



**AGENDA**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**  
**September 18, 2002**

**6:00 P.M.**      **NOTE TIME**

**Meeting Room**  
**Town Administrative Offices**  
**91 Ashfield Road, Atherton**  
**Special Meeting**

6:00 P.M.     1.     **ROLL CALL**             McKeithen, Janz, Carlson, Fisher, Conwell

6:05 P.M.     2.     **PUBLIC COMMENTS**

6:10 P.M.     3.     **CLOSED SESSION**

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

**Agency Negotiator: James H. Robinson, City Manager**  
**Employee Organization: Management Employees**

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

**Title: City Manager**

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

**Stephen Chaput v. Town of Atherton**  
**Patrick McTaggart v. Town of Atherton**

4.     **RECONVENE TO OPEN SESSION**

**Report of action taken.**

5.     **ADJOURN**

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Please contact the City Clerk's Office at 650-752-0529 for information*

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**AGENDA**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**  
**September 18, 2002**

**7:00 p.m.**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California

**REGULAR MEETING**

- 7:00 P.M.**     1.     **PLEDGE OF ALLEGIANCE**
- 7:03 P.M.**     2.     **ROLL CALL**     McKeithen, Janz, Carlson, Fisher, Conwell
- 7:05 P.M.**     3.     **PRESENTATIONS**
- A. Proclamation – Constitution Week - September 17-23, 2002  
B. Proclamation - Town Barbecue, October 13, 2002
- 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 MEETING AND REGULAR  
MEETING OF AUGUST 21, 2002**
9.     **APPROVAL OF BILLS AND CLAIMS FOR AUGUST, 2002 IN THE  
AMOUNT OF \$783,923**

10. ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR AUGUST 2002
11. ADOPTION OF ORDINANCE AMENDING CHAPTER 15.40 OF THE ATHERTON MUNICIPAL CODE PERTAINING TO CONSTRUCTION REGULATIONS

**Recommendation:** Adopt Ordinance No. \_\_\_ amending Chapter 15.40 of the Atherton Municipal Code regarding demolition sales, operations of vehicles, and required signs, and penalties for violation.

12. ACCEPTANCE OF PROPOSAL FOR UPPER ATHERTON CHANNEL PROJECT PLANNING STUDY

**Recommendation:** Accept the proposal of BKF Engineers, Surveyors, Planners to perform the Upper Atherton Channel Project Planning Study, and authorize the Mayor to sign the contract.

13. ACCEPTANCE OF WORK AND AUTHORIZATION TO RECORD NOTICE OF COMPLETION – 2002 STREET RECONSTRUCTION – PHASE 1, PROJECT 02-002

**Recommendation:** Accept the work and authorize a notice of completion for the 2002 Street Reconstruction, Phase 1, Project 02-002.

14. ACCEPTANCE OF TREASURER’S INVESTMENT REPORT FOR THE QUARTER ENDING JUNE 30, 2002

**Recommendation:** Note, receipt, and file.

15. APPROVAL OF FIRST AMENDMENT TO EMPLOYMENT AGREEMENT BETWEEN THE TOWN OF ATHERTON AND CITY MANAGER JAMES H. ROBINSON

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

**PUBLIC HEARING (Item 16)**

- 8:10 P.M.
16. PUBLIC HEARING – ORDINANCE AMENDING CHAPTER 17.36.190 OF THE ATHERTON MUNICIPAL CODE RELATING TO BASEMENTS

**Recommendation: Open public hearing, hear testimony, close public hearing. Introduce ordinance placing limitations on the construction of basements outside of the building main buildable area based on the findings in the staff report, and waive further reading.**

**REGULAR AGENDA (Items 17 - 19)**

- 8:25 P.M. 17. DISCUSSION AND CONSIDERATION OF ATHERTON CHANNEL DRAINAGE DISTRICT, REPORT FROM CITY COUNCIL SUB-COMMITTEE, AND CITY ATTORNEY REPORT OF LAFCO PROCEDURES AVAILABLE FOR A REORGANIZATION OF THE ATHERTON CHANNEL DRAINAGE DISTRICT**

**Recommendation: Discussion of Atherton Channel Drainage District, report from City Council Sub-Committee, and consideration of City Attorney report of LAFCO procedures available for a reorganization of the Atherton Channel Drainage District.**

- 8:50 P.M. 18. DISCUSSION AND CONSIDERATION OF SUPPORT OF COUNTY ORDINANCE REGULATING THE DISCLOSURE OF CONFIDENTIAL CONSUMER INFORMATION BY FINANCIAL INSTITUTIONS**

**Recommendation: After discussion, consider whether to take any official action in support of the recent County ordinance regulating the disclosure of confidential consumer information by financial institutions.**

- 9:05 P.M. 19. DISCUSSION AND POSSIBLE ACTION REGARDING THE TOWN'S BANNER POLICY**

**Recommendation: Consider the existing Banner Policy and any possible amendments. The Policy currently provides for the placement of "Banners" at Marsh and Middlefield (announcing Town-sponsored events).**

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

- 9:30 P.M. 21. ADJOURNMENT**

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**Draft Minutes**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**  
**August 21, 2002**  
**6:00 P.M.**  
**Meeting Room**  
**Town Administrative Offices**  
**91 Ashfield Road, Atherton**  
**Special Meeting**

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

**1. ROLL CALL**

**PRESENT:**            **Kathy McKeithen**  
                             **Alan B. Carlson**  
                             **Dianne M. Fisher**  
                             **William R. Conwell**

**ABSENT:**            **James R. Janz (excused absence)**

**2. PUBLIC COMMENTS - No public comments.**

**3. CLOSED SESSION**

**The City Council adjourned to closed session at 6:05 p.m.**

**4. RECONVENE TO OPEN SESSION**

**The City Council reconvened to open session at 7:00 p.m. The following action was taken:**

- A. CONFERENCE WITH LABOR NEGOTIATOR – pursuant to Government Code Section 94957.6. Agency Negotiator: James H. Robinson, City Manager  
Employee Organization: Management Employees**

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

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

**Claimant: Janet Martin. Agency claimed against: Town of Atherton.**

**The City Council, by unanimous vote, denied the claim.**

**Claimant: Rebecca Lee**

**Agency claimed against: Town of Atherton**

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

- C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION pursuant to Government Code Section 54957. Title: City Manager**

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

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

**Stephen Chaput v. Town of Atherton**

**Patrick McTaggart v. Town of Atherton**

**No action was taken.**

**5. ADJOURN**

**The meeting adjourned at 7:10 p.m.**

**Respectfully submitted,**

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Alan B. Carlson, Mayor



**Draft Minutes**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**  
**August 21, 2002**  
**7:00 p.m.**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California

**REGULAR MEETING**

Mayor Carlson called the meeting to order at 7:16 p.m.

**1. PLEDGE OF ALLEGIANCE**

**2. ROLL CALL**

**PRESENT:** Kathy McKeithen  
Alan B. Carlson  
Dianne M. Fisher  
William R. Conwell

**ABSENT:** James R. Janz (excused)

**3. PRESENTATIONS**

**A. Mayor Carlson read a Proclamation declaring September 16 – 22, 2002 as National Pollution Prevention Week**

**B. Police Chief Brennan introduced new Police Officer Clark Du. Mayor Carlson administered the Oath of Office.**

#### **4. COUNCIL REPORTS**

- **Council Member Conwell reported that the Criminal Justice Council did not meet this week. He attended the San Francisco Airport Roundtable meeting and reported that the number of noise complaints is down from last year. Plans are being made to place a noise monitor in Town after the first of the year. C/CAG met and addressed Prop A funding. Council Member Conwell asked that an item be placed on a future agenda regarding a letter on the privacy bill that the Council received from Supervisor Nevin.**
- **Council Member Fisher reported that the Audit Committee received an excellent report from the auditors. The audit report, with a report from the Audit Committee, will be on the October City Council agenda. The Finance and Building Facilities Committees held a joint meeting on August 12<sup>th</sup>. The Committee discussed finding someone to bid on a needs assessment for the Town, and considered a proposal for Information Technology Services from the City of Palo Alto. The General Plan Committee met in July and August and voted to approve the draft housing element. The Library JPA met and are still recruiting for a new Library Services Director. Recommendations made by the Screening Committee for appointments to the Arts and Audit Committees are on this agenda.**
- **Council Member McKeithen reported that the General Plan Committee, at their August 19<sup>th</sup> meeting, approved the draft housing element and the negative declaration. The draft plan meets the ABAG numbers. The Committee also addressed revisions to Sections 1 through 6 of the General Plan. The Public Works Director drafted a proposal for a request for a planning study for the upper Channel. There will be a walk-through of the Channel in August. The next Channel Subcommittee meeting will be held September 9, 2002, at 8:00 a.m.**
- **Mayor Carlson attended the Finance and Building Facilities meeting, and the dedication ceremony of the Community Sculpture in Library Park on Saturday, August 17.**

**Agenda Item No. 25 was taken out of order.**

#### **25. APPOINTMENT OF ATHERTON ARTS COMMITTEE AND AUDIT COMMITTEE MEMBERS**

**Council Member Fisher announced the recommendations of the City Council Screening Committee for vacancies on the Arts Committee and the Audit Committee. John Rugeiro spoke from the audience regarding the appointment of resident advisors to the Transportation Committee. Mayor Carlson explained that the appointments of resident advisors to the Transportation Committee will take place at the October Transportation Committee meeting.**

**MOTION – to accept the recommendation of the City Council Screening Committee to appoint Judy Sleeth, Jack Phillips, and Hilary Hausman to the Atherton Arts Committee for indefinite terms, and Marc Hebert to the Audit Committee for a three year term.**

**M/S Conwell/Fisher**

**Ayes: 4 Noes: 0 Absent: 1 (Janz) Abstain: 0**

## **5. PUBLIC COMMENTS**

**Marts Beekley, 75 Reservoir Road, thanked Public Works Director Cliff Temps for his report, and reminded everyone that it is an El Nino year.**

## **6. STAFF REPORTS**

- City Manager Jim Robinson deferred questions on parcel taxes on parcels at Bear Gulch Reservoir to the next meeting when the Finance Director will be present. He provided information on water consumption from the reservoir. Staff will pursue information on the Town's use of water from Bear Gulch Reservoir in times of disaster.**
- The City Manager reported he is arranging to meet with the Little League president on maintenance issues and to discuss increasing the required liability coverage to \$2 million.**
- The City Manager reported on questions on the warrant list. Council Member McKeithen asked for a report back on the charges for planning services, and asked that at a later meeting, the Council address the issues of the valuation of building permit fees, the use of signs for public auctions, and what constitutes a landscape screening agreement.**
- The City Manager reported that Town staff feels there aren't any findings that would warrant a moratorium on construction of retaining walls at present. The issue will be addressed by the General Plan Committee in October.**
- The City Manager asked the Council to set a time for the Community Organization Roundtable meeting on September 10. The meeting will be held at 7:00 p.m. in the Pavilion at Holbrook-Palmer Park.**
- Public Works Director Cliff Temps gave an update on the Middlefield Road projects.**
- City Attorney Marc Hynes reported out of the Closed Session as follows:**

- A. CONFERENCE WITH LABOR NEGOTIATOR – pursuant to Government Code Section 94957.6. Agency Negotiator: James H. Robinson, City Manager  
Employee Organization: Management Employees**

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

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

**Claimant: Janet Martin. Agency claimed against: Town of Atherton.**

**The City Council, by unanimous vote, denied the claim.**

**Claimant: Rebecca Lee  
Agency claimed against: Town of Atherton**

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

- C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION pursuant to Government Code Section 54957. Title: City Manager**

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

- D. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION pursuant to Government Code Section 54956.9 (a)  
Stephen Chaput v. Town of Atherton  
Patrick McTaggart v. Town of Atherton**

**No action was taken.**

**7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT**

**The Victoria Manor Homeowners' Association representative was not present.**

**Marion Oster gave a report on the Atherton Heritage Association. She announced the celebration for Atherton's 79<sup>th</sup> birthday party which will be held on September 12, from 4:00 p.m. to 6:00 p.m. in the Council Chambers.**

**CONSENT CALENDAR**

**Council Member McKeithen asked for clarification on several items on the Consent Agenda. Public Works Director Cliff Temps explained the funding for the proposed Water Tower project. He also stated that under Item 21, only centerline striping is being proposed. City Attorney Marc Hynes stated that if the Council approves his**

recommendations for the Animal Control Services Agreement, he will proceed with negotiations with the County.

**MOTION - to approve the consent agenda with the revisions to the Animal Control Agreement under Item 18 as recommended in the staff report by City Attorney Marc Hynes.**

**M/S McKeithen/Fisher**

**Ayes: 4 Noes: 0 Absent: 1 (Janz) Abstain: 0**

- 8. APPROVED MINUTES OF SPECIAL MEETINGS OF JULY 9, 2002 AND JULY 17, 2002, AND REGULAR MEETING OF JULY 17, 2002**
- 9. APPROVED BILLS AND CLAIMS FOR JULY, 2002 IN THE AMOUNT OF \$742,515**
- 10. ACCEPTED MONTHLY FINANCIAL REPORT FOR JULY 2002**
- 11. WEST MIDDLEFIELD OVERLAY, PROJECT 02-003**  
**Awarded a contract to B. Bortolloto and Company for an amount not to exceed \$86,000.**
- 12. AWARD OF LANDSCAPE MAINTENANCE CONTRACT**  
**Awarded a two-year contract for landscape maintenance of El Camino Real median islands, Town Hall complex grounds, and miscellaneous area landscaping to Commercial Environmental Landscape.**
- 13. ADOPTION OF A RESOLUTION OF INTENTION TO CONSIDER THE VACATION OF A PORTION OF FAXON ROAD RIGHT-OF-WAY**  
**Adopted Resolution No. 02-26, a Resolution of Intention to consider the vacation of a portion of Faxon Road right-of-way adjacent to 96 Faxon Road, with reservation of a public utility easement, and setting a public hearing for October 16, 2002.**
- 14. APPROVAL OF AWARD OF A NEGOTIATED CONTRACT FOR HOLBROOK-PALMER PARK WATER TOWER REPAIR**  
**Declared the finding that no bids were received for the Holbrook-Palmer Park Water Tower repair, and authorized the Mayor to sign a negotiated contract with Nexgen Builders, Inc. for repair and painting of the Water Tower in the amount of \$102,309.79 upon receipt of \$84,716.93 from the Holbrook-Palmer Park Foundation and the Atherton Dames.**
- 15. ACCEPTANCE OF PROPOSAL TO PROVIDE ENGINEERING SERVICES FOR ELENA AVENUE AND BARRY LANE – ATHERTON CHANNEL BOX CULVERT REPLACEMENTS**

Accepted the proposal and authorized the Mayor to sign a contract with Wilsey Ham to provide engineering services for Elena Avenue and Barry Lane – Atherton Channel box culvert replacements in the amount of \$79,900.

**16. ACCEPTANCE OF PROPOSAL TO PROVIDE SURVEYING AND MAPPING SERVICES FOR 2003 STREET OVERLAY AND RECONSTRUCTION PROJECTS**

Accepted the proposal of CSG Consultants, Inc. in the amount of \$32,630 to provide surveying and mapping services for 2003 Street Overlay and Reconstruction projects.

**17. ADOPTION OF ORDINANCE NO. 534, AMENDING CHAPTER 5.20 OF THE ATHERTON MUNICIPAL CODE – REVISIONS OF SECTION 5.20.010 REGARDING PERMITS**

Adopted Ordinance No. 534 amending Chapter 5.20 of the Atherton Municipal Code by revising Section 5.20.010 pertaining to permits required for soliciting.

**18. APPROVAL OF AGREEMENT AND FIRST AMENDMENT TO AGREEMENT WITH COUNTY OF SAN MATEO TO PROVIDE ANIMAL CONTROL SERVICES FOR FISCAL YEAR 2002-2003**

Approved the agreement and the first amendment to the agreement with the County of San Mateo with the revisions stated in the Staff Report as recommended by the City Attorney.

**19. APPROVAL OF SECOND AMENDMENT TO CITY ATTORNEY’S AGREEMENT BETWEEN THE TOWN OF ATHERTON AND MARC G. HYNES OF ATKINSON-FARASYN, LLP**

Approved the Second Amendment to the City Attorney’s Agreement between the Town of Atherton and Marc G. Hynes of Atkinson-Farasyn, LLP.

**20. APPROVAL OF POLICY FOR CENTERLINE STRIPING AND APPROVED CENTERLINE MARKING LIST AS RECOMMENDED BY THE TRANSPORTATION COMMITTEE**

Adopted the Approved Centerline Marking List and the Policy for Centerline Striping attached to the staff report.

**21. APPROVAL OF PLANS AND SPECIFICATIONS FOR CENTERLINE STRIPING, PROJECT NO. 02-005**

Approved the plans and specifications for 2002 Street Striping.

**PUBLIC HEARING**

**22. PUBLIC HEARING AND ADOPTION OF A RESOLUTION ORDERING THE VACATION OF A PUBLIC UTILITIES EASEMENT AT 57 BROAD ACRES ROAD**

The City Council, at the regular meeting in June, adopted a resolution of intention to vacate the public utilities easement at 57 Broad Acres Road, and set a public hearing date for this meeting. Public Works Director Cliff Temps explained that the proper process has been followed in vacating the easement.

Mayor Carlson opened the public hearing at 8:20 p.m. There being no testimony heard, the public hearing was closed at 8:22 p.m.

**MOTION – to adopt Resolution No. 02-27 ordering the vacation of a public utilities easement at 57 Broad Acres Road, and to correct the title of said resolution by removing the extra word “the”.**

M/S Fisher/McKeithen

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

## **REGULAR AGENDA**

- 23. CONSIDER ADOPTION OF A RESOLUTION PROVIDING FOR THE APPOINTMENT TO THE OFFICE OF CITY COUNCIL MEMBER THOSE PERSONS WHO HAVE BEEN NOMINATED, OR ADOPTION OF A RESOLUTION TO HOLD THE GENERAL MUNICIPAL ELECTION AS SCHEDULED ON NOVEMBER 5, 2002**

City Attorney Marc Hynes reported that he has determined that no conflict exists for the current Council Members to vote on the proposed resolution regarding the appointment of Council Members. City Clerk Sharon Barker reported that the Elections Code allows the Council to adopt a resolution appointing candidates and canceling the election when there is an equal number of candidates to offices to be elected.

Motion – to adopt Resolution No. 02-28 providing for the appointment to the office of City Council, candidates Charles E. Marsala, Alan B. Carlson, and William R. Conwell who were nominated to office, and canceling the November 5, 2002 Municipal Election.

M/S Fisher/McKeithen

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

- 24. AWARD OF CONTRACT – POLICE GARAGE STORAGE BUILDING, PROJECT 02-004**

Public Works Director Cliff Temps presented this item. The plans for the Police Garage Storage Building conform to the recommendations of the Planning Commission. The Capital Improvement Program includes \$75,000 for the construction of a new Police Garage Storage Building. Discussion ensued regarding facilities funding and possible future uses of the building.

**MOTION – to award the contract for the construction of a Police Garage Storage Building to Dymond Construction in the amount of \$88,782.00 to be funded by the Capital Improvement Fund.**

**M/S McKeithen/Conwell**

**Ayes: 4 Noes: 0 Absent: 1 (Janz) Abstain: 0**

**26. INTRODUCTION AND FIRST READING OF AN ORDINANCE AMENDING CHAPTER 15.40 OF THE ATHERTON MUNICIPAL CODE PERTAINING TO CONSTRUCTION REGULATIONS**

**City Attorney Marc Hynes presented the proposed ordinance with changes that were recommended by the Council at the last meeting. Council Member Fisher expressed concerns with the possible reduction in the recycling of demolition materials if demolition sales are only permitted on weekdays. Building Official Mike Hood will track the recycling of demolition materials if the ordinance goes into effect.**

**John Ruggiero, 10 Stockbridge Avenue, and Jim Dobbie, 124 James Avenue, spoke from the audience. Marion Oster, 38 Flood Circle, recommended that the sign policy be written on the demolition permit.**

**MOTION - to introduce an ordinance amending Chapter 15.40 of the Atherton Municipal Code, construction regulations, regarding demolition sales, operations of vehicles, required signs and penalties for violation, add the word “demolition” as the second to last word in the last sentence in Section 1 (...the *demolition* site), and waive further reading.**

**M/S Fisher/Conwell**

**Ayes: 4 Noes: 0 Absent: 1 (Janz) Abstain: 0**

**27. APPROVAL OF AGREEMENT WITH THE CITY OF PALO ALTO FOR INFORMATION TECHNOLOGY SERVICES THROUGH JUNE 30, 2003**

**Linda Kelly, Assistant to the City Manager, presented this item. The Staff Technology Committee, consisting of the Assistant to the City Manager, City Clerk, and Finance Director, has identified issues related to the management of the Town’s information technology systems, and recommends contracting with the City of Palo Alto for Information Technology Services. Included in the proposed contract are maintenance services for hardware, software, and the Town website. Maintenance will include an on-site technician several hours per week and a “help desk” to provide technical support to Town employees. The Finance Committee, at its meeting on August 12, 2002, reviewed and approved in concept the proposed contract with Palo Alto. The Town will continue to use the services of Harris Software for the Municipal Finance software.**

The Council expressed concerns with Palo Alto ensuring response times, and with “help desk” after hours availability and after hours rates. Council Member McKeithen asked for a provision to be included in an amendment to the contract for the Town to piggy back on Palo Alto’s purchasing contract for computer hardware. Linda Kelly explained how statements of hours used will be provided to the Town on a monthly basis so staff can monitor off hours usage of support services.

Charles Marsala asked if website charges will be billed at fifteen minute increments as they are under the current vendor. The City Manager stated that the City Clerk monitors the website and will clarify at what increments the billing will be done.

The Council asked staff to report back on the status of the services under the Palo Alto contract at the November meeting.

**MOTION - to approve the agreement with the City of Palo Alto for Information Technology Services through June 2003, with clarification of rates for after hours help desk services, (as stated in Exhibit B), clarification of the increment billing for website services, amendment for purchasing of computer equipment through Palo Alto, a letter guaranteeing response times, and staff to return to the Council with a report on the status of the services at the November meeting.**

M/S Fisher/Conwell

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

**28. SET DATE FOR JOINT MEETING WITH MENLO PARK CITY COUNCIL FOR CONSIDERATION OF VALPARAISO AVENUE TRAFFIC STUDY**

City Manager Jim Robinson stated that a joint meeting with the City of Menlo Park City Council has been recommended for discussion and consideration of the Valparaiso Avenue Traffic Study. The Council chose September 24, 25, and 26, 2002 as possible dates for a joint meeting. The City Manager will return to Council with a final date after the Menlo Park City Council’s next meeting.

**29. DISCUSSION AND POSSIBLE ACTION – ATHERTON CHANNEL WATER TESTING**

This item was discussed at the July 17, 2002 City Council meeting. A proposal from EOA, Inc. in the amount of \$34,700 was reviewed by the Atherton Channel Drainage Subcommittee, and presented to the Council at the July meeting. At that time, staff was asked to pursue less expensive methods of testing the water in the Channel.

**MOTION - to authorize the City Manager to contact the Bay Area Water Quality Management District to test the water in the Channel.**

M/S Conwell/McKeithen

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

**30. PUBLIC COMMENTS**

**There were no public comments.**

**31. ADJOURNMENT**

**The meeting adjourned at 9:17 p.m.**

**Respectfully submitted,**

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**Sharon Barker, City Clerk**

**TOWN OF ATHERTON**  
**CLAIMS LIST**  
Aug, 2002

**Item No. 9**

Payroll Checks	1046-1141	\$ 51,313
Electronic Transfers		283,828
A/P Checks	13542-13608	448,782
TOTAL		\$783,923

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 1046 through 1141 (Payroll) and 13542 through 13608 (Accounts Payable), and Electronic Transfers for Employees Federal Payroll Taxes and fees, inclusive, amount to \$783,923 are true and correct, and that there are funds for payment.

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James H. Robinson  
City Manager

The above claims, Payroll check numbers 1046 through 1141, Accounts Payable check numbers 13542 through 13608 and Electronic Transfers for employees federal payroll taxes and fees, amount to \$783,923; and are hereby approved for payment.

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Alan Carlson  
Mayor, Town of Atherton

**SOURCE OF FUNDS**

101	General Fund	\$600,372
105	Tennis Fund	-
201	Special Parcel Tax	750
202	Transportation	20,163
203	Gas Tax Fund	-
210	Road Construction Impact Fees	21,218
401	General Capital Projects	-
402	Storm Drainage	-
403	Atherton Channel District	-
404	Park Playground Improvement	108
610	Vehicle Replacement	-
611	Computer Maint. & Replacement	1,486
612	Administrative Services	127,680
614	Workers Compensation Insurance	-
715	Evans Estate	12,147
730	H-P Park Improvement	-
740	Tree Committee	-
TOTAL		\$783,923



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

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

**DATE: FOR THE MEETING OF WEDNESDAY SEPTEMBER 18, 2002**

**SUBJECT: MONTHLY FINANCIAL REPORT, AUGUST, 2002**

### **RECOMMENDATION:**

Receive and file Monthly Financial Report for August, 2002.

### **INTRODUCTION:**

The attached schedules show revenues and expenditures and fund balance for all funds as of August 31<sup>st</sup>, 2002.

### **FISCAL IMPACT:**

Informational only.

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 August 31st, 2002**

<b>Fund</b>	<b>Revenue Source</b>	<b>2002-03 Estimate</b>	<b>Current Period Revenues</b>	<b>Year to Date Revenues</b>	<b>% Received</b>
	Property Tax	\$ 2,927,487	6,327	\$ 6,327	0%
	Sales and Use Tax	255,000	17,558	24,560	10%
	Other Taxes	882,158	37,128	37,270	4%
	Licenses & Permits	1,407,000	128,277	268,999	19%
	Fines & Forfeitures	70,000	6,407	7,672	11%
	Revenue from Other Agencies	394,868	40,965	51,096	13%
	Charges for Services	352,400	64,940	131,595	37%
	Investment & Rental Income	220,974	4,198	12,676	6%
	Other Revenues	3,000	8,593	9,349	312%
	<b>Total General Fund Revenues</b>	<b>6,512,887</b>	<b>314,393</b>	<b>549,544</b>	<b>8%</b>
	Interfund (Operating) Transfers In	694,000	-	-	0%
<b>101</b>	<b>General Fund Total</b>	<b>7,206,887</b>	<b>314,393</b>	<b>549,544</b>	<b>8%</b>
	<b>Special Revenue Funds:</b>				
105	Tennis	9,000	450	905	10%
201	Special Parcel Tax	1,570,000	-	-	0%
202	Transportation	270,000	20,244	22,895	8%
203	Street Improvement (Gas Tax)	200,000	-	1,571	1%
208	Police on the Street	-	-	-	0%
209	Law Enforcement	100,000	-	-	0%
210	Road Construction Impact Fees	400,000	20,004	45,852	11%
211	State Park Grants Fund	-	-	-	0%
213	Library	20,000	-	-	0%
	<b>Total</b>	<b>2,549,000</b>	<b>40,698</b>	<b>71,223</b>	<b>3%</b>
	<b>Capital Project Funds:</b>				
401	Capital Improvement	10,000	-	-	0%
402	Storm Drainage	10,000	-	-	0%
403	Channel Drainage District	52,280	91	91	0%
404	Park Playground Improvement	-	-	2,200	0%
405	Middlefield Road Grants	1,200,000	-	-	0%
406	Facilities Construction	22,000	-	-	0%
	<b>Total</b>	<b>1,294,280</b>	<b>91</b>	<b>2,291</b>	<b>0%</b>
	<b>Internal Service Funds:</b>				
610	Vehicle Replacement	39,400	-	-	0%
611	Information Technology	91,371	-	-	0%
612	Administrative Services	406,256	-	-	0%
614	Workers Compensation Insurance	110,129	-	-	0%
	<b>Total</b>	<b>647,156</b>	<b>-</b>	<b>-</b>	<b>0%</b>
	<b>Total Revenues and Transfers -- All Funds</b>	<b>\$ 11,697,323</b>	<b>355,182</b>	<b>\$ 623,058</b>	<b>5%</b>
	<b>Trust and Agency Funds:</b>				
715	Evans Creative Design	116,900	4,794	7,429	6%
720	Library Extension	-	-	-	0%
727	Colley Trust Fund	-	-	-	0%
730	H-P Park Improvement	-	-	-	0%
731	MA Little League	-	-	-	0%
740	Tree Committee	-	-	-	0%
	<b>Total</b>	<b>116,900</b>	<b>4,794</b>	<b>7,429</b>	<b>6%</b>
	<b>Total Revenues</b>	<b>11,814,223</b>	<b>359,976</b>	<b>630,487</b>	<b>5%</b>

**TOWN OF ATHERTON**  
**Expenditure Summary**  
**For the Month Ended August 31st, 2002**

<b>Fund</b>	<b>Description</b> <b>Department</b>	<b>2002-03</b> <b>Budget</b>	<b>Current Period</b> <b>Expenditures</b>	<b>Year to Date</b> <b>Expenditures</b>	<b>%</b> <b>Spent</b>
101	General Fund				
	11 City Council	\$ 21,650	\$ 66	5,996	28%
	12 City Manager	476,686	28,472	60,092	13%
	16 City Attorney	195,734	8,888	8,888	5%
	18 Finance	401,879	25,079	55,066	14%
	25 Building	867,699	61,310	100,915	12%
	40 Police	3,687,057	253,310	486,266	13%
	50 Public Works	1,738,907	127,132	239,081	14%
	Contingency	100,000	-	-	0%
	Total General Fund Expenditures	<u>7,489,612</u>	<u>504,257</u>	<u>956,304</u>	<u>13%</u>
	Interfund (Operating) Transfers Out	-	-	-	0%
101	<b>General Fund Total</b>	<b><u>\$ 7,489,612</u></b>	<b><u>\$ 504,257</u></b>	<b><u>\$ 956,304</u></b>	<b><u>13%</u></b>
<b>Special Revenue Funds:</b>					
105	Tennis	29,946	-	-	0%
201	Special Parcel Tax	1,480,309	750	843	0%
202	Transportation	273,992	20,163	20,163	7%
203	Street Improvement (Gas Tax)	155,319	-	-	0%
208	Police on the Street	40,000	-	-	
209	Law Enforcement	100,000	22,929	44,880	45%
210	Road Impact Fees	684,294	-	-	0%
211	State Park Grants	89,259	-	-	0%
213	Library Fund	25,384	-	-	0%
	Total	<u>2,878,503</u>	<u>43,842</u>	<u>65,886</u>	<u>2%</u>
<b>Capital Project Funds:</b>					
401	Capital Improvement	396,861	-	-	0%
402	Storm Drainage	-	-	-	0%
403	Channel Drainage District	90,848	-	-	0%
404	Park Playground Fund	-	108	108	100%
405	Middlefield Road Grants	1,299,000	-	-	0%
406	Facilities Construction	198,454	-	-	0%
	Total	<u>1,786,709</u>	<u>108</u>	<u>108</u>	<u>0%</u>
<b>Internal Service Funds:</b>					
610	Vehicle Replacement	45,000	-	-	0%
611	Information Technology	100,500	1,486	2,536	3%
612	Administrative Services	325,335	133,343	138,116	42%
614	Workers Compensation Insurance	125,000	-	-	0%
	Total	<u>595,835</u>	<u>134,829</u>	<u>140,652</u>	<u>24%</u>
<b>Trust and Agency Funds:</b>					
715	Evans Creative Design	84,750	12,147	17,569	21%
727	Colley Reward Fund	-	-	-	
730	H-P Park Improvement	-	-	-	
731	MA Little League	-	-	-	
740	Tree Committee	730	-	-	
	Total	<u>85,480</u>	<u>12,147</u>	<u>17,569</u>	
	<b>Total Expenditures</b>	<b><u>12,836,139</u></b>	<b><u>695,183</u></b>	<b><u>1,180,519</u></b>	<b><u>9%</u></b>

**TOWN OF ATHERTON**  
**Budget Summary**  
**Fiscal Year 2002-03**  
**As of August 31st, 2002**

<b>Fund</b>	<b>Description</b>	<b>Beginning Fund Balance July 1, 2002</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>	4,995,672	549,544	-	956,304	4,588,912
	<b>Special Revenue Funds:</b>					
105	Tennis	20,496	905		-	21,401
201	Special Municipal Tax	851,948	-		843	851,105
202	Transportation	4,039	22,895		20,163	6,771
203	Street Improvement (Gas Tax)	173,225	1,571		-	174,796
208	Police on the Street	40,235	-		-	40,235
209	Law Enforcement	341,883	-		44,880	297,003
210	Road Construction Impact Fees	486,515	45,852		-	532,367
213	Library Special Revenue Fund	400,000	-		-	400,000
	Sub Total	<u>2,318,341</u>	<u>71,223</u>	<u>-</u>	<u>65,886</u>	<u>2,323,678</u>
	<b>Capital Projects Funds:</b>					
401	Capital Improvement	461,788	-		-	461,788
402	Storm Drainage	19,625	-		-	19,625
403	Channel Drainage District	429,676	91		-	429,767
404	Park Playground Improvement	-	2,200		108	2,092
405	Middlefield Road Grants	-	-		-	-
406	Facilities Construction	220,000	-		-	220,000
	Sub Total	<u>1,131,089</u>	<u>2,291</u>	<u>-</u>	<u>108</u>	<u>1,133,272</u>
	<b>Internal Service Fund</b>					
610	Vehicle Replacement	253,694	-		-	253,694
611	Information Technology	26,044	-		2,536	23,508
612	Administrative Services	16,615	-		138,116	(121,501)
614	Workers Compensation Insurance	11,206	-		-	11,206
	Sub Total	<u>307,559</u>	<u>-</u>	<u>-</u>	<u>140,652</u>	<u>166,907</u>
	<b>Trust and Agency Funds</b>					
715	Evans Creative Design	126,526	7,429		17,569	116,386
727	Colley Reward Fund	-	-		-	-
730	H-P Park Improvement	6,024	-		-	6,024
731	MA Little League	(1,571)	-		-	(1,571)
740	Tree Committee	345	-		-	345
	Sub Total	<u>131,324</u>	<u>7,429</u>	<u>-</u>	<u>17,569</u>	<u>121,184</u>
	<b>Grand Total</b>	<u>\$ 8,883,985</u>	<u>\$ 630,487</u>	<u>\$ -</u>	<u>\$ 1,180,519</u>	<u>\$ 8,333,953</u>



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCILMEMBERS**

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

**DATE: CITY COUNCIL MEETING OF SEPTEMBER 18, 2002**

**SUBJECT: ORDINANCE AMENDING CHAPTER 15.40 OF THE ATHERTON MUNICIPAL CODE, CONSTRUCTION REGULATIONS, REGARDING DEMOLITION SALES, OPERATIONS OF VEHICLES, REQUIRED SIGNS AND PENALTIES FOR VIOLATIONS**

**RECOMMENDATION:** It is recommended that the City Council waive further reading of the ordinance and adopt this ordinance amending Chapter 15.40, Sections 15.40.110, 15.40.140 and 15.40.160 as shown and adding new Section 15.40.155. Attention is invited to the provisions of Section 1 of the Ordinance and Section 15.40.110 which has been revised in the last line to include the word "demolition" before the word "site."

**FISCAL IMPACT:** None.

Respectfully,

Marc G. Hynes  
MARC G. HYNES

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

AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON AMENDING  
CHAPTER 15.40 OF THE ATHERTON MUNICIPAL CODE, CONSTRUCTION  
REGULATIONS, REGARDING DEMOLITION SALES, OPERATIONS OF VEHICLES,  
REQUIRED SIGNS AND PENALTIES FOR VIOLATION

---

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

**SECTION 1.**

Section 15.40.110 of the Atherton Municipal Code is amended to revise Subparagraph A to read as follows:

**"15.40.110 Definitions.**

As used in this chapter:

A. Except as otherwise provided in this chapter, "Construction" means the act or process of building, including, but not limited to landscape installation, site preparation, alteration, repair, remodeling, assembly, erection, or similar action, of buildings, structures, pavement, flat work and other works including the use of power equipment in connection with activities therewith. Site preparation includes demolition and the removal of materials in connection with the demolition and/or removal of materials including landscape plantings, by any means including "demolition sales" or invitations to the public to retrieve and remove any material from the demolition site."

**SECTION 2.**

Section 15.40.140 of the Atherton Municipal Code is hereby amended to read as follows:

**"15.40.140 Operation of Vehicles – Pick-Ups and Deliveries.**

Vehicles engaged in the delivery or pick-up of supplies and materials to or from construction projects shall be loaded or unloaded on the construction site whenever possible. Vehicles are not to arrive at the construction site before the hour of 8:00 a.m. and must depart the construction site no later than 5:00 p.m. The engines of delivery and pick-up vehicles shall be shut off upon arriving at the site and shall remain shut off during the time supplies, materials, or equipment are being loaded onto or unloaded from the vehicle unless the operation of the engine is required to load or unload the vehicle."

**SECTION 3.**

Section 15.40.155 is hereby added to the Atherton Municipal Code to read as follows:

**"15.40.155 Posting of Signs.**

Signs advising of the provisions of this Chapter and prepared by the Town shall be purchased from the Town by the person acquiring any building permit or engaging in

construction as defined above. Signs shall be posted at locations and in the manner prescribed by the City Manager or designee."

#### **SECTION 4.**

Section 15.40.160 of the Atherton Municipal Code is hereby amended to read as follows:

##### **"15.40.160 Violations.**

A. A violation of this ordinance is a misdemeanor and shall be punished as provided in Section 1.20.040. A civil action may be commenced to abate, enjoin, or otherwise compel the cessation of violation of any provision in this Chapter. In a civil action brought pursuant to this Chapter in which the Town prevails, the court may award to the Town all costs of investigation and preparation for trial, the costs of trial, reasonable expenses including overhead and administrative costs incurred in prosecuting the action, and reasonable attorney fees.

B. As part of a civil action brought by the Town, a court may assess against any person who commits, allows, or maintains a violation of any provision of this Chapter a civil penalty in an amount not to exceed five thousand dollars per violation.

C. Upon any guilty plea or judgment or conviction, in any criminal proceeding brought for the violation of this ordinance, where the defendant is entitled by law to probation, then the court may require the payment to the Town of the costs and expenses as described above and the code provision incorporated by reference as one of the conditions of such probation."

D. The Building Official is authorized to order work stopped whenever work is being done contrary to the provisions of this Chapter.

#### **SECTION 5.**

Except as added and amended, all other terms and provisions of Chapter 15.40 continue to remain in effect.

#### **SECTION 6.**

The City Council hereby declares it would have passed this ordinance sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that the provisions 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 7.**

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.

\* \* \* \* \*

I hereby certify that the foregoing ordinance was introduced at a regular meeting of the City Council of the Town of Atherton held on August 21, 2002, and was adopted by said City Council at a regular meeting held on \_\_\_\_\_, 2002 by the following roll call vote:

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

\_\_\_\_\_  
Alan B. Carlson, Mayor  
Town of Atherton

ATTEST:

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

APPROVED AS TO FORM:

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



## **Town of Atherton**

### **CITY COUNCIL STAFF REPORT**

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

**FROM: CLIFF TEMPS, PUBLIC WORKS DIRECTOR**

**DATE: FOR THE MEETING OF SEPTEMBER, 2002**

**SUBJECT: ACCEPTANCE OF PROPOSAL FOR UPPER ATHERTON CHANNEL  
PROJECT PLANNING STUDY**

### **RECOMMENDATION**

Accept the proposal of BKF Engineers, Surveyors, Planners to perform the Upper Atherton Channel Project Planning Study and authorize the Mayor to sign the contract for same.

### **INTRODUCTION**

The FY 02/03 Capital Improvement Budget includes \$75,000 in Channel District funding for a study and preliminary design addressing erosion, failing rip rap, channel bank instability, and potential tree and adjacent improvement loss problems along approximately 1350 feet of the Atherton Channel, immediately upstream from Reservoir Road. The Nolte Town-wide Drainage Study identified solving the problems in this area as the Town's number one drainage priority.

The Request for Proposals (RFP) developed to solicit proposals for the work is attached. RFPs were sent to nine local firms listed as having expertise in stream channel repair work, and an invitation was extended to these firms to attend an on-site review and explanation of channel history. Four primary consultant firms sent representatives to the on-site, and two of the firms, Nolte and BFK, submitted proposals. Copies of the proposals are included in the packages prepared for Council members.

### **ANALYSIS**

A spreadsheet, prepared by staff, comparing the two proposals is attached. Members of the Council Channel District Sub-Committee reviewed and discussed the proposals and unanimously agreed on BFK.

The cost proposals of Nolte and BFK were very close, \$72,215 and \$68,965 respectively, and cost was not a significant consideration in the selection process.

In the course of discussing BFK's proposal, the Sub-Committee agreed with staff that certain areas should be clarified or expanded upon. These were discussed with BFK and are reflected in the September 11, 2002 letter and revised Work Plan attached to this report. The added surveying we requested raised the cost by an estimated \$1,800.

**FISCAL IMPACT**

The projected cost for the study is \$70,765. The budget allocation is \$75,000.

**CONCLUSION:**

BFK should be retained to perform the project planning study.

Respectfully submitted:

Reviewed/Approved:

Cliff Temps  
Public Works Director

James Robinson  
City Manager



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

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

**FROM: CLIFF TEMPS, PUBLIC WORKS DIRECTOR**

**DATE: FOR THE MEETING OF SEPTEMBER 18, 2002**

**SUBJECT: ACCEPTANCE OF WORK AND AUTHORIZATION TO RECORD NOTICE  
OF COMPLETION – 2002 STREET RECONSTRUCTION - PHASE 1,  
PROJECT 02-002**

### **RECOMMENDATION**

Accept the work and authorize recordation of a notice of completion for 2002 Street Reconstruction - Phase 1 project.

### **INTRODUCTION**

The Council awarded a contract in June to G. Bartolotto Company for reconstructing James Avenue and Irving Avenue cul-de-sacs and Magnolia Drive, between James and Irving. The authorized contract amount was \$187,592.57. Work under the contract has been completed.

### **ANALYSIS**

The contract price was based on unit prices and included an allowance of \$11,550 for removing and replacing any areas of weak subsoil that might be encountered. The job went very well, and only a small area of subsoil problem was found. The final cost for all work totaled \$178,542.57.

### **FISCAL IMPACT**

Funding for this project is part of \$1,098,816 in the FY 02/03 budget for street reconstruction. The cost of this segment of work is \$121,500 less than its part of the budget estimate.



**CONCLUSION:**

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

Respectfully submitted:

Reviewed/Approved:

Cliff Temps  
Public Works Director

James Robinson  
City Manager



## Town of Atherton

### CITY COUNCIL STAFF REPORT

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

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

**DATE: FOR THE MEETING OF WEDNESDAY, SEPTEMBER 18, 2002**

**SUBJECT: TREASURER'S INVESTMENT REPORT FOR THE QUARTER ENDING JUNE 30, 2002**

### RECOMMENDATION:

Note, receipt and file.

### 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 June 30<sup>th</sup>, 2002.

### ANALYSIS

As of June 30<sup>th</sup>, 2002 the Town had a total investment of **\$9,940,445**. The total interest earning for the quarter ending September 30 is **\$80,161**. The funds are invested in the San Mateo County Investment Pool (SMCIP) and the Local Agency Investment Fund (LAIF).

**Investment at SMCIP:** San Mateo County Investment Pool is created and managed by County Treasurer. The Pool has a total portfolio of \$ 1.9 billion in market value as of September 30, 2001. The Town had an investment of **\$7,081,906** in the pool at the end of the quarter. The total interest earning on

the Town's investment for the quarter is **\$62,133**. The copies of the monthly summary report of investments for the quarter are attached herewith for Council review. The reports reflect the deposits, withdrawals and the balance of the investment.

**Investment in LAIF:** Local Agency Investment Fund is created and managed by the State Treasurer. The fund had a total portfolio of \$ 47.7 billion as of June 30th, 2002. The Town had an investment of **\$2,858,539** invested in the fund at the end of the quarter. The total interest earning on the Town's investment for the quarter is **\$18,028.07**. The copies of the monthly statements of investment are attached herewith for Council review.

### **ADDITIONAL INFORMATION**

#### **ATTACHMENTS:**

1. Monthly investment account statements from SMCIP and LAIF.

Submitted by:

Reviewed/Approved:

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John P. Johns  
Finance Director

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James H. Robinson  
City Manager



## Town of Atherton

### CITY COUNCIL STAFF REPORT

**TO:** HONORABLE MAYOR AND CITY COUNCIL

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

**DATE:** CITY COUNCIL MEETING OF SEPTEMBER 18, 2002

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

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

**Background:** Attached is a first amendment to the employment agreement between the City Manager and the Town. The amendment revises the agreement in two respects. First, the City Manager's salary is increased from the present \$130,000 per year to \$149,000 per year. This increase will be effective July 23, 2002. The second revision to the agreement confirms that the City Manager shall have four weeks of annual vacation per fiscal year and that vacation time shall accrue at the same rate and manner as applies to those employees whose compensation and benefits are set by the management resolution.

**Fiscal Impact** The \$19,000 increase envisioned by the agreement is within the Town's adopted budget.

Respectfully,

---

Marc G. Hynes, City Attorney

Attachment

FIRST AMENDMENT TO  
EMPLOYMENT AGREEMENT

BETWEEN

THE TOWN OF ATHERTON AND JAMES H. ROBINSON

This First Amendment to the Agreement dated May 25, 2001, between the TOWN OF ATHERTON, a municipal corporation of the State of California, ("Town") and JAMES H. ROBINSON ("City Manager") is hereby amended by revising paragraphs 4.A. and 5.D. to read as follows:

4. Compensation and Benefits.

A. Base Salary: During the term of this Agreement City Manager shall be paid a salary at the rate of \$149,000.00 per year, commencing July 23, 2002, or at such salary as may be approved by the City Council of the Town by resolution from time to time.

5. Expense Reimbursement.

D. Vacation. City Manager shall have four (4) weeks of annual vacation per fiscal year. Vacation time shall accrue at the same rate and manner as applied to those employees whose compensation and benefits are set by the Management Resolution. Vacation time may be adjusted by agreement of the parties as set out in a written amendment to this Agreement. City Manager may take vacation time at his discretion with notice to the City Council.

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

TOWN OF ATHERTON

Dated: September \_\_\_\_\_, 2002.

By \_\_\_\_\_  
Alan B. Carlson, Mayor

Dated: September \_\_\_\_\_, 2002.

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

ATTEST:

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

APPROVED AS TO FORM:

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



Town of Atherton

## **CITY COUNCIL STAFF REPORT**

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

**DATE: FOR THE CITY COUNCIL MEETING OF SEPTEMBER 18, 2002**

**FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER  
ORDINANCE PLACING LIMITATIONS ON BASEMENT AREAS**

**SUBJECT: PUBLIC HEARING - AMENDMENT TO CHAPTER 17.36.190 OF THE  
ATHERTON MUNICIPAL CODE RELATED TO BASEMENTS**

### **RECOMMENDATION:**

Staff recommends that the City Council conduct the public hearing and adopt the attached Ordinance placing limitations on the construction of basements outside of the building main buildable area based on the following findings for the reasons outlined in this staff report:

1. The ordinance is necessary to achieve the objectives of the Zoning Plan and the General Plan.  
Basis for finding: The Municipal Code and General Plan policies require the preservation of landscaping and heritage trees, specifically in the tree preservation area. Limiting basements to the footprint of the building will help preserve trees and other landscaping in the tree preservation area.

### **INTRODUCTION:**

Limitations to basements have been discussed at numerous General Plan Committee meetings, Planning Commission meetings and City Council meetings. In anticipation of an ordinance amendment, the City Council passed a moratorium limiting basements outside of the main buildable area. The General Plan Committee, at their meeting on January 9, 2002, most recently reviewed limitations to basements. At that meeting, the Committee recommended the Planning Commission consider the Ordinance as attached to this staff report.

The Planning Commission at their September 12, 2002 meeting reviewed the proposed ordinance and voted to recommend that the City Council adopt the ordinance as proposed.

**ANALYSIS:**

The Atherton Municipal Code is currently interpreted to allow the construction of basements within five feet of any property line. Staff has noticed recent interest among builders to maximize basement areas. Concern has been expressed with the resulting tree preservation area when a basement could be constructed within five feet of any property line.

The General Plan Committee and Planning Commission recommend the following wording for the basement ordinance:

“Basements are only permitted under the footprint of buildings located within the buildable area. Areas for stairways and light wells may extend beyond the footprint of buildings, but shall be limited to the buildable area.”

The proposed language prohibits basements from being constructed outside of the buildable area. It does allow for the construction of a basement under an accessory structure, only if the accessory structure is located within the buildable area. It therefore prohibits basements to be located under accessory structures when constructed on other areas of the lot (within 10’ of the side or rear property line). The proposed language limits the area in which a basement could be constructed and thereby allows for substantial tree planting and retaining the tree preservation area.

**CONCLUSION:**

It is Planning staff’s professional opinion that the proposed ordinance would not be contrary to the purpose and intent of the General Plan and the Zoning Code.

**ALTERNATIVES:**

The Council could choose not to adopt the ordinance, or could modify the ordinance.

**FISCAL IMPACT:**

Costs of preparing the ordinance are paid for by the Town of Atherton.

**ENVIRONMENTAL IMPACT:**

The proposed Ordinance Amendment is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15305, Minor Alterations in Land Use Limitations of the CEQA guidelines.

**FORMAL MOTION:**

I move that the City Council adopt the attached Ordinance placing limitations on basements within the Town of Atherton based on the findings and for the reasons incorporated in the Staff Report.

*s/Lisa Costa Sanders*  
\_\_\_\_\_  
Lisa Costa Sanders, Deputy Town Planner

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

**Attachments:**

1. Draft Ordinance
2. Planning Commission September 12, 2002 draft meeting minutes
3. General Plan Committee January 9, 2002 meeting minutes

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

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
AMENDING THE ATHERTON MUNICIPAL CODE PLACING LIMITS ON  
BASEMENTS WITHIN THE TOWN OF ATHERTON**

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

**SECTION 1:** Section 17.36.190 of the Atherton Municipal Code is hereby amended to read as follows:

**17.36.190 Basements**

“Basements shall not exceed two feet in height above the surrounding average natural grade. Exceptions to the requirements of this section for hillside properties (where the average cross-slope is greater than twenty percent as determined under Section 16.24.050) may be permitted upon issuance of a conditional use permit. *Basements are only permitted under the footprint of buildings located within the buildable area. Areas for stairways and light wells may extend beyond the footprint of buildings, but shall be limited to the buildable area*”.

**SECTION 2:** That the City Council hereby declares that it would have passed this Ordinance sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions on 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 effect the validity of the remaining parts of this Ordinance.

**SECTION 3:** This Ordinance shall be posted in at least three public places according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

Introduced this \_\_\_\_ day of \_\_\_\_\_, 2002

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the \_\_\_\_ day of \_\_\_\_\_, 2002, by the following vote

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

ATTEST:

\_\_\_\_\_  
 MAYOR, Town of Atherton

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

APPROVED AS TO FORM:

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Marc G. Hynes, City Attorney

**DRAFT MINUTES  
PLANNING COMMISSION MEETING  
SEPTEMBER 12, 2002  
6:30 p.m.**

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

**SPECIAL MEETING**

Chair Lively called the meeting to order at 6:30 p.m.

**1. ROLL CALL:**

**PRESENT:** Philip Lively  
Robert Andrews  
Jennifer Acheson  
Rose Hau  
Marion Oster

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

**PUBLIC HEARINGS**

*Ordinance Amendment – Basement Ordinance – Modifications to the limitations on basements. Atherton Municipal Code Section 17.36.190.*

*Lisa Costa Sanders presented the staff report.*

**MOTION – to recommend the City Council adopt the Basement Ordinance based on the following finding:**

**M/S Oster/Hau                      Ayes: 5                      Noes: 0**

**Finding:**

1. The ordinance is necessary to achieve the objectives of the Zoning Plan and the General Plan.

GENERAL PLAN COMMITTEE  
APPROVED MINUTES

TOWN OF ATHERTON  
REGULAR MEETING  
January 9, 2002, 6:00 p.m.  
TOWN COUNCIL CHAMBERS  
94 ASHFIELD ROAD

**ROLL CALL:**

**PRESENT:** Phil Lively, Shirley Carlson, Sandy Kaye, Rose Hau, Jim Dobbie,  
Joan Sanders

**EXCUSED:** Dianne Fisher  
Alan Carlson

**BASEMENT LIMITATION**

Mike Hood provided information on soil conditions and water tables in the Town. He stated that most of the water tables are located 40' below ground and can be found between 40' and 80' and again between 100' and 150'. He stated that basements will not have much if any effect on water flow underground. Mr. Hood stated that if everyone in Town were to construct basements at their maximum ability, it might have the effect of raising the ground water table +/- 2'. With the type of groundwater circulation, it may increase the water velocity rather than shift the water outwards. Mr. Hood also noted that many of the wells in town are pulling out more water than is being injected into the ground. The Town is seeing some signs of ground settlement which is a sign of over drafting of the water table. Need to get clean water back into the ground. Mike Hood stated that there is no real problem with the basement depth.

M/S Dobbie/Sanders to recommend the Planning Commission consider the following wording for basements; "Basements are only permitted under the footprint of buildings located within the buildable area. Areas for stairways and light wells may extend beyond the footprint of buildings, but shall be limited to the buildable area." Motion passed.

**ATKINSON • FARASYN, LLP**

ATTORNEYS AT LAW

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

MEMORANDUM

TO: Honorable Mayor and City Councilmembers, Town of Atherton  
FROM: Marc G. Hynes, City Attorney  
RE: Atherton Channel Drainage District – LAFCO Procedures - Reorganization  
DATE: September 12, 2002

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This memorandum sets out the timetable which would apply to proceedings which the Atherton Channel Drainage District could pursue in connection with a dissolution of the agency. Assumption of the District's assets and liabilities by a successor agency such as the San Mateo County Flood Control District would proceed under the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Govt. Code §§ 56000 through 57550.) All further references are to the Government Code unless otherwise indicated.

The Cortese-Knox-Hertzberg Act establishes application and hearing procedures for Local Agency Formation Commissions (LAFCOs) in connection with boundary changes which are pursued by governmental agencies. These boundary changes are also known as changes of organization or re-organization. Reorganizations are defined as two or more changes of organization initiated in a single proposal (56073.) In our case, dissolution of the district and consolidation of the territory within successor agency would be two changes of organization – hence a reorganization.

A change of organization may be brought about in one of three ways:

- Initiation by LAFCO (56375);
- Resolution of Application submitted by a local agency such as the Atherton Channel Drainage District (56654);
- (In the case of a district such as the Atherton Channel Drainage District) Petition of 10% of the number of landowners – voters of the district who also own not less than 10% of the assessed value of the land within the district (56870).

For purposes of this memorandum, the procedure set out assumes a change of organization commenced by the adoption of a Resolution of Application.

<u>Timeline</u>	
Day 1	<ul style="list-style-type: none"> <li>• 20 days before the adoption of the resolution by the local agency, mailed notice of the intention to adopt the resolution must be sent to LAFCO and each interested agency (56654( b).)</li> </ul>
	<p>The petition must include a description of the boundaries of the affected territory, accompanied by a map, any proposed terms and conditions, the reason for the proposal and a statement as to whether the proposal is consistent with its sphere of influence of any affected city or affected district. (56700.) The petitioning agency should conduct an environmental analysis of the project in advance of preparing the petition. (Pub. Re. Code § 21067, CEQA Guidelines.)</p>
Day 50	<ul style="list-style-type: none"> <li>• Once LAFCO has accepted an application and determined it to be complete, a certificate of filing is issued. This determination must ordinarily be made within 30 days (56658(d).)</li> </ul>
Day 140	<ul style="list-style-type: none"> <li>• Following issuance of a certificate of filing, the proposal must be set for hearing at a time not more than 90 days after the issuance of a certificate of filing. (56658(i).)</li> </ul> <p>Mailed notice of the hearing is given to all registered voters and owners of property within the subject territory and within 300 feet of the exterior boundary of the property which is the subject of the hearing. Where more than 1,000 notices are required to be mailed, an alternative method of notice may be pursued which involves advertising in a 1/8<sup>th</sup> page newspaper display for at least 10 days prior to the hearing. (56661; 65091.)</p> <p>The purpose of the notice and hearing is to consider any protest to the proposal. (57000.) A protest proceeding may be waived where the commission is provided written notice to all registered voters and landowners within the affected territory and no written opposition is received prior to the conclusion of the commission meeting and all affected local agencies that will gain or lose territory as a result of the change of organization or reorganization have consented in writing to a waiver of protest proceedings (56663(d).)</p>
	<p>Where protests are received, proceedings will be terminated if a majority protest exists (57075, 57078(c).) A majority protest requires 50% or more of the voting power of the voters entitled to</p>

	<p>vote as a result of owning land within the district. Where a majority does not protest, LAFCO can order the re-organization subject to confirmation of the landowners (57077(b)(2).)</p>
	<p>If a majority of the members of each of the legislative bodies of two or more local agencies adopts substantially similar resolutions of application making proposals either for the consolidation of districts or for the reorganization of all or any part of the districts into a single local agency, LAFCO shall approve the proposal. (56853.) LAFCO orders the consolidation or reorganization in such a case unless a petition is submitted requesting that the proposal be submitted to confirmation by the voters. Such a petition must be signed by at least 25% of the number of landowners within the territory subject to the consolidation or reorganization owning at least 25% of the assessed value of land within the territory. (56853(a), 57081.)</p>
<p>Time varies depending on election schedule</p>	<ul style="list-style-type: none"> <li>• In the event an election is required, either as a result of petition as described above, or as a result of a determination by LAFCO that an election should be held then additional time will be required for the proceeding as the election process is pursued. (57125, 57132.) An election on the question of the change of organization or reorganization shall be called and held on the next regular election date occurring at least 88 days after the date upon which the resolution calling for the election was adopted. (57132.)</li> </ul>
<p>Day 140 or Day 140 plus Election</p>	<ul style="list-style-type: none"> <li>• LAFCO has the power to order the dissolution of an agency such as the Atherton Channel Drainage District without an election where the governing body (Board of Directors) has, by unanimous resolution, consented to the dissolution. (57102(a)(3), 57102(b).)</li> </ul>

LAFCO does not have the power to impose any conditions on a change of organization or reorganization that would directly regulate land use density or intensity, property development or subdivision requirements. (56886.) LAFCO has the power to determine which district shall be successor in the case of consolidation (56375(c).) In dissolutions, where the territory in the dissolved district is located within a city and a county, the agency with the greatest assessed value of property is the successor. (57451(c).) Additionally, if terms and conditions of a district provide that all of the remaining assets of the dissolved district are to be distributed to a single existing district, the single existing district is the successor. (57451(d).) Any funds, money, or property of a dissolved district may be used by the successor for the purpose of winding up the affairs of the district and, after distribution to any city, county, or district, may be used for any lawful purpose of the city, county, or district to which the funds, money, or property have been distributed. So far as may be practicable, the funds, money, or property shall be used for the benefit of the lands, inhabitants, and taxpayers within the territory of the dissolved district. (57463.)

Terms and conditions likely to be imposed by LAFCO will prohibit an agency being dissolved from taking a number of actions unless it is found by LAFCO that an emergency situation exists (emergency is defined in section 54956.5, the Brown Act, as a crippling disaster or severe impairment to the public health, safety or general welfare. The conditions would prohibit expending or appropriating any revenue of the agency beyond that provided in the current budget at the time the dissolution is approved. (56886.)

It would appear that the most efficient way to proceed would first be to request a resolution from the County Board of Supervisors supporting dissolution of the Atherton Channel Drainage District and the consolidation of the territory with the San Mateo County Flood Control District. The reorganization (dissolution and consolidation) would then proceed as described in 56853. Failing that, a request could be made directly to LAFCO to conduct a study and to initiate the reorganization. No election is required for LAFCO initiated proceedings. Finally, the Atherton Channel Drainage District could adopt a resolution initiating the proceeding along the lines of the timetable set forth above. In this last case, I believe that LAFCO would create a reorganization committee to conduct a study and make the report to LAFCO. (56826). Thereafter, LAFCO could order the reorganization subject to confirmation by the landowners in the district (56827.)

Respectfully,

MARC G. HYNES

MGH:cwb



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

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

**DATE: FOR THE MEETING OF SEPTEMBER 18, 2002**

**SUBJECT: DISCUSSION AND CONSIDERATION OF SUPPORT OF COUNTY  
ORDINANCE REGULATING THE DISCLOSURE OF CONFIDENTIAL  
CONSUMER INFORMATION BY FINANCIAL INSTITUTIONS**

### **RECOMMENDATION**

It is recommended that the City Council discuss and consider whether to take any official action in support of the recent County ordinance regulating the disclosure of confidential consumer information by financial institutions.

### **BACKGROUND**

This item was requested at the August City Council meeting. The County of San Mateo recently adopted an ordinance to protect consumers from the unwanted selling and sharing of consumers' personal financial information. The ordinance requires financial institutions to ask for and receive a consumer's permission before disclosing the consumer's confidential information to third parties.

Supervisor Mike Nevin sponsored this ordinance, and has written a letter to the City Council urging that a similar Town ordinance be adopted (See attached letter). Supervisor Nevin notes that similar legislation at the Federal level has not had a significant impact, and efforts in the State legislature to adopt a Statewide standard in this area have failed.

Staff checked with San Mateo County cities regarding their reaction to the ordinance. The City of Daly City adopted a similar ordinance on September 9 (See attached Daly City Staff Report and Ordinance).

The City of East Palo Alto scheduled the ordinance for consideration at its meeting of September 17 and the City of Belmont may consider action on the matter later this month.



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

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

**DATE: FOR THE MEETING OF SEPTEMBER 18, 2002**

**SUBJECT: DISCUSSION AND POSSIBLE ACTION REGARDING THE TOWN'S BANNER POLICY**

### **RECOMMENDATION**

That the City Council consider the existing Banner Policy which provides for the placement of Banners at Marsh and Middlefield announcing Town-sponsored events.

### **BACKGROUND**

The Town of Atherton adopted a "Banner Policy" in 1991 establishing a criteria for approval of Banners to be placed at Marsh and Middlefield announcing Town-sponsored events. The Policy (see attached) requires prior approval by the City Manager, restricts display for two weeks, and must be for Town-sponsored events.

Periodically, the Town Staff has received requests to place banners for non Town-sponsored events from local public and private schools and other organizations. It is requested that the City Council review the existing policy to determine if any changes to the existing policy are appropriate.

### **ALTERNATIVES**

1. Make no changes to the existing Banner Policy.
2. Refer changes to the Banner Policy to the Parks and Recreation Commission for consideration and recommendation to the City Council.

3. Consider modifying the existing policy to allow for Banners to be placed for events sponsored by local (Town of Atherton) private and public schools.