



**AGENDA**  
**ATHERTON CITY COUNCIL**  
**September 15, 2004**

**6:00 P.M. NOTE TIME**

**Meeting Room**  
**Town Administrative Offices**

91 Ashfield Road  
Atherton, California

**Special Meeting**

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

**6:02 P.M. PUBLIC COMMENTS**

**6:05 P.M. 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**

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

**Four (4) potential cases.**

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

**Title: City Attorney**

**RECONVENE TO OPEN SESSION**

**Report of action taken.**

**ADJOURN**

*Agendas and staff reports may be accessed on the Town website at: [www.ci.atherton.ca.us](http://www.ci.atherton.ca.us)*

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

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**AGENDA**  
**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**

- 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. Proclamation for Fire Prevention Week October 3 - 9, 2004**
- 7:15 P.M.    4.    COUNCIL REPORTS**
- 7:25 P.M.    5.    PUBLIC COMMENTS (only for items which are not on the agenda –  
limit of three minutes per person)**
- 7:35 P.M.    6.    STAFF REPORTS**
- 7:45 P.M.    7.    COMMUNITY ORGANIZATION ROUNDTABLE REPORT (Directed  
by Resolution No. 99-6)**
- Victoria Manor Homeowners' Association**
- 8:00 P.M.    CONSENT CALENDAR (Items 8 - 15)**
- 8.    APPROVAL OF 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.    APPROVAL OF BILLS AND CLAIMS FOR JULY AND AUGUST  
2004 IN THE AMOUNT OF \$1,650,467**

10. ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR JULY 2004
11. ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR AUGUST 2004
12. ACCEPTANCE OF QUARTERLY INVESTMENT REPORT FOR THE FOURTH QUARTER OF FISCAL YEAR 2003-04
13. APPROVAL OF FISCAL YEAR 2004-05 INVESTMENT POLICY
14. ADOPTION OF RESOLUTIONS 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

**Recommendation:** Adopt Resolution No. 04-\_\_ authorizing staff to submit an application for Recreational Trails Program (RTP) grant and Resolution No. 04-\_\_ 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. APPROVAL TO AMEND CENTERLINE MARKING LIST

**Recommendation:** Approve 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 No. 16, 17)

- |           |   |
|-----------|---|
| 8:05 P.M. | 16. APPEAL OF THE DECISION OF THE BUILDING OFFICIAL REGARDING 439 WALSH ROAD AND USE OF THE HETCH-HETCHY PROPERTY AS A SIDEYARD |
| 8:20 P.M. | 17. APPEAL OF THE DECISION OF THE PLANNING COMMISSION TO DENY A HERITAGE TREE REMOVAL PERMIT AT 266 PARK LANE                   |

**REGULAR AGENDA** (Items 18 - 19)

- |           |  |
|-----------|--|
| 8:35 P.M. | 18. CONSIDER ADOPTION OF AN ORDINANCE RATIFYING THE MENLO PARK FIRE PROTECTION DISTRICT FIRE SPRINKLER SYSTEM REQUIREMENTS <i>(This item was deferred from the City Council Meeting of July 21, 2004.)</i> |
|-----------|--|

**Recommendation: Adopt 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.**

**8:55 P.M. 19. DISCUSSION OF UTILITY UNDERGROUNDING FOR EMILIE AVENUE AND FREDERICK AVENUE**

**Recommendation: Evaluate all possible undergrounding alternatives within the Town of Atherton and defer commitment to any specific project at this time.**

**9:15 P.M. 20. CONSIDERATION OF ELIMINATION OF ATHERTON CALTRAIN STATION PARKING LOT FEE**

**Recommendation: Eliminate the .50 cent daily charge for parking at the parking lot directly adjacent to the Atherton Caltrain Station in an effort to encourage train use and ridership.**

**9:20 P.M. 21. PUBLIC COMMENTS**

**9:30 P.M. 22. ADJOURNMENT**

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**Draft Minutes**  
**ATHERTON CITY COUNCIL**  
**JULY 21, 2004**  
**6:00 P.M.**  
**Meeting Room**  
**Town Administrative Offices**  
91 Ashfield Road  
Atherton, California  
**Special Meeting**

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

**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**

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

**4. RECONVENE TO OPEN SESSION**

The Council reconvened to Open Session at 6:55 p.m. The following action was taken:

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

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

No action was taken; direction was given to the City Attorney.

**B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED  
LITIGATION -- Initiation of litigation pursuant to Government Code  
Section 54956.9(c), 2 potential cases.**

**The City Attorney was authorized to file a complaint in the following cases:**

- **A construction ordinance violation against Lisa Chaplinsky.**
- **An animal regulations violation, dog bite, against William and Joan Morris.**

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

**City Attorney**

**No action was taken.**

**ADJOURN**

**The meeting adjourned at 6:55 p.m.**

**Respectfully submitted,**

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**Kathy McKeithen, Mayor**

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**Draft Minutes  
Town of Atherton  
CITY COUNCIL/ATHERTON CHANNEL  
DRAINAGE DISTRICT**

**July 21, 2004**

**7:00 p.m.**

**TOWN COUNCIL CHAMBERS**

94 Ashfield Road  
Atherton, California

**REGULAR MEETING**

**Mayor McKeithen called the meeting to order at 7:06 p.m.**

**1. PLEDGE OF ALLEGIANCE**

**2. ROLL CALL**

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

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

**3. PRESENTATIONS**

**A. Certificates of Appreciation for Outgoing Commission and Committee Members:**

**Mayor McKeithen made brief comments regarding outgoing Audit Committee Member and Chair, Marc Hebert, and outgoing Arts Committee Chair and Member, Marguerette Paponis, in recognition of their volunteer service to the Town.**

**B. Proclamation for the Arts Committee – Big Daddy Jazz Festival**

**Mayor McKeithen read a proclamation in recognition of the Arts Committee's successful Big Daddy Jazz Festival held on June 20, 2004.**

**C. Presentation by Menlo Park Rotary Club to Atherton's Tree Committee  
Bob Huber, Rotary Club Member from Menlo Park presented a check to the Town of Atherton's Tree Committee.**

**Bob Huber, Menlo Park Rotary Club Member, presented an \$808.88 check to the Atherton Tree Committee. The check was a donation from a recent bicycle**

ride fundraiser for Menlo Park trees. A portion of the route went through the Lindenwood area of Town, and residents of the area assisted in the efforts.

Denise Kupperman, AthertonTree Committee, thanked Mr. Huber and announced the Committee was sponsoring a Heritage Tree Award. Forms were available in the Town's administrative offices, and the deadline was August 27, 2004, at 5:00 p.m.

#### 4. COUNCIL REPORTS

- Council Member Janz attended the Caltrain Corridor Subcommittee Meeting held on July 6, 2004. A presentation by Train Riders Association of California (TRAC) advocated the inclusion of the Altamont Pass alternative for high-speed rail to Southern California. A meeting was held on July 14, 2004, at the Fair Oaks crossing to discuss the possibility of a "quiet zone" for the Atherton area.
- Council Member Marsala noted the Joint Powers County Library group did not meet in July. He commended the Arts Committee for its work on the Big Daddy Jazz event. Last month, Selby Lane School secured a \$160,000 grant over three years to work with reading and academic intervention. Efforts continued to secure funding for the International Baccalaureate program, which needs \$70,000 by November 1. The Park Foundation held a retreat, selected new officers, and looked at how the Foundation and Atherton Dames could work together. Council Member Marsala thought a review of the Town's sign ordinance might be appropriate to address the appearance of television monitors on fences. Regarding alternative funding for the parcel tax, he wanted to encourage entrepreneurs to secure a Business License from the Town and suggested revisiting ways to inform residents.
- Council Member Carlson attended the July 13, 2004, Transportation Committee meeting. Three radar signs would be arriving shortly. Caltrans announced there were no funds available to redesign the left-hand turn pocket at El Camino Real and Selby Lane. The next meeting would be held on October 12, 2004.
- Vice Mayor Conwell noted the July City/County Association of Governments (CCAG) meeting was not held. He attended the San Francisco Airport Roundtable meeting and reported noise complaints were down. At the Criminal Justice Commission meeting held that day, a presentation on drug problems revealed the situation was out of control. Vice Mayor Conwell thanked Andrea Gemmet, reporter from *The Almanac*, for her recent article on public servants.
- Mayor McKeithen attended the Transportation Committee meeting where a brief discussion on the 2020 Peninsula Gateway Corridor Study took place. Several meetings were held, were not very well attended, and a great deal more work needed to be done before a draft study was completed. A suggested solution for congestion relief affecting Atherton was to increase both Marsh and Middlefield Roads to four lanes to better accommodate emergency vehicles; although, there was no indication an accommodation was needed. The Audit Committee spent time reviewing the auditor's interim report. Staff had implemented most of the recommendations. A consultant was hired to assist staff with the conversion to the new financial reporting model for a total amount not to exceed \$9,025. Mayor McKeithen noted the Office of Emergency Services (OES) for San Mateo County met on June 24, 2004, where discussion took place regarding fair-share payments

for the new microwave system. A surplus would be used for future updates to the system. Southern California was being hit hard by the West Nile Virus. The best method to deal with the virus was through mosquito abatement. In case of a catastrophic event, 50 cities had antibiotics or vaccines for approximately 750,000 people. Stockpiles were moved in and out of undisclosed locations to ensure antibiotics were current. The OES meets quarterly and the public was welcomed to attend. Atherton would have a Citizen Emergency Response Training (CERT) class in the fall where citizens were certified to help in the event of an emergency or catastrophic event.

## **5. PUBLIC COMMENTS**

The following members of the audience spoke:

- Marion Oster, representing the Atherton Heritage Association, gave an update regarding the gazebo at Holbrook-Palmer Park.
- Elizabeth Lewis, Atherton, spoke on behalf of the residents of Emilie Avenue and submitted a request to the Council for utility undergrounding. The Mayor asked that an item be placed on the next Council agenda and asked the Public Works Director to prepare a staff report that included the cost and other priorities. The City Manager noted there was \$727,391 in a reserve fund with P.G.&E. that could be used based on certain conditions and requirements.
- Bob Huber, Atherton, requested that Frederick Avenue be included in the request for utility undergrounding. Council Member Janz requested a staff report on the feasibility of a utility undergrounding assessment district.
- Jerry Carlson, Atherton, spoke regarding Selby Lane School and the Redwood City Elementary School District.
- John Sisson, Atherton, spoke regarding Selby Lane School, the Redwood City Elementary School District, and the current issue of "The Athertonian."
- Mary Ellen Wetlessen, Tiburon, requested the Council prepare an Amicus Curiae letter to the Supreme Court regarding Zack v. Marin Emergency Radio Authority (Case No. S125094). The Mayor noted the deadline to participate was Friday and called a Special Meeting of the City Council for 8:30 p.m. on July 22, 2004, to discuss the issue.

## **6. STAFF REPORTS**

- City Attorney Marc Hynes reported out of the 6:00 p.m. Closed Session as follows:

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

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

**No action was taken; direction was given to the City Attorney.**

**B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION -- Initiation of litigation pursuant to Government Code Section 54956.9(c), 2 potential cases.**

The City Attorney was authorized to file a complaint in the following cases:

- A construction ordinance violation against Lisa Chaplinsky.
- An animal regulations violation, dog bite, against William and Joan Morris.

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

City Attorney

No action was taken.

- City Manager Jim Robinson announced that on July 24, 2004, the Stop, Drop, and Roll Bike Ride, sponsored by the San Mateo County Fire Prevention Officers Association, would be traveling through the Town via Alameda de las Pulgas. He appreciated John Sisson's comments regarding "The Athertonian" and noted the next edition would come out in October, before the election. Volunteers from the Caltrain Corridor Subcommittee submitted the articles on the possible impacts of the high-speed rail project. The EIR process and response to the EIR would be taken up later in the meeting.
- Finance Director John Johns announced that Mike Barsotti was elected the new Chair of the Audit Committee.
- Public Works Director Duncan Jones reported the Red-Legged Frog survey was completed and 3 healthy adult frogs were found, as well as over 100 tadpoles. The Upper Atherton Channel Redevelopment project would be completed in phases to relocate the frogs during the process.

**7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT**

The Arts Committee

Jean Schaaf, Atherton, presented a report regarding the Atherton Arts Committee. City Manager Jim Robinson clarified the Town of Atherton's insurance liability requirements for contract instructors.

Council Member Marsala thanked the Committee for its dedication and hard work.

**CONSENT CALENDAR**

Mayor McKeithen noted in the Quarterly Investment Report that 61 percent of investments were in the County fund and 39 percent were in the State fund; the return was 1 percent higher in the County fund. Regarding the Monthly Financial Report as compared to last year, expenditures were down 6 percent and income was up 3 percent

resulting in a 9 percent “plus” for the period. Regarding the contract between the Town and the City of Palo Alto for IT services, staff negotiated a smaller increase to the contract by reducing on-site support and forgoing a planned website redesign that resulted in a savings of \$8,450. Additionally, there was a \$128,000 savings from the parcel tax on the 2004 Street Reconstruction Project and a \$30,000+ savings from the Road Impact fee.

Council Members Marsala and Janz had questions regarding Item No. 20 which was moved to the Regular Agenda.

Council Member Janz asked for clarification on Item No. 17, Paragraph 8, of the professional services agreement regarding gross negligence. City Attorney Marc Hynes clarified that the contract employees essentially functioned as Town staff and were afforded the immunities of public employees. However, Paragraph 8 specified in the case of gross negligence, the Town would not be held liable. Vice Mayor Conwell asked to have a letter from ABAG recognizing the issue.

**MOTION – to approve the items as presented on the Consent Agenda with the exception of Item No. 20 which was moved to the Regular Agenda.**

**M/S Conwell/Janz**

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

- 8. APPROVED THE MINUTES FOR SPECIAL MEETINGS OF JUNE 14, 2004, JUNE 16, 2004, AND REGULAR MEETING OF JUNE 16, 2004**
- 9. APPROVED BILLS AND CLAIMS FOR JUNE 2004 IN THE AMOUNT OF \$707,732**
- 10. ACCEPTED THE MONTHLY FINANCIAL REPORT FOR JUNE 2004**
- 11. ACCEPTED THE QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDED MARCH 31, 2004**
- 12. APPROVED AN AGREEMENT FOR INFORMATION TECHNOLOGY SERVICES BETWEEN THE TOWN OF ATHERTON AND THE CITY OF PALO ALTO FOR FISCAL YEAR 2004-05**
- 13. APPROVED LETTER IN RESPONSE TO CIVIL GRAND JURY REQUEST (NARCOTICS INVESTIGATION REPORT)**
- 14. APPROVED LETTER IN RESPONSE TO CIVIL GRAND JURY REQUEST (SEXUAL ASSAULT REPORT)**
- 15. AWARDED CONTRACT FOR BARRY LANE – ATHERTON CHANNEL BOX CULVERT REPLACEMENT, PROJECT NO. 04-001, TO BIANCHI CONSTRUCTION IN THE AMOUNT OF \$254,960.15.**

**Awarded the contract for the Barry Lane – Atherton Channel Box Culvert Replacement, Project No. 04-001, in the amount of \$231,781.95 to Bianchi Construction, the low bidder on the June 25, 2004, bid opening and authorized a**

construction contingency in the amount of \$23,178.20 for a total authorization of \$254,960.15.

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

Accepted the work, authorized staff to record a Notice of Completion, and approved contract change orders in the amount of \$13,292.42 for the Street Corporation Yard Project No. 03-007

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

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

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

Accepted the work and authorized staff to record a Notice of Completion for the 2004 Street Microsurfacing, Project No. 03-112

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

Adopted Resolution No. 04-16 approving Appendix "A" dated July 2004 designating positions and describing disclosure categories in the Conflict of Interest Code.

20. ~~*Removed from Consent Agenda, See Regular Agenda..* **APPROVAL OF TRANSFER AGREEMENT WITH THE CITY OF MENLO PARK REGARDING THE PEDESTRIAN SIGNAL ON VALPARISO AVENUE**~~

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

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

## **REGULAR AGENDA**

**Mayor McKeithen said that Item No. 24 would be brought forward to be heard first on the Regular Agenda.**

### **24. DISCUSSION AND POSSIBLE ACTION REGARDING THE PROPOSED LIGHTING OF ATHLETIC FIELDS AT MENLO ATHERTON HIGH SCHOOL**

**City Manager Jim Robinson noted that some months earlier, staff had attended a meeting at Menlo/Atherton High School (M/A) at the request of former principal Eric Hartwig. The meeting was well attended by residents of Lindenwood and adjoining properties, and a discussion was held on the proposal that had been brought forward by some parents and athletic boosters to add lighting to the athletic field. An application had been submitted to the State; however, no Sequoia Union High School District (District) funds were available to support the project. Discussion centered on the need for lights, the purpose or objective, and the impacts of lighting on neighboring properties. A committee was formed to review the application more carefully.**

**Mayor McKeithen stated that none of those whom expressed interest to be on the committee had been asked to meet on the issue.**

**City Attorney Marc Hynes reported the District was obliged to comply with Town zoning ordinances. Ordinarily, State agencies were immune from regulations by local authorities unless the State consented to regulation. In the case of zoning and instances of building codes, the State had consented as set out in Government Code Sections 53090 through 53095. The Atherton Municipal Code prohibited the lighting of athletic fields as set out in Section 17.36.140e. The District could exempt itself from the effects of Town zoning after holding a public hearing and by a 2/3 vote of its board. To date, the District had not exempted itself; however, an exemption could be filed at any time.**

**The following Atherton residents spoke in opposition of the project.**

**Larry Crouch  
Hans Plesman  
Mel Britton  
Bob Huber  
Philip Lively  
Wayne Kappa  
Mrs. Barry  
Alicia Seebold  
Jim Dobbie  
Rebecca Partridge**

**Vice Mayor Conwell thought the situation was problematic and believed use would escalate to more commercial purposes. He suggested speaking with District board members as a way to mediate the situation.**

**Council Member Marsala had spoken with former neighbors who lived next to a high school with lighted athletic fields, and they reported games had multiplied, lights were on every night, band practice was held in the evenings, and the situation was problematic. He suggested a task force be formed to meet with representatives of M/A to encourage them to work through the Planning Commission. The Town had a precedent with private institutions that complied with Town ordinances.**

**Council Member Carlson noted no one from M/A was present that evening. The Town did not have the same leverage with M/A as it did with private institutions. The District could exempt itself by a 2/3 vote and that would be the end of the matter. He suggested a letter from the Mayor to the President of the Board of Trustees identifying the issues, outlining concerns for public safety, and requesting to meet. Council Member Carlson believed M/A wanted to maintain its image of being concerned about its neighbors.**

**Council Member Janz stated that in addition to the current construction project at M/A, there were plans to add an auditorium, to change the entrance, and to improve the appearance, all of which would have an impact on the neighborhood and Town. The Town provided services to M/A and each needed to support one another. He questioned how far parents could actually pursue the project without District involvement.**

**City Attorney Hynes said eventually, the project would need Board authorization and advertising under the State Contract Act, etc. The Town should request notification of any environmental processing, i.e., CEQA.**

**Mayor McKeithen, noted noise from M/A was not only an issue for adjacent residents but also for those in Lindenwood. Trash, parking, safety, kids staying after games, utilization other than school events, classroom use extension, and commercial use were all issues needing to be addressed. City Attorney Hynes confirmed that use for commercial activities could not be deemed as classroom use. Mayor McKeithen noted the General Plan Committee would be reviewing the Special Event permit process, and requiring a permit for uses other than school activities could be an alternative. The Mayor proposed that City Manager Robinson and City Attorney Hynes draft a letter for the Mayor's signature stating the Council did not believe the project should go forward based on the Town's zoning requirements, based on safety issues, and for the good of the community.**

**Council Member Carlson suggested a joint meeting with the Sequoia Union High School District Board of Trustees and the City Council be held to discuss the issue and the relationship between the Town and the District.**

**Discussion continued on various methods by which to communicate with the District.**

**MOTION – to direct the City Attorney to prepare a letter from the Mayor to the Sequoia Union High School District Board of Trustees outlining the reasons the project**

should not go forward and including a request for the members of the City Council and the Board of Trustees to meet.

M/S Carlson/Conwell

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

Mayor McKeithen called a recess at 9:08 p.m. The meeting reconvened at 9:21 p.m.

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

Mayor McKeithen said Item No. 23 would be brought forward to be heard with Item No. 22.

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

Mayor McKeithen received information regarding building permit fees, noting the Town's fees were substantially lower than neighboring jurisdictions. Additionally, these jurisdictions all had design review fees, road impact fees, and business license fees. She did a comparison between Portola Valley and the Town and concluded \$1 million in additional building permit and road impact fees could have been collected using the Portola Valley formula. She queried how other jurisdictions justified the fees and how the funds were used. Mayor McKeithen noted the County clerk indicated \$25,000 more than originally expected would be collected under the proposed parcel tax, which made an argument to lower the rate. Since the last meeting, residents had raised major concerns over the \$930 levy for a 1/2-acre but less than 2-acre parcel. Mayor McKeithen believed the Council should reconsider its previous decision and lower the rate to \$750. The business license fee, building permit fees, other fees, as well as a change to the business license ordinance could bring in millions of dollars of income and needed to be considered.

Council Member Carlson reiterated the need for a comprehensive plan to bring to the voters and strongly believed the election should be deferred until March. Significant greater deficits would exist beyond next year, and a funding mechanism was needed that would take care of the future.

Mayor McKeithen believed Council was listening to the community. She suggested using the August meeting date to discuss all the possible alternatives to a parcel tax and to formulate a plan to secure the future. The parcel tax levy should be reduced to \$750 and be placed on the ballot in November.

Vice Mayor Conwell believed the Town could work harder at cost cutting and should go forward in November with a \$750 parcel tax levy. Several residents had indicated

they would not vote for the tax at the \$930 level. A real estate tax would likely be supported in March.

Council Member Marsala agreed that a meeting in August was necessary to develop alternatives to the parcel tax. Further discussion ensued on the levy amount and what the residents would support.

Finance Director John Johns clarified the Piper Jaffray report was included at the request of Council and identified sources of funding for a capital program from \$10 to \$25 million a year to supplement the parcel tax and was not intended to address any ongoing revenue requirements for operations. Staff researched the Census Bureau and surveyed other districts and was able to identify several school districts that provided senior exemptions. No cities were identified that had a special tax for operations and provided a senior exemption.

The following Atherton residents spoke from the audience.

Jan Simonds  
Jim Dobbie  
Jean Schaaf  
Bob Jenkins  
John Ruggiero  
Bob Huber  
Sandy Crittenden  
Jerry Carlson

Mayor McKeithen requested a final financial report for 2002-03 from each of the seven other jurisdictions.

Council Member Janz shared Council Member Carlson's concern over Council's piecemeal approach to the issue. He initially raised the idea of a senior exemption after Council decided to raise the parcel tax levy to \$930. There were people in Atherton on a fixed income, and any increase in taxes could have an adverse effect. He viewed the senior exemption as a way to ensure the parcel tax would pass. If Council decided to reduce the levy to \$750, the senior exemption may not be necessary. The easiest method of granting an exemption was to set an age requirement (65 or older) and require people to apply for it. Only 7.5% of households in Atherton met the criteria.

Mayor McKeithen proposed reducing the parcel tax from \$930 to \$750 and that the Council meet in late August to have a comprehensive study for any and all alternatives to the parcel tax. She invited the members of the public and the Audit Committee to provide suggestions. She did not believe a senior exemption was the fair thing to do at the current time.

**MOTION:** to amend Ordinance No. 549 to reduce the parcel tax from \$930 to \$750 for a 1/2-acre but less than 2-acre parcel, to meet in late August for a comprehensive study of alternative solutions to be adopted by the Council before the November election.

Council Member Carlson supported the parcel tax. He pointed out that cuts had been made, i.e., \$300,000 was removed from the budget mid-year, and vacant positions continued to remain vacant. A balance had been reached with employees in terms of benefits and salaries, which eliminated expensive turnover. The biggest concern was how the Council appeared to the residents. He Urged Council to delay the vote until March when a comprehensive plan could be presented. Council Member Carlson would not vote in favor of motion because it did not represent a plan.

Council Member Marsala was concerned about losing \$450,000 a year by reducing the parcel tax levy to \$750 and thought the \$930 levy with a senior exemption had merit.

Discussion continued regarding the merits of going forward with an election in November vs. March. The intent was to have a plan in place before the election in November so voters would know what could possibly be brought forward for an election in March. There was a danger of losing the parcel tax altogether by waiting until March and putting more than one measure before the voters.

Finance Director Johns clarified at the \$750 level, \$700,000 would be needed from reserves in 2005-06; at the \$940 average, \$278,000 would be needed. Discussion ensued regarding various contingencies from year to year and the possibilities of surplus funds that could reduce deficits.

Vice Mayor Conwell favored putting the parcel tax on the ballot in November at the \$750 level.

**MOTION RESTATED:** to amend Ordinance No. 549 to reduce the parcel tax from \$930 to \$750 for a 1/2-acre but less than 2-acre parcel with all other rates remaining at the current level, and to meet in late August for a comprehensive study of alternative solutions to be adopted by the Council before the November election.

M/S McKeithen/Conwell Ayes: 3 Noes:2 (Carlson and Marsala) Absent: 0 Abstain: 0

**25. CONSIDER ADOPTION OF AN ORDINANCE RATIFYING THE  
MENLO PARK FIRE PROTECTION DISTRICT FIRE SPRINKLER  
SYSTEM REQUIREMENTS**

Building Official Mike Hood presented the staff report noting that the Menlo Park Fire Protection District (District) had amended/repealed its Ordinance No. 28 regarding fire sprinkler system requirements which was previously ratified by the Town of Atherton. The new ordinance contained no substantive changes as it applied to Atherton. Council was being asked to ratify the District's new Ordinance No. 29 by the adoption of a new ordinance, effectively repealing Town of Atherton Ordinance No. 548.

Vice Mayor Conwell, after receiving comments and doing research, asked to defer the item until he had time to reconsider his previous decision.

Council Member Janz had also heard from several residents who questioned the benefit vs. cost of the requirement. He needed more information before imposing significant additional cost to construction.

Mayor McKeithen called several fire sprinkler companies and discovered there were many variables in determining what the actual cost would be and was cautioned against relying on estimates. Records for the last six years indicated there were no fire-related deaths in the Town. She hesitated to ask the residents to bear more costs in light of the parcel tax and possible raise in fees. The Mayor read a letter from Ian Wall into the record (letter on file in the City Clerk's Office).

Council Member Carlson requested staff to obtain a copy of the City of Menlo Park's staff report regarding the item.

Sandy Crittenden, Atherton, spoke from the audience.

Fire Chief Paul Wilson, Menlo Park Fire Protection District, stated he had computerized records dating back to 1998. In the Town of Atherton during the 6-year period, there was \$21,400,000 in losses due to structural fires and an additional \$11,500,000 in contents loss. In 1999, there was one injury; there were no fatalities. The District served the Town and, as the staff professionals, believed the item was a life-safety issue for the future. Chief Wilson asked Council to ratify the ordinance.

Vice Mayor Conwell asked what would happen if the Council did not ratify the ordinance.

Chief Wilson said the District Board of Directors held to its position that the investment would pay for itself over time and was a life-safety issue. The District was going forward, and the ordinance would be in effect in those jurisdictions that ratified it. He clarified if the Town chose not to ratify, the current ordinance would remain in effect (all structures 5,000 square feet or larger required sprinklers).

Discussion continued regarding other jurisdictions adjacent to Atherton and various amendments. Concerns related to high-end homes where construction costs were \$300 to \$400 a square foot. Quotes for installation of sprinklers varied, but some were as low as \$1.90 and as high as \$3 a square foot.

**MOTION -- to defer the item to the Regular City Council Meeting of September 15, 2004, and request staff to obtain the staff report from the City of Menlo Park.**

M/S Conwell/Carlson

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

**20. (Removed from the Consent Calendar) APPROVAL OF TRANSFER AGREEMENT WITH THE CITY OF MENLO PARK REGARDING THE PEDESTRIAN SIGNAL ON VALPARAISO AVENUE**

**Council Member Janz asked what the electrical costs would be to maintain the signal.**

**City Manager Jim Robinson said the Town had a maintenance agreement for traffic signals and the pedestrian signal would be included. Electrical costs were minimal, the greater cost being any maintenance or damages related to the signal.**

**Council Member Janz was opposed to acquiring the signal and was unsure it was utilized or needed.**

**City Manager Robinson clarified the Town had wanted the pedestrian signal to remain as part of the Valparaiso Signal Project with City of Menlo Park. The City of Menlo Park did not want the signal, believed there was not a need for it, and would remove it if the Town of Atherton decided not to accept the transfer.**

**Council Member Marsala noted many joggers used the signal, as did he. There were two schools across the street, and the traffic on Valparaiso Avenue made it unsafe to cross anywhere else.**

**Council Member Carlson believed Sacred Heart School had made a request to retain the signal.**

**Council Member Janz said he would approve the item since the signal was being used.**

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

**M/S Carlson/McKeithen**

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

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

**Mayor McKeithen queried the Council on a meeting date to prepare a ballot argument relative to the ballot measure for the November 2, 2004, election.**

**Mayor McKeithen called a Special Meeting of the Council for Tuesday, July 27, 2004, at 6:00 p.m.**

**Mayor McKeithen, regarding the Menlo Park Fire Protection District item, requested information on whether the Town, when adopting such an ordinance, had any liability if a spurious activation of the fire sprinklers occurred and was not covered by insurance.**

**City Attorney Marc Hynes stated the Town would have legislative immunity and there would be no liability on the part of the Town.**

**27. CONSIDERATION OF CANCELLATION OF THE REGULAR CITY COUNCIL MEETING OF AUGUST 18, 2004**

**The Council decided to hold its regularly scheduled meeting of August 18, 2004.**

**PUBLIC COMMENTS**

**Shirley Carlson, Atherton, spoke regarding a possible joint meeting in September between the Council and the Park and Recreation Commission to discuss the Master Plan for Holbrook-Palmer Park.**

**City Manager Jim Robinson said the Park and Recreation Commission, at its next meeting, could suggest possible dates for the Council to review.**

**ADJOURNMENT**

**The meeting adjourned at 11:20 p.m.**

**Respectfully submitted,**

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**Kathi Hamilton  
Interim City Clerk**

***Agendas and staff reports may be accessed on the Town website at: [www.ci.atherton.ca.us](http://www.ci.atherton.ca.us)***

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

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**Draft Minutes**  
**ATHERTON CITY COUNCIL**  
**July 22, 2004**  
**8:30 P.M.**  
**Meeting Room**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California  
**Special Meeting**

Mayor McKeithen called the meeting to order at 8:35 p.m.

1. PLEDGE OF ALLEGIANCE

2. ROLL CALL

**PRESENT:** James R. Janz  
Kathy McKeithen  
William R. Conwell

**ABSENT:** Charles Marsala (Excused)  
Alan Carlson (Excused)

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

**PUBLIC COMMENTS**

There were no public comments.

**REGULAR AGENDA**

1. CONSIDERATION OF AMICUS CURIAE LETTER TO CALIFORNIA SUPREME COURT; ZACK V. MARIN EMERGENCY RADIO AUTHORITY (CASE NO. 5125094)

After a brief discussion, Council agreed to authorize the Mayor to write an Amicus Curiae letter to the Supreme Court regarding Zack et al. v Marin Emergency Radio Authority

**MOTION – to authorize the Mayor to write an Amicus Curiae letter to the Supreme Court regarding Zack et al. v Marin Emergency Radio Authority**

M/S McKeithen/Janz

Ayes: 3 Noes: 0 Absent: 2 (Carlson Marsala) Abstain: 0

**ADJOURNMENT**

**The meeting adjourned at 9:00 p.m.**

**Respectfully submitted,**

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**Kathy McKeithen, Mayor**

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**DRAFT MINUTES  
Town of Atherton  
CITY COUNCIL/ATHERTON CHANNEL  
DRAINAGE DISTRICT**

**JULY 27, 2004**

**6:00 p.m.**

**TOWN COUNCIL CHAMBERS**

94 Ashfield Road  
Atherton, California

**SPECIAL MEETING**

Mayor McKeithen called the meeting to order at 6:11 p.m.

**1. PLEDGE OF ALLEGIANCE**

**2. ROLL CALL**

**PRESENT:** James R. Janz  
Charles E. Marsala (left the meeting at 7:05 p.m.)  
Kathy McKeithen  
William R. Conwell

**ABSENT:** Alan B. Carlson (excused absence)

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

**3. PUBLIC COMMENTS**

Stanford S. Lee, Atherton, spoke regarding an encounter with the Town of Atherton Police Department.

Mayor McKeithen said the matter was under investigation and that Mr. Lee would be contacted in the near future.

**4. CITY COUNCIL DISCUSSION – AUTHORIZING BALLOT ARGUMENTS  
RELATIVE TO THE BALLOT MEASURE FOR A SPECIAL MUNICIPAL TAX  
FOR SUPPORT OF OPERATING AND CAPITAL EXPENDITURES**

City Manager Jim Robinson explained the language for the ballot argument was to be prepared by Council, emphasizing that staff's role was to assist with factual data. The 300-word ballot argument was due to the City Clerk by 5:00 p.m. on August 13, 2004.

**He distributed materials to assist the Council with the process. Council Members Carlson, Marsala, and Mayor McKeithen had prepared draft arguments.**

**Council Member Janz asked for clarification from the City Attorney on what Council could or could not do in terms of lobbying for the ballot measure.**

**City Attorney Marc Hynes explained that the Council could lobby for the tax. The reason for minimal involvement of staff was to be clear that public monies were not being used to support the passage of the parcel tax. Council, as the legislative body, could lobby from the dais as well as in the community.**

**City Manager Robinson noted e-mail had been received from former Council Member Bob Huber (on file in the City Clerk's Office) outlining his experience in gaining support to pass the parcel tax.**

**Council reviewed drafts prepared by individual members and discussed various statements for inclusion in the ballot argument.**

**Mayor McKeithen reviewed the scope of the parcel tax and the needs of the Town for the benefit of a member of the public.**

**Discussion centered on how much money would be needed to make up the shortfall created by funds being deferred to the State. A \$2,940,000 deficit was the total decrease in the fund balance over the next four years of the parcel tax at the \$750 level. Council continued to discuss different content and wording for the argument.**

**Council Member Marsala needed to leave the meeting and indicated his agreement with Mayor McKeithen's draft ballot argument. He wanted to add language stating the parcel tax was "tax deductible," which would be a good selling point. Further discussion on appropriate language continued.**

**Stanford Lee, Atherton, spoke from the audience.**

**Council agreed to adopt the language from Mayor McKeithen's draft ballot argument with revisions. Vice Mayor Conwell suggested the words, "Vote Yes," appear at the end of the argument.**

**MOTION – to adopt Mayor McKeithen's draft ballot argument, with revisions as noted, and to include the words, "Vote Yes."**

**M/S McKeithen/Janz            Ayes: 3   Noes: 0   Absent: 2 (Carlson, Marsala)   Abstain: 0**

**Council Member Janz said he was unable to attend the regular City Council Meeting of August 18, 2004. Council decided to cancel its August 18, 2004, meeting and to schedule a Special Meeting for the last week in August for the sole purpose of discussing alternative solutions to the parcel tax.**

**Mayor McKeithen requested information for the meeting that clearly outlined what was needed to amend the real estate tax, i.e., what language would have to be changed in the current ordinance, what percentage of the vote was needed to pass an amendment, what amount would be reasonable (5% vs. 2% vs. 1/2%), and how much revenue would be generated. She queried how other jurisdictions generated greater revenues from their building fees, how they justified the fees, and whether they used the revenue solely for their building departments or had found a way to legally use the funds for other services. Other alternatives for staff to investigate were the possibility of a Utility Users Tax and Special District formation. The Atherton Civic Interest League (ACIL) formed a committee to look at police options and discussed sending a proposal to the Sheriff's Office. Possibilities included the Town being able to choose its own officers for service and having Town decals on police cars.**

**City Manager Robinson said the 4-year Capital Improvement Program (CIP) was nearing completion. In order to develop a new 4-year CIP, an analysis/evaluation of what amount of monies would be required from the parcel tax to provide operations and what amount would be required for capital improvements was needed. The Town received Road Impact Fees, Measure A funds, and Gas Tax money, all of which could be used for street and road projects. A determination of how much was needed for operations or capital projects was needed. Discussion continued on the merits of a Special District and increasing Road Impact Fees, including landscape fees.**

**Finance Director Johns said staff was investigating franchise fees on solid waste.**

**The meeting adjourned at 7:25 p.m.**

**Respectfully submitted,**

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**Kathi Hamilton  
Interim City Clerk**



**DRAFT MINUTES**  
**ATHERTON CITY COUNCIL**

**August 24, 2004**

**6:00 P.M.**

***NOTE TIME***

**Meeting Room**

**Town Administrative Offices**

91 Ashfield Road

Atherton, California

**Special Meeting**

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

**1. ROLL CALL**

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

**ABSENT:** Charles E. Marsala (excused absence)

**2. PUBLIC COMMENTS**

There were no public comments.

**3. CLOSED SESSION**

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

**4. RECONVENE TO OPEN SESSION**

The Council reconvened to Open Session at 6:40 p.m. The following action was taken:

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

Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9:

One potential case

No action was taken.

**Initiation of litigation pursuant to subdivision (c) of Government Code Section 54956.9:**

**One potential case**

**No Action was taken.**

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

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

**No action was taken.**

**ADJOURN**

**The meeting adjourned at 6:40 p.m.**

**Respectfully submitted,**

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**Kathy McKeithen, Mayor**

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**DRAFT MINUTES**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**  
**August 24, 2004**  
**6:30 p.m.**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California

**SPECIAL MEETING**

Mayor McKeithen called the meeting to order at 6:45 p.m.

1. PLEDGE OF ALLEGIANCE
2. ROLL CALL

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

**ABSENT:** Charles Marsala (excused absence)

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

3. PUBLIC COMMENTS

None.

**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 provided an update to the Intermediate Financial Plan based on recent information from the auditors and San Mateo County, determined what was within the Town's capabilities to increase revenues or reduce expenses over the next several years, and identified other sources of revenue to support or supplant the parcel tax.

Vice Mayor Conwell had questions regarding the business license tax revenues, projections for interest income, the dependability of the \$100 thousand in supplemental law enforcement funding from the State, and Capital Improvement Program (CIP) projects from parcel tax money.

Finance Director Johns noted revenue from the business license tax last year was greater than expected, and the trend was likely to continue over the next several years. Staff attempted to separate how much was a one-time source of revenue versus additional revenue that could be counted on in the future. Staff was projecting an increase in interest rate from 1/4 to 1/2 point per year over the next several years. Legislation regarding law enforcement funding was long-term in nature; however, if action were taken to eliminate it, further reductions in the Police Department would be necessary. Finance Director Johns noted the Financial Plan projected \$1 million per year from the parcel tax would continue to go to capital improvements and was consistent with the current year allocation.

City Manager Jim Robinson noted staff was in the process of developing a CIP for FY 2005-2009. Assuming the parcel tax was approved in November 2004, Council would consider a CIP. Each year, the Council had discretion over how much would be spent on what in terms of the budget.

Council Member Carlson suggested developing the CIP before November. The two most important issues were: 1) how to deal with the anticipated budget shortfall over the next four years; and 2) how to find a funding/stable revenue source that would continue to fund the Town without being dependent upon a parcel tax every four years.

Mayor McKeithen asked staff to research new revenues not listed in the report: 1) a road impact fee for major landscaping; 2) building permit fees to the magnitude of Portola Valley, how were revenues spent, how were fees determined, and how were fees collected and justified; and 3) a road impact fee for use by heavy vehicles such as construction vehicles.

Finance Director Johns reported staff surveyed 14 agencies comparable to Atherton by revenue category from the State Controller's Office, reviewed the total amount of revenue on a per-capita basis for each function including building fees, and reviewed each entity's financial statement. No municipality was identified that was realizing revenues in excess of building and planning related expenses. Additionally, Atherton appeared to be more successful in attaining full cost recovery.

Mayor McKeithen noted the report by Lisa Costa-Sanders was based on building value, and Atherton had the lowest value of any of the other jurisdictions. She suggested that if Atherton charged building permit fees that were comparable to those of Portola Valley, the Town would collect as much \$2 million per year. City Manager Robinson noted Atherton collected revenues equal to its expenditures, and excess revenues were put into a fund for future building inspection costs. Mayor McKeithen

requested the jurisdictions cited in Lisa Costa-Sanders' report to be surveyed on building fees.

Finance Director Johns reported a study commissioned several years ago determined that 27% of the deterioration of roads was attributed to construction projects. The consultant suggested that 27% of the total budget for road repairs should come from road impact fees. The nature of construction today was significantly different from several years ago; and based on the methodology used in the study, a higher road impact fee could be justified.

Mayor McKeithen stated road impact fees should be assessed on construction projects since construction vehicles were damaging Town roads. Anyone who was causing damage to the roads should share the burden and be assessed a fee. Council discussion continued on how much the Town should charge for road impact fees, whether the fees could be higher than 27%, and whether the fee could be based on the budgeted amount or actual damages.

City Attorney Marc Hynes stated fees must relate to the services provided. An agency usually brought in a consultant to do a study on the basis of damage and impact, not on how much was being spent on repairs.

Finance Director Johns said a defensible mechanism for increasing the fee would be to evaluate whether \$2 million was sufficient to maintain streets at a desirable level. Discussion continued.

Mayor McKeithen noted the prior study was comprehensive and included a pavement test on every road. Construction had become heavier over time and the figures should be reassessed. She requested staff conduct further study.

Finance Director Johns reported on opportunities to bring revenues and expenditures into balance from 2005 to 2009. The first area was a reduction in workforce. Currently, there were two vacancies in the Police Department (PD) and two vacancies in Administration (the City Clerk and Assistant Finance Director). The current plan assumed that all or most of the positions would be filled within the next 12 to 24 months. If the two positions in the PD were not filled and the two positions in Administration were reduced to halftime, a \$280 thousand savings per year would result. A second opportunity was to reduce through attrition one additional police officer if alternative funding was not identified by the time the officer assigned to the Narcotics Task Force returned to the Town in two years.

Council Member Carlson was concerned that by reducing positions in the PD, any savings would be diminished by resulting overtime costs.

Finance Director Johns stated Police Chief Bob Brennan advised him a permanent reduction of three full-time police officer equivalents would not impact patrol, but rather special programs.

**Mayor McKeithen asked whether the Town could share an investigations officer with another agency if the need arose. Discussion ensued on the current sharing practices with neighboring jurisdictions, the merits of future sharing possibilities, and the ability to shift resources within the PD.**

**Vice Mayor Conwell stated the PD was operating efficiently with three less officers without incurring additional overtime costs. However, he believed an efficiency expert could further streamline/refine the largest and costliest department.**

**Regarding the Finance Department's staffing levels, Finance Director Johns indicated the Town's external auditors had recommended creating the Assistant Finance Director position in order to provide for adequate checks and balances and to provide for continuity of experience. However, these attributes could still be maintained in Finance if the Department's authorized staffing level were reduced by one half-time position. Discussion continued regarding restructuring possibilities with the City Clerk and Assistant Finance Director positions.**

**Mayor McKeithen asked staff to research the cost for a study to determine how well the PD was functioning and serving the Town.**

**Mayor McKeithen opened the discussion to members of the public regarding Reduction in Workforce. Council and Staff responded to questions and comments. The following Atherton residents spoke from the audience.**

**Jerry Carlson suggested a comparative analysis of the Town with other municipalities on a cost-per-household basis for types of services received would better determine the benefits and types of services as well as the costs. He believed the proper venue for looking at the details of revenue and expenditures should reside in the Finance Committee.**

**Sam Goodman was concerned about escalating costs of the pension fund to meet future obligations and asked whether the report anticipated a higher rate of funding for the pension plan because the return on the investment was not as high as it should be. Finance Director Johns said yes.**

**Jim Dobbie thought the \$280 thousand cost for two police officers and an administrative position was excessive and asked whether the police officers were 20-year veterans or new recruits. Finance Director Johns said the cost was \$65 to \$70 thousand a year for a "junior" level officer and \$30 to \$35 thousand a year for benefits.**

**Mike Barsotti, Audit Committee Chair, believed objectives for the Town budget were missing and the discussion was just about numbers, not objectives of spending. City Manager Robinson replied there was an adopted budget for Fiscal Year 2004-05 and an aggressive CIP budget that was approved four years ago. In order to develop a strategy, the Town needed an evaluation of CIP spending for the next four years, what level of services were needed from an operating standpoint, and how to provide those services given existing resources or other resources. There were many "ifs" regarding**

**additional loss of revenue in the future. Council discussion continued on the state of the Town's finances and possible alternatives/solutions for additional revenue sources. Mr. Barsotti reiterated that the Town should determine what its objectives were, what was the most optimum way of getting satisfaction of services at the least cost, and suggested more evaluation was needed.**

**Mayor McKeithen requested that staff pursue a cost comparison of police services in other jurisdictions, the feasibility of a cost/efficiency study of the PD, and provide the information to Council at the next meeting.**

**Finance Director Johns reported approximately \$80 thousand a year would be generated by increasing solid waste franchise fees from 5 to 10% of gross receipts and represented a \$40 per-household, per-year increase. A survey of other communities indicated no one was collecting more than 5% nor anticipated raising the fee; however, there was no impediment for raising the fee. Council discussion indicated an \$80 thousand savings was not significant enough, but the item should remain on the table for study.**

**Finance Director Johns reported the advantage of taking money from cash reserves to reduce unfunded liability in Public Safety pensions was that the Public Employee Retirement System (PERS) would invest the money at a greater interest rate generating a savings of \$40 thousand per year. The unfunded liability for the past fiscal year was \$1.9 million, the majority of which was a result of the increase in benefit from 2% to 3% at age 50. Council discussion continued on the merits of using cash to pay down liability and whether an actual reduction in pension payments would result. Finance Director Johns stated by paying down \$1 million, a \$40 thousand savings would begin after one or two years, July 2007 or January 2008, and savings would parallel or be approximately the same if interest rates increased. If the entire \$1.9 million was paid, an \$80 thousand per year savings resulted and lowered cash reserves to \$4.4 million vs. \$5.4 million. A no-cost financing mechanism called tax anticipation notes was available in order to maintain cash-flow requirements.**

**Sam Goodman, Atherton, doubted the wisdom of spending \$1 million to save \$40 thousand and was concerned with drawing down reserves. Finance Director Johns stated the \$1.9 million was an obligation, and the question was whether to pay now or later. Council discussion centered on the merits of using reserves to pay down the pension obligation, i.e., payment obligations would be decreased in the future and a greater rate of return would be realized. City Manager Robinson reiterated the Town would need to evaluate the pros and cons of each recommendation. Mayor McKeithen asked staff to examine tax anticipation notes in the event of a cash-flow problem.**

**Finance Director Johns reported the Adopted Budget for Fiscal Year 2003-04 appropriated an operating transfer from the Gas Tax and Road Impact Fee funds of \$352,000, representing 50% of the Public Works Department's budget for street maintenance. By making the operating transfer effective for the duration of the intermediate-range financial plan, an additional \$152,000 per year would be available to finance current operations.**

**Mark Hebert, Menlo Park (former Chair of the Audit Committee), noted the Audit Committee had not considered increasing road impact fees as a revenue enhancement in its original recommendations but thought an aggressive stance within legal requirements could generate significant additional revenue.**

**Finance Director Johns suggested establishing a “payment-in lieu-of-rent” to assess the Library Fund an annual fee to cover the costs of facility depreciation and the opportunity cost of exclusive use of 2 Dinklespiel Lane. The operating transfer from the Library Fund to the General Fund would generate an additional \$36,000 annually. Based upon the current agreement with the Library Joint Powers Authority (JPA), the recommendation was subject to approval by the Library JPA. Additionally, no other city was currently charging the JPA. City Manager Robinson explained the Towns of Atherton and Woodside were “donor cities,” meaning any property taxes collected in excess of operating the libraries came back to the towns as a “donor city fund.” A new JPA agreement was recently adopted and was silent on the issue of charging rent. He believed less donor city money would come to the Town as a result of charging rent. The funds were specifically earmarked for the library and could be used to maintain the grounds and make improvements to the library itself. Council discussion ensued regarding possible ways to utilize the funds. Mayor McKeithen questioned the ownership of Emilie Avenue and requested a copy of the material designating ownership to be placed in Council’s Friday packet. Additionally, Mayor McKeithen requested a copy of the comparison study regarding other jurisdictions and the study staff completed on the 27% fee.**

**Jerry Carlson, Atherton, requested a copy of the comparison study.**

**John Sisson, Atherton, stated the Town needed the parcel tax and was concerned that discussion of other potential sources of revenue might cause people not to vote for the parcel tax.**

**Finance Director Johns reported in Fiscal Year 2003-04 the amount of accumulated compensated absences amounted to \$561 thousand, and the liability was expected to grow by an average of \$40 thousand per year for each of the next four years. A solution was to implement a cap on accumulated balances and to require employees with large balances to work them off within a specified time period. Implementation of the provisions would generate a \$450 thousand savings. Any changes would need a meet-and-confer process with affected bargaining units. Discussion continued regarding the number of employees with accumulated hours, the total number of hours over 320 hours, the need for reporting in financial documents, etc. Mayor McKeithen requested a report on the figures. Finance Director Johns indicated he would provide the Council with an analysis of accumulated vacation by employee bargaining unit.**

**Jim Dobbie, Atherton, asked whether an employee with more than 320 hours could insist on being paid off rather than taking vacation.**

**Council Member Carlson responded an employer could lawfully require an employee to take vacation to reduce accrual; conversely, an employee could not request pay in lieu of taking the time off. He asked what the Memorandum of Understandings (MOU) specified and whether the Town was ignoring the MOU cap if a cap existed in the contracts. He requested the Council receive copies of the MOU.**

**Mike Barsotti, Atherton, supported a cap, perhaps even lower than 320 hours.**

**Mark Hebert, Atherton, supported a cap, noting a common practice was to require employees to take vacation each year with no carryover.**

**Mayor McKeithen called for a short break at 8:58 p.m. The Council reconvened at 9:10 p.m.**

**Finance Director Johns reported between \$2 million and \$2.7 million would be required from supplemental funding to maintain current service levels and the current level of investment in the Towns CIP beyond Fiscal Year 2008-09. Discussion centered on financing issues beyond Fiscal Year 2008-09. Staff surveyed 14 California municipalities on financing sources. Two had implemented a special benefit assessment for public safety, the Town of Hillsborough (by a two-thirds vote) and the City of San Marino, and derived approximately \$2 million per year from the assessment. City Attorney Hynes noted regarding property tax assessments, a two-thirds vote was required; however, there was a mail-in assessment procedure, which allowed for a majority protest system. Discussion centered on the feasibility of passing such an assessment, whether it could replace the parcel tax in the future, and what types of financing mechanism could be included.**

**Mayor McKeithen asked staff to research whether an inflationary measure could be included in the assessment and for how long; the availability and cost of an expert attorney to advise the Council, to research whether Hillsborough maintained its parcel tax, or replaced it with the assessment tax, and how the monies were spent; and to request information on Millbrae's successful mail-in procedure.**

**Finance Director Johns reported the Town's business license tax ordinance required businesses to pay the lesser of a flat fee ranging from \$50 to \$250 per business, depending on the nature of the business, or 5 percent of gross receipts. By eliminating the "lesser of" language and implementing a graduated schedule depending on the nature of the business, an additional \$500 thousand to \$2 million could be generated annually. If the tax were converted to 5 percent of gross receipts, \$5 million annually would be generated from contractors. With respect to Realtors, assuming \$15 million in commission revenue was generated from \$300 million in annual sales, 5 percent totaled \$750 thousand. Council discussion centered on the merits of converting to 5 percent of gross receipts, requested a schedule of graduated percentages with a "fudge" factor for Realtors, and to include the survey of other jurisdictions regarding their business license tax. City Manager Robinson noted the Town used a different methodology and actually collected a substantial amount of business license taxes**

compared to other communities with significant retail businesses that generated significant sale tax.

Natalie Cardenas, Silicon Valley Association of Realtors, queried how the current business license tax was administered with regard to Realtors. Finance Director Johns responded a \$250 fee was assessed for each real estate office with the assumption they were independently owned and operated. Discussion ensued regarding the merits and collection method of a business license tax on real estate transactions. Members of the public inquired and commented on how the business tax would apply to real estate transactions, i.e., would the fee be assessed on commissions, title insurance, etc. Council asked staff to check with Hillsborough on how its tax was calculated. City Attorney Hynes stated that as long as a business license fee was used to raise revenue, it shouldn't matter to the Town whether the realtor or property owner paid the fee.

Finance Director Johns reported the City of Fremont had a proposed Utility Users Tax (UUT) measure on the upcoming November election which was estimated to generate \$22 million annually assuming a 6 percent levy of gross receipts of telecommunications, energy, water, and waste-water utilities. The UUT could be implemented by the approval of a simple majority of the electorate and there was no charter city requirement. Using Fremont's model and assuming an average utility consumption of \$800 per month per household, a UUT would generate approximately \$1,267,000 annually. Mayor McKeithen asked how UUT would be assessed on each utility. City Attorney Hynes indicated the ordinance contained sections for each utility to collect the tax on its billing and then remit to the Town. Discussion continued on the methods of assessing some or all utilities and at what percentage.

Finance Director Johns reported by eliminating the current four-year sunset provision of the parcel tax and by providing an allowance for inflationary adjustments to the maximum levy, a future version of the parcel tax could generate an estimated \$2.1 million in supplemental funding as compared to the \$1.85 million currently provided. Discussion ensued by Council on the merits/methods for modifying the parcel tax.

Council Member Carlson stated the Council needed more guidance from staff regarding future expenditure projections and a mechanism to keep revenues in pace with rising expenses. He requested staff to present a plan on how to address the issue in the future. Discussion continued with the Council and members of the audience on revenue sources.

Mayor McKeithen requested a meeting be scheduled for the second week of September to address the issues raised that evening. City Manager Robinson said staff would look at setting another meeting on September 8 or 9.

Shirley Carlson, Atherton, requested possible dates from the Council for a joint meeting with the Park and Recreation Commission. After discussion, October 6, 2004, was set for a Joint Meeting of the City Council and the Park and Recreation Commission.

## **ADJOURNMENT**

**The meeting was adjourned at 10:00 p.m.**

**Respectfully submitted,**

**Kathi Hamilton  
Interim City Clerk**

*Agendas and staff reports may be accessed on the Town website at: [www.ci.atherton.ca.us](http://www.ci.atherton.ca.us)*

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

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

**TOWN OF ATHERTON**  
**CLAIMS LIST**  
 July and August 2004

Payroll Checks	4401 - 4654	\$ 70,313
Electronic Transfers		595,198
A/P Checks	17824 - 18199	984,956
TOTAL		\$1,650,467

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 4401 - 4654 (payroll) and 17824 - 18199 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$ 1,650,467; are true and correct, and that there are sufficient funds for payment.

---

James H. Robinson  
City Manager

The above claims, check numbers 4401 - 4654 (payroll) and 17824 - 18199 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$ 1,650,467; are true and correct, and are authorized for payment.

---

Kathy McKeithen  
Mayor, Town of Atherton

**SOURCE OF FUNDS**

<b>101</b>	General Fund	1,339,969
<b>105</b>	Tennis Fund	
<b>201</b>	Special Parcel Tax	34,081
<b>202</b>	Transportation	
<b>203</b>	Gas Tax Fund	23,107
<b>210</b>	Road Construction Impact Fees	67,500
<b>211</b>	Park Grants Fund	5,540
<b>213</b>	Library Special Revenue Fund	5,464
<b>401</b>	General Capital Projects	23,724
<b>402</b>	Storm Drainage	
<b>403</b>	Atherton Channel District	2,024
<b>404</b>	Park Playground Improvement	
<b>406</b>	Facilities Construction	13,292
<b>610</b>	Vehicle Replacement	
<b>611</b>	Computer Maint. & Replacement	5,015
<b>612</b>	Administrative Services	123,740
<b>614</b>	Workers Compensation Insurance	
<b>715</b>	Evans Estate	7,011
TOTAL		1,650,467



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**  
**FROM: JOHN P. JOHNS, FINANCE DIRECTOR**  
**DATE: FOR THE MEETING OF SEPTEMBER 15 2004**  
**SUBJECT: MONTHLY FINANCIAL REPORT, JULY 2004**

#### **RECOMMENDATION:**

Receive the Monthly Financial Report for July 2004.

#### **INTRODUCTION:**

The attached schedules show revenues and expenditures and fund balance for all funds as of July 31, 2004.

#### **HIGHLIGHTS**

General Fund expenditures for the month ended July 31, 2004, have amounted to \$342,278 or 4% of the \$8,046,585 budgeted for the fiscal year. For the month ended July 31, 2004, General Fund revenues amounted to \$377,124 or 5 percent of the \$7,985,565 estimated for the year.

By comparison, General Fund expenditures amounted to 6% of budgeted expenditures for the month ended July 31, 2004. Additionally, General Fund revenues amounted to 2% of estimated revenues for the month ending July 31, 2003.

#### **FISCAL IMPACT:**

None

Prepared by:

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John P. Johns  
Finance Director

Approved by:

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James H. Robinson  
City Manager

**TOWN OF ATHERTON**  
**Revenue Summary**  
**For the Month ended July 31, 2004**

<b>Fund</b>	<b>Revenue Source</b>	<b>2003-04 Estimate</b>	<b>Current Period Revenues</b>	<b>Year to Date Revenues</b>	<b>% Received</b>
	Property Tax	\$ 3,060,517	-	\$ -	0%
	Sales and Use Tax	169,906	-	-	0%
	Other Taxes	893,010	43,337	43,337	5%
	Licenses & Permits	1,606,949	243,279	243,279	15%
	Fines & Forfeitures	50,000	428	428	1%
	Revenue from Other Agencies	144,500	56,500	56,500	39%
	Charges for Services	354,622	28,630	28,630	8%
	Investment & Rental Income	401,900	3,152	3,152	1%
	Other Revenues	3,000	1,798	1,798	60%
	<b>Total General Fund Revenues</b>	<b>6,684,404</b>	<b>377,124</b>	<b>377,124</b>	<b>6%</b>
	Interfund (Operating) Transfers In	1,301,161	-	-	0%
<b>101</b>	<b>General Fund Total</b>	<b>7,985,565</b>	<b>377,124</b>	<b>377,124</b>	<b>5%</b>
	<b>Special Revenue Funds:</b>				
105	Tennis	7,010	300	300	4%
201	Special Parcel Tax	1,858,000	-	-	0%
202	Transportation	178,500	-	-	0%
203	Street Improvement (Gas Tax)	147,000	-	-	0%
209	Law Enforcement	100,000	-	-	0%
210	Road Construction Impact Fees	400,000	71,004	71,004	18%
211	State Park Grants Fund	220,000	-	-	0%
213	Library	200,000	-	-	0%
	<b>Total</b>	<b>3,110,510</b>	<b>71,304</b>	<b>71,304</b>	<b>2%</b>
	<b>Capital Project Funds:</b>				
401	Capital Improvement	-	-	-	
402	Storm Drainage	-	-	-	
403	Channel Drainage District	48,530	-	-	0%
404	Park Playground Improvement	2,205	-	-	0%
405	Middlefield Road Grants	-	-	-	
406	Facilities Construction	-	-	-	
	<b>Total</b>	<b>50,735</b>	<b>-</b>	<b>-</b>	<b>0%</b>
	<b>Internal Service Funds:</b>				
610	Vehicle Replacement	66,000	-	-	
611	Information Technology	98,661	-	-	0%
612	Administrative Services	285,815	-	-	0%
614	Workers Compensation Insurance	-	-	-	
	<b>Total</b>	<b>450,476</b>	<b>-</b>	<b>-</b>	<b>0%</b>
	<b>Trust and Agency Funds:</b>				
715	Evans Creative Design	45,150	485	485	1%
	<b>Total</b>	<b>45,150</b>	<b>485</b>	<b>485</b>	<b>1%</b>
	<b>Total Revenues</b>	<b>11,642,436</b>	<b>448,913</b>	<b>448,913</b>	<b>4%</b>

**TOWN OF ATHERTON**  
**Expenditure Summary**  
**For the Month Ended July 31, 2004**

<b>Fund</b>	<b>Description Department</b>	<b>2004-05 Budget</b>	<b>Current Period Expenditures</b>	<b>Year to Date Expenditures</b>	<b>% Spent</b>
101	General Fund				
	11 City Council	\$ 20,204	\$ 2,905	2,905	14%
	12 City Manager	509,226	29,741	29,741	6%
	16 City Attorney	176,228	7,500	7,500	4%
	18 Finance	456,797	17,238	17,238	4%
	25 Building	975,249	26,433	26,433	3%
	40 Police	4,002,909	201,364	201,364	5%
	50 Public Works	1,805,972	57,097	57,097	3%
	Contingency	100,000	-	-	0%
	Total General Fund Expenditures	<u>8,046,585</u>	<u>342,278</u>	<u>342,278</u>	<u>4%</u>
	Interfund (Operating) Transfers Out	-	-	-	0%
101	<b>General Fund Total</b>	<b><u>\$ 8,046,585</u></b>	<b><u>\$ 342,278</u></b>	<b><u>\$ 342,278</u></b>	<b><u>4%</u></b>
<b>Special Revenue Funds:</b>					
105	Tennis	-	1,080	1,080	
201	Special Parcel Tax	2,591,910	-	-	0%
202	Transportation	211,120	-	-	0%
203	Street Improvement (Gas Tax)	147,000	-	-	0%
209	Law Enforcement	100,000	-	-	0%
210	Road Impact Fees	400,000	-	-	0%
211	State Park Grants	80,000	-	-	0%
213	Library Fund	49,870	-	-	0%
	Total	<u>3,579,900</u>	<u>1,080</u>	<u>1,080</u>	<u>0%</u>
<b>Capital Project Funds:</b>					
401	Capital Improvement	367,902	-	-	0%
402	Storm Drainage	21,394	-	-	0%
403	Channel Drainage District	400,800	-	-	0%
404	Park Playground Fund	-	-	-	
405	Middlefield Road Grants	-	-	-	
406	Facilities Construction	-	-	-	#DIV/0!
	Total	<u>790,096</u>	<u>-</u>	<u>-</u>	<u>0%</u>
<b>Internal Service Funds:</b>					
610	Vehicle Replacement	98,853	-	-	0%
611	Information Technology	104,625	1,200	1,200	1%
612	Administrative Services	287,309	117,222	117,222	41%
614	Workers Compensation Insurance	-	-	-	
	Total	<u>490,787</u>	<u>118,422</u>	<u>118,422</u>	<u>24%</u>
<b>Trust and Agency Funds:</b>					
715	Evans Creative Design	43,287	21	21	0%
	Total	<u>43,287</u>	<u>21</u>	<u>21</u>	<u>0%</u>
	<b>Total Expenditures</b>	<b><u>12,950,655</u></b>	<b><u>461,801</u></b>	<b><u>461,801</u></b>	<b><u>4%</u></b>

**TOWN OF ATHERTON**  
**Budget Summary**  
**Fiscal Year 2004-05**  
**As of July 31, 2004**

<b>Fund</b>	<b>Description</b>	<b>Beginning Fund Balance July 1, 2004</b>	<b>Revenues to Date</b>	<b>Transfers to Date</b>	<b>Expenditures To Date</b>	<b>Ending Fund Balance to Date</b>
101	<b>General Fund</b>	6,060,452	377,124	-	342,278	6,095,298
	<b>Special Revenue Funds:</b>					
105	Tennis	11,867	300		1,080	11,087
201	Special Municipal Tax	963,223	-		-	963,223
202	Transportation	145,636	-		-	145,636
203	Street Improvement (Gas Tax)	45,050	-		-	45,050
209	Law Enforcement	12,174	-		-	12,174
210	Road Construction Impact Fees	632,420	71,004		-	703,424
211	State Park Grants	(5,663)	-		-	(5,663)
213	Library Special Revenue Fund	1,075,913	-		-	1,075,913
	Sub Total	<u>2,880,620</u>	<u>71,304</u>	<u>-</u>	<u>1,080</u>	<u>2,950,844</u>
	<b>Capital Projects Funds:</b>					
401	Capital Improvement	302,895	-		-	302,895
402	Storm Drainage	48,225	-		-	48,225
403	Channel Drainage District	404,424	-		-	404,424
404	Park Playground Improvement	1,309	-		-	1,309
405	Middlefield Road Grants	1,514	-		-	1,514
406	Facilities Construction	65,382	-		-	65,382
	Sub Total	<u>823,749</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>823,749</u>
	<b>Internal Service Fund</b>					
610	Vehicle Replacement	449,451	-		-	449,451
611	Information Technology	106,856	-		1,200	105,656
612	Administrative Services	122,618	-		117,222	5,396
614	Workers Compensation Insurance	10,871	-		-	10,871
	Sub Total	<u>689,796</u>	<u>-</u>	<u>-</u>	<u>118,422</u>	<u>571,374</u>
	<b>Trust and Agency Funds</b>					
715	Evans Creative Design	117,129	485		21	117,593
	Sub Total	<u>117,129</u>	<u>485</u>	<u>-</u>	<u>21</u>	<u>117,593</u>
	<b>Grand Total</b>	<u>\$ 10,571,746</u>	<u>\$ 448,913</u>	<u>\$ -</u>	<u>\$ 461,801</u>	<u>\$ 10,558,858</u>



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**  
**FROM: JOHN P. JOHNS, FINANCE DIRECTOR**  
**DATE: FOR THE MEETING OF SEPTEMBER 15 2004**  
**SUBJECT: MONTHLY FINANCIAL REPORT, AUGUST 2004**

#### **RECOMMENDATION:**

Receive the Monthly Financial Report for August 2004.

#### **INTRODUCTION:**

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

#### **HIGHLIGHTS**

General Fund expenditures for the two months ended August 31, 2004, have amounted to \$574,582 or 11% of the \$8,046,585 budgeted for the fiscal year. For the two months ended August 31, 2004, General Fund revenues amounted to \$559,751 or 7 percent of the \$7,985,565 estimated for the year.

By comparison, General Fund expenditures amounted to 14% of budgeted expenditures for the two months ended August 31, 2003. Additionally, General Fund revenues amounted to 4% of estimated revenues for the two months ending August 31, 2004.

#### **FISCAL IMPACT:**

None

Prepared by:

Approved by:

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John P. Johns  
Finance Director

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James H. Robinson  
City Manager

**TOWN OF ATHERTON**  
**Revenue Summary**  
**For the Month ended Aug 31, 2004**

<b>Fund</b>	<b>Revenue Source</b>	<b>2003-04 Estimate</b>	<b>Current Period Revenues</b>	<b>Year to Date Revenues</b>	<b>% Received</b>
	Property Tax	\$ 3,060,517	-	\$ -	0%
	Sales and Use Tax	169,906	-	-	0%
	Other Taxes	893,010	49,751	93,088	10%
	Licenses & Permits	1,606,949	64,215	307,494	19%
	Fines & Forfeitures	50,000	5,741	6,169	12%
	Revenue from Other Agencies	144,500	12,274	68,774	48%
	Charges for Services	354,622	39,504	68,133	19%
	Investment & Rental Income	401,900	7,541	10,693	3%
	Other Revenues	3,000	3,602	5,400	180%
	<b>Total General Fund Revenues</b>	<b>6,684,404</b>	<b>182,628</b>	<b>559,751</b>	<b>8%</b>
	Interfund (Operating) Transfers In	1,301,161	-	-	0%
<b>101</b>	<b>General Fund Total</b>	<b>7,985,565</b>	<b>182,628</b>	<b>559,751</b>	<b>7%</b>
	<b>Special Revenue Funds:</b>				
105	Tennis	7,010	-	300	4%
201	Special Parcel Tax	1,858,000	-	-	0%
202	Transportation	178,500	-	-	0%
203	Street Improvement (Gas Tax)	147,000	-	-	0%
209	Law Enforcement	100,000	-	-	0%
210	Road Construction Impact Fees	400,000	10,755	81,759	20%
211	State Park Grants Fund	220,000	-	-	0%
213	Library	200,000	-	-	0%
	<b>Total</b>	<b>3,110,510</b>	<b>10,755</b>	<b>82,059</b>	<b>3%</b>
	<b>Capital Project Funds:</b>				
401	Capital Improvement	-	-	-	
402	Storm Drainage	-	-	-	
403	Channel Drainage District	48,530	-	-	0%
404	Park Playground Improvement	2,205	-	-	0%
405	Middlefield Road Grants	-	-	-	
406	Facilities Construction	-	-	-	
	<b>Total</b>	<b>50,735</b>	<b>-</b>	<b>-</b>	<b>0%</b>
	<b>Internal Service Funds:</b>				
610	Vehicle Replacement	66,000	-	-	
611	Information Technology	98,661	-	-	0%
612	Administrative Services	285,815	-	-	0%
614	Workers Compensation Insurance	-	-	-	
	<b>Total</b>	<b>450,476</b>	<b>-</b>	<b>-</b>	<b>0%</b>
	<b>Trust and Agency Funds:</b>				
715	Evans Creative Design	45,150	935	1,420	3%
	<b>Total</b>	<b>45,150</b>	<b>935</b>	<b>1,420</b>	<b>3%</b>
	<b>Total Revenues</b>	<b>11,642,436</b>	<b>194,318</b>	<b>643,230</b>	<b>6%</b>

**TOWN OF ATHERTON**  
**Expenditure Summary**  
**For the Month Ended Aug 31, 2004**

<b>Fund</b>	<b>Description Department</b>	<b>2004-05 Budget</b>	<b>Current Period Expenditures</b>	<b>Year to Date Expenditures</b>	<b>% Spent</b>
101	General Fund				
	11 City Council	\$ 20,204	\$ 132	3,037	15%
	12 City Manager	509,226	42,654	72,395	14%
	16 City Attorney	176,228	9,478	16,978	10%
	18 Finance	456,797	55,205	72,443	16%
	25 Building	975,249	51,101	77,534	8%
	40 Police	4,002,909	274,713	476,077	12%
	50 Public Works	1,805,972	141,299	198,396	11%
	Contingency	100,000	-	-	0%
	Total General Fund Expenditures	<u>8,046,585</u>	<u>574,582</u>	<u>916,860</u>	<u>11%</u>
	Interfund (Operating) Transfers Out	-	-	-	0%
101	<b>General Fund Total</b>	<u><b>\$ 8,046,585</b></u>	<u><b>\$ 574,582</b></u>	<u><b>\$ 916,860</b></u>	<u><b>11%</b></u>
<b>Special Revenue Funds:</b>					
105	Tennis	-	681	1,760	
201	Special Parcel Tax	2,591,910	-	-	0%
202	Transportation	211,120	-	-	0%
203	Street Improvement (Gas Tax)	147,000	-	-	0%
209	Law Enforcement	100,000	-	-	0%
210	Road Impact Fees	400,000	-	-	0%
211	State Park Grants	80,000	-	-	0%
213	Library Fund	49,870	-	-	0%
	Total	<u>3,579,900</u>	<u>681</u>	<u>1,760</u>	<u>0%</u>
<b>Capital Project Funds:</b>					
401	Capital Improvement	367,902	23,724	23,724	6%
402	Storm Drainage	21,394	-	-	0%
403	Channel Drainage District	400,800	991	991	0%
404	Park Playground Fund	-	-	-	
405	Middlefield Road Grants	-	-	-	
406	Facilities Construction	-	-	-	#DIV/0!
	Total	<u>790,096</u>	<u>24,715</u>	<u>24,715</u>	<u>3%</u>
<b>Internal Service Funds:</b>					
610	Vehicle Replacement	98,853	-	-	0%
611	Information Technology	104,625	3,815	5,015	5%
612	Administrative Services	287,309	12,017	129,239	45%
614	Workers Compensation Insurance	-	-	-	
	Total	<u>490,787</u>	<u>15,832</u>	<u>134,254</u>	<u>27%</u>
<b>Trust and Agency Funds:</b>					
715	Evans Creative Design	43,287	3,938	3,959	9%
	Total	<u>43,287</u>	<u>3,938</u>	<u>3,959</u>	<u>9%</u>
	<b>Total Expenditures</b>	<u><b>12,950,655</b></u>	<u><b>619,748</b></u>	<u><b>1,081,548</b></u>	<u><b>8%</b></u>

**TOWN OF ATHERTON**  
**Budget Summary**  
**Fiscal Year 2004-05**  
**As of August 31 2004**

<b>Fund</b>	<b>Description</b>	<b>Beginning Fund Balance July 1, 2004</b>	<b>Revenues to Date</b>	<b>Transfers to Date</b>	<b>Expenditures To Date</b>	<b>Ending Fund Balance to Date</b>
101	<b>General Fund</b>	6,060,452	559,751	-	916,860	5,703,343
	<b>Special Revenue Funds:</b>					
105	Tennis	11,867	300		1,760	10,407
201	Special Municipal Tax	963,223	-		-	963,223
202	Transportation	145,636	-		-	145,636
203	Street Improvement (Gas Tax)	45,050	-		-	45,050
209	Law Enforcement	12,174	-		-	12,174
210	Road Construction Impact Fees	632,420	81,759		-	714,179
211	State Park Grants	(5,663)	-		-	(5,663)
213	Library Special Revenue Fund	1,075,913	-		-	1,075,913
	Sub Total	<u>2,880,620</u>	<u>82,059</u>	<u>-</u>	<u>1,760</u>	<u>2,960,919</u>
	<b>Capital Projects Funds:</b>					
401	Capital Improvement	302,895	-		23,724	279,171
402	Storm Drainage	48,225	-		-	48,225
403	Channel Drainage District	404,424	-		991	403,433
404	Park Playground Improvement	1,309	-		-	1,309
405	Middlefield Road Grants	1,514	-		-	1,514
406	Facilities Construction	65,382	-		-	65,382
	Sub Total	<u>823,749</u>	<u>-</u>	<u>-</u>	<u>24,715</u>	<u>799,034</u>
	<b>Internal Service Fund</b>					
610	Vehicle Replacement	449,451	-		-	449,451
611	Information Technology	106,856	-		5,015	101,841
612	Administrative Services	122,618	-		129,239	(6,621)
614	Workers Compensation Insurance	10,871	-		-	10,871
	Sub Total	<u>689,796</u>	<u>-</u>	<u>-</u>	<u>134,254</u>	<u>555,542</u>
	<b>Trust and Agency Funds</b>					
715	Evans Creative Design	117,129	1,420		3,959	114,590
	Sub Total	<u>117,129</u>	<u>1,420</u>	<u>-</u>	<u>3,959</u>	<u>114,590</u>
	<b>Grand Total</b>	<u>\$ 10,571,746</u>	<u>\$ 643,230</u>	<u>\$ -</u>	<u>\$ 1,081,548</u>	<u>\$ 10,133,428</u>



## Town of Atherton

### CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL**

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

**DATE: FOR THE MEETING OF SEPTEMBER 15 2004**

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

#### **RECOMMENDATION:**

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

#### **INTRODUCTION:**

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

#### **DISCUSSION**

As of July 31, 2004, the Town had total investments of \$10,737,921. Interest earnings for the fourth quarter of FY 2003-04 amounted to **\$57,353**. The funds are invested in the San Mateo County Investment Pool (SMCIP) and the Local Agency Investment Fund (LAIF).

For the month of June 2004, the reported effective yield of LAIF's pooled money investment account amounted to 1.469 percent per annum. This compares to an average gross earnings rate of 2.80 percent per annum for the San Mateo County Pool for the Month of June.

**Investment at SMCIP:** The San Mateo County Investment Pool is created and managed by the County Treasurer. As of June 30, 2004, the County's investment pool carried investments with a total par value of \$2.2 billion and an average duration to maturity of 1.7 years. The Town's investment with the San Mateo County Investment Pool as of March 31, 2004, amounted to \$7,257,046 or 68% percent of the Town's total investment holdings.

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

**Investment in LAIF:** Local Agency Investment Fund (LAIF) is created and managed by the California State Treasurer. As of June 30, 2004, LAIF had total assets of \$61.2 billion and an average duration to maturity of 196 days. The Town's investment balance with LAIF as of July 31, 2004 was \$3,480,876 or 32 percent of the total funds invested.

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

**FISCAL IMPACT:**

Informational only.

Prepared by:

Approved by:

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

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

**ATTACHMENTS:**

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

**Attachment 1**  
**San Mateo County Investment Pool**

SAN MATEO COUNTY TREASURER'S OFFICE  
 FIXED INCOME DISTRIBUTION - SETTLED TRADES  
**SAN MATEO COUNTY POOL**  
 March 31, 2004

**Summary Information**

	<b>Totals</b>	<b>Weighted Averages</b>	
Par Value	2,345,333,559	Average YTM	1.8
Market Value	2,387,891,234.76	Average Maturity (yrs)	2.2
Total Cost	2,347,069,506.84	Average Coupon (%)	2.352
Net Gain/Loss	40,821,727.92	Average Duration	2.0
Annual Income	54,520,339.35	Average Moody Rating	Aa1
Accrued Interest	12,862,619.73	Average S&P Rating	AA
Number of Issues	133		

**Distribution by Maturity**

<u>Maturity</u>	<u>Number</u>	<u>Mkt Value</u>	<u>% Bond Holdings</u>	<u>Average Y T M</u>	<u>Average Coupon</u>	<u>Average Duration</u>
Under 1 Yr	34	910,997,122.18	38.2	1.1	0.983 %	0.3
1 Yr - 3 Yrs	55	722,559,220.25	30.3	1.8	3.111 %	2.0
3 Yrs - 5 Yrs	36	652,981,370.25	27.3	2.6	3.168 %	3.6
5 Yrs - 7 Yrs	3	49,884,945.68	2.1	3.2	3.176 %	4.6
7 Yrs - 10 Yrs	5	51,468,576.39	2.2	4.6	4.929 %	7.1

**Distribution by Coupon**

<u>Coupon %</u>	<u>Number</u>	<u>Mkt Value</u>	<u>% Bond Holdings</u>	<u>Average Y T M</u>	<u>Average Coupon</u>	<u>Average Duration</u>
Under 1%	11	535,375,010.97	22.4	1.0	0.000 %	0.1
1% - 3%	54	970,581,541.36	40.6	1.8	2.040 %	2.3
3% - 5%	44	672,800,796.41	28.2	2.4	3.649 %	2.9
5% - 7%	23	198,171,022.08	8.3	2.4	5.610 %	2.5
7% - 10%	1	10,962,863.93	0.5	1.6	7.750 %	1.1

**Distribution by Duration**

<u>Duration</u>	<u>Number</u>	<u>Mkt Value</u>	<u>% Bond Holdings</u>	<u>Average Y T M</u>	<u>Average Coupon</u>	<u>Average Duration</u>
Under 1	36	962,286,051.20	40.3	1.1	1.097 %	0.3
1 - 3	57	746,223,749.85	31.3	1.8	3.176 %	2.1
3 - 5	35	627,912,857.31	26.3	2.8	3.098 %	3.9

**Attachment 1**  
**San Mateo County Investment Pool**

SAN MATEO COUNTY TREASURER'S OFFICE  
 FIXED INCOME DISTRIBUTION - SETTLED TRADES  
***SANMATEO COUNTY POOL***  
*March 31, 2004*

5 - 7	2	21,137,881.94	0.9	4.9	5.708 %	6.5
7 - 10	3	30,330,694.44	1.3	4.4	4.381 %	7.5

**Distribution by Moody Rating**

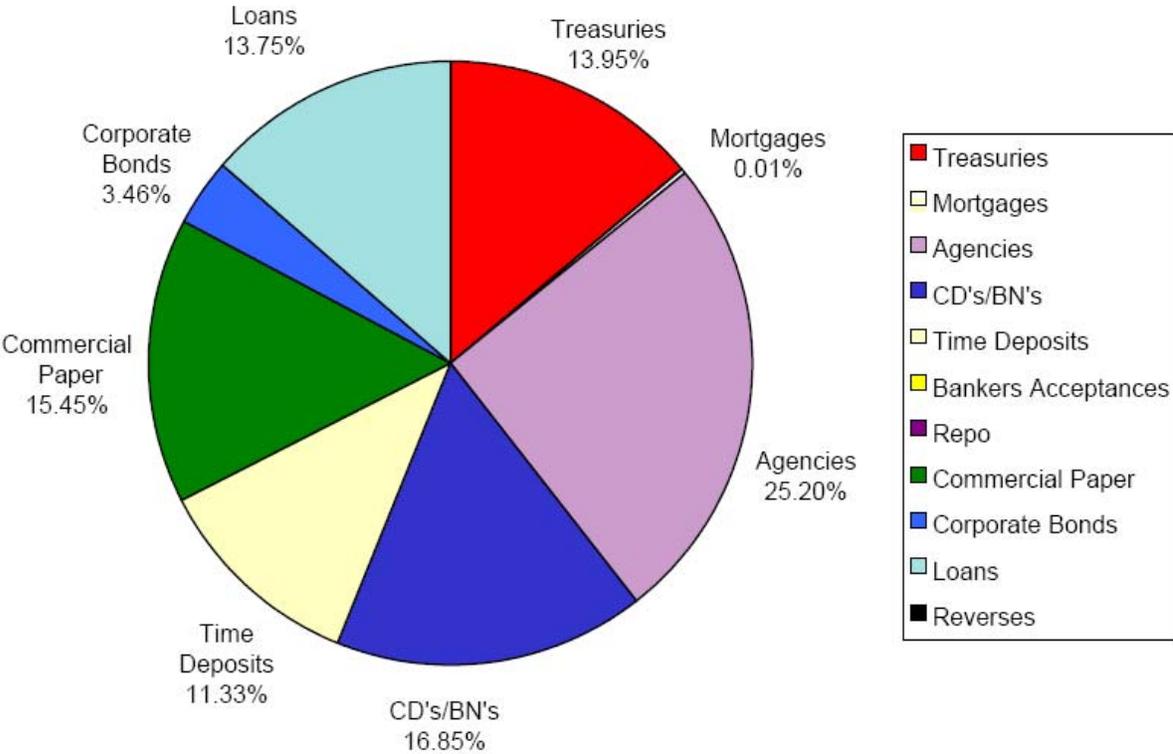
<u>Rating</u>	<u>Number</u>	<u>Mkt Value</u>	<u>% Bond Holdings</u>	<u>Average Y T M</u>	<u>Average Coupon</u>	<u>Average Duration</u>
Aaa	82	1,564,250,617.95	65.5	1.9	2.312 %	2.1
Aa1	7	90,390,969.82	3.8	2.3	3.064 %	2.6
Aa2	14	196,898,811.78	8.2	2.2	3.498 %	2.8
Aa3	17	423,285,364.77	17.7	1.5	1.510 %	1.0
A1	8	76,650,490.13	3.2	1.8	3.357 %	1.6
A	4	31,380,524.41	1.3	1.9	4.188 %	2.1
A3	1	5,034,455.90	0.2	1.2	1.670 %	1.5

**Distribution by S&P Rating**

<u>Rating</u>	<u>Number</u>	<u>Mkt Value</u>	<u>% Bond Holdings</u>	<u>Average Y T M</u>	<u>Average Coupon</u>	<u>Average Duration</u>
AAA	84	1,582,203,239.06	66.3	1.9	2.357 %	2.1
AA	7	78,970,320.14	3.3	2.1	3.224 %	2.4
AA-	21	278,111,727.76	11.6	2.1	3.392 %	2.2
A+	15	407,039,297.63	17.0	1.5	1.350 %	1.1
A	6	41,566,650.17	1.7	1.7	4.179 %	1.8

Attachment 2  
**State of California Local Agency Investment Fund**

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





## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

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

**DATE: FOR THE MEETING OF SEPTEMBER 15, 2004**

**SUBJECT APPROVAL OF FY 2004-05 INVESTMENT POLICY**

#### **RECOMMENDATION**

Approve the investment policy as shown in Attachment A to this staff report.

#### **DISCUSSION**

Pursuant to Government Code Section 53600 et seq. each municipality is required to review and, if necessary update its investment policy at annual intervals.

In June of 2003 the Finance Department explored alternatives to the Town's existing investment vehicles, the State of California Local Agency Investment Fund and the San Mateo County Investment Pool, including:

- Utilizing the services of a outside investment advisor to tailor a portfolio that was designed to meet the specific investment requirements of the Town of Atherton; and,
- Participation in various pooled money funds that are tailored to the California market and offered by certain for profit and not for profit enterprises such as Morgan Stanley and the CSAC Finance Corporation.

Due to the incompatibility of the above listed alternatives with the Town's investment priorities (safety and liquidity) staff concluded that the above listed alternatives were not well suited to the Town's investment needs. Accordingly, staff's recommended investment policy for FY 2003-04 remained unchanged from that approved in FY 2002-03.

During the past year, nothing has come to the attention of staff that would indicate that there are any other viable alternatives to the State of California Local Agency Investment Fund or the San

Mateo County Investment Pool. Consequently, staff recommends no change in its investment policy for FY 2004-05.

**FISCAL IMPACT**

Approval of the attached investment policy will not require any adjustment to appropriations or estimated revenues.

Prepared by:

Approved by:

---

John P. Johns, CPA  
Finance Director

---

Jim Robinson  
City Manager

---

Office of the County Treasurer



**LEE BUFFINGTON**  
**TAX COLLECTOR - TREASURER**

**COUNTY OF SAN MATEO**

**CHARLES M. TOVSTEIN**  
ASSISTANT TREASURER

555 COUNTY CENTER • REDWOOD CITY • CALIFORNIA 94063 TELEPHONE: (650) 363-4580

---

DATE: August 10, 2004  
TO: San Mateo County Pool Participants  
FROM: Lee Buffington, Tax Collector-Treasurer  
SUBJECT: Monthly Investment Reports

Gross earnings for the month of July 31, 2004 were 2.80%. The current average maturity of the portfolio is 1.9 years with an average duration of 1.7 years. The portfolio continues to hold no derivative products.

San Mateo County Pool fulfills Government Code Section 53646; which states its ability to meet its expenditure requirements for the next six months.

I certify these reports are in compliance with the investment policy dated January 2004. If you have any questions regarding any of these reports, please call Charles Tovstein or myself at (650) 363 - 4580.

A handwritten signature in black ink, appearing to read "Lee Buffington", is written over a light blue horizontal line.

Lee Buffington  
Tax Collector-Treasurer

Attachment 1

**COUNTY OF SAN MATEO  
ESTIMATED SUMMARY OF POOL EARNINGS  
JULY 2004**

	<u>07/31/04 Par Value</u>	<u>Gross Earnings</u>						
<b><u>Fixed Income Investments</u></b>								
U S Treasury Notes	\$305,000,000	\$661,345						
Corporate Notes	\$337,000,000	\$997,360						
Asset Backed Securities	\$31,357,119	\$37,340						
Federal Agencies	\$485,000,000	\$1,132,109						
Floating Rate Securities	\$124,000,000	\$171,369						
<b><u>Short Term Investments</u></b>								
Repurchase Agreements	320,500,000	\$22,791						
U S Treasury Notes	25,000,000	\$37,761						
Corporate Notes	\$84,000,000	\$166,813						
Floating Rate Securities	\$88,000,000	\$102,676						
Federal Agencies	\$244,115,000	\$352,877						
Commercial Paper	\$87,000,000	\$93,344						
LAIF	\$37,000,000	\$50,279						
<b>SUBTOTAL - ACCRUED INCOME</b>	<b>\$2,167,972,119</b>	<b>\$3,826,065</b>						
<b><u>Realized Gain/Loss &amp; Interest Received</u></b>								
Repurchase Agreements		\$307,023						
U S Treasury Notes		\$135,996						
Corporate Notes		\$390,336						
Floating Rate Securities		\$30,505						
Asset Backed Securities		\$27,563						
Federal Agencies		\$490,918						
Commercial Paper		\$78,394						
Certificate of Deposit		\$1,161						
<b>GROSS POOL RATE/EARNINGS*</b>	<b>2.80%</b>	<b>\$5,287,961</b>						
<table> <tr> <td><b>POOL 1 NET EARNINGS RATE*</b></td> <td style="text-align: right;"><b>2.55%</b></td> </tr> <tr> <td><b>POOL 2 NET EARNINGS RATE*</b></td> <td style="text-align: right;"><b>2.63%</b></td> </tr> <tr> <td><b>POOL 3 NET EARNINGS RATE*</b></td> <td style="text-align: right;"><b>2.67%</b></td> </tr> </table>			<b>POOL 1 NET EARNINGS RATE*</b>	<b>2.55%</b>	<b>POOL 2 NET EARNINGS RATE*</b>	<b>2.63%</b>	<b>POOL 3 NET EARNINGS RATE*</b>	<b>2.67%</b>
<b>POOL 1 NET EARNINGS RATE*</b>	<b>2.55%</b>							
<b>POOL 2 NET EARNINGS RATE*</b>	<b>2.63%</b>							
<b>POOL 3 NET EARNINGS RATE*</b>	<b>2.67%</b>							

\* - Earnings %'s are based on JULY 2004 Average Daily Balance  
Pool 1 & 2 rates include banking charges

SAN MATEO COUNTY TREASURER'S OFFICE  
 FIXED INCOME DISTRIBUTION - SETTLED TRADES  
**SANMATEO COUNTY POOL**  
 July 31, 2004

**Summary Information**

<b>Totals</b>		<b>Weighted Averages</b>	
Par Value	2,167,972,119	Average YTM	2.5
Market Value	2,168,281,099.06	Average Maturity (yrs)	1.9
Total Cost	2,169,473,109.20	Average Coupon (%)	2.461
Net Gain/Loss	-1,192,010.14	Average Duration	1.7
Annual Income	53,138,255.94	Average Moody Rating	Aa1
Accrued Interest	10,601,735.54	Average S&P Rating	AA+
Number of Issues	134		

**Distribution by Maturity**

<u>Maturity</u>	<u>Number</u>	<u>Mkt Value</u>	<u>% Bond Holdings</u>	<u>Average Y T M</u>	<u>Average Coupon</u>	<u>Average Duration</u>
Under 1 Yr	50	1,022,894,030.00	47.2	1.2	1.605 %	0.2
1 Yr - 3 Yrs	45	463,648,684.85	21.4	2.9	3.326 %	1.9
3 Yrs - 5 Yrs	35	642,181,627.21	29.6	3.7	3.059 %	3.5
7 Yrs - 10 Yrs	4	39,556,757.00	1.8	5.1	4.853 %	7.1

**Distribution by Coupon**

<u>Coupon %</u>	<u>Number</u>	<u>Mkt Value</u>	<u>% Bond Holdings</u>	<u>Average Y T M</u>	<u>Average Coupon</u>	<u>Average Duration</u>
Under 1%	14	200,053,822.37	9.2	1.4	0.000 %	0.3
1% - 3%	59	1,272,308,909.78	58.7	2.0	1.943 %	1.3
3% - 5%	42	532,909,813.05	24.6	3.6	3.651 %	2.9
5% - 7%	18	152,448,286.46	7.0	3.0	5.542 %	2.1
7% - 10%	1	10,560,267.40	0.5	2.4	7.750 %	0.8

**Distribution by Duration**

<u>Duration</u>	<u>Number</u>	<u>Mkt Value</u>	<u>% Bond Holdings</u>	<u>Average Y T M</u>	<u>Average Coupon</u>	<u>Average Duration</u>
Under 1	51	1,072,237,780.00	49.5	1.4	1.675 %	0.3
1 - 3	48	494,020,260.98	22.8	2.9	3.334 %	2.0
3 - 5	31	562,466,301.08	25.9	3.7	3.032 %	3.7
5 - 7	1	10,778,472.22	0.5	5.4	6.250 %	5.9



**Philip Angelides**

**Treasurer  
State of California**



**POOLED MONEY  
INVESTMENT  
BOARD REPORT**

**June 2004**

STATE OF CALIFORNIA  
STATE TREASURER'S OFFICE  
POOLED MONEY INVESTMENT BOARD REPORT

June 2004

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## POOLED MONEY INVESTMENT ACCOUNT

### SUMMARY OF INVESTMENT DATA A COMPARISON OF JUNE 2004 WITH JUNE 2003 (DOLLARS IN THOUSANDS)

	JUNE 2004	JUNE 2003	CHANGE
Average Daily Portfolio	\$ 61,516,790	\$ 59,031,809	\$ +2,484,981
Accrued Earnings	\$ 74,059	\$ 82,327	-8,268
Effective Yield	1.469	1.697	-0.228
Average Life-Month End (In Days)	196	212	-16
<b>Total Security Transactions</b>			
Amount	\$ 30,085,127	\$ 49,976,054	\$ -19,890,927
Number	642	1,058	-416
<b>Total Time Deposit Transactions</b>			
Amount	\$ 1,992,000	\$ 2,061,500	\$ -69,500
Number	117	95	+22
Average Workday Investment Activity	\$ 1,458,051	\$ 2,477,979	\$ -1,019,928
<b>Prescribed Demand Account Balances</b>			
For Services	\$ 1,294,415	\$ 1,018,519	\$ +275,896
For Uncollected Funds	\$ 203,313	\$ 171,470	\$ +31,843

**PHILIP ANGELIDES  
TREASURER  
STATE OF CALIFORNIA**

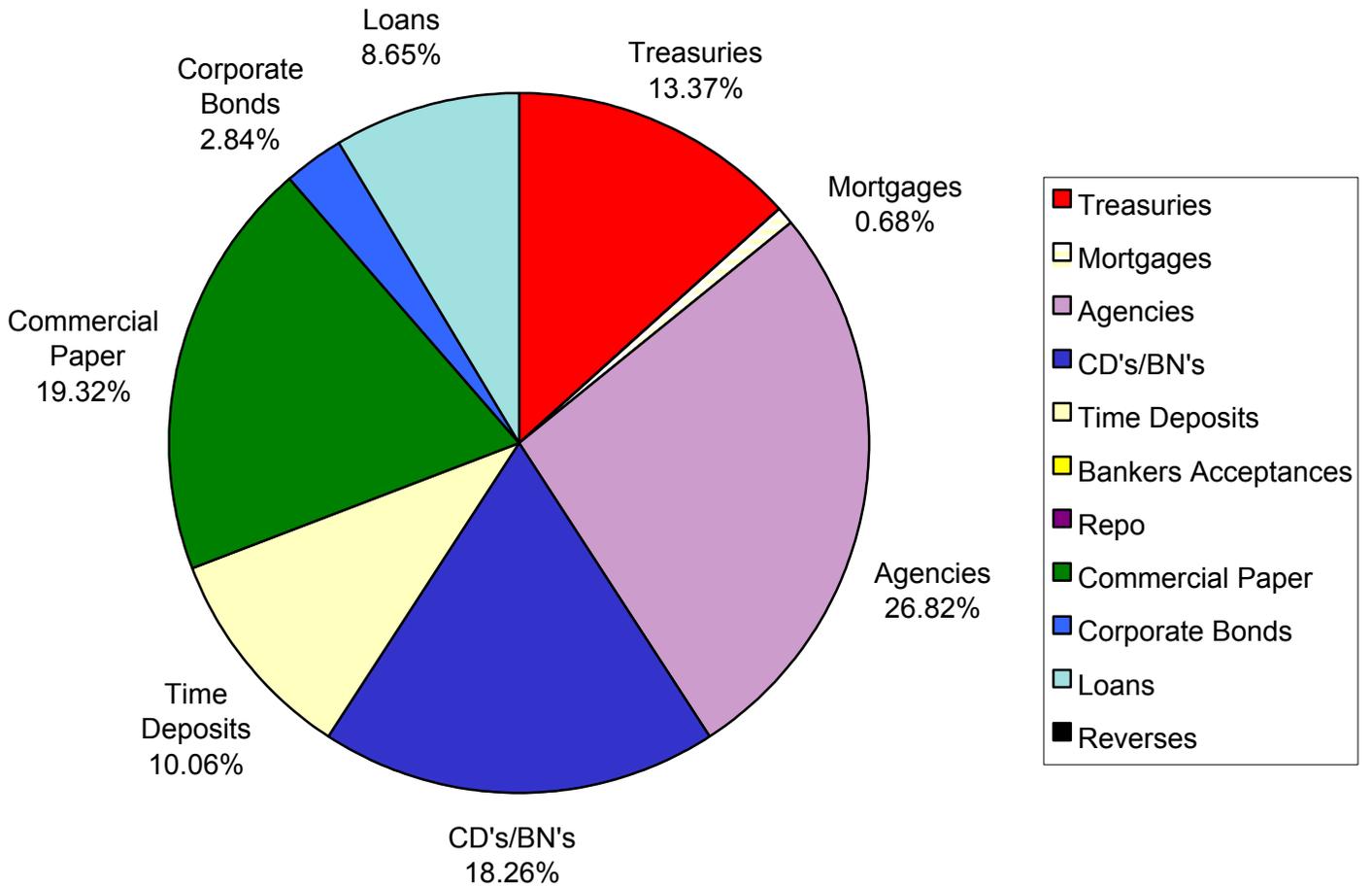
**INVESTMENT DIVISION SELECTED INVESTMENT DATA  
ANALYSIS OF THE POOLED MONEY INVESTMENT ACCOUNT PORTFOLIO  
(000 OMITTED)**

<u>TYPE OF SECURITY</u>	<u>AMOUNT</u>	June 30, 2004	
		<u>PERCENT OF PORTFOLIO</u>	<u>DIFFERENCE IN PERCENT OF PORTFOLIO FROM PRIOR MONTH</u>
<b>Government</b>			
Bills	\$ 2,485,515	4.31	-0.59
Bonds	0	0.00	0.00
Notes	5,218,873	9.06	+1.18
Strips	0	0.00	0.00
<b>Total Government</b>	<b>\$ 7,704,388</b>	<b>13.37</b>	<b>+0.59</b>
Federal Agency Coupons	\$ 4,263,751	7.40	+0.23
Certificates of Deposit	9,290,086	16.13	-2.70
Bank Notes	1,224,975	2.13	+0.09
Bankers' Acceptances	0	0.00	0
Repurchases	0	0.00	0
Federal Agency Discount Notes	11,186,900	19.42	-3.19
Time Deposits	5,796,795	10.06	+1.39
GNMAs	453	0.00	0
Commercial Paper	11,127,357	19.32	+2.32
FHLMC/Remics	392,653	0.68	+0.67
Corporate Bonds	1,633,228	2.84	-0.16
Pooled Loans	4,980,113	8.65	+0.76
GF Loans	0	0.00	0.00
Reversed Repurchases	0	0.00	0.00
<b>Total (All Types)</b>	<b>\$ 57,600,699</b>	<b>100.00</b>	

INVESTMENT ACTIVITY

	JUNE 2004		MAY 2004	
	<u>NUMBER</u>	<u>AMOUNT</u>	<u>NUMBER</u>	<u>AMOUNT</u>
Pooled Money	642	\$ 30,085,127	538	\$ 25,590,200
Other	66	617,111	36	604,724
Time Deposits	117	1,992,000	83	1,740,400
<b>Totals</b>	<b>825</b>	<b>\$ 32,694,238</b>	<b>657</b>	<b>\$ 27,935,324</b>
PMIA Monthly Average Effective Yield	1.469		1.426	
Year to Date Yield Last Day of Month	1.532		1.538	

# Pooled Money Investment Account Portfolio Composition \$57.6 Billion 06/30/04





## Town of Atherton

### CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR**

**DATE: FOR THE MEETING OF SEPTEMBER 15, 2004**

**SUBJECT: ADOPTION OF RESOLUTIONS 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**

#### **RECOMMENDATION:**

Adopt Resolution No. 04-\_\_ authorizing staff to submit an application for Recreational Trails Program (RTP) Grant and Resolution No. 04-\_\_ for 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).

#### **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 RTP program provides Federal Funds for recreational trails and trails-related projects. The HCFP provides State funds for programs that bring urban residents into park, recreation, or wildlife areas. Project applications are due by October 1, 2004. An estimated \$2.2 million is to be available for the RTP projects, and \$2 million (\$500,000 for trails) is available for HCFP projects statewide in the 2004/05 fiscal year.

The Landscape Master Plan process produced a suggestion that an additional pedestrian entrance be added at the west end of the park. The primary motivation for this entrance is to provide a separated pathway to access remote parking in the Town Hall area during heavily attended events in the park. It also provides for more ready access to the park from the west. A prefabricated steel and wood bridge was proposed to cross the Atherton Channel.

The California Public Utilities Commission (CPUC) staff performed a safety analysis of Atherton's two crossings at the request of the Caltrain Subcommittee in pursuit of a Quiet Zone

(no train horns) through Atherton. One recommendation from CPUC was to upgrade the Watkins Avenue crossing so that pedestrians did not have to walk in the street to cross the tracks. Caltrain will extend the track crossings at the tracks and move the gates, but the Town needs to construct retaining walls to support the pathway adjacent to the Atherton Channel.

The Park and Recreation Commission considered these grant programs at their September 1, 2004, meeting. The Commission recommended that applications be submitted for improving park access by adding a pedestrian bridge to the west end of the park and constructing retaining walls and improving the pathway across the Caltrain tracks.

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

1. A resolution 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 year's budget.
2. Documentation of completed environmental clearance. A categorical exemption under California Environmental Quality Act (CEQA) is required for HCFP program and a categorical exclusion under the national Environmental Policy Act (NEPA) is required for the RTP. An environmental clearance document is being prepared by staff and can be approved at staff level for categorical exemptions and exclusions.
3. Location map, site plan, project proposal, cost estimate and photographs. These items are being prepared by staff to be ready for submittal on October 1.

### **ANALYSIS:**

The project recommended for the RTP and HCFP applications consist of installing a forty foot long prefabricated bridge over the Atherton Channel. Concrete foundations will be constructed on each side of the channel with asphalt sidewalk connecting to the walking path in the park and to the pathway along Watkins Avenue. Interlocking block retaining walls will be constructed between the bridge and the Caltrain tracks and between the Caltrain tracks and the end of the Watkins Avenue box culvert. The retaining wall will be about 4 feet high and will support a walkway about 5 feet wide. A handrail or fence will be installed on the wall to separate it from the channel. The Watkins Avenue walking path will be extended across the tracks, connecting to the unpaved shoulder to the west and to the paved walkway to the east.

### **FISCAL IMPACT:**

The estimate for the bridge and trail project is \$100,000, including design, construction, inspection and contingency. The Town needs to commit to fund \$50,000 for the RTP grant and \$20,000 for the HCFP grant; however, the RTP grant will be able to provide matching funds for the HCFP grant and vice versa, if both grants are awarded. A maximum of \$50,000 from the Town's capital funds will need to be committed and budgeted for the project in future years. An additional trail grant application is due in May 2005 that can also assist with matching funds in the event insufficient funds are available from these two grant programs.

### **CONCLUSION:**

These projects will improve the access to Holbrook-Palmer Park and its recreational activities.  
The cost to the Town could be minimal.

Prepared By:

Approved:

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

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James Robinson  
City Manager

Attachments:

Resolutions (2)  
Project site plan

**RESOLUTION 04-\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
APPROVING THE APPLICATION FOR GRANT FUNDS FROM THE  
RECREATIONAL TRAILS PROGRAM**

**WHEREAS**, the Transportation Equity Act For The 21<sup>st</sup> Century provides funds to the State of California for grants to state, local and nonprofit organizations to acquire, develop, and/or maintain motorized and non-motorized trail purposes; and

**WHEREAS**, the State Department of Parks and Recreation has been delegated the responsibility for the administration of the program within the State, setting up necessary procedures governing project application under the program; and

**WHEREAS**, said procedures established by the State Department of Parks and Recreation require the applicant to certify by resolution the approval of application before submission of said application to the State; and

**WHEREAS**, the applicant will enter into an agreement with the State of California to complete 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 the Recreational Trails Program; and
2. Certifies that said applicant has or will have available prior to commencement of any work on the project(s) included in this application, sufficient funds to operate and maintain the project(s); and
3. Appoints the City Manager as agent of the Town of Atherton to conduct all negotiations, execute, and submit all documents, including, but not limited to applications, agreements, amendments, payment requests, and so on, which may be necessary for the completion of the aforementioned project(s),

\* \* \* \* \*

*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 15<sup>th</sup> day of September, 2004, by the following vote:*

<b>AYES:</b>	<b>COUNCILMEMBERS:</b>
<b>NOES:</b>	<b>COUNCILMEMBERS:</b>
<b>ABSENT:</b>	<b>COUNCILMEMBERS:</b>
<b>ABSTAIN:</b>	<b>COUNCILMEMBERS:</b>

ATTEST:

---

Kathy McKeithen, MAYOR  
TOWN OF ATHERTON

---

Kathi Hamilton, Interim City Clerk

APPROVED AS TO FORM:

---

Marc G. Hynes, City Attorney

**RESOLUTION 04-\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE LOCAL  
AGENCY GRANT PROGRAM- FISCAL YEAR 2005-06 UNDER THE HABITAT  
CONSERVATION FUND PROGRAM OF THE CALIFORNIA WILDLIFE  
PROTECTION ACT OF 1990 FOR THE HOLBROOK-PALMER PARK BRIDGE  
AND TRAIL**

**WHEREAS**, the people of the State of California have enacted the California Wildlife Protection Act of 1990, which provides funds to the State of California for grants to local agencies to acquire and/or develop facilities for public recreational and fish and wildlife habitat protection purposes; and

**WHEREAS**, the State Department of Parks and Recreation has been delegated the responsibility for the administration of a portion of the program within the State, setting up necessary procedures governing application by local agencies under the program; and

**WHEREAS**, said procedures, established by the State Department of Parks and Recreation require the applicant to certify by resolution the approval of the application before submission of said application to the State; and

**WHEREAS**, said application contains assurances that the applicant must comply with; and

**WHEREAS**, the applicant will enter into an agreement with the State of California for development of 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 the Habitat Conservation Fund Grant Program under the California Wildlife Protection Act of 1990 State grant assistance for the above project; and
2. Certifies that said applicant understands the assurances and certification in the application form; and
3. Certifies that said applicant has or will have available prior to commencement of any work on the project included in this application the required match and will have sufficient funds to operate and maintain the project; and
4. Appoints the City Manager as agent of the Town of Atherton to conduct all negotiations, execute and submit all documents, including, but not limited to

applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the aforementioned project.

\* \* \* \* \*

*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 15<sup>th</sup> day of September, 2004, by the following vote:*

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

ATTEST:

\_\_\_\_\_  
Kathy McKeithen, MAYOR  
TOWN OF ATHERTON

\_\_\_\_\_  
Kathi Hamilton, Interim City Clerk

APPROVED AS TO FORM:

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

S:\Parks\Resolution 2005 Habitat Conservation Grant.doc



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR**

**DATE: FOR THE MEETING OF SEPTEMBER 15, 2004**

**SUBJECT: AMEND CENTERLINE MARKING LIST**

#### **RECOMMENDATION:**

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

#### **INTRODUCTION:**

At the request of a resident, the Transportation Subcommittee discussed the need for a centerline stripe on the sharp curve adjacent to 11 DeBell Drive. The purpose of the stripe is to guide drivers to stay in the correct lane around the curve. Staff advised the Subcommittee that the Centerline Marking List would need to be amended in order to add the stripe. The Subcommittee discussed the item and requested staff to survey the residents of DeBell Drive and, if approved by the majority of the residents, recommend that the City Council amend the Centerline Marking List to allow the stripe to be added.

#### **ANALYSIS:**

The curve at 11 DeBell Drive is a relatively sharp curve with limited sight distance. Drivers traveling eastbound sometimes cut across into the opposite lane around the curve. Adding a stripe will guide drivers to stay in the appropriate lane. The street is 20 feet wide, so the striping will create two standard 10 foot lanes.

**FISCAL IMPACT:**

Public Works crews will add the stripe with the Town striping machine. The cost of labor and paint will be minimal.

Prepared By:

Approved:

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

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James Robinson  
City Manager

Attachments: Amended List

## APPROVED CENTERLINE MARKING LIST

**Street centerlines within the Town of Atherton shall be marked only at the locations listed and shall be of the specific type indicated.**

DOUBLE YELLOW STRIPES WITH REFLECTORS AT STANDARD 24' SPACING  
(\* = stripes done with combination of "bott dots" and reflectors)

Alameda de las Pulgas - all\*

Atherton Avenue - El Camino Real to 100 feet west of El Camino Real

Barry Lane - Atherton to Faxon, exclusive of areas with raised median barriers

Fair Oaks - Station Lane to east side of RR tracks

James Avenue - Middlefield to nearest Heather

Marsh Road - all within Town Limits

Middlefield Road - all\*

Oak Grove Avenue - Middlefield to High School Driveway

SPLIT DOUBLE YELLOW STRIPES WITH REFLECTORS AT STANDARD 24'  
SPACING (One yellow line on each side of raised median barrier)

Atherton Avenue - Inglewood to Mercedes

Barry Lane - at Atherton

Barry Lane - at Faxon

Elena Avenue - at Elena/Faxon

Fair Oaks Lane - at El Camino Real

Fair Oaks Lane - at Middlefield

DOUBLE YELLOW STRIPES WITHOUT REFLECTORS

Emilie Avenue - Park to Valparaiso - (School zone)

Encinal Avenue - All (School Zone)

Selby Lane - 190/196 Selby Lane Cul-de-sac to Serrano - (School zone)

Stockbridge - Alameda de las Pulgas to 50 feet west of Alameda de las Pulgas

Valparaiso - all (Shared responsibility with Menlo Park)

Walsh Road - Alameda de las Pulgas to 50 feet west of Alameda de las Pulgas

Watkins - El Camino Real to 100 feet east of El Camino Real

## SINGLE YELLOW STRIPES WITHOUT REFLECTORS

Alta Vista Drive - Ridgeview to Fletcher

Atherton Avenue - Alameda de las Pulgas to Inglewood and Mercedes to 100 feet west of El Camino Real

Britton Avenue - Across the frontages of numbers 131 through 191 Britton - Also paint white stripes across private driveways forming triangle at hairpin turn. White stripes to be 8" wide, parallel to and 12 feet from the centerline.

Camino al Lago - Park Lane to west side of number 228, except in intersection

DeBell Drive - Middlefield Road through 11 DeBell Drive

Elena Avenue - Atherton to Elena/Isabella and Elena/Faxon to Valparaiso, exclusive of areas with raised median barrier

Fair Oaks Lane - El Camino Real to Station Lane and east side of railroad tracks to Middlefield, exclusive of areas with raised median barrier

Fletcher Drive - Ridgeview to Alta Vista

Glenwood Avenue - Middlefield to Laurel

Greenoaks Drive - Oak Grove Avenue to 170 Greenoaks Drive

James Avenue - Heather closest to Middlefield to Lilac

Melanie Lane - Stockbridge to end

Oak Grove - High School Driveway to Greenoaks

Oak Grove - Middlefield to Menlo Park jurisdiction

Polhemus Avenue - Alameda de las Pulgas to Euclid

Ridgeview Drive - Fletcher to Alta Vista

Ridgeview Drive/Atherton Avenue - Number 7 Ridgeview through number 397  
Atherton - Ridgeview/Atherton curve

Selby Lane - Atherton to E/W Selby

Selby Lane - N/S Selby to 190/196 Selby Lane Cul-de-sac and Serrano to El  
Camino Real

Stockbridge - Alameda de las Pulgas to El Camino Real

Walsh Road - 100 feet west of Reservoir to 50 feet east of Belbrook

Watkins - 100 feet west of El Camino Real to Middlefield

## **POLICY REGARDING CHANGES TO APPROVED CENTERLINE MARKING LIST**

This list shall be adopted by majority vote of the Atherton City Council

Additions, deletions and changes may be proposed or requested by members of the public, Town staff or members of the Transportation Committee or City Council, and shall be reviewed and reported upon by the Transportation Committee to the City Council, which shall have final authority to change the list.

The City Council may amend the list by a motion approved by a majority vote of its members.

Amended May 19, 2004

Amended September 15, 2004



**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 SEPTEMBER 15, 2004**

**SUBJECT: APPEAL OF THE DECISION OF THE BUILDING OFFICIAL  
REGARDING 439 WALSH ROAD AND USE OF HETCH-HETCHY  
PROPERTY AS A SIDEYARD**

**ANALYSIS:**

Mr. and Mrs. Marcelo Mottesesi own the property at 439 Walsh Road. In 1950, a portion of this property was taken by the City and County of San Francisco for the Hetch-Hetchy Corridor.

The Mottesesi's have the right to use the Hetch-Hetchy property in order to:  
"...plant, cultivate, irrigate, harvest and retain crops ...and to use said land for pasturage..."

The Mottesesi's also have the right to use the Hetch-Hetchy property to:  
"..construct, maintain, use, repair, replace, and renew, over and across said parcel of land, (but not along in the direction of the City's pipe line or lines), fences, roads, streets, earth fills, sewers, water pipes, gas pipes, electric power lines, telephone lines, telegraph lines..."

The Mottesesi's wish to add to their home in the side yard area that borders the Hetch-Hetchy property. For the purpose of determining the side yard setbacks for the new addition, they wish to use the old, pre-1950 property boundary lines. That is, they wish to use the Hetch-Hetchy portion of property that was taken in 1950 as a side yard.

Mr. Bob Flury, Bob Flury Design Group, has researched Town records for any precedents that would support the request of the Mottesi's. In his attached letter, he cites a Planning Commission action in 1975 regarding a three-lot subdivision directly across the street. One of the lots, 420 Walsh Road, was approved by using the square footage of the Hetch-Hetchy property to meet the minimum lot size requirement as well as to meet side yard setback requirements.

Based on the limited evidence of prescient and past practice, the request of the Mottesi's was denied.

Prepared By:

Approved by:

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Michael A. Hood  
Building Official

---

James H. Robinson  
City Manager

Attachments: Drawing  
Letter from Bob Flury  
Copy of the Deed

September 10, 2004

Dear Mayor and Council Members:

We and our three children are the owners and residents of 439 Walsh Road in Atherton. After spending a year and a half searching up and down the Peninsula for the right location, we fell in love with 439 Walsh Road. The location allows our children to be near Los Lomitas, but is still rural in nature. We purchased the house in December 2002 and have lived there ever since.

After buying the house we decided to remodel it to meet our family's needs. We hired Bob Flury as our architect and he proceeded to draft plans. The project is mainly a remodel with the addition of a two-story space with the approximate dimensions of 20 x 26, which only adds approximately 560 square feet to the footprint of the house. During the course of developing the preliminary design, Mr. Flury had discussions with Mike Hood. In the course of one of these discussions, Mr. Hood told Bob Flury that due to the fact that our property abuts the Hetch Hetchy property, we would need a separate approval in order to move forward with the project. Mr. Hood recommended that we apply for a Conditional Use Permit.

Our application letter for the conditional use permit was submitted by Bob Flury and is attached for your review. However, just before the Planning Commission was to hear our conditional use permit request, Mike Hood sent us a letter telling us that the City Attorney informed him that a conditional use permit was not the correct process and that the Planning Commission hearing would be cancelled. Mr. Hood then made an administrative decision to deny our request. Pursuant to his suggestion, we then appealed this matter. For some procedural reason, of which we are unaware, this matter is directly appealed to the City Council. Therefore, this meeting on September 15, 2004, will be the first meeting on the issue, as this issue was never in front of the Planning Commission.

The issue for your consideration is how staff should determine setback and site area for properties which hold easements over land through which the Hetch Hetchy pipeline runs. It is our request/position that the Town should consider this land, as it always has, as part of our property for the determination of setbacks and site area. The failure of the Town to do so would make our house and lot, as well as many of our neighbors' houses and lots, non-conforming. We have spoken with our neighbors, some of whom we expect will attend the Council meeting with us. Not only do they support our application, but also they support our request that the City Council

determine that as a matter of policy Town staff should count the Hetch Hetchy land when making the calculations for setbacks and site area.

It is our understanding that Mr. Hood denied our request, not because of any building or planning opposition to our remodel, but due to the fact that he believed that what we were requesting required the City Council to make a policy decision regarding how the Hetch Hetchy land should be counted in regards to setbacks and site area. Furthermore, in his denial Mr. Hood did not claim that our request was in violation of any Town Code or policy, nor are we aware of any violation. As set forth in greater detail in Bob Flury's letter, this issue concerning the Hetch Hetchy land affects approximately eleven families in Atherton. It appears that instead of Hetch Hetchy obtaining an easement over each individual property so it could install and maintain its underground water pipeline, the land was actually deeded to the City and County of San Francisco (the owner of Hetch Hetchy) which then granted the property owners an easement to use of the surface of the property. It is important to remember that the easement has no buildings on it and that Hetch Hetchy has no plans to do anything with the land other than to maintain its underground pipeline. The reality is that the easement acts just like a setback as it is an area between neighbors where no buildings may be constructed. If our situation was the standard situation where Hetch Hetchy had an easement over our property (rather than them holding title with us holding an easement) there would be no question the land would be counted as part of our property and our remodel application would be immediately processed.

In fact, as far as we have been able to determine, the Town of Atherton has always treated the Hetch Hetchy land as part of the land of the easement holder for purposes of determining setbacks and site area. For example, our house was built on parcel 3 in 1977, approximately twenty-seven years after the easement was created. Our house was approved without any question or comment regarding the effect of the easement on the setbacks or site area. There are two notations on the approved plans, which are on file with the Town. The first is that there should be no building in the easement area. The second notation is located on the original property line (i.e. the furthest side of our easement) and states "City of Atherton basis for setback line for parcel 3". This notation is compelling evidence that the Town explicitly approved the use of the easement land in making the setback and site area calculations. Based on the documents concerning our parcel, as well as those which concern at least seven neighboring parcels, it is clear that the Town has always included the Hetch Hetchy land when performing setback and site area calculations.

Another compelling example of the Town's practice is how the property across the street at 420 Walsh Road has been treated. In 1975, the Town approved a three-lot subdivision, including the lot at 420 Walsh Road. In order for the lot at 420 Walsh Road to be a conforming one-acre lot it was necessary for the Hetch Hetchy easement land to be included in the site area calculation for the lot. The City Council approved the subdivision and approved the inclusion of the Hetch Hetchy land. Five years later, the owners of 420 Walsh Road made an application concerning their setbacks. The Planning Commission concluded 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 the total acreage requirements" (a reference to the 1975 decision). This approval was not appealed so the City Council never had an opportunity to confirm the policy. However, until now, the Town has always included the Hetch Hetchy land for the purposes of calculating setbacks and site area.

In our specific case, the calculations are as follows:

Area of the Site <i>including</i> easement on Hetch Hetchy Property	43,657
Maximum FAR	7,858
FAR of Remodel with new addition	5,838
Required Setback	50
Setback <i>including</i> easement on Hetch Hetchy Property	75 actual (94 visual)
Area of Site <u>excluding</u> easement on Hetch Hetchy Property	33,306
Required setback <u>excluding</u> Hetch Hetchy Property	44.6

As shown above, it appears that the Town has always included the easement as part of our property calculation. Otherwise, without the inclusion of the easement land our property would be 33,306 square feet and we would be under the one acre minimum. Furthermore, if the lot were only 33,306 square feet then the required side setback would be 44.6 feet. However, there is not 44.6 feet between the original approved and existing house, specifically the western kitchen wing, and the property line. In fact, the house is as close as 16 feet to the property line at some locations. Based on the notations on the plans and the actual approved location of the existing house, it is clear that the easement land has always been included when calculating setback and site area.

If the Council changes the historical interpretation of how this land is treated, our house and lot, as well as a number of other houses and lots, will become existing non-conforming. As you are aware, this designation will make it very difficult and expensive for any of us to remodel, renovate, upgrade or expand our homes. It will also decrease the value of our homes and lots, which were considered to be in conformance with the Town's codes and policies at the time of purchase.

In addition, there is no harm to the Town or other residents by the inclusion of this land for calculation purposes. If this land is included, our effective setback from our neighbor will be 75 feet (94 visual feet according to our architect), which is 150% of the required setback. If we are allowed to proceed, we will remove an existing pottery shed that currently encroaches into a separate access easement, thereby eliminating any non-conformity. In summation, there is no benefit to the Town or to our neighbors by changing the historical interpretation and not counting this land for setback and site area purposes.

We have contacted our neighbors and not only do they approve of our plans, but also they support our request to include the land in the setback and site area

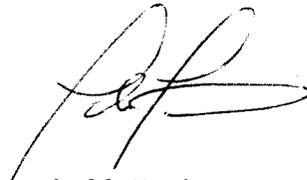
determination so their houses and lots do not also become non-conforming. Therefore, we request that you treat our property and the other affected properties in the same manner as the Town has historically treated our property, 420 Walsh Road and other neighboring properties. We encourage the Council to adopt a policy such as:

"In accordance with the Town's past practices, for the purposes of the determination of setbacks and site area, any land through which the Hetch Hetchy pipelines run shall be considered to be part of the property held by the holder of the easement over the land through which the Hetch Hetchy pipelines run."

By adopting this policy or a policy similar to it, the Town will be keeping with past practices; the Town will prevent up to eleven houses and lots from becoming non-conforming; the Town will allow the historically expected development of these properties; and no harm will be caused to the Town or its residents.

We will be at the meeting on Wednesday, September 15, 2004, along with our diagrams and our architect, and will be happy to address any questions or concerns that you have. However, please do not hesitate to contact us at (650) 248-1164 prior to the meeting if you have any questions, concerns, or if you would like to discuss this matter. Thank you for time and attention to this matter.

Sincerely,



Lisa and Marcelo Mottes

July 8, 2004

Planning Commission  
TOWN OF ATHERTON  
91 Ashfield Road  
Atherton, California 94027

Re: Conditional Use Permit Application  
Mr. And Mrs. Marcelo Mottes  
439 Walsh Road

Dear Planning Commissioners:

The enclosed application requests the granting of a Conditional Use Permit to allow the encroachment of a proposed addition into the side yard setback area, where the side yard borders a parcel of land owned by the City and County of San Francisco, commonly known as the Hetch-Hetchy Corridor.

**Background:**

The City and County of San Francisco maintains an underground pipe system routing water from the Hetch-Hetchy Reservoir to the City of San Francisco. A portion of this pipe network snakes its way through the Town of Atherton, impacting several properties in the Walsh Road and Reservoir Road areas.

While early records are sketchy, it appears that these pipes were originally routed through an easement in the side yard of this particular parcel, which was, at some point, deeded over to San Francisco, moving the side property line to within approximately 26' of the existing building line. Adjacent to this "new" property line, an access easement was granted through the side yard of 439 Walsh Road, apparently intended to allow access for service vehicles along the length of the pipelines.

A Site Plan, originally submitted with the building permit application for the current residence (dated 12/24/76) shows the house setback 20' from the side property line. There is a hand-written note on this document which reads "Zoning OK 7/12/77". The signature below this note is illegible.

There is an additional copy of this same Site Plan in the Town's files, with a note reading "No construction allowed in easement area. Zoning OK 1/25/77". Again the signature is illegible.

In 1979 an additional building permit application was filed, requesting permission to build an attached greenhouse to the right rear corner of the existing house. Although this proposed structure was designed to encroach approximately 4' into the above mentioned access easement, it was approved by Leonard Pitts, the Town's Building Official at the time, on 4/10/79. (As part of this current application, this structure will be removed, eliminating all encroachments into the existing access easement.)

A rear yard landscape development plan, prepared by David R. Fox and Associates, Landscape Architects, dated 1/30/97, shows landscape development on the San Francisco parcel. This plan was stamped "Approved" by the Town (with no signature) on 2/10/97. Building Permit #25567 was issued, and this installation was completed approximately per plan.

**Neighborhood Survey:**

According to Town records, there are eleven properties in Town, including the subject property, that have deeded over a portion of their original property to the City and County of San Francisco for passage of their pipes. Of these, seven contain development that, strictly interpreted, does not comply with the setback restrictions mandated by the current zoning ordinance.

However, of these seven, only one (the parcel directly across the street from the subject parcel, at 420 Walsh Road) has been the subject of any Town Council or Planning Commission application involving the Hetch-Hetchy Corridor. There have been two applications regarding this parcel. In the first, heard 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. Without this provision, the lot would have been too small to qualify as a legal lot, as defined by the zoning ordinance, and the setbacks would have made the lot difficult to develop.

The second application involving the parcel at 420 Walsh Road was made in 1980. While this application was specific to a rear yard setback encroachment, the Commission's discussions revolved around the hardship placed on the property by the Hetch-Hetchy pipeline. The Planning Commission concluded that the Town staff's 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" was a correct assumption.

According to Town records, the Town staff has made this assumption in every case where development has been proposed on any of these parcels, before and after the 1980 decision.

**Summary**

Since the Hetch-Hetchy Corridor has been permanently developed by the City and County of San Francisco with subterranean structures, and the topography of this area as it passes through the parcel at 439 Walsh Road has been preserved and maintained in a natural state, we believe that our application is in keeping with the spirit of the Town's zoning ordinance. Visually, a side yard setback of 94' will be permanently maintained between our proposed development and the boundaries of the nearest developed parcel. Historically, both the Town Council and the Planning Commission have, whenever asked, rendered decisions demonstrating their concurrence with this belief.

On behalf of Mr. And Mrs. Mottes, I urge you to approve this conditional use permit request based on findings that the proposed use will not be detrimental or injurious to persons, property or improvements in the vicinity, and will not be detrimental to the public health, peace, safety, comfort, general welfare or convenience, and that the proposed use will be located and conducted in a manner in accord with the general plan and purposes of that plan and the Town's zoning regulations.

Please feel free to call me with any questions.

Sincerely yours,

Bob Flury

Cc: Mr. And Mrs. Marcelo Mottes



**Town of Atherton**

**CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER**

**DATE: FOR THE MEETING OF SEPTEMBER 15, 2004**

**SUBJECT: APPEAL OF THE DECISION OF THE PLANNING COMMISSION TO DENY  
A HERITAGE TREE REMOVAL PERMIT AT 266 PARK LANE**

**INTRODUCTION:**

The applicant requested a Heritage Tree Removal Permit to allow the removal of five heritage Oak trees at 266 Park Lane. The applicant proposes to construct a new residence with basement, a detached pool house, pool, tennis court, guesthouse, and detached garages. The applicant is requesting tree removal to make way for these improvements.

The Planning Commission reviewed this item at its August 25, 2004 meeting. At that meeting, the Planning Commission voted 3-0 to approve the removal of two of the requested trees and thereby denied the removal of three Oak trees (draft minutes attached).

Notice of the Appeal and the City Council meeting in which it will be considered was mailed to property owners within 500 feet of the subject site.

**ANALYSIS:**

Based on advice from the City Attorney, the Council needs to consider the removal request of five trees, and not just the three trees denied by the Planning Commission.

Please review the attached staff report to the Planning Commission for project analysis and the memo from the Town Arborist.

The applicant has submitted the following additional information for the Council's consideration:

- Letter of request from Jon Jang, Project Architect, reviewing site constraints and reason for the removal request.

- Letter from McClenahan Consulting, LLC, noting proposed mitigation planting and observations of trees proposed for removal.
- Letter of support from Bill and Susan Heller, 243 Park Lane
- Colored site plan indicating existing heritage trees, trees proposed for removal and tree replacement plan.

**ALTERNATIVES:**

The Council has the following options:

- Approve the appeal and thereby approve a Heritage Tree Removal Permit to allow the removal of five heritage trees as requested or as amended by the Council.
- Deny the appeal and approve the Heritage Tree Removal Permit as approved by the Planning Commission for the removal of two heritage trees, or as amended by the Council.
- Deny the appeal and deny the removal of any heritage tree from the site.

**FISCAL IMPACT:**

All costs covering the processing of this application are paid for by the applicants.

**ENVIRONMENTAL IMPACT:**

The City Council has declared the removal of 7 or fewer heritage trees on parcels of land 2 acres in area or greater to be a less-than-significant impact and exempt from CEQA review, Atherton Municipal Code Section 15.32.100.

Prepared By:

Approved:

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Lisa Costa Sanders  
Deputy Town Planner

---

James Robinson  
City Manager

**Attachments:**

1. Draft Heritage Tree Removal Permit
2. Appeal Request
3. Planning Commission Staff Report for the August 25, 2004 meeting with attachments
4. Draft Minutes from the August 25, 2004 Planning Commission meeting
5. Letter of Request from Jon Jang, Architect, dated September 9, 2004
6. Letter from McClenahan Consulting, LLC dated September 2, 2004
7. Letter from Bill and Susan Heller, dated September 8, 2004

# Memo



To: The Atherton Planning Commission  
From: Kathy Hughes Anderson, Town Arborist  
CC: Lisa Costa Sanders, Associate Town Planner  
Date: 08/17/04  
Re: Heritage Tree Application, 266 Park Lane

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I have reviewed the tree removal application for 266 Park Lane and offer the following observations for your review. I did not have a scaled plan to review, so I have not noted any distances from the trees in relation to the proposed structures.

- The applicant, Vive Ranadive, is requesting permission to remove five *Quercus agrifolia*, Coast Live Oak trees located within the allowable buildable area for the lot. As the applicant's letter states, there are 60 oak trees, 12" diameter or larger on the property, 43 of which are heritage size. Trees #68, #69, #70 and #9 are in conflict with the new proposed residence with basement and guest house locations. Tree #46 is in conflict with the proposed pool location.
- Non heritage trees located within the buildable area that will be removed include: Tree #43, Coast Redwood; Trees #44 and #45, Canary Island Pines; Trees; Trees #12 and #42, Coast Live Oaks, (just under heritage size).
- An arborist report prepared by John McClenahan, dated August 2, 2004, identifies 79 trees with a 12" or greater diameter. All of the trees have been given a Condition rating, mostly Fair to Good. Many of the oaks are in a grove setting with high, thin canopies and phototropic leans as observed in the arborist report. The report also notes the impact of the proposed site improvements. The lot has been vacant for several years and the trees have not been maintained resulting in an accumulation of deadwood in many of the trees, as noted in the arborist report.
- Trees #68 and #69 are in a grove setting and are in the footprint of the proposed new home. Tree #68 is in Fair to Good condition and is one of the nicer, more mature live oaks on the property. #69 is in Fair condition, also one of the larger specimens on the property. Tree #70 is in Fair to Good condition, but conflicts with a proposed porte-co-chere. Tree #71 is in Fair condition and will also be adversely impacted by the proposed driveway layout. In the grove setting, there are a number of small oaks that are being shown as being retained, but could be removed as they are under heritage tree size.
- The proposed driveway layout shows a circular drive around a very nice 39" diameter Valley oak and through a grove of oaks. This driveway layout will adversely impact Trees #56, #57, #58, #59, and #60. This grove is too important to risk damage to

these trees. I think this driveway layout needs to be reconsidered with more consideration given to maintaining a Tree Protection Zone around the trees.

- Tree #46, is in Fair condition with some past limb failures. Removing this tree would have minimum impact as it is located in the middle of the lot. Given its condition and location on the lot I would recommend approval of this request.
- Tree #9 is in Fair to Good condition, but is being proposed for removal due to the close proximity to the basement excavation and the proposed guest house. The tree is not large crowning, 40' in height. Given it's location on the lot and its structure, I would recommend approving this removal request.
- Tree #7 is not being proposed for removal, but will be adversely impacted by the proposed guest house and driveway. John McClenahan recommends a root collar inspection to determine if root rot/decay is present. There is evidence of decay on the lower trunk and decay at the large wound from a previous failure. A tree of this size, age and condition should have a Tree Protection Zone radius of 35'. A tree in this condition will not tolerate the cumulative construction impacts and may not be deemed suitable for preservation where people or property could be injured or damaged.
- In conclusion, I would recommend approval of the removal request for Trees #46 and #9. Trees # 68, #69 and #70 are large mature specimens in a grove setting. These trees are visible from Park Lane and provide a visual screen of the property from the street. While there are a large number of heritage oaks on this property, I feel that the removal of these three would have a significant negative impact on the grove and the neighborhood. If the Planning Commission should approve the removal request, I feel the proposed mitigation of thirty-four live oaks of various box sizes is acceptable and will provide adequate screening.



**DATE: FOR THE PLANNING COMMISSION MEETING OF AUGUST 25, 2004**

**TO: THE PLANNING COMMISSION**

**FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER**

**SUBJECT: 266 PARK LANE (APN 061-173-080)**  
**HERITAGE TREE REMOVAL PERMIT**

**RECOMMENDATION:**

Staff recommends that the Planning Commission conduct the public hearing, make the following finding and approve the Heritage Tree Removal Permit for the removal of two trees at 266 Park Lane in Atherton for the reasons outlined in this Report:

1. The removal of the trees would not be contrary to the purpose and intent of the Atherton General Plan.

**INTRODUCTION:**

The subject site is located at the corner of Park Lane and Camino al Lago and is over 3.5 acres in area. The lot is level and contains numerous heritage trees. The applicant is requesting the removal of five heritage Oak trees located within the buildable area. The applicant proposes to construct a new residence with basement, a detached pool house, pool, tennis court, guest house and detached garages. The trees proposed to be removed are identified as trees #9, #70, #68, #69 and #46. Three of the trees (#68, #69 and #70) are in conflict with the area of the proposed new residence. Tree #46 is in conflict with the proposed new pool and tree #9 is located within the proposed light well.

**ANALYSIS:**

The applicant indicates that there are 43 heritage size Oak trees on the property. They also note that the removal of five Oaks would not entail a loss of screening or privacy. The applicant also states that they have located the main house and accessory structures in such a way as to minimally impact existing heritage trees.

The applicant has proposed a landscape screening plan that includes, 7 - 24" box size Strawberry trees, 5 - 24" box size Pacific Wax Myrtle, 17 - 24" box size Live Oaks, 12 - 36" box size Live Oaks and 5 - 48" box size Live Oaks. In total, the applicant proposes to plant 46 trees, 34 of which are Live Oaks.

The arborist report prepared by John McClenahan, dated August 2, 2004, identifies 79 trees with a 12" or greater diameter on the site. Trees #68 and #69 are located in a grove setting and within the footprint of the proposed new home. Tree #68 is identified, as being in fair to good condition, and according to Ms. Hughes Anderson, is one of the nicer more mature live oaks on the property. Tree #69 is in fair condition and also one of the larger specimens on the property. Tree #70 is also identified as being in fair to good condition, but conflicts with a proposed porte-co-chere. Tree #46 is in fair condition with some past limb failures. Tree #9 is in fair to good condition.

The applicant will be removing other trees on the property (non-heritage size trees) as indicated in Ms. Hughes Anderson's memo. No other heritage trees are proposed to be removed.

Kathy Hughes Anderson, Town Arborist has reviewed the request and prepared a memo as attached to the packet. She supports removal of tree #46 given its condition and location on the lot, and tree #9, also given its location on the lot and its structure. Ms. Hughes Anderson does not recommend granting the removal request for trees #68, #69 and #70. She notes that these are large mature specimens in a grove setting. The trees are visible from Park Lane and provide a visual screen of the property from the street. She notes that there are a large number of heritage oaks on the property, but feels that the removal of these three trees would have a significant negative impact on the grove and the neighborhood.

If the Commission wishes to grant the removal request, Ms. Hughes Anderson feels that the proposed mitigation of thirty-four oak trees of various box sizes is acceptable and will provide adequate screening.

**CONCLUSION:**

It is Planning Staff's professional opinion that the removal of two-heritage tree would not be contrary to the purpose and intent of the General Plan and the Zoning Ordinance based on the heritage trees currently on the site and with the tree replacement requirements.

**ALTERNATIVES:**

The Commission also has the option to approval all five trees as requested, deny the request or modify the request.

**FISCAL IMPACT:**

All costs covering the processing of this application are paid for by the applicants.

**ENVIRONMENTAL IMPACT:**

The City Council has declared the removal of seven or fewer heritage trees on parcels of land two acres in area or greater to be a less than significant impact and exempt from CEQA review. Atherton Municipal Code Section 15.32.100.

**FORMAL MOTION:**

I move that the Planning Commission find that the proposed removal of two heritage trees at 266 Park Lane in Atherton would not be contrary to the purpose and intent of the General Plan, for the reasons outlined in the Staff Report.

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Lisa Costa Sanders, Deputy Town Planner

**Attachments:**

1. Draft Heritage Tree Removal Permit
2. Memo from Kathy Hughes Anderson, Town Arborist, dated August 17, 2004
3. Description of the Proposed Heritage Tree Removal, including Site Plan dated July 21, 2004 and section from Landscape Screening Plan dated July 28, 2004
4. Arborist Report prepared by John McClenahan, McClenahan Consulting, LLC, dated August 2, 2004

**DRAFT MINUTES  
PLANNING COMMISSION MEETING  
August 25, 2004  
6:00 p.m.**

**ATHERTON TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California

**REGULAR MEETING**

Acting-Chair Oster called the meeting to order at 6:00 p.m.

**1. ROLL CALL:**

**PRESENT:**       **Marion Oster**  
                  **Kristi Waldron**  
                  **Jim Dobbie**

**EXCUSED:**       **Bob Andrews**  
                  **Rose Hau**

City Attorney Marc Hynes, Building Official Mike Hood, Deputy Town Planner Lisa Costa Sanders and Town Arborist Kathy Hughes Anderson were also present.

**Heritage Tree Removal Permit – 266 Park Lane** – Heritage Tree Removal request to allow the removal of five heritage trees. Atherton Municipal Code section 8.10.

Lisa Costa Sanders presented the staff report and noted the reasons outlined in the staff report to support the removal of two heritage trees.

Vivek Ranadive, property owner, stated that he bought property for trees and only needs to remove five heritage trees to allow for the construction of a new residence.

John Jang, project architect, stated that the five heritage trees are all within the building envelope, there will be a net increase of 72 oak trees with implementation of their landscape improvements and that many of the existing trees will remain.

Commissioner Dobbie asked if the possibility of moving the house over, away from the trees, had been considered.

John Jang, project architect, stated that he would like to keep the house away from the side property line and the Redwoods. He also stated that the plans include a basement. Mr. Jang stated that there are many trees on site, which limits the ability to site the house and other improvements. He also noted that moving the house would cause the home to be located a significant distance from the garage.

Kathy Hughes Anderson, Town Arborist, confirmed the size of trees on-site. She also stated that tree #68 has a lean towards the proposed house location.

**MOTION to approve the Heritage Tree Removal Permit to allow the removal of two heritage trees at 266 Park Lane, based on the following finding and subject to the conditions contained in the Heritage Tree Removal Permit:**

**M/S Waldron/Oster                      Ayes: 3              Noes: 0              Excused: 2**

**Finding:**

1. The removal of the trees would not be contrary to the purpose and intent of the Atherton General Plan.

**ADJOURN**

The meeting adjourned at 8:10 p.m.

**Respectfully submitted,**

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Lisa Costa Sanders, Deputy Town Planner



**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 SEPTEMBER 15, 2004**

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

**RECOMMENDATION:**

This item was continued from the July 21, 2004 City Council meeting. The original staff report is attached.

Prepared by:

Approved by:

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Michael A. Hood  
Building Official

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James H. Robinson  
City Manager



**Town of Atherton**

**CITY COUNCIL STAFF REPORT**

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

**FROM: MICHAEL A. HOOD, BUILDING OFFICIAL**

**DATE: FOR THE MEETING OF JULY 21, 2004**

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

**RECOMMENDATION:**

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

**ANALYSIS:**

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

The Menlo Park Fire Prevention District has held subsequent meetings with the jurisdictions of Menlo Park, East Palo Alto, and the County of San Mateo. As a result, Fire District Ordinance 28 has been substantially changed and has become Fire District Ordinance 29.

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

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

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

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

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

Respectfully submitted:

Approved by:

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Michael A. Hood  
Building Official

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James H. Robinson  
City Manager

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
RATIFYING ORDINANCE NO. 29 OF THE MENLO PARK FIRE PROTECTION  
DISTRICT AMENDING DISTRICT FIRE PREVENTION CODE PERTAINING TO  
AUTOMATIC FIRE SPRINKLER SYSTEM REQUIREMENTS AND REPEALING  
TOWN OF ATHERTON ORDINANCE NO. 548**

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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 ratified. Pursuant to the provisions of Section 13869.7 of the California Health & Safety Code, the City Manager or designee is directed to file copies of all applicable findings and amendments to the Menlo Park Fire Protection District Fire Prevention Code with the appropriate State agency.

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

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

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

**SECTION 5:** 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, 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:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:

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Kathy McKeithen, Mayor  
Town of Atherton

ATTEST:

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Kathi Hamilton, Interim City Clerk

APPROVED AS TO FORM:

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Marc G. Hynes, City Attorney



## Town of Atherton

### CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL**

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

**DATE: FOR THE MEETING OF SEPTEMBER 15, 2004**

**SUBJECT: DISCUSSION OF UTILITY UNDERGROUNDING FOR EMILIE AVENUE AND FREDERICK AVENUE**

#### **RECOMMENDATION:**

Evaluate all possible undergrounding alternatives within the Town of Atherton and defer commitment to any specific project at this time.

#### **INTRODUCTION:**

PG&E currently maintains an allocation of approximately \$727,391 for the Town of Atherton to underground overhead electrical facilities. The Town receives an additional allocation of approximately \$58,000 per year.

According to PG&E's Rule 20, which is approved by the California Public Utilities Commission, these funds are to be used on undergrounding projects that the City Council has determined are in the general public interest for one of the following reasons:

- 1) Such undergrounding will avoid or eliminate an unusually heavy concentration of overhead electric facilities;
- 2) The street or road or right-of-way is extensively used by the general public and carries a heavy volume of pedestrian or vehicular traffic;
- 3) The street or road or right-of-way adjoins or passes through a civic area or public recreation area or an area of unusual scenic interest to the general public; and

- 4) The street or road or right-of-way is considered an arterial street or major collector as defined in the Governor's Office of Planning and Research General Plan Guidelines.

**ANALYSIS:**

There are two issues that will determine whether the Town's Rule 20 funds should be used on Emilie Avenue or Frederick Avenue:

First is whether either street can qualify under one of the four requirements of the tariff:

- 1) Neither street has an unusually heavy concentration of wires. There are several streets that have much heavier concentrations, such as Alameda de las Pulgas.
- 2) Neither street carries a heavy volume of traffic. For a residential street, Emilie Avenue carries a larger volume of traffic, 2000 vehicles per day (vpd). Many other streets carry significantly more traffic than either Emilie Avenue or Frederick Avenue (1100 vpd) and still have overhead wires, such as Fair Oaks Lane (5000 vpd), Selby Lane (5000 vpd), Atherton Avenue (6000 vpd), Valparaiso Avenue (13,000 vpd), Alameda de las Pulgas (15,000 vpd) and Middlefield Road (19,000 vpd). These volumes are from November 2002 citywide traffic counts.
- 3) Neither street passes through a civic area or public recreation area (Sacred Heart School is private) or an area of unusual scenic interest to the general public (at least not any more unusual than any other street in Atherton); whereas, Watkins Avenue which carries more traffic (2400 vpd) and passes Holbrook-Palmer Park still has overhead wires.
- 4) Neither street is an arterial or collector, and most of Atherton's arterials and collectors still have overhead wires.

It is possible the Town will be able to determine that these streets qualify under requirements 1) or 2) by making appropriate findings, but that brings up the second issue.

The second issue is what priority the Town places on streets that should be undergrounded. The Town last spent undergrounding funds on Atherton Avenue from El Camino Real to the S-curves. With the funds currently allocated, undergrounding could be completed on Atherton Avenue to Elena Avenue. The Town is allowed to borrow up to five years advance from the Rule 20 allocation. If this were done, Atherton Avenue could be undergrounded to Selby Lane.

There was a request for undergrounding Fair Oaks Lane in 2000 that did not proceed because the Town was saving undergrounding funds to complete Atherton Avenue to Alameda de las Pulgas.

**FISCAL IMPACT:**

The 1000 feet of Emilie Avenue that is requested to be undergrounded will cost approximately \$350,000 and would use approximately five years of Rule 20 allocations. This would postpone undergrounding Atherton Avenue, or any other street, for another five years.

Prepared By:

Approved:

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

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James Robinson  
City Manager

Attachments: Petition



## Town of Atherton

**TO: HONORABLE MAYOR AND CITY COUNCIL**

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

**DATE: FOR THE MEETING OF SEPTEMBER 15, 2004**

**SUBJECT: CONSIDERATION OF ELIMINATION OF ATHERTON CALTRAIN STATION PARKING LOT FEE**

### **RECOMMENDATION**

It is recommended that the Town eliminate the .50 cent daily charge for parking at the parking lot directly adjacent to the Atherton Caltrain Station in an effort to encourage train use and ridership.

### **BACKGROUND**

The Atherton Caltrain Corridor Committee has recommended that the City Council consider the elimination of the current parking charge at the Caltrain Station Parking lot on a trial basis to help promote ridership from the Atherton station. Parking would still be available in the resident parking lot just north of the City Hall Parking lot.

A survey of the parking lot on Friday of last week indicated some 12 cars parked in the Station. It is anticipated that elimination of the parking lot fee would generate an increased ridership but not have an overwhelming impact on parking availability.

### **FISCAL IMPACT**

The Town currently charges .50 cents for parking at the station which generates approximately \$2,400 a year in parking revenue. Currently, most other stations are charging \$1.50 per day for parking.

