There were seven field directive changes totaling \$13,292.42. Of those, four were for minor charges (under \$1000), one was a collection of six electrical changes involving four minor charges and two credits, and two were major costs of about \$5,000 each resulting from unexpected field conditions. One involved a dump area uncovered during the excavation for the foundation of the work porch, requiring excavating the dumped material and backfilling with lean concrete. The other involved additional requirements imposed on the project by the West Bay Sanitary District and the San Francisco Water Department for the new sewer line to cross the Hetch-Hetchy water line on Station Lane. The contract changes were as follows:

WORK DESCRIPTION	COST
1. Re-engineering and drafting shop drawings to revise work porch addition footing to stay outside of Caltrain right of way.	\$428.40
2. Fill void at southeast corner of work porch, relocate water line in conflict with grade beam at work porch and add two hose bibs at new crew building	\$5,071.77
3. Re-dig storm water manhole to lower base below Hetch-Hetchy water line, install Y in sewer line and change to 6" line per West Bay Sanitary District, and delay to obtain permits after changes.	\$5,090.46
4. Re-dig fence posts to provide buffer area around parking areas for door opening and planting area	\$239.76
5. Add additional concrete swale to connect existing swale behind emergency shed to proposed swale at crew building.	\$619.34
6. Create two-foot planter area along south side of crew building.	\$418.26
7. Electrical additions: <ul style="list-style-type: none"> • Add floodlight fixture under work porch roof • Add lights in attic at access door locations • Add separate lights/vent fans switches to shower room • Upgrading exterior crew building fixtures • Change occupancy sensor switches to standard switches • Reduced length of trench to install PG&E 	\$571.91 \$540.86 \$475.52 \$738.99 (\$462.67) (\$440.18)
TOTAL	\$13,292.42

FISCAL IMPACT

Funding for the original project amount of \$568,616.00 is included in the Fiscal Year 2003-04 budget from Road Impact fees and the Facility Construction fund, with an appropriation increase from savings in the 2003 Street Reconstruction Project and reduction to the 2003 Street Patch Seal and Overlay Project.

Funding for the additional \$13,292.42 can be appropriated from Road Impact Fee fund savings in the bid price for the 2004 Street Reconstruction Project (the low bid was 22% below the project budget, saving \$30,516 in Road Impact Fees). Accordingly, staff requests an increase in the appropriation for the Corporation Yard remodel in the amount of \$13,292.42. Increasing the appropriation for the corporation yard remodel project can be accomplished without impacting the Fiscal Year 2003-04 portion of the Town's four-year capital program.

Prepared By:

Approved:

Duncan L. Jones, P.E.
Public Works Director

James Robinson
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF JULY 21, 2004

SUBJECT: APPROVAL TO RENEW AGREEMENT WITH NEIL MARTIN AND ASSOCIATES

RECOMMENDATION:

Authorize the Mayor to execute an Agreement for Professional Services for Fiscal Year 2004-05 with Neal Martin and Associates for the provision of Planning Services to the Town of Atherton as identified in Exhibit A of the attached agreement.

BACKGROUND:

Neal Martin and Associates currently provides Planning Services to the Town of Atherton. Services include all Planning staff assistance to the City Council, Planning Commission, and General Plan Committee in the areas of agenda preparation and staff reports dealing with Appeals, Subdivisions, and Ordinance Amendments. Additionally, services are provided for a variety of applications such as Variances and Heritage Tree Removal Permits and taking minutes at all Planning Commission and General Plan Committee meetings.

The revised agreement reflects no changes in provision of services but does provide for a 5 percent adjustment in hourly rates. This represents the first increase in hourly rates since the 2000-01 fiscal year. Sufficient funds to accommodate this adjustment in rates are included in the adopted Fiscal Year 2004-05 budget.

Neal Martin & Associates

610 Elm Street, Suite 202
San Carlos, CA 94070
650-802-4292

July 13, 2004

James Robinson
City Manager
Town of Atherton
91 Ashfield Road
Atherton, CA 94027

Dear Jim,

Please find attached the proposed Agreement for Professional Services for FY 04/05. We are requesting a 5% overall rate increase. The rates have remained the same since July 1, 2000, with the exception of adding a new position effective July 1, 2002.

We propose to continue all other contract provisions. Please let me know if you need any additional information.

Sincerely,

**Lisa Costa Sanders
Chief Financial Officer, NM&A**

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT made and entered into this _____ day of _____, 2004, by and between the Town of Atherton, hereinafter called "TOWN" and Neal Martin & Associates, hereinafter referred to as the "CONSULTANT."

RECITALS

This Agreement is entered into with reference to the following:

- A. TOWN desires to engage CONSULTANT to render certain professional services in the TOWN.
- B. CONSULTANT is qualified to provide such services to the TOWN.
- C. TOWN engages the services of CONSULTANT upon the following terms and conditions:

1. Services. The services to be performed by CONSULTANT under this Agreement shall include those services set forth in Exhibit A, incorporated here by reference.

Performance of the work specified in Exhibit A is an obligation of CONSULTANT under this Agreement, subject to any subsequent changes that may be made to this Agreement by the mutual written agreement of the parties.

Where in conflict, the terms of this Agreement supersede and prevail over any terms set forth in Exhibit A.

2. Term. CONSULTANT'S services shall commence on execution of this Agreement and shall continue until completion of the task set forth in Exhibit A as described in the preceding section, or until terminated upon 30 days written notice by either party.

3. Compensation. Payment under this Agreement shall be at the hourly rates and conditions set forth in Exhibit B incorporated here by reference.

4. Effective Date. This Agreement becomes effective when endorsed by both parties in the space provided.

5. Reliance on Professional Skill of Consultant. CONSULTANT represents that it has the necessary professional skills to perform the services required and the TOWN relies on such skills of the CONSULTANT to do and perform the services.

6. Consultant Independent Contractor. It is understood that the relationship of CONSULTANT to the TOWN is that of an independent contractor and all persons working for or under the direction of CONSULTANT are its agents or employees and not the agents or employees of the TOWN.

7. Defense/Hold Harmless: Consultant by Town. TOWN agrees to defend, indemnify and hold CONSULTANT harmless from any claim or liability from any third party, for acts or conduct of CONSULTANT while performing CONSULTANT'S obligations under this Agreement, in the ordinary course of business. It is the intent of this paragraph to provide CONSULTANT with the same indemnity and defense an employee of the TOWN would have for performing similar service. In addition, the TOWN agrees to pay CONSULTANT'S hourly fees, as set forth in this Agreement, for the time CONSULTANT may spend (in the event of any third party litigation) with the TOWN: assisting legal counsel and staff of the TOWN, and preparing and testifying at deposition or trial.

8. Defense/Hold Harmless: Town by Consultant. CONSULTANT will defend and indemnify TOWN against judgment for any gross negligence or willful misconduct of CONSULTANT in performing services under this Agreement.

9. Liability Insurance Policy. CONSULTANT shall procure and maintain, for the duration of the Agreement, a comprehensive general liability policy of insurance written on an occurrence basis in the amount of \$2,000,000.00 combined single limit per occurrence for bodily injury, personal injury and property damage which may arise from, or in connection with, the performance of this Agreement. The TOWN and its officials, employees and volunteers are to be named as additional insurers as respects to liability arising out of activities performed by or on behalf of CONSULTANT. The insurance policy required under this paragraph shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the TOWN. Insurance is to be obtained only through insurers with a Best's rating of no less than A+.

10. Certificates/Endorsements. CONSULTANT shall furnish the TOWN with Certificates of Insurance and with original Endorsements showing effective coverage required by paragraphs 8 and 9 above.

11. Non-Assignment. This Agreement is not assignable either in whole or in part.

12. Amendments. This Agreement may be amended or modified only by written agreement signed by both parties.

- I. Governing Law. This Agreement shall be governed by the laws of the State of California and any suit or action initiated by either party shall be brought in the County of San Mateo, California.
- II. Mediation. Should any dispute rise out of this Agreement, the parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. The costs of the mediator, if any, shall be paid equally by the parties. If a mediated settlement is reached, neither party shall be deemed the pre-vailing party for purposes of the settlement, and each party shall bear its own legal

costs and fees. Neither party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution.

15. Attorneys' Fees. In the event of litigation between the parties to enforce any provision of the Agreement, the unsuccessful party shall pay the costs of litigation including reasonable attorneys' fees of the successful party.

16. Conflict of Interest. CONSULTANT may serve other clients, but none who are active within the TOWN or who conduct business that would place CONSULTANT in a "conflict of interest" as the term is defined and understood in State law.

17. Entire Agreement. This Agreement, including Exhibits A and B comprise the entire Agreement.

18. Notice. All notices required by this Agreement shall be given to TOWN and CONSULTANT in writing, by first class mail, postage prepaid, addressed as follows:

TOWN: Town of Atherton
91 Ashfield Road
Atherton, CA 94027
Attn: City Manager

CONSULTANT: Lisa Costa Sanders
Neal Martin & Associates
1640 Laurel Street
San Carlos, CA 94070

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed and intend it to be effective on the date first written by their respective officers duly authorized in that behalf.

TOWN:

Dated: _____, 2004.

Manager

By: _____

James Robinson, City

Approved as to form:

Marc G. Hynes, City Attorney

CONSULTANT

Dated: _____, 2004. By: _____

Associates

Lisa Costa Sanders
CFO, Neal Martin &

EXHIBIT A

NEAL MARTIN & ASSOCIATES

SERVICES

Neal Martin and Associates agrees to provide planning services to the Town of Atherton. In general, those services include the following:

Planning Commission: Completion of staff review and preparation of staff reports for all applications to the Planning Commission. Examples of the applications normally reviewed by the Commission are; Conditional Use Permits, Variances, Subdivisions, Heritage Tree Removal Permits, Ordinance Amendments and other similar applications. Services include attending the Planning Commission meetings, preparation and distribution of public notices, preparation and distribution of agendas, staff reports and packets and completion of case documentation after Planning Commission action. Neal Martin and Associates will also take all meeting minutes.

City Council: Services include preparation of staff reports for items such as Appeals, Subdivisions and Ordinance Amendments.

General Plan Committee: Services include attending the General Plan Committee meetings, preparation and distribution of agendas, staff reports and packets. Neal Martin and Associates will also take all meeting minutes.

Lisa Costa Sanders, Deputy Town Planner, will provide most of the services for items that regularly come before the Planning Commission, General Plan Committee and City Council. Neal Martin, Principal Planner, will provide services for any of the more complex or controversial matters that would be agendized.

EXHIBIT B

NEAL MARTIN & ASSOCIATES

FY 2004-2005 FEE SCHEDULE

Principal Planner	\$136.50 per hour
Deputy Town Planner	\$ 89.25 per hour
Senior Planner	\$ 78.25 per hour
Associate Planner	\$ 68.25 per hour
Assistant Planner	\$ 52.50 per hour
Drafter	\$ 42.00 per hour
Administrative Assistant	\$ 38.85 per hour
Mileage	\$.36 per mile



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
CITY MANAGER, JAMES ROBINSON**

FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF JULY 21, 2004.

**SUBJECT: ACCEPTANCE OF WORK AND AUTHORIZATION TO RECORD
NOTICE OF COMPLETION FOR THE 2004 STREET
MICROSURFACING - PROJECT NUMBER 03-012.**

RECOMMENDATION

Pass a motion accepting work and authorizing recordation of a Notice of Completion for the 2004 Street Microsurfacing (Slurry Seal), Project Number 03-012.

INTRODUCTION

The Council awarded a contract in June to California Pavement Maintenance for Slurry Seal work. The authorized contract amount was \$75,000.00. There have been no authorized contract change orders bringing the total to \$75,000.00. Work under the contract has been completed.

ANALYSIS

The contract price was based on the greatest amount of work to be completed for \$75,000.00. The job went very well, and the price the Town paid per square foot of road sealed was about \$0.12. The final cost for all work totaled \$75,000.00.

FISCAL IMPACT

Funding for this project in the amount of \$75,000.00 is included in the Fiscal Year 2003-04 budget.

Prepared By:

Approved:

Duncan L. Jones, P.E.
Public Works Director

James Robinson
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: FOR THE MEETING OF JULY 21, 2004

**SUBJECT: REVIEW THE TOWN'S CONFLICT OF INTEREST CODE
AND
ADOPT A RESOLUTION TO APPROVE APPENDIX "A"
DATED JULY 2004 DESIGNATING POSITIONS IN THE
CONFLICT OF INTEREST CODE**

RECOMMENDATION

Adopt the attached Resolution No. 04- approving Appendix "A" dated July 2004 designating positions and describing disclosure categories in the Conflict of Interest Code.

BACKGROUND

The Political Reform Act of 1974, approved by the voters, requires state and local government agencies to adopt a Conflict of Interest Code. The Town has adopted a Conflict of Interest Code which references the terms of 2 California Code of Regulations §18730, as may, from time to time, be amended by the Fair Political Practices Commission. Section 18730 contains a standard code.

A Conflict of Interest Code lists each position within the Town that makes or participates in the making of governmental decisions. Individuals employed in these positions are called "designated employees." In addition, certain consultants to the Town qualify as code filers because they make or participate in making governmental decisions on behalf of the Town.

The City Council is the code reviewing body for the Town. Every two years, the code reviewing body must review the code and make any revisions that may be required.

Usually, these revisions result from creation of new positions in the Town or significant change in the duties of existing positions. The City Manager, City Clerk, and City Attorney have reviewed the list of designated employees and recommend that no changes be made to the designated positions in Appendix "A". Threshold amounts in the disclosure categories have been revised to reflect current requirements.

Attached are a resolution and an Appendix "A" dated July 2004 that accurately reflect positions that may make or participate in making governmental decisions for the Town.

FISCAL IMPACT

None.

Respectfully,

MARC G. HYNES
City Attorney

MGH:cwb

Attachments: Resolution No. 04-
Appendix "A"

ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Kathy McKeithen, Mayor
Town of Atherton

ATTEST:

Kathi Hamilton, Interim City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney

APPENDIX "A"

TOWN OF ATHERTON
CONFLICT OF INTEREST CODE

LIST OF DESIGNATED POSITIONS

Date: July 2004.

<u>CATEGORY</u>	<u>JOB TITLE</u>	<u>DISCLOSURE</u>
	Assistant Finance Director	1
	Assistant to the City Manager	1
	Building Official/Planning Administrator	1
	Chief of Police	
1		
	City Clerk	
1		
	Town Planner	1
	Deputy Town Planner	1
	Consultants*	1*
	Finance Assistant	
1		
	Park Program Manager	
1		
	Police Lieutenant	
1		
	Public Works Director/City Engineer	1
	Associate Engineer	1
	Public Works Superintendent	1
	Public Works Supervisors (2)	1
	Town Arborist/Public Works Specialist	1

*Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The City Manager may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements described in this section. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The City Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

APPENDIX "A'

DISCLOSURE CATEGORY 1

SPECIFICATION SHEET

REPORTABLE INVESTMENTS, INTEREST IN REAL PROPERTY, AND INCOME

CONFLICT OF INTERST CODE TOWN OF ATHERTON

- * Investments (partnerships, common stock, etc.)
- Worth \$2,000 or more in business entities located in or doing business in the Town.
- * Interests in Real Property
-Worth \$2,000 or more located in the Town.
- * Interests in Real Property and Investments Held by Business Entities or Trusts
- * Income (Other than Loans, Gifts and Honoraria) Received During the Reporting Period
-Aggregating \$500 or more received from a source located in or doing business in the Town.
- * Loans (Received or Outstanding During the Reporting Period)
-Aggregating \$500 or more from a source located in or doing business in the Town.
- * Gifts (Received During the Reporting Period)
-Must disclose \$50 or more received from any source located inside or outside the Town. May not exceed \$340 from any single source.



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF JULY 21, 2004

SUBJECT: APPROVAL OF MAINTENANCE AGREEMENT WITH THE CITY OF MENLO PARK REGARDING THE PEDESTRIAN SIGNAL ON VALPARISO AVENUE

RECOMMENDATION:

Authorize the Mayor to execute the attached agreement with the City of Menlo Park to accept a transfer of ownership of the pedestrian signal on Valparaiso Avenue near Arbor Road.

BACKGROUND :

The City of Menlo Park and the Town of Atherton recently completed a joint signal project at Valparaiso and University Avenues. The cost of the project was shared on a 50/50 basis and the design was jointly reviewed and approved. During the design process, the City of Menlo Park indicated its intention to remove the existing pedestrian signal located just west of the new Valparaiso/University signal near Arbor Road. The Town of Atherton indicated its desire to retain the pedestrian signal, and Menlo Park has offered to transfer ownership and maintenance of the signal to the Town.

The attached agreement, reviewed and approved as to form by Town staff and the Town Attorney, provides transfer of ownership to the Town of Atherton at the agreed price of one dollar. The agreement also provides for the Town to assume all maintenance costs and to defend, indemnify, and hold harmless the City of Menlo Park for any damage or liability.

PEDESTRIAN TRAFFIC SIGNAL ON VALPARAISO AVENUE NEAR ARBOR ROAD OWNERSHIP AND MAINTENANCE AGREEMENT

This AGREEMENT entered into this _____ of _____, 2004, by and between the CITY OF MENLO PARK, a municipal corporation of the State of California (herein referred to as First Party), and the TOWN OF ATHERTON, a municipal corporation, of the State of California (herein referred to as Second Party).

WITNESSETH:

WHEREAS: The First Party owns the pedestrian traffic signal on Valparaiso Avenue near Arbor Road and upon its determination that it is a redundant traffic control, intends to remove this signal; and,

WHEREAS: The Second Party, however, desires to provide for the ownership, maintenance and upkeep of this pedestrian traffic signal.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the parties do hereby agree as follows:

1. First Party will sell the pedestrian traffic signal on Valparaiso Avenue near Arbor Road to the Second Party at the agreed price of ONE DOLLAR (\$1.00), transferring the ownership of said traffic signal to the Second Party.
2. First Party agrees to permit the Second Party to maintain and operate the pedestrian traffic signal on Valparaiso Avenue near Arbor Road within the First Party's right-of-way.
3. Second Party agrees to bear exclusively the cost of maintaining and operating the pedestrian traffic signal on Valparaiso Avenue near Arbor Road, including the electrical energy costs associated with operating this pedestrian traffic signal.
4. Second Party shall fully defend, indemnify and hold First Party harmless from any damage or liability occurring by reason of anything done or omitted to be done by Second Party under or in connection with the maintenance and operation of the pedestrian traffic signal on Valparaiso Avenue near Arbor Road.

5. If Second Party no longer desires to maintain and operate the pedestrian signal, Second Party shall remove and dispose of this signal at its own cost and expense.

6. This Agreement shall become effective and shall remain in full force and effect until amended or terminated at any time upon mutual consent of the parties thereto or upon thirty (30) days written notice by either party thereof to the other.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal the day and year first above written.

First Party
CITY OF MENLO PARK

Second Party
TOWN OF ATHERTON

By _____
City Manager

BY _____
Mayor

Attest _____
City Clerk

Attest _____
City Clerk

Approved as to form:

Marc G. Hynes, City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF JULY 21, 2004

SUBJECT: CONSIDERATION OF RESPONSE TO DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT (EIR/EIS) FOR THE PROPOSED CALIFORNIA HIGH-SPEED-TRAIN SYSTEM

RECOMMENDATION:

Approve a response to the Draft Program Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Proposed California High-Speed Train System that requests the California High Speed Authority to include the Altamont Pass Alternative in the environmental evaluation, to consider a trench section through Atherton, and to include additional comments on impacts of the High-Speed Rail (HSR) system.

ANALYSIS:

Three issues were discussed at the July 6, 2004, Caltrain Corridor Subcommittee meeting:

1. Altamont Pass Alignment – The EIR/EIS excluded evaluation of the Altamont Pass Alignment Alternative. The alternative was eliminated because the trains for San Jose, San Francisco, and Oakland would have to split at Union City so that only one-third of the trains could go to each city. With the current alternatives, all the trains go through San Jose and then split between San Francisco and Oakland. The result is San Francisco and Oakland would each get more trains than with the Altamont Pass Alternative, i.e., instead of one-third, they could each get one-half (although it is likely that San Francisco will get a higher percentage than Oakland due to passenger demand).

In earlier phases of the project, the Altamont Pass alignment was the preferred alternative, partly due to the increased population served by going through the Livermore

Valley, Tracy, and Modesto. The Altamont Pass Alternative serves 2 million more potential passengers than the other alignment alternatives that go through Gilroy and Los Banos.

The Altamont Pass Alternative had the unique benefit that it missed the Town of Atherton. The HSR line would cross the bay on the Dumbarton rail line and would enter the Caltrain corridor in Redwood City where Woodside Road crosses the corridor. Train service through Atherton would only be the Caltrain service, which would provide connecting service to the HSR station at Redwood City.

Arguments have been made that the Altamont Pass Alternative may have considerably less environmental impacts than the alternatives being considered. Arguments have also been made that it has more. Because the environmental analysis for the Altamont Pass Alternative was never performed, this information is not available for comparison with the other alternatives.

The Subcommittee recommends that the Council take a strong position that the Altamont Pass Alternative should be included, with a comprehensive evaluation of impacts, in the environmental document.

2. Trench Corridor Treatment – The subcommittee reviewed pictures of the Alameda Corridor in Los Angeles, where an upgraded freight line from the Port of Long Beach was constructed in a trench for its entire length to avoid impacts to surface streets and properties. The subcommittee recommends that the City Council strongly urge the High Speed Rail Authority to study, during the project design process, the potential to place the HSR system in a trench through Atherton (and Menlo Park if necessary to make it work). This design option will avoid significant impacts to cultural and 4(f) resources (historic Atherton train station and Holbrook-Palmer Park), to protected biological resources (heritage and significant trees), and to adjacent properties. It will also reduce the division between portions of the community instead of enhancing the division by the placement of linear walls to support a raised track bed. And finally, and extremely important, it will reduce the visual and noise impacts of the HSR system on the surrounding community.

Staff also notes that conventional hydraulic design options exist for the Atherton Channel to be accommodated, either by an aqueduct over the tracks, by an adequately sized siphon under the tracks, or by a pump station with redundant pump capacity exceeding the 100 year flow in the channel (to be operated and maintained by the HSR operator). Any option would require floodwalls to eliminate any potential for flooding of the rail line.

3. Electrification Comments - If the High-Speed Rail passes through Atherton, the issues raised in the Town's response to the Caltrain Electrification EIR would apply to the HSR EIR/EIS as well:

a. Catenary visual impact – The HSR system will be an electrified system with overhead power wires called catenaries. These wires will be a significant visual impact on the entire Peninsula rail corridor and particularly on the Town of Atherton

where there are significant residential properties abutting the tracks. Alternatives to mitigate this impact should be discussed at the program level. Advanced track and train technologies should be included to allow the trains to operate with a third rail through urban areas where the visual impacts would be severe. A grade separated rail system through the Peninsula corridor would allow the use of third rail, avoiding visual and tree impacts that an overhead system would cause. These impacts are significant and are applicable throughout the Peninsula corridor; therefore, it should be addressed at the program level.

b. Heritage or significant trees – The Caltrain electrification EIR and arborist report determined that approximately 80 trees in Atherton would need to be removed. On the Caltrain corridor, 1,727 trees would need to be removed. The HSR system would have considerably more impact to trees in the Peninsula urban area than the Caltrain electrification project. Section 3.15C sets local ordinances protecting biological resources as a significance criterion, but then does not discuss impacts or mitigation to resources protected by local ordinance, specifically native oak and heritage trees. These impacts should be evaluated at the program level similar to other biological resources.

c. Cultural (Historic) Resources and 4(f) (Park) Resources – The EIR/EIS states that mitigation can include alignment shifts to miss resources, relocation of resources including replacement parkland, noise barriers and visual screening. However, it states that shifts to miss one resource may impact another and that noise barriers can create adverse visual impacts. In such cases, mitigation may include cut and cover (similar to the trench discussed above, but with the track covered through the sensitive areas). In Atherton all these concerns apply. Additionally, the grade separations required to raise or lower the roadways would impact both the cultural and 4(f) resources within Atherton. The HSR project should consider cut and cover through the Atherton station historic area and the Holbrook-Palmer Park area.

d. Public Services – This element of CEQA is not discussed in the EIR/EIS. An evaluation of impacts to public services, such as the Atherton Police Department, City Hall, Post Office, Library, Permit Center, and Public Works Corporation Yard should be included. These impacts may be relevant in evaluating alignment alternatives and should be quantified.

e. Potential Interference with Resident’s Electronics – This element is adequately discussed in the EIR/EIS and will be evaluated in detail in the project level environmental analysis. The EIR/EIS discusses adequate mitigation to be applied during project design.

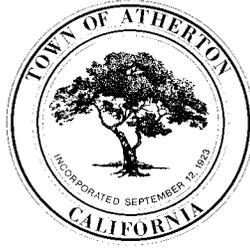
Additional Comments may be received from Subcommittee members and developed by staff to include in the final response to the High Speed Rail Authority.

Prepared By:

Approved:

Duncan L. Jones, P.E.
Public Works Director

James Robinson
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JOHN P. JOHNS, FINANCE DIRECTOR

DATE: FOR THE MEETING OF JULY 21, 2004

SUBJECT: POTENTIAL FUTURE ALTERNATIVES TO THE PARCEL TAX

RECOMMENDATION:

Review the attached report on possible revenue enhancement opportunities prepared in August 2000 by the financial consulting firm of Piper Jaffray.

INTRODUCTION:

During the regularly scheduled City Council meeting of June 16, 2004, the City Council requested that staff obtain a study on revenue enhancement opportunities issued in August 2000 by the financial consulting firm of Piper Jaffray.

Transmitted herewith is the subject report.

In reviewing this report, Council may wish to take note of the following:

- The objective and scope of the consultant's study was to identify ways that the Town of Atherton could finance a large-scale program of improvements to the Town's roads and drainage systems (on the order of \$10 million to \$25 million). Accordingly, the study's scope and objectives did not include an examination of potential ongoing sources of revenue that could finance Town operations in the future.

- The consultant identified three possible sources of debt financing and related sources of revenue to finance future debt service payments. These are as follows:
 - Issuing general obligation bonds (to be paid off through an increase in the ad valorem property tax assessment);
 - Issuing certificates of participation or community facility district bonds (to be paid back with parcel tax proceeds); and,
 - Establishing a special assessment district (to be paid back through special assessments).

Of the three methods described above, the consultant determined that the former two (general obligation bonds and certificates of participation) would require approval by the voters of a margin of greater than 2/3rds. According to the consultant, the later financing vehicle, a special assessment district could conceivably be implemented by virtue of a simple majority. However, the capital improvement program would have to be structured in a manner that could withstand a potential legal challenge.

The consultant also referred to a separate report prepared by legal counsel that described the problems associated with utilizing the special assessment district financing mechanism to defray the cost of capital improvements that benefit an entire community.

FISCAL IMPACT:

None

Prepared by:

Approved by:

John P. Johns
Finance Director

James H. Robinson
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JOHN P. JOHNS, FINANCE DIRECTOR

DATE: FOR THE MEETING OF JULY 21, 2004

**SUBJECT: POSSIBLE AMENDMENTS TO TOWN OF ATHERTON
ORDINANCE NO. 549 INCLUDING SENIOR EXEMPTIONS
RELATIVE TO THE BALLOT MEASURE FOR A SPECIAL
MUNICIPAL TAX FOR SUPPORT OF OPERATING AND
CAPITAL EXPENDITURES.**

RECOMMENDATION:

Accept staff's report regarding research on parcel tax exemptions. Additionally, should the Council wish to consider any other possible amendments, Ordinance Number 549 is attached to this staff report for reference.

INTRODUCTION:

During the regularly scheduled Council meeting of June 16, 2004, the City Council requested that staff conduct research on parcel tax exemptions.

Based upon a limited survey of other municipalities and school districts and based upon review of US Census data, staff learned that:

- Providing exemptions for senior citizens appears to be a fairly common practice among school districts that have or have recently had a parcel tax in effect. However, staff was unable to identify any city within California that has a parcel tax in effect and that offers an exemption for seniors. The following school districts were identified as offering such an exemption:

- Mill Valley (Marin County)
 - Palo Alto Unified School District
 - Menlo Park School District
 - Emeryville Unified School District (Alameda County); and,
 - Los Altos School District.
- A limited number of special districts also were identified as offering an exemption for seniors, these include:
 - The Santa Clara Valley Water District; and,
 - Palm Drive Health Care District (Sonoma County).
 - Eligibility requirements vary from district to district. However, it appears to be the prevailing practice among school districts and special districts to require the constituent applying for the exemption to be a homeowner aged 65 or older who occupies the dwelling unit as his or her primary residence. Additionally, it appears to be common to exempt seniors for the full amount of the parcel tax.
 - According to US Census Bureau data, 20.2 percent of Atherton's residents are aged 65 or older. Additionally, the Census Bureau data indicates that 95 percent of Atherton's homes are owner occupied. Hence, by applying the eligibility requirements common for the school districts surveyed, approximately 19 percent of Atherton's households would be eligible for a senior exemption.

Pursuant to the direction of the City Council, staff also placed for discussion a possible exemption on the agenda for the July 13, 2004, Audit Committee meeting. The Audit Committee took no action on this item. However, the consensus among the Audit Committee members present appeared to be that a parcel tax exemption for a select group of residents, such as seniors, would not be desirable because such an exemption would unnecessarily complicate matters and might be perceived to be inequitable.

FISCAL IMPACT:

None

Prepared by:

Approved by:

John P. Johns
Finance Director

James H. Robinson
City Manager

Attachment: Town of Atherton Ordinance No. 549

ORDINANCE NO. 549
AN ORDINANCE OF THE TOWN OF ATHERTON
CALLING AN ELECTION TO SUBMIT TO THE VOTERS
AN ORDINANCE AUTHORIZING THE LEVY OF A SPECIAL TAX
FOR MUNICIPAL SERVICES AND CAPITAL IMPROVEMENTS, AND FOR
THE EXPENDITURE OF FUNDS DERIVED FROM SUCH TAX

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 ordinance to the voters of the Town of Atherton at an election to be held on Tuesday, November 2, 2004.

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

“AN ORDINANCE OF THE TOWN OF ATHERTON
AUTHORIZING THE LEVY OF A SPECIAL TAX FOR
MUNICIPAL SERVICES AND CAPITAL IMPROVEMENTS AND FOR THE
EXPENDITURE 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, XIII B §4 and XIII C §2, and pursuant to Sections 50075, 50076, 50077 and 53722 et. seq. of the California Government Code.

SECTION 2. AUTHORIZATION TO LEVY SPECIAL TAX. If, in any fiscal year commencing July 1, 2005, the City Council shall determine that municipal services such as police protection, street repair and maintenance, 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 which are counted under the limit of the Town for such services calculated in accordance with the provisions of Article XIII B of the California Constitution, as provided for in the adopted budget, and/or if capital improvements are required, the cost of which exceeds the amount of funds generated through other revenues and receipts, and/or if amounts should be required to augment operational and capital needs of the Town, 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 3. 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 municipal services

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 4. 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			
		2005-06	2006-07	2007-08	2008-09
1.	For each dwelling on a parcel with an area of less than 1/4 acre:	560	560	560	560
2.	For each unimproved parcel with an area of less than 1/4 acre:	280	280	280	280
3.	For each dwelling on a parcel with an area of 1/4 acre or more, but less than 1/2 acre:	710	710	710	710
4.	For each unimproved parcel with an area of 1/4 acre or more, but less than 1/2 acre:	350	350	350	350
5.	For each dwelling on a parcel with an area of 1/2 acre or more, but less than 2 acres:	930	930	930	930
6.	For each unimproved parcel with an area of 1/2 acre or more, but less than 2 acres:	470	470	470	470
7.	For each dwelling on a parcel with an area of 2 acres or more:	1,200	1,200	1,200	1,200
8.	For each unimproved parcel with an area of 2 acres or more:	600	600	600	600
9.	For each private club:	12,500	12,500	12,500	12,500
10.	For each parcel available for tax owned by a utility which serves the Atherton community:	560	560	560	560

11. For each parcel available for tax owned by a utility which does not directly serve the Atherton community: 930 930 930 930

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 5. 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 6. 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 set 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 7. INCREASE APPROPRIATIONS LIMIT. Pursuant to California Constitution Article XIII B, the appropriations limit for the Town of Atherton will be increased by one and one-half times the aggregate sum authorized to be levied as a special tax in each of the years covered by this ordinance.

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. UNEXPENDED RESIDUE. In accordance with Section 2(b) of Article XIII B of the California Constitution, all revenues received by the Town in a fiscal year and the fiscal year immediately following it in excess of the amount which may be appropriated by the Town in compliance with Article XIII B during that fiscal year and

the fiscal year immediately following it shall be returned by a revision of tax rates or fee schedules within the next two subsequent fiscal years.

SECTION 10. SEVERABILITY. If any provision of this ordinance of 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 11. DURATION AMENDMENT OR REPEAL. The authorization to levy a tax under this ordinance shall commence with the Fiscal Year 2005-2006, beginning July 1, 2005 and shall continue through and including June 30, 2009. This ordinance or any provision thereof may only be amended or repealed by approval of two-thirds of the voters voting on the proposition at any initiative or referendum election.

This ordinance shall be adopted if approved as an initiative measure by two-thirds of the voters voting at a consolidation election to be held on Tuesday, November 2, 2004, 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:

“Shall an ordinance entitled “An Ordinance of the Town of Atherton Authorizing the Levy of a Special Tax for Municipal Services and Capital Improvements and for the Expenditure of Funds Derived from such Tax, and numbered 549 be adopted?”

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. The election on the proposed ordinance shall be consolidated with any and all other elections to be held on November 2, 2004.

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.

* * * * *

I hereby certify that the foregoing ordinance was adopted at a regular meeting of the City Council of the Town of Atherton held on June 16, 2004, by the following roll call vote:

AYES: 5 Councilmembers: Janz, Marsala, Carlson, McKeithen, Conwell
NOES: 0 Councilmembers:
ABSTAIN: 0 Councilmembers:
ABSENT: 0 Councilmembers:

Kathy McKeithen, Mayor
Town of Atherton

ATTEST:

Kathi Hamilton, Interim City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney

ATKINSON • FARASYN, LLP

ATTORNEYS AT LAW

LEONARD J. SIEGAL
HAROLD S. TOPPEL
STEVEN G. BAIRD
MARC G. HYNES

660 WEST DANA STREET
P.O. BOX 279
MOUNTAIN VIEW, CALIFORNIA 94042
TELEPHONE (650) 967-6941
FACSIMILE (650) 967-1395

J.M. ATKINSON (1892-1982)
L.M. FARASYN (1915-1979)

TO: Honorable Mayor and City Councilmembers, Town of Atherton
FROM: City Attorney
RE: Field Lighting at Menlo Atherton High School
DATE: July 14, 2004

A parents group has submitted an application to the State Office of Architecture for review of lights at the Menlo Atherton High School football field. According to the Assistant Superintendent of the Sequoia Union High School District, the District has not taken a position on the application. The cost of the project is estimated at \$185,000.00. For the reasons set out below, the project is exempt from any regulation under the Town's building code. However, compliance with the Town's zoning ordinance is required unless the school district takes action to exempt itself. To date, the school district has not taken action to exempt itself from the Town's zoning ordinance.

State agencies, including public schools, are immunized from local regulatory control, except in those instances where consent has been given to local regulation. The state has consented to regulation by local building and zoning codes. Even then, this consent, set out in Government Code sections 53090 through 53095, allows school districts to exempt themselves from building regulations when acting under the State Contract Act (Public Contract Code sections 10100 and following) and from zoning regulations when the district board, by two-thirds majority vote of its governing body, exempts itself from such regulations.

Government Code sections 53090 through 53095 generally provide that local government agencies shall comply with all applicable building and zoning ordinances of the county or city in which the local agency is situated, with certain exceptions. By definition, the term "local agency" does not include cities, counties, the state, rapid transit or rail transit districts.

Government Code section 53091(a) requires that each local agency shall comply with all applicable building ordinances and zoning ordinances of the county or city in which the territory of the local agency is situated. Subsection (b) provides that if the

local agency is situated in more than one city or county or partly in a city and partly in a county, the local agency shall comply with the ordinances of each county or city with respect to the territory of the local agency that is situated in the particular county or city. The ordinances of the county or city shall not be applied to any portion of the territory of the local agency that is situated outside the boundaries of the county or the city. Section 53091 does not require a school district when acting under the State Contract Act (Public Contract Code 10100 and following) to comply with the building ordinances of a county or city. Projects exceeding \$100,000 in value are required to be processed under the State Contract Act. Because of the \$185,000 estimated cost of the Menlo Atherton playing field lights, the State Contract Act would apply, thus precluding Town building regulations.

Government Code section 53094 authorizes a school district to render zoning ordinances inapplicable where the governing board of the school district by a vote of two-thirds of its members adopts a resolution and provides notice to the city or county concerned. A city or county may then commence an action in the Superior Court seeking review of the action of the governing board of the school district to determine whether it was arbitrary and capricious. The governing board of the school district may not take an action rendering a zoning ordinance inapplicable when the proposed use of the property by the school district is for non-classroom facilities, including, but not limited to, warehouses, administrative buildings, and automotive storage and repair buildings.

In the case of City of Santa Cruz v. Santa Cruz City School Bd. Of Education (1989) 210 Cal.App.3d 1, the school board adopted a resolution to exempt a renovation of the lighting at the playing field of Santa Cruz High School. Prior to taking this action, the school district had applied for and been denied a permit to replace the lights. The school board's action was challenged by the city on the grounds that the playing field was a non-classroom facility.

The Sixth District Court of Appeal said:

"Although the current law concerning which agencies have to follow what local regulations is a tangle of prohibitions and exceptions, lacking a single, articulable organizing principle, the amendments to section 53094 do suggest a legislative conclusion that the relationship between school boards and their "nonclassroom facilities" is not significantly different from the relationship between other state agencies and their property, which, in fact, could also be characterized as "nonclassroom facilities," and therefore, state educational policy does not reasonably or logically justify continued permission for school boards to exempt their "nonclassroom facilities" from local control As to

what "nonclassroom facilities" are, the legislative genealogy of section 53094 further suggests that "nonclassroom facilities" are those that are not by their nature so directly or sufficiently related to a school board's unique function as to distinguish it from any other local agency." City of Santa Cruz, supra, 210 Cal.App.3d 1 at p. 7.

The Court of Appeal then found that the trial court's determination that the playing field was used for or directly related to student instruction and therefore was a "classroom facility" was supported by the evidence. The Court said that the playing field "serves an important educational purpose at Santa Cruz High and is directly used for student instruction." Accordingly, the school board's exemption was not "arbitrary and capricious."

Section 17.36.140E of the Atherton Municipal Code prohibits lighting of athletic courts. Athletic courts are defined in Section 17.08.050 as "...any hard surface area constructed for athletic activity use which is equipped with nets, standards, backboards or other projections above grade or which is equipped with sleeves suitable for the installation of nets, standards, backboards or other projections above grade."

Menlo Atherton School held a neighborhood meeting on the potential project on June 3, 2004. At that meeting, concern was expressed by many neighbors regarding the proposal. Neighbors have asked for clarification on the process for approving the proposed project. The School District seems to be of the opinion that the project falls within its exemption for classroom facilities.

I have spoken with the Deputy Town Planner who concurs with me that this code section would include a facility such as the Menlo Atherton playing field. Artificial lighting is prohibited by the Town's Zoning Ordinance.

Respectfully,

MARC G. HYNES

MGH:cwb



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
CITY MANAGER JAMES H. ROBINSON**

FROM: MICHAEL A. HOOD, BUILDING OFFICIAL

DATE: FOR THE MEETING OF JULY 21, 2004

**SUBJECT: ADOPT AN ORDINANCE RATIFYING ORDINANCE NO. 29 OF
THE MENLO PARK FIRE PROTECTION DISTRICT AMENDING
THE DISTRICT FIRE PREVENTION CODE PERTAINING TO
AUTOMATIC FIRE SPRINKLER SYSTEM REQUIREMENTS,
AND REPEAL TOWN OF ATHERTON ORDINANCE NO. 548.**

RECOMMENDATION:

1. Open and close a public hearing and waive the second reading of an ordinance ratifying Ordinance No. 29 of the Menlo Park Fire Protection District.
2. Repeal Town of Atherton Ordinance No. 548.

ANALYSIS:

On October 15, 2003, the City Council held a public hearing and had the first reading of an ordinance that would require the installation of residential sprinkler systems in new homes in Atherton. After some modification, the City Council adopted Ordinance 548 on February 18, 2004. The purpose of Ordinance 548 was to ratify Ordinance No 28 of the Menlo Park Fire Prevention District.

The Menlo Park Fire Prevention District has held subsequent meetings with the jurisdictions of Menlo Park, East Palo Alto, and the County of San Mateo. As a result,

Fire District Ordinance 28 has been substantially changed and has become Fire District Ordinance 29.

As a result of the changes from Fire District Ordinance 28 to Fire District Ordinance 29 the Town of Atherton should do the following:

1. Consider the adoption of a new Town of Atherton ordinance which will ratify Menlo Park Fire Prevention District Ordinance No. 29.
2. Repeal Town of Atherton Ordinance No. 548.

As it would apply to the Town of Atherton, the Fire District's Ordinance No. 29 is virtually unchanged from Ordinance No. 28. Sprinklers would be required under the following conditions:

1. New building construction that exceeds 1000 square feet.
2. New basement construction that exceeds 250 square feet.
3. Structural remodels that exceed 2500 square feet.
4. Remodels of buildings over 2500 square feet when the remodel is more than 50 percent of the floor space.

The Menlo Park Fire Protection District ordinance is attached. The ordinance has been ratified by the City of East Palo Alto and San Mateo County. The City of Menlo Park has decided not to ratify the ordinance.

Respectfully submitted:

Approved by:

Michael A. Hood
Building Official

James H. Robinson
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: KATHI HAMILTON, INTERIM CITY CLERK

DATE: FOR THE COUNCIL MEETING OF JULY 21, 2004

SUBJECT: CITY COUNCIL DISCUSSION - AUTHORIZING OF BALLOT ARGUMENTS RELATIVE TO THE BALLOT MEASURE FOR A SPECIAL MUNICIPAL TAX FOR SUPPORT OF OPERATING AND CAPITAL EXPENDITURES

BACKGROUND

At its regular meeting of June 16, 2004, the Council took action to exercise its right as a body to author and sign ballot arguments with regard to the Special Election to be held on November 2, 2004. The final date for filing a direct argument is 5:00 p.m. on Friday, August 13, 2004. Since the Council decided to authorize arguments as a body, any future meeting(s) to discuss and/or write an argument must be duly noticed as to date, time, and place pursuant to the Ralph M. Brown Act. A 24-hour notice is required to hold a Special Meeting. The rebuttal argument period is August 14, 2004, to August 23, 2004, and the final date to submit a rebuttal argument to the City Clerk is 5:00 p.m., Monday, August 23, 2004.

Respectfully submitted:

Approved by:

Kathi Hamilton
Interim City Clerk

James Robinson
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF JULY 21, 2004

SUBJECT: CANCELLATION OF AUGUST CITY COUNCIL MEETING

RECOMMENDATION:

It is recommended that if the City Council desires to cancel its regularly scheduled meeting of August 18, 2004, that a motion be made to cancel the August meeting.

BACKGROUND :

In previous years, the City Council has cancelled its August meeting. If the August 18, 2004, meeting is cancelled, the next regularly scheduled meeting of the City Council is scheduled for September 15, 2004. Formal City Council action for cancellation of the meeting should also provide for public comment.