



AGENDA
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

- 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. Caltrain Hold-Out Station – Caltrain will present the plans for changing the station platforms to remove the “hold-out” restriction at the Atherton Station
- 7:20 P.M. 4. **COUNCIL REPORTS**
- 7:30 P.M. 5. **PUBLIC COMMENTS** (only for items which are not on the
agenda –
limit of three minutes per person)
- 7:40 P.M. 6. **STAFF REPORTS**
- 7:50 P.M. 7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT**
(Per Resolution No. 02-31)
- A. Holbrook-Palmer Park Foundation – Vit Eckersdorf,
President
- B. Atherton Dames – Etta Mae Bauer
- 8:00 P.M. **CONSENT CALENDAR** (ITEMS 8 – 16)
8. **APPROVAL OF MINUTES OF SPECIAL MEETINGS OF MAY 12, 2004, AND MAY 19, 2004, AND REGULAR MEETING OF MAY 19, 2004**

9. **APPROVAL OF BILLS AND CLAIMS FOR MAY 2004 IN THE AMOUNT OF \$830,307**
10. **ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR MAY 2004**
11. **APPROVAL OF AMENDED AGREEMENT BETWEEN THE TOWN OF ATHERTON AND THE CITY OF REDWOOD CITY FOR VEHICLE MAINTENANCE SERVICES AND FUEL PURCHASING**

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

12. **AWARD OF CONTRACT FOR 2004 STREET MICROSURFACING PROJECT NUMBER 03-012**

Recommendation: Award 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. **AWARD OF CONTRACT FOR 2004 STREET RECONSTRUCTION - PHASE 1, PROJECT NUMBER 03-011**

Recommendation: Award the contract for the 2004 Street Reconstruction – Phase 1, Project No. 03-011 to the lowest bidder to be determined by the June 15, 2004 bids, for an amount to be determined based on the bid results.

14. **APPROVAL OF CONTRACT BETWEEN THE TOWN OF ATHERTON AND T.C. BIER FOR BUILDING INSPECTION SERVICES**

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

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

Recommendation: Approve ABAG Electric Program “Windup” Agreement and adopt resolution authorizing the Mayor to execute the agreement with ABAG to conclude the Electric Program.

16. APPOINTMENT OF COMMISSION/COMMITTEE MEMBERS

Recommendation: Accept recommendation of the City Council Screening Committee to appoint members to a vacancy on the Park and Recreation Commission.

PUBLIC HEARINGS (Items 17-19)

8:10 P.M. 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

Recommendation: Open public hearing, hear testimony, and close public hearing. Adopt Resolution No. 04-__, adopting the Fiscal year 2004-05 Operating and Capital Budget and Resolution No. 04-__ approving the Fiscal Year 2004-05 Appropriations and Calculations. (This item appeared on the Special City Council Meeting of June 14, 2004, for adoption; however, it may be continued for final approval.)

8:25 P.M. 18. PUBLIC HEARING – ADOPTION OF A RESOLUTION ESTABLISHING A SPECIAL TAX FOR MUNICIPAL SERVICES FOR THE FISCAL YEAR 2004-2005

Recommendation: Open public hearing, hear testimony, and close public hearing. After consideration, adopt Resolution No. 04-__ establishing a Special Tax for Municipal Services for the Fiscal Year 2004-2005 as set forth in Ordinance No. 520.

NOTE: Ordinance No 520 approved by the voters on June 5, 2001 provided for the authorization to levy a Special Tax for Municipal Services and Capital Improvements and for the expenditure of the funds derived from the tax. The Special Tax was to commence in FY 2001-2002 and continue through June 30, 2005. Each year, following the adoption of the Budget, it is necessary to hold a Public Hearing and adopt a

Resolution levying a Special Tax for Municipal Services and instructing the Tax Collector of the County of San Mateo to collect the tax rates as identified within the Adopted Resolution.

- 8:40 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**

Recommendation: After consideration, open public hearing, hear testimony, and close public hearing. Consider adoption of an ordinance 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.

REGULAR AGENDA (Item 20 and 21)

- 9:20 P.M. 20. ADOPTION OF RESOLUTIONS PERTAINING TO THE NOVEMBER 2, 2004 SPECIAL AND GENERAL MUNICIPAL ELECTIONS AND SETTING BALLOT ARGUMENTS PROCEDURES**

Recommendation: 1) Adopt Resolution No. 04-__ 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. 2) Adopt Resolution No. 04-__ requiring candidates to pay the prorated cost of publication and distribution of the Statement of Qualifications and specifying the length of the Statement.

- 9:30 P.M. 21. DISCUSSION OF ALTERNATIVES RELATIVE TO A SPECIAL MUNICIPAL TAX FOR SUPPORT OF OPERATING AND CAPITAL EXPENDITURES**

9:45 P.M. PUBLIC COMMENTS

- 9:55 P.M. 22. 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
JOINT MEETING OF THE CITY
COUNCIL AND AUDIT COMMITTEE
May 12, 2004
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

SPECIAL MEETING

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

1. ROLL CALL

PRESENT

City Council:

Kathy McKeithen
William R. Conwell
Alan B. Carlson
James R. Janz
Charles E. Marsala (arrived at

7:03 p.m.)

Audit Committee:

Marc Hebert
Robert Jenkins
Robert Wilson
Mason Brutschy
Michael Barsotti
Dr. Sam Goodman

City Manager Jim Robinson, City Attorney Marc Hynes, Finance Director John Johns, Police Chief Robert Brennan and Public Works Director Duncan Jones were also present.

2. PUBLIC COMMENTS

There were no public comments.

STUDY SESSION

3. REVIEW AND CONSIDER RECOMMENDATIONS REGARDING THE RENEWAL OF THE TOWN OF ATHERTON PARCEL TAX.

The City Council, at their April 21, 2004 regular meeting, received a report from the Audit Committee and an analysis by the Finance Department related to the parcel tax reauthorization. A special joint meeting of the City Council and Audit Committee was scheduled to allow for a more detailed review of the process for submitting a parcel tax measure to the voters.

Audit Committee Chair Marc Hebert presented information on the Finance Department's analysis of the cost savings and revenue enhancement opportunities that would result from implementing certain suggestions made by the Audit Committee. Chair Hebert stated that the Audit Committee is willing to have follow-up study sessions subsequent to this meeting if the Council deems it necessary.

New ideas for potential costs savings in the area of the Police Department that were reviewed by the Audit Committee included: outsourcing dispatch services, evaluating the detective function, evaluating the school resource officer positions, and evaluating the traffic officer function. Specifically, the Committee suggested looking at staffing some or all of these positions with non sworn personnel.

The Audit Committee suggested that at the beginning of any cost savings program, transition costs could be temporarily covered by reserves. Additionally, the Committee discussed possibilities for raising funds by leveraging the "Atherton" name for marketing and implementing a real property transfer tax.

Police Chief Brennan responded to questions regarding the suggestions for cost savings in the Police Department. Outsourcing nighttime dispatch services was discussed. Chief Brennan noted the unique direct alarm service provided by the Police Department to the community. Finance Director Johns was asked to work with the Palo Alto IT Department to determine the cost of outsourcing alarm service as part of dispatch.

Discussion continued regarding the funding sources for the school resource officers and the availability of grants for police services.

Mayor McKeithen asked the Police Chief to provide statistics for crime rates inside and outside Menlo/Atherton High School, before and after a school resource officer was provided. Finance Director Johns was asked for rough costs to outsource nighttime dispatch and alarm service and the actual costs of providing police salaries at the 70th percentile including retirement costs. The City Manager discussed funding requirements for PERS and explained that the contribution amount varies each year based on several factors including interest earnings.

Finance Director Johns presented his report and noted that the Audit Committee had focused only on items that the Committee determined could be implemented by November.

Mayor McKeithen stated that the focus should be on looking at revenue enhancements such as a transfer tax and reviewing the business license ordinance.

Discussion was held regarding assumptions associated with the development and implementation of a real property transfer tax. City Attorney Marc Hynes discussed the requirements of becoming a charter city. The Council requested the City Attorney to provide information on the legality of charging real estate firms business licenses based on gross receipts and the procedure for implementing the gross receipts method.

The following members of the audience spoke:

**John Sisson, Atherton
Jan Simonds, Atherton
John Rugeiro, Atherton
Sandy Crittenden, Atherton
Jean Schaaf, Atherton**

Mayor McKeithen asked that the agenda for the May 19, 2004 meeting include a follow-up discussion on the legality of increasing the business license tax, the possibility of placing a measure on the March ballot for the business license ordinance, discussion on the amount of the renewed parcel tax, and cost cutting measures. Council Member Carlson asked that sometime in the near future the current Town fee structure be reviewed and that the Town consider the implementation of landscape permits including road impact fees.

City Manager Jim Robinson stated that staff is putting together a balanced budget for Fiscal Year 2004/05 and that the Town will continue to monitor staffing levels and looking at reducing staff by attrition. He stated that the May 19 agenda will include an item for setting a public hearing date for the parcel tax ordinance.

4. ADJOURN

The meeting adjourned at 9:50 p.m.

Respectfully submitted,

Sharon Barker, City Clerk



**DRAFT MINUTES
ATHERTON CITY COUNCIL
May 19, 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

City Manager Jim Robinson and Interim City Attorney Hal Toppel were also present.

PUBLIC COMMENTS

There were no public comments.

CLOSED SESSION

The Council adjourned to Closed Session at 6:05 p.m.

RECONVENE TO OPEN SESSION

The Council reconvened to Open Session. The following action was taken:

- A. CONFERENCE WITH LEGAL COUNSEL – Anticipated Litigation
Initiation of litigation pursuant to Government Code Section
54956.9(c)
1 potential case.**

No reportable action.

**B. CONFERENCE WITH LEGAL COUNSEL – Existing Litigation
Government Code Section 54956.9 (a)**

**Karen and Bill Murphy v. Town of Atherton
San Mateo County Superior Court Case No. 437591**

No reportable action.

ADJOURN

The meeting adjourned at 6:55 p.m.

Respectfully submitted,

Kathy McKeithen, Mayor



DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
MAY 19, 2004
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

Mayor McKeithen called the meeting to order at 7:03 p.m.

1. PLEDGE OF ALLEGIANCE

2. ROLL CALL

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

City Manager Jim Robinson and Interim City Attorney Hal Toppel were present.

3. PRESENTATIONS

A. Certifications of Appreciation for Outgoing Commission and Committee Members:

Mayor McKeithen presented certificates in recognition of the following outgoing Town Commission and Committee members:

Phil Lively, Planning Commission
Jennifer Acheson, Planning Commission
Catherine Westover, Park and Recreation Commission

Vivian Kral, Planning Commission, Kristi Waldron, General Plan Committee, Arlan Kertz, Audit Committee, and Robert O'Donnell, Audit Committee, were not present.

B. City / County Association of Governments (C/CAG) Presentation on Traffic Congestion Study

C/CAG Executive Director Richard Napier gave a short presentation on a study being conducted by C/CAG and the Santa Clara Valley Transportation Authority to identify potential ways to improve traffic congestion in the vicinity of the western end of the Dumbarton Bridge. Transportation Systems Coordinator Walter Martone was also present and provided information on the 2020 Peninsula Gateway Corridor Study.

C. Recognition of Retiring City Clerk

Mayor McKeithen presented a plaque to City Clerk Sharon Barker in appreciation for her years of service to the Town. She will retire on June 1, 2004. The City Manager presented a bouquet of flowers and recognized Sharon Barker for her outstanding service to the Town of Atherton.

4. COUNCIL REPORTS

- Council Member Janz reported on the Housing Endowment and Trust (HEAT) meeting he attended, stating that the organization will consider a name change at their next meeting. HEAT was formed to study ways to improve housing development in the county. The Caltrain Corridor Subcommittee met May 4. Public Works Director Duncan Jones reported on studies for alternative funds for grade separations. At the next Subcommittee meeting on June 1, the group will receive a presentation from Caltrain on widening the boarding area at the Atherton station. Council Member Janz attended the ACIL Town meeting on May 6, where a presentation was given on High Speed Rail.**
- Council Member Marsala attended the Association of Bay Area Governments (ABAG) spring assembly in Oakland. Next year's budget was approved. He also attended a Library Joint Powers Authority meeting. An amending agreement to the JPA is on this agenda. He attended the Holbrook-Palmer Park Foundation meeting on Monday where plans were made to hold a tree dedication in memory of Henry Cartan. The Selby Lane Education Foundation held a fundraising carnival recently at the school. In regards to the parcel tax renewal, Council Member Marsala suggested the possibility of holding more joint meetings with the Audit Committee.**

- **Council Member Carlson attended the May 4 Caltrain Subcommittee meeting. He encouraged increased communication with other cities along the corridor. He also attended the last Planning Commission meeting. He commended outgoing commissioners Phil Lively and Jennifer Acheson for their years of service.**
- **Vice Mayor Conwell attended a San Francisco Airport Roundtable meeting. He reported that the budget was addressed and a program developed to explain to residents the actions the Roundtable has taken in the last few years to reduce airport noise. He also attended the C/CAG meeting where next year's budget was reviewed. The Criminal Justice Commission met today and received a presentation from a representative of the State Correctional Department.**
- **Mayor McKeithen attended a County Office of Emergency Services meeting on April 22. They received a report on a recent earthquake exercise and adopted the budget. She also attended a meeting with Town staff and representatives of Menlo College regarding noise on the athletic fields. Several resolutions to the noise issues have been implemented. The General Plan Committee met and discussed possible revisions to the Special Events Ordinance. The Committee is looking into what other jurisdictions are doing. She spoke at the ACIL Town meeting on May 6, and met with a student from Las Lomas School last week.**

5. PUBLIC COMMENTS

John Sisson, Atherton, spoke to the Council.

6. STAFF REPORTS

- **City Manager Jim Robinson reported that the Town will host the Council of Cities dinner meeting Friday, May 21, 2004 in the Pavilion. He asked the Council to set a date for a budget hearing in June. The Council agreed to set a special meeting date for Monday, June 14 at 6:00 p.m.**
- **Public Works Director Duncan Jones reported on a study to be conducted on grade separations. He also announced that the Holbrook-Palmer Park restrooms have been taken out of service and temporary restrooms have been installed during construction of the new restrooms.**
- **Finance Director John Johns announced that the amount of revenue expected to be lost from state take-aways has been reduced.**
- **Interim City Attorney Hal Toppel reported that no action had been taken as a result of the closed session held at 6:00 p.m.**

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

No Report.

CONSENT CALENDAR

Mayor McKeithen had questions on Items 14 and 15. Police Chief Brennan and Finance Director Johns explained the funding for the taser defensive weapons. Council Member Janz suggested under Item 16, the General Plan Committee also address setbacks where property abuts to properties not in the Town's jurisdiction. Council Member Carlson asked that Item 13 be removed from the Consent Agenda.

MOTION – to approve the items as presented on the Consent Agenda with the change to Item 16 as requested by Council Member Janz, and excepting Item No. 13, which was placed on the Regular Agenda.

**M/S Carlson/Janz Ayes: 5 Noes: 0 Absent: 0
Abstain: 0**

- 8. APPROVED MINUTES OF REGULAR AND SPECIAL MEETINGS OF APRIL 21, 2004**
- 9. APPROVED BILLS AND CLAIMS FOR APRIL 2004 IN THE AMOUNT OF \$860,134**
- 10. ACCEPTED MONTHLY FINANCIAL REPORT FOR APRIL 2004**
- 11. APPROVED AMENDED STREET CENTERLINE MARKING LIST**
Approved the amended Centerline Marking List to include a single stripe on Greenoaks Drive from Oak Grove Road to 170 Greenoaks Drive.
- 12. ADOPTED RESOLUTION NO. 04-06 RECOMMENDING THAT THE SAN MATEO COUNTY FLOOD CONTROL DISTRICT IMPOSE CHARGES FOR FUNDING THE 2004/05 COUNTYWIDE NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) GENERAL PROGRAM**
Adopted Resolution No. 04-06 recommending that the San Mateo County Flood Control District impose charges for funding the 2004/05 Countywide National Pollution Discharge Elimination System (NPDES) General Program
- 13. REMOVED FROM CONSENT AND PLACED ON THE REGULAR AGENDA - APPROVE THE RECORDATION AND REMOVAL OF THE OLD GAZEBO IN HOLBROOK-PALMER PARK**

14. APPROVED PURCHASE OF TASER DEFENSIVE WEAPON FOR POLICE DEPARTMENT

Approved authorization of funds to cover the 50 percent matching grant provided by ABAG for the purchase of 20 Taser defensive weapon stun guns.

15. APPROVED PLANS AND SPECIFICATIONS BARRY LANE – ATHERTON CHANNEL BOX CULVERT REPLACEMENT

Approved the plans and specifications for the Barry Lane – Atherton Channel Box Culvert Replacement, Project 03-006.

16. REQUESTED REFERRAL OF TO GENERAL PLAN COMMITTEE TO REVIEW SETBACK REQUIREMENTS FOR ACCESSORY STRUCTURES TO THE GENERAL PLAN COMMITTEE

Referred the review of setback requirements for accessory structures to the General Plan Committee, and requested that the Committee also consider review of setbacks where property abuts properties not in the jurisdiction of the Town.

REGULAR AGENDA

17. CONSIDER ADOPTION OF A RESOLUTION ADOPTING A DRAFT TRANSPORTATION EXPENDITURE PLAN

City Manager Jim Robinson presented the staff report for this item. The Draft Transportation Expenditure Plan recommends the extension of the Measure A half-cent sales tax for a 25-year term. The Draft Plan must be approved by a majority of cities representing the majority of the population of the incorporated area of San Mateo County. The Board of Supervisors must also approve it and will then recommend whether the approved Plan and the extension of the local sales tax will be placed on the November 2004 ballot.

The City Manager reported that the list of proposed projects includes funding for grade separation projects at Fair Oaks and Watkins Avenues.

Vice Mayor Conwell referred to the letter previously submitted by the City Council opposing the proposal in the Draft Expenditure Plan to extend the term to 25 years and include funding \$24 million for the BART extension and \$25 million for ferries.

Howard Goode, Executive Director of the San Mateo County Transportation Authority was present and spoke on the Draft Plan. He stated that the Draft Plan has been developed over the last year and that the funding for ferries and Bart were items advocated by other communities. He noted that Bridge toll monies provide the core funding for the ferries. Eleven cities would represent a majority of the population needed to pass the Plan.

The following members of the audience spoke:

John Sisson, Atherton, on electrification of Caltrain

Bob Huber, Atherton, on proposed ferry service

MOTION - to adopt Resolution No. 04-07 authorizing the adoption of the Draft Transportation Expenditure Plan for the Extension of Measure A.

**M/S McKeithen/Janz
Abstain: 0**

Ayes: 5 Noes: 0 Absent: 0

Item 20 was taken out of order on the agenda.

20. CONSIDER RECOMMENDATION FROM PARKS AND RECREATION COMMISSION AND THE ADOPTION OF A RESOLUTION TO SUPPORT ENABLING LEGISLATION FOR A COUNTYWIDE SPECIAL PARK AND RECREATION DISTRICT

San Mateo County parks supporter, Linda Liebes, spoke on this proposal to create a countywide special park district committee. She stated that the group is trying to get legislation passed at the state level that would allow San Mateo County voters to vote on the formation of a special park district to provide additional support to the County and City parks systems. The proposal would take at least a year before it would go to the voters.

In response to questions by the Council, Ms. Liebes stated that each city would retain control of its own parks, but that the joint funding mechanism may be a benefit to the cities. Council Member Carlson stated his concerns with going to the voters with so many assessments.

MOTION – to adopt Resolution No. 04-09 supporting enabling legislation for a Countywide Special Park District.

**M/S Janz/McKeithen
Abstain: 0**

Ayes: 5 Noes: 0 Absent: 0

18. PARCEL TAX DISCUSSION – SET PUBLIC HEARING DATE FOR AN ORDINANCE CALLING AN ELECTION TO SUBMIT TO THE VOTERS

AN ORDINANCE AUTHORIZING THE LEVY OF A SPECIAL TAX FOR MUNICIPAL SERVICES AND CAPITAL IMPROVEMENTS

Finance Director John Johns presented the staff report for this item. Staff recommends that the Council adopt the schedule attached to the staff report to begin the process to place a measure on the November 2004 ballot authorizing renewal of the parcel tax. He reported that an addendum to the staff report has been provided in response to issues brought forth at the Joint City Council / Audit Committee meeting on May 12, 2004.

Discussion ensued regarding possibly amending the Business License ordinance. City Attorney Marc Hynes provided a memorandum to the Council suggesting that if the Town proceeds further with the Business License amendment, the Council may wish to have this issue reviewed by special legal counsel. The Finance Director was asked to find out how the City of Pleasanton arrived at the amount they charge for business license gross receipts on real estate firms.

Finance Director Johns reported that he has contacted the supervisor of contracts for San Mateo County Dispatch to obtain costs involved with outsourcing the Town's alarm service and dispatch. The County has the ability to place dispatch on an existing channel and the cost will depend on the level of service provided. The Sheriff's Department is planning on providing direct connect alarm service to the Towns of Woodside and Portola Valley, and will need to obtain approval from the Board of Supervisors in order to charge for this service. Chief Brennan noted that dispatch outsourcing would not include records maintenance, and that costs for this would have to be budgeted.

Council Member Carlson asked Chief Brennan to research a previous contract between the Town and the City of Menlo Park for nighttime dispatch. He asked for information on what problems were encountered, what the benefits were, and why the contract was not continued.

Vice Mayor Conwell suggested that the Council retain the current rate for the parcel tax, and stated that the Town has not realized the full result of charging the maximum annual amount of \$750. He stated that if the parcel tax is renewed at \$750, and the Town is able to implement business license fee changes for real estate firms, the Council could review the police dispatch issues in December.

Concerns were expressed by Council Member Carlson that the residents have not voted to reduce Town services. He also stated his concern that the Audit Committee's recommendation is to set the parcel tax a half million dollars lower than staff's recommendation, and cited the need for a long term solution to the Town's financial needs.

Council Member Marsala stated that the parcel tax allows for fairness in that each household is asked to contribute funding for Town services. He noted that the parcel tax is tax deductible for most residents.

Council Member Janz agreed with Vice Mayor Conwell's suggestion of keeping the parcel tax at the current level and working to bridge the funding gap with increased business license revenues.

Atherton residents Jack Ringham and John Sisson spoke from the audience.

MOTION – to set June 16, 2004 as a date for a public hearing to consider adoption of an ordinance calling an election to submit to the voters an ordinance authorizing the levy of a special tax for municipal services and capital improvements.

**M/S Carlson/Conwell
Abstain: 0**

Ayes: 5 Noes: 0 Absent: 0

Item 13 was removed from the Consent Agenda and placed on the Regular Agenda.

**13. APPROVE THE RECORDATION AND REMOVAL OF THE OLD
GAZEBO IN HOLBROOK-PALMER PARK**

Council Member Carlson asked that this item be removed from the Consent Agenda because of the possibility there may be some historical significance to the Old Gazebo.

Marion Oster, representing the Atherton Heritage Association, spoke against the proposal to remove the Gazebo in Holbrook-Palmer Park. She gave a report stating that the Gazebo had been part of the original estate and is currently being used. She asked that the Heritage Association be given time to study how renovation might be funded. Public Works Director Duncan Jones stated his concern that the Gazebo's roof structure appears to be coming apart. He stated it is a safety issue and could be closed to the public by erecting a chain link fence to secure the structure.

City Manager Jim Robinson reported that during the Park and Recreation Commission's Annual Walk-through, the condition of the gazebo was discussed. It was the Commission's unanimous recommendation that the structure be removed. The historical significance was not addressed.

MOTION – that the Old Gazebo be fenced off for at least six months to allow time to evaluate its condition, determine the costs necessary for renovation and make a recommendation for relocating the structure. The Heritage

Public Works Director Duncan Jones presented the staff report on this item. The Atherton Caltrain Corridor Subcommittee met May 4, 2004, and discussed five issues related to the Caltrain Electrification Draft Environmental Assessment/Environmental Impact Report. (DEA/EIR). The Subcommittee has requested that the City Council send a letter to Caltrain in response to the Electrification DEA/EIR. Comments are due by May 25. Public Works Director Jones stated that the critical issue is the planned removal of trees along the corridor.

Mayor McKeithen suggested the letter include a request for information on the potential interference for homeowners' cell phone and home electronics reception.

Public Works Director Jones stated that the electrification project would not take any Town right of way, but that the draft document does not address whether four tracks are being planned. He stated that when he met with Caltrain subsequent to writing the staff report, they indicated plans to four-track the whole corridor.

Council Member Janz stated that he would like to revise the response letter to provide comments on the Draft EIR document that were discussed tonight.

The following members of the audience spoke:

Jack Ringham, Atherton, on proposed Caltrain improvements.

Rosemary Maulbetsch, on various issues including the recent advertising on the trains.

MOTION – to approve the letter in response to the Caltrain Electrification Draft EIR and authorize Council Member Janz to work with the Public Works Director to provide slight changes in the language and to add questions covering right of way and effects on personal electronics.

**M/S Carlson/Marsala
Abstain: 0**

Ayes: 5 Noes: 0 Absent: 0

23. CONSIDER REQUEST TO REFER THE REVIEW OF BUILDING PERMIT REQUIREMENTS TO INCLUDE PAVING PROJECTS TO THE GENERAL PLAN COMMITTEE

Building Official Mike Hood presented the staff report for this item.

Atherton resident Marion Oster submitted a letter to the City Manager asking that the General Plan Committee be authorized to look into the issue of pavement related construction that does not fall under the current code. She referred to a recent construction project that involved the removal of a circular driveway, pool decking, and an alleged heritage tree. The project

did not require a building permit and as such, there was a lack of compliance by the contractor to the Town's code requirements.

MOTION – to authorize the General Plan Committee to review the current Town ordinances and to make recommendations to the City Council regarding projects which do not require a building permit, but are subject to the ordinances of the Town.

**M/S Conwell/Janz
Abstain: 0**

Ayes: 5 Noes: 0 Absent: 0

24. PUBLIC COMMENTS

There were no public comments.

25. ADJOURNMENT

The meeting adjourned at 10:22 p.m.

Respectfully submitted,

Sharon Barker, City Clerk

TOWN OF ATHERTON

CLAIMS LIST

May, 2004

Payroll Checks	4143 - 4218	\$ 30,919
Electronic Transfers		303,943
A/P Checks	17526 - 17669	495,445
TOTAL		\$ 830,307

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 4143 - 4218 (payroll) and 17526 - 17669 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$ 830,307; are true and correct, and that there are sufficient funds for payment.

James H. Robinson
City Manager

The above claims, check numbers 4143 - 4218 (payroll) and 17526 - 17669 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$ 830,307; are true and correct, and are authorized for payment.

Kathy McKeithen
Mayor, Town of Atherton

SOURCE OF FUNDS

101	General Fund	613,500
105	Tennis Fund	
201	Special Parcel Tax	152,953
202	Transportation	
203	Gas Tax Fund	
210	Road Construction Impact Fees	
211	Park Grants Fund	
213	Library Special Revenue Fund	20,839
401	General Capital Projects	
402	Storm Drainage	
403	Atherton Channel District	
404	Park Playground Improvement	28,512
406	Facilities Construction	
610	Vehicle Replacement	1,509
611	Computer Maint. & Replacement	3,309
612	Administrative Services	7,610
614	Workers Compensation Insurance	

715 Evans Estate

TOTAL

2,075
830,307



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: JOHN P. JOHNS, FINANCE DIRECTOR
DATE: FOR THE MEETING OF JUNE 16, 2004
SUBJECT: MONTHLY FINANCIAL REPORT, MAY 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 May 31, 2004.

HIGHLIGHTS

General Fund expenditures for the eleven months ended May 31, 2004, have amounted to \$6,351,775 or 84% of the \$7,596,290 budgeted for the fiscal year. For the eleven months ending May 31, 2004, General Fund revenues have amounted to \$6,984,043 or 89% of the \$7,841,362 estimated for the year. By comparison, General Fund expenditures amounted to 91% of budgeted expenditures for the first eleven months of FY 2002-03. Additionally, General Fund revenues amounted to 82% of estimated revenues for the first eleven months of FY 2002-03.

FISCAL IMPACT:

None

Prepared by:

John P. Johns
Finance Director

Approved by:

James H. Robinson
City Manager

TOWN OF ATHERTON
Revenue Summary
For the Month ended May 31st, 2004

Fund	Revenue Source	2003-04 Estimate	Current Period Revenues	Year to Date Revenues	% Received
	Property Tax	\$ 3,035,934	371,623	\$ 3,294,350	109%
	Sales and Use Tax	200,640	10,294	132,182	66%
	Other Taxes	882,115	95,535	775,647	88%
	Licenses & Permits	1,541,673	209,250	1,563,730	101%
	Fines & Forfeitures	70,000	1,064	58,420	83%
	Revenue from Other Agencies	139,000	5,249	110,531	80%
	Charges for Services	472,700	29,507	289,481	61%
	Investment & Rental Income	347,300	5,187	168,238	48%
	Other Revenues	3,000	923	16,984	566%
	Total General Fund Revenues	6,692,362	728,632	6,409,563	96%
	Interfund (Operating) Transfers In	1,149,000	-	574,480	50%
101	General Fund Total	7,841,362	728,632	6,984,043	89%
	Special Revenue Funds:				
105	Tennis	9,000	3,400	15,790	175%
201	Special Parcel Tax	1,770,000	-	1,649,990	93%
202	Transportation	177,740	31,521	173,915	98%
203	Street Improvement (Gas Tax)	149,309	-	140,164	94%
209	Law Enforcement	100,000	-	100,416	100%
210	Road Construction Impact Fees	340,000	72,465	456,078	134%
211	State Park Grants Fund	93,040	-	-	0%
213	Library	200,000	-	92,550	46%
	Total	2,839,089	107,386	2,628,903	93%
	Capital Project Funds:				
401	Capital Improvement	-	-	-	
402	Storm Drainage	-	-	-	
403	Channel Drainage District	46,000	3,420	43,608	95%
404	Park Playground Improvement	-	-	1,500	0%
405	Middlefield Road Grants	-	-	1,514	
406	Facilities Construction	-	-	-	
	Total	46,000	3,420	46,622	101%
	Internal Service Funds:				
610	Vehicle Replacement	-	-	-	
611	Information Technology	96,043	-	30,782	32%
612	Administrative Services	283,128	-	64,011	23%
614	Workers Compensation Insurance	-	-	5,436	
	Total	379,171	-	100,229	26%
	Trust and Agency Funds:				
715	Evans Creative Design	74,000	6,217	32,658	44%
	Total	74,000	6,217	32,658	44%
	Total Revenues	11,179,622	845,655	9,792,455	88%

TOWN OF ATHERTON
Budget Summary
Fiscal Year 2003-04
As of May 31st, 2004

Fund	Description	Beginning Fund Balance July 1, 2004	Revenues to Date	Transfers to Date	Expenditures To Date	Ending Fund Balance to Date
101	General Fund	5,284,633	6,409,563	574,480	6,351,775	5,916,901
	Special Revenue Funds:					
105	Tennis	10,543	15,790		12,794	13,539
201	Special Municipal Tax	895,443	1,649,990		1,205,110	1,340,323
202	Transportation	14,728	173,915		123,789	64,854
203	Street Improvement (Gas Tax)	126,605	140,164		37,107	229,662
209	Law Enforcement	22,911	100,416		102,829	20,498
210	Road Construction Impact Fees	650,346	456,078		453,353	653,071
211	State Park Grants	(5,362)	-		6,653	(12,015)
213	Library Special Revenue Fund	723,832	92,550		56,280	760,102
	Sub Total	<u>2,439,047</u>	<u>2,628,903</u>	<u>-</u>	<u>1,997,915</u>	<u>3,070,035</u>
	Capital Projects Funds:					
401	Capital Improvement	358,152	-		43,892	314,260
402	Storm Drainage	48,225	-		-	48,225
403	Channel Drainage District	405,865	43,608		43,736	405,737
404	Park Playground Improvement	28,958	1,500		637	29,821
405	Middlefield Road Grants	-	1,514		-	1,514
406	Facilities Construction	274,654	-		45,256	229,398
	Sub Total	<u>1,115,854</u>	<u>46,622</u>	<u>-</u>	<u>133,521</u>	<u>1,028,955</u>
	Internal Service Fund					
610	Vehicle Replacement	402,633	-		74,758	327,875
611	Information Technology	78,723	30,782		91,228	18,277
612	Administrative Services	134,052	64,011		234,818	(36,755)
614	Workers Compensation Insurance	-	5,436		-	5,436
	Sub Total	<u>615,408</u>	<u>100,229</u>	<u>-</u>	<u>400,804</u>	<u>314,833</u>
	Trust and Agency Funds					
715	Evans Creative Design	116,028	32,658		27,711	120,975
	Sub Total	<u>116,028</u>	<u>32,658</u>	<u>-</u>	<u>27,711</u>	<u>120,975</u>
	Grand Total	<u>\$ 9,570,970</u>	<u>\$ 9,217,975</u>	<u>\$ 574,480</u>	<u>\$ 8,911,726</u>	<u>\$ 10,451,699</u>

TOWN OF ATHERTON
Expenditure Summary
For the Month Ended May31st, 2004

Fund	Description Department	2003-04 Budget	Current Period Expenditures	Year to Date Expenditures	% Spent
101	General Fund				
	11 City Council	\$ 20,174	\$ 3,506	13,805	68%
	12 City Manager	497,895	42,325	461,917	93%
	16 City Attorney	175,551	14,694	103,129	59%
	18 Finance	434,137	23,065	335,980	77%
	25 Building	952,873	57,950	697,029	73%
	40 Police	3,629,233	262,885	3,281,055	90%
	50 Public Works	1,786,427	139,618	1,450,118	81%
	Contingency	100,000	2,963	8,742	9%
	Total General Fund Expenditures	<u>7,596,290</u>	<u>547,006</u>	<u>6,351,775</u>	<u>84%</u>
	Interfund (Operating) Transfers Out	-	-	-	0%
101	General Fund Total	<u>\$ 7,596,290</u>	<u>\$ 547,006</u>	<u>\$ 6,351,775</u>	<u>84%</u>
Special Revenue Funds:					
105	Tennis	22,936	732	12,794	56%
201	Special Parcel Tax	1,986,917	152,953	1,205,110	61%
202	Transportation	177,740	-	123,789	70%
203	Street Improvement (Gas Tax)	180,080	-	37,107	21%
209	Law Enforcement	100,000	8,549	102,829	103%
210	Road Impact Fees	588,682	-	453,353	77%
211	State Park Grants	81,660	-	6,653	8%
213	Library Fund	15,720	21,708	56,280	358%
	Total	<u>3,153,735</u>	<u>183,942</u>	<u>1,997,915</u>	<u>63%</u>
Capital Project Funds:					
401	Capital Improvement	284,451	-	43,892	15%
402	Storm Drainage	25,713	-	-	0%
403	Channel Drainage District	411,554	-	43,736	11%
404	Park Playground Fund	-	-	637	-
405	Middlefield Road Grants	-	-	-	-
406	Facilities Construction	287,267	713	45,256	16%
	Total	<u>1,008,985</u>	<u>713</u>	<u>133,521</u>	<u>13%</u>
Internal Service Funds:					
610	Vehicle Replacement	10,000	1,509	74,758	748%
611	Information Technology	107,500	3,309	91,228	85%
612	Administrative Services	328,151	14,370	234,818	72%
614	Workers Compensation Insurance	-	-	-	-
	Total	<u>445,651</u>	<u>19,188</u>	<u>400,804</u>	<u>90%</u>
Trust and Agency Funds:					
715	Evans Creative Design	62,100	2,075	27,711	45%
	Total	<u>62,100</u>	<u>2,075</u>	<u>27,711</u>	<u>45%</u>
	Total Expenditures	<u>12,266,761</u>	<u>752,924</u>	<u>8,911,726</u>	<u>73%</u>



Town of Atherton

City Council

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

FROM: CHIEF ROBERT BRENNAN

DATE: FOR THE MEETING OF JUNE 16, 2004

**SUBJECT: APPROVE AMENDED AGREEMENT BETWEEN THE TOWN OF
ATHERTON AND CITY OF REDWOOD CITY FOR VEHICLE
MAINTENANCE SERVICES AND FUEL PURCHASING**

RECOMMENDATION:

It is recommended that the City Council approve Amendment No. 2 to the Redwood City Agreement for Vehicle Maintenance Services and Fuel Purchasing and authorize the Mayor to execute the Amended Agreement.

INTRODUCTION:

An agreement was made and entered into with the City of Redwood City on April 27, 2000. The City of Redwood City operates and maintains a motor vehicle maintenance facility on city property in Redwood City at its Municipal Service Center. Since the Town of Atherton owns a commercial fleet of vehicles to provide police, public works and park maintenance services, it had a need to look for an entity to provide services and maintenance for these vehicles. We also must purchase fuel and other fluids to keep the fleet operational and in good repair.

An agreement was entered into that would provide all the services needed by the Town. The scope of this agreement covered Maintenance Services, Scheduling Priority, Limited Warranty, Hold Harmless, Terms, Termination, and Amendments.

The original agreement was amended in 2002 and subsequently agreed to by all parties. Although the amendment addressed only the shop hourly rate it was never changed by resolution. That rate increased from the original shop rate of \$69.59 an hour to \$ 75.26 an hour. The shop rate was the only section of the agreement that was modified. This rate reflected an increase of costs associated with the pay and benefits of the vehicle maintenance personnel. The Amendment #2, addresses only the shop hourly rate that again reflects the increase in costs associated with pay and benefits of the maintenance shop personnel.

ANALYSIS:

Contact was made with several area vehicle maintenance shops in an effort to compare hourly rates. The following are the result of the survey:

AGENCY	HOURLY RATE
Town Ford – Redwood City	\$112 per hour
Peninsula Ford – Menlo Park	\$105 per hour
City of Redwood City Corp. Yard	\$95.21 per hour – proposed rate
City of Mountain View Corporation Yard	\$90 per hour*
City of Palo Alto Corporation Yard	\$72 per hour**

NOTE: *Internal service charge to department. Outside contracts would be billed at a

higher rate.

****Rate under review, has not increased in six years**

FISCAL IMPACT:

An 11% increase in vehicle service costs has been factored into the FY 2004/2005 budget to help cover the increased costs associated with the increased hourly rate. The marked police fleet will be increasing its service intervals from 4,000 to 5,000 miles between preventative maintenance servicing. Two new marked cars will be placed into service in July of the 2004/05 budget cycle, replacing two of the older more maintenance intensive police vehicles. Staff is making arrangements for Public Works, HP Park and the Police Department’s unmarked vehicles to have the fluids changed at a local low cost service center. These changes should help mitigate the increased shop rate.

Prepared By:

Approved:

Robert J. Brennan

James H. Robinson

Police Chief

City Manager

Attachments:

1. Original Vehicle Maintenance Services and Fuel Services Purchasing Agreement.
2. Amendment No.2



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF JUNE 16, 2004

**SUBJECT: AWARD OF CONTRACT FOR 2004 STREET
MICROSURFACING PROJECT NUMBER 03-012**

RECOMMENDATION:

Pass a motion to award the contract for 2004 Street Microsurfacing Project, project number 03-012 to California Pavement Maintenance Co., the low bidder of the May 19, 2004 bids, for \$75,000.00

INTRODUCTION:

This project is for preventive maintenance on a specified group of streets in Atherton. This project was bid on a “square foot to be accomplished” for a fixed amount of \$75,000. The 2003 MTC Street Condition Survey was used along with staff field inspections to identify the appropriate streets for this type of application.

Preventative maintenance is the best “bang for your buck” portion of our Town’s pavement maintenance program. Research has shown that money put into streets that are still in good condition will realize cost savings many times over the dollars invested, by extending the life of that particular street.

The streets that will receive this treatment are as follows:

Alejandra Avenue	Arthur Lane	Austin Avenue
Broadacres Road	Catalpa Drive	DeBell Drive
Encinal Avenue	Fairview Avenue	Hawthorn Drive
Heather Drive	Irving Avenue	Isabella Avenue
Linda Vista Avenue	Marsh Road	Oak Grove Avenue
Oakwood Boulevard	Patricia Drive	Ringwood Avenue
Robleda Drive	Southgate Street	Stockbridge Avenue
Tuscaloosa Avenue	Wilburn Avenue	

ANALYSIS:

4 bids were received for the 2004 Street Microsurfacing Project as follows:

1. Graham Contractors	San Jose	451,807 sq. ft
2. American Asphalt	Hayward	557,080 sq. ft
3. Valley Slurry Seal	Sacramento	576,923 sq. ft
4. California Pavement Maintenance	Sacramento	630,252sq. ft.

FISCAL IMPACT:

\$75,000 in capital improvement funds are budgeted for this project in FY 2003-04. Bids were received for the project on May 19, 2004. California Pavement Maintenance Company was the winning bidder at 630,252 square feet to be sealed for the fixed amount of \$75,000. This bid price works out to \$0.119 cents per square foot of surfacing.

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

FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF JUNE 16, 2004

**SUBJECT: AWARD OF CONTRACT FOR 2004 STREET
RECONSTRUCTION - PHASE 1, PROJECT NUMBER 03-011**

RECOMMENDATION:

Pass a motion to award the contract for 2004 Street Reconstruction Project - Phase 1, project number 03-011 to the low bidder to be determined by the June 15, 2004 bids, for an amount to be determined based on the bid results.

INTRODUCTION:

Plans for the 2004 Street Reconstruction Project - Phase 1 were prepared and made ready for bidding when the Selby Lane project budgeted for FY 2003-04 was delayed pending approval of Safe Routes To School Funds. The two projects have been swapped and the first phase of the 2005 Street Reconstruction Project streets will be constructed this year using the Selby Lane budget. Selby Lane will be constructed next year along with the remaining 2005 Street Reconstruction Project streets.

The project was approved for advertisement at the May Council meeting. The Phase 1 plans were completed in an expedited fashion and the bid date for the 2004 Street Reconstruction Project - Phase 1 was postponed to provide the maximum time for bidders to prepare their bids.

The streets to be included in the Phase 1 project are:

Greenoaks Dr.
Deodora Wy
Stockbridge cul-de-sac

Larch Dr.
Gresham Ln.

Acorn Wy.
Tallwood Ct.

In addition, corrective action is required for the 2003 Street Reconstruction Project constructed last summer. The corrections consist of replacing the top layer of paving on Lilac Drive and Lilac cul-de-sac, and crack sealing the longitudinal center joint on Lane Place. The contractor has been unwilling to make the corrections, so an addendum has been issued to include these corrections in the 2004 Street Reconstruction Project - Phase 1.

FISCAL IMPACT:

\$788,000 in Parcel Tax funds is budgeted for this project in FY 2003-04. The Engineer's Estimate prepared by Public Works is \$764,275. In addition, \$52,242.71 has been retained from the 2003 Street Reconstruction Project contractor's payments for the corrections. The engineer's estimate for these corrections is \$46,710.

The project is scheduled to receive bids on June 15th and present the bid results to the Council at the June 16th meeting. The successful bidder will be determined by the lowest responsible bid on the project.

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
JAMES H. ROBINSON, CITY MANAGER**

FROM: MICHAEL A. HOOD, BUILDING OFFICIAL

DATE: FOR THE MEETING OF JUNE 16, 2004

**SUBJECT: APPROVAL OF INDEPENDENT CONTRACTOR AGREEMENT
BETWEEN THE TOWN OF ATHERTON AND KCL ASSOCIATES
INC. FOR BUILDING INSPECTION SERVICES FOR FISCAL
YEAR 2004-05**

RECOMMENDATION:

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

BACKGROUND:

For the current Fiscal Year of 2003-04, KCL Associates has provided Building Inspection Services for the Town of Atherton. The performance of KCL Associates has been excellent.

The demand for contract Building Inspection services will continue for the 2004-05 fiscal year. Construction activity in the Town is at an all-time high. Staff recommends that the contract for Building Inspection Services be continued with KCL Associates.

The billing rate for KCL Associates will continue at \$65.00 per hour; no increase from last year. This rate is at or below the charge for comparable services from other inspection services.

One advantage of using the services of KCL Associates is that they provide inspection and plan check services at the same rate. Other service providers charge a substantially higher rate for plan check services.

KCL Associates provides liability insurance to meet the town minimum standards of \$2,000,000.

A copy of the existing KCL Associates 2003-2004 contract is attached. The contract for Fiscal Year 2004-05 will be the same but for the date. The contract has been reviewed as to form by the Town Attorney.

Prepared by:

Approved by:

Michael A. Hood
Building Official

James H. Robinson
City Manager



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 JUNE 16, 2004

**SUBJECT: APPROVAL OF ABAG ELECTRIC PROGRAM “WINDUP”
AGREEMENT AND ADOPTION OF A RESOLUTION
AUTHORIZING THE MAYOR TO EXECUTE AGREEMENT
WITH ABAG TO CONCLUDE THE ELECTRIC PROGRAM**

BACKGROUND/ANALYSIS

ABAG Publicly Owned Energy Resources (ABAG POWER) is a Joint Powers Agency created by the Association of Bay Area Governments (ABAG) in 1998 to provide electricity and natural gas aggregation services to local governments in PG&E’s service territory. The Town of Atherton was a member of the ABAG POWER JPA, and was also a participant in the Electric Aggregation Program. As a result of the energy crisis, the Electric Aggregation Program was suspended in June 2001, and all of the Town’s electric accounts were returned to PG&E service. At the time the program was suspended, the Town had \$18,123 on deposit (Working Capital Deposit) with ABAG POWER.

To date, these funds have been held by ABAG POWER to cover potential operating expenses of the Program, as well as program windup costs. ABAG POWER now proposes to return these funds to the Town in their entirety. These funds will be distributed as soon as a critical mass of ABAG POWER members has executed the “Windup” Agreement.

Separate from the deposit funds, ABAG POWER filed a claim in the PG&E bankruptcy case on behalf of Electric Program members to recover funds associated with Direct Access (DA) credits that PG&E had refused to pay in the months leading up to their bankruptcy filing. ABAG POWER has subsequently reached a stipulated settlement with

PG&E as to the amount of the claim (\$17,000,000). The Town's proportional share of this claim (including interest) is \$32,047.

In addition to the amounts noted above, ABAG POWER expects to have a small surplus of funds at the completion of the windup. The Town's proportional share of this surplus will be calculated in accordance with the "Wind Up" Agreement and distributed by March 31, 2005.

Furthermore, certain amounts from the ABAG POWER Electric Aggregation Program remain on deposit with the Northern California Power Association (NCPA) to cover credit risks associated with energy purchased through the Independent Systems Operator (ISO) and California Power Exchange (PX). These amounts remain un-recovered due to court actions related to the PX bankruptcy and Federal Energy Regulatory Commission (FERC) regulatory actions related to potential ISO refunds. Should these amounts be recovered they will be proportionately distributed to former ABAG POWER Electric Program members.

Risk of Entering into "Windup" Agreement

The "Windup" Agreement requires that certain risks be transferred from ABAG POWER to the Town. These risks are discussed in Attachment D of the Agreement and summarized as follows:

- 1 PG&E or other agencies (e.g. ISO) may try to collect charges from billing periods when the Town's accounts were part of the ABAG POWER program.
- 2 The CPUC may at some time impose a surcharge on former Direct Access customers.
- 3 The amounts on deposit with NCPA are insufficient to cover future credit requirements with the ISO and/or PX.

Because of these risks, staff is recommending that the Working Capital Contributions of \$18,123 to be received from the "Windup" Agreement not be appropriated, but be held in reserve until risks of additional obligations is deemed insignificant or are precluded by statute of limitation. Based on ABAG POWER's assessment of contingent risk associated with distribution of Direct Access Credit of \$32,047, staff is recommending that these funds do not need to be restricted, as the contingent risk is nominal.

Staff is recommending approval of the attached resolution authorizing the Mayor to execute an agreement with ABAG POWER to "windup" (or conclude) the Electric Aggregation Program. Under the agreement, ABAG POWER proposes to return to the Town \$50,170 which represents the return of previous deposits as well as the City's proportionate interest in the ABAG POWER electric program. Release of these funds is subject to the execution of the "Windup" Agreement between ABAG POWER and the Town. It is further recommended that \$18,123 of the distribution, representing the Working Capital Contribution of the Town, be reserved for possible claims related to the electric program.

FISCAL IMPACT

Approval of this agreement will make the Town eligible to receive the following amounts:

\$18,123	Return of Previous Deposits (Working Capital Deposit Contribution)
<u>\$32,047</u>	Direct Access Credit Distribution
\$50,170	Total

However, staff recommends that \$18,123 of the distribution, representing the return of the Working Capital Contribution, be reserved for risks associated with conclusion of the Electric Program.

Attachments: 1) ABAG Power “Windup” Agreement
2) Proposed Resolution

Prepared By:

Approved:

Gregory L. Sam
Interim Assistant to the City Manager

James H. Robinson
City Manager

RESOLUTION NO. 04-_____

**RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
APPROVING THE ABAG POWER ELECTRIC PROGRAM “WINDUP”
AGREEMENT AND AUTHORIZING THE MAYOR TO SIGN AND EXECUTE
AGREEMENT WITH ABAG TO CONCLUDE THE ELECTRIC PROGRAM**

WHEREAS, the Town of Atherton was a member of the ABAG POWER Electric Aggregation Program; and

WHEREAS, the ABAG POWER Electric Aggregation Program was suspended on June 30, 2001; and

WHEREAS, ABAG POWER has retained certain funds owed to the Town of Atherton as an offset to certain risks and potential liabilities that would otherwise pass to the agency; and

WHEREAS, ABAG POWER has received authorization from its Board of Directors to wind up the program and distribute remaining funds to members, while at the same time passing any remaining risk to members as well.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the Town of Atherton hereby authorizes the Mayor to sign and execute the ABAG Electric Program “Wind Up” Agreement on behalf of the Town.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the _____ day of _____, 2004, by the following vote.

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

Kathy McKeithen, Mayor
Town of Atherton

ATTEST:

Kathi Hamilton, Interim City Clerk

APPROVED AS TO FORM:

Marc Hynes, City Attorney



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 CITY COUNCIL MEETING OF JUNE 16, 2004

SUBJECT: COMMISSION APPOINTMENT

BACKGROUND

Each April, the City Council Screening Committee interviews applicants and makes recommendations to the Council to fill the vacancies created when terms expire on Town Commissions and Committees. This year's Screening Committee, consisting of Mayor Kathy McKeithen and Vice-Mayor Bill Conwell, has interviewed candidates for one vacancy on the Park and Recreation Commission. The Screening Committee will be interviewing a final candidate on Monday, June 14, and will recommend a candidate for appointment at the City Council Meeting of June 16. The four-year term will run from May 1, 2004 until April 30, 2008.

RECOMMENDATION:

Approve the recommendation of the Screening Committee to appoint a new member to the Park and Recreation Commission for a four-year term to run from May 1, 2004 to April 30, 2008.

Prepared by:

Approved by:

Gregory L. Sam
Interim Assistant to the City Manager

James H. Robinson
City Manager

Item No. 17

The Proposed Fiscal Year 2004-05 Integrated Operating/Capital Budget materials were distributed on June 4, 2004. Resolutions associated with the adoption of the budget were distributed in the June 14, 2004, Special City Council Meeting Packet.



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JOHN P. JOHNS, FINANCE DIRECTOR

DATE: FOR THE MEETING OF JUNE 16, 2004

SUBJECT: RESOLUTION TO LEVY SPECIAL PARCEL TAX

RECOMMENDATION:

Adopt Resolution 04- establishing a Special Tax for Municipal Services for the Fiscal Year 2004-05.

DISCUSSION:

On June 5, 2001, the residents of Atherton approved Ordinance No. 520 establishing a Special Municipal Tax. FY 2004-05 will be the fourth year in which the four-year Special Municipal Tax has been in effect.

The FY 2004-05 budget to be approved by Council on June 14, includes an estimate of parcel tax revenue in the amount of \$1,858,000. The recommended parcel tax levy is unchanged from the levy adopted in FY 2003-04.

The FY 2004-05 recommended budget documents show the staff recommends the proceeds of the parcel tax levy be expended. In summary, of the \$799,000, or 43%, of the proposed levy will be expended upon operations while the remaining \$1,059,000, or 57 %, of the proposed levy will be used to defray the direct and indirect costs of certain improvements to the Town's roads and drainage systems.

If the Council adopts the attached resolution, the tax will be collected for the Town of Atherton by San Mateo County as part of the regular property tax bill due and payable in December 2004 and April 2005. The taxes for each parcel classification are listed on Exhibit A of the resolution.

FISCAL IMPACT:

Should the Council approve the tax levy as is proposed in the attached resolution, the Special Municipal Tax will generate an estimated \$1,858,000, of which \$799,000 would go to the General Fund and the remainder would be expended upon capital improvements to the Town of Atherton's roads and drainage systems.

Prepared by:

Approved by:

John P. Johns, CPA
Finance Director

James H. Robinson
City Manager

RESOLUTION 04-__

**A RESOLUTION OF THE TOWN OF ATHERTON
ESTABLISHING A SPECIAL TAX FOR MUNICIPAL SERVICES
FOR THE FISCAL YEAR 2004-2005**

WHEREAS, there is Ordinance No. 520 of the Town of Atherton authorizing the City Council to establish a Special Tax Levy on all properties with the Town of Atherton; and

WHEREAS, such Special Tax must be utilized to finance the cost of municipal services during the year as authorized; and

WHEREAS, such Special Tax was approved by at least two-thirds of the voters voting in the June 5, 2001, Special Tax Election, at which time Ordinance No. 520 was presented to the electorate; and

WHEREAS, the City Council has held all public hearings, and made deliberations and findings of fact, as required by Ordinance 520.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the Town of Atherton hereby levies a Special Tax for municipal services in accordance with the tax rates attached and shown as Exhibit "A".

BE IT FURTHER RESOLVED that such tax shall be collected by the Tax Collector of the County of San Mateo in accordance with standard procedures and agreement between the Town of Atherton and the County of San Mateo, providing for such collection.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the 16th day of June, 2004 by the following vote:

*AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS
ABSTAIN: COUNCILMEMBERS:*

Kathy McKeithen, Mayor
TOWN OF ATHERTON

ATTEST:

Kathi Hamilton
City Clerk

APPROVED TO FORM:

Marc G. Hynes, City Attorney

EXHIBIT "A"

**2004-2005 SPECIAL TAX RATE
FOR MUNICIPAL SERVICES**

Within the 2004-2005 annual budget is a revenue estimate of \$1,858,000 to be derived from the Special Municipal Tax as authorized by Ordinance 487 of the Town of Atherton.

This amount will be raised by the levy of the following tax rates for each of the categories listed below:

	<u>Category</u>	<u>Rate</u>
1.	For each dwelling on parcel with an area of less than 1/4 acre.	\$450
2.	For each unimproved parcel with an area of less than 1/4 acre.	225
3.	For each dwelling on parcel with an area of 1/4 acre but less than 1/2 acre.	570
4.	For each unimproved parcel with an area of 1/4 acre but less than 1/2 acre.	285
5.	For a dwelling on parcel with an area of 1/2 acre but less than 2 acres.	750
6.	For each unimproved parcel with an area of 1/2 acre but less than 2 acres.	375
7.	For each dwelling on parcel with an area of 2 acres or more.	960
8.	For each unimproved parcel with an area of 2 acres or more.	480
9.	For each private club.	10,000
10.	For each parcel available for tax owned by a utility which serves Atherton area.	450
11.	For each parcel available for tax owned by a utility which does not directly serve the Atherton community.	750

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



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JOHN P. JOHNS, FINANCE DIRECTOR

DATE: FOR THE MEETING OF JUNE 16, 2004

SUBJECT: ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL CALLING FOR AN ELECTION TO SUBMIT TO THE VOTERS AN ORDINANCE AUTHORIZING THE LEVY OF A SPECIAL MUNICIPAL TAX.

RECOMMENDATION

That the City Council, upon closure of a public hearing related to the matter, approve an ordinance that would call for an election submitting to the voters a proposed ordinance authorizing the levy of a Special Municipal Tax and establishing the maximum amount for such a levy according to parcel classification.

DISCUSSION

The proposed ordinance, if approved by the voters in November, would authorize the Town to collect the Special Municipal Tax for an additional four years. The structure of the proposed ordinance, including the classification scheme used to establish rates by which parcels of varying sizes and uses would remain consistent with Ordinance No. 520 which was approved by the electorate in June, 2001. However, the proposed ordinance would authorize the City Council to increase the average parcel tax levy from the current level of \$717 per parcel to \$913 per parcel as recommended by the Audit Committee in its report to the City Council dated April 21, 2004

FISCAL IMPACT:

Adoption of the proposed ordinance would enable the Town to extend the current parcel tax levy by an additional four years. If the voters were to approve the proposed ordinance as presented, the Town would have the authority to levy a maximum of \$2.3 million in special municipal taxes annually for fiscal years 2005-06 through 2008-09.

Prepared by:

Approved by:

John P. Johns, CPA
Finance Director

James H. Robinson
City Manager

ORDINANCE NO.
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:	573	573	573	573
2.	For each unimproved parcel with an area of less than 1/4 acre:	287	287	287	287
3.	For each dwelling on a parcel with an area of 1/4 acre or more, but less than 1/2 acre:	726	726	726	726
4.	For each unimproved parcel with an area of 1/4 acre or more, but less than 1/2 acre:	363	363	363	363
5.	For each dwelling on a parcel with an area of 1/2 acre or more, but less than 2 acres:	955	955	955	955
6.	For each unimproved parcel with an area of 1/2 acre or more, but less than 2 acres:	478	478	478	478
7.	For each dwelling on a parcel with an area of 2 acres or more:	1,223	1,223	1,223	1,223
8.	For each unimproved parcel with an area of 2 acres or more:	611	611	611	611
9.	For each private club:	12,740	12,740	12,740	12,740
10.	For each parcel available for tax owned by a utility which serves the Atherton community:	573	573	573	573
11.	For each parcel available for tax owned by a utility which does not				

directly serve the Atherton
community:

955

955

955

955

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 ___ 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.

* * * * *
* * * * *

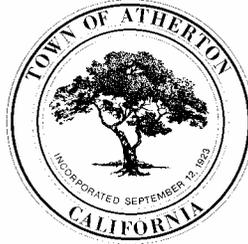
I hereby certify that the foregoing ordinance was adopted at a regular meeting of the City Council of the Town of Atherton held on June 16, 2004, by the following roll call vote:

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

Kathy McKeithen, Mayor
Town of Atherton

ATTEST:

Kathi Hamilton, City Clerk



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: KATHI HAMILTON, INTERIM CITY CLERK

DATE: FOR THE COUNCIL MEETING OF JUNE 16, 2004

**SUBJECT: ADOPTION OF RESOLUTIONS PERTAINING TO THE
NOVEMBER 2, 2004, SPECIAL AND GENERAL MUNICIPAL
ELECTIONS AND SETTING BALLOT ARGUMENTS
PROCEDURES**

RECOMMENDATION:

Staff recommends the adoption of Resolution No. 04-__ 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 on November 2, 2004; requesting the services of the County Registrar of Voters; requesting consolidation of elections; and authorizing the Mayor to sign the service agreement with the County Elections Officer. Further, staff recommends adoption of Resolution No. 04-__ requiring candidates to pay the prorated cost of publication and distribution of the Statement of Qualifications and specifying the length of the Statement.

With regard to the Special Election, staff recommends if the Council as a body wishes to exercise its rights to author and sign ballot arguments, action should be taken to appoint an ad hoc, less-than-a-quorum, committee of the Council to write the arguments on behalf of the Council. Further, the Council may direct the City Attorney to prepare an impartial analysis.

INTRODUCTION:

Two terms of the Atherton City Council will expire in November, 2004. It is therefore necessary to take action to begin the General Municipal Election process. The nomination period opens Monday, July 12, 2004, and closes at 5:00 p.m. on Friday,

August 6, 2004, unless an incumbent does not file. In the event an incumbent does not file by 5:00 p.m. on August 6, the filing period will be extended to 5:00 p.m. on Wednesday, August 11, 2004.

With regard to the Special Election to approve the Special Municipal Tax, in accordance with California Elections Code Section 9282, the City Council must determine whether it wishes to exercise its rights to author and sign ballot arguments regarding the measure. The final date for filing a direct argument is 5:00 p.m. on Friday, August 13, 2004. The rebuttal argument period is August 14, 2004, to August 23, 2004. The final date to submit a rebuttal argument to the City Clerk is 5:00 p.m., Monday, August 23, 2004.

With respect to Direct Arguments, California Elections Code Section 9282 permits the legislative body, or any member or members of the legislative body authorized by that body, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens or any combination of voters and associations, to file an argument for or against any measure. Therefore, the City Council, or any member or members of the City Council, or a combination of voters and associations, may file a written argument for or against a city measure. The argument shall not exceed 300 words.

California Elections Code Section 9287 instructs the Clerk to select one argument in favor and one argument against a measure for printing and distribution to the voters. Preference and priority shall be given to 1) the legislative body, or member or members of the legislative body authorized by that body, 2) the individual voters, or bona fide association of citizens or combination of voters and associations, who are bona fide sponsors or proponents of the measure, 3) the bona fide association of citizens, and 4) individual voters who are eligible to vote on the measure.

With respect to Rebuttal Arguments, if any person submits arguments against a City measure, and an argument has been filed in favor of a City measure, copies of argument against the City measure will immediately be sent to the person or persons filing the argument in favor of the City measure. The person or persons filing the arguments in favor of a City measure may prepare and submit a rebuttal argument not to exceed 250 words. Upon receipt of the proponent's direct argument in favor of the measure, a copy shall be sent to the person or persons filing the argument against the City measure who may submit a rebuttal argument not to exceed 250 words.

In general, no ballot argument shall be accepted unless it bears the name or names of the person or persons submitting it, or if filed by an organization, the name of the organization and the name of at least one of its principal officers. No more than five signatures shall appear with any argument. All arguments must be accompanied by the form statement required by California Elections Code 9600 (copy is attached).

California Elections Code 9 provides the method for the word count standard, and a copy is attached as a guide for the authors of arguments. Arguments may be withdrawn by their proponents at any time prior to and including the final date of filing arguments.

The City Council may direct the City Attorney to prepare an Impartial Analysis of the measure. The analysis shall not exceed 500 words in length and is due in the City Clerk's Office by 5:00 p.m. on August 13, 2004.

ANALYSIS:

An attached resolution calls for the elections, requests the services of the County Clerk/Registrar of Voters to conduct the election, and requests consolidation of the Special and General Municipal Elections with the Presidential Election to be held on November 2, 2004. The County Clerk will verify signatures on all nomination papers submitted, monitor polling places, canvass the returns and report results of said election. An attached resolution also establishes a deposit requirement in the amount of \$400 for candidates wishing to file a Statement of Qualifications, and sets the length of the statements at 200 words. The City Clerk is authorized to publish a notice of election and perform other duties as necessary in relation to the election.

FISCAL IMPACT:

An estimated cost of \$6,500 is included in the proposed Fiscal Year 2004/05 City Clerk's budget.

Respectfully submitted:

Approved by:

Kathi Hamilton
Interim City Clerk

Jim Robinson
City Manager

Attachment: Resolutions
Argument/Rebuttal Form
Word Count Information

RESOLUTION NO. 04-

**A RESOLUTION OF THE TOWN OF ATHERTON
CALLING A SPECIAL AND GENERAL MUNICIPAL ELECTION
TO BE HELD ON TUESDAY, NOVEMBER 2, 2004, FOR THE
ELECTION OF TWO MEMBERS OF THE CITY COUNCIL
AND TO APPROVE THE SPECIAL MUNICIPAL TAX**

The City Council of the Town of Atherton hereby resolves as follows:

WHEREAS, the City Council of the Town of Atherton has need to conduct a General Municipal Election on November 2, 2004, for the purpose of electing two members of the Atherton City Council to four year terms which will expire during the month of November, 2004; and that the polls for said election will be open from 7:00 a.m. to 8:00 p.m.

WHEREAS, the Town of Atherton has need to conduct a Special Municipal election for the purpose of presenting to the qualified voters of the Town a measure authorizing a Special Municipal Tax to provide for municipal services and for the expenditure of funds derived from such tax; and

WHEREAS, due to the economics involved, the public interest would best be served by consolidating such Special and General Municipal Elections with any other elections to be held on November 2, 2004, and by contracting with the County of San Mateo for election services.

NOW, THEREFORE, IT IS HEREBY RESOLVED, that the town of Atherton does hereby request the Board of Supervisors of the County of San Mateo to consolidate said Special and General Municipal Elections with any other election to be held on November 2, 2004; and

BE IT FURTHER RESOLVED that the City Manager be and he is hereby authorized and directed to enter into a contract with the Chief Elections Official of the County of San Mateo for the purpose of providing election services in connection with said General and Special Municipal Elections; and

BE IT FURTHER RESOLVED that the candidates for election may file nomination papers between 8:30 a.m. on July 12, 2004, through 5:00p.m. on August 6, 2004.

BE IT FURTHER RESOLVED that arguments for or against the measure must be submitted to the City Clerk on or before Friday, August 13, 2004, and rebuttals to arguments must be submitted to the City Clerk on or before Monday, August 23, 2004.

* * * * *
*

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on this ____ day of _____, 2004, by the following vote:

*AYES: COUNCILMEMBERS:
NOES: COULCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:*

ATTEST:

Kathy McKeithen, MAYOR
TOWN OF ATHERTON

Kathi Hamilton, Interim City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney

RESOLUTION NO. 04-

**A RESOLUTION OF THE CITY COUNCIL OF THE
TOWN OF ATHERTON ADOPTING REGULATIONS
FOR CANDIDATE STATEMENTS SUBMITTED
TO THE VOTERS AT AN ELECTION TO BE HELD ON
TUESDAY, NOVEMBER 2, 2004**

WHEREAS, Section 13307 of the Elections Code of the State of California provides that the governing body of any local agency adopt regulations pertaining to materials prepared by any candidate for municipal election, including costs of the candidate statement;

BE IT RESOLVED by the City Council of the Town of Atherton that each candidate who requests that a Statement of Qualifications be published and distributed with the sample ballot for the General Municipal Election, to be held November 2, 2004, shall be charged a deposit of \$400 to cover the cost of publication of such Statement of Qualifications, including the cost of translation of such statement into Spanish, if requested by the candidate.

BE IT FURTHER RESOLVED that such Statement of Qualifications may not exceed two hundred words in length.

BE IT FURTHER RESOLVED that such statement will be the only material sent with the sample ballots and no other material will be included for distribution.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on this ____ day of _____, 2004, by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COULCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

ATTEST:

Kathy McKeithen, MAYOR
TOWN OF ATHERTON

Kathi Hamilton, Interim City Clerk

APPROVED AS TO FORM:
Marc G. Hynes, City Attorney

**FORM OF STATEMENT TO BE FILED BY
AUTHOR OF ARGUMENT**

**Division 9. Measures Submitted to the Voters
Chapter 7. General Provisions**

9600 Form of statement to be filed by author.

All arguments concerning measures filed pursuant to this division shall be accompanied by the following form statement, to be signed by each proponent and by each author, if different, of the argument:

The undersigned proponent(s) or author(s) of the

_____ (primary / rebuttal)

argument _____ (in favor of / against)

ballot proposition _____ (name or number)

at the _____ (title of election)

election for the _____ (jurisdiction)

to be held on _____ hereby state (date)

that such argument is true and correct to the best of _____ (his / her / their)

Signed _____ Date _____

(Added by Stats. 1994, c 920 Section 2.)

COUNTING OF WORDS

Chapter 1. General Provisions

f

9. Counting of words.

(a) Counting of words, for purposes of this code, shall be as follows:

(1) Punctuation is not counted.

(2) Each word shall be counted as one word except as specified in this section.

(3) All geographical names shall be considered as one word; for example, "City and County of San Francisco" shall be counted as one word.

(4) Each abbreviation for a word, phrase, or expression shall be counted as one word.

(5) Hyphenated words that appear in any generally available standard reference dictionary, published in the United States at any time within the 10 calendar years immediately preceding the election for which the words are counted, shall be considered as one word. Each part of all other hyphenated words shall be counted as a separate word.

(6) Dates consisting of a combination of words and digits shall be counted as two words. Dates consisting only of a combination of digits shall be counted as one word.

(7) Any number consisting of a digit or digits shall be considered as one word. Any number which is spelled, such as "one," shall be considered as a separate word or words. "One" shall be counted as one word whereas "one hundred" shall be counted as two words. "100" shall be counted as one word.

(8) Telephone numbers shall be counted as one word.

(9) Internet web site addresses shall be counted as one word.

(b). This section shall not apply to counting words for ballot designations under Section 13107.

(Amended by Stats. 1994, c 920, Section 2.)