



Minutes
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
October 15, 2003
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

Mayor Janz called the meeting to order at 7:09 p.m.

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

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

ABSENT: William R. Conwell (Excused)

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

3. PRESENTATIONS

- A. Citizen Commendations – Ben and Jenny Chute**
Police Chief Bob Brennan introduced Ben and Jenny Chute who were recognized for their heroic actions assisting in the rescue of an injured neighbor. Mayor Janz presented Certificates of Recognition from the City Council.
- B. Housing Endowment and Trust of San Mateo County**
County Supervisor Richard Gordon presented information on the Joint Powers Authority which was formed to address affordable housing issues in the county. The Council referred review of this issue to the Finance Committee.
- C. Annual Tree Awards – Atherton Tree Committee**

Denise Kupperman, Atherton Tree Committee Chair, and Kathy Hughes Anderson, Town Arborist, presented the 2003 Annual Tree Awards to the following residents:

**Barbara Tuffli
George and Kitsy Anagnoston
Cynthia Lovewell
Clarice and Frank Merrill
LePrele Johnson
Reese and Alicia Bader
Marnie and Joe Van Poppelen
Phoebe Rowles
Paul and Nancy Jones
Emily and Eric Tashman
Nadine and Bob Franceschini
Sandy and Farida Kaye**

- D. Mayor Janz signed Certificates of Appreciation for Outgoing Arts Committee members Fran Eastman, Mindy Perez-Rubio, and Judy Sleeth. The certificates will be mailed to the outgoing members.**
- E. Report from Menlo-Atherton High School Principal
Principal Eric Hartwig reported on current school activities and goals, and gave an update on current and future construction projects at the High School. School staff will be working with the Town on parking and traffic issues associated with planned improvements to the school.**

4. COUNCIL REPORTS

- Vice Mayor McKeithen reported that she attended the Lindenwood Homes Association meeting where a variety of topics were addressed. She also attended the Transportation Subcommittee meeting. She reported that the Channel Drainage District Subcommittee has not met recently, but she asked Public Works Director Duncan Jones to report on the status of the permits required for improvements to the channel. She attended the September Planning Commission meeting and made a presentation regarding code enforcement officers.**
- Council Member Marsala reported that he attended the board meeting of the County Library Joint Powers Authority on October 6. The Board discussed the administrator position and adding library services in the unincorporated Fair Oaks area. He also attended the Holbrook-Palmer Recreation Park Foundation meeting October 6. He suggested that the Town look into recognizing volunteer committee and commission members on an annual basis. Council Member Marsala, along with several Town staff members, spoke to the Realtors' Board October 7 on various Atherton related topics. He also attended the Council of**

Cities meeting along with Council Member Conwell on September 26. Council Member Marsala also noted that the Council usually holds an annual joint meeting with the Park and Recreation Commission at this time of year.

- Council Member Carlson reported that the Transportation Subcommittee, at their October 14 meeting, discussed proposed Caltrain Corridor improvements and requested that staff pursue possible funding both for study and for grade separations. He reported that the Subcommittee agreed with the formation of a Caltrain Subcommittee. The Transportation Subcommittee also reviewed parking issues surrounding Menlo-Atherton High School and received an update on parking restrictions on Oak Grove Avenue and the traffic signal at Valparaiso and University Avenues. A crosswalk at the intersection of Middlefield Road and Watkins Avenue was approved. The next meeting will be held January 13, 2004.
- Mayor Janz read a commendation received from the Honorable Anna Eshoo in celebration of the Town's 80th anniversary. He reported on the Waste Reduction Committee meeting held earlier this month. The Committee toured the recycling facility in San Carlos. He reported that he plans to attend the Association of Bay Area Governments General Assembly on October 24.

5. PUBLIC COMMENTS

The following members of the audience spoke:

- Bob Jenkins reported recent activities of the Atherton Civic Interest League. ACIL will sponsor a candidate forum Thursday, October 23, 7:00 p.m. for Menlo Fire Protection District candidates.
- Jerry Carlson reported on the ACIL Selby Lane project committee and gave an update on planned improvements for the school.

6. STAFF REPORTS

- Public Works Director Duncan Jones reported on actions that are being undertaken to prepare for improvements to the Atherton Channel. He reported that the \$425,000 budget amount is still on track. The Town is eligible for a state parks grant as a result of the red-legged frog being found in the channel.
- City Attorney Marc Hynes reported out of the 6:00 p.m. Closed Session as follows:

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION pursuant to Subdivision (a) of Government Code Section 54956.9 Teamsters Local No. 856 v. City of Atherton

No action was taken.

B. 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.

- **Finance Director John Johns reported that he will attend a meeting of the City Finance Directors of San Mateo County and the County Controller to discuss the allocation method for ERAF reimbursements to cities within the county. City Manager Jim Robinson asked Mr. Johns to also look into possible ERAF reimbursements for the Library donor funds.**

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

No report.

CONSENT CALENDAR

Vice Mayor McKeithen asked that Item 8 be removed from the Consent Agenda and held over for approval at the November Council meeting in order that Item 19 of the September regular minutes to be clarified.

MOTION – to approve the items on the Consent Agenda with the exception of Item 8.

M/S Carlson/McKeithen Ayes: 4 Noes: 0 Absent: 1 (Conwell) Abstain: 0

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

Authorized the Mayor to execute the second amendment to the employment agreement between the Town of Atherton and City Manager James H. Robinson effective July 23, 2003.

12. **APPROVED REVISED JOINT POWERS AGREEMENT WITH BAY AREA EMPLOYEE RELATIONS SERVICE**
13. **ADOPTED RESOLUTION NO. 03-20 AUTHORIZING HOURLY SALARY RANGES FOR PART-TIME AND TEMPORARY EMPLOYEES FOR FISCAL YEAR 2003-04**

REGULAR AGENDA

14. **CONSIDERATION AND ACCEPTANCE OF FISCAL YEAR 2002-2003 AUDITED FINANCIAL STATEMENTS AND AUDIT COMMITTEE REPORT**

Finance Director John P. Johns presented the staff report for this item. The auditing firm of Caporicci and Larson has completed its annual financial audit and has issued the financial statements for the year ended June 30, 2003. The Management Letter accompanying the audit report documents the status of the previous year's recommendations and contains one new recommendation that the Finance Department document its year-end closing procedures.

Finance Director Johns noted that a careful monitoring of expenditures had been performed at mid-year. The implementation of additional measures at mid-year to limit expenditures resulted in a slight improvement in the Town's financial position at the end of the fiscal year.

The Audit Committee has reviewed the independent auditors' report and has recommended that the Council accept the report. A separate report prepared by the Audit Committee was provided to the Council.

Finance Director Johns was commended for the unqualified opinion of the audited financial statements received for the third year in a row.

Audit Committee Chair Marc Hebert summarized the committee's annual report and stated that the four points in last year's management letter have been addressed. He stated that the Committee, which oversees the annual audit process, is available for any other projects the Council might deem necessary. Former Audit Committee member Jerry Carlson was commended for his guidance and efforts while serving on the committee.

Council Member Carlson stated that an appropriate project for the Committee would be to look into other investment vehicles for the Town besides the ones identified in the Town Investment Policy.

At 8:43 p.m., Mayor Janz left the podium. He returned at 8:46 p.m.

(The motion approving Item 14 was overlooked and was taken out of order after Item 15.)

MOTION – to approve the audited financial statements for fiscal year ending June 30, 2003 and the Atherton Audit Committee report.

M/S McKeithen/Carlson Ayes: 4 Noes: 0 Absent: 1 (Conwell) Abstain: 0

**15. APPROVAL OF FIRST READING OF AN ORDINANCE RATIFYING AN
ORDINANCE OF THE MENLO PARK FIRE PROTECTION DISTRICT
PERTAINING TO FIRE SPRINKLER SYSTEM REQUIREMENTS**

Building Official Mike Hood gave a brief overview of Menlo Park Fire Protection District Ordinance No. 28 which requires automatic fire sprinkler systems to be installed on all structures 1,000 square feet and larger. The Council, at their January 15, 2003 meeting, heard presentations from the Fire District regarding the sprinkler requirements, and provided comments to the District representatives that were incorporated into the ordinance.

Fire Chief Paul Wilson, along with Fire Marshall Jeffrey Os, provided information on residential automatic sprinkler system statistics. Chief Wilson explained that the District is asking the Council to conduct first reading of a Town ordinance ratifying the Fire District ordinance. He stated that East Palo Alto has asked for stricter requirements in the ordinance because their housing stock is mostly 1,000 square feet.

Sandy Crittenden, Atherton, spoke from the audience asking if it would be necessary to increase the size of the water lines to homes. Fire Marshall Os responded that in some instances, larger lines would be necessary, but that the water companies have agreed not to charge more if the system qualifies as a life safety system.

MOTION – to approve the first reading of an ordinance ratifying Menlo Park Fire District Ordinance No. 28, and waive further reading.

M/S McKeithen/Carlson Ayes: 4 Noes: 0 Absent: 1 (Conwell) Abstain: 0

**18. DISCUSSION AND POSSIBLE ACTION – CREATION OF CODE ENFORCEMENT
OFFICER POSITION**

Item No. 18 was taken out of order.

City Manager Jim Robinson presented the staff report for this item. The General Plan Committee, at their most recent meeting, recommended the development, description, and funding for a Code Enforcement Officer position for the Town. The Planning Commission considered the recommendation of the General Plan Committee at their September 23, 2003 meeting. Planning Commission Vice Chair Robert Andrews prepared

a report for the Council identifying the research of Vice Mayor McKeithen and each commissioner's comments regarding this issue.

City Manager Jim Robinson reported that in recent years staff has handled such code enforcement issues as landscape sight distance complaints, parking violations, construction noise, tree hazards in the public right-of-way, inoperable street lights, operating businesses out of the home, and dogs off leash, along with many others. He reported that the Police Department has responded to 376 Town ordinance violations in the past year. The Public Works Department received 114 calls for service from May 2003 to October 2003 including street light outages, dangerous road conditions, drainage issues, tree removal, etc. He discussed opportunities available to the Council to handle code enforcement including continuing to utilize existing staff with direction from the Council identifying specific areas of need. Other alternatives could include creating a full time Code Enforcement Officer position, contracting with other agencies, or hiring an independent contractor. A one-month sampling of complaints received by the Police Department was provided to the Council.

Discussion ensued regarding the current methods used in following up on complaints. Building Official Mike Hood explained how construction code violations are currently handled, stating that the Police Department receives any after hours complaints which are then followed up on by the Building Department.

Mayor Janz opened the issue up for public comment.

Jennifer Acheson, Atherton, expressed concerns that the General Plan Committee had brought up the issue of code enforcement while discussing only one issue, construction parking requirements. Her view was that if construction parking is an issue, it should be addressed alone and not associated with code enforcement. She suggested a Steering Committee be formed if necessary to review and make recommendations for code changes.

Vice Mayor McKeithen stated that the Town has code provisions that are not currently being enforced. She referred to her research of positions in Los Altos Hills, Menlo Park, and Hillsborough, and stated that the responsibility of a Code Enforcement Officer would also include looking at the ordinances and recommending changes to reflect what the community wants.

Police Chief Bob Brennan noted that code enforcement is currently handled department-wide. Police officers make personal contact when they receive a complaint and, depending on the situation, may issue a warning citation. Any written citations are forwarded to the City Attorney. Chief Brennan expressed concerns with assigning specific enforcement duties to a police officer when two police officer positions are not funded in the current budget.

Discussion ensued regarding the process for handling complaints when they are received. Mayor Janz suggested that the Town adopt a more systematic process for following up on complaints. The Council agreed to direct staff to develop a protocol for handling code enforcement issues. The importance of maintaining systematic records of complaints with follow through to resolution was discussed. Records developed from complaint logs could subsequently be used to identify problem areas. Special training of staff members who answer phones was also deemed necessary so that complaints may be channeled to the proper department and not allowed to “fall through the cracks”. It was suggested that staff send a postcard informing callers of the resolution of complaints they have filed.

In response to Bob Jenkins’ concerns regarding abandoned properties and construction sites, the City Manager stated that staff is following up on a number of abandoned construction projects and some are already being cleaned up. He stated that staff would be happy to follow up on any problem properties that are brought to the staff’s attention.

Shirley Carlson, General Plan Committee, expressed concerns that residents may be unfamiliar with what constitutes an ordinance violation. She asked that authority be given to Town staff to deal with issues. Mayor Janz suggested that articles could be run in the Athertonian to make residents aware of certain Town codes.

Kristy Waldron, General Plan Committee, expressed concerns that complaints are currently treated as separate events rather than being documented as repeat offenses.

Staff was given direction to return to the December meeting with a proposed protocol for handling code enforcement issues.

19. CONSIDER CREATION OF AD HOC COMMITTEE FOR CALTRAIN ISSUES

Item 19 was taken out of order.

Mayor Janz gave an overview of issues related to proposed changes to rail service within the Town, including Caltrain proposals for the implementation of high-speed rail and grade separations. He noted that a statewide ballot initiative is planned for November 2004, which if successful, would provide high speed rail along the corridor. He suggested the formation of an ad hoc committee made up of eight to ten residents and one or two City Council Members to research and address the impact that the proposed rail improvements would have on the Town. The Committee would recommend policies, consider issues, and make the Town’s position clear to the appropriate authorities. The Committee would have open-ended appointments, be self-directing, and report back to the Council periodically.

It was determined, after discussion, that this is a critical, long-term issue, which will necessitate a different focus than the Transportation Committee can provide.

MOTION - to create an ad hoc Caltrain Corridor Committee consisting of 8 to 10 members to be Atherton residents selected at large who will serve, with the discretion of the Committee Chair, for indefinite terms. Two Council Members are to serve on the Committee. The Committee will explore the tasks as outlined in the staff report of October 15, 2003, and consider opposing the implementation of high speed rail through the Town of Atherton, while looking into possible alternatives.

M/S McKeithen/Carlson Ayes: 4 Noes: 0 Absent: 1 (Conwell) Abstain: 0

The Council directed staff to solicit members for the Caltrain Corridor Committee. This item will return to the Council at the November meeting for appointment of Council Members to the Committee.

17. CONSIDER APPROVAL OF AGREEMENT BETWEEN THE FELTON GABLES HOMEOWNERS ASSOCIATION AND THE TOWN OF ATHERTON TO PROVIDE FOR ACCESS TO HOLBROOK-PALMER PARK

Item 17 was taken out of order.

City Attorney Marc Hynes presented the draft agreement between the Felton Gables Homeowners' Association and the Town to provide Association members access to Holbrook-Palmer Park. The agreement was drawn up by the City Attorney at the direction of the Council at the September 17, 2003 meeting. Michael Mimeles, representative of the Homeowners' Association, reviewed the agreement and related the Association's concerns with the termination provisions in paragraph 6 to the City Attorney.

The City Attorney stated that the two exhibits to the agreement, the description of the gate and the release form for keyholders, were missing from the staff report and will be provided to Council. The release form contains language requiring the keyholder to be responsible for payment at the gate for any events that may be held in the Park requiring entrance fees.

Vice Mayor McKeithen asked that language be added to the agreement requiring the Homeowners' Association to provide monthly maintenance of the gate to the satisfaction of the Town, and that copies of the maintenance records be provided to the Town on a quarterly basis. The Council suggested several other changes to the draft agreement.

Doug Satzger, Felton Gables Representative, spoke regarding the Association's concerns with the draft agreement. He asked for clarification of actions that might cause a breach of the agreement. He stated that the Association would be cleaning up the area and providing improvements to the area by building a fence. In response to the termination language in Section 6, Mr. Satzger asked that language be added stating that once the

agreement is canceled and the easement is no longer in place, the Association would not have any outstanding liability with respect to the gate.

Lou Paponis, spoke from the audience, against construction of the gate.

The City Attorney was directed to return to the November meeting with the draft agreement with the changes so discussed.

16. REPORT FROM FINANCE DIRECTOR – TRANSFER TAX

Finance Director John Johns presented the staff report for this item. At the September 17, 2003 meeting, the City Council directed staff to prepare a report on the potential of increasing the taxes levied on the sale of residential real property within the Town. Finance Director Johns' report provided the Council with an analysis of seven years of taxable sales and the amount of tax receipts generated. Also provided was a list of selected municipalities that have imposed property transfer taxes in excess of the amount provided for under state statute.

Discussion ensued regarding the possible placement of a measure on the ballot allowing the Town to levy a property transfer tax. The City Attorney stated that as a result of Proposition 13, any tax on property requires a 2/3 vote. City Manager Jim Robinson stated that the Town is trying to find a stable source of revenue.

Staff was directed to return with this issue after the City Attorney has obtained further information from legal tax counsel.

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

City Manager Jim Robinson stated that the League of California Cities, along with the Association of Bay Area Governments, has requested cities to adopt a resolution in support of a statewide ballot initiative to protect local revenues. The objective of the initiative is to prevent the state from taking additional revenues from locally designated funds without voter approval.

MOTION – to adopt Resolution No. 03-21 supporting a statewide ballot initiative to require voter approval before state government may take local tax funds.

M/S Marsala/McKeithen Ayes: 4 Noes: 0 Absent: 1 (Conwell) Abstain: 0

21. PUBLIC COMMENTS

There were no public comments.

22. ADJOURNMENT

The meeting adjourned at 11:45 p.m.

Respectfully submitted,

s/Sharon Barker

Sharon Barker, City Clerk