



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

REGULAR MEETING

Mayor Janz called the meeting to order at 7:05 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 also present.

3. **PRESENTATIONS**

A. **Presentation to Outgoing Mayor James R. Janz**
Vice Mayor Kathy McKeithen presented Mayor Janz with a plaque in appreciation for his efforts as Mayor during the past year.

4. **CITY COUNCIL REORGANIZATION**

Selection of Mayor and Vice Mayor:

Nominations for the Office of Mayor and Vice Mayor were conducted by City Clerk Sharon Barker.

Council Member Conwell nominated Vice Mayor McKeithen for the office of Mayor.

Council Member Marsala seconded the nomination.

MOTION – to close the nominations and elect Vice Mayor McKeithen to the office of Mayor.

M/S Conwell/Marsala

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

Council Member Marsala nominated Council Member Conwell for the office of Vice Mayor. Mayor McKeithen seconded the nomination.

MOTION – to close the nominations and elect Council Member Conwell for the office of Vice Mayor.

M/S Conwell/McKeithen

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

Oaths of Office were administered to Mayor McKeithen and Vice Mayor Conwell by the City Clerk. Mayor McKeithen and Vice Mayor Conwell were seated and the gavel was handed over to Mayor McKeithen.

5. COUNCIL REPORTS

- **Vice Mayor Conwell reported on the San Francisco Airport Roundtable meeting. Noise complaints are down and with the economy improving, passenger traffic has increased. A new landing procedure has been implemented to allow two aircraft to land at the same time. There was no Criminal Justice meeting this month. At their last meeting, C/CAG addressed support for Measure A and renewed the contract with their lobbyist.**
- **Council Member Carlson reported that Item 22, an update to the Town's Financial Plan, is on this agenda as a result of the Finance Committee meeting. He asked staff to address having the City Council chairs either repaired or replaced.**
- **Council Member Marsala reported that Items 21 and 23 are on the agenda as recommended by the General Plan Committee. Item 24, approving in concept changes to the San Mateo County Library Authority Joint Powers Agreement, is on the agenda at the request of the Library JPA Board. The Friends of the Library held an open house today. Council Member Marsala also announced that Menlo College has students available to the Town for volunteer internships. He also noted that on Thursday, January 29, a high speed rail forum will take place in San Jose. The Waste Reduction Committee met and considered changing demolition sales requirements. The League of California Cities is sponsoring a ballot initiative requiring the Legislature to return to voters prior to taking local monies. He reminded the Council that special note should be taken regarding the many issues that will be on the November 2004 ballot along with the parcel tax measure.**
- **Council Member Janz reported that Items 19 and 20 are on the agenda as a result of the Caltrain Corridor Subcommittee meeting on December 8. The Waste Reduction**

Committee met on December 10 and recommended the commercial organics program which is on tonight's agenda. Council Member Janz reported that he was appointed for a three-month term to the San Mateo County Housing Endowment and Trust Board at the Council of Cities meeting. This is a joint effort of the county and cities to secure housing grants and loans to foster housing within the county. He will have more information in the future.

- Mayor McKeithen reported that the Atherton Channel District Subcommittee has not met recently. Public Works Director Duncan Jones will report on the status of the studies.

6. PUBLIC COMMENTS

The following members of the audience spoke:

- Virginia Ruggiero, Atherton – regarding new businesses along El Camino Real advertising that they are in Atherton.
The Council asked the City Manager to contact Bonsai Restaurant and explain the residents' concerns.
- Janet Simonds, Atherton
- David Clark, Atherton
- John Sisson, Atherton, read a letter from Atherton resident Herman Christiansen, dated December 1 and addressed to Kathy McKeithen, regarding complaints against the Building Department.

7. STAFF REPORTS

- City Manager Jim Robinson announced the Caltrain Corridor Subcommittee will meet January 6, at 7:00 p.m., and will also hold a community meeting on January 27 to discuss changes in weekend and other services.
- Public Works Director Duncan Jones stated that in reference to Item 15, the new stormwater plan, the C/CAG Director has requested that a modification be made to the NPDES resolution. Under Item 2 of the resolution language will be inserted allowing the Executive Director to make minor changes to the plan. In addition to the modification of the resolution, a paragraph was removed from Page B31, Paragraph 2, of the plan itself, relating to municipalities seeking to get any illicit discharge cleaned up.
- Public Works Director Jones also reported that the three steel plates in the road on Ashfield Road and Station Lane are for water, sewer and storm lines for the new corporation yard.
- Assistant to the City Manager Linda Kelly reported that the Town has received notification that it is a recipient of a Cable Coop Legacy Funding Grant. The grant amount of \$50,000 is for video equipment for cablecasting city council meetings. Matching funds are required. Staff is currently looking at cable equipment. An item will be placed on the January agenda for council consideration.

Approved the plans and specifications and authorized advertisement for bids for the Holbrook-Palmer Park Main House Elevator Project, Project No. 03-009.

14. ADOPTED RESOLUTION NO. 03-25 ADOPTING AN INTEGRATED PEST MANAGEMENT POLICY

Adopted Resolution No. 03-25 adopting the San Mateo Stormwater Pollution Prevention Program Model Integrated Pest Management Policy.

15. ADOPTED RESOLUTION NO. 03-26 TO REAPPLY FOR REISSUANCE OF THE MUNICIPAL STORMWATER NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT TO ACCEPT AND ADOPT THE SAN MATEO COUNTYWIDE STORMWATER MANAGEMENT PLAN FOR 2004-2009

Adopted Resolution No. 03-26 authorizing the reissuance of the NPDES permit and commit to the implementation of permit requirements through a Stormwater Management Plan.

16. ACCEPTED AND APPROVED THE FINAL MAP FOR A LOT LINE ADJUSTMENT AT 76 AND 86 TALLWOOD COURT

Accepted and approved the final map for a lot line adjustment at 76 and 86 Tallwood Court.

17. ADOPTED RESOLUTION NO. 03-27 APPROVING THE SECOND AMENDMENT TO THE FRANCHISE AGREEMENT BETWEEN THE TOWN OF ATHERTON AND BFI WASTE SYSTEMS OF NORTH AMERICA, INC.

Adopted Resolution No. 03-27 approving the Second Amendment to the Franchise Agreement and approving a 35% reduction to the rate for participation in the commercial organics program as recommended by the Atherton Waste Management Committee.

REGULAR AGENDA

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

City Attorney Marc Hynes presented the staff report and the draft agreement allowing the Felton Gables Homeowners Association access to Holbrook-Palmer Park. He stated that Michael Mimeles, President of the Homeowners Association, had concerns with several points regarding the revised agreement including payment of city costs relative to

preparing the agreement and the amount of time that would be required to terminate the agreement.

City Manager Jim Robinson stated that he had received a call from Park and Recreation Commissioner Cat Westover reminding the Council that the Commission had approved of the access.

Mayor McKeithen also mentioned a third point the Association had brought up, that upon termination of the agreement, the Association couldn't guarantee that the gate would not be used.

The City Attorney stated "Exhibit B" in the staff report is his suggested version and that Felton Gables representatives had not commented on it.

John Rugeiro spoke from the audience.

The City Manager stated he is not aware of any complaints regarding the gates from private properties located adjacent to the Park. In response to Vice Mayor Conwell's comments, City Manager Robinson stated that the proposed gate will provide general access to the Park from the Felton Gables neighborhood and the benefit will be to have more people walk into the Park rather than drive into it. The City Attorney stated that the distinction between private gates and this gate is that the Town could build a fence along park property to stop private access.

Felton Gables representative, Mr. Mimeles, stated the two main issues involve the Association's ability to fix whatever breach there might be to avoid termination of the agreement, and the fees for preparation of the agreement. He expressed concern that they may be priced out of the project. He stated that the Association would like to provide the access with the Town's blessing and that the Association will be replacing fencing along the Park property.

Discussion ensued regarding inserting language in the agreement that the Town will give 90 days notice to the Association of any problem that needs attention in order to allow the Association time to cure it.

Discussion was also held regarding the waiving of the attorney fees. The City Manager stated if the Council chooses to waive the fees, it is more of a policy matter.

MOTION - to approve the agreement with Felton Gables Homeowners Association to provide access to Holbrook-Palmer Park, with the following changes – waive attorney fees by deleting item No. 9 of the draft agreement, insert 90 day notice and cure language in the termination provision, and delete any post-term obligations on behalf of Felton Gables Homeowners' Association other than paying for costs to secure the gate.

M/S Carlson/Janz

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

Lou Paponis spoke from the audience.

19. APPOINTMENT OF RESIDENT MEMBERS TO CALTRAIN CORRIDOR AD HOC SUBCOMMITTEE

City Manager Jim Robinson presented the staff report for this item, stating that the City Council Screening Committee interviewed and are recommending the appointments of four resident members to the Caltrain Corridor Subcommittee.

MOTION – to approve the appointment of Rosemary Maulbetsch, Malcolm Dudley, Gustavo Edylsteyn, and Jack Ringham as resident members of the Caltrain Corridor Subcommittee.

M/S Marsala/Conwell

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

20. CALTRAIN CORRIDOR AD HOC SUBCOMMITTEE UPDATE

City Manager Jim Robinson presented this update. The Subcommittee held their first meeting on December 8, 2003. This organizational meeting was attended by the resident members who were appointed at the last Council meeting as well as those who were appointed at tonight's meeting. The meeting was chaired by Council Member Janz. City Manager Jim Robinson was also in attendance. The agenda included discussion on the proposed reductions in weekday and elimination of weekend Caltrain service and an update and discussion on High Speed Rail and Grade Separations.

A community meeting is planned for Tuesday, January 27, 2004 at 7:00 p.m. to receive comments from residents regarding the proposed Caltrain changes. Staff will attempt to arrange for a Caltrain representative to attend the meeting.

The Subcommittee recommended that a petition be developed that would allow residents of Atherton to express their desire to retain the existing level of weekday and weekend Caltrain service. The petition would provide information to the public regarding the proposed changes and would be placed in public locations for residents to sign. The signed petitions or letters/e-mails received by the Town will be forwarded to Caltrain/Samtrans in advance of their February 5, 2004 Board meeting.

Council Member Janz explained that Item No. 3 on the proposed petition, "limited service" actually means the express train that used to service Atherton. Several changes to the petition were recommended. Staff will explore placing the petition as an insert in the Almanac.

Council Member Janz reported on the upcoming meetings. Caltrain is still in the process of revising the schedule and it is anticipated that the revised schedule will come out sometime in January. The purpose of the public meeting on January 27 is to get people interested in attending the Caltrain hearing in February.

Jack Ringham, Caltrain Corridor Subcommittee Member, spoke regarding the approach Caltrain should use to entice more riders.

The Council directed staff to pursue placing the petition in the Almanac as soon as possible and to place an article in the Athertonian regarding the proposed schedule changes.

**21. CONSIDER INTRODUCTION FOR ADOPTION AN ORDINANCE AMENDING
ATHERTON MUNICIPAL CODE CHAPTER 10 RELATING TO PARKING AND
CHAPTER 15.40 RELATING TO CONSTRUCTION REGULATIONS**

**CONSIDER ADOPTION OF A RESOLUTION ADOPTING GUIDELINES FOR
CONSTRUCTION, OPERATION AND PARKING PLANS**

Deputy Town Planner Lisa Costa Sanders presented the staff report for this item. At the request of the Planning Commission, the City Council referred the issue of construction parking to the General Plan Committee for further study. The General Plan Committee discussed this item and formed a subcommittee to research requirements in other jurisdictions and to work with staff to develop ordinance changes and Guidelines. Staff recommends a modification to the ordinance to restrict parking and to require the submittal of a Construction, Operation and Parking Plan and the adoption of a resolution adopting Guidelines for the Plan.

Council Member Janz proposed adding language to the ordinance under Section 2 requiring construction vehicle parking to be on the same side of the street. Mayor McKeithen stated that Item 1 of the Guidelines should parallel the ordinance in authorizing the City Manager, or the City Manager’s designee, to provide written permission for construction personnel parking in the public right-of-way. It was agreed that under Section 2 of the Guidelines, the Police Chief, or Police Chief’s designee, would be stated as the responsible person regarding health and safety issues.

Under Item 9 of the Guidelines, it was agreed that Items b. and c. should be combined. It was also agreed that the paragraph suggested by the City Attorney in his memorandum be added to the beginning of the ordinance in order to reflect the justification of the regulations.

MOTION – to approve introduction of an ordinance amending Chapters 10 and 15 of the Atherton Municipal Code relating to construction regulations and parking as presented in the staff report with the following changes: add a recital in a “whereas” provision using

the last paragraph in the City Attorney's December 11, 2003 staff report, change language in Section 2 to reflect construction vehicle parking will be required to be on the same side of the street, and capitalize "Building Official" in Section 4, and waive further reading.

M/S McKeithen/Carlson

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

MOTION - to adopt Resolution No. 03-28 adopting Guidelines for Construction, Operations and Parking Plans, with the modifications to the Guidelines discussed, change "Building Official" in Item No. 1 to "City Manager", change "City Manager" in Item No. 2 to "Police Chief", and combine Items b. and c. under Item No. 9.

M/S Janz/Carlson

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

22. ACCEPTANCE OF THREE YEAR UPDATE TO THE TOWN'S FINANCIAL PLAN

Finance Director John Johns presented this item. The Finance Committee, in March 2002, directed the City Manager and the Finance Department to prepare a three-year financial plan and to update the plan at semi-annual intervals. This update includes two versions of the plan, one assuming renewal of the parcel tax and an allocation of parcel tax proceeds consistent with FY 2003-04, and one without renewal of the parcel tax.

Council Member Carlson commented that the goal of the Finance Committee in asking for this report was to start the dialogue with residents on what the financial future of the Town is as well as to put before the community an idea of the hard choices the Council may be forced to make and what choices have already been made. He stated that it is essential that the Council consider actions to take between now and the next parcel tax election to make sure residents are aware of the financial condition of the Town. Alternatives to the parcel tax will need to be considered as well.

Mayor McKeithen asked for the status of the legal opinion regarding a property transfer tax. City Attorney Marc Hynes will follow up with the attorney.

Discussion ensued regarding the Town's need for a revenue stream on which to rely. Increasing the term of the parcel tax was discussed as well as the timeline to be followed to put the parcel tax on the November 2004 ballot. Staff was asked to look into sending out a special edition of the Athertonian soon after the mid-year budget review is presented.

Mayor McKeithen asked the City Clerk to provide a schedule at the next meeting for putting a measure on the November 2004 ballot.

The following members of the audience spoke:

- **John Rugeiro, Atherton**
- **Smith McKeithen, Atherton, commented that tonight the governor announced he would release funds to replace the Vehicle License Funds.**
- **Marion Oster, Atherton**

The Council commended Finance Director Johns on his report.

MOTION – to accept the Three-Year Financial Plan Update as presented.

M/S Carlson/Janz

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

**23. CONSIDER INTRODUCTION OF AN ORDINANCE FOR ADOPTION AMENDING
ATHERTON MUNICIPAL CODE SECTION 8.10 REGARDING TREE
PRESERVATION GUIDELINES, STANDARDS AND SPECIFICATIONS**

**CONSIDER ADOPTION OF A RESOLUTION APPROVING TREE PRESERVATION
GUIDELINES AND ESTABLISHING CIVIL PENALTY FEE**

Deputy Town Planner Lisa Costa Sanders presented the staff report for this item. The General Plan Committee has recommended that the Heritage Tree Ordinance be amended to include a reference to the Tree Preservation Guidelines, Standards and Specifications. Staff has proposed adoption of a resolution implementing the Tree Preservation Guidelines and establishing a civil penalty for damage to or unpermitted removal of heritage trees.

City Attorney Marc Hynes explained that a fund was established by ordinance to receive monies for civil penalties, but that the resolution was necessary to set the fee.

MOTION – 1) to approve introduction of an ordinance amending Atherton Municipal Code Section 8.10.030(B) relating to tree preservation guidelines, standards and specifications within the Town of Atherton, and waive further reading, and 2) adopt Resolution No. 03-29 approving Tree Preservation Guidelines, Standards and specifications and establishing a fee for civil penalty pursuant to Section 8.10.060 of the Atherton Municipal Code.

M/S Marsala/Conwell

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

**24. APPROVAL (IN CONCEPT) OF CHANGES TO THE SAN MATEO COUNTY
LIBRARY AUTHORITY JOINT POWERS AGREEMENT**

City Manager Jim Robinson reported that the Library Board and the Operations Committee have recommended that changes be made to the Joint Powers Authority Agreement. A Final Draft agreement will be returned to the Council for approval.

Council Member Marsala, who serves on the Library Joint Powers Board, noted that the new agreement will clarify who the Library Director will report to.

City Manager Robinson stated that Atherton will continue to get its share of “donor city” funds and that the Town has received a reimbursement of ERAF funds for the Library. The Town is also eligible for an additional \$59,000 of ERAF reimbursement.

MOTION – to approve in concept the proposed changes to the San Mateo County Library Authority Joint Powers Agreement as presented in the staff report.

M/S Marsala/Carlson

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

25. DISCUSS AND CONSIDER PROCEDURE FOR PLACEMENT OF ITEMS ON THE CITY COUNCIL AGENDA

This item was removed at the request of Council Member Carlson, who had requested that it be placed on the agenda.

Item 12 was removed from the Consent Agenda for consideration on the Regular Agenda.

12. REFER REVIEW OF SPECIAL EVENTS ORDINANCE TO GENERAL PLAN COMMITTEE (Continued from the Meeting of November 19, 2003)

Council Member Carlson asked that this item be removed from the Consent Agenda. He stated that in his opinion, this item is one that can be handled by the Council on recommendation of staff, and that it does not warrant being referred to the General Plan Committee.

Mayor McKeithen suggested that on site events at schools and country clubs should not be exempt from the ordinance and that auctions at schools should be viewed the same as any other event.

The City Manager replied that business licenses are required for auctions and that they do generate sales tax. Finance Director Johns is working on persuading vendors to report events being held in Atherton rather than at their own address.

Vice Mayor Conwell commented that some allowed events are too lengthy.

This item will be brought back to the Council with staff recommendations.

26. PUBLIC COMMENTS

There were no public comments.

27. ADJOURNMENT

The meeting adjourned at 10:38 p.m.

Respectfully submitted,

Sharon Barker, City Clerk