



AGENDA
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT

October 20, 2004

7:00 p.m.

TOWN COUNCIL CHAMBERS

94 Ashfield Road
Atherton, California

REGULAR MEETING

- 7:00 P.M. 1. **PLEDGE OF ALLEGIANCE**
- 7:03 P.M. 2. **ROLL CALL** Janz, Marsala, Carlson, McKeithen, Conwell
- 7:05 P.M. 3. **PRESENTATIONS**
- A. Presentation of Annual Tree Awards – Atherton Tree Committee
- 7:15 P.M. 4. **COUNCIL REPORTS**
- 7:25 P.M. 5. **PUBLIC COMMENTS** (only for items which are not on the agenda –
limit of three minutes per person)
- 7:35 P.M. 6. **STAFF REPORTS**
- 7:45 P.M. 7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT** (Directed
by Resolution Nos. 99-6 and 02-31)
- No report scheduled.
- 7:45 P.M. **CONSENT CALENDAR** (Items 8 - 19)
8. **APPROVAL OF MINUTES OF SPECIAL MEETING OF
SEPTEMBER 9, 2004; SPECIAL CLOSED SESSION AND REGULAR
MEETINGS OF SEPTEMBER 15, 2004; SPECIAL MEETING OF
SEPTEMBER 27, 2004; AND SPECIAL JOINT MEETING WITH THE
PARK AND RECREATION COMMISSION OF OCTOBER 6, 2004**
9. **APPROVAL OF BILLS AND CLAIMS FOR SEPTEMBER 2004 IN
THE AMOUNT OF \$751,953**

10. ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR SEPTEMBER 2004

11. APPROVAL OF REVISED CORE NATURAL GAS SALES AND AGGREGATION AGREEMENT WITH ABAG POWER

Recommendation: Approve revised Core Natural Gas Sales and Aggregation Agreement with ABAG POWER.

12. APPOINTMENT TO ATHERTON ARTS COMMITTEE

Recommendation: Approve the recommendation of the Screening Committee to appoint a resident to the Arts Committee.

13. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$3,027.81 FOR THE HOLBROOK-PALMER PARK RESTROOM EXPANSION PROJECT NUMBER 03-008

Recommendation: Accept work, authorize recordation of a notice of completion and approve contract change orders in the amount of \$3,027.81 for the Holbrook-Palmer Park Restroom Expansion project Number 03-008 project.

14. AWARD OF CONTRACT FOR THE 2004 STREET CAPE SEAL PROJECT, PROJECT NUMBER 04-003 TO GRAHAM CONTRACTORS, INC. FOR \$69,678.50

Recommendation: Award the contract for 2004 Street Cape Seal Project, project number 04-003 to Graham Contractors, Inc., the low bidder of the October 14, 2004 bids, for \$69,678.50.

15. ADOPTION OF RESOLUTIONS AUTHORIZING APPLICATION FOR A YOUTH SOCCER AND RECREATION DEVELOPMENT PROGRAM GRANT TO REHABILITATE AND EXPAND THE HOLBROOK-PALMER PARK SOUTH MEADOW AND A STATE URBAN PARKS AND HEALTHY COMMUNITIES PROGRAM GRANT TO RECONSTRUCT THE HOLBROOK-PALMER PARK TENNIS COURTS AND COMMITTING THE REQUIRED TWENTY-FIVE PERCENT LOCAL MATCH

Recommendation: Adopt resolutions authorizing staff to submit applications for Youth Soccer and Recreation Development (YSRD) program grant to rehabilitate and expand the Holbrook-Palmer south meadow and a State Urban Parks and Healthy Communities (SUPHC)

program grant to reconstruct the Holbrook-Palmer park tennis courts and committing the required local match of 25%.

16. **ADOPTION OF A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR FEDERAL SURFACE TRANSPORTATION PROGRAM FUNDING FOR THE VALPARAISO AVENUE RECONSTRUCTION PROJECT AND COMMITTING THE NECESSARY NON-FEDERAL MATCH FOR THE PROJECT AND STATING THE ASSURANCE OF THE TOWN OF ATHERTON TO COMPLETE THE PROJECT**

Recommendation: Adopt a resolution authorizing staff to submit an application for Surface Transportation Program (STP) grant funds to reconstruct Valparaiso Avenue, committing the required local match and stating the assurance of the Town to complete the project.

17. **ACCEPT STATUS REPORT ON HETCH-HETCHY RIGHT-OF-WAY ISSUES – CONSIDERATION OF AN AMENDMENT TO THE ZONING ORDINANCE (FROM THE MEETING OF SEPTEMBER 15, 2004)**

Recommendation: Receive and file status report which is for information only.

18. **ACCEPTANCE OF FISCAL YEAR 2003-2004 AUDITED FINANCIAL STATEMENTS**

Recommendation: Accept the basic financial statements and independent auditor's report for year ending June 30, 2004.

19. **ACCEPT AUDIT COMMITTEE AND STAFF RECOMMENDATION TO AUTHORIZE CONTRACT EXTENSION WITH CAPORICCI & LARSON FOR INDEPENDENT AUDIT SERVICES FOR A THREE YEAR PERIOD**

Recommendation: Approve a three-year extension to the contract for Independent Audit Services with Caporicci & Larson, Certified Public Accountants.

7:50 P.M. **REGULAR AGENDA** (Items 20 - 23)

- 7:50 P.M. 20. **HOLD FIRST READING OF AN ORDINANCE RATIFYING, IN PART, THE MENLO PARK FIRE PROTECTION DISTRICT FIRE SPRINKLER SYSTEM REQUIREMENTS**

Recommendation: Hold first reading of Ordinance No. 04-__ ratifying Ordinance No. 29 of the Menlo Park Fire Protection District amending

District Fire Prevention Code pertaining to automatic fire sprinkler system requirements.

- 8:05 P.M. 21. CONSIDERATION AND POSSIBLE ACTION ON ALTERNATIVES RELATIVE TO SPECIAL MUNICIPAL TAX FOR SUPPORT OF OPERATING AND CAPITAL EXPENDITURES AND EVALUATION OF REVENUE ENHANCEMENTS AND COST-SAVING OPTIONS**

Recommendation: Consider alternatives and possible action, and provide direction to staff, if appropriate.

- 8:30 P.M. 22. DISCUSSION OF MUNICIPAL CODE SECTION 12.06.100 - STANDARDS FOR WORK IN THE PUBLIC RIGHT OF WAY**

Recommendation: Discuss the issue of landscaping and obstacles within the public right of way, and provide direction to staff, if appropriate.

- 9:00 P.M. 23. CONSIDERATION OF A RESOLUTION SUPPORTING PROPOSITION 1A, "PROTECTION OF LOCAL GOVERNMENT REVENUES," A BALLOT INITIATIVE ON THE NOVEMBER 2, 2004 STATEWIDE BALLOT TO RESTRICT THE STATE LEGISLATURE'S ABILITY TO TAKE LOCAL GOVERNMENT FUNDING**

Recommendation: Consider adoption of a Resolution supporting Proposition 1A on the November 2, 2004 Statewide ballot.

- 9:15 P.M. 24. PUBLIC COMMENTS**

- 9:30 P.M. 25. ADJOURNMENT**

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

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

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



DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
September 9, 2004
6:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

SPECIAL MEETING

Mayor McKeithen called the meeting to order at 6:05 p.m.

1. PLEDGE OF ALLEGIANCE
2. ROLL CALL

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

ABSENT: William R. Conwell (excused absence)

City Manager Jim Robinson, City Attorney Marc Hynes, Finance Director John Johns, Building Official Mike Hood, Public Works Director Duncan Jones, and Lieutenant Glen Nielsen were also present.

3. PUBLIC COMMENTS

The following Atherton residents spoke regarding a possible homeless encampment on El Camino Real:

Jan Simonds
John Rugeiro
John Sisson

Mayor McKeithen asked the City Attorney to review the Town's contract with CalTrans regarding maintenance of El Camino Real and to look into what rights existed for the Town to remediate the issue as it related to a public nuisance and a safety hazard.

City Manager Jim Robinson stated the Town would be able to clean up the area if it was in the public right-of-way and said staff would investigate the situation.

Council Member Janz reported that members of Atherton's Caltrain Corridor Subcommittee attended the City of Menlo Park Transportation Committee meeting the previous evening regarding grade separations in Menlo Park. A positive outcome was a recommendation to the Menlo Park City Council to form a subcommittee of the City Council, the Transportation Committee, and the Planning Commission to work with Palo Alto and Atherton on a unified approach for dealing with the grade separation issue.

Council Member Carlson noted he was invited to a meeting with the editorial staff of the *San Mateo County Times* on Monday, September 13, to determine whether the *Times* would endorse the parcel tax and invited his colleagues to attend.

City Manager Robinson noted members of the City Council would be invited to attend the October 19, 2004, Menlo Park City Council Meeting to participate in a discussion of grade separation/Caltrain issues.

REGULAR AGENDA

4. DISCUSSION OF ALTERNATIVES RELATIVE TO SPECIAL MUNICIPAL TAX FOR SUPPORT OF OPERATING AND CAPITAL EXPENDITURES AND EVALUATION OF REVENUE ENHANCEMENTS AND COST-SAVING OPTIONS

Mayor McKeithen noted there would be several meetings on the item and not all members of Council or staff were able to attend every meeting. However, when the time came for a final decision, the entire group would be present.

Finance Director John Johns stated the staff report was a response to questions proposed by Council to staff during the August 24, 2004 meeting. A discussion of each area ensued. A summary of accumulated compensated absences by affected bargaining unit indicated 11 of the Town's 53 employees would be affected by the proposed 320-hour cap which was subject to negotiation by bargaining units. Any impact from implementation of the recommendation was projected to be in fiscal year 2007 or after expiration of current agreements.

Discussion centered on the different bargaining units and when Memorandums of Understanding (MOUs) or contracts expired. Changes in accounting methods required charging accumulated compensated absences as a liability. Debate ensued on whether the Town would realize an increase in funds by limiting accrual and requiring employees to use their vacation. Management would need to oversee the process to reduce excess hours over time. A one-time savings of \$213,090 would result from instituting a 320-hour cap, and future savings would result from employees no longer accruing excess hours. Council Member Carlson suggested that once the cap was reached, an employee should not be allowed to accrue any more time off. Additionally,

a management function would be to ensure employees took the current year's vacation allotment.

Jim Dobbie, Atherton, queried whether time off in lieu should be addressed differently than vacation.

Mayor McKeithen requested the Management representative submit a proposal to the Council for reducing accumulated leave balances among management employees and to encourage those employees with excess leave to utilize leave within the next 12 to 24 months.

Jerry Carlson, Atherton, encouraged Council/Staff to look at other municipalities for policies on caps. He asked Council to take action on those recommendations that were viable in order to determine whether more extreme measures might be necessary to fund the gap.

Mayor McKeithen asked staff to survey other municipalities in San Mateo County and the private sector for information on caps. Council Member Carlson requested a plan for each bargaining unit to implement a cap and suggested the appropriate venue would be in a Closed Session. Staff was asked to prepare a brief memo regarding implementation of a cap for each of the three bargaining units containing: 1) what was proposed; 2) what it would do; 3) how to implement it, including a timetable; and 4) why to do it, including a comparison of other jurisdictions.

Finance Director Johns reported on the Road Impact Fee. The pavement option study indicated an investment of \$11.1 million would be required over the next 6 years to upgrade the pavement condition index (pci) of the roads to the mid 80s, which was a desired standard recommended by the Metropolitan Transportation Commission (MTC). Given the amount of road impact fees currently collected over the past 3 years, the Town was at 24% of the annual investment. The \$11.1 million figure did not include an allocation for capital project administration (\$300,000 per year) nor ongoing maintenance and repair of the roads. Finance Director Johns believed the road impact fee could be increased to cover 27% of the annual operating budget to repair the streets.

Mayor McKeithen said the study did not take into account that larger homes were being constructed that caused more impact on the roads, and no fee was assessed for major demolition and landscaping.

Council Member Carlson suggested conducting an updated road pavement analysis that incorporated administrative and maintenance costs and queried whether such an analysis would be cost effective. He believed the road impact fee should be analyzed on an annual, or less, basis to determine whether the fee should be adjusted upward or downward to achieve the 27% level.

City Manager Jim Robinson noted the report was dated December 2003 and asked if a new study were conducted, whether the result would vary significantly.

Public Works Director Duncan Jones said MTC paid to have studies done every two years; the next one was scheduled for summer of 2005. A needs analysis could be updated at that time.

Discussions centered on the validity of MTC studies since they were based on a visual analysis while the study performed by Nichols resulted in more reliable data. Mayor McKeithen asked whether the Town could challenge MTC findings by using the Nichols study and, therefore, result in higher road impact fees. Council Member Carlson asked whether what was being spent needed to be increased proportionately with the increased fees.

City Attorney Marc Hynes clarified fees were based upon the impact being received; however, there was some discretion on how and when to spend the funds.

Discussion continued regarding whether the studies were favorable to the Town. Public Works Director Jones said a study was underway by San Mateo County to determine consistency among cities. Everyone agreed the Town needed to conduct an annual, or less, analysis of the road impact fees to determine whether the 27% was reached and conduct a further review of whether the 27% should be raised.

Mayor McKeithen asked staff to research the inflation rate, to reassess the 27%, the possibility of recovering the 3% not collected in the past, and whether the administrative and maintenance costs could be included to increase the amount of fees and percentage. Further, staff was asked to review the Nichols study, compare the numbers to the MTC study, and return to Council with a recommendation as to how to proceed, i.e., challenge the MTC, retain another consultant, etc.

Jerry Carlson, Atherton, noted considerable deterioration on his cul-de-sac due to construction over the past three years and offered his thoughts on consultants.

Sam Goodman, Atherton, suggested rather than recalculating the inflation rate, an attempt to re-cost on a replacement basis might be better.

Mayor McKeithen asked staff to research if a different percentage was used, and/or if there were a different pci, what that would mean to the Town in dollars.

Finance Director Johns suggested the Building Official review permit activity over the past several years to determine whether the nature of activity had changed and whether that affected the roads.

City Manager Robinson noted Council adopted an aggressive 4-year Capital Improvement Program (CIP) 3 years ago, and some projects were completed with road impact fees and others with grant monies. One advantage of having an up-to-date program was to qualify for grants. Middlefield Road was reconstructed with grant funds. As long as there was construction in Atherton, the Town should continue to seek grant funds.

Finance Director Johns referred to the summary of revenues and expenses by revenue source and program area of 13 municipalities deemed to be comparable to Atherton in population, geographic size or location, and household income. Possible explanations for the variances in per capita expenditures identified in the survey included population density, population characteristics, and jurisdiction size and service delivery configuration.

Council discussion ensued regarding differences between jurisdictions regarding particular services such as maintenance of roads and police calls. Differences in sales and use taxes among communities such as Tiburon and Los Altos Hills were attributed to retail businesses and, in the case of Tiburon, transient occupancy taxes.

Mayor McKeithen requested that staff research Los Altos Hills and Tiburon to determine the breakdown for sales and use taxes and the Business License Tax. Additionally, she requested that staff research the City of Los Altos regarding the Utility User's Tax (UUT) to determine: 1) what utilities were taxed; 2) whether a parcel tax was ever enacted and if so, did the UUT replace the parcel tax; 3) what rate was used for each utility; 4) what percentage of vote was required to pass it and by what percentage did it pass; and 5) what type of promotion was done and how was it received. Additionally, staff was asked to research other revenue sources, Motor Vehicle License fees, and intergovernmental fees as compared to Los Altos.

Finance Director Johns noted Los Altos did not codify a particular percentage for its UUT. The Council established the tax rate at the beginning of each fiscal year.

Mayor McKeithen said perhaps Los Altos was making up a budget shortfall through the UUT and developed percentages on that basis. She asked staff to inquire on whether the percentages had changed much over time. Additionally, staff was asked to research the cities of Pacific Grove and San Marino regarding the UUT.

Discussion continued on the possible collection of Business License fees or sales taxes from one-day events with vendors.

Mayor McKeithen asked for a response regarding Saratoga and Los Altos Hills on why they contracted for certain services, with whom they contracted, and whether they ever had in-house police.

City Manager Robinson stated that Los Altos Hills, Saratoga, and Cupertino were three cities that contracted with the Santa Clara County Sheriff's Office for police services and had always done so.

Council Member Janz asked staff to research whether the City of Piedmont was a Charter city and whether that was an explanation for the high Real Property Transfer Tax revenues.

Mayor McKeithen called for a recess at 8:00 p.m. The meeting reconvened at 8:05 p.m.

Finance Director Johns reported the amount of revenue that could be collected from changing the current Business License Tax ordinance was a function of what policy was set for the tax, i.e., as a replacement for the parcel tax or as a supplement to the parcel tax by adjusting the tax to be consistent with other municipalities. If the tax were adjusted to other municipalities, an additional \$100,000 a year would be collected.

Mayor McKeithen suggested a third option would be a hybrid to replace the parcel tax, i.e. a combination of a UUT, road impact fee, etc. Discussion continued on comparisons and methods to collect a tax on real estate sales.

Finance Director Johns said a comparative analysis with four municipalities regarding revenues and expenses of assessment of building and planning fees indicated that the Town was the only municipality recovering its costs. During the annual budget process, staff looked at what charges could be levied against the Building Department and currently absorbed approximately \$320,000.

Mayor McKeithen questioned the accuracy of the numbers because they included road impact fees. Based on the building permit fee alone, Atherton was the lowest and she queried why.

City Manager Robinson noted in the case of Portola Valley and Woodside, staff compared the actual Building Department operating budget and actual building fees and determined that recovery was only 85% of expenses. Discussion continued on the methods used to arrive at the comparisons. The prudent way was to determine what the cost was to provide the service and whether there were other things to be charged in that area.

Finance Director Johns noted staff acquired a copy of the City of Millbrae's Special Benefit Assessment for Public Safety. There were two types of assessment, one for fire departments, and one for police departments. A particular Government Code section for fire departments called for a simple majority vote, provided the option for a mail-in ballot, and did not apply to police. The assessment districts passed in Hillsborough and San Marino were simply "re-branded" parcel taxes, i.e., parcel taxes in the name of public safety and subject to a 2/3 vote.

Jean Schaaf, Atherton, had questions on how Police Department personnel were charged to the Building Department.

Finance Director Johns reported staff made inquiries with three consulting firms and one advised a Police Department management study would cost \$25,000.

Council Member Carlson noted the Brown Taylor report was comprehensive and asked for an explanation of where current staffing was in relationship to the

recommendations in the Brown Taylor study. The report recommended a model that provided basic services or a model that provided essential services. Police Lieutenant Glen Nielsen said initially, staffing was reduced to the level of essential services then, over time, raised by three officers to provide basic services. Currently, through attrition and one officer relocated to the Narcotics Task Force, the department was again down to providing the “essential” level of services. Discussion continued on staffing levels and how that might affect the ability of the Police Department to provide other types of investigative services such as identity theft.

Jean Schaaf, Atherton, commented on the Brown Taylor report.

Mayor McKeithen wanted to review the Brown Taylor report and revisit it at the next meeting. Discussion ensued on possible dates for an additional Special Meeting to take place either September 27 or 30, 2004.

Mike Barsotti, Atherton, questioned whether the items under review were intended for the ballot in March.

Mayor McKeithen said initially, Council desired to have a proposal in place before November for possible inclusion on the March ballot.

Jerry Carlson, Atherton, provided three recommendations to Council: 1) focus on types of enhancements to be used in conjunction with the parcel tax to provide sufficient funding over the next five years; 2) charge the Finance Committee with the responsibility to establish a strategic funding plan to replace the parcel tax and to undertake a professional review of the Police Department; and 3) establish a process that used citizen advisors, community polling/sampling, and encouraged broad community involvement.

5. ADJOURNMENT

The meeting was adjourned at 8:53 p.m.

Respectfully submitted,

Linda Kelly, Acting City Clerk

Minutes Prepared By:
Kathi Hamilton



***DRAFT* MINUTES**
ATHERTON CITY COUNCIL
September 15, 2004
6:00 P.M.
Meeting Room
Town Administrative Offices
91 Ashfield Road
Atherton, California
Special Meeting

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

1. ROLL CALL

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

2. PUBLIC COMMENTS

There were no public comments.

3. CLOSED SESSION

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

- (1) **Town of Atherton v. Ranadive**
San Mateo County Superior Court, Case No. 440523
- (2) **Teamsters Local 856 v. City of Atherton**
San Mateo County Superior Court, Case No. 429950
- (3) **Reyes v. Snyder**
San Mateo County Superior Court, Case No. 429132
- (4) **People v. William Morris**
San Mateo County Superior Court, Case No. SM334835
- (5) **People v. Joan Morris**
San Mateo County Superior Court, Case No. SM334836

No reportable action was taken. Direction was given to the City Attorney.

B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION -- Initiation of litigation pursuant to subdivision (c) of Government Code Section 54956.9

Four (4) potential cases.

No reportable action taken.

C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION -- pursuant to Government Code Section 54957

Title: City Attorney

4. RECONVENE TO OPEN SESSION

Report of action taken.

ADJOURNMENT

The meeting adjourned at 6:45 p.m.

Respectfully submitted,

Kathy McKeithen, Mayor



DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
September 15, 2004

7:00 p.m.

TOWN COUNCIL CHAMBERS

94 Ashfield Road
Atherton, California

REGULAR MEETING

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

1. PLEDGE OF ALLEGIANCE

2. ROLL CALL

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

3. PRESENTATIONS

A. Proclamation for Fire Prevention Week October 3 - 9, 2004

Mayor McKeithen presented the Proclamation to Chief Paul Wilson, Menlo Park Fire Protection District, Declaring October 3 – 9, 2004, Fire Prevention Week.

4. COUNCIL REPORTS

- Council Member Janz reported the Caltrain Corridor Subcommittee met on September 7, 2004. Several members attended the City of Menlo Park Transportation Committee meeting on September 8, 2004, where a Caltrain presentation was given on grade separations in Menlo Park. An outcome of the meeting was a recommendation to form a subcommittee of the Menlo Park City Council, Transportation Committee, and the Planning Commission to work with Palo Alto and Atherton on a unified approach for dealing with the grade separation issues. The Housing Endowment and Regional Trust (HEART) was being supported by a Casino Night and Auction sponsored by the San Mateo County Association of Realtors on Thursday, Sept. 23, at the Green Hills Country Club in Millbrea.

- Council Member Marsala reported the Holbrook-Palmer Recreation Park Foundation and Atherton Dames held a retreat. With a change in officers, they reviewed the Mission Statement, how to work better together, and how to promote the Park. The County Library Joint Powers Authority (JPA) met. A new administrator was named, Victoria Johnson, Director of Libraries, from the City of Sunnyvale. He attended a meeting of a group called SV2 which funded a \$150,000 grant for Selby Lane School. A fundraiser would be held next month to raise additional funds for the school. Special thanks were given to the Atherton Civil Interest League (ACIL) for sending flowers to welcome “Yes Reading” to the school. Council Member Marsala attended a 3-day seminar in Monterey. The California League of Cities was supporting Proposition 1A, a replacement for Proposition 64, which would stop the State from taking funds from local agencies and was endorsed by the Governor. More information on endorsement for and passing Proposition 1A would be forthcoming.
- Council Member Carlson noted he also attended the Caltrain Corridor subcommittee meeting of September 7, 2004.
- Vice Mayor Conwell attended the City/County Association of Governments (C/CAG) Board meeting. The Board continued its work on legislative issues and the ongoing issue of aircraft noise influence areas, particularly San Carlos airport. The San Francisco Airport Roundtable met and addressed the issue of noise abatement related to new member, Café Pacific Airlines. At the Criminal Justice Board meeting, a presentation by the Service League of San Mateo County featured programs to help people coming out of jail, to provide clothes for court appearances, and to send greetings from inmates to their children. The Town’s own Police Chief Robert Brennan was a member of the Service League.
- Mayor McKeithen reported the General Plan Committee met on a quarterly basis and was analyzing special events within the Town such as nonpublic school events; public school events that were not school related, i.e., auctions, the Circus Club, Tally Ho; and large groups that might potentially require a permit. Members of the public who might be interested in these issues were invited to attend upcoming meetings. The City Council was holding meetings regarding cost savings and revenue enhancements as a potential alternative to the parcel tax. Members of the public were invited to attend to offer their suggestions, thoughts, etc. The next meeting was scheduled for either September 27 or 30, 2004. Meetings with residents, the former and current principals of Menlo/Atherton High School, and members of the Board of Education from the Sequoia Union High School District were held concerning potential lighting of the football field. A resolution was forthcoming and would be announced to the public in next few days.

5. PUBLIC COMMENTS

John Worthing, Atherton, spoke regarding the lack of enforcement of the Atherton Municipal Code as it related to overgrown landscaping on sidewalks and streets which caused safety hazards in Atherton.

Mayor McKeithen explained the process was complaint based and suggested Mr. Worthing contact the Public Works Department. After discussion on whether the process was working and suggestions for notification and enforcement, Mayor McKeithen asked the City Manager to schedule the item for the City Council Agenda of October 20, 2004.

Stephen Nachtsheim, Atherton, spoke regarding the issue.

6. STAFF REPORTS

- **City Attorney Marc Hynes reported out of the 6 p.m. Closed Session as follows:**

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

- (1) **Town of Atherton v. Ranadive**
San Mateo County Superior Court, Case No. 440523
- (2) **Teamsters Local 856 v. City of Atherton**
San Mateo County Superior Court, Case No. 429950
- (3) **Reyes v. Snyder**
San Mateo County Superior Court, Case No. 429132
- (4) **People v. William Morris**
San Mateo County Superior Court, Case No. SM334835
- (5) **People v. Joan Morris**
San Mateo County Superior Court, Case No. SM334836

No reportable action was taken on the five items. Direction was given to the City Attorney.

B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION -- Initiation of litigation pursuant to subdivision (c) of Government Code Section 54956.9

Four (4) potential cases.

No reportable action taken.

C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION -- pursuant to Government Code Section 54957

Title: City Attorney

- **City Manager Jim Robinson asked the Council for date preferences to schedule the next City Council Special meeting. After discussion, the meeting was scheduled for September 27, 2004, at 6 p.m.**
- **Police Chief Bob Brennan reported on recent mountain lion sightings. Staff was working with experts, training would be provided to Town Police Department**

personnel, and the annual Town Meeting would provide information/education regarding mountain lions. Citizens of Menlo Park, Woodside, and Portola Valley would be invited to attend, and the meeting was scheduled in November.

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT (Directed by Resolution No. 99-6)

Victoria Manor Homeowners' Association

Laura Boat, Atherton, represented the Victoria Manor Homeowners' Association and reported on the Association's programs, projects, and events.

CONSENT CALENDAR (Items 8 - 15)

MOTION - to approve Items 8 – 15 on the Consent Agenda as presented with minor corrections to Item Nos. 10, 11, and 14.

M/S Conwell/Carlson

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

- 8. APPROVED THE MINUTES OF SPECIAL CLOSED SESSION AND REGULAR MEETINGS OF JULY 21, 2004; SPECIAL MEETINGS OF JULY 22 AND JULY 27, 2004; AND SPECIAL CLOSED SESSION AND SPECIAL MEETINGS OF AUGUST 24, 2004**
- 9. APPROVED BILLS AND CLAIMS FOR JULY AND AUGUST 2004 IN THE AMOUNT OF \$1,650,467**
- 10. ACCEPTED MONTHLY FINANCIAL REPORT FOR JULY 2004**
- 11. ACCEPTED MONTHLY FINANCIAL REPORT FOR AUGUST 2004**
- 12. ACCEPTED QUARTERLY INVESTMENT REPORT FOR THE FOURTH QUARTER OF FISCAL YEAR 2003-04**
- 13. APPROVED FISCAL YEAR 2004-05 INVESTMENT POLICY**
- 14. ADOPTED RESOLUTIONS NO. 04-17 AND 04-18 AUTHORIZING APPLICATION FOR A RECREATIONAL TRAILS PROGRAM GRANT AND A HABITAT CONSERVATION FUND PROGRAM GRANT FOR THE HOLBROOK-PALMER PARK TRAIL AND BRIDGE AND COMMITTING THE REQUIRED LOCAL MATCH**

Adopted Resolution No. 04-17 authorizing staff to submit an application for a Recreational Trails Program (RTP) grant and Resolution No. 04-18 for a Habitat Conservation Fund Program (HCFP) grant for the Holbrook-Palmer Park Trail and Bridge and committing the required local match of 20% (RTP) and 50% (HCFP).

15. APPROVED AMENDMENT TO CENTERLINE MARKING LIST

Approved an amendment to the Centerline Marking List to include a single stripe on DeBell Drive from Middlefield Road through the frontage of 11 DeBell Drive.

PUBLIC HEARINGS (Item Nos. 16, 17)

16. APPEAL OF THE DECISION OF THE BUILDING OFFICIAL REGARDING 439 WALSH ROAD AND USE OF THE HETCH-HETCHY PROPERTY AS A SIDEYARD

Building Official Mike Hood presented the staff report. In 1950, the City and County of San Francisco secured a portion of the subject property for the Hetch-Hetchy Corridor for an underground pipe system. Several properties in the Walsh Road and Reservoir Road areas were affected. Based on limited evidence and past practice, the request by Mr. and Mrs. Mottesi to use the Hetch-Hetchy property as a sideyard was denied. Mr. Bob Flury, Bob Flury Design Group, researched Town records for any precedents to support the application. In 1975, the Town Council approved a three-lot subdivision allowing one of the lots, 420 Walsh Road, to use “surface rights” of the Hetch-Hetchy parcel in order to qualify as a legal lot for square footage and setback requirements. A second application on the same property in 1980 was approved for a rear-yard setback based on the assumption that “...the San Francisco property surface rights are sufficient to allow the San Francisco parcel to be used for side yard setbacks just as the San Francisco property can be used for total acreage requirements...” City Attorney Marc Hynes advised the appropriate process was an appeal of the Building Official’s decision which brought the item before the City Council.

City Attorney Hynes stated Hetch-Hetchy owned a fee interest in the property; however, certain surface rights had been granted back to the property owner which allowed the land occupied by the Hetch-Hetchy right-of-way to be used as part of the overall lot size. The surface rights that were allowed were intended not to interfere with the pipeline operation, i.e., construction of driveways, fences that go crosswise, plantings but no trees, and no structures.

Council Member Carlson believed the issue should be resolved for all the properties and suggested an amendment of the Zoning Ordinance with respect to the affected parcels, defined by location, next to the Hetch-Hetchy easement.

City Attorney Hynes clarified the City and County of San Francisco reserved certain surface rights that allowed such things as ingress and egress, to cut any and all existing fences and to install gates, and to protect pipes and other structures or improvements. Council discussion continued on the best method for a long-term solution. The consensus was to rule on the appeal and send the item to the Planning Commission for consideration of an amendment to the Zoning Ordinance.

Mr. Marcelo Mottes, appellant, thanked Council for its time. He noted precedents did exist and were supported by a 30-year policy. Documents approving his property noted that the setback should be from the end of the easement. The process had been costly for what seemed an easy solution.

MOTION – to approve use of the Hetch-Hetchy property as a sideyard regarding the property at 439 Walsh Road and to grant the appeal.

M/S McKeithen/Conwell

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

MOTION: to refer properties on Walsh Road and Reservoir Road to the Planning Commission for consideration of an amendment to the Zoning Ordinance related to use of the Hetch-Hetchy property as a sideyard; to be returned to the City Council at the meeting of October 20, 2004; and to be placed on the Consent Calendar.

M/S McKeithen/Janz

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

John Aiken, 91 Reservoir Road, Atherton, asked for clarification on the referral process and thanked Council for its response and helpfulness.

Steve Nachtsheim, 420 Walsh Road, commented on an encroachment issue when his home was originally built.

17. APPEAL OF THE DECISION OF THE PLANNING COMMISSION TO DENY A HERITAGE TREE REMOVAL PERMIT AT 266 PARK LANE

Deputy City Planner Lisa Costa Sanders presented the staff report. The original request before the Planning Commission was for the removal of five Heritage Oak trees in order for the applicant to construct a new residence with basement, a detached pool house, pool, tennis court, guesthouse, and detached garages. The Planning Commission approved removal of two trees and, thereby, denied the removal of three Heritage Oak trees. Mr. Vivek Ranadive, the property owner, was appealing the decision. Based on advice of City Attorney Mark Hynes, the Council needed to consider the removal request of all five trees and not just the three trees denied by the Planning Commission.

Staff responded to Council questions. One concern was whether Council would be disregarding its own ordinance if it approved the removal of a protected tree. City Attorney Hynes stated Council had the power to exercise its discretion to approve removal of the trees based on the site plan giving the maximum protection to neighboring properties. Kathy Hughes Anderson, Town Arborist, noted the property had been empty for a number of years, there were a number of smaller trees, and trees No. 68 and No. 69 were older, more mature trees that had been there for at least 100 years; the whole property was a grove of Oak trees.

Judy Citron, Project Manager, made a presentation using overheads and noted the property was 3+ acres with a proposed 8,500 square foot main residence, pool, pool

house, tennis court, guesthouse, and garage. She summarized the project and stated the request was for a permit to remove five Heritage Oak trees in the buildable area. Mitigation plans included planting 17, 24" box size Live Oaks; 12, 36" box size Live Oaks; 5, 48" box Live Oaks; and 12 significant other types of trees. The property actually had the zoning capacity for multiple homes with the potential for more harm to the trees, increased traffic, and years of construction. The trees proposed for removal were Nos. 9, 70, 68, 69, and 46. According to John McClenahan, Arborist, the trees were in varying degrees of health and had limited lifespan expectancy.

Discussion centered on whether moving the house back 15 feet would save the trees. The site plan before Council was slightly different than what was presented at the Planning Commission. The house had been tilted slightly in order to possibly save tree No. 70. In actuality, because of a tree's root structure, the home should be moved a foot for every inch of diameter of the tree.

Mayor McKeithen opened the Public Hearing. The following testimony was heard:

Vivek Ranadive, appellant and property owner at 266 Park Lane
Jon Jang, Project Architect
John Hanna, 525 University Avenue, Palo Alto, Attorney, appellant
Bill Heller, 234 Park Lane, in favor of appeal
John Carter, James Avenue, in favor of appeal
John Worthing, 98 Euclid Avenue, in favor of appeal
Muret Sonmez, Camino Por Los Arboles, in favor of appeal
Peggy Beaver, 270 Park Lane, in favor of appeal
Suzanne Mohan, 64 Selby Lane, in favor of appeal
John Mathon, 61 Lane Place, in favor of appeal
Mr. Hanna, Attorney, appellant

Mayor McKeithen asked the property owner whether he was willing to 1) preserve tree No. 70 if he was given permission to remove the other four Heritage Oak trees; 2) not only plant 34 trees, but also agree to maintain them in perpetuity with a deed restriction unless the Town arborist stated they were diseased; 3) modify and maintain a satisfactory tree protection zone for the driveway; 4) abide by the report of John McClenahan for preservation of all Heritage and all other Oaks trees; 5) protect tree No. 7 if John McClenahan and Kathy Hughes Anderson determined the root structure was sound.

Council Member Carlson believed the Town ordinance was not meant to be a strict prohibition against removal of a Heritage tree, but rather to ensure a mitigation plan was in place to improve the lot. The plan was reasonable, the property owner had done everything possible to preserve the environment and to undertake significant mitigation measures, and Council Member Carlson was willing to approve removal of all five Heritage Oak trees.

Council Member Marsala took a global perspective in that the lot could have been subdivided. The flexibility for building in Atherton brought people here which

affected property values. Given the mitigation measures by the property owner, the Town needed to put its trust in its residents and allow the property owner to move forward. Council Member Marsala was not in favor of imposing conditions on the property owner.

Discussion ensued regarding whether conditions should be placed on the property owner. Mayor McKeithen believed the most important condition was the mitigation of the 34 Live Oaks to provide adequate screening and needed to be made more permanent. City Attorney Hynes clarified Council had authority to impose conditions. Additionally, a Landscape Maintenance Agreement was required which indicated the landscaping would be maintained. After further discussion, Council determined the Landscape Maintenance Agreement should be recorded.

Council Member Janz had trust in the property owner's intent. However, he also had trust in the Planning Commission's findings that removal of the trees would be contrary to the purpose and intent of the Atherton General Plan. Nevertheless, he was impressed by the overall design and the additional effort to save at least one more tree. He favored the removal of four of the five Heritage Oak trees, preserving tree No. 70; preserving tree No. 7, if possible; and ensuring the Landscape Maintenance Agreement was recorded.

City Attorney Hynes stated Atherton Municipal Code Section 17.50.050 required that the Landscape Screening Agreement be recorded and direction could be given to record the Landscape Maintenance Agreement as well.

Vice Mayor Conwell favored approving the removal of four Heritage Oak trees and preserving tree No. 70, if possible. He believed there was a good-faith effort on the part of the property owner to comply with the conditions.

Mayor McKeithen closed the Public Hearing.

MOTION – to adopt the draft Town of Atherton City Council Heritage Tree Removal Permit that states:

THIS IS TO CERTIFY THAT the Atherton City Council at a regular meeting thereof, held on Wednesday, September 15, 2004, did grant a Heritage Tree Permit to Vivek Ranadive pursuant to Atherton Municipal Code Chapter 8.10 of the Atherton Municipal Code to permit the removal of four heritage trees at 266 Park Lane (Assessor's Parcel Number 070-341-030). The Permit was approved subject to the following conditions:

- 1. Heritage tree removal shall be limited to Oak trees #46, #68, #69, and #9, as indicated on the Site Plan included in the Arborist report prepared by John McClenahan, McClenahan Consulting, LLC, Inc., dated August 2, 2004. Any substantive changes to the plans shall be reviewed by the Planning Commission**

2. Replacement planting shall be a minimum of thirty-four Oak trees to the satisfaction of the Town Arborist and Building Official. The applicant shall obtain approval for a Landscape Screening Plan, pursuant to Chapter 17.50 of the Atherton Municipal Code. Such approved Landscape Screening Plan and the Maintenance Agreement shall be filed in the San Mateo County Recorder's Office upon approval.
3. The location of the proposed driveway shall be modified so as to maintain a Tree Protection zone around trees #56, #57, #58, #59, and #60 to the satisfaction of the Town Arborist and Building Official.
4. The recommendations in the arborist report prepared by John McClenahan, McClenahan Consulting, LLC, Inc., dated August 2, 2004, shall be implemented for the preservation of all heritage trees and all Oak trees on site.
5. Tree #7, as noted in the Atherton Town Arborists's report dated August 17, 2004, shall be assessed by Mr. McClenahan and the Town Arborist to determine whether it is viable. If it is deemed viable then Mr. Ranadive shall agree to terms to protect it to the best of his ability.

M/S McKeithen/Janz

Council Member Carlson proposed an amendment as follows:

AMENDMENT TO MOTION – to change the wording of Condition No. 2 to read:

Replacement planting shall be a minimum of thirty-four Oak trees to the satisfaction of the Town Arborist and Building Official. The applicant shall obtain approval for a Landscape Screening Plan, including the minimum thirty-four Oak trees, pursuant to Chapter 17.50 of the Atherton Municipal Code. Such approved Landscape Screening Plan and the Maintenance Agreement shall be filed in the San Mateo County Recorder's Office upon approval.

Additionally, to return the wording of Condition No. 4 to that originally drafted by the Planning Commission:

The recommendations in the Arborist report prepared by John McClenahan, McClenahan Consulting, LLC, Inc. dated August 2, 2004, shall be implemented for the preservation of all other Heritage trees on site.

AMENDMENT Carlson/Marsala Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

MAIN MOTION McKeithen/Janz Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

Mayor McKeithen called for a recess at 10:15 p.m. The meeting reconvened at 10:30

REGULAR AGENDA (Item Nos. 18 - 19)

18. CONSIDER ADOPTION OF AN ORDINANCE RATIFYING THE MENLO PARK FIRE PROTECTION DISTRICT FIRE SPRINKLER SYSTEM REQUIREMENTS
(This item was deferred from the City Council Meeting of July 21, 2004.)

Building Official Mike Hood noted the item had been continued from July 21, 2004. After Council approved Town of Atherton Ordinance No. 548 ratifying Menlo Park Fire Protection District Ordinance No. 28, the District made substantial changes and adopted a new Ordinance No. 29. Council was being asked to consider the adoption of a new Town ordinance to ratify the District's Ordinance No. 29 and to repeal Town of Atherton Ordinance No. 548. As it would apply to Atherton, the new ordinance was virtually unchanged.

Mayor McKeithen queried what was different and what facts might change Council's direction for not approving the ordinance. Previously, Council was concerned with potential problems such as accidental activation causing more damage than a fire, the fact that there were not many fire-related deaths or damage in Atherton, and the cost of the sprinkler system.

Chief Paul Wilson, Menlo Park Fire Protection District, stated the new ordinance included adding sprinklers for any new construction of 1,000 square feet or larger; any remodels that exceeded 2,500 square feet, not including kitchen remodels, repairs to roofs, or revisions to bathrooms; any additions of 2,500 square feet or larger involving more than 50% of the floor space; and new basement construction that exceeded 250 square feet. Council was asked to ratify the ordinance.

Mayor McKeithen had a concern for the cost and stated Atherton residents did not want to be forced into installing sprinklers in their homes. Chief Wilson noted that residents were required to protect trees, to build seismic conditions, to install electric ground fault interrupters, etc., and sprinklers were a life-safety issue, built-in fire protection for the future.

Council Member Marsala asked whether Council had the ability to place a limit on the cost.

City Attorney Marc Hynes said an ordinance could be developed with threshold amounts; however, the danger was bids could be obtained to circumvent the intent of the ordinance.

Vice Mayor Conwell said based on his experience, he could not justify mandating that residents install fire sprinklers.

Kristie Waldren, Atherton, Architect, spoke in support of ratifying the ordinance.

Council discussion continued on the pros and cons of installing fire sprinklers, i.e., cost benefits, statistics related to Atherton, etc.

Council Member Carlson believed the issue was one of health and safety. He would vote in favor of ratification because the expense was minimal, the opposition was minimal, and saving even one person's life was worth the cost.

Council Member Marsala experienced a close call in his own home, believed Council was responsible for the Town's safety, and favored ratifying the ordinance.

Council Member Janz said the issue was whether the cost was worth the benefit. The problem was he tended to agree the cost was not an onerous burden; however, he was concerned about requiring sprinklers for significant remodels. He favored the requirement on new structures and remained unsure for remodels.

Mayor McKeithen did not want to mandate fire sprinklers when only 5 percent of residents had chosen to install them. She believed people should strongly consider fire sprinklers and be encouraged to install them.

MOTION – to approve an ordinance ratifying Menlo Park Fire Protection District Ordinance No. 29 with the following change: For new construction only: Condition 1) New building construction that exceeds 1,000 square feet; and Condition 2) New basement construction that exceeds 250 square feet; and repealing Town of Atherton Ordinance No. 548.

M/S Marsala/Carlson

Ayes: 4 Noes: 1 (Conwell) Absent: 0 Abstain: 0

19. DISCUSSION OF UTILITY UNDERGROUNDING FOR EMILIE AVENUE AND FREDERICK AVENUE

Public Works Director Duncan Jones reported there were requests from residents of Emilie Avenue and Frederick Avenue to underground utilities on those streets. Pacific Gas & Electric (PG&E) maintained an allocation of approximately \$727,391 for the Town to underground overhead electrical facilities, and the Town received an additional \$58,000 per year. According to PG&E's Rule 20A, funds could be used if either street qualified under one of four requirements of the tariff. However, the 1,000 feet of Emilie Avenue would cost approximately \$350,000 and use approximately five years of Rule 20A allocations. Staff was recommending that Council evaluate all possible undergrounding alternatives within the Town and defer commitment to any specific project.

Elizabeth Lewis, 1 Emilie Avenue, Atherton, made the original request at the July 21, 2004, Council meeting. She believed Emilie Avenue qualified under Rule 20A Requirements No. 2 and No. 3.

Council discussion ensued regarding the amount of funds required to underground particular streets, the amount of years to accumulate funds, and how to determine which streets were selected. Council Member Janz suggested creating a Utility Undergrounding District to determine whether undergrounding was a priority for residents. Mayor McKeithen said a basic analysis was needed to determine which

streets needed undergrounding, a prioritization of need, cost, and meeting Rule 20A requirements.

MOTION – to return the item to staff for appropriate recommendations for prioritizing streets for undergrounding.

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

City Manager Robinson suggested incorporating the analysis in the upcoming development of the 4-year Capital Improvement Program (CIP).

20. CONSIDERATION OF ELIMINATION OF ATHERTON CALTRAIN STATION PARKING LOT FEE

Council Member Carlson reported a recommendation he advanced at the Caltrain Corridor Subcommittee meeting to encourage ridership from the Atherton station was to eliminate the parking fee. The parking fee was minimal, .50, and eliminating it would represent to Caltrain an effort to encourage train use.

Mayor McKeithen suggested a 6-month trial and to report back to Council at the conclusion of the trial.

MOTION – to eliminate the .50 parking fee at the Atherton Caltrain Station for a 6-month trial period and report back to Council at the conclusion of the trial.

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

21. PUBLIC COMMENTS

Mayor McKeithen, regarding 266 Park Lane, asked that the recording of the Landscape Screening and Maintenance Agreements be reinstated. City Attorney Marc Hynes clarified the current ordinance stated only the Landscape Agreement should be recorded.

22. ADJOURNMENT

Mayor McKeithen adjourned the meeting at 11:35 p.m.

Respectfully submitted,

Linda Kelly, Acting City Clerk

**Minutes Prepared By:
Kathi Hamilton**



**DRAFT Minutes
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
SEPTEMBER 27, 2004**

**6:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California**

SPECIAL MEETING

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

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

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

ABSENT: Charles E. Marsala (excused)

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

- 3. PUBLIC COMMENTS**

Chris Gould, Atherton, stated that he lives on Eleanor Drive with his backyard adjacent to Melanie which is the area experiencing the recent mountain lion sightings. He expressed his concern with the mountain lions and the safety of the area, and stated that he is in favor of a proactive approach to eliminate the mountain lion problem.

Police Chief Bob Brennan explained the steps the Town Police Department is taking to address the mountain lion issue. He noted that a formal policy is being prepared, and that his instructions to his officers are to dispatch the animal if it is posing a threat. He announced that the Annual Police Department Town Meeting will be held on Thursday, November 4, 2004 at 7:00 p.m., Foley Center at St. Joseph's School, and the topic of the meeting will be mountain lions. He further stated in response to Council Member questions that a representative from the Department of Fish and Game will be invited to the meeting.

REGULAR AGENDA

4. DISCUSSION OF ALTERNATIVES RELATIVE TO SPECIAL MUNICIPAL TAX FOR SUPPORT OF OPERATING AND CAPITAL EXPENDITURES AND EVALUATION OF REVENUE ENHANCEMENTS AND COST-SAVING OPTIONS

Finance Director John Johns presented the staff report. He recommended a change in the methodology regarding how the Town offsets the road impact of excavations through the road impact fee.

Mayor McKeithen asked for the City Council's feeling on a utility users' tax (UUT).

Council Member Carlson stated that a UUT was low on his list of options and that a UUT election could be divisive to the community. He further stated that no one single revenue source would be enough to replace the parcel tax.

Council Member Janz stated that many other cities have a UUT and that he is not opposed to it. He further stated that this type of tax is progressive as it varies with how a family uses utilities, and that we needed to look at how much could be raised.

Vice Mayor Conwell stated that it is imperative that the parcel tax passes on November 2nd, and that UUT would only be considered in the second stage.

Mayor McKeithen stated that the use of other revenue enhancement options hinge on the passage of the parcel tax. She prefers a real property transfer tax over a UUT.

Finance Director Johns explained that the Town of Hillsborough has a tax on the title insurance policy.

Following Council discussion of revenue enhancement alternatives and cost-saving options, the Council provided the following directives to staff (to be accomplished prior to the October 20, 2004 Regular City Council Meeting):

- a. City Attorney Hynes to review the preliminary work completed by Finance Staff to determine if it would justify an ordinance for a surcharge/fee increase on the road impact of excavations/volume of cubic yards of dirt being moved in conjunction with construction projects such as basement removals and swimming pools.**
- b. Finance Director Johns to provide a report on revising the road impact fee ordinance to refer to the amount of funds actually spent on road improvements, using State Controller's Office information as a baseline.**
- c. Finance Director Johns and Public Works Director Jones to provide suggestions on how the Town could regulate landscaping, looking at the City of Belmont's model which uses the amount of soil disturbance per NPDES regulations.**
- d. City Attorney Hynes to research whether a utility users' tax (UUT) would need to be placed on a general or a special election ballot.**
- e. Finance Director Johns to provide a determination of how much money could be raised through a UUT based on a percentage levied.**

- f. Finance Director Johns to provide a “package” of revenue ideas that could satisfy the ongoing financial requirements of the Town, to include a schedule of alternative revenue sources (for the March 2005 ballot, possibly) to supplement and/or eventually replace the Town’s parcel tax.**
- g. The Council’s Finance Committee is to meet with staff regarding alternatives prior to the October 20, 2004 Regular City Council Meeting.**

5. PUBLIC COMMENTS

Jerry Carlson, Atherton, spoke in favor of a continued commitment to address costs and a concern about additional taxes that would impact households. He suggested a community survey on the value of police services. He further stated that the ACIL had not taken a position on the parcel tax and that 71% of its directors were in favor of it.

6. COUNCIL REPORTS

Vice Mayor Conwell expressed his concern for the need to have more P.R. for the parcel tax.

Mayor McKeithen announced two meetings where the parcel tax will be discussed: October 7th, 5:30 – 7:00 p.m., at the home of Linda Leibes and October 18th, 5:30 – 7:00 p.m., at the home of Lida Urbanek. Mayor McKeithen was asked to speak at meeting on the 7th and Council Member Marsala was asked to speak at the meeting on the 18th. She further stated that she will be writing letters to the newspapers in support of the parcel tax.

7. ADJOURNMENT

The meeting adjourned at 8:27 p.m.

Respectfully submitted,

Linda Kelly, Acting City Clerk



DRAFT MINUTES
Town of Atherton
CITY COUNCIL / PARK AND
RECREATION COMMISSION
Wednesday, October 6, 2004
7:00 P.M.
Main House
Holbrook-Palmer Park, 150 Watkins Avenue
Atherton, California
Special Joint Meeting

Mayor McKeithen called the meeting to order at 7:08 p.m.

1. PLEDGE OF ALLEGIANCE

2. ROLL CALL

PRESENT: Council – Janz (arrived at 7:27 p.m.), Marsala, A. Carlson, Conwell, McKeithen; Park and Recreation Commission – McPherson, Tonelli, S. Carlson, Davey, Bauer, Massey, Washburn

ABSENT: Marsala (excused)

City Manager Jim Robinson, City Attorney Marc Hynes, Public Works Director Duncan Jones and Park Program Manager Jean Cardona were also present.

3. COUNCIL REPORTS

None.

4. COMMISSION REPORTS

- Shirley Carlson thanked all the Commissioners for being present at the meeting.

5. PUBLIC COMMENTS

None.

6. STAFF REPORTS

None.

REGULAR AGENDA

7. Discussion and Possible Action - Consideration of Draft Master Landscape Plan for Holbrook-Palmer Park

a. Review Concepts and Ideas Developed at the May 1, 2004 Charette

Ms. Denise Kupperman presented the ideas and concepts that were discussed at the May 1st Design Charette. Three major ideas were discussed at the meeting: spaces, trees and circulation and parking. She explained that the purpose of this meeting was to further discuss and receive comments on the circulation and spatial issues.

b. Present and Discuss in a Working Forum the Concepts and Landscape Features Developed in the Draft Schematic Plan

A discussion ensued regarding reconfiguring the Corp Yard to create two spaces on both side of the Carriage House. Other ideas discussed included building a small amphitheater at the playground location, putting in a baby carriage/pedestrian entrance, reducing the size of the creek, adding picnic areas and seeding in the North Meadow and edge of the great lawn, sculptures and formalizing garden spaces around the main house for rentals.

In response to questions, Ms. Kupperman discussed the possibility of creating a walking path behind the Corp Yard and Carriage House area. Ms. Kupperman introduced the idea of putting in a walkway from the parking lot to the Carriage House area so people would not have to walk through it, especially parents and children from the playschool. Councilmember Carlson asked if the Town could reduce the size of the creek. Public Works Director Jones stated that it is likely that the Town will be required by the federal government to reduce the creek size within the next 20 years. Councilmember Conwell asked whether the foliage and trees in the park were adequate. Ms. Kupperman stated that are some places where there are enough, not enough or the wrong type of foliage or trees.

In response to questions, Public Works Director Jones stated that there is a problem with the quality of the well water and that there might be salt intrusion from the bay. A discussion ensued regarding the testing of well water.

Regarding trees, Ms. Kupperman stated that in order to mix the trees (elms and oaks) in a more uniform manner in the main field and behind the central part of the park, approximately 20-30 non-heritage trees would have to be removed.

A discussion ensued about a hiring a traffic engineer to study the vehicular traffic in the park, especially at the west entrance/exit, and access into the park by homeless people.

Public Works Director Jones commented that the PUC informed Caltrain that they need to move the Watkins crossing gates back and extend the crossings so the Town

can build a path from the park along Watkins to ECR. The Town has applied for two grants to build a pathway on Watkins and pedestrian bridge over the creek. In addition, the Town could be eligible for a third grant in December. There is a possibility that both projects could be built without using any Town funds.

Ms. Kupperman discussed the possibilities for a small stage or amphitheater to be added to the North Meadow, and the uses of the area.

Betty Ogawa, Atherton, expressed concern about the noise levels in the North Meadow by large groups over the weekend, including rental concerts in the park.

Noise concerns, picnicking and drainage for a potential amphitheater were also topics of discussion.

c. Review Next Steps

Ms. Kupperman stated that the group will take the comments back from this meeting and will refine the ideas further, then return to the Park and Recreation Commission in November to receive final comments, and then present the final plan to Council in early 2005. The group will start to explore fund raising efforts including grant opportunities and will develop phases for implementation.

City Manager Robinson suggested that they review the priorities identified in the Park and Recreation Strategic Plan to assist with the draft Landscape Master Plan.

8. ADJOURNMENT - The meeting was adjourned at 8:55 p.m.

Respectfully submitted:

Linda Kelly, Acting City Clerk

**Minutes Prepared By:
Gregory L. Sam
Interim Assistant to the City Manager**

TOWN OF ATHERTON

CLAIMS LIST

September 2004

Payroll Checks	4708 - 4786	\$ 34,162
Electronic Transfers		435,349
A/P Checks	18217 – 18328	282,442
	TOTAL	\$751,953

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 4708 – 4786 (payroll) and 18217 - 18328 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$751,953; are true and correct, and that there are sufficient funds for payment.

James H. Robinson
City Manager

The above claims, check numbers 4708 – 4786 (payroll) and 18217 – 18328 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$751,953; are true and correct, and are authorized for payment.

Kathy McKeithen
Mayor, Town of Atherton

SOURCE OF FUNDS

101	General Fund	694,145
105	Tennis Fund	
201	Special Parcel Tax	51,681
202	Transportation	
203	Gas Tax Fund	
210	Road Construction Impact Fees	
211	Park Grants Fund	230
213	Library Special Revenue Fund	2,181
401	General Capital Projects	
402	Storm Drainage	
403	Atherton Channel District	
404	Park Playground Improvement	
406	Facilities Construction	
610	Vehicle Replacement	
611	Computer Maint. & Replacement	1,200
612	Administrative Services	2,498
614	Workers Compensation Insurance	
715	Evans Estate	18
	TOTAL	751,953



Town of Atherton

**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 20, 2004

**SUBJECT: APPROVAL OF REVISED CORE NATURAL GAS SALES AND
AGGREGATION AGREEMENT WITH ABAG POWER**

RECOMMENDATION

Consider approval of revised Core Natural Gas Sales and Aggregation Agreement with ABAG POWER.

BACKGROUND

Since 1997, the Town of Atherton has purchased its natural gas through the Association of Bay Area Government's Publicly Owned Energy Resources, a joint powers agency, (ABAG POWER). This contractual relationship has allowed the Town to receive the benefits of pooled purchasing power with other governmental agencies, resulting in a lower rate for natural gas than would be available through PG&E or another provider. ABAG POWER aggregates the gas supplies and services provided to the Town with those of other public agency participants in the joint powers agency.

At this time, the ABAG POWER Executive Committee is requesting that the Town sign the attached revised agreement which institutes a three-year "Rolling Evergreen" arrangement for members wishing to opt-out of the program. The Committee believes that this would allow ABAG POWER more flexibility for entering into long-term agreements that meet the goals of cost savings and price stability.

The new contract term would allow a member to notify ABAG POWER at any time of its desire to opt-out of the program; however, the withdrawal would not be effective until three years from the

July 1st following the notice. ABAG POWER staff notes that this arrangement will allow for better long-term planning and ability to lock-in reasonably priced gas rates over a longer period of time.

Under the agreement, the Town of Atherton would continue its relationship with ABAG POWER but it would be under the new opt-out arrangement which limits the Town's options in the future should we wish to purchase natural gas from PG&E or another provider and not want to wait three years to change providers. However, given the ability of ABAG POWER to provide natural gas at lower rates than the Town could currently obtain on the open market, the savings in gas cost is the benefit to agreeing to the stricter opt-out provision.

FISCAL IMPACT

There is no immediate fiscal impact as a result of adopting this revised agreement. The Town would continue to receive the benefits of a lower cost for the bulk purchase of natural gas through ABAG POWER.

Prepared by:

Approved by:

Linda Kelly
Assistant to the City Manager/
Acting City Clerk

James H. Robinson
City Manager

Attachment: Memorandum from ABAG POWER
Agreement

MEMORANDUM

ASSOCIATION OF BAY AREA GOVERNMENTS

Representing City and County Governments of the San Francisco Bay Area



DATE: May 24, 2004

TO: ABAG POWER Natural Gas Program Members

FROM: Gerald L. Lahr, Program Manager

RE: **Revised Core Natural Gas Agreement**

Recently, the ABAG POWER Executive Committee approved changes to the Core Natural Gas Sales and Aggregation Agreement (“Agreement”). This Agreement, signed by each member agency, provides the basic terms under which ABAG POWER is authorized to purchase gas on members’ behalf, and obligates the parties to meet the various conditions for gas purchases and payments for services. In addition to updating the agreement to be in accordance with current regulatory conditions and program operational characteristics, the Executive Committee authorized a change to the program term which institutes a three-year “Rolling Evergreen” arrangement for members wishing to opt-out of the program. It is the belief of the Committee and staff that this arrangement will allow for more flexibility in entering into longer-term (up to three year) gas purchase agreements, thus giving staff a greater opportunity for entering into contracts that meet the goals of cost savings and price stability. *We ask that your organization execute and return this agreement at your earliest opportunity.*

Background. In early 2002, the ABAG POWER Executive Committee (“Committee”) completed a review of the Natural Gas Program and recommended that the Program continue for an additional three years. In accordance with the current Agreement, this extension means that members next have the opportunity to opt-out of the program on July 1, 2005 by giving notice to ABAG POWER no later than June 1, 2005.

At the same time that the Committee approved the program extension, it also restated the goals of the Program to account for the desire to have both cost savings and price stability. As a method for achieving these goals, the Committee settled on a general gas purchasing strategy that included entering into fixed-price gas purchase contracts for periods of up to three years in length, in order to lock in reasonably priced gas.

During the 2002-03 fiscal year, ABAG POWER started the process of entering into longer term gas supply contracts in order to achieve the program’s revised goals. ABAG POWER entered into a fixed-price gas supply contract for approximately 25% of its load (\$4.37/Dth) for the period August 2002 – June 2005, and subsequently entered into another fixed-price contract for an additional 25% of its load (\$4.61/Dth) for the period November 2003 – June 2005.¹ With gas prices for much of the current fiscal year at \$5-6/Dth, and future gas prices currently over \$6/Dth through most of next year, these contracts have proven very valuable to the program

¹ During the past winter ABAG POWER hedged an additional 25% of our gas with a five month fixed-price contract (\$5.04/Dth).

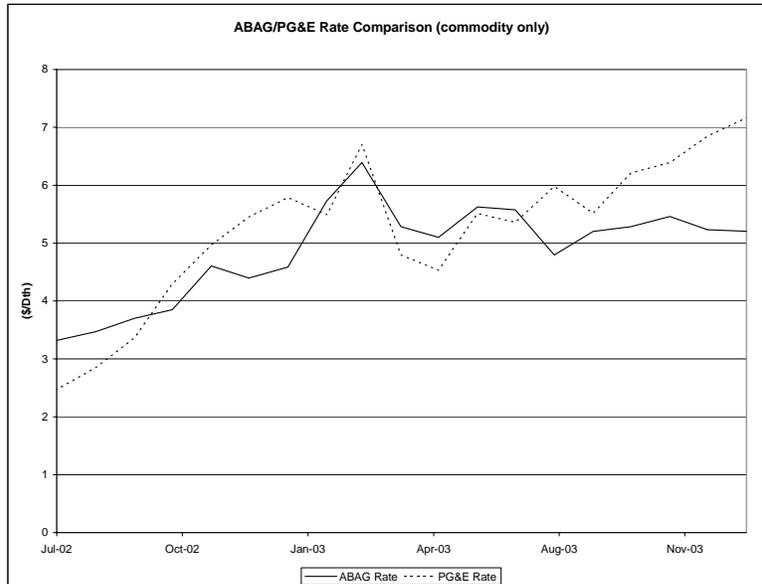
MEMORANDUM

ASSOCIATION OF BAY AREA GOVERNMENTS

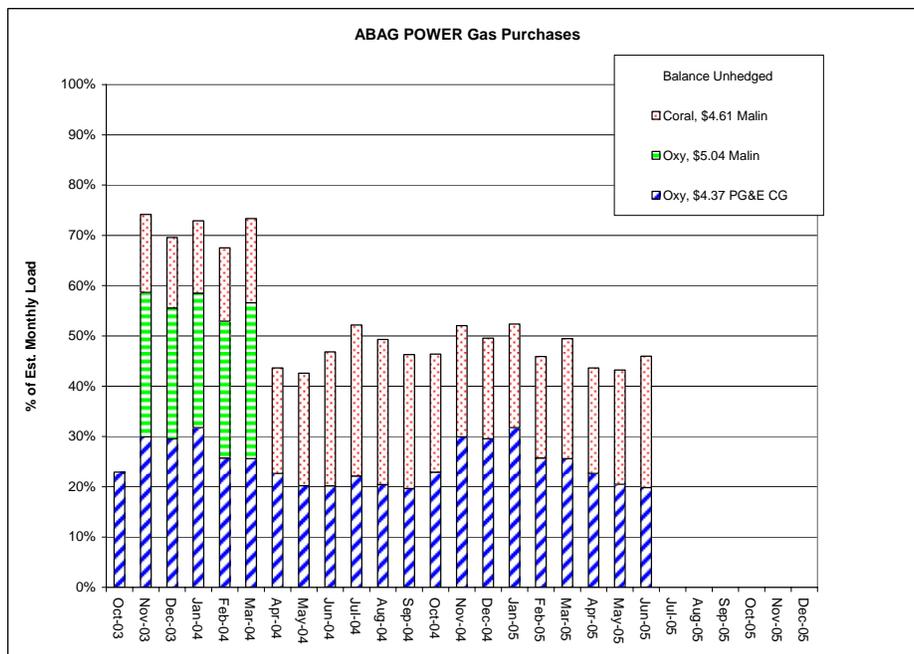
Representing City and County Governments of the San Francisco Bay Area



both in terms of cost savings and price stability. See ABAG/PG&E Rate Comparison chart below:



ABAG POWER intends to continue to look to the forward gas commodity markets to increase its overall hedged position to as much as 75% as favorable buying opportunities become available and program restrictions permit. However, the Program is currently constrained by the Program opt-out date due to the uncertainty of what the Program membership (and load) will be in the summer of 2005, which means that no contract can have an expiration date past June 30, 2005 without creating a risk to the program. See chart below.



MEMORANDUM

ASSOCIATION OF BAY AREA GOVERNMENTS

Representing City and County Governments of the San Francisco Bay Area



Action. At its February and April meetings, the Committee approved contractual language that both brings the agreement into alignment with current regulatory and operational practices, as well as revise the term of the agreement to include the “Rolling Evergreen” arrangement. This new contract term will allow a member to notify ABAG POWER at any time of its desire to opt-out of the program, however the opt-out will not become effective until three years from the July 1st following the notice (see section 7 of agreement).

This new contractual arrangement will give ABAG POWER a continuous three-year-ahead planning window, and therefore will allow staff to take advantage of longer-term beneficial pricing opportunities. *We ask that member agencies approve this revised contract at your earliest opportunity so that the program may begin planning for gas purchases past June 2005.*

/vm

Attachment

**CORE NATURAL GAS SALES AND
AGGREGATION AGREEMENT**

By and Between

ABAG POWER

and

Town of Atherton
(Name of Public Agency)

For service within the territory of
Pacific Gas & Electric Company

CORE NATURAL GAS SALES AND AGGREGATION AGREEMENT

This Core Natural Gas Sales and Aggregation Agreement, hereinafter "Agreement", is made and entered into as of this _____ day of _____ 20__, by and between the ABAG Publicly Owned Energy Resources, a California joint powers agency, hereinafter "ABAG POWER", and the Town of Atherton (name of public agency), a _____ (charter/general law city or county or special district), hereinafter "Public Agency".

The parties hereby agree as follows:

1. Eligibility: Public Agency is a member of ABAG POWER. ABAG POWER shall provide directly or, at its option, shall contract to provide coordination services for the purchase and management of a natural gas program for members of ABAG POWER participating in said program [Participant(s)].
2. Authorities: Public Agency is a customer of PG&E for core natural gas distribution services. ABAG POWER is a designated Core Transportation Agent (CTA) in accordance with PG&E's Rule 23 and Tariff G-CT ("Program"). Public Agency appoints ABAG POWER as its exclusive agent to coordinate its purchase and management of natural gas, on behalf of Public Agency for the facilities listed in Exhibit A, which is attached hereto and incorporated herein. All parties understand and agree that the authority for the Program is granted by and subject to the CPUC, as initially authorized by CPUC Decision No. 91-02-040 and as modified through various subsequent CPUC Decisions. This Agreement is pursuant to the Utility Aggregation Tariff Rate Schedule(s), Tariff Rules and terms and conditions set forth in such agreement. Public Agency represents and warrants that any prior aggregator authorizations which Public Agency may have executed will be terminated effective no later than the date of this authorization.
3. Services: ABAG POWER shall deliver, or cause to be delivered, the following services to Public Agency:
 - 3.1 Analyze and evaluate natural gas supply and transportation strategies;
 - 3.2 Negotiate and implement natural gas purchase, transportation and other similar gas services for Participants;
 - 3.3 Perform nominations of gas purchased and transportation services on behalf of Public Agency's facilities as listed in Exhibit A;
 - 3.4 Monitor gas account imbalances;
 - 3.5 Generate invoices for all natural gas purchases and services for ABAG POWER to perform as required under the Agreement. Invoices will include the following information:
 - 3.5.1 For each facility listed in Exhibit A, the monthly usage, and gas charges, including, but not limited to, ABAG POWER operational and administrative fees.

3.5.2 The status of the account identifying the prior account balance, any payments since the previous invoice, current charges plus any applicable late payment charges and credit balances as calculated pursuant to Paragraph 9.3; and

3.6 Provide general consultation services.

4. Enrollment Notification of Changes: Public Agency shall through the attached Exhibit A submit to ABAG POWER its list of accounts to be served hereunder. Public Agency represents and warrants that all facilities listed in Exhibit A distribute natural gas used by Public Agency and that none of the facilities will be serviced by another core transport agent as of the Start Date as defined in Paragraph 9.5. Public Agency shall also notify ABAG POWER forty-five (45) days in advance of changes in Public Agency's facilities or operations which are reasonably expected to increase or decrease the consumption of natural gas more than ten percent (10%) as compared to historical levels. Public Agency may add facilities to Exhibit A upon prior written notice to ABAG POWER. Public Agency may delete facilities from Exhibit A only upon written consent by ABAG POWER, which consent shall not be unreasonably withheld, except that Public Agency may delete facilities without ABAG POWER's consent if Public Agency abandons the facility or transfers the facility to another entity.

5. Agency Relationship: Public Agency authorizes ABAG POWER to act as its exclusive agent for the Program and does hereby constitute and appoint an authorized officer or agent of ABAG POWER to act on its behalf as its lawful agent for the implementation of the Program. This authorization shall include the right to do and perform all acts, with full power to execute all documents requisite and necessary to be done in all matters relating to the purchase, sale, and transportation of natural gas. Therefore, Public Agency authorizes ABAG POWER to take actions appropriate to establish and implement the Program, including, but not limited to:

5.1 Aggregating the gas supplies and services of Public Agency with those of other Participants in conjunction with providing such gas supplies and services to Public Agency and pursuant to the terms and conditions of the Program;

5.2 Executing local distribution company riders and other documentation on behalf of Public Agency;

5.3 Nominating gas supplies on behalf of Public Agency;

5.4 Handling gas imbalances, gas storage, and all other operational transactions with the Utility in order to deliver gas to the Utility for subsequent redelivery to Public Agency; and

5.5 Arranging for payment of Program bills for natural gas, transportation and other Utility charges. Public Agency understands and agrees that in the event of nonpayment by ABAG POWER, Public Agency will be responsible for payment of Public Agency's bills for gas and services, even if the Public Agency has already made payment to ABAG POWER for those gas quantities and services.

Public Agency understands that if ABAG POWER's contract with the Utility terminates for any reason, on Public Agency's receipt of notice from Utility, Public Agency will receive gas service for Exhibit A accounts under core procurement service from the Utility commencing on the first day of

Public Agency's next billing cycle pursuant to the terms and conditions of the applicable core procurement Tariff Rate Schedule for each Public Agency's accounts.

6. Title: All purchase, transportation and other gas service contracts shall be in the name of ABAG POWER.

7. Term: Subject to the provisions of Paragraphs 12 and 13 hereof, and receipt of timely notifications of alternative arrangements, this Agreement shall be in full force for a three (3) year term commencing July 1 of the year immediately following the execution date of this contract. Subject to Paragraph 13, the term of this Agreement shall be automatically extended for additional three-year periods on each July 1 provided that ABAG POWER is not in breach of this Agreement, and provided that Public Agency has not submitted on or before June 1 written notice of its decision to terminate the Agreement effective the July 1 three (3) years after said notice.

8. Fees: The operational fees for all services described in Paragraphs 3 and 5 shall be established by the ABAG POWER Board of Directors, hereinafter "Board".

9. Payment:

9.1 On a monthly basis, unless otherwise approved by Public Agency, ABAG POWER will provide, or cause to be provided, to Public Agency an invoice for the Public Agency's facilities serviced under this Agreement. Invoices will be directed to and payment is to be made directly by Public Agency to the escrow account designated pursuant to Paragraph 10 of this Agreement. Payment is due immediately upon receipt of the invoice. Late payment charges at the rate of one and a half percent (1.5%) per month calculated daily on the outstanding balance will be imposed commencing on the thirty-first (31st) day after the mailing date of the invoice. Late payment charges may, at ABAG POWER's sole discretion, be debited against Public Agency's Working Capital Account as defined in Paragraph 9.3.

9.2 ABAG POWER will invoice Public Agency, and Public Agency will pay, in monthly installments, sums representing payments for the natural gas and services provided under this Agreement (Invoiced Amounts). Initially, Invoiced Amounts will be based on ABAG POWER's estimate of Public Agency's consumption of natural gas for the month leveled to eliminate extreme consumption fluctuations but adjusted to reflect moderated seasonal fluctuations. Each invoice will also identify the costs, if any, of natural gas, including, but not limited to transportation charges and operational fees, and utility charges charged to Public Agency for the period identified in the invoice. Any disputes between the parties regarding the amount of any Actual Charges shall be resolved pursuant to Section H of Exhibit B to this Agreement, as defined in Paragraph 9.3, will be adjusted as soon as practicable to reflect the resolution of the dispute.

9.3 Upon approval of this Agreement by ABAG POWER, Public Agency shall pay a working capital deposit to ABAG POWER prior to transferring any accounts to the ABAG POWER program. This deposit is refundable when Public Agency leaves the program and all liabilities to ABAG POWER have been satisfied. The currently approved working capital deposit is calculated as follows:

[Two times the average load (therms) times the current applicable rate (\$/therm).]

9.4 After the end of each fiscal year, ABAG POWER will perform a “true-up” by calculating the difference between the Invoiced Amounts and the Actual Charges. Any difference in these amounts will be debited or credited (as appropriate) to the Public Agency in equal installments over the remaining program year’s invoices.

9.5 In accordance with the terms of Paragraph 10, ABAG POWER will first apply the Invoiced Amounts to the payment of Actual Charges. Public Agency acknowledges that during the term of this Agreement ABAG POWER has the right to use working capital deposits to pay Actual Charges incurred by other Participants in the Program as such Actual Charges become due. Such use of the monies will not be a debit against the working capital deposit and will not obviate, eliminate or modify ABAG POWER's obligation to pay Public Agency the working capital deposit amount pursuant to Paragraph 13.3. ABAG POWER retains the right to modify Invoiced Amounts to increase the sum of working capital deposits in the Program in order to timely pay Actual Charges as they become due.

9.6 ~~The initial invoice will be dated _____ and must be paid by _____ (Start Date), or this Agreement terminates on _____. Upon prior written notice to Public Agency, ABAG POWER may delay the Start Date to accommodate Program requirements.~~

9.7 In the event Public Agency fails to make timely payment consistent with the terms employed by ABAG POWER, in addition to any other remedy it may have hereunder and notwithstanding the existence of any late payment penalty, ABAG POWER may declare Public Agency to be in default and terminate the agreement. ABAG POWER is further authorized to bill Public Agency for reasonable charges associated with demands for payment on late accounts as well as reasonable charges associated with suspension and resumption of service hereunder.

10. Disbursement of Funds: Subject to the terms and conditions of this Agreement, ABAG POWER agrees to provide for sale and delivery, and Public Agency agrees to receive and to pay ABAG POWER for natural gas. Further, Public Agency agrees to pay for the Actual Charges.

10.1 An escrow account for the purposes of receiving payments by Participants and making payments to the Utilities, the gas supplier and other payees as authorized by ABAG POWER will be established.

10.2 The instructions for this escrow account have been approved by ABAG POWER, and shall include a list of the authorized recipients of payments from the account.

10.3 Only ABAG POWER may authorize release of funds from the escrow account, and such shall only be to those payees identified in the escrow instructions.

11. Gas Program Pricing:

11.1 Allocation. The gas charges to Participants will include (a) cost of the gas commodity (gas charges), (b) applicable utility transportation charges, and (c) administrative costs. Gas charges are the product of a Participant’s usage times the unit rate for gas for each month. The unit rate is the total monthly cost of natural gas purchased for all Participants at the supplier contract price divided by the

total monthly usage of Participants. Transportation and administrative charges will be allocated to each Participant based on gas usage.

11.2 Annual Report. Each year, ABAG POWER will provide each Participant with a report showing that Participant's total costs for natural gas, including transportation charges and administrative fees, and utility charges at a per therm cost for each category.

11.3 Gas Purchasing. Under the policy direction of the Board, ABAG staff will regularly canvas the natural gas market and enter into contracts to acquire natural gas for, among others, fixed price, indexed price and variable price with a minimum and/or maximum. ABAG staff, under the policy direction of the Board, has the power to execute all contracts reasonably necessary to deliver natural gas to each Participant.

12. Change of Regulations: Any future change in law, rule or regulation, or utility practice which prohibits or frustrates ABAG POWER or the Public Agency from carrying out the terms of this Agreement shall excuse both parties from their obligations, other than the obligation of Public Agency to make payments due for gas and services received.

13. Cancellation of Service:

13.1 Cancellation by Public Agency: Public Agency may cancel the Agreement by giving ABAG POWER written notice by June 1 of its intent to terminate on June 30 of the third year following the date notice was given.

13.2 Cancellation by ABAG POWER: Actions by the utilities and/or CPUC to develop rules which are in conflict with sound business practices, or impose unnecessary risk on either party to this Agreement, or substantially prevent ABAG POWER from performing its functions under this Agreement may result in the cancellation of this Agreement by ABAG POWER. ABAG POWER shall give Public Agency written notice ninety (90) days prior to such cancellation and both parties shall work diligently to minimize the negative effects on ABAG POWER and the Public Agency of such cancellation.

13.3 Working Capital Deposit: Within ninety (90) days after cancellation, ABAG POWER will pay to Public Agency the amount of its working capital as modified pursuant to Paragraph 9.2, less any debits imposed pursuant to Paragraph 9.1 and less any outstanding Actual Charges owed by Public Agency.

14. ABAG POWER Board of Directors: _____(Name of Public Agency Representative) shall be the Public Agency's representative to the Board. The Board shall provide policy direction for the Program. The Board's powers shall include admission of new Participants and the extension of any contracts for the purchase of natural gas and/or related services under rules and procedures adopted by the Board.

15. Approvals: The Public Agency Representative may grant any approval, or give any direction required by this Agreement, in writing or orally. Written approvals or directions may be transmitted physically, by facsimile or electronically. Oral approvals will be confirmed in writing by either party.

16. Attorneys' Fees: In the event either party invokes its right to arbitration under Section H of Exhibit B due to an alleged breach of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs as determined by the arbitrator.

17. Ownership of Files, Reports, Photographs, and Related Documents: Upon termination of the Agreement, any and all files, reports, photographs, plans, specifications, drawings, data, maps, models and related documents respecting in any way the subject matter of this Agreement, whether prepared by ABAG POWER, the Public Agency or third parties and in whatever media they are stored shall remain or shall become the property of the Public Agency and the Public Agency shall acquire title to, and copyright ownership of, all such documents. The Public Agency hereby grants to ABAG POWER an irrevocable license to retain a copy of all records covered by this paragraph for ABAG POWER's files.

18. Indemnity: Public Agency shall indemnify and hold harmless ABAG, ABAG POWER and their respective directors, officers, member agencies, agents and employees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance or non-performance of the services required by this Agreement, unless such is caused by the negligence of ABAG, ABAG POWER or their respective directors, officers, member agencies, agents or employees.

19. Assignment/Security Arrangements: Public Agency hereby acknowledges that ABAG POWER may, in order to finance security deposit and cash flow deficits incurred in connection with the operation with this Program, incur short-term debt which may be secured by an assignment, encumbrance or hypothecation of this Agreement and/or payments due hereunder.

20. Notices: The following addresses for the giving of notices and billings shall be:

Public Agency Notices

Name: _____

Address: _____

Telephone No.: _____

Facsimile No.: _____

Email: _____

Attn.: _____

Public Agency Billing Address

Name: _____

Address: _____

Telephone No.: _____

Facsimile No.: _____

Email: _____

Attn.: _____

ABAG POWER Notices

ABAG
P. O. Box 2050
Oakland, CA 94604-2050
Gerald L. Lahr, Program Manager
Telephone No: 510-464-7908
Facsimile No: 510-464-5508
Email: JerryL@abag.ca.gov

21. Severability: If any provision of this Agreement or the application of any such provision shall be held by a court of competent jurisdiction to be invalid, void, or unenforceable to any extent, the remaining provisions of this Agreement and the application thereof shall remain in full force and effect and shall not be affected, impaired, or invalidated.

22. Captions: The captions appearing in this Agreement are inserted as a matter of convenience and in no way define or limit the provisions of this Agreement.

23. Other Contract Provisions: This Agreement shall be subject to the other standard provisions which are set forth in the attached Exhibit B, which is incorporated by this reference.

IN WITNESS WHEREOF, the parties have hereunto set their hands effective the date and year first above written.

ABAG PUBLICLY OWNED ENERGY RESOURCES

By: _____
Eugene Y. Leong, President

Date: _____

Approved as to legal form and content:

By: _____
Kenneth K. Moy, Legal Counsel

Date: _____

PUBLIC AGENCY

By: _____

Date: _____

Name: _____

Title: _____ (City Manager, County Administrator or other as designated by resolution)

Approved as to legal form and content:

By: _____

Date: _____

Name: _____

Title: _____

EXHIBIT A

List of Facility Accounts

Name of Public Agency: Town of Atherton

PG&E Account Number	Street Address	City
1. All current accounts with ABAG POWER		
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____

EXHIBIT B
STANDARD CONTRACT PROVISIONS

- A. **Time of Essence.** Time is of the essence in this Agreement.
- B. **Waiver.** The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach either of the same or a different provision of this Agreement.
- C. **Controlling Law.** This Agreement and all matters relating to it shall be governed by the laws of the State of California.
- D. **Binding on Successors, Etc.** This Agreement shall be binding upon the successors, assigns, or transferees of ABAG POWER or Public Agency as the case may be. This provision shall not be construed as an authorization to assign, transfer, hypothecate, or pledge this Agreement other than as provided above.
- E. **Records/Audit.** ABAG POWER shall keep complete and accurate books and records of all financial aspects of its relationship with Public Agency in accordance with generally-accepted accounting principles. ABAG POWER shall permit authorized representatives of Public Agency and/or any of Public Agency's governmental grantors to inspect, copy, and audit all data and records of ABAG POWER relating to its performance of services under this Agreement. ABAG POWER shall maintain all such data and records intact for a period of three (3) years after the date that services are completed hereunder or this Agreement is otherwise terminated.
- F. **Prohibited Interest.** Neither ABAG, ABAG POWER or their respective directors, officers, employees or agents shall solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subcontracts.
- G. **Insurance Requirements.**
- (1) ABAG shall, at its own expense, obtain and maintain in effect at all times during the life of this Agreement the following insurance:
 - (a) Workers' compensation insurance as required by law.
 - (b) Comprehensive general liability insurance coverage of One Million Dollars (\$1,000,000) in the aggregate for products and/or completed operations and One Million Dollars (\$1,000,000) per occurrence for automobiles.
 - (c) Professional liability insurance with minimum liability limits of Two Million Dollars (\$2,000,000) in the aggregate.
 - (2) All ABAG's insurance policies shall contain an endorsement providing that written notice shall be given to Public Agency at least thirty (30) days prior to termination, cancellation, or reduction of coverage in the policy or policies, and all policies shall be carried by an insurance company or companies acceptable to Public Agency.

(3) In addition, each policy or policies of insurance described in subparagraph (2) above shall contain an endorsement providing for inclusion of Public Agency and its directors, officers, agents, and employees as additional insureds with respect to the work or operations in connection with this Agreement and providing that such insurance is primary insurance and that no insurance of Public Agency will be called upon to contribute to a loss.

(4) Promptly upon execution of this Agreement, ABAG shall deliver to Public Agency certificates of insurance evidencing the above insurance coverages. Such certificates shall make reference to all provisions or endorsements required herein and shall be signed on behalf of the insurer by an authorized representative thereof. ABAG agrees that at any time upon written request by Public Agency to make available copies of such policies certified by an authorized representative of the insured.

(5) The foregoing requirements as to types and limits of insurance coverage to be maintained by ABAG and approval of policies by Public Agency are not intended to, and shall not, in any manner limit or qualify the liabilities and obligations otherwise assumed by ABAG pursuant to this Agreement, including, but not limited to, liability assumed pursuant to ABAG's insurance policies under Subsections (1)(b) of this section.

(6) ABAG shall require all subcontractors to comply with the insurance requirements described in Section G(1)(a)-(c), inclusive.

H. **Arbitration.** Any dispute between ABAG POWER and the Public Agency regarding the interpretation, effects, alleged breach of powers and duties arising out of this Agreement shall be submitted to binding arbitration. The arbitrator shall be selected by agreement between the parties by lot from a list of up to six (6) arbitrators with each party submitting up to three (3) arbitrators.



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/
ACTING CITY CLERK**

DATE: FOR THE CITY COUNCIL MEETING OF OCTOBER 20, 2004

SUBJECT: ARTS COMMITTEE APPOINTMENT

RECOMMENDATION:

Approve the recommendation of the Screening Committee for the following appointment to commence October 21, 2004:

Arts Committee: Betty Ullman
(Indefinite term)

BACKGROUND:

The Atherton Arts Committee currently has five members. Resolution No. 98-06, which created the Committee, allows up to 10 members appointed by and serving at the pleasure of the Council, each serving for indefinite terms.

Prepared by:

Approved by:

Linda Kelly
Assistant to the City Manager/

James H. Robinson
City Manager

Acting City Clerk



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF OCTOBER 20, 2004

SUBJECT: ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$3,027.81 FOR THE HOLBROOK-PALMER PARK RESTROOM EXPANSION PROJECT NUMBER 03-008.

RECOMMENDATION

Pass a motion accepting work, authorizing recordation of a notice of completion and approving contract change orders in the amount of \$3,027.81 for the Holbrook-Palmer Park Restroom Expansion project Number 03-008 project.

INTRODUCTION

The Council awarded a contract in February 2004 to Tinny Construction Corporation for expansion of Park restroom. The authorized contract amount was \$44,900.00. There have been three authorized contract change orders totaling \$3,027.81 bringing the total to \$47,927.81. Work under the contract has been completed.

ANALYSIS

The original contract price was for \$44,900.00. There were three field directive change orders totaling \$3,027.81. Of those two were minor changes (under \$1,000) and the other was for the amount of \$1,634.87 to install a sill plate for North wall to replace a rotted timber that was discovered when the wall was opened. The contract changes were as follow:

1. Install two skylights and curbs to replace existing aged units \$410.55
(Town supplied the skylights)
2. Install sill plate for north wall to replace rotted timber \$1,634.87

3. Install 4x6 beams to support interior partitions	\$982.39
TOTAL	\$3,027.81

The final cost for all work totaled \$47,927.81.

FISCAL IMPACT

Funding for this project in the amount of \$40,000 was included in the FY 03/04 budget from the Capital Improvement fund. The additional funds for the award of the project for \$44,900 were approved by the City Council on January 21, 2004. The cost of this segment of work is \$47,927.81, 6.7% more than the approved award and less than 1% over the original engineer’s estimate of \$47,500. Funding is available in the Capital Improvement Fund budget for the additional costs.

CONCLUSION:

It is appropriate for the Council to accept the work and authorize recording a Notice of Completion at this time.

Respectfully submitted:

Reviewed/Approved:

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

James H. Robinson
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF OCTOBER 20, 2004

**SUBJECT: AWARD OF CONTRACT FOR 2004 STREET CAPE SEAL PROJECT
NUMBER 04-003**

RECOMMENDATION:

Pass a motion to award the contract for 2004 Street Cape Seal Project, project number 04-003 to Graham Contractors, Inc., the low bidder of the October 14, 2004 bids, for \$69,678.50.

INTRODUCTION:

This project is for rehabilitative maintenance on a specified group of streets in Atherton. The 2003 MTC Street Condition Survey was used along with staff field inspections to identify the appropriate streets for this type of application.

The streets that will receive this treatment are as follows:

<u>STREET</u>	<u>FROM</u>	<u>TO</u>	<u>SQ. FT.</u>
Mt. Vernon	Fair Oaks	End	18,040
Britton Ave.	S/O Isabella	W/O Emilie	20,881
Karen Wy	Alameda	End	5,400
Stevenson Ln	Atherton Av	End	14,920
Moulton Dr.	Glenwood Av	End	15,143
Coughlan Ln	Selby Ln	End	6,973
Polhemus Av	Polhemus	End	6,440
Burns Av	E/O McCormick	N/O Watkins	34,540
McCormick Ln	Burns	Watkins	14,300
Kilroy Wy	Polhemus	End	10,820
Fair Oaks Ln	Fair Oaks	End	3,654
		TOTAL	151,111

ANALYSIS:

Five bids were received for the 2004 Street Cape Seal Project as follows:

<u>CONTRACTOR</u>	<u>LOCATION</u>	<u>BID</u>
1. Graham Contractors, Inc.	San Jose	\$69,678.50
2. Bond Blacktop	Union City	\$78,577.20
3. American Asphalt	Hayward	\$83,110.50
4. Valley Slurry Seal Co.	W. Sacramento	\$87,475.90
5. Intermountain Slurry Seal, Inc.	Watsonville	\$132,641.00

FISCAL IMPACT:

\$389,471 in capital improvement funds are budgeted for this type of project in FY 2004-05 from Parcel Tax, Gas Tax and Road Impact funds. Bids were received for the project on October 14, 2004. Graham Contractors, inc. was the low bidder at \$69,678.50. This bid was 22% below the engineer's estimate of \$85,000.

Prepared By:

Approved:

Duncan L. Jones, PE
Public Works Director

James H. Robinson
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF OCTOBER 20, 2004

**SUBJECT: ADOPTION OF A RESOLUTION AUTHORIZING APPLICATION FOR A
YOUTH SOCCER AND RECREATION DEVELOPMENT PROGRAM
GRANT TO REHABILITATE AND EXPAND THE HOLBROOK-PALMER
SOUTH MEADOW AND A STATE URBAN PARKS AND HEALTHY
COMMUNITIES PROGRAM GRANT TO RECONSTRUCT THE
HOLBROOK-PALMER PARK TENNIS COURTS AND COMMITTING THE
REQUIRED TWENTY-FIVE PERCENT LOCAL MATCH**

RECOMMENDATION:

Adopt resolutions authorizing staff to submit applications for Youth Soccer and Recreation Development (YSRD) program grant to rehabilitate and expand the Holbrook-Palmer south meadow and a State Urban Parks and Healthy Communities (SUPHC) program grant to reconstruct the Holbrook-Palmer Park tennis courts and committing the required local match of 25%.

INTRODUCTION:

In July, the State of California Department of Parks and Recreation issued a call for projects to be funded by various grant programs. The YSRD program provides State Funds for the development of capital projects to provide new opportunities for active recreation. The SUPHC provides State funds for the development of capital facility projects for active recreation involving physical exertion. Project applications are due by November 5, 2004. \$23.3 million is estimated to be available for each program statewide in the 2004/05 fiscal year. The minimum grant request is \$75,000 and the maximum is \$1 million for each grant program.

The Park and Recreation Commission considered these grant programs at their September 1, 2004 meeting. The Commission recommended that applications be submitted for rehabilitating the soccer fields and tennis courts.

In order to submit an application for a project, the following is required:

1. Resolutions of the City Council approving the filing of the applications for the grants, and certifying the availability of the required local share of the total project cost. This project will be constructed within the next three years, so the City Council can commit to providing the local share in a future years budget.
2. Documentation of completed environmental clearance. A categorically exemption under California Environmental Quality Act (CEQA) is required for both grant programs. An environmental clearance document is being prepared by staff and can be approved at staff level for categorical exemptions.
3. Location map, site plan, project proposal, cost estimate and photographs. These items are being prepared by staff to be ready for submittal on November 5.

ANALYSIS:

The project recommended for the YSRD application consist of replacement of the south meadow turf with new engineered natural turf with new irrigation and drainage. The turf on the south meadow was not an engineered turf structure when it was installed. It is grass sown on the native soil. The grass is reaching the end of its useful life and will require extensive remediation in the very near future. A recent survey by a turf specialist has shown that the irrigation system in the south meadow is not adequate, with insufficient overlap between spray heads for good turf watering. In addition, extensive repair to the aging system by park staff is required on a weekly basis. A turf remediation program and replacement irrigation would cost more than the local match for this grant, but would not be eligible for the grant. Leveraging local funds with grant funds allows a complete reconstruction of the field, including expansion into the non-turf area out to the walking path at the south end of the field to provide a field sized properly to provide the required new opportunities for youth soccer and other active recreation. With expanded capability on the south meadow, informal soccer and other activities currently using the north meadow during American Youth Soccer Organization (AYSO) practices could share the south meadow, leaving the north meadow free for less active pursuits, including rental with the Carriage House. Maintenance requirements for the south meadow would be reduced for many years to come.

The project recommended for the SUPHC application consists of the complete reconstruction project for the six tennis courts surface and fence, as designed by Beals Sport and previously advertised for bids. The project contemplated is the full build project that was originally bid, including all amenities such as benches and drinking fountains. This will allow maximum leverage of local funds to install these amenities at a 25% cost to the Town.

FISCAL IMPACT:

The estimate for the South Meadow Reconstruction project is \$900,000, based on cost data provided by Beals Sport, including design, construction, inspection and contingency. The estimate for the Tennis Courts Reconstruction project is \$350,000, based on the Dryco Construction bid,

including construction, inspection and contingency. The Town needs to commit to fund \$225,000 for the YSRD grant and \$87,500 for the SUPHC grant. There are no additional grants available for the south meadow project. While other State grants will be sought for the tennis courts in case this grant is not successful, two State grants cannot match each other, so local funds will need to be budgeted. A maximum of \$270,000 from the Parcel Tax fund will need to be committed and budgeted for these two projects in future years. The Tennis Fund will contribute approximately \$42,500, or approximately one-half, towards the local match for the tennis courts. The following chart summarizes these two grant programs:

South Meadow Reconstruction

Grant Amount	\$675,000
Local Match	<u>\$225,000</u>
Total Cost	\$900,000

Tennis Courts Reconstruction

Grant Amount	\$262,500
Local Match	<u>\$87,500</u>
Total Cost	\$350,000

CONCLUSION:

These projects will dramatically improve the appearance of Holbrook-Palmer Park and significantly upgrade its recreational opportunities. The cost to the Town would leverage significant State funds.

Prepared By:

Approved:

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

James H. Robinson
City Manager

Attachments:
Resolutions (2)

RESOLUTION 04-

**2002 RESOURCES BOND ACT
STATE URBAN PARKS AND HEALTHY COMMUNITIES PROGRAM**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE STATE URBAN
PARKS AND HEALTHY COMMUNITIES PROGRAM UNDER THE CALIFORNIA
CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL
PROTECTION ACT. OF 2002 FOR RECONSTRUCTION OF THE HOLBROOK-
PALMER PARK TENNIS COURTS**

WHEREAS, the people of the State of California have enacted the CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002, which provides funds to the State of California for grants to eligible Applicants; and

WHEREAS, the California Department of Parks and Recreation has been delegated the responsibility for the administration of the State Urban Parks and Healthy Communities Program and the grant Project shown above within the State, setting up necessary procedures; and

WHEREAS, said procedures established by the California Department of Parks and Recreation require the Applicant's Governing Body to certify by resolution the approval of the Application before submission of said Application to the State; and

WHEREAS, the Applicant will enter into a Contract with the State of California for the Project;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the Town of Atherton hereby:

1. Approves the filing of an Application for local assistance funds from the State Urban Parks and Healthy Communities Program under the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002; and
2. Certifies that the Applicant has or will have sufficient funds to operate and maintain the Project; and
3. Certifies that the Applicant has reviewed, understands, and agrees to the General Provisions contained in the Contract shown in the Procedural Guide; and
4. Certifies that the Grantee has or will have available, prior to commencement of any work on the Project, the required Match;
5. Certifies that the Project conforms to the recreation element of any applicable city or county general plan; and

6. Appoints the City Manager as agent to conduct all negotiations, execute and submit all documents including, but not limited to, applications, agreements, payment requests, and any other related documents which may be necessary for the completion of the Project.

* * * * *

I hereby certify that the foregoing Resolution No. _____ was duly and regularly passed and adopted by the City Council of the Town of Atherton at a Regular meeting thereof held on this 20th day of October 2004, by the following vote:

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

Kathy McKeithen, Mayor
Town of Atherton

ATTEST:

Linda Kelly, Acting City Clerk

APPROVED TO FORM:

Marc G. Hynes, City Attorney

RESOLUTION 04-

**2002 RESOURCES BOND ACT
YOUTH SOCCER AND RECREATION DEVELOPMENT PROGRAM**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE YOUTH SOCCER
AND RECREATION DEVELOPMENT PROGRAM UNDER THE CALIFORNIA CLEAN
WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION
ACT OF 2002 FOR REHABILITATION AND EXPANSION OF THE HOLBROOK-
PALMER SOUTH MEADOW**

WHEREAS, the people of the State of California have enacted the CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002, which provides funds to the State of California for grants to eligible Applicants; and

WHEREAS, the California Department of Parks and Recreation has been delegated the responsibility for the administration of the Youth Soccer and Recreation Development Program and the grant Project shown above within the State, setting up necessary procedures, and

WHEREAS, said procedures established by the California Department of Parks and Recreation require the Applicant's Governing Body to certify by resolution the approval of the Application before submission of said Application to the State, and

WHEREAS, the Applicant will enter into a Contract with the State of California for the Project,

NOW, THEREFORE, BE IT RESOLVED that the City Council of the Town of Atherton hereby:

1. Approves the filing of an Application for local assistance funds from the Youth Soccer and Recreation Development Program under the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002; and
2. Certifies that the Applicant has or will have sufficient funds to operate and maintain the Project; and
3. Certifies that the Applicant has reviewed, understands, and agrees to the General Provisions contained in the Contract shown in the Procedural Guide; and
4. Certifies that the Grantee has or will have available, prior to commencement of any work on the Project, the required Match; and
5. Certifies that the Project conforms to the recreation element of any applicable city or county general plan; and

6. Appoints the City Manager as agent to conduct all negotiations, execute and submit all documents including, but not limited to, applications, agreements, payment requests, and any other related documents which may be necessary for the completion of the Project.

* * * * *

I hereby certify that the foregoing Resolution No. ____ was duly and regularly passed and adopted by the City Council of the Town of Atherton at a Regular meeting thereof held on this 20th day of October 2004, by the following vote:

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

Kathy McKeithen, Mayor
Town of Atherton

ATTEST:

Linda Kelly, Acting City Clerk

APPROVED 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: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF OCTOBER 20, 2004

**SUBJECT: ADOPTION OF A RESOLUTION AUTHORIZING APPLICATION FOR
FEDERAL SURFACE TRANSPORTATION PROGRAM FUNDING FOR
THE VALPARAISO AVENUE RECONSTRUCTION PROJECT AND
COMMITTING THE NECESSARY NON-FEDERAL MATCH FOR THE
PROJECT AND STATING THE ASSURANCE OF THE TOWN OF
ATHERTON TO COMPLETE THE PROJECT**

RECOMMENDATION:

Adopt a resolution authorizing staff to submit an application for Surface Transportation Program (STP) grant funds to reconstruct Valparaiso Avenue, committing the required local match and stating the assurance of the Town to complete the project.

INTRODUCTION:

In May, the City/County Association of Governments of San Mateo County (C/CAG) issued a call for local street and roads projects to be funded by the Surface Transportation Program (STP). The STP provides Federal Funds for the development of capital projects for pavement rehabilitation on local streets that are on the Metropolitan Transportation System (MTS). Project applications were due by July 2, 2004 and an application was submitted for our project. Now the Metropolitan Transportation Commission requires Resolutions of Local Support and Opinions of Legal Counsel be submitted by December 1, 2004. \$72,000 is available for the Town of Atherton's project for FY 2005-06.

ANALYSIS:

The project recommended for the STP application consists of reconstruction of the Atherton side of Valparaiso Avenue in the El Camino Real intersection and from El Camino Real to Crane Street.

Because of MTC requirements, funds can only be used on projects on the MTS system or on streets that directly connect to the system. El Camino Real is on the MTS system, and Valparaiso Avenue connects directly to it. Valparaiso Avenue is the highest priority street in Atherton in need of repair that qualifies for this grant program.

FISCAL IMPACT:

The estimated cost for the total Valparaiso Avenue Reconstruction project (Atherton side only) is \$1.2 million. Because of federal requirements that the STP funds pay for more than 50% of any grant funded project, the project limits for this grant were set so that the project cost would be \$140,000 and the \$72,000 in STP funds available to the Town of Atherton would be 51% of the project. The rest of Valparaiso Avenue will be constructed as a separate Town project, funded by Parcel Tax, Road Impact Fees, and other grants that have already been applied for (we have not yet received word on the status of our BTA grant application). The Town needs to commit to fund \$68,000 for the STP grant from the Parcel Tax fund in FY 2005-06.

Prepared By:

Approved:

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

James H. Robinson
City Manager

Attachments:
Resolution

Resolution No. 04-

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
AUTHORIZING THE FILING OF AN APPLICATION FOR FEDERAL SURFACE
TRANSPORTATION PROGRAM FUNDING FOR THE VALPARIASO AVENUE
RECONSTRUCTION PROJECT AND COMMITTING THE NECESSARY NON-
FEDERAL MATCH FOR THE PROJECT AND STATING THE ASSURANCE OF THE
TOWN OF ATHERTON TO COMPLETE THE PROJECT**

WHEREAS, the Transportation Equity Act for the 21st Century (TEA 21) (Public Law 105-178, June 9, 1998) and the TEA 21 Restoration Act (Public Law 105-206, July 22, 1998) continue the Surface Transportation Program (STP) (23:U.S.C. § 133 and the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149); and

WHEREAS, the TEA-21 legislation will guide STP, CMAQ, and TE programming until a TEA-21 Reauthorization bill is authorized; and

WHEREAS, pursuant to TEA-21, and the regulations promulgated thereunder eligible project sponsors wishing to receive Surface Transportation Program or Congestion Mitigation and Air Quality Improvement Program grants for a project shall submit an application first with the appropriate metropolitan transportation planning organization (MPO), for review and inclusion in the MPO's Transportation Improvement Program (TIP); and

WHEREAS, the Metropolitan Transportation Commission is the MPO for the San Francisco Bay region; and

WHEREAS, the Town of Atherton is an eligible project sponsor for Surface Transportation Program or Congestion Mitigation and Air Quality Improvement Program funds; and

WHEREAS, the Town of Atherton wishes to submit an application to MTC for funds from the Surface Transportation Program Improvement Program in fiscal year 2005-06 and 2006-07 for the following project:

Valparaiso Avenue from El Camino Real to Crane Street. Reconstruct the Atherton half of the Valparaiso Avenue travel lanes, bicycle lanes and the connections and returns in the El Camino Real intersection.

WHEREAS, MTC requires, as part of the application, a resolution stating the following:

- 1) the commitment of necessary local matching funds of at least 11.47%; and
- 2) that the sponsor understands that the Surface Transportation Program and Congestion Mitigation and Air Quality Improvement Program funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with Surface Transportation Program or Congestion Mitigation and Air Quality Improvement Program funds; and

- 3) the assurance of the sponsor to complete the project as described in the application, and if approved, as programmed in MTC's TIP; and
- 4) that the sponsor understands that funds must be obligated by June 30 of the year that the project is programmed for in the TIP, or the project may be removed from the program; and
- 5) that the sponsor has a certified pavement management system (PMS).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the Town of Atherton that the Town of Atherton is authorized to execute and file an application for funding under the Surface Transportation Program of TEA-21 Reauthorization in the amount of \$72,000 for the Valparaiso Avenue Reconstruction Project; and

BE IT FURTHER RESOLVED that the City Council of the Town of Atherton by adopting this resolution does hereby state that:

- 1) The Town of Atherton will provide \$68,000 in non-federal matching funds; and
- 2) The Town of Atherton understands that the Surface Transportation Program and Congestion Mitigation and Air Quality Improvement Program funding for the project is fixed at \$72,000, and that any cost increases must be funded by the Town of Atherton from local matching funds, and that the Town of Atherton does not expect any cost increases to be funded with Surface Transportation program or Congestion Mitigation and Air Quality Improvement Program funds; and
- 3) The Valparaiso Avenue Reconstruction Project will be built as described in this resolution and, if approved, for the amount shown in the Metropolitan Transportation Commission (MTC) Transportation Improvement Program (TP) with obligation occurring within the timeframe established below; and
- 4) The program funds are expected to be obligated by June 30 of the year the project is programmed for in the TIP; and
- 5) That the Town of Atherton is an eligible sponsor of projects in the Surface Transportation Program; and
- 6) That the Town of Atherton is authorized to submit an application for Surface Transportation Program funds for the Valparaiso Avenue Reconstruction Project; and
- 7) That there is no legal impediment to the Town of Atherton making applications for Local Streets and Roads Shortfall Program funds; and
- 8) There is no pending or threatened litigation which might in anyway adversely affect the proposed project, or the ability of the Town of Atherton to deliver such project; and

BE IT FURTHER RESOLVED that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application; and

BE IT FURTHER RESOLVED that the MTC is requested to support the application for the project described in the resolution and to program the project, if approved, in MTC's TIP.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on this 20th day of October, 2004, by the following vote:

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

ATTEST:

Kathy McKeithen, Mayor
Town of Atherton

Linda Kelly, Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney



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 20, 2004

**SUBJECT: HETCH-HETCHY RIGHT-OF-WAY ISSUES – CONSIDERATION OF AN
AMENDMENT TO THE ZONING ORDINANCE – INFORMATION ONLY
REPORT (FROM MEETING OF SEPTEMBER 15, 2004)**

RECOMMENDATION:

Receive and file this status report which is for information only.

STATUS:

At the September 15, 2004 Meeting of the City Council, the Council referred an item to the Planning Commission. At issue was the use of Hetch- Hetchy property by adjoining property owners for building setback and lot area purposes.

This item is set for consideration at the October 27, 2004 Planning Commission meeting. The attached plan shows twelve Atherton properties that will be affected. Suggested language for an ordinance change is being prepared. As soon as the Planning Commission takes action, the item will be returned to the Council for final consideration and action.

Respectfully submitted:

Approved:

Michael A. Hood
Building Official

James H. Robinson
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: JOHN P. JOHNS, FINANCE DIRECTOR

DATE: FOR THE MEETING OF OCTOBER 20, 2004

SUBJECT: FY 2003-04 AUDITED FINANCIAL STATEMENTS

RECOMMENDATION:

Accept the basic financial statements and independent auditors report for the Year Ended June 30th, 2004

DISCUSSION:

Transmitted herewith is the Town of Atherton basic financial statements and independent auditors report thereto for the year ended June 30th, 2004.

This report is the first year for which the Town has presented its financial statements in accordance with the new financial reporting model as prescribed by Governmental Accounting Standards Board Statement number 34. As such, the format and content of this report differs from that of previous years in the following respects:

- The financial statements are preceded by a management discussion and analysis. This section provides an overview of the financial statements themselves as well as pertinent analysis of events that have occurred in the past year or are expected to occur in future years that have a bearing on the Town's financial position.

- The financial statements provide a set of consolidated schedules that depict the financial position of the Town as a whole under the full accrual basis. Additionally, these statements provide schedules that reconcile the consolidated statements under the full accrual method of reporting with the fund-level statements that are presented under the modified accrual basis of reporting.

As is consistent with each of the previous four years, the auditors have expressed an opinion that the Town has reported the results of its activities for the year ended June 30th, 2004 and its financial position as of June 30th 2004 fairly and in conformity with generally accepted governmental accounting principles in all material respects.

Additionally, the auditors have concluded that there are no reportable conditions with respect to the Town's internal control structure and internal control environment. Consequently the auditors have not issued a management letter for the year ended June 30th, 2004. However, in what is referred to as a "housekeeping memorandum" the Auditors have noted that the Town, as is permissible under GASB 34, elected to defer accounting for infrastructure assets acquired prior to July 1st, 2003 until June 30th, 2007. Due to the potentially complex and time consuming nature of performing a retrospective accounting for fixed assets, the Auditors have suggested that the Town marshal the resources necessary to account for infrastructure assets at its earliest convenience.

FISCAL IMPACT

None

Prepared by:

Approved by:

John P. Johns
Finance Director

James H. Robinson
City Manager

Attachment: Basic Financial Statement and Independent Auditor's Report

Town of Atherton

Atherton, California

*Basic Financial Statements
And Independent Auditors' Report*

For the year ended June 30, 2004

C&L
Caporicci & Larson
Certified Public Accountants

Town of Atherton

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INDEPENDENT AUDITORS' REPORT

To the Honorable Mayor and Members of the City Council
of the Town of Atherton
Atherton, California

We have audited the accompanying financial statements of governmental activities, each major fund, and the aggregate remaining fund information of the Town of Atherton, California (Town), as of and for the year ended June 30, 2004, which collectively comprise the Town's basic financial statements as listed in the table of contents. These financial statements are the responsibility of the Town's management. Our responsibility is to express an opinion on these basic financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards in the United States and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the basic financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall basic financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, such basic financial statements referred to above present fairly, in all material respects, the financial position of the governmental activities, each major fund, and the aggregate remaining fund information of the Town as of June 30, 2004, and the respective changes in financial position and cash flows, where applicable, thereof for the year then ended in conformity with generally accepted accounting principles in the United States.

As described in Note 1 to the basic financial statements, the Town adopted statements of the Governmental Accounting Standards Board No. 34, *Basic Financial Statements-and Management's Discussion and Analysis-for State and Local Governments*; No. 37, *Basic Financial Statements-and Management's Discussion and Analysis-for State and Local Governments: Omnibus*; and No. 38, *Certain Financial Statement Note Disclosures*.

As described in Note 4 to the basic financial statements, the Town has elected in accordance with Governmental Accounting Standards Board Statement No. 34 to defer recording and reporting of its major general infrastructure assets acquired prior to fiscal year 2003-2004. Recording and reporting by the City of these major general infrastructure assets is required by fiscal year 2006-2007.

The accompanying Required Supplementary Information, such as management's discussion and analysis, budgetary comparison information and other information as listed in the table of contents are not a required part of the basic financial statements but are supplementary information required by the Governmental Accounting Standards Board. We have applied certain limited procedures, which consisted principally of inquires of management regarding the methods of measurement and presentation of the Required Supplementary Information. However, we did not audit the information and express no opinion on it.

Oakland

180 Grand Ave., Suite 1365
Oakland, California 94612

Orange County

3184-D Airway Avenue
Costa Mesa, California 92626

Sacramento

777 Campus Commons Rd., Suite 200
Sacramento, California 95825

San Diego

600 "B" Street, Suite 1900
San Diego, California 92101

To the Honorable Mayor and Members of the City Council
of the Town of Atherton
Atherton, California
Page 2

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the Town's basic financial statements. The accompanying supplementary information is presented for purpose of additional analysis and is not a required part of the basic financial statements. The supplementary information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, are fairly stated in all material respects in relation to the basic financial statements taken as a whole.

Capricci & Carson

Oakland, California
August 13, 2004

MANAGEMENT'S DISCUSSION AND ANALYSIS

As management of the Town of Atherton, we offer readers of the Town of Atherton's financial statements this narrative overview and analysis of the financial activities of the Town of Atherton for the fiscal year ended June 30, 2004. We encourage readers to consider the information presented here.

Financial Highlights

- The assets of the Town of Atherton exceeded its liabilities at the close of the most recent fiscal year by \$ 13,579,703 (net assets). Of this amount, \$5,891,426 (unrestricted net assets) may be used to meet the Town's ongoing obligations to citizens and creditors.
- The Town's total net assets increased by \$3,234,494. Approximately seventy-five percent of the increase is attributable to investments in capital assets.
- As of the close of the current fiscal year, the Town of Atherton's governmental funds reported combined ending fund balances of \$9,777,407, an increase of \$933,420 in comparison with the prior year. Approximately half of this total amount, 2,951,568, is available for spending at the Town's discretion (unreserved fund balance.)
- At the end of the current fiscal year, unreserved fund balance for the general fund was \$2,391,589, or 33 percent of total general fund expenditures.

Overview of the Financial Statements

This discussion and analysis are intended to serve as an introduction to the Town of Atherton's basic financial statements. The Town of Atherton's basic financial statements comprise three components: 1) government-wide financial statements, 2) fund financial statements and 3) notes to the financial statements. This report also contains other supplementary information in addition to the basic financial statements themselves.

Government-wide financial statements. The *government -wide financial statements* are designed to provide readers with a broad overview of the Town of Atherton's finances, in a manner similar to a private-sector business.

The *statement of net assets* presents information on all of the Town of Atherton's assets and liabilities, with the difference between the two reports as *net assets*. Over time, increases or decreases in net assets may serve as a useful indicator of whether the financial position of the Town of Atherton is improving or deteriorating.

The *statement of activities* presents information showing how the Town's net *assets* changed during the most recent fiscal year. All changes in net assets are reported as soon as the underlying event giving rise to the change occurs, *regardless of the timing of related cash flows*. Thus, revenues and expenses are reported in this statement for some items that will only result in cash flows in future fiscal periods (e.g., uncollected taxes and earned but unused vacation leave).

Both of the government-wide financial statements distinguish functions of the Town of Atherton that are principally supported by taxes and intergovernmental revenues (*governmental activities*) from other functions that are intended to recover all or a significant portion of their costs through user fees and charges (*business-type activities*). The governmental activities of the Town of Atherton include general government, public safety, highways and streets, sanitation, economic development, and vulture and recreation.

The government-wide financial statements include not only the Town of Atherton itself (known as the *primary government*), but also the Atherton Channel District a legally separate special purpose district. Financial information these *component units* is reported separately from the financial information presented for the primary government itself. The Atherton Channel District, although legally separate, functions for all practical purposes as a department of the Town of Atherton, and therefore has been included as an integral part of the primary government.

The government-wide financial statement can be found on pages 11 through 13 of this report.

Fund financial statements. A *fund* is a grouping of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives. The Town of Atherton, like other state and local governments, uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. All of the funds of the Town of Atherton can be divided into three categories: governmental funds, proprietary funds, and fiduciary funds.

Governmental funds. *Governmental funds* are used to account for essentially the same functions reported as *governmental activities* in the government-wide financial statements. However, unlike the government-wide financial statements, governmental fund financial statements focus on *near-term inflows and outflows of spendable resources*, as well as on *balances of spendable resources* available at the end of the fiscal year. Such information may be useful in evaluating a government's near-term financing requirements.

Because the focus of governmental funds is narrower than that of the government-wide financial statements, it is useful to compare the information presented for *governmental funds* with similar information presented for *governmental activities* in the government-wide financial statements. By doing so, readers may better understand the long-term impact of the government's near-term financing decisions. Both the governmental fund balance sheet and the governmental fund statement of revenues, expenditures, and changes in fund balances provide a reconciliation to facilitate this comparison between *governmental funds* and *governmental activities*.

The Town of Atherton maintains eighteen individual governmental funds. Information is presented separately in the government fund balance sheet and in the governmental fund statement of revenues, expenditures, and changes in fund balances for the general fund and the special tax special revenue fund, both of which are considered to be major funds. Data from the other governmental funds are combined into a single, aggregated presentation individual fund data for each of these nonmajor governmental funds is provided in the form of *combining statements* elsewhere in this report.

The Town of Atherton adopts an annual appropriated budget for its general fund. A budgetary comparison statement has been provided for the general fund to demonstrate compliance with this budget.

The basic governmental fund financial statements can be found on pages 17 through 21 of this report.

Proprietary funds. The Town of Atherton maintains one type of proprietary fund type, internal service funds. *Internal service funds* are an accounting device used to accumulate and allocate costs internally among the Town of Atherton's various functions. The Town of Atherton uses internal service funds to account for its fleet of vehicles, for its management information systems and for certain administrative services activities. Because each of these services predominantly benefit governmental rather than business-type functions, they have been included within *governmental activities* in the government-wide financial statements. Internal service funds are combined into a single, aggregated presentation in the proprietary fund financial statements. Individual fund data for the internal service funds is provided in the form of *combining statements* elsewhere in this report.

The basic proprietary fund financial statements can be found on pages 23 through 26 of this report.

Fiduciary funds. Fiduciary funds are used to account for resources held for the benefit of parties outside the government. Fiduciary funds are *not* reflected in the government-wide financial statement because the resources of those funds are *not* available to support the Town of Atherton’s own programs. The accounting used for fiduciary funds is much like that used for proprietary funds.

The basic fiduciary fund financial statements can be found on pages 27 and 28 of this report.

Notes to the financial statements. The notes provide additional information that is essential to a full understanding of the data provided in the government-wide and fund financial statements. The notes to the financial statements can be found on pages 29 through 48 of this report.

Other information. In addition to the basic financial statements and accompanying notes, this report also presents certain *required supplementary information* concerning the Town of Atherton’s progress in funding its obligation to provide pension benefits to its employees. Required supplementary information can be found on pages 49 through 52 of this report.

Government-wide Financial Analysis

As noted earlier, net assets may serve over time as a useful indicator of a government’s financial position. In the case of the Town of Atherton, assets exceeded liabilities by \$13,597,703 at the close of the most recent fiscal year.

The largest portion of the Town of Atherton’s net assets consist of cash and cash equivalents (81 percent). The remaining net assets consist of investments in capital assets (e.g., land, buildings, machinery, and equipment). The majority of the Town’s total net assets are consist of cash and cash equivalents because the Town has not yet made a retrospective accounting of its infrastructure assets that were acquired or constructed prior to FY 2003-04.

TOWN OF ATHERTON’S Net Assets

Invested in capital assets, net of related debt	\$ 3,969,309
Restricted for:	
Capital projects	404,424
Debt service	561,792
Special projects	2,770,752
Unrestricted	<u>5,891,426</u>
Total net assets	<u><u>\$ 13,597,703</u></u>

An additional portion of the Town of Atherton’s net assets (27 percent) represents resources that are subject to external restrictions on how they may be used. The remaining balance of *unrestricted net assets* (\$5,891,426) may be used to meet the Town’s ongoing obligations to citizens and creditors.

At the end of the current fiscal year, the Town of Atherton is able to report positive balances in all three categories of net assets, both for the government as a whole, as well as for its separate governmental and business-type activities. The same situation held true for the prior fiscal year.

Governmental activities. Governmental activities increased the Town of Atherton’ net assets by \$3.2 million. Of this \$2.4 million (75 percent) were a result of capital improvements that were accomplished with existing financial reserves. (The Town of Atherton funds its capital improvement program on a “pay as you go” basis). Favorable variances in certain revenue accounts and aggressive actions by the Town to reduce current-year expenditures also contributed to an increase in net assets.

Financial Analysis of the Town's Funds

As noted earlier, the Town of Atherton uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements.

Governmental funds. The focus of the Town of Atherton's *governmental funds* is to provide information on near-term inflows, outflows, and balances of *spendable* resources. Such information is useful in assessing the Town of Atherton's financing requirements. In particular, *unreserved fund balance* may serve as a useful measure of a government's net resources available for spending at the end of the fiscal year.

As of the end of the current fiscal year, the Town of Atherton's governmental funds reported combined ending fund balances of \$9,777,407, an increase of \$933,420 in comparison with the prior year. Thirty percent of this total amount (\$2,951,568) constitutes *unreserved fund balance*, which is available for spending at the government's discretion. The remainder of fund balance is reserved to indicate that is not available for new spending because it has already been committed 1) to liquidate contracts and purchase orders of the prior period (\$956,208) 2) to provide for a contingency for economic uncertainty (\$3,000,000) and 3) to provide for a reserve for future building inspections (\$604,903).

The general fund is the chief operating fund of the Town of Atherton. At the end of the current fiscal year, unreserved fund balance of the general fund was \$2,391,589, while total fund balance reached \$6,057,378. As a measure of the general fund's liquidity, it may be useful to compare both unreserved fund balance and total fund balance to total fund expenditures. For the year ended June 30th, 2004 total general fund balance represented represents 83 percent of FY 2004 expenditures.

The fund balance of the general fund increased by \$772,745 for the 12 months ended June 30th, 2004. Key factors in this growth are as follows:

- A one-time refund of excess property tax contributions to the Educational Revenue Augmentation Fund by the San Mateo County Controller in the amount of \$185,000 as a result of excess contributions withheld by the Controller in previous fiscal years;
- Implementation of methods to improve the rate of compliance with the Town's business license ordinance thereby increasing business license tax collections by nearly \$300,000 in FY 2003-04;
- The decision by City Council to increase the Parcel Tax Levy and operating transfer to provide for additional financial reserves in anticipation of future diversions of local revenues by the State of California; and,
- Aggressive cost-containment efforts including the decision not to fill certain administrative and public safety positions that had been vacated as a means of offsetting rising health insurance and pension costs.

General Fund Budgetary Highlights

Differences between the original budget and the final amended budget were relatively minor: a \$61,000 reduction in estimated revenues offset by a reduction in appropriations \$41,000 and the recognition of higher than anticipated carry-over of fund-balance from the previous fiscal year.

During the year, however, revenues exceeded budgetary estimates by \$303,744 (a favorable variance of five percent of estimated revenues) and expenditures were less than appropriations, by \$94,482 (a favorable variance of 1.3 percent of general fund appropriations).

Capital Assets

Capital assets. The Town of Atherton's investment in capital assets for its governmental and business type activities as of June 30, 2004, amounts to \$3,969,309 (net of accumulated depreciation). This investment in capital assets includes land, building and computers and telecommunications system, improvements, machinery and equipment, park facilities, a corporation yard, and roads. The total increase in the Town of Atherton's investment in capital assets for the current fiscal year was 1,004,446 (all of which were for governmental activities).

Major capital asset events during the current fiscal year included the following:

- Construction began and was completed on the new corporation yard (the cost of which was \$629,114);
- A variety of street construction projects completed at a cost of \$715,967;
- Construction in progress as of the end of the current fiscal year had reached \$1,034,000; and,
- Various building and system additions and improvements were completed in at a cost of approximately \$143,000.

TOWN OF ATHERTON'S Capital Assets

	Balance July 1, 2003	Additions	Retirements	Adjustments	Balance June 30, 2004
Governmental Activities:					
Capital assets, not being depreciated:					
Land	\$ 690,884	\$ -	\$ -	\$ -	\$ 690,884
Construction in progress	-	1,034,000	-	-	1,034,000
Total nondepreciable assets	<u>690,884</u>	<u>1,034,000</u>	<u>-</u>	<u>-</u>	<u>1,724,884</u>
Capital assets, being depreciated:					
Buildings	991,052	629,114	-	-	1,620,166
Other improvements	605,539	12,588	-	-	618,127
Vehicles	481,113	73,249	(29,264)	-	525,098
Equipment - computer	60,214	5,118	-	-	65,332
Equipment - furniture/equipment	372,662	53,723	(38,458)	-	387,927
Infrastructure	-	715,967	-	-	715,967
Total depreciable assets	<u>2,510,580</u>	<u>1,489,759</u>	<u>(67,722)</u>	<u>-</u>	<u>3,932,617</u>
Accumulated Depreciation:					
Buildings	-	(28,328)	-	(556,053)	(584,381)
Other improvements	-	(21,663)	-	(445,000)	(466,663)
Vehicles	(234,136)	(70,160)	29,265	-	(275,031)
Equipment - computer	(2,465)	(5,298)	-	(334,307)	(342,070)
Equipment - furniture/equipment	-	(24,050)	28,588	-	4,538
Infrastructure	-	(24,585)	-	-	(24,585)
Total accumulated depreciation	<u>(236,601)</u>	<u>(174,084)</u>	<u>57,853</u>	<u>(1,335,360)</u>	<u>(1,688,192)</u>
Depreciable assets, net	<u>2,273,979</u>	<u>1,315,675</u>	<u>(9,869)</u>	<u>(1,335,360)</u>	<u>2,244,425</u>
Governmental activities					
capital assets, net	<u>\$ 2,964,863</u>	<u>\$ 2,349,675</u>	<u>\$ (9,869)</u>	<u>\$ (1,335,360)</u>	<u>\$ 3,969,309</u>

Additional information on the Town of Atherton's capital assets can be found in note 4 of this report.

Economic Factors Affecting Subsequent Years

- FY 2004-05 will be the fourth and final year that the Atherton special municipal tax will remain in effect. Unless the special municipal tax is renewed prior to June 30th, 2005 or an alternative source of funding is identified, the Town the amount of discretionary revenues available to the town will decline by \$1.85 million (approximately 27 percent of total discretionary revenues).
- The assessed value of real and personal property will increase by 6.8 percent in calendar year 2004. However, Atherton's property taxes will decline by \$136,000 in FY 2004-05 as a result of:
 - A \$153,000 increase in educational revenue augmentation fund shifts by the State of California; and,
 - An assumption that a \$185,000 rebate from the County Controller's office received in FY 2003-04 will not reoccur in FY 2004-05.
- The permitted value of residential renovation and construction is expected to exceed \$100 million for the fourth consecutive year. As a result, the Building Department is expected to be fully self-supporting at current permit fee levels.
- Pension expenses for municipal employees will amount to 18 percent of covered payroll for miscellaneous employees and 36 percent for safety employees.
- Salary expenses will increase at levels consistent with expected changes in the consumer price index (approximately 3 percent per year).

All of these factors were considered in preparing the Town of Atherton's budget for Fiscal Year 2004-05.

This financial report is designed to provide a general overview of the Town of Atherton's finances for all those with an interest in the Town's finances. Questions concerning any of the information provided in this report or requests for additional financial information should be addressed to the Atherton Finance Department, 91 Ashfield Rd. Atherton, CA. 94027

BASIC FINANCIAL STATEMENTS

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GOVERNMENT-WIDE FINANCIAL STATEMENTS

Town of Atherton
Statement of Net Assets
June 30, 2004

	<u>Governmental Activities</u>
ASSETS	
Cash and investments in treasury	\$ 10,988,439
Receivables:	
Accounts	142,918
Interest	57,661
Miscellaneous	120
Capital assets:	
Non-depreciable	1,724,884
Depreciable, net	<u>2,244,425</u>
Total assets	<u>15,158,447</u>
LIABILITIES	
Accounts payable	216,856
Accrued payroll	255,394
Deposit payable	472,737
Claims payable	53,965
Compensated absence - due within one year	112,358
Compensated absences payable, due in more than one year	<u>449,434</u>
Total liabilities	<u>1,560,744</u>
NET ASSETS	
Invested in capital assets, net of related debt	3,969,309
Restricted for:	
Capital projects	404,424
Debt service	561,792
Special projects	2,770,752
Unrestricted	<u>5,891,426</u>
Total net assets	<u>\$ 13,597,703</u>

Town of Atherton
Statement of Activities and Changes in Net Assets
For the year ended June 30, 2004

Functions/Programs	Expenses	Program Revenues				Total	Net (Expense)
		Charges for Services	Operating Grants and Contributions	Capital Grants and Contributions	Governmental Activities		Revenue and Changes in Net Assets
Primary government:							
Governmental activities:							
General government	\$ 1,519,594	\$ 2,239,127	\$ 105,270	\$ -	\$ 2,344,397	\$ 824,803	
Public works administration	1,004,566	-	-	-	-	(1,004,566)	
Parks and recreation	508,610	220,688	-	-	220,688	(287,922)	
Police	3,768,698	79,144	22,118	-	101,262	(3,667,436)	
Parks maintenance	11,054	-	-	-	-	(11,054)	
Library maintenance	97,551	-	1,178	-	1,178	(96,373)	
Streets and public facilities	93,257	541,592	182,696	-	724,288	631,031	
Total governmental activities	\$ 7,003,329	\$ 3,080,551	\$ 311,262	\$ -	\$ 3,391,813	(3,611,516)	

General revenues and transfers:

Taxes:	
Property taxes	5,520,609
Sales taxes	345,649
Other taxes	903,527
Total taxes	6,769,785
Investment earnings	79,980
Miscellaneous	6,115
Loss on disposal of assets	(9,870)
Total general revenues and transfers	6,846,010
Change in net assets	3,234,494
Net assets - beginning of year, as restated (Note 12)	10,363,209
Net assets - end of year	\$ 13,597,703

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FUND FINANCIAL STATEMENTS

Governmental Fund Financial Statements
Proprietary Fund Financial Statements
Fiduciary Fund Financial Statements

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GOVERNMENTAL FUND FINANCIAL STATEMENTS

Town of Atherton
Balance Sheet
Governmental Funds
June 30, 2004

	Major Funds			Total
	General	Special Tax Special Revenue	Non-Major Governmental Funds	
ASSETS				
Cash and investments in treasury	\$ 6,726,339	\$ 989,824	\$ 2,851,895	\$ 10,568,058
Receivables:				
Accounts	142,835	-	83	142,918
Interest	57,661	-	-	57,661
Miscellaneous	120	-	-	120
Due from other funds	12,016	-	-	12,016
Total assets	\$ 6,938,971	\$ 989,824	\$ 2,851,978	\$ 10,780,773
LIABILITIES AND FUND BALANCES				
Liabilities:				
Accounts payable	\$ 99,497	\$ 26,601	\$ 83,156	\$ 209,254
Accrued payroll	255,394	-	-	255,394
Deposit payable	472,737	-	-	472,737
Claims payable	53,965	-	-	53,965
Due to other funds	-	-	12,016	12,016
Total liabilities	881,593	26,601	95,172	1,003,366
Fund Balances:				
Reserved for:				
Encumbrances	60,886	838,314	57,008	956,208
Special projects	-	-	1,865,020	1,865,020
Capital projects	-	-	399,708	399,708
Contingency	3,000,000	-	-	3,000,000
Future building inspection	604,903	-	-	604,903
Unreserved:				
Designated:				
Insurance	608,882	-	-	608,882
Undesignated, reported in:				
General fund	1,782,707	-	-	1,782,707
Special revenue funds	-	124,909	20,132	145,041
Capital project funds	-	-	414,938	414,938
Total fund balances	6,057,378	963,223	2,756,806	9,777,407
Total liabilities and fund balances	\$ 6,938,971	\$ 989,824	\$ 2,851,978	\$ 10,780,773

See accompanying Notes to Basic Financial Statements.

Town of Atherton
Reconciliation of the Governmental Funds Balance Sheet
to the Government-Wide Statement of Net Assets
June 30, 2004

Total Fund Balances - Total Governmental Funds \$ 9,777,407

Amounts reported for governmental activities in the Statement of Net Assets were reported differently because:

Capital assets used in governmental activities were not current financial resources and therefore were not reported in the Governmental Funds Balance Sheet.

Non depreciable assets (Land and construction in progress)	1,724,884
Depreciable buildings, property, equipment and infrastructure, net	2,244,425
Total capital assets	3,969,309

Internal service funds were used by management to charge the costs of certain activities to individual funds. The assets and liabilities of the internal service funds were included in governmental activities in the Government-Wide Statement of Net Assets. 412,779

Compensated absence Payable were not due and payable in the current period. Therefore, they were not reported in the Governmental Funds Balance Sheet. The long-term liabilities were adjusted as follows:

Compensated absences - current portion	(112,358)
Compensated absences - non-current portion	(449,434)
Total long-term liabilities	(561,792)

Net Assets of Governmental Activities **\$ 13,597,703**

Town of Atherton
Statement of Revenues, Expenditures and Changes in Fund Balances
Governmental Funds
For the year ended June 30, 2004

	Major Funds		Non-Major Governmental Funds	Total
	General	Special Tax Special Revenue		
REVENUES:				
Property taxes	\$ 3,256,642	\$ -	\$ 466,912	\$ 3,723,554
Special assessments	-	1,835,796	-	1,835,796
Sales taxes	153,871	-	-	153,871
Measure A grants	-	-	191,779	191,779
Other taxes	922,798	-	-	922,798
Permits and licenses	1,861,413	-	-	1,861,413
Fines and forfeitures	71,230	-	-	71,230
From other agencies	214,164	-	247,757	461,921
Service charges	362,720	-	16,873	379,593
Use of money and property	(11,674)	-	27,987	16,313
Road impact fees	-	-	541,592	541,592
Other revenue	76,993	-	10,840	87,833
Total revenues	6,908,157	1,835,796	1,503,740	10,247,693
EXPENDITURES:				
Current:				
General government	1,555,792	-	-	1,555,792
Public works administration	1,625,901	-	-	1,625,901
Parks and recreation	508,610	-	-	508,610
Police	3,594,069	-	100,000	3,694,069
Parks maintenance	-	-	11,258	11,258
Library maintenance	-	-	97,551	97,551
Streets and public facilities	-	896,137	924,955	1,821,092
Total expenditures	7,284,372	896,137	1,133,764	9,314,273
REVENUES OVER (UNDER) EXPENDITURES	(376,215)	939,659	369,976	933,420
OTHER FINANCING SOURCES (USES):				
Transfers in	1,148,960	-	-	1,148,960
Transfers (out)	-	(871,879)	(277,081)	(1,148,960)
Total other financing sources (uses)	1,148,960	(871,879)	(277,081)	-
REVENUES AND OTHER FINANCING SOURCES OVER (UNDER) EXPENDITURES AND OTHER FINANCING USES	772,745	67,780	92,895	933,420
FUND BALANCES:				
Beginning of year	5,284,633	895,443	2,663,911	8,843,987
End of year	\$ 6,057,378	\$ 963,223	\$ 2,756,806	\$ 9,777,407

See accompanying Notes to Basic Financial Statements.

Town of Atherton

Reconciliation of the Governmental Funds Statement of Revenues, Expenditures, and Changes in Fund Balances to the Government-Wide Statement of Activities and Changes in Net Assets For the year ended June 30, 2004

Net Change in Fund Balances - Total Governmental Funds \$ 933,420

Governmental activities in the Statement of Activities and changes in Net Assets were reported differently because:

Governmental funds report capital outlay as expenditures. However, in the Government-Wide Statement of Activities and Changes in Net Assets, the cost of those assets is allocated over their estimated useful lives as depreciation expense. This is the amount of capital assets recorded in the current period. 2,445,392

Depreciation expense on capital assets is reported in the Government-Wide Statement of Activities and Changes in Net Assets, but it does not require the use of current financial resources. Therefore, depreciation expense was not reported as expenditures in governmental funds. (98,627)

Loss on the disposal of capital assets was reported in the Government-Wide Statement of Activities and Changes in Net Assets, but it does not require the use of current financial resources. Therefore, loss on the disposal of capital assets was not reported as expenditure in Governmental Funds. (9,870)

Payroll expense on compensated absences is reported in the Government-Wide Statement of Activities and Changes in Net Assets, but it does not require the use of current financial resources. Therefore, compensated absences expense was not reported as expenditures in governmental funds. (59,290)

Internal service funds are used by management to charge the costs of certain activities, such as insurance and fleet management, to individual funds. The net revenue of the internal service funds was reported with governmental activities. 23,469

Change in Net Assets of Governmental Activities \$ 3,234,494

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PROPRIETARY FUND FINANCIAL STATEMENTS

Internal Service Fund - This fund is used to account for special activities and services performed by a designated Town department for other departments on a cost reimbursement basis.

Town of Atherton
Statement of Net Assets
Proprietary Funds
June 30, 2004

	<u>Governmental Activities Internal Service Funds</u>
ASSETS	
Current assets:	
Cash and investments	\$ 420,381
Noncurrent assets:	
Capital assets:	
Depreciable, net	281,950
Total assets	<u>702,331</u>
LIABILITIES	
Current liabilities:	
Accounts payable	7,602
Total liabilities	<u>7,602</u>
NET ASSETS	
Invested in capital assets, net of related debt	281,950
Unrestricted	412,779
Total net assets	<u>\$ 694,729</u>

Town of Atherton
Statement of Revenues, Expenses, and Changes in Net Assets
Proprietary Funds
For the year ended June 30, 2004

	Governmental Activities Internal Service Funds
OPERATING REVENUES:	
Service charges	\$ 430,662
Total operating revenues	<u>430,662</u>
OPERATING EXPENSES:	
Risk management	168,997
Depreciation	75,458
Supplies and maintenance	162,738
Total operating expenses	<u>407,193</u>
OPERATING INCOME (LOSS)	<u>23,469</u>
Change in net assets	23,469
NET ASSETS:	
Beginning of the year	<u>671,260</u>
End of the year	<u>\$ 694,729</u>

Town of Atherton
Statement of Cash Flows
Proprietary Funds
For the year ended June 30, 2004

	Governmental Activities Internal Service Funds
CASH FLOWS FROM OPERATING ACTIVITIES:	
Cash received from customers/other funds	\$ 430,662
Cash payments to suppliers for goods and services	(351,344)
Net cash provided (used) by operating activities	79,318
CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES:	
Repayment of payables to other funds	(55,854)
Net cash provided (used) by noncapital financing activities	(55,854)
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES:	
Acquisition or disposal of fixed assts	(78,368)
Net cash provided (used) by capital and related financing activities	(78,368)
Net increase (decrease) in cash and cash equivalents	(54,904)
CASH AND CASH EQUIVALENTS:	
Beginning of year	475,285
End of year	\$ 420,381
RECONCILIATION OF OPERATING INCOME TO NET	
CASH PROVIDED BY OPERATING ACTIVITIES:	
Operating income (loss)	\$ 23,469
Adjustments to reconcile operating income (loss) to net cash provided (used) by operating activities:	
Depreciation	75,458
Changes in assets and liabilities:	
Accounts payable	(19,609)
Total adjustments	55,849
Net cash provided (used) by operating activities	\$ 79,318

See accompanying Notes to Basic Financial Statements.

FIDUCIARY FUND FINANCIAL STATEMENTS

Agency Funds are custodial in nature (assets equal liabilities) and do not involve measurement of results of operations. They are used to account for assets held in an agency capacity for others and therefore cannot be used to support the City's programs.

Town of Atherton
Statement of Fiduciary Net Assets
Fiduciary Funds
June 30, 2004

	<u>Agency Funds</u>
ASSETS	
Cash and investments	\$ 128,762
Total assets	<u>\$ 128,762</u>
LIABILITIES	
Accounts payable	\$ 2,668
Deposits payable	126,094
Total liabilities	<u>\$ 128,762</u>

Town of Atherton
Notes to Basic Financial Statements
For the year ended June 30, 2004

1. SIGNIFICANT ACCOUNTING POLICIES

The basic financial statements of the Town of Atherton, California, (Town) have been prepared in conformity with generally accepted accounting principles (GAAP) as applied to governmental agencies. The Governmental Accounting Standards Boards (GASB) is the accepted standard setting body for establishing governmental accounting and financial reporting principles. The more significant of the Town's accounting policies are described below.

A. Financial Reporting Entity

The Town was incorporated in 1923 and is situated between the cities of Menlo Park and Redwood City on the Peninsula of the San Francisco Bay Area. The Town operates under the Mayor-Council-Manager form of government created by charter in 1923 and provides the following services: public safety (police), public works and streets, park services, and general administration services.

The Town is governed by a five-member council elected by Town residents. The Town is legally separate and fiscally independent, which means it can issue debt, set and modify budgets and fees and sue or be sued. The accompanying basic financial statements include the financial activities of the Town, the primary government, and its component units.

Component units are legally separate organizations for which the elected officials of the primary government are financially accountable. In addition, component units can be other organizations for which the primary government's exclusion would cause the reporting entity's financial statements to be misleading or incomplete.

The following is a brief review of the blended component unit included in the accompanying basic financial statements of the Town in which the Council functions as the governing board:

The Atherton Channel District (District) was established to assist in the maintenance and rehabilitation of the areas within the Town determined to be in the flood plain of the local stream. The District has all accounting and administrative functions performed by Town staff and the District receives advances from the Town to finance operations. The financial activities of the District have been included in the Atherton Channel District Capital Projects Fund in the accompanying basic financial statements.

The above component unit is included in the Town's basic financial statements using the blended method since the governing body of this component unit is substantially the same as the governing body of the Town and this component unit provides services entirely to the Town. Discretely presented component units are reported in a separate column in the basic financial statements to emphasize that they are legally separate from the Town. The Town does not have any component units that are discretely presented. Financial information for the component unit may be obtained from the Town's Finance Department.

Town of Atherton

Notes to Basic Financial Statements, Continued

For the year ended June 30, 2004

1. SIGNIFICANT ACCOUNTING POLICIES, Continued

B. Basis of Accounting and Measurement Focus

The accounts of the Town are organized on the basis of funds, each of which is considered a separate accounting entity. The operations of each fund are accounted for with a separate set of self-balancing accounts that comprise its assets, liabilities, fund equity, revenues, and expenditures or expenses, as appropriate. Government resources are allocated to and accounted for in individual funds based upon the purposes for which they are to be spent and the means by which spending activities are controlled.

Government-Wide Financial Statements

The Town's government-wide financial statements include a Statement of Net Assets and a Statement of Activities and Changes in Net Assets. These statements present summaries of the governmental activities for the Town, the primary government, accompanied by a total column. Fiduciary activities of the Town are not included in these statements.

These financial statements are presented on an "economic resources" measurement focus and the accrual basis of accounting. Accordingly, all of the Town's assets and liabilities, including capital assets and related current year infrastructure asset additions and long-term liabilities, are included in the accompanying Statement of Net Assets. The Statement of Activities presents changes in net assets. Under the accrual basis of accounting, revenues are recognized in the period in which they are earned while expenses are recognized in the period in which the liability is incurred.

Certain types of transactions are reported as program revenues for the Town and are presented in the following three categories:

- Charges for services
- Operating grants and contributions
- Capital grants and contributions

Certain eliminations have been made as prescribed by GASB Statement No. 34 in regards to interfund activities, payables and receivables. All internal balances in the Statement of Net Assets have been eliminated. The following interfund activities have been eliminated:

- Due to/from other funds
- Transfers in/out

The Town applies all applicable GASB pronouncements (including all NCGA Statements and Interpretations currently in effect) as well as the following pronouncements issued on or before November 30, 1989, unless those pronouncements conflict with or contradict GASB pronouncements: Financial Accounting Standards Board (FASB) and Statements Interpretations, Accounting Principles Board (APB) opinions, and Accounting Research Bulletins, (ARB) of the Committee on Accounting Procedure.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2004

1. SIGNIFICANT ACCOUNTING POLICIES, Continued

B. Basis Accounting and Measurement Focus, Continued

Governmental Fund Financial Statements

Governmental fund financial statements include a Balance Sheet and a Statement of Revenues, Expenditures and Changes in Fund Balances for all major governmental funds and non-major funds aggregated. An accompanying schedule is presented to reconcile and explain the differences in net assets as presented in these statements to the net assets presented in the government-wide financial statements. The Town has presented all major funds that met the applicable criteria.

All governmental funds are accounted for on a spending or “*current financial resources*” measurement focus. Accordingly, only current assets and current liabilities generally are included on the balance sheets. The Statement of Revenues, Expenditures and Changes in Fund Balances present increases (revenues and other financial sources) and decreases (expenditures and other financial uses) in net current assets. Under the modified accrual basis of accounting, revenues are recognized in the accounting period in which they become both measurable and available to finance expenditures of the current period.

Revenues are recorded when received in cash, except those revenues subject to accrual (generally 60 days after year-end) are recognized when due. The primary revenue sources, which have been treated as susceptible to accrual by the Town, are property taxes, charges for services, federal and state grants, sales tax, and interest. Expenditures are recognized in the accounting period in which the related fund liability is incurred.

Deferred revenues arise when potential revenues do not meet both the “measurable” and “available” criteria for recognition in the current period. Deferred revenues also arise when the government receives resources before it has a legal claim to them, as when grant monies are received prior to incurring qualifying expenditures. In subsequent periods when both revenue recognition criteria are met or when the government has a legal claim to the resources, the deferred revenue is removed from the balance sheet and revenue is recognized.

The Reconciliation of the Fund Financial Statements to the Government-Wide Financial Statements is provided to explain the differences created by the integrated approach of GASB Statement No. 34.

Proprietary Fund Financial Statements

Proprietary fund financial statements include a Statement of Net Assets, a Statement of Revenues, Expenses and Change in Net Assets, and a Statement of Cash Flows for all proprietary funds.

The Town’s proprietary funds represent Internal Service funds of which have been combined with the governmental activities in the government-wide financial statements.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2004

1. SIGNIFICANT ACCOUNTING POLICIES, Continued

B. Basis Accounting and Measurement Focus, Continued

Proprietary Fund Financial Statements, Continued

Proprietary funds are accounted for using the “*economic resources*” measurement focus and the accrual basis of accounting. Accordingly, all assets and liabilities (whether current or noncurrent) are included on the Statement of Net Assets.

The Statement of Revenues, Expenses and Changes in Net Assets presents increases (revenues) and decreases (expenses) in total net assets. Under the accrual basis of accounting, revenues are recognized in the period in which they are earned while expenses are recognized in the period in which the liability is incurred.

Operating revenues in the proprietary funds are those revenues that are generated from the primary operations of the fund. All other revenues are reported as nonoperating revenues. Operating expenses are those expenses that are essential to the primary operations of the fund. All other expenses are reported as nonoperating expenses.

Fiduciary Fund Financial Statements

Fiduciary fund financial statements normally include a Statement of Net Assets and a Statement of Changes in Fiduciary Net Assets. The Town's fiduciary funds represent agency funds. Agency funds are custodial in nature (assets equal liabilities) and do not involve measurement of results of operations. As a result, a statement of Changes in Fiduciary Net Assets is not presented in this report.

C. Recognition of Interest Liability

In the government-wide financial statements, interest payable of long-term debt is recognized as the liability is incurred for governmental fund types and business type activities.

In the fund financial statements, proprietary fund types recognize the interest payable when the liability is incurred.

D. Use of Restricted and Unrestricted Net Assets

When an expense is incurred for purposes for which both restricted and unrestricted net assets are available, the Town's policy is to apply restricted net assets first.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2004

1. SIGNIFICANT ACCOUNTING POLICIES, Continued

E. Cash, Cash Equivalents and Investments

The Town pools cash and investments from all sources, for the purpose of increasing income through investment activities. Interest income on investments is allocated on the basis of average month-end cash and investment balances in each fund. Cash and cash equivalents represent cash and investments and restricted cash and investments with an original maturity term of three months or less. Pooled cash and investments allocated to proprietary fund types are considered cash and cash equivalents since specific investments held in the Town's pooled cash and investments are not allocated to each fund.

The Town invests in the California Local Agency Investment Fund ("LAIF"), which is part of the Pooled Money Investment Account operated by the California State Treasurer. LAIF funds are invested in high quality money market securities and are managed to insure the safety of the portfolio. A portion of LAIF's investments are in structured notes and asset-backed securities. As of June 30, 2004 LAIF had invested 1.603% of its funds in such securities.

The Town also invests in the San Mateo County Investment Fund ("SMCPIF"), which is part of the Pooled Money Investment Account operated by the San Mateo County Treasurer. SMCPIF funds are invested in high quality money market securities and are managed to insure the safety of the portfolio.

LAIF and SMCPIF determines fair value on its investment portfolio based on market quotations for these securities where market quotations are readily available, and on amortized cost or best estimate for those securities where market value is not readily available.

In accordance with GASB Statement No. 31, highly liquid money market investments with maturities of one year or less at time of purchase are stated at amortized cost. All other investments are stated at fair value. Market value is used as fair value for those securities for which market quotations are readily available.

F. Capital Assets

Capital assets are valued at historical cost or estimated historical cost if actual historical cost was not available. Donated fixed assets are valued at their estimated fair market value on the date donated. Town policy has set the capitalization threshold for reporting capital assets at \$5,000. Depreciation is recorded on a straight-line basis over estimated useful lives of the assets as follows:

Buildings	40 Years
Improvements other than buildings	20 years
Machinery and equipment	5-20 years
Infrastructure	20-50 years

In June 1999, the GASB issued GASB Statement No. 34 which requires the inclusion of infrastructure capital assets in local governments' basic financial statements. In accordance with GASB Statement No. 34, the Town has elected to defer the inclusion of all prior period infrastructure capital assets to fiscal year 2007. Only the infrastructure which resulted from current year activities has been included in the current basic financial statements. In accordance with GASB Statement No. 34, the Town may defer infrastructure assets acquired prior to the current year for a period not to exceed 4 years after the date of implementation of GASB Statement No. 34.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2004

1. SIGNIFICANT ACCOUNTING POLICIES, Continued

F. Capital Assets, Continued

The Town defines infrastructure as the basic physical assets that allow the Town to function. The assets include streets, sewer, and park lands. Each major infrastructure system can be divided into subsystems. For example the street system can be subdivided into pavement, curb and gutters, sidewalks, medians, streetlights, landscaping and land. These subsystems were not delineated in the basic financial statements. The appropriate operating department maintains information regarding the subsystems.

Interest accrued during capital assets construction, if any, is capitalized for the proprietary funds as part of the asset cost.

G. Compensated Absences

Government-Wide Financial Statements

For governmental and business-type activities, compensated absences are recorded as incurred and the related expenses and liabilities are reported.

Fund Financial Statements

In governmental funds, compensated absences are recorded as expenditures in the years paid, as it is the Town's policy to liquidate any unpaid compensated absences at June 30 from future resources, rather than currently available financial resources.

H. Property Taxes

San Mateo County assesses properties, bills and collects property taxes for the City. Secured and unsecured taxes are levied on the preceding March 1. Secured tax is due in two installments on November 1 and February 1. If unpaid, such taxes become delinquent on December 10 and April 10, respectively, and a 10% penalty attaches to any delinquent payments. Unsecured tax is due as of January 1 lien date and becomes delinquent if unpaid on August 31. A 10% penalty attaches to delinquent unsecured tax. If unsecured tax remains unpaid on October 31, an additional 1.5% attaches to it on the first day of each month until paid. The term "unsecured" refers to taxes on property not secured by liens on real property.

Property tax revenues are recorded when they become measurable and available. Available means due, or past due, and receivable within the current period and collected no longer than 90 days after the close of the current period.

Property taxes levied are recorded as revenue when received, in the fiscal year of the levy, because of the adoption of the "alternate method of property tax distribution," known as the Teeter Plan, by the City and County. The Teeter Plan authorizes the Auditor/Controller of the County to allocate 100% of the secured property taxes billed, but not yet paid.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2004

1. SIGNIFICANT ACCOUNTING POLICIES, Continued

I. Post Employment Benefits Other Than Pensions

The Town provides post-retirement health care benefits to all employee groups with 20 years of service as required by current association and management agreements. The Town records premium payments on a "pay-as-you-go" basis.

J. Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires Town management to make estimates and assumptions that affect certain amounts and disclosures. Accordingly, actual results could differ from those estimates.

K. Net Assets

Government-Wide Financial Statements

In the government-wide financial statements, net assets are classified in the following categories:

Invested in Capital Assets, Net of Related Debt – This amount consists of capital assets net of accumulated depreciation and reduced by outstanding debt that attributed to the acquisition, construction, or improvement of the assets.

Restricted Net Assets – This amount is restricted by external creditors, grantors, contributors, or laws or regulations of other governments.

Unrestricted Net Assets – This amount is all net assets that do not meet the definition of "invested in capital assets, net of related debt" or "restricted net assets."

Fund Financial Statements

Reservation of fund balances of governmental funds and retained earnings of proprietary funds are created to either satisfy legal covenants, including State laws, that require a portion of the fund equity be segregated or identify the portion of the fund equity not available for future expenditures.

L. Implementation of New GASB Pronouncements

In 2004, the Town adopted new accounting standards in order to conform to the following Governmental Accounting Standards Board Statements:

- Statement No. 34, *Basic Financial Statements-and Management's Discussion and Analysis-for State and Local Governments*
- Statement No. 37, *Basic Financial Statements-and Management's Discussion and Analysis-for State and Local Governments: Omnibus*
- Statement No. 38, *Certain Financial Statement Note Disclosures*

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2004

1. SIGNIFICANT ACCOUNTING POLICIES, Continued

M. Implementation of New GASB Pronouncements

GASB Statement No. 34 is a new financial reporting requirement for local governments in the United States. The Town has implemented this pronouncement and has restructured much of the information that it has presented in the past. The main goal is to make the reports more comprehensive and easier to understand and use.

GASB Statement No. 37 addresses selected issues and amends GASB Statement No. 21, *Accounting for Escheat Property*, and No. 34, *Basic Financial Statements- and Management's Discussion and Analysis- for State and Local Governments*. These Statements make selective changes including accounting for Escheat Property, Management's Discussion and Analysis, Capitalization of Construction – Period Interest, Modified Approach for Reporting Infrastructure, Program Revenues and Major Fund Criteria.

GASB Statement No. 38 establishes and modifies disclosure requirements related to Summary of Significant Accounting Policies, actions taken to address violations of significant finance – related legal and contractual provisions, debt and lease obligations, short-term debt, disaggregation of receivable and payable balances, and interfund balances and transfers.

2. CASH AND INVESTMENTS

A. Demand Deposits

At June 30, 2004, the carrying amount of the Town's cash deposits was \$496,052. Bank balances of the three Town bank accounts before reconciling items total \$444,316, of which \$100,000 is insured by the FDIC.

All pooled certificates of deposit and bank balances are entirely insured or collateralized. The California Government Code requires California banks and savings and loan associations to secure an agency's deposits by pledging government securities as collateral. The market value of the pledged securities must equal at least 110% of an agency's deposits. California law also allows financial institutions to secure local agency deposits by pledging first trust deed mortgage notes having a value of 150% of a local agency's deposits. The Town may waive collateral requirements for deposits which are fully insured up to \$100,000 by the Federal Deposit Insurance Corporation (FDIC).

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2004

2. CASH AND INVESTMENTS, Continued

B. Investments

The Town pools its cash and investments of all funds for investing.

The Town's investments are limited to that allowable under State statutes and as incorporated into the Town's Investment Policy. Based on the California Government Code, the Town has adopted a conservative Investment Policy that limits the Town to only invest in the following:

- Local Agency Investment Fund (State of California)
- San Mateo County Investment Pool
- Certificates of Deposit

Local Agency Investment Fund

The Town invests in the Local Agency Investment Fund (LAIF), a State of California external investment pool. LAIF determines fair value on its investment portfolio based on market quotations for those securities where market quotations are readily available and based on amortized cost or best estimate for those securities where market value is not readily available.

The Town's investments with LAIF at June 30, 2004, included a small portion of the pooled funds invested in Structured Notes and Asset-Backed Securities. These investments may include the following:

Structured Notes - Debt securities (other than asset-backed securities) whose cash flow characteristics (coupon rate, redemption amount, or stated maturity) depend upon one or more indices and/or that have embedded forwards or options.

Asset-Backed Securities - Generally mortgage-backed securities which entitle their purchasers to receive a share of the cash flows from a pool of assets such as principal and interest repayments from a pool of mortgages (such as CMO's) or credit card receivables.

As of June 30, 2004, the Town had \$3,475,251 invested in LAIF, which had invested 1.603% of the pooled investment funds in Structured Notes and Asset-Backed Securities. The LAIF fair value factor of 0.9983841770 was used to calculate the fair value of the investments in LAIF.

San Mateo County Pooled Investment Fund

The Town invests in the San Mateo County Pooled Investment Fund (SMCPIF), an external investment pool. The pool determines fair value on its investment portfolio based on market quotations for those securities where market quotations are readily available and based on amortized cost or best estimate for those securities where market value is not readily available.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2004

2. CASH AND INVESTMENTS, Continued

B. Investments, Continued

San Mateo County Pooled Investment Fund, Continued

The Town's investments with the pool at June 30, 2004 include a portion of the pooled funds invested with LAIF.

As of June 30, 2004, the Town had \$7,145,198 invested in the pool. The SMCIF fair value factor of 0.9938240000 was used to calculate the fair value of the investments in LAIF.

C. Credit Risk

In accordance with GASB Statement No. 3, demand deposits are classified as to custodial risk by three categories as follows:

Demand Deposits

Category 1 - Insured or collateralized with securities held by the entity or by its agent in the entity's name.

Category 2 - Collateralized with securities held by the pledging financial institution's trust department or agent in the entity's name.

Category 3 - Deposits which are uninsured or uncollateralized.

Investments

Category 1 - Insured or registered or securities held by the entity or its agent in the entity's name.

Category 2 - Uninsured and unregistered, with securities held by the counterparty's trust department or agent in the entity's name.

Category 3 - Uninsured and unregistered, with securities held by the counterparty, or by its trust department or agent, but not in the entity's name.

Investments Not Subject to Categorization - Investments in LAIF and SMCIF are not categorized, as GASB Statement No. 3 does not require categorization of investment pools managed by another government. Certain fiscal agent investments are not categorized because the underlying assets are open-ended mutual funds. Guaranteed investment contracts are not categorized because they are direct contractual investments and are not securities. All such investments are not required to be categorized under interpretive guidelines issued by the GASB.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2004

2. CASH AND INVESTMENTS, Continued

D. Summary of Cash and Investments

The following is a summary of pooled cash and investments at June 30, 2004:

	Government-Wide Statement of Net Assets		Total
	Governmental Activities	Fiduciary Funds Statement of Net Assets	
	<u> </u>	<u> </u>	
Cash and investments	\$ 10,988,439	\$ 128,762	\$ 11,117,201
Total cash and investments	\$ 10,988,439	\$ 128,762	\$ 11,117,201

Pooled demand deposits and investments were classified by risk category as follows at June 30, 2004:

	Category		Fair Value
	1	Uncategorized	
City Treasury:			
Demand Deposits:			
Cash Deposits	\$ 496,052	\$ -	\$ 496,052
Petty Cash	-	700	700
Total demand deposits	496,052	700	496,752
Investments:			
Local Agency Investment Funds	-	3,475,251	3,475,251
San Mateo County Pooled Investment Funds	-	7,145,198	7,145,198
Total investments	-	10,620,449	10,620,449
Total demand deposits and investments	\$ 496,052	\$ 10,621,149	\$ 11,117,201

The Town did not have Risk Category 2 and 3 demand deposits or investments as of June 30, 2004.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2004

3. RECEIVABLES

Fund Financial Statements

At June 30, 2004, the Fund Financial Statements show the following receivables:

Accounts Receivable

As of June 30, 2004, accounts receivable consists of the following items:

Property tax	\$	43,337
Motor vehicle license fee		33,987
Franchise fee		19,271
Other accounts receivable		46,323
Total accounts receivable	\$	142,918

4. CAPITAL ASSETS

In accordance with GASB Statement No. 34 the Town has reported all capital assets including infrastructure acquired in the current year in the Government-Wide Statement of Net Assets. The Town has elected to use the basic approach as defined by GASB Statement No. 34 for all infrastructure reporting, whereby depreciation expense and accumulated depreciation has been recorded. The Town has elected to use the deferral period for the retroactive reporting of infrastructure values (infrastructure constructed or acquired prior to July 1, 2003) as provided for by GASB Statement No. 34. The plan is to report these values by June 30, 2007.

Capital assets include land, buildings, and equipment used in Town operations. Infrastructure includes roads, bridges, curbs, sidewalks, drainage systems, street and traffic lights, park improvements and other improvements used by all citizens.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2004

4. CAPITAL ASSETS, Continued

A. Government-Wide Financial Statements

The following is a summary of capital assets for governmental activities:

	Balance July 1, 2003	Additions	Retirements	Adjustments	Balance June 30, 2004
Governmental Activities:					
Capital assets, not being depreciated:					
Land	\$ 690,884	\$ -	\$ -	\$ -	\$ 690,884
Construction in progress	-	1,034,000	-	-	1,034,000
Total nondepreciable assets	<u>690,884</u>	<u>1,034,000</u>	<u>-</u>	<u>-</u>	<u>1,724,884</u>
Capital assets, being depreciated:					
Buildings	991,052	629,114	-	-	1,620,166
Other improvements	605,539	12,588	-	-	618,127
Vehicles	481,113	73,249	(29,264)	-	525,098
Equipment - computer	60,214	5,118	-	-	65,332
Equipment - furniture/equipment	372,662	53,723	(38,458)	-	387,927
Infrastructure	-	715,967	-	-	715,967
Total depreciable assets	<u>2,510,580</u>	<u>1,489,759</u>	<u>(67,722)</u>	<u>-</u>	<u>3,932,617</u>
Accumulated Depreciation:					
Buildings	-	(28,328)	-	(556,053)	(584,381)
Other improvements	-	(21,663)	-	(445,000)	(466,663)
Vehicles	(234,136)	(70,160)	29,265	-	(275,031)
Equipment - computer	(2,465)	(5,298)	-	(334,307)	(342,070)
Equipment - furniture/equipment	-	(24,050)	28,588	-	4,538
Infrastructure	-	(24,585)	-	-	(24,585)
Total accumulated depreciation	<u>(236,601)</u>	<u>(174,084)</u>	<u>57,853</u>	<u>(1,335,360)</u>	<u>(1,688,192)</u>
Depreciable assets, net	<u>2,273,979</u>	<u>1,315,675</u>	<u>(9,869)</u>	<u>(1,335,360)</u>	<u>2,244,425</u>
Governmental activities					
capital assets, net	<u>\$ 2,964,863</u>	<u>\$ 2,349,675</u>	<u>\$ (9,869)</u>	<u>\$ (1,335,360)</u>	<u>\$ 3,969,309</u>

Governmental activities depreciation expenses for capital assets for the year ended June 30, 2003 are as follows:

General Government	\$ 31,291
Public Works Administration	32,320
Police	85,889
Streets and Public Facilities	<u>24,584</u>
Total depreciation expense	<u>\$ 174,084</u>

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2004

5. COMPENSATED ABSENCES

The Town's compensated absences consist of accrued vacation pay, floating holiday pay for all regular employees and paid time off and floating holiday pay for management employees. Some employees are allowed to accrue compensatory time. The total amount of the accrued liability is recorded in the Government-wide Financial Statements and charges for compensated absences expense is charged to the various program activities.

Summary of changes in compensated absences for the year ended June 30, 2004, was as follows:

	Balance <u>July 1, 2003</u>	Additions	Retirements	Balance <u>June 30, 2004</u>	Due within <u>one year</u>	Due in more than <u>one year</u>
Governmental Activities	\$ 502,502	\$ 73,310	\$ (14,020)	\$ 561,792	\$ 112,358	\$ 449,434
Total	<u>\$ 502,502</u>	<u>\$ 73,310</u>	<u>\$ (14,020)</u>	<u>\$ 561,792</u>	<u>\$ 112,358</u>	<u>\$ 449,434</u>

6. INTERFUND TRANSACTIONS

A. Due To/From Other Funds

At June 30, 2004, the Town had the following short-term receivables and payables:

		Due From Other Funds	
		General Fund	Total
Due To Other Funds	Governmental Funds		
	Non-major Governmental Funds	\$ 12,016	\$ 12,016
	Total	<u>\$ 12,016</u>	<u>\$ 12,016</u>

The Town has recorded due from/due to all funds requiring cash at June 30, 2004. The short-term loans will be repaid during fiscal year 2005.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2004

6. INTERFUND TRANSACTIONS, Continued

B. Interfund Transfers

Transfers during the fiscal year ended June 30, 2004, comprised the following:

		Transfers Out		
		Governmental Funds		Total
Transfers In	Governmental Funds	Special Tax Special Revenue	Non-major Governmental Funds	
		General Fund	\$ 871,879	\$ 277,081
	Total	\$ 871,879	\$ 277,081	\$ 1,148,960

7. OTHER REQUIRED FUND DISCLOSURES

Fund Deficits

At June 30, 2004, the State Park Grants fund had a deficit of \$5,663. The deficit in the State Park Grants will be recovered from future revenues.

8. EMPLOYEE RETIREMENT PLANS

Plan Description - The Town contributes to the California Public Employees Retirement System (PERS), an agent multiple-employer public employee defined benefit pension plan. PERS provides retirement and disability benefits, annual cost-of-living adjustments and death benefits to plan members and beneficiaries. PERS acts as a common investment and administrative agent for participating public entities within the State of California. Benefit provisions and all other requirements are established by state statute and Town ordinance. Copies of PERS' annual financial report may be obtained from their Executive Office located at 400 P Street, Sacramento, CA 95814.

Funding Policy - Active plan members are required by state statute to contribute 7% for miscellaneous and 9% for safety employees of their annual covered salary. The Town makes the contributions required of Town employees on their behalf and for their account, which amounted to \$332,797 for the year ended June 30, 2004.

The Town, as employer, is required to contribute an actuarially determined payment that is reflected as a percentage of annual covered payroll for miscellaneous and safety employees. The Contribution rate for fiscal 2004 was 5.733% for miscellaneous and 18.002% for safety employees.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2004

8. EMPLOYEE RETIREMENT PLANS, Continued

Annual Pension Cost - For fiscal year 2004 the Town's annual pension costs of \$451,373 for PERS was equal to the Town's required contribution. The required contribution was determined as a part of the June 30, 2002, actuarial valuation using the entry age method. The actuarial assumptions included (a) 8.25% investment rate of return (net of administrative expenses), (b) projected salary increases that range from 3.75% to 14.20% for miscellaneous and 4.27% to 11.59% for safety employees depending on age, service, and type of employment, and (c) 3.75% per year cost-of-living adjustments for retirees. Both (a) and (b) included an inflation component of 3.5%. The actuarial value of PERS assets was determined using techniques that smooth the effects of short-term volatility in the market value of investments over a three year period. The average remaining amortization period at June 30, 2002, was 10 years for miscellaneous and 14 years for safety employees for prior and current service unfunded liabilities.

THREE YEAR TREND INFORMATION FOR PERS

Fiscal Year	Annual Pension Cost (APC)	Percentage of APC Contributed	Net Pension Obligation
6/30/2002	\$ 352,054	100%	\$ -
6/30/2003	250,541	100%	-
6/30/2004	451,373	100%	-

9. RISK MANAGEMENT

A. Risk Pool

The Town belongs to ABAG Plan Corporation, which covers general liability claims in an amount up to \$7,000,000. The Town has a deductible or uninsured liability of up to \$25,000 per claim. Once the Town's deductible is met, ABAG Plan becomes responsible for payment of all claims up to the limit. Other coverage includes Risk Property Coverage of \$100,000,000 for property and \$50,000,000 for boiler and machinery with a deductible of \$5,000 for property damage and \$10,000 for auto/vehicle damage, and Public Official Bond insurance of \$1,000,000 with a deductible of \$5,000. During the fiscal year ended June 30, 2004, the Town contributed \$99,550 for current year coverage and received a refund of \$0 of prior year excess contributions.

The Cities Group covers workers' compensation claims up to \$250,000 each and has coverage above that limit to a maximum of \$6,900,000. The Town has no deductible for the claims. During the fiscal year ended June 30, 2004, the Town contributed \$ 78,500 for current year coverage.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2004

9. RISK MANAGEMENT, Continued

A. Risk Pool, Continued

Each risk pool is governed by a board consisting of representatives from member municipalities. The board controls the operations of each risk pool, including selection of management and approval of operating budgets, independent of any influence by member municipalities beyond their representation on the board. The Town's contributions to each risk pool equal the ratio of the Town's payroll to the total payrolls of all entities participating in the same layer of each program, in each program year. Actual surpluses or losses are shared according to a formula developed from overall loss costs and spread to member entities on a percentage basis after a retrospective rating.

B. Liability for Uninsured Claims

Municipalities are required to record their liability for uninsured claims and to reflect the current portion of this liability as an expenditure in their financial statements. As discussed above, the Town has coverage for such claims, but it has retained the risk for the deductible, or uninsured portion of these claims. The Town's liability for uninsured claims based on claims experience was computed as follows:

	Liability	Current Year	Claims	Liability
	Balance	Claims and	Payments for	Balance
	July 1	Changes in	Current and	June 30
		Estimates	Prior Fiscal	
			Years	
2001-02	\$ 35,398	\$ 50,000	\$ (31,906)	\$ 53,492
2002-03	53,492	-	(53,492)	-
2003-04	-	101,052	(47,087)	53,965

10. JOINT VENTURES

The Town participates in several active joint ventures through formally organized and separate entities established under the Joint Exercise of Powers Act of the State of California. As separate legal entities, these entities exercise full powers and authorities within the scope of the related Joint Powers Agreements (JPA), including selection of management and approval of operating budgets, independent of any influence by each member beyond representation on each Board. Obligations and liabilities of these joint ventures are not the Town's responsibility, and the Town does not have an equity interest in the assets of each joint venture except upon dissolution.

A. City/County Association of Governments (C/CAG)

C/CAG was established under a 1990 Joint Exercise of Powers Agreement between the Town, the County and a majority of cities and towns within the County for the purpose of developing State mandated plans. Members of C/CAG pay their pro rata share of the total annual contributions required based on the member's 1990 population. Financial statements for C/CAG may be obtained by mailing a request to the Town of San Carlos, 666 Elm Street, San Carlos, CA 94070.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2004

10. JOINT VENTURES, Continued

B. South Bayside Waste Management Authority (Authority)

The Authority is a joint powers agreement formed on October 13, 1999 for the purpose of joint ownership, financing and administration of the San Carlos Transfer Station and the San Mateo Recyclery; and the planning, administration, review, monitoring and enforcement and reporting of solid waste and recyclable material within the Authorities service area.

Members of the Authority include 11 municipalities located on the mid and lower Peninsula as well as certain unincorporated areas within the County. The Authority is controlled by a 12-member board consisting of one representative from each community. Through the operation of franchise agreements, BFI Waste Systems of North America Inc. provides refuse and recyclable materials collection and disposal services for the benefit of the residents and businesses of each member agency.

C. Alcohol Violation Temporary Housing Authority (AVTHA)

AVTHA was established between the County and most of the cities and towns in the County to provide temporary housing and counseling to persons accused of alcohol related law violations. AVTHA contracts with an operator to provide such services. The costs of operating the temporary housing are allocated to each member based on alcohol related arrests occurring within each member's jurisdiction. Financial statements for AVTHA may be obtained by mailing a request to the Redwood City, 801 Marshall Street, Suite 600, Redwood City, CA 94063.

D. Library Joint Powers Agreement

In December 1998, the Town joined with the County and ten other municipalities in the County to Coordinate and expand library services throughout the County, including those in the Town.

Property tax revenues in excess of the JPA's costs of maintaining the library are remitted to the Town and are deposited into the Library special revenue fund. Expenditure of Library Special Revenue funds are subject to the approval of the Library JPA.

11. COMMITMENTS AND CONTINGENCIES

The Town is subject to litigation arising in the normal course of business. In the opinion of the Town Attorney there is no pending litigation which is likely to have a material adverse effect on the financial position of the Town.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2004

12. RESTATEMENT OF PRIOR PERIOD BALANCES

A. Statements

During the fiscal year 2004, the Town implemented GASB Statement No. 34 which resulted in the following adjustments.

	Net Assets as Previously Reported	<u>GASB 34 Adjustments</u>		Net Assets as Restated
		<u>Capital Assets</u>	<u>Long-Term Debt</u>	
Net assets	<u>\$ 9,515,247</u>	<u>\$ 1,350,464</u>	<u>\$ (502,502)</u>	<u>\$ 10,363,209</u>

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REQUIRED SUPPLEMENTARY INFORMATION

Town of Atherton
Required Supplementary Information
For the year ended June 30, 2004

PUBLIC EMPLOYEE RETIREMENT SYSTEM
SCHEDULE OF FUNDING PROGRESS

SAFETY PLAN

Valuation Date	Entry Age Accrued Liability	Value of Assets	Unfunded (Overfunded) Liability	Funded Ratio	Annual Covered Payroll	Unfunded (Overfunded) Liability as % of Payroll
2000	\$ 10,622,460	\$ 12,656,995	\$ (2,034,535)	119.2%	\$ 1,417,909	(143.49)%
2001	12,591,251	13,113,182	(521,931)	104.1%	1,499,735	(34.80)%
2002	13,981,721	12,469,898	1,511,823	89.2%	1,609,221	93.95%

MISCELLANEOUS PLAN

Valuation Date	Entry Age Accrued Liability	Value of Assets	Unfunded (Overfunded) Liability	Funded Ratio	Annual Covered Payroll	Unfunded (Overfunded) Liability as % of Payroll
2000	\$ 3,758,923	\$ 5,217,584	\$ (1,458,661)	138.8%	\$ 1,208,846	(120.67)%
2001	4,437,505	5,444,094	(1,006,589)	122.7%	1,683,469	(59.79)%
2002	5,175,328	5,236,789	(61,461)	101.2%	2,155,176	(2.85)%

Town of Atherton
Required Supplementary Information
For the year ended June 30, 2004

Statement of Revenues, Expenditures and Changes in Fund Balances - Budget and Actual - Major Fund
General Fund

	Budgeted Amounts		Actual	Variance with Final Budget
	Original	Final		
REVENUES:				
Property taxes	\$ 3,035,934	\$ 3,205,983	\$ 3,256,642	\$ 50,659
Sales taxes	200,640	151,029	153,871	2,842
Other taxes	882,115	755,615	922,798	167,183
Permits and licenses	1,541,673	1,541,673	1,861,413	319,740
Fines and forfeitures	70,000	58,802	71,230	12,428
From other agencies	139,000	141,878	214,164	72,286
Services charges	445,900	409,477	362,720	(46,757)
Use of money and property	347,300	330,017	(11,674)	(341,691)
Other revenue	3,000	9,939	76,993	67,054
Total revenues	6,665,562	6,604,413	6,908,157	303,744
EXPENDITURES:				
Current:				
General government	1,579,602	1,570,496	1,555,792	14,704
Public works administration	1,759,627	1,746,311	1,625,901	120,410
Parks and recreations	451,568	448,979	508,610	(59,631)
Police	3,629,233	3,613,068	3,594,069	18,999
Total expenditures	7,420,030	7,378,854	7,284,372	94,482
REVENUES OVER (UNDER) EXPENDITURES	(754,468)	(774,441)	(376,215)	398,226
OTHER FINANCING SOURCES (USES):				
Transfers in	1,149,000	1,149,000	1,148,960	(40)
Total other financing sources (uses)	1,149,000	1,149,000	1,148,960	(40)
REVENUES AND OTHER FINANCING SOURCES OVER (UNDER) EXPENDITURES AND OTHER FINANCING USES	\$ 394,532	\$ 374,559	772,745	\$ 398,186
FUND BALANCES:				
Beginning of year			5,284,633	
End of year			<u>\$ 6,057,378</u>	

Town of Atherton
Required Supplementary Information
For the year ended June 30, 2004

Statement of Revenues, Expenditures and Changes in Fund Balances - Budget and Actual - Major Fund
Special Tax Fund

	Budgeted Amounts		Actual	Variance with Final Budget
	Original	Final		
REVENUES:				
Special assessments	\$ 1,770,000	\$ 1,858,000	\$ 1,835,796	\$ (22,204)
Total revenues	<u>1,770,000</u>	<u>1,858,000</u>	<u>1,835,796</u>	<u>(22,204)</u>
EXPENDITURES:				
Current:				
Streets and public facilities	1,037,167	1,037,167	896,137	141,030
Total expenditures	<u>1,037,167</u>	<u>1,037,167</u>	<u>896,137</u>	<u>141,030</u>
REVENUES OVER (UNDER) EXPENDITURES	<u>732,833</u>	<u>820,833</u>	<u>939,659</u>	<u>118,826</u>
OTHER FINANCING SOURCES (USES):				
Transfers (out)	(222,629)	(222,629)	(871,879)	(649,250)
Total other financing sources (uses)	<u>(222,629)</u>	<u>(222,629)</u>	<u>(871,879)</u>	<u>(649,250)</u>
REVENUES AND OTHER FINANCING SOURCES OVER (UNDER) EXPENDITURES AND OTHER FINANCING USES	<u>\$ 510,204</u>	<u>\$ 598,204</u>	67,780	<u>\$ (530,424)</u>
FUND BALANCES:				
Beginning of year			895,443	
End of year			<u>\$ 963,223</u>	

SUPPLEMENTARY INFORMATION

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NON-MAJOR GOVERNMENTAL FUNDS

Town of Atherton
Combining Balance Sheet
Non-Major Governmental Funds
June 30, 2004

	Special Revenue				
	Tennis	Transportation	Gas Tax	Supplement Law Enforcement Services	Police on the Street
ASSETS					
Cash and investments in treasury	\$ 11,867	\$ 145,636	\$ 45,101	\$ 11,153	\$ 4,455
Receivables (net of allowances):					
Accounts	-	-	-	-	-
Total assets	\$ 11,867	\$ 145,636	\$ 45,101	\$ 11,153	\$ 4,455
LIABILITIES AND FUND BALANCE					
Liabilities:					
Accounts payable	\$ -	\$ -	\$ -	\$ -	\$ -
Due to other funds	-	-	-	-	-
Total liabilities	-	-	-	-	-
Fund Balance:					
Reserved:					
Encumbrances	-	15,300	-	10,854	-
Special projects	-	130,336	45,101	-	-
Capital projects	-	-	-	-	-
Undesignated	11,867	-	-	299	4,455
Total fund balance	11,867	145,636	45,101	11,153	4,455
Total liabilities and fund balance	\$ 11,867	\$ 145,636	\$ 45,101	\$ 11,153	\$ 4,455

Special Revenue				Capital Project				
COPS Grant	Road Construction	State Park Grants	Library	General Fund Project	Storm Drainage	Channel Drainage District	Park Playground Improvement	Relief Grant
\$ 12,174	\$ 699,920	\$ 6,353	\$ 1,077,243	\$ 302,896	\$ 48,225	\$ 405,374	\$ 1,309	\$ 1,514
-	-	-	-	-	-	83	-	-
<u>\$ 12,174</u>	<u>\$ 699,920</u>	<u>\$ 6,353</u>	<u>\$ 1,077,243</u>	<u>\$ 302,896</u>	<u>\$ 48,225</u>	<u>\$ 405,457</u>	<u>\$ 1,309</u>	<u>\$ 1,514</u>
\$ -	\$ 67,500	\$ -	\$ 1,330	\$ -	\$ -	\$ 1,033	\$ -	\$ -
-	-	12,016	-	-	-	-	-	-
-	67,500	12,016	1,330	-	-	1,033	-	-
-	18,750	3,000	-	-	4,388	4,716	-	-
-	613,670	-	1,075,913	-	-	-	-	-
-	-	-	-	-	-	399,708	-	-
12,174	-	(8,663)	-	302,896	43,837	-	1,309	1,514
12,174	632,420	(5,663)	1,075,913	302,896	48,225	404,424	1,309	1,514
<u>\$ 12,174</u>	<u>\$ 699,920</u>	<u>\$ 6,353</u>	<u>\$ 1,077,243</u>	<u>\$ 302,896</u>	<u>\$ 48,225</u>	<u>\$ 405,457</u>	<u>\$ 1,309</u>	<u>\$ 1,514</u>

(Continued)

Town of Atherton
Combining Balance Sheet
Non-Major Governmental Funds, Continued
June 30, 2004

	<u>Capital Projects</u>	
	Facilities Construction	Total Non-Major Governmental Funds
ASSETS		
Cash and investments in treasury	\$ 78,675	\$ 2,851,895
Receivables (net of allowances):		
Accounts	-	83
Total assets	<u>\$ 78,675</u>	<u>\$ 2,851,978</u>
LIABILITIES AND FUND BALANCE		
Liabilities:		
Accounts payable	\$ 13,293	\$ 83,156
Due to other funds	-	12,016
Total liabilities	<u>13,293</u>	<u>95,172</u>
Fund Balance:		
Reserved:		
Encumbrances	-	57,008
Special projects	-	1,865,020
Capital projects	-	399,708
Undesignated	65,382	435,070
Total fund balance	<u>65,382</u>	<u>2,756,806</u>
Total liabilities and fund balance	<u>\$ 78,675</u>	<u>\$ 2,851,978</u>

(Concluded)

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Town of Atherton

Combining Statement of Revenues, Expenditures and Changes in Fund Balances

Non-Major Governmental Funds

For the year ended June 30, 2004

	Special Revenue				
	Tennis	Transportation	Gas Tax	Supplemental Law Enforcement Services	Police on the Street
REVENUES:					
Property taxes	\$ -	\$ -	\$ -	\$ -	\$ -
Measure A grants	-	191,779	-	-	-
From other agencies	-	-	146,243	-	-
Service charges	16,873	-	-	-	-
Use of money and property	-	-	-	-	-
Road impact fees	-	-	-	-	-
Other revenues	-	-	-	-	-
Total revenues	16,873	191,779	146,243	-	-
EXPENDITURES:					
Current:					
Police	-	-	-	-	-
Park maintenance	11,258	-	-	-	-
Library maintenance	-	-	-	-	-
Streets and public facilities	-	41,556	25,507	-	-
Total expenditures	11,258	41,556	25,507	-	-
REVENUES OVER (UNDER) EXPENDITURES	5,615	150,223	120,736	-	-
OTHER FINANCING SOURCES (USES):					
Operating transfers out	(4,291)	(19,315)	(202,240)	-	-
Total other financing sources (uses)	(4,291)	(19,315)	(202,240)	-	-
REVENUES AND OTHER FINANCING SOURCES OVER (UNDER) EXPENDITURES AND OTHER FINANCING USES	1,324	130,908	(81,504)	-	-
FUND BALANCES:					
Beginning of year	10,543	14,728	126,605	11,153	4,455
End of year	\$ 11,867	\$ 145,636	\$ 45,101	\$ 11,153	\$ 4,455

Special Revenue				Capital Projects				
COPS Grant	Road Construction	State Parks Grant	Library	General Fund Project	Storm Drainage	Channel Drainage District	Park Playground Improvement	Relief Grant
\$ -	\$ -	\$ -	\$ 421,950	\$ -	\$ -	\$ 44,962	\$ -	\$ -
-	-	-	-	-	-	-	-	-
100,000	-	-	-	-	-	-	-	1,514
-	-	-	-	-	-	-	-	-
416	-	-	18,342	-	-	9,229	-	-
-	541,592	-	-	-	-	-	-	-
-	-	-	9,340	-	-	-	1,500	-
100,416	541,592	-	449,632	-	-	54,191	1,500	1,514
100,000	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-
-	-	-	97,551	-	-	-	-	-
-	532,638	300	-	47,256	-	47,277	29,149	-
100,000	532,638	300	97,551	47,256	-	47,277	29,149	-
416	8,954	(300)	352,081	(47,256)	-	6,914	(27,649)	1,514
-	(26,880)	-	-	(8,000)	-	(8,355)	-	-
-	(26,880)	-	-	(8,000)	-	(8,355)	-	-
416	(17,926)	(300)	352,081	(55,256)	-	(1,441)	(27,649)	1,514
11,758	650,346	(5,363)	723,832	358,152	48,225	405,865	28,958	-
\$ 12,174	\$ 632,420	\$ (5,663)	\$ 1,075,913	\$ 302,896	\$ 48,225	\$ 404,424	\$ 1,309	\$ 1,514

(Continued)

Town of Atherton
Combining Statement of Revenues, Expenditures and Changes in Fund Balances
Non-Major Governmental Funds, Continued
For the year ended June 30, 2004

	<u>Capital Projects</u>	
	Facilities Construction	Total Non-Major Governmental Funds
REVENUES:		
Property taxes	\$ -	\$ 466,912
Measure A grants	-	191,779
From other agencies	-	247,757
Service charges	-	16,873
Use of money and property	-	27,987
Road impact fees	-	541,592
Other revenues	-	10,840
Total revenues	<u>-</u>	<u>1,503,740</u>
EXPENDITURES:		
Current:		
Police	-	100,000
Park maintenance	-	11,258
Library maintenance	-	97,551
Streets and public facilities	201,272	924,955
Total expenditures	<u>201,272</u>	<u>1,133,764</u>
REVENUES OVER (UNDER) EXPENDITURES	<u>(201,272)</u>	<u>369,976</u>
OTHER FINANCING SOURCES (USES):		
Operating transfers out	(8,000)	(277,081)
Total other financing sources (uses)	<u>(8,000)</u>	<u>(277,081)</u>
REVENUES AND OTHER FINANCING SOURCES OVER (UNDER) EXPENDITURES AND OTHER FINANCING USES	<u>(209,272)</u>	<u>92,895</u>
FUND BALANCES:		
Beginning of year	274,654	2,663,911
End of year	<u>\$ 65,382</u>	<u>\$ 2,756,806</u>

(Concluded)

FIDUCIARY FUND FINANCIAL STATEMENTS

Town of Atherton
Statement of Fiduciary Net Assets
Fiduciary Funds - Agency Funds
June 30, 2004

	Evans Creative Design Fund	MA Little League	Colley Trust Fund	H-P Park Improvement Fund	Tree Committee	Total
ASSETS						
Cash and investments	\$ 119,887	\$ 3,024	\$ -	\$ 5,851	\$ -	\$ 128,762
Total assets	<u>\$ 119,887</u>	<u>\$ 3,024</u>	<u>\$ -</u>	<u>\$ 5,851</u>	<u>\$ -</u>	<u>\$ 128,762</u>
LIABILITIES						
Accounts payable	\$ 2,668	\$ -	\$ -	\$ -	\$ -	\$ 2,668
Deposits payable	117,219	3,024	-	5,851	-	126,094
Total liabilities	<u>\$ 119,887</u>	<u>\$ 3,024</u>	<u>\$ -</u>	<u>\$ 5,851</u>	<u>\$ -</u>	<u>\$ 128,762</u>

Town of Atherton
Statement of Changes in Assets and Liabilities
Fiduciary Funds - Agency Funds
For the year ended June 30, 2004

<u>Evans Creative Design Fund</u>	Balance July 1, 2003	Additions	Deductions	Balance June 30, 2004
Assets:				
Cash and investments	\$ 110,123	\$ 57,072	\$ (47,308)	\$ 119,887
Accounts receivable	415	-	(415)	-
Interest receivable	2,578	-	(2,578)	-
Total assets	\$ 110,123	\$ 57,072	\$ (47,308)	\$ 119,887
Liabilities:				
Accounts payable	\$ 4,988	\$ 43,167	\$ (45,487)	\$ 2,668
Deposits payable	108,128	45,704	(36,613)	117,219
Total liabilities	\$ 113,116	\$ 88,871	\$ (82,100)	\$ 119,887
<u>MA Little League</u>				
Assets:				
Cash and investments	\$ -	\$ 3,024	\$ -	\$ 3,024
Total assets	\$ -	\$ 3,024	\$ -	\$ 3,024
Liabilities:				
Deposit payable	\$ -	\$ 3,024	\$ -	\$ 3,024
Total liabilities	\$ -	\$ 3,024	\$ -	\$ 3,024
<u>Colley Trust Fund</u>				
Assets:				
Cash and investments	\$ -	\$ -	\$ -	\$ -
Total assets	\$ -	\$ -	\$ -	\$ -
Liabilities:				
Deposits payable	\$ -	\$ -	\$ -	\$ -
Total liabilities	\$ -	\$ -	\$ -	\$ -

(Continued)

Town of Atherton
Statement of Changes in Assets and Liabilities
Fiduciary Funds - Agency funds, Continued
For the year ended June 30, 2004

	Balance July 1, 2003	Additions	Deductions	Balance June 30, 2004
<u>H-P Park Improvement Fund</u>				
Assets:				
Cash and investments	\$ 5,851	\$ -	\$ -	\$ 5,851
Total assets	\$ 5,851	\$ -	\$ -	\$ 5,851
Liabilities:				
Deposits payable	\$ 5,851	\$ -	\$ -	\$ 5,851
Total liabilities	\$ 5,851	\$ -	\$ -	\$ 5,851
<u>Tree Committee</u>				
Assets:				
Cash and investments	\$ 1,225	\$ 28	\$ (1,253)	\$ -
Accounts receivable	28	-	(28)	-
Total assets	\$ 1,253	\$ 28	\$ (1,281)	\$ -
Liabilities:				
Deposits payable	\$ 1,253	\$ -	\$ (1,253)	\$ -
Total liabilities	\$ 1,253	\$ -	\$ (1,253)	\$ -
<u>All Agency Funds</u>				
Assets:				
Cash and investments	\$ 117,199	\$ 60,124	\$ (48,561)	\$ 128,762
Accounts receivable	443	-	(443)	-
Interest receivable	2,578	-	(2,578)	-
Total assets	\$ 120,220	\$ 60,124	\$ (51,582)	\$ 128,762
Liabilities:				
Accounts payable	\$ 4,988	\$ 43,167	\$ (45,487)	\$ 2,668
Deposits payable	115,232	48,728	(37,866)	126,094
Total liabilities	\$ 120,220	\$ 91,895	\$ (83,353)	\$ 128,762

(Concluded)



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: JOHN P. JOHNS, FINANCE DIRECTOR

DATE: FOR THE MEETING OF OCTOBER 20, 2004

**SUBJECT: EXTENSION OF AGREEMENT WITH CAPORICCI & LARSON
CERTIFIED PUBLIC ACCOUNTANTS FOR INDEPENDENT
AUDIT SERVICES**

RECOMMENDATION:

Approve a three-year extension to the contract for independent audit services with Caporicci & Larson, Certified Public Accountants.

DISCUSSION

In June 2000, the Town of Atherton entered into an agreement with Caporicci & Larson Certified Public Accountants to perform independent audit services for fiscal years 2000-01 through 2002-03. In March, 2003 the Council approved an extension to the agreement for independent audit services for two additional years.

Subsequent to the completion of the FY 2003-04 audit, the Caporicci & Larson has proposed an extension of its contract for independent audit services for an additional three years. The proposed cost of services for the next three years is as follows:

<u>Fiscal Year</u>	<u>Proposed Cost</u>
2004-05	\$21,500
2005-06	22,000
2006-07	23,000

For the year ended June 30th 2004, the Caporicci & Larson's cost to perform the annual audit was \$20,245. Hence the auditor's proposed cost to perform independent audit services for Fiscal Year 2004-05 of \$21,500 constitutes an increase of \$1,255 (an increase of 6.2).

Staff believes that the auditor's proposed increase in fees is reasonable in light of the increase amount of substantive testing that must be performed and the more complex reporting requirements pursuant to Government Accounting Standards Board Statement Number 34 (The new financial reporting model).

Staff has reviewed the auditors proposal with the Audit Committee. The Audit Committee concurs with the recommendation of staff.

FISCAL IMPACT:

Retaining Caporicci & Larson to perform independent audit services would not require any adjustment to appropriations since funds necessary for independent audit services have been budgeted.

Prepared by:

Approved by:

John P. Johns
Finance Director

James H. Robinson
City Manager

Attachment: Letter regarding Contract Extension for Audit Services

October 2, 2004

Mr. John Johns
Town of Atherton
93 Ashfield Road
Atherton, CA. 94027

Dear Mr. Johns:

As you are aware, our current audit contract ends with the completion of the 2004 audit. I would like to take this opportunity to thank you for the confidence and support the Town has provided us over the years. I would also like to take this opportunity to present this letter for your consideration regarding extending the Caporicci & Larson audit contract with the Town.

Over the past years, we have developed an understanding of the Town's operation that has aided us in providing quality audit services. With that knowledge, we've been able to expand our audit efforts and provide observations that have assisted Town staff. We have also demonstrated our ability to respond to requests of the Town and our ability to deliver a quality product. We trust the Town has been satisfied with our efforts.

I would like to propose an extension of our audit contract to include the fiscal years ending June 30, 2005, 2006, and 2007. The objective of our audits is to issue an opinion regarding the fairness of presentation of the Town's financial position for each year in accordance with generally accepted accounting principles. The audits to be performed will follow generally accepted auditing standards, U.S. General Accounting Office's Government Auditing Standards, Single Audit Act, and OMB A-133.

Our proposed professional fees to perform the audit services to the Town for the years ending June 30, 2005, 2006 and 2007, are as follows:

<u>Audit Year</u>	<u>Amount</u>
For the year ending June 30, 2005	\$21,500
For the year ending June 30, 2006	22,000
For the year ending June 30, 2007	23,000

Toll Free Ph: (877) 862-2200

Toll Free Fax: (866) 436-0927

Oakland
180 Grand Ave., Suite 1365
Oakland, California 94612

Orange County
3184-D Airway Avenue
Costa Mesa, California 92626

Sacramento
777 Campus Commons Rd., Suite 200
Sacramento, California 95825

San Diego
600 "B" Street, Suite 1900
San Diego, California 92101

Mr. John Johns
Town of Atherton
Page 2

We have increased the fees slightly to cover inflationary effects on our costs. You will recall that audit fees for the Town have not increased over the past 3 years.

In addition, we would also be available to conduct the interim review at our current hourly rates. I don't expect a significant increase in fees to perform this service over what has been incurred in prior years.

If the Town agrees with the foregoing, please sign the copy of this letter in the space provided and return it to us.

John, we would very much like to continue our relationship with the Town and stand ready to provide the level of service and commitment for which the Town has become accustomed.

If you have any questions, please feel free to call me using our toll-free number (877) 862-2200, ext. 125.

Sincerely,



Stephen L. Larson
Senior Partner

This letter correctly sets forth the understanding of the Town of Atherton as listed above.

Acknowledged by:

Town of Atherton

Date

ATKINSON • FARASYN, LLP

ATTORNEYS AT LAW

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

MEMORANDUM

TO: Honorable Mayor and City Councilmembers, Town of Atherton
FROM: City Attorney
RE: Amendments to Building Standards – Partial Ratification of
Menlo Park Fire Protection District Pertaining to Fire Sprinklers
DATE: October 20, 2004

RECOMMENDATION: Waive further reading beyond title and introduce for first reading an ordinance partially ratifying amendments to the Menlo Park Fire Protection District Code pertaining to fire sprinklers. The partial ratification will make fire sprinkler requirements applicable to new construction in the Town. Existing buildings or structures other than residential structures will be obliged to install fire sprinklers as required by the amendments to the Menlo Park Fire Protection District Code.

BACKGROUND: At the regular city council meeting on September 15, 2004, the City Council decided to ratify amendments to the Menlo Park Fire Protection District Code only insofar as to require fire sprinklers in new construction exceeding 1,000 square feet in area or any new building with a basement exceeding 250 square feet in area. Provisions of the amended District Fire Code as they apply to existing residential structures were not ratified. Section 2 of the ordinance ratifying a part of Ordinance No. 29 points out that as to existing residential buildings, the amendments to the Menlo Park Fire Protection District Code regarding sprinkler system requirements do not apply in the Town of Atherton. These requirements will apply to existing buildings or structures in the Town which are not residential buildings.

Respectfully,

MARC G. HYNES

MGH:cwb

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
RATIFYING A PART OF ORDINANCE NO. 29 OF THE MENLO PARK FIRE
PROTECTION DISTRICT AMENDING DISTRICT FIRE PREVENTION CODE
PERTAINING TO AUTOMATIC FIRE SPRINKLER SYSTEM
REQUIREMENTS RELATING TO NEW RESIDENTIAL CONSTRUCTION IN
THE TOWN OF ATHERTON**

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

SECTION 1: Ordinance No. 29 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 May 18, 2004, and incorporated by this reference is partially ratified insofar as it pertains to new construction in the Town of Atherton and as further described in Section 2, below. 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 State agency.

SECTION 2: Ordinance No. 29 Menlo Park Fire Protection District Section 1.1 is ratified. Section 1.2 is ratified with respect to subsections(a) and (b)(i) and subsection (c). Subsection 1.2 (b)(ii) shall not apply to existing residential buildings or structures in the Town of Atherton, and with that exception is otherwise ratified.

SECTION 3: 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 the 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 4: 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 5: Upon passage and adoption of this ordinance, Town of Atherton Ordinance No. 548, passed and adopted on February 18, 2003, is hereby repealed.

SECTION 6: 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 _____, 2004.

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the _____ day of _____, 2004, by the following vote:

AYES: COUNCILMEMBERS

NOES: COUNCILMEMBERS

ABSTAIN: COUNCILMEMBERS

ABSENT: COUNCILMEMBERS

ATTEST:

Kathy McKeithen, Mayor
Town of Atherton

Linda Kelly, Acting City Clerk

APPROVED AS TO FORM:

/s/ Marc G. Hynes

Marc G. Hynes, City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: JOHN P. JOHNS, FINANCE DIRECTOR

DATE: FOR THE MEETING OF OCTOBER 20, 2004

**SUBJECT: ANALYSIS OF REVENUE ENHANCEMENT AND COST
SAVINGS OPTIONS**

RECOMMENDATION:

Approve the following modifications to the intermediate-range financial plan:

- A package of revenue enhancement and cost reduction strategies intended to bring revenues and expenditures into balance for fiscal years 2005-06 through 2008-09; and,
- Changes in assumptions and estimates previously communicated to the City Council in an August 2004 staff report.

Seek, through a future ballot measure, a change in the business tax ordinance that would generate revenues that could be used to either supplement or supplant the parcel tax in FY 2005 or subsequent fiscal years.

DISCUSSION:

During the past eight weeks the City Council has held a series of meetings to discuss a variety of revenue enhancement and cost reduction strategies that would accomplish the following objectives:

- Close the gap between anticipated revenues and expenditures during the current four-year financial planning horizon; and,

- Identify a supplemental funding source that could be relied upon in the future as a means of supplementing or ultimately replacing the parcel tax.

Closing the gap between expected revenues and expenditures

As indicated in the August 2004 update to the Town’s intermediate range financial plan, the General Fund balance will decline from \$6,079,112 for the year ended June 30th, 2005 to \$3,726,755 for the year ended June 30th, 2009 (a reduction in fund balance of approximately \$2.3 million). In order to preserve the existing fund balance, the Town must therefore achieve cost reduction and revenue enhancements averaging \$588,089 for each of the next four fiscal years.

Proposed Revenue Enhancement and Cost Reduction Actions

To close the gap between revenues and expenditures, staff recommends a total of \$592,000 in revenue enhancements and cost savings actions. These proposed actions are presented in the following table:

Action	Cost Savings	Enhanced Revenues
Eliminate funding for three full-time equivalent positions (two in Police and one in Administration)	\$312,000	
Implement a surcharge on excavation permits combined with an increase in the Road Impact Fee Operating Transfer		\$200,000
Place a cap on accumulated compensated absences	40,000	
Pay down unfunded pension liabilities	40,000	
Total	\$392,000	\$200,000

It should be noted that, with one exception (implementing a cap on accumulated compensated absences) the proposed actions can be implemented immediately and are not contingent upon the consent of a third party.

Additionally, in the judgment of staff, the proposed combination of revenue and cost reduction measures demonstrate an effort on the part of the town to:

- Effectively manage its cost structure; and
- Distribute additional taxes and fees in an equitable manner.

Supplementing or supplanting the Parcel Tax in FY 2004-05 or subsequent years

In light of the fact that passage of the Parcel Tax in November of 2004 or in subsequent election cycles is by no means a certainty, the City Council has directed staff to identify a potential financing source that could be relied upon as a permanent financing source and that would be sufficient to bridge the structural gap between revenues and expenses that currently exists. (As indicated in the management discussion and analysis section of the

Town's general-purpose financial statements for the year ended June 30th, 2004, the parcel tax accounts for 27 percent of total discretionary revenues).

Pursuant to the direction of the City Council, staff has identified four revenue measures that meet the objective described above. These include:

- Adoption of a gross-receipts basis for the business license tax for the construction and real estate trades.
- A special benefit assessment for public safety;
- A modification to the parcel tax to provide for periodic adjustments in the tax levy and to eliminate the four-year sunset provision; and,
- A utility users tax.

As indicated in previous staff reports, the revenues to be derived from any one of the four options identified above would range from \$500,000 to \$2.1 million, depending upon the purpose for which the tax was levied.

Of the four options listed above, staff recommends that the Town pursue a modification of the Town's business license ordinance to impose a gross-receipts based tax on the real estate and construction industries. Additionally, staff recommends that proposed modification to the business license tax ordinance be drafted with the following objectives in mind:

- The tax burden should be distributed equitably amongst the real-estate and construction industries based upon the volume of transactions being completed each year;
- The tax should be implemented in a manner that is consistent with that of other communities so as to reduce the potential for a successful legal challenge;
- The tax rate should be set annually through the annual budget process; and,
- A cap on the business tax rate should be placed at a level that would be sufficient to offset a catastrophic loss of discretionary revenues (such as a loss of the parcel tax or another diversion of property tax revenues by the State of California)

CONCLUSION

The City Council has set two broad objectives for staff:

- Identifying and recommending revenue enhancement and cost reduction actions that will enable the Town to bring revenues and expenditures in line with one another during the intermediate financial planning horizon; and
- Identify and recommend revenue enhancement alternatives that should be pursued with the interests of promoting financial stability for the Town over the long-range planning horizon.

To accomplish the objectives listed above, staff has proposed cost reduction and revenue enhancement actions of \$382,000 and \$200,000 respectively resulting in annual

budgetary savings of \$582,000 for fiscal years 2005-06 through 2008-09. By implementing such measures, the Town council would close the projected \$2.3 million gap in revenues and expenditures that is expected over the next several years. Additionally, staff recommends that the City Council, through a future ballot measure, seek to modify the business license tax ordinance to provide for a gross receipts-based tax on the real estate and construction industries.

FISCAL IMPACT

Implementation of the recommended cost savings and revenue enhancement actions contained herein would generate approximately \$2.3 million in budgetary savings during fiscal years 2005-06 through 2008-09. Additional and substantial revenues would result from the implementation of a proposed modification of the business license tax ordinance. However, such revenues would be contingent upon voter approval in a subsequent general election.

Prepared by:

Approved by:

John P. Johns
Finance Director

James H. Robinson
City Manager

Attachment 1: Intermediate-range financial plan, revised as of October, 2004

Attachment 1
General Fund Revenue and Expenditure Analysis
Fiscal Years 2005 through 2009 (Revised as of October 2004)

Revenue Category	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Property Tax	\$ 3,256,096	\$ 3,119,951	\$ 3,244,749	\$ 3,374,539	\$ 3,509,521	\$ 3,649,902
Sales Taxes	153,870	169,906	175,004	180,254	185,661	191,231
Other Taxes	903,527	893,010	976,210	1,015,258	1,055,869	1,098,103
Licenses and Permits	1,864,413	1,736,949	1,754,319	1,771,862	1,789,580	1,807,476
Fines and Forefeitures	68,230	50,000	51,000	52,020	53,060	54,122
Aid from other Agencies	176,093	144,500	124,500	124,500	124,500	124,500
Service Charges	363,751	401,900	421,995	443,095	465,249	488,512
Use of Money and Property	110,000	354,622	493,694	453,571	399,133	329,576
Other Revenues	0	3,000	3,000	3,000	3,000	3,000
Total Revenues	\$ 6,895,980	\$ 6,873,839	\$ 7,244,471	\$ 7,418,099	\$ 7,585,575	\$ 7,746,422
<i>Revenue Growth</i>	<i>7.7%</i>	<i>-0.3%</i>	<i>5.4%</i>	<i>2.4%</i>	<i>2.3%</i>	<i>2.1%</i>
Expenditure Category						
Contingency - Non Departmental	93,000	100,000	60,000	60,000	60,000	60,000
Council	15,197	20,204	21,012	21,747	22,617	23,296
Manager	514,163	509,226	489,595	509,179	529,546	545,432
Attorney	190,664	176,228	185,040	194,292	204,006	210,738
Finance	375,378	456,797	435,069	452,471	470,570	484,687
Building	875,544	975,249	1,014,259	1,054,829	1,097,023	1,129,933
Police	3,594,069	4,057,909	4,188,225	4,355,754	4,629,985	4,768,884
Public Works	1,625,901	1,805,972	1,894,211	1,969,980	2,048,779	2,110,242
Total Expenditures	\$ 7,283,916	\$ 8,101,585	\$ 8,287,410	\$ 8,618,252	\$ 9,062,525	\$ 9,333,213
<i>Expenditure Growth</i>	<i>5.3%</i>	<i>11.2%</i>	<i>2.3%</i>	<i>4.0%</i>	<i>5.2%</i>	<i>3.0%</i>
Surplus (Deficiency) of Revenues over Expenditures	(387,936)	(1,227,746)	(1,042,939)	(1,200,153)	(1,476,950)	(1,586,791)
Add (subtract) Operating Transfers In (out)						
Parcel Tax	799,000	799,000	799,000	799,000	799,000	799,000
Library Fund Operating Transfer	-	-	-	-	-	-
Police on the Street	-	-	-	-	-	-
Gas Tax/Road Impact Fees	200,000	352,161	352,161	352,161	352,161	352,161
CIP Support	150,000	150,000	150,000	150,000	150,000	150,000
Subtotal Operating Transfers	1,149,000	1,301,161	1,301,161	1,301,161	1,301,161	1,301,161
Beginning Fund Balance	5,284,633	6,045,697	6,119,112	6,377,334	6,478,341	6,302,552
Ending Fund Balance	\$ 6,045,697	\$ 6,119,112	\$ 6,377,334	\$ 6,478,341	\$ 6,302,552	\$ 6,016,922
Less Reserve Requirements:						
Insurance	500,000	500,000	500,000	500,000	500,000	500,000
Cash Flows and Contingencies	3,200,000	3,200,000	3,200,000	3,200,000	3,200,000	3,200,000
Building Inspections	600,000	600,000	600,000	600,000	600,000	600,000
Comensated Absences	561,000	476,850	405,323	344,524	292,846	248,919
Equals Unreserved Fund Balance	\$ 1,184,697	\$ 1,342,262	\$ 1,672,011	\$ 1,833,817	\$ 1,709,706	\$ 1,468,003
Increase (Decrease) in Fund Balance	\$ 761,064	\$ 73,415	\$ 258,222	\$ 101,008	\$ (175,789)	\$ (285,630)



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: DUNCAN L. JONES, P.E., PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF OCTOBER 20, 2004

**SUBJECT: DISCUSSION OF MUNICIPAL CODE SECTION 12.06.100
STANDARDS FOR WORK IN THE PUBLIC RIGHT OF WAY**

RECOMMENDATION:

Discuss the issue of landscaping and obstacles within the public right of way.

INTRODUCTION:

In 1999 the City Council modified the entirety of the Town's encroachment code (Ordinance No. 503, 1999). Section 12.06.100 of the Municipal Code provided specifications for new landscaping within the right of way and adjacent to the street. The new code provides, in Section 12.06.100(G), that existing trees and shrubs and landscaping may continue to be located within the public right of way so long as they do not present a public hazard. If the nonconforming landscaping is determined by the City Manager or designee to be hazardous or poses a physical obstruction, it is subject to abatement as a public nuisance.

The current Public Works Department practice is to treat any landscaping outside of the edge of pavement as not constituting a public hazard unless it causes a sight distance obstruction, or obstructs the view of Town street signs. Street sign obstructions are routinely cleared by the Public Works Department. Landscaping causing a sight distance obstruction is abated according to the nuisance ordinance on a complaint-made basis.

Recent public comments at City Council meetings have asked for enforcement of the code requirements on existing landscaping. The current Municipal Code only provides authority as described in the first paragraph above.

Other recent public comments have asked that the three foot strip adjacent to the edge of pavement be kept clear of all landscaping, except for gravel or other permeable surface sufficient for walking. The current Municipal Code allows vegetation up to five inches (5") tall within the first three feet.

ANALYSIS:

The following are the Municipal Code provisions for new landscaping within the public right of way:

1. No landscaping on the pavement
2. No landscaping over the pavement if it is a hazard
3. Landscaping less than five inches (5") or a pervious surface covering within three feet (3') of the pavement
4. Landscaping less than thirty-six inches (36") between three feet and six feet (3'-6') from the edge of pavement
5. Landscaping and fences less than thirty-six inches (36") in the sight triangle measured thirty feet (30') from the intersection of the improved right of way lines
6. Overhanging trees within the sight triangle must be trimmed up to not obstruct sight
7. New trees and shrubbery must be planted so that, when mature, their trunks will be more than six feet (6') from the pavement
8. New street trees must be approved by the Town of Atherton
9. The owner of the adjoining property must maintain all landscaping in the public right of way.
10. No logs, curbs, rocks or similar obstacles within six feet (6') of the pavement
11. Landscaping cannot impede drainage.

See the attached diagram of the various landscaping and fence standards.

FISCAL IMPACT:

Enforcement of landscaping requirements on other than a complaints-made basis will require additional staff time to inspect the streets, to file the abatement notices, and to follow up with nuisance abatement procedures if the original notice is not complied with. Modification of the Municipal Code to require existing landscaping to conform to these requirements would require considerable additional staff time for enforcement. Compliance could be accomplished by hiring an outside contractor to bring all properties up to code, leaving ongoing enforcement to existing staff.

Prepared By:

Approved:

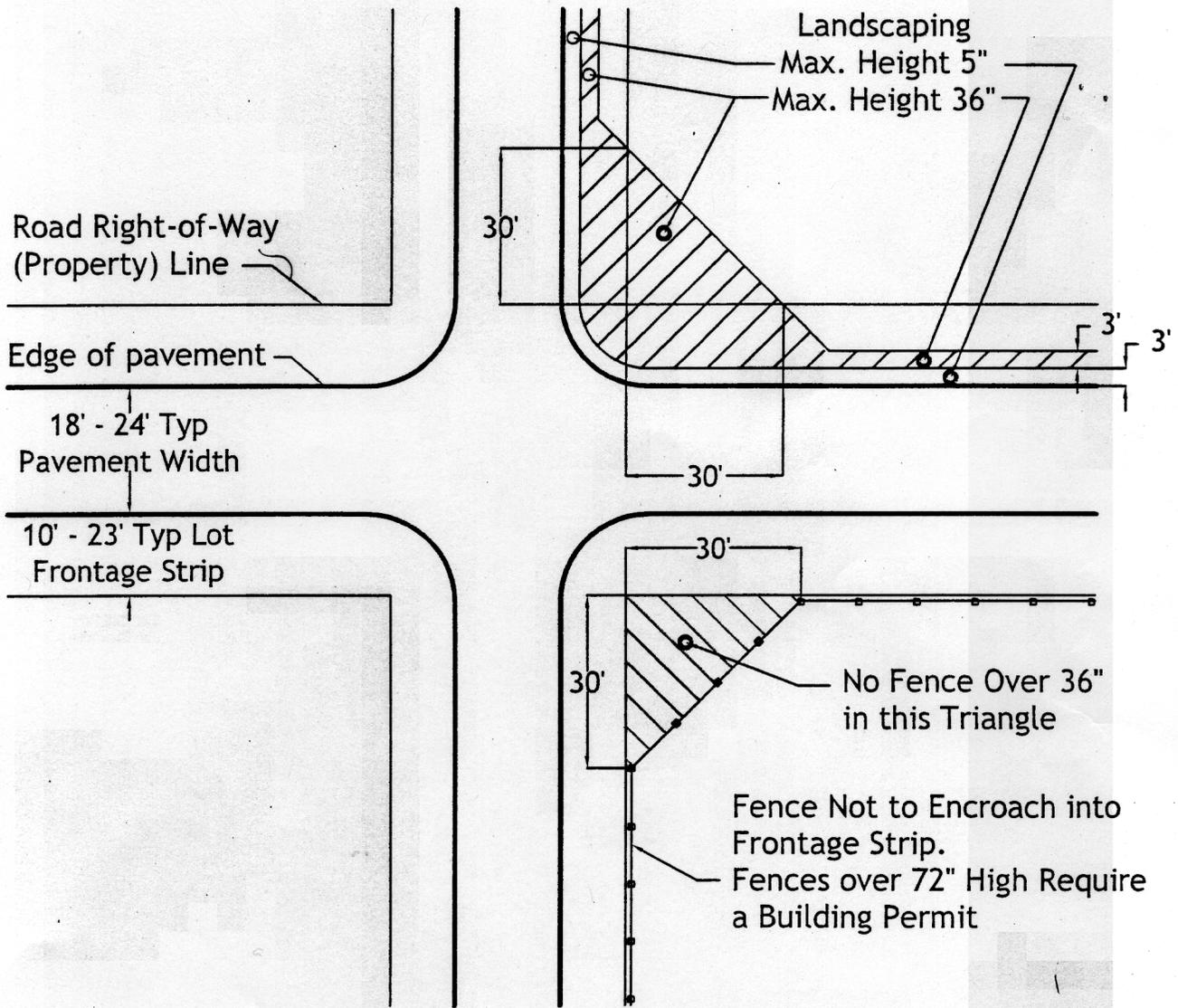
Duncan L. Jones, P.E.
Public Works Director

James Robinson
City Manager

Attachment:

Diagram of Streetfronting Landscaping and Fence Location and Sight Distance Standards

TOWN OF ATHERTON STREETFRONTING LANDSCAPING AND FENCE LOCATION AND SIGHT DISTANCE STANDARDS



No logs, curbs, rocks or similar obstructions are allowed within 6' of pavement edge.

Existing trees and shrubs may remain, so long as not a public hazard.

Keypads and intercoms must be a minimum of 6' from pavement edge.

Mailboxes are permitted closer to pavement edge than 6' if required to meet postal regulations.

No objects or improvements may impede drainage.



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 20, 2004

SUBJECT: RESOLUTION SUPPORTING PROPOSITION 1A, "PROTECTION OF LOCAL GOVERNMENT REVENUES," A BALLOT INITIATIVE ON THE NOVEMBER 2, 2004 STATEWIDE BALLOT TO RESTRICT THE STATE LEGISLATURE'S ABILITY TO TAKE LOCAL GOVERNMENT FUNDING

RECOMMENDATION

Consider adoption of a Resolution supporting Proposition 1A on the November 2, 2004 Statewide ballot.

BACKGROUND

In recent years, the State legislature and previous governors have approved laws that divert local tax revenues away from local governments. Most recently, the State's budget crisis has prompted the legislature to dig even further into local revenues in order to help offset the State's budget deficit.

This trend toward further taking of local tax revenues (that local governments use to provide essential services such as police and fire protection, emergency and public health care, roads, parks, libraries, and water delivery), extends back for more than a decade. Since 1991, the State has taken an estimated \$40 billion of local property taxes from cities, counties, and special districts. In the last fiscal year, cities alone lost \$800 million of local funds in this manner, and nearly \$7 billion over the last 12 years. Even in years of State budget surplus, the State has continued to take these funds and use them to

finance its constitutional funding obligation to education, thus allowing the State to increase State general fund spending for other State programs.

Earlier this year, the League of California Cities took the lead in sponsoring the ballot initiative entitled the “Local Taxpayers and Public Safety Protection Act.” That measure would require voter approval prior to the legislature taking further local funds. Sufficient signatures were gathered, and the measure was placed on the November 2004 ballot as Proposition 65.

That initiative got the attention of the Legislature, and as part of the recently-adopted State budget, a bipartisan agreement was reached to create the mechanism, Proposition 1A (based on the bill SCA 4) by which the Legislature is constitutionally restricted from taking local funding, in return for the additional two years of continued cuts to local funding by the State.

If approved by the electorate, Proposition 1A will constitutionally prevent the State legislature from taking local government funds to pay for State responsibilities. This measure will thereby help protect funding for essential local services like fire and paramedic response, law enforcement, emergency and trauma care, parks, roads, libraries, transportation and more.

This measure, if passed by the voters, will restrict the State Legislature’s ability to take local government funding, including local governments’ share of existing sales taxes, property taxes and Vehicle License Fee (VLF) revenues. It will require the State to provide funding for any program of service the State forces local governments to provide (State-mandated programs). If the State fails to provide that funding, then the legislature must repeal the mandates. The measure provides flexibility in a State budget emergency in that it allows the State to borrow local government revenues if funds are needed in a fiscal emergency to support schools or other state programs.

Proposition 1A will not raise tax rates or fees; it will not reduce funding to schools or any other state programs or services; it does not increase funding to local governments; and it leaves the door open to future reforms of the state-local fiscal relationship.

FISCAL IMPACT

There is no fiscal impact associated with the adoption of this Resolution.

Attachments: Draft Resolution
Sample Ballot Pages Regarding Proposition 1A
Prop 1A Questions and Answers from the League of California Cities

RESOLUTION NO. 04-_____

RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
SUPPORTING PROPOSITION 1A

Whereas, State government annually takes more than \$5.2 billion in local property tax funds statewide from cities, counties and special districts, costing local governments more than \$40 billion in lost revenues over the past 12 years; and

Whereas, these continual shifts and takings by the State of local property tax funds and other funding dedicated to local governments has seriously reduced resources available for local fire and paramedic response, law enforcement, public health and emergency medical care, roads, parks, libraries, transportation and other essential local services; and

Whereas, these takings of funds also add pressure for local government to increase fees and taxes to maintain basic local service levels; and

Whereas, the drain of local resources has continued even during periods when the State's budget has experienced surpluses; and

Whereas, Proposition 1A is a measure that will appear on the November 2004 statewide ballot to limit the State's ability to take and use local government funding; and

Whereas, by protecting local government funding, Prop 1A would protect local public safety, healthcare and other essential local services; and

Whereas, Prop 1A will not raise taxes and, in fact, should help reduce pressure for local fee and tax increases by limiting state takings of local government funding; and

Whereas, Prop 1A does not reduce funding for schools or any other state program or service, and Prop 1A was written to allow flexibility in the event of a state budget emergency; and

Whereas, Prop 1A is supported by a bipartisan, diverse coalition including Governor Schwarzenegger, Democrat and Republican leaders, local government officials, public safety representatives, healthcare, business, labor and community leaders;

Now, therefore, be it resolved for the reasons stated above that the City Council of the Town of Atherton hereby expresses strong support for Proposition 1A, the statewide ballot initiative that will prevent the State from further taking local government revenues; and

Be it further resolved that the Town of Atherton officials and staff are authorized to provide impartial informational materials on the initiative as may be lawfully

provided by local government's representatives. No public funds shall be used to campaign for or against the initiative; and

Be it further resolved that the City Council of the Town of Atherton will send a copy of this Resolution to Yes on 1A – Californians to Protect Local Taxpayers and Public Safety.

* * * * *

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

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

Kathy McKeithen, Mayor
Town of Atherton

ATTEST:

Linda Kelly, Acting City Clerk

APPROVED AS TO FORM:

/s/ Marc Hynes

Marc Hynes, City Attorney