



**AGENDA**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**  
**October 15, 2003**

**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**      McKeithen, Marsala, Carlson, Janz, Conwell
- 7:05 P.M.**    3.    **PRESENTATIONS**
- A.    Citizen Commendations – Ben and Jenny Chute
  - B.    Housing Endowment and Trust of San Mateo - County Supervisor Richard Gordon
  - C.    Annual Tree Awards – Atherton Tree Committee
  - D.    Certificates of Appreciation for Outgoing Arts Committee Members
  - E.    Report from Menlo-Atherton High School Principal Eric Hartwig
- 7:45 P.M.**    4.    **COUNCIL REPORTS**
- 7:55 P.M.**    5.    **PUBLIC COMMENTS** (only for items which are not on the agenda – limit of three minutes per person)
- 8:05 P.M.**    6.    **STAFF REPORTS**
- 8:15 P.M.**    7.    **COMMUNITY ORGANIZATION ROUNDTABLE REPORT** (Per Resolution No. 02-31)
- No report (due to length of Presentations listed above).
- 8:15 P.M.**    **CONSENT CALENDAR** (Items 8 – 13)

8. APPROVAL OF MINUTES OF REGULAR AND SPECIAL COUNCIL MEETINGS OF SEPTEMBER 17, 2003 AND SPECIAL MEETING OF OCTOBER 6, 2003
9. APPROVAL OF BILLS AND CLAIMS FOR SEPTEMBER 2003 IN THE AMOUNT OF \$743,837
10. ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR SEPTEMBER 2003
11. APPROVAL OF AMENDMENT TO EMPLOYMENT AGREEMENT BETWEEN THE TOWN OF ATHERTON AND CITY MANAGER JAMES H. ROBINSON

**Recommendation:** Authorize the Mayor to execute an amendment to the employment agreement between the Town of Atherton and City Manager James H. Robinson.

12. APPROVAL OF REVISED JOINT POWERS AGREEMENT WITH BAY AREA EMPLOYEE RELATIONS SERVICE

**Recommendation:** Approve the revised Joint Powers Agreement with Bay Area Employee Relations Service.

13. ADOPTION OF A RESOLUTION AUTHORIZING HOURLY SALARY RANGES FOR PART-TIME AND TEMPORARY EMPLOYEES FOR FISCAL YEAR 2003-04

**Recommendation:** Adopt Resolution No. 03-\_\_\_ authorizing hourly salary ranges for part-time and temporary employees for Fiscal Year 2003-04, effective July 1, 2003.

**REGULAR AGENDA** (Items 14 - 20)

- 8:25 P.M.
14. CONSIDERATION AND ACCEPTANCE OF FISCAL YEAR 2002-2003 AUDITED FINANCIAL STATEMENTS AND AUDIT COMMITTEE REPORT

**Recommendation:** Consider and accept the financial statements and independent auditor's report for year ending June 30, 2003, the independent auditor's report on the Appropriations Limit Schedule and Measure A Funds, and accept recommendations from the Town of Atherton Audit Committee.

- 9:00 P.M. 15. APPROVAL OF FIRST READING OF AN ORDINANCE RATIFYING AN ORDINANCE OF THE MENLO PARK FIRE PROTECTION DISTRICT PERTAINING TO FIRE SPRINKLER SYSTEM REQUIREMENTS**

**Recommendation: Consider approval of first reading of an ordinance ratifying Ordinance No. 28 of the Menlo Park Fire Protection District amending District Fire Prevention Code pertaining to automatic fire sprinkler system requirements.**

- 9:15 P.M. 16. REPORT FROM FINANCE DIRECTOR – TRANSFER TAX**

**Recommendation: Review and receive the staff report regarding the revenue potential of a real property transfer tax.**

- 9:30 P.M. 17. CONSIDER APPROVAL OF AGREEMENT BETWEEN THE FELTON GABLES HOMEOWNERS ASSOCIATION AND THE TOWN OF ATHERTON TO PROVIDE FOR ACCESS TO HOLBROOK-PALMER PARK**

**Recommendation: Consider approval of an agreement with Felton Gables Homeowners Association to provide access to Holbrook-Palmer Park.**

- 9:45 P.M. 18. DISCUSSION AND POSSIBLE ACTION – CREATION OF CODE ENFORCEMENT OFFICER POSITION**

**Recommendation: Consider and provide direction to staff regarding the proposal for the creation of a Code Enforcement position.**

- 10:15 P.M. 19. CONSIDER CREATION OF AD HOC COMMITTEE FOR CALTRAIN ISSUES**

**Recommendation: Consider the creation of a Caltrain Corridor Committee.**

- 10:30 P.M. 20. CONSIDERATION OF REQUEST FROM ASSOCIATION OF BAY AREA GOVERNMENTS (ABAG) TO ADOPT A RESOLUTION IN**

**SUPPORT OF A STATEWIDE BALLOT INITIATIVE TO PROTECT  
LOCAL REVENUES**

**Recommendation: Consider adoption of the proposed League of California  
Cities sponsored resolution supporting a statewide ballot initiative to  
require voter approval before the state government may take local tax  
funds.**

**10:40 P.M. 21. PUBLIC COMMENTS**

**10:50 P.M. 22. ADJOURNMENT**

*Agendas and staff reports may be accessed on the Town website at: [www.ci.atherton.ca.us](http://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  
September 17, 2003  
6:00 P.M.  
Meeting Room  
Town Administrative Offices  
91 Ashfield Road, Atherton  
Special Meeting**

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

**1. ROLL CALL**

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

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

**2. PUBLIC COMMENTS**

**There were no public comments.**

**3. CLOSED SESSION**

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

**4. RECONVENE TO OPEN SESSION**

**The Council reconvened to Open Session at 6:50 p.m. The following action was taken.**

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – pursuant to subdivision (c) of Government Code Section 54956.9: 4 potential cases.**

**Direction was given to the City Attorney.**

- B. LIABILITY CLAIMS - pursuant to Government Code Section 54956.95**

**Claimant: Enterprise Rent-a-Car  
Agency claimed against: Town of Atherton  
Direction was given to the City Attorney.**

**Claimant: Arlene Coddington  
Agency claimed against: Town of Atherton  
Direction was given to the City Attorney.**

**Claimant: Sean Sundland  
Agency claimed against: Town of Atherton  
Claim was denied by a unanimous vote of the City Council.**

**5. ADJOURN**

**The meeting adjourned at 6:55 p.m. to Closed Session continued after the Regular Meeting.**

**Respectfully submitted,**

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**James R. Janz, Mayor**



**Draft Minutes**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**  
**September 17, 2003**  
**7:00 p.m.**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California

**REGULAR MEETING**

**Mayor Janz called the meeting to order at 7:10 p.m.**

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

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

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

- 3. PRESENTATIONS**

**A. Presentation by Midpeninsula Community Media Center**  
**Executive Director Annie Nieuhaus gave a brief report on the programs and channels**

offered by the Media Center. She advised the Council that grant funding may be available through Cable Coop for equipment to videocast City Council meetings. Staff will prepare a letter of interest.

**B. Oath of Office for Police Officer Jason Yoakum**

Police Chief Robert Brennan administered the oath of office to new Police Officer Jason Yoakum.

**C. Proclamation - Constitution Week September 17 - 23**

Mayor Janz declared the week of September 17 – 23 Constitution Week.

**D. Proclamation - Pollution Prevention Week September 15 - 21**

Mayor Janz declared the week of September 15 to 21 as Pollution Prevention Week.

Town Arborist Kathy Hughes Anderson announced a mercury thermometer exchange on Saturday, September 20 from 9:00 a.m. to 1:00 p.m. at Burgess Community Center, and a computer recycling event on Saturday, 9:00 a.m. to 2:00 p.m. at Tyco Electronics in Menlo Park.

**4. COUNCIL REPORTS**

- Council Member Conwell reported that he attended the City/County Association of Governments Board meeting. The Board reviewed new state legislation. He also attended a Criminal Justice Commission meeting. The Commission was informed it has lost some state funding this year. Council Member Conwell announced that he will not attend the October City Council meeting.
- Council Member Carlson reported that the Finance Committee met September 4 and considered several items that are before the Council tonight. The Committee reviewed the annual Town Investment Policy, held discussion on building and planning fees, and discussed the parcel tax that expires June 2005. The Audit Committee met August 17 with the Town auditors. The Town received an unqualified opinion on its financial statements for the third consecutive year. The Audited Financial Statements will be presented at the October Council meeting.
- Council Member Marsala reported that he received a basic leadership certificate at the League of California Cities Conference in Sacramento. The League is planning to place a resolution on the November 2004 ballot to protect local revenues. He announced that the Screening Committee met with four applicants to the Arts Committee this past week. The Committee's recommendations for appointments are on tonight's agenda. He reported that construction parking issues were addressed at the General Plan Committee meeting September 10. Council Member Marsala reported that the Town's 80<sup>th</sup> anniversary party on September 12 was a success. He also attended the dedication of the new garden at the Library on Saturday, September 13. He commended Town Arborist Kathy Hughes Anderson for her work on the garden. He also noted that the Tennis Committee has started a website.
- Vice Mayor McKeithen reported on the General Plan Committee meeting where

construction parking and code enforcement was addressed. The Committee has recommended that the public nuisance section of the Municipal Code be amended to address construction parking. The Committee also discussed the possibility of creating a code enforcement officer position. She asked that both of these items be placed on the October City Council agenda. Information on the number and type of complaints the Town has received was requested from staff by Council Member Carlson. It was agreed that the Planning Commission will address both of these items at their September 24 meeting. Vice Mayor McKeithen asked the City Manager to inform the Council when the date for the next Atherton Channel District Subcommittee will be set. She announced the next Office of Emergency Services meeting September 18, 5:30 p.m., at the County Center.

- Mayor Janz stated that he would like the Council, at the next meeting, to consider the creation of an ad hoc committee to research and address the specific impact that the proposed high speed rail would have on the Town.

## 5. PUBLIC COMMENTS

The following members of the audience spoke:

- Robert Simonds, Atherton, informed the Council that maintenance will be performed on the Town clock in the next few weeks.
- John Rugeiro, Atherton

## 6. STAFF REPORTS

- City Manager Jim Robinson reported that September 22 is the deadline for articles for the Athertonian. The Transportation Committee will meet October 14. The next meeting date for the Atherton Channel Subcommittee will be set at a later date.
- City Attorney Marc Hynes reported that Items 3C and 3D on the Closed Session were continued to after the Regular meeting. He reported out the action for Items 3A and 3B as follows:

A. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION** – pursuant to subdivision (c) of Government Code Section 54956.9: 4 potential cases.

Direction was given to the City Attorney.

B. **LIABILITY CLAIMS** - pursuant to Government Code Section 54956.95

**Claimant:** Enterprise Rent-a-Car

**Agency claimed against:** Town of Atherton

**Direction was given to the City Attorney.**

**Claimant: Arlene Coddington**  
**Agency claimed against: Town of Atherton**  
**Direction was given to the City Attorney.**

**Claimant: Sean Sundland**  
**Agency claimed against: Town of Atherton**  
**Claim was denied by a unanimous vote of the City Council.**

**7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT**

**Doris Kellett, Atherton representative to the San Mateo County Mosquito Abatement District Board, introduced District Manager Robert Gay. Mr. Gay gave a report on the District's role in preventing West Nile Virus.**

**CONSENT CALENDAR**

**Mayor Janz stated that Item 18 would be removed from the Consent Agenda. Council Member Marsala asked that Item 8 be removed. Vice Mayor McKeithen asked that Item 19 be removed. Council Member Marsala encouraged staff, in respect to Item 20, to research matching funds for the grants.**

**MOTION – to approve the Consent Agenda as presented with the exception of Items 8, 18 and 19.**

**M/S McKeithen/Conwell**

**Ayes: 5 Noes: 0 Abstain: 0 Absent: 0**

- 8. Removed from Consent Agenda**
- 9. APPROVED BILLS AND CLAIMS FOR JULY, 2003 IN THE AMOUNT OF \$1,132,669, AND AUGUST, 2003 IN THE AMOUNT OF \$767,061**
- 10. ACCEPTED MONTHLY FINANCIAL REPORTS FOR JULY AND AUGUST 2003**
- 11. APPROVED ANNUAL INVESTMENT POLICY**
- 12. ADOPTED ORDINANCE NO. 544 AMENDING ATHERTON MUNICIPAL CODE SECTION 17 REGULATING ACCESSORY STRUCTURES FOR SECOND DWELLING UNITS**  
  
**Adopted Ordinance No. 544 amending Atherton Municipal Code Section 17 regulating second dwelling units, and waived further reading.**
- 13. ADOPTED ORDINANCE NO. 545 AMENDING ATHERTON MUNICIPAL CODE**

**SECTION 15 REGARDING ENVIRONMENTAL REVIEW**

**Adopted Ordinance No. 545 amending Atherton Municipal Code Section 15 regarding the environmental review process for removal of heritage trees, and waived further reading.**

- 14. APPROVED SECOND READING OF ORDINANCE NO. 543 AMENDING ORDINANCE NO. 538 TO CONTINUE IN EFFECT EXISTING PROCEDURES FOR INFORMAL COMPETITIVE BID AND SMALL PURCHASES**

- 15. ACCEPTED QUARTERLY INVESTMENT REPORT FOR QUARTER ENDING JUNE 30, 2003**

- 16. ACCEPTED WORK AND AUTHORIZED RECORDING A NOTICE OF COMPLETION FOR ATHERTON AVENUE RECONSTRUCTION, PROJECT NO. 03-004**

**Accepted the work and authorized recording of a notice of completion for the Atherton Avenue - Stern Lane to Linda Vista Avenue Reconstruction Project No. 03-004.**

- 17. ACCEPTED WORK AND AUTHORIZED RECORDING A NOTICE OF COMPLETION FOR HOLBROOK-PALMER PARK PARKING LOT, PROJECT NO. 03-003**

**Accepted the work and authorized recording of a notice of completion for the Holbrook-Palmer Park Parking Lot Patching and Sealing Project, Project 03-003.**

- 18. Removed from Consent Agenda.**

- 19. Removed from Consent Agenda.**

- 20. ADOPTED RESOLUTION NO. 03-16 APPROVING AN AGREEMENT WITH CALTRANS FOR HIGHWAY MAINTENANCE SERVICES**

**Adopted Resolution No. 03-16 approving an agreement with Caltrans to perform highway maintenance services along El Camino Real, and authorizing the Mayor to execute said agreement. Increase appropriations for Public Works contract services by \$26,800.**

- 21. ADOPTED RESOLUTION NO. 03-17 APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE PER CAPITA GRANT PROGRAM UNDER THE 2002 RESOURCES BOND ACT AND RESOLUTION 03-18 APPROVING THE APPLICATION FOR GRANT FUNDS UNDER THE ROBERTI-Z'BERG-HARRIS BLOCK GRANT**

**Adopted Resolution No. 03-17 approving the Town of Atherton's application for grant**

funds under the 2002 Resources Bond Act and Resolution No. 03-18 for the Roberti-Z'Berg-Harris Block Grant.

**22. APPROVED PURCHASE OF UTILITY VEHICLE FOR HOLBROOK-PALMER PARK**

Approved the purchase of a Toro Workman 3100 utility vehicle for Holbrook-Palmer Park for a total price not to exceed \$16,500.

**REGULAR AGENDA**

Item 18 was removed from the Consent Agenda and placed on the Regular Agenda.

**18. APPOINTMENTS TO ATHERTON ARTS COMMITTEE**

Council Members Marsala and Conwell of the City Council Screening Committee asked that this item be removed from the Consent Agenda. Council Member Marsala announced that four applicants were interviewed by the Screening Committee and were recommended for appointment to the Atherton Arts Committee.

**MOTION – to appoint Florentina Mazzone, Valerie Gardner, Jan Zones and James Martinez to serve on the Atherton Arts Committee for indefinite terms.**

M/S Marsala/Conwell

**Ayes: 5 Noes: 0 Absent: 0 Abstain: 0**

Items 24 and 26 were taken out of order.

**24. DISCUSSION AND POSSIBLE ACTION – REPORT ON CONSTRUCTION AND LANDSCAPE SCREENING PLAN FOR RETAINING WALL AT 85 ORCHARD HILLS AND RELATED SITE IMPROVEMENTS AND DEVELOPMENT**

Vice Mayor McKeithen stated that she asked for this item to be placed on the agenda because of concerns with the issuance of permits for accessory structures on the 85 Orchard Hills property. City Attorney Marc Hynes noted that this item did not require Council action in terms of the building permit for 85 Orchard Hills Drive, but that discussion of the matter might generate revisions to the zoning ordinance.

Building Official Mike Hood presented the staff report for this item. A building permit was issued in June 2002 for a retaining wall at 85 Orchard Hills Drive. The City Council subsequently heard an appeal filed by the adjoining property owner at 291 Stockbridge Avenue challenging the propriety of regulating the retaining wall as an accessory structure. The Council ruled that the permit was properly issued and referred the issue of retaining wall regulations to the General Plan Committee for review. Retaining wall regulations were later revised to limit the maximum height of a single retaining wall to 6 feet.

**The Building Official stated that a modified landscape screening plan has been submitted which places all of the screening material on the 85 Orchard Hills property. A previous agreement between the two adjoining property owners for the retaining wall screening to be planted on the 291 Stockbridge property no longer exists. In the staff report, the Building Official also responded to issues regarding the process time for the permit for a pool house constructed at 85 Orchard Hills, and the height and size of the pool house.**

**City Manager Jim Robinson clarified that the lower level landscape screening plan has been submitted and has been approved by Town staff. A plan for the upper level screening has also been submitted. The City Manager noted that although Eric Amadei, property owner of 291 Stockbridge, has reviewed and signed off on the lower level plan, he still may have concerns with the upper level plan.**

**Paul Baynton, contractor for the 85 Orchard Hills project, spoke. He described actions the property owner, Karim Maskatiya, has taken related to landscape screening since the permit for the retaining wall was issued. He informed the Council of the types of plants and trees that are included in the approved plan.**

**Town Arborist Kathy Hughes Anderson explained that the proposed landscaping is sufficient to screen the 11 foot wall including the 3 foot railing above the wall.**

**Eric Amadei, owner, 291 & 293 Stockbridge Avenue, expressed his concerns with the administrative process for the Town's approval of the retaining wall, stating that the size of the wall has a negative impact on adjoining properties. He reported that his understanding was that no accessory structures were going to be constructed above the retaining wall. He provided photographs of the site. He confirmed that he has agreed to and signed off on the landscape screening plan for the bottom level, but has only seen parts of the plan for the upper level.**

**Vice Mayor McKeithen expressed concerns with the permitting process in general as well as permitting procedures used specifically for the Orchard Hills project. She suggested that plans should be filed when the landscape screening agreement is submitted and that road impact fees should be required for landscape screening. Relative to the 85 Orchard Hills project, her concerns included whether adequate standards were used to place the valuation on the retaining wall project to ensure that proper fees and taxes, including business license fees, were collected. In addition, she questioned the timing of submittal of plans for the pool house, the processing time for the building permit for the pool and spa, and the construction of other structures above the wall prior to final inspection of the retaining wall. She questioned the practice of contractors signing the building permit applications as owner-builder.**

**Council Member Marsala suggested three issues that should be addressed by the General Plan Committee: 1) a requirement for landscape screening to be planted on the property where the construction is taking place, 2) regulations for screening on slopes, and, 3)**

regulations for removal of landscaping from existing structures.

At Council Member Carlson's request, Building Official Mike Hood confirmed that landscape screening plans have been approved, that his decision has not been appealed, and the time period for an appeal has expired. Council Member Carlson asked, if the Council agreed, that the City Attorney, Building Official and the City Manager review the Orchard Hills project and plans to determine if any misrepresentations have been made in the permitting process. He also asked that the City Manager and the Building Official determine if a final inspection of the work at Orchard Hills should be withheld until such review has been made. He suggested that staff return to the Council with a response to Vice Mayor McKeithen's statements.

Mayor Janz asked the City Attorney to report back with respect to non-written representations to the Town not being complied with, and whether the City Council has any recourse. It was requested that a transcript of the tapes of the July 17, 2002 public hearing concerning the appeal of the Building Official's approval of the retaining wall be reviewed by staff and the City Attorney.

It was agreed that the staff response to Vice Mayor McKeithen's comments should be made in writing. Vice Mayor McKeithen agreed to submit her points in writing to the City Manager.

City Manager Jim Robinson stated that staff will respond to the issues as soon as possible. He stated that staff will provide Mr. Amadei a copy of the approved landscape screening for the top level, and will meet with him if he desires.

It was determined that since Council Member Conwell will not be in attendance at the October regular meeting, this item will come before the Council in November.

**MOTION – 1) direct staff, in conjunction with the City Attorney, to review the representations made by the owner at 85 Orchard Hills, and/or his representatives, in the permitting process for all of the permits that have been issued with respect to the project at 85 Orchard Hills. Included in the review should be representations made during the public hearing on July 2002 regarding the retaining wall. Direct the City Attorney to report back to the City Council if he finds that any misrepresentations were made during the process, either in obtaining the building permits or at the hearing on the retaining wall in July 2002, and inform the Council of the Town's remedies with respect to any of his findings. 2) Direct staff, upon receipt of the written submission of Vice Mayor McKeithen's points, to prepare a written report to the City Council with respect to staff's actions and activities for the November 2003 meeting, and in the report address separately the items that Vice Mayor McKeithen raised that are not at this time included in the Town's ordinances, such as road impact fees for landscaping projects, as well as address separately the processing issues, and in doing so, cite municipal codes and/or practices that have been uniformly adopted by the Building Department with respect to the processing of permits. 3) Pending**

this review, and upon the advice of legal counsel to the extent the Town has the authority, direct staff to withhold final inspections and approval of the issued permits until such time as the reports come back and the Council has had the opportunity to consider both the reports and opinions of the City Attorney, and the reports and opinions of staff. 4) Direct staff to identify and make recommendations for solutions with respect to any loopholes in the Town's procedures. 5) Direct the City Attorney to review the landscape screening agreement process to determine if the Town can make the submittal of plans a requirement at the time the landscape screening agreement is filed. 6) Direct staff to ensure that the oleander described in the landscape screening plans for 85 Orchard Hills is the correct oleander planted along the retaining wall.

M/S Carlson/McKeithen

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

Mayor Janz called a recess at 10:55 p.m.

The Council reconvened at 11:05 p.m.

**26. CONSIDERATION OF FELTON GABLES HOMEOWNERS' ASSOCIATION  
REQUEST TO CONSTRUCT A GATE FOR PEDESTRIAN ACCESS FROM FELTON  
GABLES TO HOLBROOK-PALMER PARK**

City Manager Jim Robinson presented the staff report for this item. A request has been received from the Felton Gables Homeowners Association to construct a gate at the southwest corner of the subdivision adjoining Holbrook-Palmer Park to provide access to the Park. This item was presented to the Park and Recreation Commission at their August meeting. The Commission supported the request and recommended that the City Council approve it contingent upon there being no cost to the Town.

Michael Mimeles spoke on behalf of Felton Gables Homeowners Association, stating that 40 to 50 families out of 125 homes have expressed an interest in purchasing keys to the gate. Mr. Mimeles assured the Council that the gate would remain locked at all times and residents would be required to sign a release form prior to receiving a key. An adjacent homeowner has agreed to provide an easement to allow access to the Park from the piece of property the Association already owns.

City Attorney Marc Hynes stated that a formal agreement should be drawn up, and that the Association should provide liability insurance listing the Town as additional insured. Council Member Conwell suggested that a sunset clause be included in the agreement.

The following members of the audience spoke:

- Doug Satzger, representing Felton Gables Homeowners Association, discussed plans for the gate, stating that the Association plans to replace 80 feet of fence along park property as part of the project.
- Jeff Carlton, Felton Gables, voiced his concerns regarding possible negative

impacts the proposed gate and path might have on his property which is adjacent to the path.

- Lou Paponis, Atherton, read a letter from Howard Crittenden, Holbrook-Palmer Park Foundation, against construction of a gate.
- Cat Westover, Park and Recreation Commission, stated that the Commission's recommendation for approval of the gate was in part to reduce vehicular traffic in the Park. She commented that walk-in traffic for special events could be handled by placing someone at the gate to collect fees.
- Marguerette Paponis, Atherton, asked that a provision be included in the agreement to ensure that keyholders are charged admission at the gate for paying events held at the Park.

Discussion ensued regarding specific items to be included in the agreement with the Homeowners Association.

**MOTION** – to allow the construction of a gate, subject to the following conditions: that Felton Gables Homeowners Association obtain signed releases from keyholders, that proof of liability insurance be provided, that a 30 day notice provision (after 3 months) be included in the agreement, that monthly maintenance be to the Town's satisfaction, that a provision be in the agreement to reflect that keyholders will be charged admission at the gate for paying events, that standard waiver and indemnity clauses be included, that the Association provide the City Attorney with the release form to become an addendum to the agreement, that the Town be provided with a list of keyholders on a quarterly basis, and that payment of attorney fees be included in the agreement.

M/S McKeithen/Janz

Ayes: 5 Noes: 0 Abstain: 0 Absent: 0

The agreement will be before the Council at the October City Council meeting.

Item 8 was removed from the Consent Agenda and placed on the Regular Agenda.

**8. APPROVED MINUTES OF SPECIAL AND REGULAR COUNCIL MEETINGS OF JULY 16, 2003**

Council Member Marsala asked that this item be removed from the Consent Agenda. He requested that his comments be clarified under Item 22 of the July 16, 2003 Regular City Council meeting minutes.

**MOTION** – to amend Item 22 of the July 16, 2003 Regular City Council meeting minutes to clarify Council Member Marsala's comments by adding: "Council Member Marsala supported Park and Recreation Commission's unanimous motions that \$180,000 of the \$550,000 collected from the sales of tennis keys be spent to restore the tennis courts with additional funds to be raised by the Tennis Committee".

23. PUBLIC HEARING –

**CONSIDER ADOPTION OF A RESOLUTION MODIFYING FEES FOR SERVICES RELATED TO BUILDING AND PLANNING AND CONFIRMING EXISTING PRACTICE REGARDING BUILDING PERMIT VALUATIONS**

Finance Director John Johns presented the staff report for this item. As a result of Fiscal Year 2003-04 budget deliberations, it was determined that an increase in certain building and planning fees are necessary. Staff has recommended changes to existing building and planning fees and implementation of certain new fees. A comparative analysis of Building Department costs and revenues by program is included in the staff report. Staff recommended that building permit fees be calculated at 100% of the levels established under Table 1-A of the 1997 Uniform Building Code, and that fees for planning related activities be established at actual costs with an initial non-refundable deposit of \$750 per application. Staff also recommended that a fee be established for after-hours construction permits and a fee to cover costs for processing school master plan reviews.

A survey of building permit fees of surrounding cities was provided to the Council. Discussion ensued related to the possibility of increasing road impact fees. City Attorney Marc Hynes stated that any new or increased fees would require a majority vote of the residents. Senior Planner Lisa Costa Sanders was asked to follow up with the surveyed cities to obtain information on how their fees were established.

Mayor Janz opened the public hearing at 12:12 a.m.  
There were no comments. The public hearing was closed.

Vice Mayor McKeithen requested that the practice of the Building Department should be to require that signed contract documents be a part of the building permit file. City Manager Jim Robinson stated that language in the proposed resolution addresses that issue.

**MOTION – to adopt Resolution No. 03-19, amending Resolution No. 00-13 by modifying fees for services related to building and planning and confirming existing practice regarding building permit valuations as set forth in the staff report, and providing for the new fees as set forth in the report relating to school master plan reviews and after hours construction permits.**

25. **STATUS REPORT ON THE TEMPORARY NO PARKING ZONE ON OAK GROVE AVENUE – CONSIDER CONTINUING TEMPORARY PLACEMENT OF NO PARKING SIGNS**

Police Chief Brennan gave a report on the status of the temporary no parking zone on Oak Grove Avenue. He recommended that the temporary placement of the no parking signs be continued until the completion of the current construction and repaving of the T-lot at Menlo-Atherton High School. He reported that no complaints have been received since school started.

City Manager Jim Robinson stated that Menlo-Atherton High School Principal Eric Hartwig will be invited to come before the Council at the October meeting.  
The Council accepted the report.

**27. DISCUSSION AND POSSIBLE ACTION – LOCAL DOCUMENTARY PROPERTY TRANSFER TAX**

City Attorney Marc Hynes discussed his report to the Council on the issue of whether the Town, as a general law city, can adopt a documentary transfer tax. He stated that it is his opinion that it would be possible for the Town to adopt its own documentary transfer tax by ordinance. The ordinance would require a simple majority of the voters.

Finance Director John Johns was asked to report back to the Council with information regarding the total number of properties in Town that have sold in the past year and revenue projections that such a tax would generate.

**28. ACCEPTANCE OF LITTLE LEAGUE ANNUAL COMPLIANCE REPORT**

City Manager Jim Robinson presented the staff report for this item. The License Agreement with Menlo-Atherton Little League provided that the City Manager and Little League conduct an annual review of use and operations of the Park improvements to ensure compliance. The City Manager reported that he has met with the Park and Recreation Commission and all Town departments and has received no complaints or concerns with Little League activities in the Park. He also stated that an invoice for maintenance costs was sent to Little League recently.

**MOTION – to accept the City Manager’s status report regarding compliance by Little League to the terms of the License Agreement between the Town of Atherton and Menlo-Atherton Little League.**

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

**29. APPROVE LIBRARY FUND SPECIAL REVENUE DONOR FUND APPROPRIATION REQUEST**

City Manager Jim Robinson reported that this item was before the Council for approval of an increase in appropriations to allow for purchases from the Library Special Revenue

**Fund. Subsequent to the adoption of the Fiscal Year 2003-04 Budget, the Library Joint Powers Agency has requested the purchase of certain equipment and services for improvements to the Atherton Library. The items requested are outlined in the staff report and would require an increase of \$40,000 in the Library Special Revenue Fund appropriations.**

**MOTION – to approve an increase in the Library Special Revenue Fund appropriations by \$40,000 to enable the Library to purchase certain equipment and services in Fiscal Year 2003-04.**

**M/S Carlson/McKeithen**

**Ayes: 5 Noes: 0 Abstain: 0 Absent: 0**

**30. CONSIDER REQUEST FROM CITY OF MOUNTAIN VIEW REGARDING RELOCATION OF THE CALIFORNIA AIR NATIONAL GUARD 129<sup>TH</sup> RESCUE WING**

**Mayor Janz stated that he asked for this item to be on the agenda. The City of Mountain View has asked the City Council for support to oppose the relocation of the 129<sup>th</sup> RQW from Moffett Field to Castle Airport in Atwater, California. Mayor Janz stated that he would prepare a letter of support.**

**Item 19 was removed from the Consent Agenda.**

**19. AWARD OF CONTRACT AND APPROVAL OF SUPPLEMENTAL APPROPRIATION FOR STREET CORPORATION YARD PROJECT**

**Vice Mayor McKeithen asked that this item be removed from the Consent Agenda. She expressed her concerns with using funds for this project that were appropriated for street patching and overlay, and asked what happens if the contract goes over the bid amount. In response to the Vice Mayor’s question regarding where funding would come from if the contract went over the bid amount, Public Works Director Duncan Jones stated that this is a “lump sum” contract and the contractor would be expected to complete the project within that amount. He stated in addition, any funds required because of unexpected field conditions would require a reduction in the scope of the project. The City Manager noted that other unallocated funds in the Capital Improvement Fund would be available.**

**MOTION – to approve the award of contract for the Street Corporation Yard Project, Project No. 03-007, to John Plane Construction, Inc., the low bidder on the August 22, 2003 bids, for \$568,616, and increase the appropriation for the project by \$78,616 from \$490,000 to \$568,616.**

**M/S Carlson/Janz**

**Ayes: 5 Noes: 0 Absent: 0 Abstain: 0**

**31. PUBLIC COMMENTS**

There were no public comments.

**32. ADJOURNMENT**

The meeting adjourned at 12:55 a.m. to a continued Closed Session.

The Council reconvened to Open Session at 1:25 a.m. The following action was taken:

**C. CONFERENCE WITH LABOR NEGOTIATOR – Labor negotiations pursuant to Government Code Section 54957.6**

**Agency Negotiator: James H. Robinson, City Manager**  
**Employee Organization: Teamsters Local Union 856**  
**Non-management Miscellaneous Employees**  
**Direction was given to the City Manager.**

**Agency Negotiator: James H. Robinson, City Manager**  
**Employee Organization: Non-management Part Time Employees**  
**Direction was given to the City Manager.**

**Agency Negotiator: James H. Robinson, City Manager**  
**Employee Organization: Management Employees**  
**Direction was given to the City Manager.**

**D. PUBLIC EMPLOYEE PERFORMANCE EVALUATION pursuant to Government Code Section 54957**

**Title: City Manager**  
**This matter was continued to a special meeting October 6, 2003.**

The meeting adjourned at 1:30 a.m.

Respectfully submitted,

---

**Sharon Barker, City Clerk**



**Draft Minutes**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**  
**October 6, 2003**  
**6:00 P.M.**  
**Meeting Room**  
**Town Administrative Offices**  
**91 Ashfield Road, Atherton**  
**Special Meeting**

**Mayor Janz called the meeting to order at 6:10 p.m.**

**1. ROLL CALL                    McKeithen, Marsala, Carlson, Janz, Conwell**

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

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

**2. PUBLIC COMMENTS**

**There were no public comments.**

**3. CLOSED SESSION – The Council adjourned to Closed Session at 6:15 p.m.**

**4. RECONVENE TO OPEN SESSION – The Council reconvened to Open Session at 7:25 p.m. The following action was taken:**

**A. CONFERENCE WITH LABOR NEGOTIATOR – Labor negotiations pursuant to Government Code Section 54957.6**

**Agency Negotiator: James H. Robinson, City Manager**  
**Employee Organization: Teamsters Local Union 856**  
**Non-management Miscellaneous Employees**  
**Direction was given to the City Manager**

**Agency Negotiator: James H. Robinson, City Manager**  
**Employee Organization: Non-management Part Time Employees**

**Direction was given to the City Manager.**

**B. PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

**Pursuant to Government Code Section 54957**

**Title: City Manager**

**Direction was given to the City Attorney.**

**6. ADJOURNMENT**

**The meeting adjourned at 7:30 p.m.**

**Respectfully submitted,**

---

**James R. Janz, Mayor**

**TOWN OF ATHERTON**  
**CLAIMS LIST**  
 September, 2003

**Item No. 9**

Payroll Checks	2899 – 2987	\$ 47,921
Electronic Transfers		279,407
A/P Checks	15926 - 16098	416,509
<b>TOTAL</b>		<b>\$ 743,837</b>

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 2899 through 2987 (payroll) and 15926 through 16098 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$743,837; are true and correct, and that there are funds for payment.

\_\_\_\_\_  
 James H. Robinson  
 City Manager

The above claims, check numbers 2899 through 2987 (payroll) and 15926 through 16098 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$743,837; and are hereby approved for payment.

\_\_\_\_\_  
 James R. Janz  
 Mayor, Town of Atherton

**SOURCE OF FUNDS**

<b>101</b>	General Fund	\$679,357
<b>105</b>	Tennis Fund	-
<b>201</b>	Special Parcel Tax	13,751
<b>202</b>	Transportation	-
<b>203</b>	Gas Tax Fund	-
<b>210</b>	Road Construction Impact Fees	13
<b>211</b>	Park Grants Fund	-
<b>213</b>	Library Special Revenue Fund	10,829
<b>401</b>	General Capital Projects	152
<b>402</b>	Storm Drainage	-
<b>403</b>	Atherton Channel District	7,963
<b>404</b>	Park Playground Improvement	446
<b>406</b>	Facilities Construction	-
<b>610</b>	Vehicle Replacement	23,214
<b>611</b>	Computer Maint. & Replacement	298
<b>612</b>	Administrative Services	5,247
<b>614</b>	Workers Compensation Insurance	-
<b>715</b>	Evans Estate	2,569



## Town of Atherton

### CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: JOHN P. JOHNS, FINANCE DIRECTOR**

**DATE: FOR THE MEETING OF WEDNESDAY, OCTOBER 15, 2003**

**SUBJECT: MONTHLY FINANCIAL REPORT, SEPTEMBER, 2003**

### RECOMMENDATION:

Receive and file Monthly Financial Report for September, 2003.

### INTRODUCTION:

The attached schedules show revenues and expenditures and fund balance for all funds as of September 30, 2003.

### HIGHLIGHTS

For the three months ended September 30, 2003, General Fund revenues have amounted to \$667,026 or 11% of the \$6,665,202 in revenue estimated for FY 2003-04. By comparison, the Town had realized 11 percent of budgeted General Fund revenues for Fiscal Year 2002-03 at the end of the first quarter.

General Fund expenditures amounted to \$548,747 or 21 percent of the \$7,519,490 in appropriations for FY 2003-04. By comparison General Fund expenditures in FY 2002-03 as of the quarter ended September 30, amounted to 20 percent of total appropriations.

Business License revenue amounted to \$85,560 for the first quarter or 28 percent of the total \$310,000 estimated for the year. Accordingly, it appears as though the change in business licensing procedures implemented at the beginning of the fiscal year are having the intended effect of enhancing revenues and attaining greater compliance with the Town's business license ordinance. In September, the Town received \$55,000 from the Sequoia Union High School District as reimbursement for the cost of a school resource officer.

**FISCAL IMPACT:**

Informational only.

Prepared by:

Approved by:

*John P. Johns*

\_\_\_\_\_  
John P. Johns  
Finance Director

\_\_\_\_\_  
James H. Robinson  
City Manager

**TOWN OF ATHERTON**  
**Revenue Summary**  
**For the Month ended September 30th, 2003**

<b>Fund</b>	<b>Revenue Source</b>	<b>2003-04 Estimate</b>	<b>Current Period Revenues</b>	<b>Year to Date Revenues</b>	<b>% Received</b>
	Property Tax	\$ 3,035,934	(2,166)	\$ 5,623	0%
	Sales and Use Tax	200,640	10,064	31,535	16%
	Other Taxes	882,115	32,904	44,589	5%
	Licenses & Permits	1,541,673	159,403	377,842	25%
	Fines & Forfeitures	70,000	7,059	15,844	23%
	Revenue from Other Agencies	139,000	71,070	75,761	55%
	Charges for Services	445,900	33,649	98,446	22%
	Investment & Rental Income	347,300	5,158	13,157	4%
	Other Revenues	3,000	3,443	4,229	141%
	<b>Total General Fund Revenues</b>	<b>6,665,562</b>	<b>320,584</b>	<b>667,026</b>	<b>10%</b>
	Interfund (Operating) Transfers In	1,009,871	-	-	0%
<b>101</b>	<b>General Fund Total</b>	<b>7,675,433</b>	<b>320,584</b>	<b>667,026</b>	<b>9%</b>
	<b>Special Revenue Funds:</b>				
105	Tennis	9,000	300	300	3%
201	Special Parcel Tax	1,770,000	-	-	0%
202	Transportation	177,740	-	-	0%
203	Street Improvement (Gas Tax)	149,309	12,263	12,263	8%
209	Law Enforcement	100,000	-	-	0%
210	Road Construction Impact Fees	340,000	30,361	30,361	9%
211	State Park Grants Fund	93,040	-	-	0%
213	Library	200,000	27,281	27,281	14%
	<b>Total</b>	<b>2,839,089</b>	<b>70,205</b>	<b>70,205</b>	<b>2%</b>
	<b>Capital Project Funds:</b>				
401	Capital Improvement	-	-	-	
402	Storm Drainage	-	-	-	
403	Channel Drainage District	46,000	48	249	1%
404	Park Playground Improvement	-	-	-	0%
405	Middlefield Road Grants	-	-	1,514	
406	Facilities Construction	-	-	-	
	<b>Total</b>	<b>46,000</b>	<b>48</b>	<b>1,763</b>	<b>4%</b>
	<b>Internal Service Funds:</b>				
610	Vehicle Replacement	-	-	-	
611	Information Technology	96,043	-	-	0%
612	Administrative Services	283,128	-	-	0%
614	Workers Compensation Insurance	-	-	-	
	<b>Total</b>	<b>379,171</b>	<b>-</b>	<b>-</b>	<b>0%</b>
	<b>Trust and Agency Funds:</b>				
715	Evans Creative Design	74,000	200	9,474	13%
	<b>Total</b>	<b>74,000</b>	<b>200</b>	<b>9,474</b>	<b>13%</b>
	<b>Total Revenues</b>	<b>11,013,693</b>	<b>391,037</b>	<b>748,468</b>	<b>7%</b>

**TOWN OF ATHERTON**  
**Expenditure Summary**  
**For the Month Ended September 30th, 2003**

<b>Fund</b>	<b>Description</b>	<b>2003-04</b>	<b>Current Period</b>	<b>Year to Date</b>	<b>%</b>
	<b>Department</b>	<b>Budget</b>	<b>Expenditures</b>	<b>Expenditures</b>	<b>Spent</b>
101	General Fund				
	11 City Council	\$ 20,174	\$ 312	3,645	18%
	12 City Manager	497,895	39,417	120,685	24%
	16 City Attorney	175,551	8,872	24,223	14%
	18 Finance	434,137	22,361	84,034	19%
	25 Building	902,873	59,466	168,275	19%
	40 Police	3,629,233	284,091	819,878	23%
	50 Public Works	1,759,627	134,228	361,144	21%
	Contingency	100,000	-	-	0%
	Total General Fund Expenditures	<u>7,519,490</u>	<u>548,747</u>	<u>1,581,884</u>	<u>21%</u>
	Interfund (Operating) Transfers Out	-	-	-	0%
101	<b>General Fund Total</b>	<b><u>\$ 7,519,490</u></b>	<b><u>\$ 548,747</u></b>	<b><u>\$ 1,581,884</u></b>	<b><u>21%</u></b>
<b>Special Revenue Funds:</b>					
105	Tennis	22,936	580	580	3%
201	Special Parcel Tax	1,986,917	13,751	13,751	1%
202	Transportation	177,740	-	-	0%
203	Street Improvement (Gas Tax)	180,080	-	-	0%
209	Law Enforcement	100,000	9,151	9,151	9%
210	Road Impact Fees	588,682	-	-	0%
211	State Park Grants	81,660	-	-	0%
213	Library Fund	<u>15,720</u>	<u>10,826</u>	<u>10,826</u>	<u>69%</u>
	Total	<u>3,153,735</u>	<u>34,308</u>	<u>34,308</u>	<u>1%</u>
<b>Capital Project Funds:</b>					
401	Capital Improvement	284,451	152	26,081	0%
402	Storm Drainage	25,713	2,309	2,309	0%
403	Channel Drainage District	411,554	7,963	7,963	0%
404	Park Playground Fund	-	446	446	-
405	Middlefield Road Grants	-	-	-	-
406	Facilities Construction	<u>287,267</u>	<u>6,970</u>	<u>9,811</u>	<u>0%</u>
	Total	<u>1,008,985</u>	<u>17,840</u>	<u>46,610</u>	<u>5%</u>
<b>Internal Service Funds:</b>					
610	Vehicle Replacement	10,000	23,214	23,214	232%
611	Information Technology	107,500	298	298	0%
612	Administrative Services	328,151	12,533	126,276	38%
614	Workers Compensation Insurance	-	-	-	-
	Total	<u>445,651</u>	<u>36,045</u>	<u>149,788</u>	<u>34%</u>
<b>Trust and Agency Funds:</b>					
715	Evans Creative Design	<u>62,100</u>	<u>2,569</u>	<u>12,195</u>	<u>20%</u>
	Total	<u>62,100</u>	<u>2,569</u>	<u>12,195</u>	<u>20%</u>
	<b>Total Expenditures</b>	<b><u>12,189,961</u></b>	<b><u>639,509</u></b>	<b><u>1,824,785</u></b>	<b><u>15%</u></b>

**TOWN OF ATHERTON**  
**Budget Summary**  
**Fiscal Year 2003-04**  
**September 30th, 2003**

<b>Fund</b>	<b>Description</b>	<b>Beginning Fund Balance July 1, 2003</b>	<b>Revenues to Date</b>	<b>Transfers to Date</b>	<b>Expenditures To Date</b>	<b>Ending Fund Balance to Date</b>
101	<b>General Fund</b>	5,284,633	667,026	-	1,581,884	4,369,775
	<b>Special Revenue Funds:</b>					
105	Tennis	10,543	300		580	10,263
201	Special Municipal Tax	895,443	-		13,751	881,692
202	Transportation	14,728	-		-	14,728
203	Street Improvement (Gas Tax)	126,605	12,263		-	138,868
209	Law Enforcement	22,911	-		9,151	13,760
210	Road Construction Impact Fees	650,346	30,361		-	680,707
213	Library Special Revenue Fund	723,832	-		10,826	713,006
	Sub Total	<u>2,444,408</u>	<u>42,924</u>	-	<u>34,308</u>	<u>2,453,024</u>
	<b>Capital Projects Funds:</b>					
401	Capital Improvement	358,152	-		26,081	332,071
402	Storm Drainage	48,225	-		2,309	45,916
403	Channel Drainage District	405,865	249		7,963	398,151
404	Park Playground Improvement	28,958	-		446	28,512
405	Middlefield Road Grants	-	1,514		-	1,514
406	Facilities Construction	274,654	-		-	274,654
	Sub Total	<u>1,115,854</u>	<u>1,763</u>	-	<u>36,799</u>	<u>1,080,818</u>
	<b>Internal Service Fund</b>					
610	Vehicle Replacement	402,633	-		23,214	379,419
611	Information Technology	78,723	-		298	78,425
612	Administrative Services	134,052	-		126,276	7,776
614	Workers Compensation Insurance	-	-		-	-
	Sub Total	<u>615,408</u>	<u>-</u>	-	<u>149,788</u>	<u>465,620</u>
	<b>Trust and Agency Funds</b>					
715	Evans Creative Design	<u>116,028</u>	<u>9,474</u>		<u>12,195</u>	<u>113,307</u>
	Sub Total	<u>116,028</u>	<u>9,474</u>	-	<u>12,195</u>	<u>113,307</u>
	<b>Grand Total</b>	<u>\$ 9,576,331</u>	<u>\$ 721,187</u>	<u>\$ -</u>	<u>\$ 1,814,974</u>	<u>\$ 8,482,544</u>



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: MARC G. HYNES, CITY ATTORNEY**

**DATE: CITY COUNCIL MEETING OF OCTOBER 15, 2003**

**SUBJECT: SECOND AMENDMENT TO EMPLOYMENT AGREEMENT BETWEEN  
THE TOWN OF ATHERTON AND JAMES H. ROBINSON**

**Recommendation:** Authorize Mayor to execute a second amendment to the employment agreement between the Town and James H. Robinson, City Manager.

**Background:** Attached is the second amendment to the employment agreement between the City manager and the Town. The amendment revises the agreement by increasing the City Manager's salary from the present \$149,000.00 per year to \$156,301.00 per year.

**Fiscal Impact:** The increase envisioned by the amendment is within the Town's adopted budget.

Respectfully,

---

Marc G. Hynes, City Attorney

Attachment

SECOND AMENDMENT TO  
EMPLOYMENT AGREEMENT

BETWEEN

THE TOWN OF ATHERTON AND JAMES H. ROBINSON

This Second Amendment to the Agreement dated May 25, 2001, between the TOWN OF ATHERTON, a municipal corporation of the State of California, ("Town") and JAMES H. ROBINSON ("City manager") is hereby amended by revising paragraph 4.A. to read as follows:

4. Compensation and Benefits.

A. Base Salary: During the term of this Agreement City Manager shall be paid a salary at the rate of \$156,301.00 per year, effective July 23, 2003, or at such salary as may be approved by the City Council of the Town by resolution from time to time.

All other provisions of the agreement between the Town of Atherton and James H. Robinson dated May 25, 2001, except as amended above, shall continue to remain in effect.

TOWN OF ATHERTON

Dated: October \_\_\_\_\_, 2003.

By \_\_\_\_\_  
James R. Janz, Mayor

Dated: October \_\_\_\_\_, 2003.

\_\_\_\_\_  
James H. Robinson, City Manager

ATTEST:

\_\_\_\_\_  
Sharon Barker, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Marc G. Hynes, City Attorney





## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

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

**FROM: LINDA KELLY, ASSISTANT TO THE CITY MANAGER**

**DATE: FOR THE CITY COUNCIL MEETING OF OCTOBER 15, 2003**

**SUBJECT: APPROVAL OF REVISED JOINT POWERS AGREEMENT WITH BAY  
AREA EMPLOYEE RELATIONS SERVICE**

### **RECOMMENDATION:**

That the City Council approve the revised Joint Powers Agreement with Bay Area Employee Relations Service.

### **BACKGROUND:**

Since 1997, the Town has been a full member of the Bay Area Employee Relations Services (BAERS). The services provided by the BAERS have been critical to labor relations issues, negotiations, compensation surveys and benefit comparisons. The BAERS provides an updated and detailed database of information regarding public employee compensation, and saves staff many hours of research through use of these services, which are available on-line. Atherton is one of 42 member agencies of the BAERS. The County of Santa Clara serves as the host agency and functions as the employer for BAERS staff.

No changes in membership fees are proposed with the revised agreement. The Town's membership fee is \$6,180 for the current fiscal year, which is unchanged from the last fiscal year.

The Joint Powers Agreement is being updated to adapt to changes in services and delivery methods that have occurred since it was last modified in 1987. At that time, the principal service was an annual compensation survey available to members in hard copy format. Since then, the services have moved to the website and are updated daily as changes are made in the member agencies' compensation data and memoranda of understanding.

Attached is a letter from the Director of the Bay Area Employee Relations Service, which specifies in more detail the changes that are proposed in the revised agreement.

It is recommended that the Town, as a member of the BAERS, ratify the revised Joint Powers Agreement through Council adoption of the attached Agreement.

Prepared by:

Approved by:

---

Linda Kelly  
Assistant to the City Manager

---

James H. Robinson  
City Manager

Attachments: Letter and Joint Powers Agreement



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

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

**FROM: LINDA KELLY, ASSISTANT TO THE CITY MANAGER**

**DATE: FOR THE MEETING OF OCTOBER 15, 2003**

**SUBJECT: ADOPTION OF RESOLUTION AUTHORIZING HOURLY SALARY RANGES  
FOR PART-TIME AND TEMPORARY EMPLOYEES FOR FISCAL YEAR  
2003-04**

### **RECOMMENDATION**

It is recommended that the City Council adopt the proposed resolution authorizing hourly salary ranges for part-time and temporary employees for Fiscal Year 2003-04, effective July 1, 2003.

### **BACKGROUND**

The Town utilizes part-time employees in a number of capacities throughout the organization to fill temporary, seasonal or permanent positions that require less than a full-time employee. Proposed is a resolution which would set part-time employee hourly salary ranges for Fiscal Year 2003-04. It is recommended that these rates become effective retroactively as July 1, 2003. These hourly rates were set by either utilizing comparator positions in other agencies or setting salaries as a percentage of existing full-time positions, and are consistent with the methodology by which Part-Time and Temporary Employees salaries were set last year.

### **FISCAL IMPACT**

It has been determined that implementing the proposed increases would cost the Town approximately \$6,000 for FY 2003-04 for the part-time and temporary employees currently employed by the Town. The

potential increase was budgeted and sufficient funds exist in departmental budgets to cover the increased cost.

**CONCLUSION**

In order for the Council to take official action authorizing the new hourly salary ranges, it is recommended that the City Council adopt the attached Resolution.

Prepared by:

Approved by:

\_\_\_\_\_  
Linda Kelly  
Assistant to the City Manager

\_\_\_\_\_  
James H. Robinson  
City Manager

Attachment: Proposed Resolution

**RESOLUTION NO. 03-\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ADOPTING  
HOURLY SALARY RANGES FOR PART-TIME AND TEMPORARY EMPLOYEES FOR  
FISCAL YEAR 2003-04**

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

**WHEREAS**, the City Council has determined that it is in the best interests of the Town to bring uniformity to the salaries of Part-time and Temporary employees in the form of a resolution; and

**WHEREAS**, Attachment A to this Resolution specifies the hourly salary ranges for Part-time and Temporary employees for the Fiscal Year 2003-04.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the Town of Atherton that the hourly salary ranges for Part-time and Temporary employees of the Town of Atherton shall be as stated in Attachment A.

\* \* \* \* \*

*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 \_\_\_\_\_, 2003, by the following vote.*

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

\_\_\_\_\_  
James R. Janz, Mayor  
Town of Atherton

ATTEST:

\_\_\_\_\_  
Sharon Barker, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_

Marc Hynes, City Attorney

**TOWN OF ATHERTON  
PART-TIME AND TEMPORARY EMPLOYEES  
HOURLY SALARY RANGES  
FISCAL YEAR 2003-04**

<b>Position</b>	<b>Step A</b>	<b>Step B</b>	<b>Step C</b>	<b>Step D</b>
Per Diem Police Dispatcher	\$29.72	31.46	33.21	34.96
Reserve Police Officer – Level 1*	\$25.82	27.34	28.86	30.38
Administrative Assistant to the Police Chief	\$23.61	25.00	26.39	27.78
Part-Time Maintenance Worker	\$15.67	16.60	17.52	18.44
Part-Time Recreation Assistant	\$12.91	14.53	15.33	16.14
Part-Time Post Office Counter Assistant	\$17.36	18.38	19.40	20.42
Temporary Employee** (open range; no steps)	\$10.00			\$60.00

\*Note: Reserve Police Officer – Level 2 is an unpaid volunteer position.

\*Temporary Employee: No change in range from 2002-03; no positions filled with this title at this time.



## **Town of Atherton**

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: JOHN P JOHNS, FINANCE DIRECTOR**

**DATE: FOR THE MEETING OF OCTOBER 15, 2003**

**SUBJECT: FY 2002-2003 FINANCIAL STATEMENTS AND INDEPENDENT AUDITOR'S REPORT**

### **RECOMMENDATION:**

Accept the financial statements and independent auditor's report for the year ended June 30, 2003.

### **SUMMARY**

The auditing firm of Caporicci and Larson has completed its annual financial audit and has issued the financial statements for the year ended June 30, 2003.

Based upon interviews, analytic review, substantive testing and other procedures, the auditors deemed necessary, the auditors have concluded that the financial position of the Town as of June 30, 2003 and the revenues, expenditures and cash flows for the year ended June 30, 2003 are presented fairly and in accordance with generally accepted governmental accounting principals in all material respects.

The Audit Committee has reviewed the independent auditors' report and recommends that the Council accept the report. The Audit Committee has also prepared a report to their council on the committee's activities during the past Fiscal Year. This report is presented as Attachment A to this staff report.

### **DISCUSSION**

Atherton's general purpose financial statements for FY 2002-03 include the following elements:

- Statements of revenues, expenditures and changes in fund balance for all funds and account groups;
- Balance sheets for all major fund categories and account groups;
- Statements of income and cash flows for proprietary funds;
- A comparative analysis of budgeted versus actual revenues and expenditures as well as a comparative analysis of asset, liabilities and fund equity accounts as of June 30, 2002 and June 30, 2003; and,
- Notes to the financial statements that disclose significant accounting policies and other pertinent issues.

These financial statements, accompanying notes and auditor's opinion are intended to provide the City Council and other interested parties with an understanding of the Town's financial results and financial position as of June 30, 2003. The financial statements are the responsibility of the Town's management. It is the responsibility of the independent auditor to audit the financial statements and to express an opinion as to whether the financial statements present fairly the financial position of the Town as of the end of the fiscal year. It is also the responsibility of the auditor to identify opportunities to improve the town's system of financial controls.

The financial statement and independent auditor's report is presented as Attachment B to this report and is summarized as follows.

#### I. General, Special Revenue and Capital Projects Funds

At the mid-year budget review, the Finance Department identified a revenue shortfall of \$256,000. Accordingly, the Finance Department recommended reductions in appropriations of approximately \$300,000 to ensure that financial reserves remained at the levels appropriated by the Town Council and to provide a small margin of safety in the event the Town's revenue picture continued to deteriorate.

During the second half of the Fiscal Year, the Town implemented additional measures to limit expenditures, such as deferring the replacement of one public safety position that had been vacated. These additional measures were necessary in light of the possibility that local revenues would be diverted by the State of California pursuant to proposals put forth by the Governor.

As a result of the actions taken to reduce expenditures and improved revenues during the second half of the year, the General Fund had a balance of \$5,284,633 at year-end, an increase from the beginning of the year fund balance in the amount of \$90,446.

Property taxes represent the single largest source of revenue for the Town. In FY 2002-03 the Town received \$2,855,536 from this revenue source, a decline of \$221,213 from the \$3,076,749 that the Town realized in FY 2001-02. The reduction in property tax revenues between 2001-02 and 2002-03 was a largely due to reductions in assessments that the Assessor deemed necessary as a result of real estate market conditions.

In FY 2002-03 the Town collected \$1,576,256 in parcel tax revenues. These funds were deposited in the Parcel Tax Special Revenue Fund. Subsequently, \$602,141 was transferred to the General Fund to provide for public protection, capital improvement program support and administrative cost recovery. An additional, \$926,498 was expended for the maintenance, repair and reconstruction of roads and for improvements to various town facilities. The balance of \$47,623 in parcel tax remained within the Parcel Tax Special Revenue Fund for future capital improvements.

In FY 2002-03, the Town collected \$1,093,427 in building permit fees. FY 2002-03 Building Department direct operating costs amounted to \$891,603 and allocable indirect costs amounted to \$124,824. When taking into account these allocable indirect costs, the total cost of providing building and planning services amounted to \$1,016,427.

Due in large part to the availability of parcel tax revenues and federal funding, the Town was able to significantly increase its investment in infrastructure during the past year. In FY 2002-03 the Town expended a total of \$2,565,231 nearly two and one half times the \$1,097,145 expended in FY 2001-02.

Accumulated compensated absences increased to \$502,502 at FY 2002-03 year-end, an increase of \$63,570 over the previous year. This obligation is currently recorded in the general long-term account group. General fund equity of \$502,502 has been designated to pay off this obligation as it is incurred.

In June the Town received \$200,000 from the San Mateo County Library Joint Powers Agency (JPA) as additional donor city funds. As a result, the Library Special Revenue fund has an available balance of \$723,832, a small portion of which will be used to make minor improvements in the Library during FY 2003-04.

### Proprietary Funds

The Town maintains four internal service funds, workers compensation, administrative services, vehicle replacement and computer services. These funds represent separate self balancing sets of accounts that are used to record the results of services provided to the town of a whole, the costs of which are recovered through user charges to individual programs and activities.

Combined, these funds realized operating income of \$213,169 in FY 2002-03. Accordingly, retained earnings increased from \$367,584 to \$597,108. The following table provides an analysis of net income by fund.

<b>Fund</b>	<b>Income</b>	<b>Expense</b>	<b>Net Income</b>
Equipment Operations	39,403	40,496	(1,093)
Computer Services	91,372	63,568	27,804
Administrative Services	396,257	214,778	181,479
Workers Comp	81,564	76,585	4,979
<b>Total</b>	<b>608,596</b>	<b>395,427</b>	<b>213,169</b>

As indicated in the preceding table, the administrative services fund realized \$181,479 or about 85 percent of the total net income recorded in the proprietary fund group.

### Trust and Agency Funds

In FY 2001-02 the Atherton Arts Committee expended \$109,663 to host a variety of social and cultural events, most notably Big Daddy Jazz and the summer arts program. In total the Arts Committee received \$106,000 in the form of social fees, class fees and interest income and expended \$107,000. The ending fund balance in the Arts Committee fund was \$113,000.

### **Notes to the Financials and Required Supplementary Information**

As indicated in the required supplementary information portion of the financial statements, the funded ratio for the public safety and miscellaneous employee retirement plans amounted to 104% and 122.7% respectively. The funded ratio provides an indication as to whether the Town's has contributed a sufficient amount of assets to offset the expected cost of paying retirement retirees of the Town in the future.

### **Management Letter**

Accompanying the annual audit report is Caporicci & Larson's management letter. This letter documents the status of recommendations made in the previous year and describes reportable conditions that Caporicci & Larson identified while conducting the audit.

The following table provides a summary of the status of implementation of the audit recommendations of FY 2001-02, along with an explanation for those recommendations that have not been fully implemented.

<b>Recommendation</b>	<b>Status</b>	<b>Management Comments</b>
Implement the purchase order module of the Town's integrated financial management system	Implemented	
Acquire and install a computerized fixed asset management system	In progress	The Finance Department has determined that its current spreadsheet-based method of accounting for fixed assets meets the current business and financial control requirements of the Town. However, since GASB 34 requires a more thorough tracking of fixed assets than is currently required, the Finance Department will revisit this recommendation during the current fiscal year as part of the Town's GASB 34 implementation.
Prepare for the Implementation of GASB 34	In progress	The deadline for GASB 34 implementation varies depending upon

		the size of the municipality. As a relatively small entity, the Town of Atherton has until June 30 <sup>th</sup> , 2004 to issue GASB 34 compliant financials. Accordingly, the Town will complete its implementation of this recommendation in the current fiscal year.
Document the Town's policies related to the capitalization of fixed assets.	Implemented	

Caporicci & Larson's FY 2002-03 management letter contains one new recommendation: that the Finance Department document its year-end closing procedures. The Auditors believe that by preparing a written description of the tasks and activities that must be accomplished at year-end the Finance Department will reduce the likelihood that the auditor will find it necessary to recommend adjusting entries to the Town's financial records during the course of their review. The Finance Department concurs with the auditor's recommendation and will provide the auditors documentation on the town's year-end closing procedures by no later than January of 2004.

**Conclusion**

During FY 2002-03, the Financial Condition of the Town improved slightly from the previous fiscal year. The improvement in the Town's financial position was due in large part to efforts taken by staff during the second half of the fiscal year to reduce expenditures. The auditors have concluded that the Town's financial statements are presented fairly and in accordance with generally accepted governmental accounting principles. Additionally, the auditors identified one opportunity for improving financial controls while indicating that all recommendations of the previous fiscal year had been either fully or partially implemented.

Prepared by:

Approved by:

s/John P. Johns  
 John P. Johns, CPA  
 Finance Director

\_\_\_\_\_  
 Jim Robinson  
 City Manager

- Attachment A: Annual Report of the Audit Committee
- Attachment B: General Purpose Financial Statements and Independent Auditor's Report  
 (AVAILABLE FOR PUBLIC VIEW AT THE TOWN ADMINISTRATIVE OFFICES)

## **Dear Mayor and Members of the City Council**

Transmitted herein is annual report of the Audit Committee for Fiscal Year 2002-03. This report is the third since the formation of the Audit Committee in May of 2000.

During the past year, the Audit Committee held four meetings. As is consistent with the Audit Committee's charter, the purpose of these meetings was to provide oversight over the annual financial audit, to review the status of implementation of the auditor recommendations to management, and to provide direction as necessary to management related to the Town's internal controls.

During FY 2002-03 the Audit Committee also monitored discussions between the County Assessor and the Town of Atherton related to real property assessed values. The status of such discussions was of interest to the Audit Committee in light of the financial impact of reductions in assessments that were initiated by the Assessor at the beginning of Fiscal Year 2002-03. Additionally, pursuant to the direction of the Finance Committee, the Audit Committee shared its perspectives with management as to the overall reasonableness of the Town's approach to investing funds that are currently held in reserve.

During FY 2002-03, the Audit Committee made the following observations:

Of the four recommendations contained within the independent auditor's management letter dated June 30<sup>th</sup>, 2002, two were fully implemented (those related to purchasing and procedures related to the capitalization of fixed assets) as of July, 2003 (the time of their review). Implementation of the auditors' remaining two recommendations, the implementation of GASB 34 and the acquisition of a computerized fixed asset accounting system were in progress as of June 30<sup>th</sup>, 2003.

With respect to the implementation of GASB 34, it should be noted that the Town is required to implement GASB 34-compliant financial statements for the Year ended June 30<sup>th</sup>, 2004. Accordingly, the Audit Committee will be working with the Finance Department in FY 2003-04 to ensure that this requirement is met.

With respect to the acquisition of a fixed asset accounting system, the Finance Director has decided to defer implementation of this recommendation due to the fact that:

- Acquiring and installing a computerized fixed asset accounting system would cost between \$8,000 and \$12,000. In the judgment of the Finance Director such a cost is unreasonably high, given the limited benefits to be derived from acquiring and implementing a computerized fixed asset accounting system for a relatively small number of Town assets.
- The Town's spreadsheet-based fixed asset accounting software has been effective in meeting the Finance Department's business and internal control requirements.

We concur with the Finance Director's approach and recommend that this issue be revisited in the current fiscal year.

The Audit Committee wishes to make the following additional observations within its overall scope:

- The Town's ability to project its financial position at year-end has improved over previous years. For example, Page 8 of the audited financial statements indicates that the difference between the year-ending General Fund balance as appropriated by Council for FY 2002-03 and the actual fund balance was \$170,968 (or 3.2 percent of the \$5.1 million appropriated). In comparison, the difference between budgeted and actual fund balance for Fiscal Years 2000-01 and 2001-02 were \$1.1 million and \$549,000 respectively.
- Despite significant declines in certain discretionary revenue accounts, the Town's financial position has improved slightly. This has been accomplished through expenditure controls that were implemented at mid-year, as well as a careful tracking of revenues throughout the year, as described to us by the Finance Director.
- Both the number and significance of the auditor's management letter recommendations have declined significantly in Fiscal Year 2002-03. For example, in the current fiscal year, the Auditor's only management letter recommendation pertains to improving a few year-end closing procedures so as to minimize the likelihood that adjusting entries will be required during the annual audit.
- The Audit Committee urged the Finance Department to examine alternatives to the State of California Local Agency Investment Fund and the County Treasurer's commingled pool to determine whether a diversification beyond these two investment pools might provide for reduced levels of risk or improved yields. Although no changes in the composition of the Town's investments appear warranted at this time, the Audit Committee will continue to work with the Finance Department to evaluate investment options in FY 2003-04.
- Pursuant to discussions amongst the Audit Committee, the Town administration and staff from the Assessor's office, the Assessor made a commitment to keep the Town better informed about changes in the tax roll resulting from assessment reductions.

Given the steady improvement in the Town's financial control structure and controls environment, the Audit Committee believes that it has been largely successful in achieving its objectives for the year. In fact, as a Committee we feel that our job has grown considerably easier, and the issues we are tackling are generally less serious and momentous than in the first few years of our existence. As a result, we would like the Council to know the Committee has some capacity to take on other projects at the Council's discretion.

We look forward to continuing to work with Management in FY 2003-04.

Respectfully Submitted,

Marc Hebert, Chair





## 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 OCTOBER 15, 2003**

**SUBJECT: ADOPT AN ORDINANCE RATIFYING ORDINANCE NO. 28 OF THE  
MENLO PARK FIRE PROTECTION DISTRICT AMENDING DISTRICT  
FIRE PREVENTION CODE PERTAINING TO AUTOMATIC FIRE  
SPRINKLER SYSTEM REQUIREMENTS.**

#### **RECOMMENDATION:**

Open and close a public hearing and approve first reading of an ordinance ratifying Ordinance No. 28 of the Menlo Park Fire Protection District.

#### **ANALYSIS:**

On January 15, 2003 the City Council heard presentations from the Menlo Park Fire Protection District regarding the adoption of a residential automatic fire sprinkler ordinance. The City Council gave comments to the Fire Chief and representatives of the Menlo Park Fire Protection District at the January 15, 2003 meeting and those comments were incorporated into an ordinance that the Fire District Board of Directors adopted on June 17, 2003.

For the sprinkler ordinance to be effective in the Town of Atherton, the City Council should adopt an ordinance that ratifies Menlo Park's Fire Protection District Ordinance No. 28. A staff report from the Fire District is attached along with the staff report from the January 15, 2003 City Council meeting.

Respectfully submitted:

Reviewed/Approved:

Michael A. Hood

James H. Robinson

Building Official

City Manager

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
RATIFYING ORDINANCE NO. 28 OF THE MENLO PARK FIRE PROTECTION  
DISTRICT AMENDING DISTRICT FIRE PREVENTION CODE PERTAINING TO  
AUTOMATIC FIRE SPRINKLER SYSTEM REQUIREMENTS**

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The City Council of the Town of Atherton does ordain as follows:

**SECTION 1:** Ordinance No. 28 of the Menlo Park Fire Protection District entitled "An Ordinance Amending District Fire Prevention Code" passed and enacted by the District Board of the Menlo Park Fire Protection District on June 17, 2003, and incorporated by this reference is ratified. Pursuant to the provisions of Section 13869.7 of the California Health & Safety Code, the City Manager or designee is directed to file copies of all applicable findings and amendments to the Menlo Park Fire Protection District Fire Prevention Code with the appropriate Stat agency.

**SECTION 2:** That the City Council hereby declares that it would have passed this Ordinance word by word, sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that if any provisions of this Ordinance are severable and, if for any reason any sentence, paragraph or section of this Ordinance shall be held invalid, such decision shall not affect the validity of the remaining parts of this Ordinance.

**SECTION 3:** CEQA Exemption. This ordinance is exempt from the provisions of Chapter 3 (commencing with Section 21100) of Division 13 of the public Resources Code (California Environmental Quality Act (CEQA)) pursuant to the State CEQA Guidelines Section 15308 as an action that assures the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

**SECTION 4:** This Ordinance shall be posted in at least three public places according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

\* \* \* \* \*

Introduced this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 2003, by the following vote:

AYES:	COUNCILMEMBERS _____
NOES:	COUNCILMEMBERS _____
ABSTAIN:	COUNCILMEMBERS _____
ABSENT:	COUNCILMEMBERS _____

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James R. Janz, Mayor  
Town of Atherton

ATTEST:

---

Sharon Barker, 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: JOHN P JOHNS, FINANCE DIRECTOR**

**DATE: FOR THE MEETING OF OCTOBER 15, 2003**

**SUBJECT: REAL PROPERTY TRANSFER TAX**

### **RECOMMENDATION:**

Receive the following report on the revenue potential of a real property transfer tax

### **DISCUSSION:**

At the September Council meeting, the City Council directed staff to report on the revenue potential of increasing the taxes levied on the sale of residential real property within the town. The Council requested this analysis after hearing testimony from the City Attorney as to the legal feasibility of increasing the real property transfer tax above the current rate of 55 cents per \$1,000 of real property sales. According to the City Attorney, increasing the real property transfer tax above the amount currently codified in statute would require a majority approval of the voters. Additionally the ballot measure would have to be held concurrently with a general election. The City Attorney's analysis is presented as Attachment A to this report.

To estimate the revenue potential from an increase in the real property transfer tax, Finance Department staff analyzed real property transfer tax revenue from FY 1996-97 through 2002-03. This analysis is presented in the following table:

<b>Year</b>	<b>Taxable Sales</b>	<b>Real Property Transfer Tax Receipts</b>
1996-97	\$ 201,950,909	\$ 111,073
1997-98	289,018,182	158,960
1998-99	336,485,455	185,067
1999-00	726,958,182	399,827
2000-01	396,132,727	217,873
2001-02	413,220,000	227,271
2002-03	272,083,636	149,646
<b>Average</b>	\$ 376,549,870	\$ 207,102
<b>Median</b>	\$ 336,485,455	\$ 185,067

As indicated in the preceding table, real property transfer tax revenue has ranged from a high of \$399,827 in FY 2000-01 to a low of \$111,073 in FY 1996-97. Additionally, based upon the fact that the Town Atherton currently receives 55 cents per \$1,000 of real estate sales we have determined that residential sales have ranged from a high of \$796 million in FY 2000-01 to low of \$201 million in FY 1996-97.

We have also obtained information from the League of California Cities of Cities that some cities have imposed a property transfer tax that exceeds the 55 cents per \$1,000 codified in Statute. It should be noted that these property transfer taxes were implemented prior to the passage of proposition 218 and were therefore not subject to the need for voter approval. This information is presented in the following table.

**Selected Municipalities with Real Property Transfer Tax  
Rates in Excess of \$.55 per \$1,000**

<b>Municipality</b>	<b>Rate Per \$1,000</b>
Alamdea	\$4.40
Albany	4.40
Berkeley	1.50
Oakland	9.50
San Leandro	2.00
Los Angeles	4.50
Sacramento	2.50
<b>Median</b>	<b>\$4.40</b>
<b>Average</b>	<b>\$4.11</b>

We have also reviewed residential sales data from the San Mateo County Association of Realtors for calendar years 2001 and 2002. This data indicates that during the past three years, between 100 and 120 residences change hands each year.

Given these parameters, we have prepared the following table which illustrates the revenues that would be realized in total and on a per transaction basis from various levels at which a real property transfer tax might be imposed, based upon an assumed 120 transactions occurring annually resulting in \$300 million in sales volume

<b>Rate Per \$1,000</b>	<b>Assumed Taxable Sales</b>	<b>Tax Receipts</b>	<b>Tax Receipts per Transaction</b>
\$ 2.80	\$ 300,000,000	\$ 840,000	\$ 7,000
3.20	300,000,000	960,000	6,857
3.60	300,000,000	1,080,000	7,714
4.00	300,000,000	1,200,000	8,571
4.40	300,000,000	1,320,000	9,429

**CONCLUSION**

The revenues that could be derived from an increase in real property transfer taxes is a function of the real estate sales volume within Atherton and the amount of the tax levy itself. Real estate sales have ranged from a high of \$726 million to a low of \$201 million during the past seven years. The amount of revenue currently collected by the Town is 55 cents per \$1,000 of real estate sold.

Assuming an average sales volume of \$300 million and further assuming a real property transfer tax levy of between \$2.80 and \$4.40 per \$1,000 of property transferred, the amount of revenue that could be derived from a real property transfer tax could amount to between \$840,000 to \$1,320,000 million annually.

Prepared by:

Approved by:

s/John P. Johns  
\_\_\_\_\_  
John P. Johns, CPA  
Finance Director

\_\_\_\_\_  
Jim Robinson  
City Manager

Attachment A: City Attorney analysis of the legal feasibility of a real property transfer tax

**ATKINSON • FARASYN, LLP**

ATTORNEYS AT LAW

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

660 WEST DANA STREET  
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MOUNTAIN VIEW, CALIFORNIA 94042  
TELEPHONE (650) 967-6941  
FACSIMILE (650) 967-1395

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

**MEMORANDUM**

TO: Mayor and City Councilmembers, Town of Atherton  
FROM: Marc G. Hynes, City Attorney  
RE: Access Agreement Holbrook-Palmer Park  
Felton Gables Homeowners Association  
DATE: October 9, 2003

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I am attaching a draft agreement sent to Mr. Michael Mimeles regarding access by members of the Felton Gables Homeowners Association to the Town's Holbrook-Palmer Park through a locked gate. I also attach the cover letter which accompanied the draft agreement, and the document which I believe will appear as Exhibit A.

I have spoken with Mr. Mimeles about the agreement. Other than the possible costs of insurance which he is presently investigating, Mr. Mimeles' principal concern is the termination provisions set out in paragraph 6. Mr. Mimeles suggests a "notice and cure" procedure in advance of any termination. He also requests that continued existence of the agreement be the focus of the paragraph rather than termination. In other words, the agreement would continue from year to year unless notice of termination was given.

Language which should accommodate Mr. Mimeles' concerns reads as follows:

"6. This Agreement shall commence upon the date last set out below and shall continue for a period of one (1) year from that date. The Agreement shall automatically be renewed for a one (1) year term upon each anniversary of the commencement date unless notice of intent to terminate the Agreement is given in writing by either party at least ninety (90) days prior to said anniversary date. Provided, however, that in the event Town determines there is a breach of any term or provision of this Agreement, Town shall provide Association with written notice of that breach and shall provide Association a reasonable opportunity to cure said breach. In the event Association fails to take action to cure the breach as described in said notice and within the time set out for cure, Town, thereafter, may terminate this Agreement. Upon termination of this Agreement, Association shall pay for all

costs required to secure the gate and to make certain that said gate will not be used for access to and from Town's Holbrook-Palmer Park."

Honorable Mayor and City Councilmembers  
Access Agreement Holbrook-Palmer Park  
Felton Gables Homeowners Association  
October 9, 2003  
Page Two

As may be seen from my letter, I am anticipating that Exhibit B will be prepared by the Association. Mr. Mimeles said that the Association was preparing a document to be signed by Association members which has substantially the same release language I had proposed.

Respectfully,

MARC G. HYNES

MGH:cwb

Attachment

cc: City Manager

DRAFT 10/1/03  
AGREEMENT FOR ACCESS

This Agreement for Access is entered into between the Felton Gable Homeowners Association ("Association"), a California \_\_\_\_\_, and the Town of Atherton, a municipal corporation of the State of California ("Town"), as follows:

1. For consideration, receipt of which is hereby acknowledged, the Association and Town agree that Association shall have access to and from Town's Holbrook-Palmer Park at the location shown and described in Exhibit A attached and incorporated by this reference.

2. The parties further agree that access to and from Town's Holbrook-Palmer Park by members of Association shall be by means of a gate, the design and construction of which shall be approved in advance by Town.

3. The parties further agree that Association shall be responsible for all maintenance and repair of the gate and shall install and maintain a lock on the gate. The lock shall be maintained in good working order at all times. Association shall issue keys for said lock only to members of Association. Keys shall only be provided to persons who are members of Association. Prior to issuance of a key to any such person, Association shall obtain an executed release in the form of Exhibit B attached and incorporated by this reference. Association shall retain such release in its records and shall provide such records to Town upon request. At least annually, Association shall provide Town officials with a list of all Association members holding keys to the gate.

4. Association shall indemnify and hold harmless Town, its officers, officials, employees, agents, attorneys and volunteers from and against any and all claims, damages, losses and expenses, including attorneys fees arising out of the operation, maintenance and use of the access gate by Association caused in whole or in part by any negligent act or omission of Association and anyone of Association's members except where caused by the active negligence, sole negligence or willful misconduct of Town.

5. Association shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Association's operation and use of the ~~leased premises~~ gate. The cost of such insurance shall be borne by Association.

a.. ***Minimum Scope of Insurance***

Coverage shall be at least as broad as:

Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).

b. ***Minimum Limits of Insurance***

Association shall maintain limits no less than:

- i. General Liability: **\$1,000,000** per occurrence for bodily injury, personal injury and property damage. If Commercial General

Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

- ii. Property Insurance: Full replacement cost with no coinsurance penalty provision.

c. ***Deductibles and Self-Insured Retentions***

Any deductibles or self-insured retentions must be declared to and approved by the Town. At the option of the Town, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Town, its officers, officials, employees, agents, attorneys and volunteers; or the Association shall provide a financial guarantee satisfactory to the Town guaranteeing payment of losses and related investigations, claim administration and defense expenses.

d. ***Other Insurance Provisions***

The general liability policy is to contain, or be endorsed to contain, the following provisions:

- i. The Town, its officers, officials, employees, agents attorneys and volunteers are to be covered as insureds with respect to liability arising out of ownership, maintenance, repair and use of the gate as described in this Agreement.
- ii. The Association's insurance coverage shall be primary insurance as respects the Town, its officers, officials, employees, agents, attorneys and volunteers. Any insurance or self-insurance maintained by the Town, its officers, officials, employees, agents, attorneys or volunteers shall be excess of the Association's insurance and shall not contribute with it.
- iii. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Town.

e. ***Acceptability of Insurers***

Insurance is to be placed with insurers with a current A. M. Best's rating of no less than A:VII.

f. ***Verification of Coverage***

Association shall furnish the Town with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the Town or on other than the Town's forms, provided those endorsements or policies conform to the requirements. Endorsements shall be obtained by Association and provided to town which specifically cover and include Association's obligations under paragraph 4 of this Agreement. All certificates and endorsements are to be received and approved by the Town before work commences. The Town reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

6. This Agreement shall commence upon the date last set out below and shall, unless renewed by the parties, automatically terminate on the fifth anniversary of its commencement. Provided, however, that from and after ninety (90) days following commencement of this Agreement either party may terminate

the Agreement upon thirty (30) days written notice to the other. Upon termination of this Agreement, Association shall pay for all costs required to secure the gate and to make certain that said gate will not be used for access to and from Town's Holbrook-Palmer Park.

7. Except as required by paragraph 5 above, Any written notice required or made under this Agreement shall be deemed effective upon the date the same is deposited in the United States mail, first class postage prepaid, and sent to the parties at the following addresses:

Association:  
Felton Gabel Homeowners Assn.  
c/o \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Town  
c/o City Manager  
Town of Atherton  
84 Ashfield Road  
Atherton, CA 94027.

8. Association shall reimburse Town for all costs incurred in the preparation of this Agreement. Town shall submit an invoice to Association for all costs of preparation which shall be due and payable in full within thirty (30) days from the date said invoice is deposited in the regular United States mail in accordance with the provisions of paragraph 7 above.

9. Amendments to this Agreement must be in writing and approved by the City Council of Town. This is the entire agreement between the parties and supersedes any prior written or oral agreements between the parties relating to the subject of this agreement.

10. This agreement shall be governed by and construed in accordance with the laws of the State of California.

11. If a court of competent jurisdiction finds or rules that any provision of this agreement is void or unenforceable, the unaffected provisions of this agreement shall remain in effect.

12. The prevailing party in any action brought to enforce the terms of this agreement may recover from the other party its reasonable costs and attorneys fees expended in connection with such an action.

ASSOCIATION

TOWN

By \_\_\_\_\_

By \_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_

Mayor

Dated: \_\_\_\_\_, 2003.

Dated: \_\_\_\_\_, 2003.

Approved as to Form:

---

Marc G. Hynes, City Attorney

Attachments: Exhibit A  
Exhibit B



## Town of Atherton

### MEMORANDUM

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: JAMES H. ROBINSON, CITY MANAGER**

**DATE: FOR THE MEETING OF OCTOBER 15, 2003**

**SUBJECT: DISCUSSION AND POSSIBLE ACTION – CODE ENFORCEMENT OFFICER POSITION**

### RECOMMENDATION

Consider and provide direction to staff regarding the proposal for the creation of a Code Enforcement position.

### BACKGROUND

The General Plan Committee and Planning Commission have considered at their most recent meetings the creation of a Code Enforcement position within the Town of Atherton.

The General Plan Committee recommends the development, description and funding by the Town to provide for a Code Enforcement position. The Planning Commission considered the recommendation of the General Plan committee at its meeting of September 24, 2003. Attached is a report to the Council from Robert Andrews, Planning Commission Vice-Chair, which identifies the research by Vice Mayor McKeithen and comments from each of the Commissioners.

In more recent years, Code Enforcement issues have been handled by individual departments in responding to a variety of “code enforcement” related calls for service. These have included landscape sight distance complaints, parking violations, construction noise, inoperable street lights, right-of-way issues, tree hazards in the public right-of-way or on private property, operating businesses out of the home, chickens creating a

nuisance, recreational vehicles, dogs off leash, noise violations, and a variety of other complaints and code violations.

In early 1990 a code enforcement position existed within the Town of Atherton but the position also was responsible for building inspection.

### **CONCLUSION**

If the City Council is interested in the creation of a new position of Code Enforcement Officer or to incorporate these responsibilities within an existing position, staff should be directed to evaluate the alternatives available to the Town and the associated costs.

Attachments: Memo From Robert Andrews to Council  
Planning Commission Report dated September 24, 2003  
General Plan Committee Draft Minutes of September 10, 2003  
Letter from Robert E. Huber to Mayor  
Letter from Marion E. Oster to Mayor



## Town of Atherton

### MEMORANDUM

**TO: CITY COUNCIL  
JAMES H. ROBINSON, CITY MANAGER**

**FROM: MAYOR JAMES R. JANZ**

**DATE: FOR THE MEETING OF OCTOBER 15, 2003**

**SUBJECT: CONSIDER CREATION OF AD HOC COMMITTEE FOR CALTRAIN  
ISSUES**

### RECOMMENDATION

That the City Council consider the creation of a Caltrain Corridor Committee.

### BACKGROUND

The "Caltrain Corridor" is currently a transportation corridor that is subject of much study and evaluation by Samtrans, the San Mateo County Transportation Authority, C/CAG, and many cities along the corridor. This past year, the Town of Atherton and other cities along the corridor experienced the closure of weekend service to accommodate needed maintenance and retrofitting of the existing rail improvements. It is anticipated that the Baby Bullet service will be on line in the Spring of 2004 to provide express service between San Jose and San Francisco which will provide 8-10 trains in addition to the 76 trains that provide conventional service along the corridor. A statewide ballot measure is planned for November of 2004, and if successful, would also provide High Speed Rail along the corridor that will necessitate additional track and the construction of grade separations at all crossings to accommodate this new service.

If all of the planned improvements along the corridor are indeed constructed as currently envisioned, this will result in a dramatic change to the existing rail improvements and the residences within Atherton that adjoin the corridor. In response to these possible rail changes within the Corridor, I recommend the

creation of an ad hoc “Caltrain Corridor Committee” to research and address the specific impact that High Speed Rail and other rail improvements would have on the Town of Atherton.

The suggested composition for the Committee could include between 8 and 10 members and two City Council Members. The remaining members would be Atherton residents selected at large and serve at the pleasure of the City Council. The City Council may also wish to consider a time line for reports outlining committee recommendations. Specific tasks would include evaluation and advice on the following:

1. The Implications of Baby Bullet Service
2. The Implications of High Speed Rail
3. The November '04 Ballot Measure on High Speed Rail Service
4. Grade Separations at Fair Oaks and Watkins
5. Interfacing with Menlo Park and Redwood City as necessary with respect to High Speed Rail
6. Future of Atherton Train Station
7. Measure A Reauthorization relating to the foregoing.



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: JAMES H. ROBINSON, CITY MANAGER**

**DATE: FOR THE MEETING OF OCTOBER 15, 2003**

**SUBJECT: CONSIDERATION OF REQUEST FROM ASSOCIATION OF BAY AREA GOVERNMENTS (ABAG) TO ADOPT A RESOLUTION IN SUPPORT OF A STATEWIDE BALLOT INITIATIVE TO PROTECT LOCAL REVENUES**

### **RECOMMENDATION**

**It is recommended that the City Council consider the proposed League sponsored resolution supporting a statewide ballot initiative to require voter approval before the state government may take local tax funds.**

### **BACKGROUND**

On September 10, 2003, city delegates to the League of California Cities Annual Conference in Sacramento cast a unanimous vote in support of the League's sponsorship of a state initiative that would provide voters an opportunity to cast a vote before the state government can act to take local tax funds. The ballot measure is planned for the November 2004 ballot and would amend the California State Constitution to require voter approval before the state can divert, shift, or otherwise take away locally designated funds to finance state purposes. The League Board of Directors is asking all cities to support this effort.

The Town received a letter from the Association of Bay Area Governments (ABAG) requesting that ABAG member cities adopt a resolution in support of the ballot initiative (see attached letter).

The attached resolution is modeled after the League's sample city resolution in support of the ballot initiative.

It is recommended that the City Council consider adoption of the proposed resolution supporting a statewide ballot initiative to require voter approval before state government may take local tax funds.

Attachments: Proposed Resolution  
Letter from ABAG Requesting Support  
ABAG copy of Qualified Petition Resolution from League  
Local Government Ballot Initiative – An Overview

**RESOLUTION NO. 03-\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
SUPPORTING A STATEWIDE BALLOT INITIATIVE TO REQUIRE VOTER APPROVAL  
BEFORE STATE GOVERNMENT MAY TAKE LOCAL TAX FUNDS**

WHEREAS, state government annually seizes over \$800 million in city property tax funds (ERAF) statewide, costing cities over \$6.9 billion in lost revenues over the past 12 years and seriously reducing resources available for local public safety and other services; and

WHEREAS, in adopting the state budget this year the Legislature and Governor appropriated local vehicle license fee backfill and redevelopment property tax funds that are needed to finance critical city services such as public safety, parks, street maintenance, housing and economic development; and

WHEREAS, the deficit financing plan in the state budget depends on a local property and sales tax swap that leaves city services vulnerable if the state's economic condition fails to improve; and

WHEREAS, the adopted state budget assumes an ongoing structural budget deficit of at least \$8 billion, putting city resources and services at risk in future years to additional state revenue raids; and

WHEREAS, it is abundantly clear that state leaders will continue to use local tax funds to balance the state budget unless the voters limit the power of the Legislature and Governor to do so; and

WHEREAS, the voters of California are the best judges of whether local tax funds should be diverted, confiscated, shifted or otherwise taken to finance an ever-expanding state government; and

WHEREAS, the General Assembly of Voting Delegates of the League of California Cities at its September 10, 2003 meeting voted to sponsor a statewide ballot initiative to empower the voters to limit the ability of state government to confiscate local tax funds to fund state government; and

WHEREAS, the League has requested that cities offer support for a November 2004 ballot initiative that will allow voters to decide whether state government may appropriate local tax funds to fund state government operations and responsibilities.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the Town of Atherton that the Town hereby expresses its strong support for a statewide ballot initiative to allow voters to decide whether local tax funds may be taken, confiscated, shifted, diverted or otherwise used to fund state government operations and responsibilities; and

RESOLVED FURTHER, that the City Council and staff are authorized to provide impartial informational materials on the initiative as may be lawfully provided by the city's representatives. No public funds shall be used to campaign for or against the initiative; and

RESOLVED FURTHER, that the residents of the Town are encouraged to become well informed on the initiative and its possible impacts on the critical local services on which they rely; and

RESOLVED FURTHER, that the City Clerk is hereby directed to send a copy of this Resolution to the Executive Director of the League of California Cities.

\* \* \* \* \*

*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 \_\_\_\_\_, 2003, by the following vote.*

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

\_\_\_\_\_  
James R. Janz, Mayor  
Town of Atherton

ATTEST:

\_\_\_\_\_  
Sharon Barker, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Marc Hynes, City Attorney