



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

REGULAR MEETING

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

1. PLEDGE OF ALLEGIANCE
2. ROLL CALL

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

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

3. PRESENTATIONS

A. Presentation by Midpeninsula Community Media Center

Executive Director Annie Nieuhaus gave a brief report on the programs and channels offered by the Media Center. She advised the Council that grant funding may be available through Cable Coop for equipment to videocast City Council meetings. Staff will prepare a letter of interest.

B. Oath of Office for Police Officer Jason Yoakum

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

C. Proclamation - Constitution Week September 17 - 23

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

D. Proclamation - Pollution Prevention Week September 15 - 21

Mayor Janz declared the week of September 15 to 21 as Pollution Prevention Week. Town Arborist Kathy Hughes Anderson announced a mercury thermometer exchange on Saturday, September 20 from 9:00 a.m. to 1:00 p.m. at Burgess Community Center, and a computer recycling event on Saturday, 9:00 a.m. to 2:00 p.m. at Tyco Electronics in Menlo Park.

4. COUNCIL REPORTS

- Council Member Conwell reported that he attended the City/County Association of Governments Board meeting. The Board reviewed new state legislation. He also attended a Criminal Justice Commission meeting. The Commission was informed it has lost some state funding this year. Council Member Conwell announced that he will not attend the October City Council meeting.
- Council Member Carlson reported that the Finance Committee met September 4 and considered several items that are before the Council tonight. The Committee reviewed the annual Town Investment Policy, held discussion on building and planning fees, and discussed the parcel tax that expires June 2005. The Audit Committee met August 17 with the Town auditors. The Town received an unqualified opinion on its financial statements for the third consecutive year. The Audited Financial Statements will be presented at the October Council meeting.
- Council Member Marsala reported that he received a basic leadership certificate at the League of California Cities Conference in Sacramento. The League is planning to place a resolution on the November 2004 ballot to protect local revenues. He announced that the Screening Committee met with four applicants to the Arts Committee this past week. The Committee's recommendations for appointments are on tonight's agenda. He reported that construction parking issues were addressed at the General Plan Committee meeting September 10. Council Member Marsala reported that the Town's 80th anniversary party on September 12 was a success. He also attended the dedication of the new garden at the Library on Saturday, September 13. He commended Town Arborist Kathy Hughes Anderson for her work on the garden. He also noted that the Tennis Committee has started a website.
- Vice Mayor McKeithen reported on the General Plan Committee meeting where construction parking and code enforcement was addressed. The Committee has recommended that the public nuisance section of the Municipal Code be amended to address construction parking. The Committee also discussed the possibility of creating a code enforcement officer position. She asked that both of these items be placed on the October City Council agenda. Information on the number and type of complaints the Town has received was requested from staff by Council Member Carlson. It was agreed that the Planning Commission will address both of these items at their September 24 meeting. Vice Mayor McKeithen asked the City Manager to inform the Council when the date for the next Atherton Channel District Subcommittee will be set. She announced the next Office of Emergency Services meeting September 18, 5:30 p.m., at the County Center.
- Mayor Janz stated that he would like the Council, at the next meeting, to consider

the creation of an ad hoc committee to research and address the specific impact that the proposed high speed rail would have on the Town.

5. PUBLIC COMMENTS

The following members of the audience spoke:

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

6. STAFF REPORTS

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

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

B. LIABILITY CLAIMS - pursuant to Government Code Section 54956.95

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

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

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

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

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

CONSENT CALENDAR

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

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

M/S McKeithen/Conwell

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

- 8. Removed from Consent Agenda**
- 9. APPROVED BILLS AND CLAIMS FOR JULY, 2003 IN THE AMOUNT OF \$1,132,669, AND AUGUST, 2003 IN THE AMOUNT OF \$767,061**
- 10. ACCEPTED MONTHLY FINANCIAL REPORTS FOR JULY AND AUGUST 2003**
- 11. APPROVED ANNUAL INVESTMENT POLICY**
- 12. ADOPTED ORDINANCE NO. 544 AMENDING ATHERTON MUNICIPAL CODE SECTION 17 REGULATING ACCESSORY STRUCTURES FOR SECOND DWELLING UNITS**

Adopted Ordinance No. 544 amending Atherton Municipal Code Section 17 regulating second dwelling units, and waived further reading.
- 13. ADOPTED ORDINANCE NO. 545 AMENDING ATHERTON MUNICIPAL CODE SECTION 15 REGARDING ENVIRONMENTAL REVIEW**

Adopted Ordinance No. 545 amending Atherton Municipal Code Section 15 regarding the environmental review process for removal of heritage trees, and waived further reading.
- 14. APPROVED SECOND READING OF ORDINANCE NO. 543 AMENDING ORDINANCE NO. 538 TO CONTINUE IN EFFECT EXISTING PROCEDURES FOR INFORMAL COMPETITIVE BID AND SMALL PURCHASES**
- 15. ACCEPTED QUARTERLY INVESTMENT REPORT FOR QUARTER ENDING JUNE 30, 2003**

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

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

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

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

18. Removed from Consent Agenda.

19. Removed from Consent Agenda.

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

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

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

Adopted Resolution No. 03-17 approving the Town of Atherton's application for grant funds under the 2002 Resources Bond Act and Resolution No. 03-18 for the Roberti-Z'Berg-Harris Block Grant.

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

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

REGULAR AGENDA

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

18. APPOINTMENTS TO ATHERTON ARTS COMMITTEE

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

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

M/S Marsala/Conwell

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

Items 24 and 26 were taken out of order.

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

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

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

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

City Manager Jim Robinson clarified that the lower level landscape screening plan has

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

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

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

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

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

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

At Council Member Carlson's request, Building Official Mike Hood confirmed that landscape screening plans have been approved, that his decision has not been appealed, and the time period for an appeal has expired. Council Member Carlson asked, if the Council agreed, that the City Attorney, Building Official and the City Manager review the Orchard Hills project and plans to determine if any misrepresentations have been made in the permitting process. He also asked that the City Manager and the Building Official

determine if a final inspection of the work at Orchard Hills should be withheld until such review has been made. He suggested that staff return to the Council with a response to Vice Mayor McKeithen's statements.

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

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

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

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

MOTION – 1) direct staff, in conjunction with the City Attorney, to review the representations made by the owner at 85 Orchard Hills, and/or his representatives, in the permitting process for all of the permits that have been issued with respect to the project at 85 Orchard Hills. Included in the review should be representations made during the public hearing on July 2002 regarding the retaining wall. Direct the City Attorney to report back to the City Council if he finds that any misrepresentations were made during the process, either in obtaining the building permits or at the hearing on the retaining wall in July 2002, and inform the Council of the Town's remedies with respect to any of his findings. 2) Direct staff, upon receipt of the written submission of Vice Mayor McKeithen's points, to prepare a written report to the City Council with respect to staff's actions and activities for the November 2003 meeting, and in the report address separately the items that Vice Mayor McKeithen raised that are not at this time included in the Town's ordinances, such as road impact fees for landscaping projects, as well as address separately the processing issues, and in doing so, cite municipal codes and/or practices that have been uniformly adopted by the Building Department with respect to the processing of permits. 3) Pending this review, and upon the advice of legal counsel to the extent the Town has the authority, direct staff to withhold final inspections and approval of the issued permits until such time as the reports come back and the Council has had the opportunity to consider both the reports and opinions of the City Attorney, and the reports and opinions of staff. 4) Direct staff to identify and make recommendations for solutions with respect to any loopholes in the Town's procedures. 5) Direct the City Attorney to review the landscape screening agreement process to determine if the Town can make the submittal of plans a requirement at the time the landscape screening agreement is filed. 6) Direct staff to ensure that the

oleander described in the landscape screening plans for 85 Orchard Hills is the correct oleander planted along the retaining wall.

M/S Carlson/McKeithen

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

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

The Council reconvened at 11:05 p.m.

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

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

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

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

The following members of the audience spoke:

- Doug Satzger, representing Felton Gables Homeowners Association, discussed plans for the gate, stating that the Association plans to replace 80 feet of fence along park property as part of the project.
- Jeff Carlton, Felton Gables, voiced his concerns regarding possible negative impacts the proposed gate and path might have on his property which is adjacent to the path.
- Lou Paponis, Atherton, read a letter from Howard Crittenden, Holbrook-Palmer Park Foundation, against construction of a gate.
- Cat Westover, Park and Recreation Commission, stated that the Commission's recommendation for approval of the gate was in part to reduce vehicular traffic in the Park. She commented that walk-in traffic for special events could be handled by placing someone at the gate to collect fees.

- Marguerette Paponis, Atherton, asked that a provision be included in the agreement to ensure that keyholders are charged admission at the gate for paying events held at the Park.

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

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

M/S McKeithen/Janz

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

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

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

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

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

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

M/S McKeithen/Janz

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

23. PUBLIC HEARING –

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

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

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

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

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

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

M/S Janz/Carlson

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

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

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

City Manager Jim Robinson stated that Menlo-Atherton High School Principal Eric

Hartwig will be invited to come before the Council at the October meeting.
The Council accepted the report.

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

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

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

28. ACCEPTANCE OF LITTLE LEAGUE ANNUAL COMPLIANCE REPORT

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

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

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

29. APPROVE LIBRARY FUND SPECIAL REVENUE DONOR FUND APPROPRIATION REQUEST

City Manager Jim Robinson reported that this item was before the Council for approval of an increase in appropriations to allow for purchases from the Library Special Revenue Fund. Subsequent to the adoption of the Fiscal Year 2003-04 Budget, the Library Joint Powers Agency has requested the purchase of certain equipment and services for improvements to the Atherton Library. The items requested are outlined in the staff report and would require an increase of \$40,000 in the Library Special Revenue Fund appropriations.

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

2003-04.

M/S Carlson/McKeithen

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

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

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

Item 19 was removed from the Consent Agenda.

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

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

Finance Director Johns suggested that if additional funding is needed, staff can report back and provide Council with some options or suggestions for sources where additional funds may be derived from. The City Council concurred.

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

M/S Carlson/Janz

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

31. PUBLIC COMMENTS

There were no public comments.

32. ADJOURNMENT

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

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

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

Agency Negotiator: James H. Robinson, City Manager

Employee Organization: Teamsters Local Union 856

Non-management Miscellaneous Employees

Direction was given to the City Manager.

Agency Negotiator: James H. Robinson, City Manager

Employee Organization: Non-management Part Time Employees

Direction was given to the City Manager.

Agency Negotiator: James H. Robinson, City Manager

Employee Organization: Management Employees

Direction was given to the City Manager.

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

Title: City Manager

This matter was continued to a special meeting October 6, 2003.

The meeting adjourned at 1:30 a.m.

Respectfully submitted,

s/Sharon Barker

Sharon Barker, City Clerk