



AGENDA
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL DRAINAGE
DISTRICT
March 17, 2010
5:00 P.M.
Meeting Room
Town Administrative Offices
91 Ashfield Road
Atherton, California
Special Meeting

5:00 P.M. ROLL CALL Lewis, Dobbie, Marsala, McKeithen, Carlson

5:02 P.M. PUBLIC COMMENTS

5:15 P.M. CLOSED SESSION

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

Agency Negotiators: Jerry Gruber, City Manager; Glenn Berkheimer, I.E.D.A.

Employee Organization: Management Employees

B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Subsection (a) of Government Code Section 54956):

John P. Johns v. the Town of Atherton, San Mateo County Superior Court Case No. CIV 479972

C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Subsection (B) of Government Code Section 54956.9): Number of potential cases: Two (2)

D. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION (Subsection (b) of Government Code Section 54956.9): One (1) potential case:

Jonathan B. Buckheit v. Tony Dennis, Dean DeVlugt, The Town of Atherton, The County of San Mateo, and Does 1-500, inclusive - U.S. District Court for the Northern District of California, San Francisco Division, Case No. CV 09-5000

**D. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED
LITIGATION (Subsection (B) of Government Code Section 54956.9):
One potential case:**

*California Tort Claim by Silvester M. Rabic, as Domestic Trustee on
Behalf of the J.B.B Trust*

RECONVENE TO OPEN SESSION

Report of action taken.

6:55 P.M. ADJOURN

Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the City Clerk's Office at (650) 752-0500. Notification of 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (29 CRF 35.104 ADA Title II)



AGENDA
Town of Atherton
CITY COUNCIL
ATHERTON CHANNEL DRAINAGE DISTRICT
MARCH 17, 2010
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California
REGULAR MEETING

PLEASE NOTE:

Times listed on the Agenda are an approximation and not a time certain. The Council may take up items out of order. Please arrive well in advance of the time listed for any item in which you are interested.

7:00 P.M. 1. PLEDGE OF ALLEGIANCE

7:02 P.M. 2. ROLL CALL Lewis, Dobbie, Marsala, McKeithen, J. Carlson

7:03 P.M. 3 PRESENTATIONS

OATH OF OFFICE – Officer Rick Enberg

PROCLAMATIONS – Former Arts Committee Members Jean Schaaf and Samira Nawas-Plesman

EAGLE SCOUT PROJECT – Tyler Estkowski

GENERAL INFORMATION REGARDING POTENTIAL CHANGES TO BUSINESS LICENSE ORDINANCE

– Presented by Joshua Davis and Tony Unger of MuniServices

7:30 P.M. 4. PUBLIC COMMENTS *(This portion of the meeting is reserved for persons wishing to address the Council on any matter not on the Agenda that is within the subject matter jurisdiction of the City Council. State law prohibits the Council from acting on items not listed on the Agenda except by special action of the City Council under specified circumstances. Speakers' time is limited to three minutes.)*

7:40 P.M. 5. REPORT OUT OF CLOSED SESSION

7:45 P.M. 6. CITY MANAGER'S REPORT

7:50 P.M. 7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT - None

(Consent Calendar items are routine in nature and are generally considered in one motion and adopted by a single vote of the City Council. If discussion regarding a Consent Calendar item is desired, the member(s) of the City Council, public, and/or staff wishing to pull the item should so indicate at the time the Mayor calls for consideration of the Consent Calendar.)

8. **APPROVAL OF FEBRUARY 17, 2010 MEETING MINUTES**
Recommendation: Approve February 17, 2010 Meeting Minutes
9. **APPROVAL OF BILLS AND CLAIMS FOR FEBRUARY 2010 IN THE AMOUNT OF \$853,152**
Recommendation: Approve Bills and Claims in the amount of \$853,152
10. **ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR THE EIGHT MONTHS ENDED FEBRUARY 2010**
Recommendation: Accept Monthly Financial Report
11. **APPROVAL FOR THE FINANCE DIRECTOR TO ATTEND THE 2010 SPRINGBROOK SOFTWARE CONFERENCE**
Report: Finance Director Louise Ho
Recommendation: Approve the Finance Director to attend the Springbrook Software Conference in Portland, Oregon, in May 2010
12. **APPROVAL OF FIRST AMENDMENTS TO PROFESSIONAL SERVICES AGREEMENT WITH CHRISTOPHER A. JOSEPH & ASSOCIATES FOR PREPARATION OF ENVIRONMENTAL IMPACT DOCUMENTS AND REIMBURSEMENT AGREEMENT WITH SACRED HEART SCHOOLS**
Report: Town Planner Neal J. Martin
Recommendation: Approve the first amendment to the Agreement for Professional Services by and between the Town of Atherton and Christopher A. Joseph & Associates and the first amendment to the Reimbursement Agreement by and between the Town of Atherton and Sacred Heart Schools
13. **CONDITIONAL EXCEPTION TO ALLOW A LOT LINE ADJUSTMENT TO MERGE TWO PROPERTIES 69/75 CATALPA**
Report: Deputy Planner Lisa Costa Sanders
Recommendation: Planning Staff recommends that City Council conduct the hearing and approve the Conditional Exception to allow the merger of the lots at 69 Catalpa Drive and 75 Catalpa Drive
14. **APPROVE PARTICIPATION THROUGH THE TOWN'S CABLE JOINT POWERS AGREEMENT TO BROADCAST DESIGNATED PUBLIC EVENTS AS A PUBLIC EDUCATION GOVERNMENT (PEG) PROGRAMMING SITE USING "STUDIO IN A BOX"**
Report: Assistant City Manager Eileen Wilkerson
Recommendation: Approve Town participation through the Town's Cable Joint Powers Agreement to broadcast designated public events as a Public

Education Government (PEG) programming site using “Studio in a Box”
Authorize the City Manager to designate “public events” to be broadcast

15. APPROVAL OF CONTRIBUTION OF PARTIES OF THE JOINT POWERS AGREEMENT ESTABLISHING THE SAN MATEO COUNTY NARCOTICS TASK FORCE

Report: Police Chief Mike Guerra

Recommendation: Approve Atherton’s FY 2009-10 contribution to the San Mateo County Narcotics Task Force in the amount of \$25,454

16. APPROVAL OF PLANS AND SPECIFICATIONS AND AUTHORIZATION TO ADVERTISE THE PARK BRIDGE LANDSCAPING PROJECT, PROJECT NUMBER 09-027

Report: Public Works Director Duncan Jones

Recommendation: Approve the plans and specifications and authorize advertisement for bids for the Park Bridge Landscaping Project, Project No. 09-027

17. APPROVAL OF PLANS AND SPECIFICATIONS AND AUTHORIZATION TO ADVERTISE THE ENCINAL TRAFFIC SIGNAL PROJECT NUMBER 08-015

Report: Public Works Director Duncan Jones

Recommendation: Approve the plans and specifications and authorize advertisement for bids for the Encinal Traffic Signal Project, Project No. 08-015

18. RECOMMENDATION BY TOWN CENTER TASK FORCE FOR APPROVAL TO PUBLISH REQUEST FOR STATEMENT OF QUALIFICATIONS FOR DESIGN OF A NEW TOWN CENTER

Report: City Manager Jerry Gruber

Recommendation: Approval to publish request for statement of qualifications for design of a new Town Center

19. APPROVAL OF THE CONSULTANT SERVICES AGREEMENT BETWEEN MUNISERVICES, LLC AND THE TOWN OF ATHERTON FOR PROPERTY TAX ALLOCATION AUDIT

Report: Finance Director Louise Ho

Recommendation: Approve the consultant services agreement with MuniServices LLC; and authorize the City Manager to execute the agreement

20. APPROVAL OF RESOLUTION 10-15 OF THE CITY COUNCIL OF THE TOWN OF ATHERTON IN SUPPORT OF THE LOCAL TAXPAYER, PUBLIC SAFETY AND TRANSPORTATION PROTECTION ACT OF 2010

Report: City Manager Jerry Gruber

Recommendation: Adopt Resolution 10-15 in support of the Local Taxpayer, Public Safety and Transportation Protection Act of 2010

21. **APPROVAL OF CONSULTANT SERVICES AGREEMENT BETWEEN MUNISERVICES, LLC AND THE TOWN OF ATHERTON FOR ROAD IMPACT FEE REFUND PROCESSING**
Report: Finance Director Louise Ho
Recommendation: Approve the consultant services agreement with MuniServices LLC and authorize the City Manager to execute the agreement
22. **APPROVAL OF CONSULTANT SERVICE AGREEMENT FOR HIGH SPEED RAIL GOVERNMENT AFFAIR SERVICE WITH CAPITOL ADVOCATES FOR AN AMOUNT NOT TO EXCEED \$20,000.00**
Report: City Manager Jerry Gruber
Recommendation: Approve Consultant Services Agreement for High Speed Rail Government Affair Services with Capitol Advocates
23. **ADOPTION OF RESOLUTION 10-16 APPROVING UPDATE OF THE TOWN'S CONFLICT OF INTEREST CODE AND APPENDIX "A" DESIGNATING POSITIONS IN THE CONFLICT OF INTEREST CODE**
Report: Deputy City Clerk Theresa DellaSanta
Recommendation: Adopt Resolution No. 10-16 approving Appendix "A" dated March 2010, which updated the designated positions disclosure categories in the Conflict of Interest Code
24. **APPROVE A LETTER TO THE PENINSULA JOINT POWERS BOARD REGARDING THE CALTRAIN ELECTRIFICATION FINAL ENVIRONMENTAL ASSESSMENT/ENVIRONMENTAL IMPACT REPORT (EA/EIR)**
Report: Public Works Director Duncan Jones
Recommendation: Approve a letter to the Peninsula Joint Powers Board (JPB) regarding the Caltrain Electrification Final Environmental Assessment/Environmental Impact Report (EA/EIR)
25. **UPDATE ON BUSINESS LICENSE REFUND**
Report: Finance Director Louise Ho
Recommendation: Receive update on the business license refund authorized by the City Council on December 17, 2008
26. **RECONSTITUTE THE TOWN CENTER TASK FORCE, APPROVE APPOINTMENTS OF TOWN CENTER TASK FORCE MEMBERS AND GUIDELINES AND MEMBERSHIPS**
Report: City Manager Jerry Gruber
Recommendation: Approve Reconstitution and Guidelines of Town Center Task Force and Appoint recommended Town Center Task Force members and designate terms for members

27. **AWARD A PURCHASE ORDER TO SERRAMONTE FORD IN THE AMOUNT OF \$45,209.95 FOR THE PURCHASE OF ONE FORD F-350 UTILITY BODY PICK-UP TRUCK**
 Report: Public Works Director Duncan Jones
 Recommendation: Authorize the purchase of one Ford F-350 utility body pick-up truck from Serramonte Ford for a cost of \$45,209.95

PUBLIC HEARINGS (28)

- 8:10 P.M. 28. **APPROVAL OF REFUSE AND RECYCLING COLLECTION RATES**
 Report: Deputy Town Planner Lisa Costa Sanders
 Recommendation: Hold a public hearing, determine whether a majority protest has been received, and if there is no majority protest, introduce Ordinance 584 increasing refuse and recycling rates effective March 19, 2010. A two-thirds vote is required.

REGULAR AGENDA (Items 29-39)

- 8:25 P.M. 29. **PROPOSED CHANGES TO DRAFT ATHERTON HOUSING ELEMENT 2007-14 UPDATE IN RESPONSE TO CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD) COMMENTS**
 Report: Town Planner Neal J. Martin
 Recommendation: Review the “*Draft No. 2 - Proposed Changes to Atherton 2007-14 Housing Element in Response to HCD Review Letter 12/24/09*”. Provide direction to Staff to make any additional changes and direct Staff to forward the “*Draft Proposed Changes*” to the California Department of Housing and Community Development (HCD) for review and comment
- 8:40 P.M. 30. **DISCUSSION OF CIVILIAN POLICE OVERSIGHT**
 Report: Police Chief Mike Guerra
 Recommendation: To Be Determined
- 9:00 P.M. 31. **ADOPT RESOLUTION 10-17 MODIFYING THE TOWN DRAINAGE CRITERIA TO EXEMPT DETACHED SINGLE-FAMILY HOMES FROM THE MAINTENANCE AGREEMENT REQUIREMENT**
 Report: Public Works Director Duncan Jones
 Recommendation: To Be Determined
- 9:10 P.M. 32. **APPROVE RESOLUTION 10-18 APPROVING BUDGET AMENDMENT FOR FY 2009-10**
 Report: Finance Director Louise Ho
 Recommendation: Adopt Resolution 10-18 approving the budget amendment for FY 2009-10 for the General Fund and Road Construction Impact Fee Fund (**Needs 4/5 Approval**)

- 9:20 P.M. 33. **RESOLUTION 10-19 IMPLEMENTING REFUND PROGRAM FOR ROAD IMPACT FEES PAID FROM JULY 1, 2006 THROUGH SEPTEMBER 17, 2009**
Report: City Manager Jerry Gruber
Recommendation: Adopt Resolution 10-19 setting out the procedures for refunding road impact fees paid from July 1, 2006 through September 17, 2009
- 9:25 P.M. 34. **FIVE-YEAR GENERAL FUND FINANCIAL FORECAST FOR FY 2009-10 TO FY 2013-14**
Report: Finance Director Louise Ho
Recommendation: Receive the Five-Year General Fund Financial Forecast for FY 2009-10 to FY 2013-14
- 9:40 P.M. 35. **RECOMMENDATION BY PLANNING COMMISSION TO AMEND THE SCHOOL EVENT GUIDELINES UNDER THE SPECIAL EVENTS ORDINANCE**
Report: Deputy Planner Lisa Costa Sanders
Recommendation: Amend the School Event Guidelines for the Special Events Ordinance to change the hours of use of the outdoor field for non-school related events held on school property
- 9:55 P.M. 36. **COMPARISON OF THE R1-A AND R1-B ZONING DISTRICTS**
Report: Deputy Town Planner Lisa Costa Sanders
Recommendation: Discuss the request and provide direction to staff as appropriate
- 10:10 P.M. 37. **CONSIDERATION OF ADDING A SECOND MEETING DATE PER MONTH FOR CITY COUNCIL MEETINGS IN LIEU OF SPECIAL MEETINGS**
Recommendation: To Be Determined
- 10:20 P.M. 38. **CONSIDERATION OF THE REQUEST TO REFER THE REVIEW OF HOME OCCUPATION REGULATIONS TO THE GENERAL PLAN COMMITTEE**
Report: Deputy Planner Lisa Costa Sanders
Recommendation: Discuss the request and provide direction to staff as appropriate
- 10:30 P.M. 39. **REVIEW AND DISCUSS THE CARGILL/DMB DEVELOPMENT PLAN**
Recommendation: To Be Determined
- 10:40 P.M. 40. **COUNCIL REPORTS**

10:45 P.M. 41. **FUTURE AGENDA ITEMS**

**COLLEAGUES MEMO TO ADD ADMINISTRATIVE CITATION
ORDINANCE TO APRIL 21, 2010 CITY COUNCIL AGENDA**

Report: Mayor McKeithen and Vice Mayor Dobbie

10:50 P.M. 42. **PUBLIC COMMENTS**

11:00 P.M. 43. **ADJOURN**

PLEASE NOTE THE FOLLOWING INFORMATION:

If you challenge a Town zoning, planning, or any other decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this agenda, or in written correspondence delivered to the City Council at, or prior to, the public hearing. Judicial review of any Town administrative decision may be had only if a petition is filed with the court not later than the 90th day following the date upon which the decision becomes final. Judicial review of environmental determinations may be subject to a shorter time period.

Copies of all staff reports and documents subject to disclosure that relate to each item of business referred to on the agenda are available for public inspection by 5:00 p.m. the Friday before each regularly scheduled City Council meeting at the Atherton Library, 2 Dinklespiel, Station Lane, and the Town Administrative Offices, 91 Ashfield Road, Atherton, CA 94027. Additionally, agendas and staff reports may be accessed on the town website at: www.ci.atherton.ca.us

In compliance with SB 343, materials related to an item on this Agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the Town Administrative Offices, 91 Ashfield Road, during normal business hours.

Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the City Clerk's Office at (650) 752-0500. Notification of 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (29 CFR 35.104 ADA Title II)

PROCLAMATION

Honoring

Jean Schaaf

For Her Service to the Town of Atherton

And the

Atherton Arts Committee

WHEREAS, Jean Schaaf has been a volunteer "extraordinaire", donating hundreds of hours of her time and energy to the Town of Atherton and to the Atherton Arts Committee; and

WHEREAS, Jean is considered a driving force behind the Atherton Arts Committee and the voice of the Committee at Town Council meetings; and

WHEREAS, Jean Schaaf has been a faithful custodian of the Rita Corbett- Evans trust funds and was instrumental in the creation of the Atherton Arts Foundation; and

WHEREAS, Jean has been an active leader in the Atherton Arts Committee through her work including arranging a Caricature Artist for the Artist Exhibit and reception, assembling beautiful baskets for the Big Daddy Jazz's silent auction, staying involved in the Reading Park Sculpture project, meeting the challenge of representing the Atherton Arts Committee as a participant in charades held at the Holbrook-Palmer Park for the Parks Master Plan; and

WHEREAS, Jean Schaaf diligently and creatively pursued her vision of a Rita Corbett- Evans Art Gallery in the Holbrook-Palmer Park Main House Garden Room;

NOW, THEREFORE, on behalf of the City Council and residents of the Town of Atherton, it is an honor to express our appreciation to Jean Schaaf for her service to the Town of Atherton and the Atherton Arts Committee and to wish Jean continued success in her future endeavors.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Town of Atherton to be affixed this 17th day of March, 2010.

Kathy McKeithen, MAYOR
Town of Atherton

PROCLAMATION

Honoring
Samira Nawas-Plesman
For Her Service to the Town of Atherton
And the
Atherton Arts Committee

WHEREAS, Samira Nawas-Plesman has served as a member of the Atherton Arts Committee for many years inspiring the residents of the Town of Atherton, her colleagues and friends in the joy of art; and

WHEREAS, Samira lent her education, cosmopolitan background, spirit of generosity, fun personality, and creative initiative to the Atherton Arts Committee; and

WHEREAS, Samira Nawas-Plesman was committed to the Rita Corbett-Evans Trust and desired to stretch the trust funds as far as possible to fulfill the goals set forth by Rita Corbett-Evans; and

WHEREAS, Samira Nawas-Plesman is a founding member of the Atherton Arts Foundation; and

WHEREAS, Samira has touched the hearts of many children through her creative class instruction and will long be remembered by Atherton parents for the precious art projects gracing their homes;

NOW, THEREFORE, on behalf of the City Council and residents of the Town of Atherton, it is an honor to express our appreciation to Samira Nawas-Plesman for her service to the Town of Atherton and the Atherton Arts Committee and to wish her continued success in her future endeavors.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Town of Atherton to be affixed this 17th day of March, 2010.

Kathy McKeithen, MAYOR
Town of Atherton



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JEROME D. GRUBER, CITY MANAGER

DATE: FOR THE REGULAR MEETING OF MARCH 17, 2010

SUBJECT: CITY MANAGER WRITTEN REPORT

FOLLOW UP FROM FEBRUARY 17 COUNCIL MEETING:

City Manager Gruber and Public Works Director Duncan Jones met with Atherton resident Rosemary Maulbetsch to address her concerns regarding Caltrans improvements at Fair Oaks Lane.

STATUS OF FOLLOW UP FROM JANUARY 11 STRATEGIC PLANNING WORKSHOP:

3. REFUND OF ROAD IMPACT FEES

Consideration of extending the refund of previously paid road impact fees beyond those authorized by City Council in December 2009

Council reviewed a proposal received by the citizens' proposal group headed by Jeff Wise. Other proposals were discussed and staff was asked to cost the proposal and bring it back to the January Council meeting. Other proposals by Council and the public were discussed. Staff was asked to cost 4 different proposals and bring it back to the February Council meeting. Council approved refunding fees paid between July 1, 2006 through December 18, 2009 for an amount not to exceed 1,655,000 and to be prorated after ninety days if the total applicant's dollar value of the refunds exceeds the fund. Council will consider a resolution authorizing the additional refunds under item 33 on tonight's regular Agenda.

4. COUNCIL COMMUNICATIONS AND PUBLIC INFORMATION POLICIES

Council created an ad-hoc subcommittee comprised of Council Members Lewis and Carlson. At the January 2010 Council meeting, Council voted to add an item to the February Agenda to rename the Council Communications Ad-hoc Subcommittee to the Town Communications Committee subject to the Brown Act with formal citizen membership in order to allow a broader range of communications.

At the February Council meeting, Council Members Carlson and Lewis questioned whether there needs to be a long term standing committee.

Mayor McKeithen said the advantage of having a standing committee would allow the committee to meet whenever an issue regarding communications arises.

Council concurred to table the item to until after they have reviewed the draft communications policy written by the ad-hoc subcommittee at the March Council meeting.

5. TOWN FINANCES AND REVENUES

Council directed staff to engage the community for their input on the potential revenue opportunities and suggested a potential citizens group to explore the utility user tax idea.

Staff held a community workshop on revenue opportunities on March 1st. Nine people attended.

6. THE FUTURE OF HOLBROOK-PALMER PARK

Staff researched the Will of Oliver Palmer and sent it to the Attorneys for review.

7. DISCUSS NEW TOWN CENTER OPTIONS

Council directed staff to research grant opportunities and add an Agenda item to the January Council meeting for approval of an ad-hoc subcommittee to research finance options for the new Town Center.

A Town Center Task Force was created and Council Members Lewis and Carlson were appointed. The Town Center Task Force met twice, jointly with the Blue Ribbon Task Force in February. Town Center Task Force Member Elizabeth Lewis and Blue Ribbon Task Force Member William Grindley presented a calendar/timeline for review and comment at the February 23 meeting. Staff was directed to put out a recruitment ad for to five resident members to be appointed to the Task Force. The Town Center Task Force met with the Blue Ribbon Task Force on March 16 to review the applications and make recommendations for appointments of new members to the entire City Council at

tonight's meeting. Staff is also requesting on tonight's Agenda, that Council approve publishing a request for qualifications for a new town center.

EFFORTS TO IMPROVE COMMUNICATIONS:

Police Chief Guerra and held an interactive meeting with the community on Monday, February 22, 2010. Approximately 60 citizens attended the meeting.

ADMINISTRATION DEPARTMENT:

CABLE JPA

February 25, 2010 the Cable JPA discussed the feasibility of JPA members overbuilding or constructing a new, independent fiber-optic network to replace the existing Comcast institutional network (I-Net). In addition, the JPA is gathering information on the feasibility of using a wireless system. Both the fiber-optic network and wireless network have challenges and current research is underway to determine the best option for the JPA.

The JPA is pursuing an opportunity through Google to be part of a test project that would provide the overbuilding needed to replace the I-Net.

PRO BONO CONSULTANT SERVICES AGREEMENT

The Town now has a template agreement to use when the Town desires an expert resident/consultant to provide services to the Town. This agreement requires a minimum payment of \$1.00.

VOLUNTEER WAIVER

The Town has a form to be signed by Town Volunteers acknowledging they are not covered by the Town's Workers' Compensation Program. This waiver is used, for example, by volunteers in the Police Explorers and volunteers in the Park.

FINANCE DEPARTMENT PROJECTS AND UPDATES:

Finance continues in full force to implement the new Springbrook Software and new Well Fargo banking services and was able to go-live on the week of March 8th with the first payroll checks generated from the new financial software. The implementation included a better new chart of accounts and allowed the Town to clean up and set up new procedures and better business practice in the areas of payroll, accounts payable, billings, and time card entry by regular employees in the system without using paper time cards. A new internal control is now in place for Wells Fargo to verify each check issued with positive pay information including payee validation to prevent fraud.

The next phase of the implementation is bringing over prior two fiscal years' account balances, monthly balances for FY 2009-10, and implementing Human Resources and Fixed Assets modules. Staff is anticipating another three to four months of time will still need to be devoted to complete the implementation.

In addition to the regular operation, Finance also prepared over 630 checks to refund business license processing fee and is currently in the process of preparing the FY 2010-2011 budget. Two budget workshops are being planned for April and May 2010 with City Council and Community for final budget adoption in the Council meeting in June 2010.

PUBLIC WORKS PROJECT UPDATES:

Public Works Projects Update (February 2010)

- Safe Routes To School (SR2S) Las Lomas – Phase 1 complete, Phase 2 designed and received three bids, with the low at \$12,355. Project will proceed by purchase order for construction during the school's summer break.
- Safe Routes to School (SR2S) Encinal – working with Menlo Park and Caltrans to prepare a joint application for ARRA (Economic Stimulus) Phase 2 funds for the projects developed during the SR2S study. Also will be looking at the new C/CAG Regional Bicycle Program (RBP) for possible funding.
- Park Pedestrian Bridge – The conceptual landscaping design was reviewed with the Park and Recreation Commission. Final plans are on the current Council agenda for approval in time for Arbor Day volunteer tree planting and a dedication ceremony.
- Upper Atherton Channel – met with Consultant to discuss catch-up schedule to achieve permit approval for upcoming construction season. The design is complete, including geotechnical borings at the Gupta bank.
- Tennis Court Fence – the fence fabric replacement is completed and the windscreens have been re-hung. The courts are ready to play again.
- Encinal Traffic Signal – met with consultant and Menlo Park to review preliminary plans. Bid plans received and being reviewed with Menlo Park and School District. Utilities on board to relocate poles in conflict with project needs this spring. Construction will be during summer school break.
- Fletcher/Ridgeview Drainage and Reconstruction – Design modification completed and project is out to bid.
- Street Reconstruction 7 – includes Park Lane, Polhemus Avenue and the right turn lane from Alejandra to El Camino Real. Survey is completed and design is underway. Construction slated to begin this spring.
- Park Irrigation project –project piping nearing completion, well drilling to commence mid-March. Well location revised to avoid driving heavy well rig on unpaved areas, and to coordinate with trash structure as shown on master plan.

- Hoover/Valparaiso Crosswalk –Consultant began collecting data. Awarded HSIP grant for project construction. Will seek Menlo Park approval based on early data.
- Holbrook sign –County proposing to add “Neighborhood Street” signs at entrances to Fair Oaks north of Marsh Road. MAHS will change start time to 8:30 next school year, which should reduce Middlefield backup. County will consider narrowing Marsh Road before Fair Oaks Avenue if MAHS change doesn’t help.
- Park circulation and parking study – discussed alternative concepts for parking and circulation in the park with the Park and Recreation Commission. Prepared plan for one-way circulation at entrances. Will coordinate with Menlo Fire for fire access. Will estimate cost and include in next CIP budget proposal.
- Park storage – preparing concept design for storage area at Main House, to be compared to concept for storage at Pavilion.
- Traffic Surveys – preparing surveys for DeBell restrictions/closure, Holbrook closure/one-way and warrant study for Alameda/Stockbridge 40way stop.

POLICE DEPARTMENT:

The community had been experiencing a pattern of day time residential burglaries. Thanks to a resident who alerted police that he heard glass breaking at a home located on the unit block of Holbrook, a female burglar was caught by the police as she tried to flee from the home. There has also been a series of nighttime auto burglaries on both the west and east sides of town, and at construction sites. On February 22, City Manager Jerry Gruber and Chief Guerra hosted a "Conversation with Jerry and Mike" at HP Park. Approximately 60-70 people attended and the following issues were discussed: Recent home/auto burglaries, crime prevention, traffic enforcement, and police conduct.

BUILDING DEPARTMENT:

The Building Departments New Master Fee Schedule becomes effective March 21st. Staff is currently testing the new fees in CRW test site.

Implementation of Springbrook and CRW mapping of account numbers has been relatively smooth transition.

Below is a summary of Building Department activity for the month of February 2010.

- 369 Inspections completed.
- 66 Applications for Building Permits.
- 50 Building permits Issued

PLANNING DEPARTMENT:

No written update.

CODE ENFORCEMENT:

MAJOR ISSUES

I resolved a case involving the illegal removal of four heritage trees in the Lindenwood area. The contractor has agreed to pay penalties and enforcement costs, to obtain appropriate permits and to replant new trees to mitigate the damage. I resolved a case on Atherton Avenue involving a vacant new house that was allowed to become overgrown with weeds and vegetation. The property also had a dangerous swimming pool which has since been contained. The house is now in the process of being landscaped and is on the market for sale. The Building Official and I met with representatives of the Park Lane neighborhood to seek input on the impact of a large fenced lot that has concerned area residents for several years.

ON-GOING ISSUES

Investigated and resolved numerous reports of waste cans continually left out in the Lindenwood area. This is a community wide issue of interest to many residents. The town may want to seek a code change to add set out times for waste and recycling container pickup. Town residents continue to notify me about construction regulation violations primarily parking. The overall number of complaints regarding construction parking violations has diminished with the use of remote off site parking areas for contractors. It is clear that additional steps are necessary to curb a small number of violators. In some cases administrative citations are appropriate however it may be necessary to institute other sanctions for contractors.

I filed a complaint with the Contractor's License Board against an unlicensed roofing contractor who took advantage of an elderly homeowner. The contractor installed roofing without a permit after collecting money for the work and the permit. I am investigating two cases of long term occupancy of accessory structures which is a violation of the zoning ordinance. I am investigating a landscape encroachment case in the Tuscaloosa area in which the contractor installed landscaping and lighting inside the town right of way without seeking an encroachment permit. The contractor charged the homeowner for the work but improperly left the responsibility for obtaining an encroachment permit for the homeowner. The contractor has been warned of possible legal action for failure to comply.

GENERAL ISSUES

I investigated a noise ordinance violation and two large drainage violations in the Alameda de las Pulgas area. I completed and closed a case near El Camino Real involving a tree damaged sound wall and another case in the same area involving construction noise.

TOWN-WIDE CONCERNS AND PROJECT UPDATES:

Menlo-Atherton High School Lights

I was informed by Louise Pacheco, Assistant Project Manager-Construction, that she received the information from Menlo-Atherton that is needed to start the project description and CEQA process. TRA Environmental Sciences was notified that the Town of Atherton will be involved. Ms. Pacheco will ask Victoria Harris, TRA, to develop the timeline and process for CEQA on this project, now that she has the information she needs. Ms. Pacheco will provide me with that timeline and include the Town once the initial study-draft is prepared. Any questions or concerns The Town of Atherton has now are welcomed, so it can be addressed and incorporated in the CEQA documents.

Menlo Gateway Project

The Menlo Gateway Project seems to be progressing very slowly. The Draft EIR for the project was released in July 2009. Public Works Director Duncan Jones and Town Planner Neal Martin sent a comment letter on behalf of the Town to Menlo Park on September 21, 2009 (within the public review period) addressing traffic, circulation, and air quality concerns. On November 3, 2009, Atherton staff met with Glen Rojas, Menlo Park City Manager and several of the Menlo Park Public Works and Planning staff regarding our concerns and expressing a desire to work with Menlo Park in mitigating traffic concerns, especially related to impacts at the Marsh Rd./Middlefield intersection. Subsequently Duncan Jones has had several productive meetings with the Menlo Park Public Works staff about traffic mitigation at the Marsh Rd./ Middlefield intersection.

The Menlo Park website describes the current status of the projects as follows:

Current Status

On November 17, 2009, the City Council provided direction to guide negotiations of the proposed Development Agreement. The negotiation team has commenced negotiations with the intent to return to the Council with a "term sheet" for public review, projected for release in Spring 2010. Work on the Final EIR and FIA is proceeding concurrently, with those documents also planned to be released in Spring 2010.

No formal response to our comments is expected until this spring.

There are no statutory deadlines that have to be met by Atherton at this point in the process.

FUTURE MEETINGS:

Library Needs Assessment Study Session -Wednesday, April 7, 2010 at 6PM in the Council Chambers



Draft Minutes
Town of Atherton
CITY COUNCIL
ATHERTON CHANNEL DRAINAGE DISTRICT
FEBRUARY 17, 2010
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California
REGULAR MEETING

Mayor McKeithen called the meeting to order at 7:02 p.m.

1. **ROLL CALL** **Lewis, Dobbie, Marsala, McKeithen, J. Carlson**

Vice Mayor Dobbie was excused.

2. **PUBLIC HEARING**

**ADOPT RESOLUTIONS 10-06 AND 10-07 APPROVING AN AMENDED MASTER
FEE SCHEDULE FOR MISCELLANEOUS TOWN FEES**

Report: City Manager Jerry Gruber

Recommendation: Adopt Resolution 10-06 amending the master fee schedule (excluding building department fees) to reduce certain fees and Adopt Resolution 10-07 amending the master fee schedule to reduce building department fees

Jeanette Hahn, NBS, presented the Council with an amended Master Fee Schedule. Hahn said the amended fee schedule includes a component that deals with indirect services on a Town wide nature that influences individual cost of services from which fees are derived.

Hahn reviewed Council's direction at its February 1 meeting to revise the underlying cost of service analysis. The Council wanted the General Fund to exclusively pay for certain costs that are administrative and governance related in nature even though the costs could be allocable to city wide services.

Hahn said some of the fee schedule has been expanded, in particular, the driveway encroachments, and classes of the grading and drainage permits. Hahn added that there was substantive restructuring done in the Public Works fees over the course of her contract. The intention of the revised schedule will allow flexibility to specific projects to be able to define the fee that matches the level of services used for a specific application. Hahn added that while working on a re-analysis of the Public Works fees she fundamentally changed an underlying assumption that drives the hourly rate that applies for engineering staff in Public Works and this substantially decreased Public Works fees. Changes to the Master Fee Schedule include massive restructuring and substantial decreased fees. Hahn concluded that there are no new fees in the amended Master Fee Schedule.

Council Member Marsala questioned why the Town does not charge the Atherton Civic Interest League (ACIL) for the space they use as an office at Holbrook-Palmer Park. Hahn said she typically views these as leases and not a user fee to be adopted in a fee schedule.

Council Member Lewis thanked Hahn for all of the work she has done. Lewis felt that the Public Works fees seem to be aligned with surrounding jurisdictions and makes it more palpable for a homeowner who needs a driveway improvement. Lewis said Councils goal by deducting administrative overhead was to arrive at a more equitable and accurate calculation of fees being charged for services. Lewis asked if the decreased funds in allocable costs will allow the Town to be able to balance its budget.

Hahn said the overhead costs defined in the plan are costs that are already budgeted and balanced in the General Fund and that do not presume fees would be covering them. It is quantification of a cost of service that can influence fees. Hahn concluded that she feels there are no negative ramifications to the Town's budget because the budget is already balanced to these fees.

Lewis asked, since the Building fees did not go down significantly, were the fees fixed at an initial rate that was factored into a formula being used now. Were the fees fair to begin with, and what is the Building Department's current and projected reserve amount.

Hahn said there are no substantial Building fee modifications because it is essentially the only department that has a chance of recovering a majority of its costs through user fees. Hahn concluded that the projection for the Building reserve is the same as it was in December of 2009. Hahn said staff should continue to monitor the reserve.

Council Member Carlson asked if the column that says *calculated fee amount assuming recovery of 100% of the cost of services* is a fully loaded figure. Hahn said it is fully loaded under the cost of service defined and it took into account the allocable overhead changes. Carlson said he would like to memorialize the conceptual structure of how the Town's costs have been allocated.

Mayor McKeithen said Council needs to decide whether they want to allow the fees identified in Resolution 10-06 to become effective retroactive to January 17, 2010. McKeithen asked Public Works Director Jones if he would recommend refunding all of the fees paid since January 17th. Jones said he would not have a problem with a refund and it would be a small amount.

Marsala thanked Hahn for all of her work and appreciated her patience.

Carol Flaherty, Atherton resident, said the encroachment permit for a driveway is too high. Flaherty said a small fraction of staff time goes into the total fee. Flaherty concluded that Council should go back and read the letter Flaherty's Attorney wrote to the Town in August of 2009 and said she is filing suit against the Town.

Colleen Anderson, Atherton resident, concurred with Carol Flaherty and felt the fees to build a driveway are too steep.

Lewis said she called surrounding jurisdictions to find out what their fee is for a minor encroachment permit and they averaged around \$400. Lewis felt comfortable with the current recommended fee.

MOTION by Marsala, second by Lewis to adopt Resolution 10-06 amending the Master Fee Schedule (excluding Building Department fees) to reduce certain fees and add the fees

identified in the resolution to become effective retroactively to January 17, 2010 and adopt Resolution 10-07 amending the Master Fee Schedule to reduce Building Department fees. The motion passed.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1 (Dobbie)

3. PRESENTATIONS

PROCLAMATION TO AMERICAN RED CROSS BAY AREA CHAPTER AND THE SAN MATEO COUNTY AMERICAN RED CROSS LEADERSHIP COUNCIL TO RECOGNIZE MARCH AS RED CROSS MONTH

Mayor McKeithen presented American Red Cross representatives Cindy Holzman and Tricia Clement with the Proclamation.

Holzman thanked Council and appreciated the time and effort they took in creating the proclamation.

4. PUBLIC COMMENTS

Rosemary Maultbetsch, Atherton resident and Rail Committee member, said she recently ran into some issues with the Town and Caltrans. Maultbetsch said her complaint with the Town has been resolved and thanked Public Works. Maultbetsch encouraged the Town to appoint a staff and Council liaison to oversee the Caltrans improvements at Fair Oaks Lane and defend the Town's character and make sure Caltrans stays on track with the Town's General Plan.

Jon Buckheit, Atherton resident, said he read that there have been nine citizens' complaints against the Atherton Police Department in the last five year and asked how many of the nine complaints were sustained by Police Chiefs responsible for adjudicating them. Buckheit said that the complaint form is intimidating and urged the Town to remove the legal warning on the form. Buckheit concluded that he would like to see a police oversight committee and he is willing to do anything to help put it together.

Colleen Anderson, Atherton resident, reiterated that she hopes Council will take into consideration the smaller lots in the Master Fee Schedule. Anderson said if someone is doing business in Atherton and has a post office box in another city they should be paying the sales tax in Atherton. Anderson thanked City Manager Gruber and Police Chief Guerra for taking the time to meet and discuss her concerns.

Janet Larson, spoke on behalf of the Woodside-Atherton Garden Club, and their opposition to the Redwood City Cargill project.

Pam Goodenough, Atherton resident, spoke in opposition of the Cargill project.

Council Member Lewis read a letter from Redwood City resident Peggy Macleod in opposition of the Cargill project.

Melinda Tevis, Atherton resident, said she read that City Manager Gruber met with Andrea Gemmet following a string of bad press and hoped that the outreach will continue. Tevis said she needs evidence that the Town is starting to understand resident concerns.

3. PRESENTATIONS - Continued

**LEAGUE OF CALIFORNIA CITIES PRESENTATION AND INTRODUCTION –
Foster City Vice Mayor Linda Koelling**

Foster City Vice Mayor Linda Koelling, representing the League of California Cities, is campaigning to get a measure on the November ballot called the Local Taxpayer, Public Safety, and Transportation Act of 2010. Koelling said the State continues to use local funds to take care of their fiscal irresponsibility and we need to band together and send a strong message to Sacramento to stop taking local funds.

Koelling urged Council and citizens to sign a petition and get it back to League representative Rebecca Elliot.

Council Member Marsala asked if the League has asked any California Governor candidates for endorsement. Koelling said Governor Candidate Meg Whitman has been approached.

Mayor McKeithen informed the audience that a meeting will be held on Monday, February 22 at the Pavilion in the Park for a question and answer forum with the City Manager and Chief of Police. McKeithen added that staff will hold an interactive meeting on Monday, March 1 at 6:00 p.m. in the Council Chambers to discuss revenue opportunities for the Town. McKeithen said Council will continue to keep the residents involved and request their thoughts and ideas during the Towns fiscal emergency.

5. REPORT OUT OF CLOSED SESSION

**A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
(Subsection (a) of Government Code Section 54956):**

*John P. Johns v. the Town of Atherton, San Mateo County Superior Court
Case No. CIV 479972*

**B. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION
(Subsection (b) of Government Code Section 54956.9):
One (1) potential case:**

*Jonathan B. Buckheit v. Tony Dennis, Dean DeVlugt, The Town of Atherton,
The County of San Mateo, and Does 1-500, inclusive - U.S. District Court for
the Northern District of California, San Francisco Division, Case No. CV 09-
5000*

**C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED
LITIGATION (Subsection (B) of Government Code Section 54956.9):
One potential case:**

California Tort Claim by Silvester M. Rabic, as Domestic Trustee on Behalf of the J.B.B Trust

**D. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
(Subsection (a) of Government Code Section 54956):**

Atherton et al v. High-Speed Rail Authority Case No. 34-2008-80000022

**E. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED
LITIGATION (Subsection (B) of Government Code Section 54956.9):
Unknown number of potential case:**

Road Impact Fees

City Attorney Wynne Furth said there was no reportable action from Item A, B, C and D.

Furth reported that Council voted 4-0-1 to authorize filing a petition of error coram nobis in the case of Town of Atherton et al v. High Speed Rail Authority.

6. CITY MANAGER’S REPORT

City Manager Gruber said he will work with Rosemary Maultbetsch on the Fair Oaks Lane improvements and meet with her when a time is convenient for both.

Gruber added that he attended a City Managers Conference where they discussed future ballot measures and the League emphasized halting the State from taking any more local funds. Gruber concluded the conference also discussed pension reform and it is important to stay up on future legislation.

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

LIBRARY NEEDS ASSESSMENT – Presentation given by Anne Marie Despain and Anderson Brule Architects

Anne-Marie Despain thanked the Atherton community for their support in helping put together the assessment and for their involvement in the survey. Despain thanked the Anderson Brule Architects for their work on the assessment study.

Pamela Brule and Brad Cox gave a Power Point presentation on the Atherton Library Needs Assessment. [A copy of the presentation is available in the City Clerks Department].

The report indicated that the library can not accommodate an adequate collection of books and materials. It should also increase seating areas, the number of public computers, provide a separate area for events and programs, and create dedicated spaces for children, teens and quiet study. Handicap accessibility improvements are also needed, as well as a reconfiguration of staff offices. Anderson Brule Architects met with focus groups and conducted a survey of people who use the library to complete the report.

Council Member Carlson expressed his concern about the impact high speed rail would have on the library and current parking constraints.

Council suggested staff set up a special meeting to discuss this library needs with the community.

CONSENT CALENDAR (Items 8-18)

Mayor McKeithen informed Council that she will recuse herself from item 14 since she lives within 500 feet.

Atherton resident Carol Flaherty asked to remove item 17. Mayor McKeithen moved item 17 to after item 27.

Council Member Lewis removed item 18 seeing that it needed a roll call vote.

Council Member Marsala had a brief question on item 13.

8. APPROVAL OF JANUARY 11 STRATEGIC WORKSHOP MINUTES, JANUARY 12 STUDY SESSION MINUTES, JANUARY 21 REGULAR MEETING MINUTES AND FEBRUARY 1 STUDY SESSION MINUTES.

Recommendation: Approve January 11, 2010, January 12, 2010, January 21, 2010, and February 1, 2010 City Council Meeting Minutes

9. APPROVAL OF BILLS AND CLAIMS FOR DECEMBER 2009 IN THE AMOUNT OF \$923,411

Recommendation: Approve Bills and Claims in the amount of \$923,411

10. ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR THE MONTH ENDED JANUARY 31, 2010

Recommendation: Accept Monthly Financial Report

11. TREASURER'S REPORT FOR THE SECOND QUARTER ENDED DECEMBER 31, 2009

Report: Finance Director Louise Ho

Recommendation: Accept the Treasurer's Report for the Second Quarter Ended December 31, 2009

12. APPROVAL OF PLANS AND SPECIFICATIONS AND AUTHORIZATION TO ADVERTISE GARDEN ROOM RENOVATION PROJECT NUMBER 09-025

Report: Public Works Director Duncan Jones

Recommendation: Approve the plans and specifications and authorize advertisement for bids for the Garden Room Renovation Project, Project No. 09-025

13. APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR TRAFFIC ENGINEERING SERVICES FOR THE VALPARAISO CROSSWALK AT HOOVER OR VICTORIA TRAFFIC STUDY, IN

AN AMOUNT NOT TO EXCEED \$20,600 PLUS A TEN PERCENT CONTINGENCY, FOR A TOTAL AUTHORIZATION OF \$22,660

Report: Public Works Director Duncan Jones

Recommendation: Accept the proposal and authorize the City Manager to sign a Professional Services Agreement with Kimley-Horn and Associates, Inc to provide traffic engineering services for the Valparaiso Crosswalk at Hoover or Victoria Traffic Study in an amount not exceed \$20,600, plus a 10% contingency of \$2,060, for a total authorization of \$22,660

Council Member Marsala said he thought the Town was going to omit funding a study.

Public Works Director Jones said staff thought they could get by without having to fund a study but Menlo Park will not approve without a study.

Council Member Lewis said she was frustrated that the Town is right back to where they started almost a year ago because Council tried to push this through without having to fund a study and requested that in the future when it comes to the safety of the Atherton residents to not cut corners.

15. CONSIDER CONSENT TO ASSIGNMENT OF FRANCHISE COLLECTION AGREEMENT FOR ALLIED WASTE INDUSTRIES, INC. MERGER WITH REPUBLIC SERVICES, INC.

Report: City Manager Jerry Gruber

Recommendation: Approve Resolution 10-08 approving the consent to assignment of the Franchise Collection Agreement with Allied Waste Industries Inc. (Allied) to Republic Services, Inc. (Republic) pursuant to their merger

16. ADOPTION OF A RESOLUTION RESCINDING THE BUSINESS LICENSE PROCESSING FEE ADOPTED BY RESOLUTION 09-04

Report: Finance Director Louise Ho

Recommendation: Approve Resolution 10-09 rescinding the business license processing fee adopted by Resolution 09-04

MOTION by Lewis, second by Carlson to approve the consent calendar except for items 14, 17 and 18. The motion passed.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1 (Dobbie)

Items Removed from Consent Calendar

14. DEBELL DRIVE TRAFFIC STUDY

Report: Public Works Director Duncan Jones

Recommendation: Direct staff to proceed with the DeBell Drive Traffic Study under the Town's Traffic Program procedures.

Mayor McKeithen recused herself from item 14.

MOTION by Lewis, second by Carlson to direct staff to proceed with the DeBell Drive Traffic Study under the Town's Traffic Program procedures. The motion passed.

Ayes: 3 Nays: 0 Abstain: 0 Absent: 2 (Dobbie, McKeithen)

18. SECOND READING AND ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ADDING CHAPTER 1.21 TO THE ATHERTON MUNICIPAL CODE ESTABLISHING ADMINISTRATIVE CITATIONS FOR VIOLATIONS OF THE ATHERTON MUNICIPAL CODE, RELATED STATE CODES AND CONDITIONS ON ENTITLEMENTS

Report: City Manager Jerry Gruber

Recommendation: Waive further reading, and adopt Ordinance Adding Chapter 1.21 to the Atherton Municipal Code Establishing Administrative Citations for Violations of the Atherton Municipal Code, Related State Codes and Conditions of Entitlements (Needs roll call vote)

MOTION by McKeithen to waive further reading, and adopt Ordinance Adding Chapter 1.21 to the Atherton Municipal Code Establishing Administrative Citations for Violations of the Atherton Municipal Code, Related State Codes and Conditions of Entitlements. The motion failed.

Ayes: 2 Nays: 2 (Lewis, Marsala) Abstain: 0 Absent: 1 (Dobbie)

PUBLIC HEARINGS (19)

19. ADOPTION OF RESOLUTIONS JOINING THE CALIFORNIAFIRST PROGRAM; AUTHORIZING THE COUNTY OF SACRAMENTO TO APPLY FOR GRANT FUNDS ON THE TOWN'S BEHALF; AUTHORIZING THE ASSOCIATION OF BAY AREA GOVERNMENTS TO ACCEPT A GRANT AWARD ON ITS BEHALF AND TO ENTER INTO ALL NECESSARY AGREEMENTS TO CARRY OUT QUALIFIED PROJECTS

Report: Town Arborist Kathy Hughes-Anderson

Recommendation: Staff recommends that the City Council conduct a public hearing and adopt Resolution 10-10 to become a participating member agency of the CaliforniaFIRST program, Resolution 10-11 to authorize the County of Sacramento to apply for grant funds on behalf of the Town, and Resolution 10-12 to authorize the Association of Bay Area Governments (ABAG) to accept a grant award on its behalf and to enter into all necessary contracts and agreements to carry out qualified projects, recognizing the County of San Mateo as the lead local implementer for all of the local governments in San Mateo County.

Deputy County Manager for Community Services Peggy Jensen and Douglas Alfaro, Program Manager, presented Council with information regarding the CaliforniaFirst Program.

The County has participated in a region wide program through ABAG which coordinates this application to the State energy assistance grant program. ABAG will receive 10.7 million for the project. Atherton can participate by adopting the resolution and joining the CaliforniaFirst program which is a Property Assessed Clean Energy (PACE) finance program. The PACE program allows residents to voluntarily finance the installation of energy and water improvements on their home or business and pay the amount back as a line item on their property tax bill.

Council Member Marsala asked how a home owner applies. Jensen said she will meet with representatives from the program in early March to learn exactly how the process works. Jensen said she anticipates that the program will be up and running by September.

Council Member Lewis said she and the rest of the Environmental Programs Committee are very excited for this program. It is risk free participation and gives Atherton residents the option to take part.

Council Member Carlson asked for more information on the ten percent energy reduction that the home owner has to demonstrate for the loan.

Jensen said it is to create a base line of energy use before the improvements are done. You do the improvements and then another test by the home auditor to see if the improvements intended to be made through the retrofit work are actually achieved.

Douglas Alfaro added that the ten percent is a requirement of energy efficiency from your baseline reduction before your eligible for financing solar projects such as solar panels.

Mayor McKeithen asked if there is much impact on staff time. City Manager Gruber said the classification study will address some point in time how existing staff will take on more of these responsibilities. Gruber said Town Arborist Kathy Hughes Anderson is heading a lot of environmental programs and is doing a great job in balancing her primary duties as arborist and bringing cutting edge environmental ideas to Council.

MOTION by Marsala, second by McKeithen to approve Resolution 10-10 to become a participating member agency of the CaliforniaFIRST program, Resolution 10-11 to authorize the County of Sacramento to apply for grant funds on behalf of the Town, and Resolution 10-12 to authorize the Association of Bay Area Governments (ABAG) to accept a grant award on its behalf and to enter into all necessary contracts and agreements to carry out qualified projects, recognizing the County of San Mateo as the lead local implementer for all of the local governments in San Mateo County. The motion passed.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1 (Dobbie)

REGULAR AGENDA (Items 20-27)

20. ADOPT RESOLUTION 10-13 TO SUPERSEDE RESOLUTION 09-09 AND TO EXPAND FINANCE COMMITTEE

Report: City Manager Jerry Gruber

Recommendation: To Be Determined

Council Member Lewis said she checked with Hillsborough who has a Finance Committee that consists of seven resident members, one Council Member and the Finance Director who meet four times a year and on an as-needed basis. Members represent expertise in the fields of accounting, investment management and fiscal control. Lewis added that Los Altos has seven volunteers with four year terms who meet monthly on an as-needed basis and Menlo Park has three residents and two council members who meet monthly.

Council Member Marsala said he has been an advocate of expanding the Finance Committee for a long time. Marsala felt that Town residents would help committee members stay on track with the roles and duties of the Finance Committee.

Jeff Wise, Atherton resident, supported changing the structure of the Finance Committee and suggested having three qualified residents.

Council discussed whether the finance charter should be revised and term limits for the resident members.

MOTION by Lewis, second by Marsala to adopt resolution 10-13 to supersede resolution 09-09 to expand the Finance Committee to add three appointed, qualified Atherton residents with financial expertise for staggered terms of which are one term for one year and two terms for two years and two years thereafter. The motion passed.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1 (Dobbie)

21. ROAD IMPACT FEE REFUND UPDATE

Report: City Manager Jerry Gruber

Recommendation: To Be Determined

City Manager Gruber informed Council that staff has added a supplemental report that clearly delineates the proposals in more detail and includes a project timeline.

Council Member Lewis pointed out that under the fiscal impact of the staff report it says the available cash remaining in the Road Impact Fee Fund as of December 31, 2009, totals approximately \$542,000. It is the Finance Director's recommendation that this balance be increased by \$1,113,000 to correct inappropriate charges made in previous years. Lewis said she believes the inappropriate charges reflect the Public Works projects charged to the street corporation facility remodel and the operating transfer to general fund for street repairs and capital improvement project support.

Council Member Marsala felt that correcting inappropriate charges and deciding how far back to refund road impact fees are separate issues and should be taken up separately.

Council Member Marsala questioned whether a supermajority vote is needed to approve the increase by \$1,113,000 to correct inappropriate charges. City Attorney Furth said the money is not coming from a reserve. A supermajority vote will be needed if Council authorizes refunds in excess of the Road Impact Fee Fund, because General Fund reserve would need to be used.

Jeff Wise, Atherton resident and on behalf of the citizens' proposal group, said the citizens group has always assumed that the \$2,733,000 proposed refunds would not all be requested for refund. Wise said the road impact fee fund has a balance of \$1,655,000 and felt it would be appropriate to cap the refund available to the balance available in the fund. Wise added that you can set a period of time when people must apply for a refund and at the end of that time it would be determined by the total number of refunds requested and in the event the refunds requested exceeded the fund then they would be made on a prorated basis. Wise concluded that the citizens' group has asked that the Town acknowledge this was of questionable legality and give refunds to those who are entitled to it.

Jon Venverloh, Atherton resident, thanked Council for their diligent attention to this matter. Venverloh supported Jeff Wise's suggestions.

Denise Kupperman, Atherton resident, said residents pay property taxes for normal and usual use of Atherton roads and asked Council to consider the extensive wear and tear that builders do to Atherton roads. Kupperman felt the road impact fee was legit.

Marsala felt that citizens' group proposal was well thought out and felt it protects the Town and a cap keeps the Town from having to go into reserves.

Mayor McKeithen said she is now in support of refunding the amounts paid after the 40% increase in road impact fee. McKeithen added that equity, the law, public funds and acknowledgement that doing what is right are elements to her support of going back further than she originally had stated.

McKeithen promoted different parameters and time-frames for refunds and added that she was concerned residents may see the refunds as a gift of public funds to builders. McKeithen concluded that all who paid from July or February 2006 to December 31, 2006 receive refunds and from January 1, 2007 to September 17, 2009 if they file within ninety days and lastly anyone who request the proceeds of the 40% rate increase from August 17, 2007 to September 17, 2009.

Council Member Carlson suggested that people receiving the refunds would consider making charitable donations to non-profit organizations such as the Holbrook-Palmer Park Foundation rather than paying all the taxes to the State.

Lewis said Council realized a few years back that the road impact fee was of questionable legality and feels now the Council needs to take the high road and not "nickel" and "dime" the citizens who are owed and make this process simple and fair. Lewis was in support of the citizens' group proposal with a cap.

MOTION by Marsala, second by Lewis to increase the balance of the Road Impact Fee Fund by \$1,113,000 to correct inappropriate charges made in previous years. The motion passed.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1 (Dobbie)

MOTION by Marsala, second by to accept the citizens' group proposal to refund fees paid between July 1, 2006 through December 18, 2009 for an amount not to exceed 1,655,000 and to be prorated after ninety days if the total applicants dollar value of the refunds exceed the fund. The motion passed.

Ayes: 3 Nays: 1 (McKeithen) Abstain: 0 Absent: 1 (Dobbie)

Jeff Wise requested that the Town send information to the public on charitable donations and their options.

McKeithen stated that she did not feel that staff was recommending that these refunds be paid out or finalized. McKeithen added that several years ago Council engaged in extensive research by hiring more than one law firm in writing opinions and researching this issue who advised that it was ok to continue with the road impact fee.

Carlson said if this keeps the Town from further lawsuits then this could save a lot in the long run.

McKeithen said it will be hard for the Town to pass a revenue measure when these refunds could be perceived as a gift of public funds.

City Attorney Furth said staff will come back with further detail on the proposal and the process of how the refunds will be paid.

22. DRAINAGE CRITERIA UPDATE REVISITED

Report: Public Works Director Duncan Jones

Recommendation: Receive this information and give direction to staff for future actions to update the Drainage Criteria, to modify the maintenance agreement and to modify the Grading, Erosion and Sediment Control Ordinance (Municipal Code Section 8.54).

City Manager Gruber informed Council that Public Works Director Duncan Jones held a community workshop to listen to resident concerns and issues with the drainage criteria and maintenance agreement. Gruber added that the workshop was very well attended.

Public Works Director Jones said the three general topics at the workshop were whether the Town can have a town-wide drainage system, the criteria itself and the maintenance agreement.

Jones said there are cities that have a town-wide drainage system through a storm drain utility user fee and it can be done. Jones added that the current threshold is at 5,000 square feet and the new threshold is 2,500 square feet and if Council decided to put in a town-wide drainage system the criteria would probably change to no increase and run-off from a property. Jones said if this was done he would recommend lowering the threshold to at least 2,500 because anybody with increased impermeable area on their property would over tax the brand new system.

Jones said residents felt the criteria needed to be more clear and consistent and allow options.

Jones concluded that Council can either look into a town-wide system, require every property to have a system, or continue as is with modifications to the criteria and maintenance agreement or possibly remove the agreement entirely and require property owners to submit verification.

Mayor McKeithen was in favor of removing the maintenance agreement and leaving it to the home owner to comply. McKeithen added that she was in support of making the criteria less complicated but would still want to see the home owner record the system with the County Records office. McKeithen concluded that she would not support a study and felt staff and Council can work with the community on this.

Council Member Marsala appreciated Jones efforts with the community workshop. Marsala said he is in support of being uniform with other jurisdictions and become less restrictive and more standardized on guidelines.

Council Member Carlson said Jones did a fine job in facilitating the workshop. Carlson was in favor of getting rid of the maintenance agreement and sending a post card reminder to residents on an annual basis to check the system. Carlson suggested working with surrounding agencies on a long-term approach.

Council Member Lewis supported getting rid of the maintenance agreement and sending an annual reminder. Lewis concluded that she is in favor of a study on whether Atherton needs a town-wide drainage system.

Carol Flaherty, Atherton resident, said that the issue is that Atherton does not allow any seepage of water into the ground and that should be revised. Flaherty said when the drainage plan goes to the Town with a soils report there should be an adjustment depending on location, soil condition and where the water table is.

Jon Venverloh, Atherton resident, thanked Council for their efforts and consideration on revising the criteria and possibly removing the maintenance agreement. Venverloh suggested forming a citizens group to work with staff on the details of grading and drainage.

Jeff Wise, Atherton resident, commended Jones for his work in facilitating the workshop in a somewhat hostile environment. Wise suggested studying the criteria as is and researching options and solutions that are more palatable and functional for the residents.

McKeithen directed staff to bring back a decision for rescinding the maintenance agreement. Carlson added the idea of allowing the City Manager to form a citizens committee to work with staff for their input. Council concurred.

23. ADOPTION OF A RESOLUTION APPROVING THE MID-YEAR BUDGET ADJUSTMENTS FOR FY 2009-10

Report: Finance Director Louise Ho

Recommendation: Adopt Resolution 10-12 Approving the Mid-Year Budget Adjustments for FY 2009-10

City Manager Gruber said the figures in the mid-year budget adjustments do not reflect the action taken earlier in this meeting to decrease the Master Fee Schedule.

Council Member Carlson asked if it includes the road impact fee adjustments. City Manager said it does not include the road impact fee adjustments.

Mayor McKeithen suggested voting on the mid-year budget adjustments without the road impact fee. Council concurred to bring the road impact fee adjustment back to Council in March.

MOTION by Carlson, second by Lewis to adopt Resolution 10-12 approving the Mid-Year Budget Adjustments for FY 2009-10. The motion passed.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1 (Dobbie)

24. STATUS REPORT OF TOWN COMMITTEE AND COMMISSION VACANCIES DUE TO EXPIRE ON APRIL 30, 2010 AND REQUEST TO SCHEDULE A SPECIAL CITY COUNCIL MEETING TO INTERVIEW APPLICANTS

Report: Deputy City Clerk Theresa DellaSanta

Recommendation: Schedule a Special City Council meeting sometime between Monday, March 22, 2010 and Friday, April 16, 2010 to interview applicants for the Arts, Atherton Rail, Audit, Environmental Programs and General Plan Committees

Council directed staff to bring back an item to schedule a special meeting for Committee interviews at the March meeting when staff has an idea at approximately how many applicants there are.

25. TOWN CENTER TASK FORCE COMMITTEE UPDATE

Report: City Manager Jerry Gruber

Recommendation: No Action

No Action taken.

26. RECONSTITUTE CITY COUNCIL AD-HOC COUNCIL COMMUNICATIONS SUBCOMMITTEE TO TOWN COMMUNICATIONS COMMITTEE AND EXPAND MEMBERSHIPS

Recommendation: To Be Determined

Council Member Carlson questioned whether there needs to be a long term standing committee. Council Member Lewis concurred with Carlson and said they will have a draft Council communications policy.

Mayor McKeithen said the advantage of having a standing committee would allow the committee to meet whenever an issue regarding communications arises.

Council concurred to table the item to until after they have reviewed the draft communications policy written by the ad-hoc subcommittee.

27. AMEND SECTION 5.1 OF THE COUNCIL RULES OF PROCEDURES TO MOVE FUTURE AGENDA ITEMS TO BEGINNING OF THE AGENDA

Recommendation: To Be Determined

Council Member Marsala said he was originally in support of this but no longer is because he felt Council needs to streamline the meetings and take up issues where people are in the audience waiting. Marsala said Council should always be prepared to move items forward if needed.

17. APPROVAL OF THE THIRD AMENDMENT TO THE PROFESSIONAL /CONSULTING SERVICES AGREEMENT WITH NBS CONCERNING THE TOWN OF ATHERTON'S COMPREHENSIVE FEE STUDY

Report: Finance Director Louise Ho

Recommendation: Approve the third amendment to the professional consulting services agreement with NBS concerning the Town of Atherton's comprehensive fee study; and authorize City Manager to execute in an amount not to exceed \$9,300

Carol Flaherty, Atherton resident, said the full cost methodology is unlawful and suggested Council refer to the letter they received from her Attorney Walt McNeil in August of 2009. Flaherty said NBS stuffed too much overhead into the fees and encouraged Council to revisit the fees again. Flaherty concluded that she plans to file a protest against the encroachment permit fees.

Council Member Lewis reiterated that Council approved a revised master fee schedule earlier in the meeting with decreased fees which took out a lot of the loaded costs.

MOTION by Carlson, second by Lewis to approve the third amendment to the professional consulting services agreement with NBS concerning the Town of Atherton's comprehensive fee study; and authorize City Manager to execute in an amount not to exceed \$9,300. The motion passed.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1 (Dobbie)

28. COUNCIL REPORTS

Nothing further to add to written reports.

29. FUTURE AGENDA ITEMS

MOTION by Carlson, second by Lewis to add an item to a future agenda to "affix a second meeting date per month for City Council meetings in lieu of special meetings." The motion passed.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1 (Dobbie)

Mayor McKeithen said in the past Council has discussed setbacks. McKeithen requested a status report on driveway gates.

MOTION by McKeithen, second by Marsala to add an item to a future agenda to "discuss the relationship of R1A to R1B lots and in particular the existing difference in the standards, existing differences among R1B lots and possible changes." The motion passed.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1 (Dobbie)

MOTION by McKeithen, second by Marsala to add an item to a future agenda to "form a police review committee or Police Auditor." The motion passed.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1 (Dobbie)

MOTION by Marsala, second by Lewis to add an item to a future agenda to "review the Cargill /DMB development plan." The motion passed.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1 (Dobbie)

MOTION by Marsala, second by Lewis to add an item to a future agenda to "direct General Plan Committee to review and update the Towns home occupancy Ordinance." The motion passed.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1 (Dobbie)

30. PUBLIC COMMENTS

None.

31. ADJOURN

MOTION by Carlson, second by Marsala to adjourn the meeting. The motion passed unanimously.

Mayor McKeithen adjourned the meeting at 11:34 p.m.

Respectfully submitted,

Theresa DellaSanta
Deputy City Clerk

TOWN OF ATHERTON
CLAIMS LIST FEBRUARY 2010

	02/12/2010	02/26/2010	Amt
Payroll Checks #	14629-14635	14695-14699	\$ 4,465
Direct Deposit	14636-14694	14700-14759	282,948
Electronic Transfer			93,939
A/P Checks #	29916-30045		471,800
		FEBRUARY 2010 TOTAL	\$853,152

I, Jerome D. Gruber, City Manager of the Town of Atherton, do hereby certify under penalty of perjury that the demands listed above, check numbers 14629-14759 (payroll), 29916-30045 (accounts payable), and electronic transfers for employees direct deposits, federal payroll taxes and fees, inclusive, amount to \$853,152 are true and correct, and that there are sufficient funds for payment.

Jerome D. Gruber
City Manager

The above claims, check numbers 14629-14759 (payroll), 29916-30045 (accounts payable), and electronic transfers for employees direct deposits, federal payroll taxes and fees, inclusive, amount to \$853,152 are true and correct, and are authorized for payment.

Kathy McKeithen
Mayor, Town of Atherton

SOURCE OF FUNDS

101	General Fund	\$ 687,253
105	Tennis	1,485
201	Special Parcel Tax	3,221
211	State Grant	3,309
213	Library	3,149
220	Traffic Congest. Relief	121,333
401	GF Projects	18,382
403	Atherton Channel District	135
616	Employee Benefits	14,885
	TOTAL	\$ 853,152

Check Register by Date

Check#	Check Dt	Vn#	Vendor Name.....	Fnd	Amounts	Amount Paid
029917	02/11/10	2	A-A LOCK & ALARM INC	105	471.78	471.78
029918	02/11/10	2744	ALHAMBRA & SIERRA SPRINGS	101	187.08	187.08
029919	02/11/10	1105	CLEAN SOURCE	101	464.49	464.49
029920	02/11/10	4578	COLMA FIREMAN'S SOCIAL CLUB KRIS KROW, TOWN OF COLMA	101	80.00	80.00
029921	02/11/10	1920	DELL MARKETING L.P. C/O DELL USA L.P.	101	460.78	460.78
029922	02/11/10	337	DOUGLAS PRINTERS	101	983.25	983.25
029923	02/11/10	3163	FIRST CHOICE	101	64.06	64.06
029924	02/11/10	75	GERBOTH FIRE EXTINGUISHER CO.	101	315.35	315.35
029925	02/11/10	3054	H.T. HARVEY & ASSOCIATES	403	134.50	134.50
029926	02/11/10	37	HORIZON	101	147.52	147.52
029927	02/11/10	3772	INTERMOUNTAIN ELECTRIC COMPANY	101	1,317.50	1,547.50
				101	230.00	
029928	02/11/10	4342	DR. PAUL JEMELIAN	101	187.23	187.23
029929	02/11/10	248	LYNGSO GARDEN MATERIAL	101	738.53	738.53
029930	02/11/10	2536	MILLS-PENINSULA HEALTH SERVICES	101	585.00	585.00
029931	02/11/10	4370	MUNI SERVICES LLC	101	50.00	50.00
029932	02/11/10	4381	NBS GOVERNMENT FINANCE GROUP dba NBS	101	3,584.00	8,075.00
				101	4,491.00	
029933	02/11/10	156	OFFICE DEPOT	101	6.77	6.77
029934	02/11/10	178	ORCHARD SUPPLY HARDWARE	101	32.73	217.98
				101	42.29	
				101	17.46	
				101	14.16	
				101	39.82	
				101	36.56	
				101	34.96	
029935	02/11/10	4280	PAPE' MACHINERY	101	514.89	514.89
029936	02/11/10	199	PG & E	101	5,237.37	5,237.37
029937	02/11/10	4519	PLAYGROUND UNLIMITED	101	1,500.00	5,030.00
				101	1,000.00	
				101	1,000.00	
				101	1,000.00	
				101	530.00	
029938	02/11/10	2501	RECALL SECURE DESTRUCTION SERVICES INC.	101	87.52	87.52
029939	02/11/10	2076	CITY OF REDWOOD CITY FINANCE DEPARTMENT	101	2,738.27	4,032.26
				101	1,253.23	
				101	40.76	
029940	02/11/10	2092	SM COUNTY CONTROLLER ATTN: GENERAL ACCOUNTING - PARKING	101	23.00	23.00
029941	02/11/10	4014	SHARP ELECTRONICS CORPORATION	101	167.00	192.75
				101	25.75	

Check Register by Date

Check#	Check Dt	Vn#	Vendor Name	Fnd	Amounts	Amount Paid
029942	02/11/10	4671	SDDTF	101	421.00	421.00
029943	02/11/10	1637	TEAMSTERS LOCAL 856 H & W	101	6,176.45	6,176.45
029944	02/11/10	65	VISION SERVICE PLAN ATTN: ANGELICA EASHON	101	758.97	758.97
029946	02/18/10	4673	DEPT. OF INDUSTRIAL RELATIONS	101	105.00	105.00
029947	02/18/10	1724	I.M.P.A.C. GOVERNMENT SERVICES ATTENTION: CAL-CARD PAYM ENTS	101	345.30	2,120.23
				101	208.65	
				101	3.27	
				101	19.95	
				101	227.79	
				101	128.00	
				101	422.80	
				101	-35.80	
				101	530.76	
				101	269.51	
029947	02/18/10	1724	I.M.P.A.C. GOVERNMENT SERVICES ATTENTION: CAL-CARD PAYM ENTS	101	15.00	15.00
029947	02/18/10	1724	I.M.P.A.C. GOVERNMENT SERVICES ATTENTION: CAL-CARD PAYM ENTS	101	350.00	579.40
				101	100.00	
				101	129.40	
029947	02/18/10	1724	I.M.P.A.C. GOVERNMENT SERVICES ATTENTION: CAL-CARD PAYM ENTS	101	262.71	767.29
				101	60.08	
				101	37.41	
				101	232.09	
				101	175.00	
029947	02/18/10	1724	I.M.P.A.C. GOVERNMENT SERVICES ATTENTION: CAL-CARD PAYM ENTS	101	245.00	245.00
029947	02/18/10	1724	I.M.P.A.C. GOVERNMENT SERVICES ATTENTION: CAL-CARD PAYM ENTS	101	540.00	540.00
				101	408.95	
029947	02/18/10	1724	I.M.P.A.C. GOVERNMENT SERVICES ATTENTION: CAL-CARD PAYM ENTS	101	2,005.51	2,005.51
				101	225.00	
				101	12.95	
				101	88.95	
				101	569.60	
				101	60.64	
				101	50.23	
				101	59.00	

Check Register by Date

Check#	Check Dt	Vn#	Vendor Name	Fnd	Amounts	Amount Paid
029947	02/18/10	1724	I.M.P.A.C. GOVERNMENT SERVICES ATTENTION: CAL-CARD PAYM ENTS	101	197.50	
				101	10.69	
				101	149.62	
				101	172.38	
					52.09	486.56
029947	02/18/10	1724	I.M.P.A.C. GOVERNMENT SERVICES ATTENTION: CAL-CARD PAYM ENTS	101	52.09	
				101	382.38	
					26.98	285.79
029947	02/18/10	1724	I.M.P.A.C. GOVERNMENT SERVICES ATTENTION: CAL-CARD PAYM ENTS	101	58.70	
				101	50.00	
				101	150.11	
					178.00	1,525.98
029947	02/18/10	1724	I.M.P.A.C. GOVERNMENT SERVICES ATTENTION: CAL-CARD PAYM ENTS	101	87.35	
				101	-7.40	
				101	108.10	
				101	-9.15	
				101	110.00	
				101	359.76	
				101	134.85	
				101	58.23	
				101	19.95	
				101	153.71	
				101	332.58	
029948	02/18/10	4672	INTERNATIONAL SURFACING SYSTEM	220	121,333.29	121,333.29
029949	02/18/10	4370	MUNI SERVICES LLC	101	50.00	100.00
				101	50.00	
029950	02/18/10	2596	NEXGEN BUILDERS INC.	211	3,309.30	3,309.30
029950	02/18/10	2596	NEXGEN BUILDERS INC.	401	11,697.36	11,697.36
029951	02/18/10	4382	J.J. NGUYEN INC	201	2,084.51	2,084.51
029952	02/18/10	107	PUBLIC EMPLOYEES RETIREMENT SYSTEM	101	3,210.25	52,383.99
				101	49,173.74	
029953	02/18/10	199	PG & E	213	421.94	711.61
				101	80.26	
				101	46.28	
				101	163.13	
029954	02/18/10	423	CITY OF REDWOOD CITY FINANCE DEPT. ACCTS. RECEIVABLE	101	7,842.69	19,062.09
				101	10,444.39	

Check Register by Date

Check#	Check Dt	Vn#	Vendor Name	Frnd	Amounts	Amount Paid
029955	02/18/10	4041	SPRINT	101	691.37	
029956	02/18/10	1631	TEAMSTERS UNION LOCAL 856	101	83.64	
029957	02/18/10	4469	VANGUARD CONSTRUCTION	101	430.49	430.49
029958	02/18/10	3643	VERIZON WIRELESS	101	401.55	401.55
				401	6,684.57	6,684.57
				101	45.01	1,166.27
				101	133.84	
				101	518.15	
				101	125.16	
				101	218.88	
				101	41.72	
				101	83.51	
029960	02/23/10	1635	Northern California Chapter IAEI	101	150.00	150.00
029962	02/25/10	2 A-A	LOCK & ALARM INC	101	769.66	769.66
029962	02/25/10	2 A-A	LOCK & ALARM INC	101	30.00	60.00
				101	30.00	
029963	02/25/10	3 A-A-A	RENTALS INC	101	420.80	420.80
029963	02/25/10	3 A-A-A	RENTALS INC	101	82.50	82.50
029964	02/25/10	104 A.P.O.A.		101	750.00	750.00
029965	02/25/10	3856	ABAG POWER PURCHASING POOL C/O UNION BANK	101	18.40	559.94
				101	169.84	
				101	144.30	
				101	33.61	
				101	19.74	
				101	7.96	
				101	47.77	
				101	23.89	
				213	39.42	
				101	55.01	
029966	02/25/10	1887	ACCUITEMPS FILE 73484	101	308.61	308.61
029966	02/25/10	1887	ACCUITEMPS FILE 73484	101	411.48	411.48
029967	02/25/10	3593	ADAMSON POLICE PRODUCTS	101	5,156.51	7,964.33
				101	2,807.82	
029968	02/25/10	4338	AT&T CALNET 2	101	55.75	55.75
029968	02/25/10	4338	AT&T CALNET 2	101	15.87	15.87
029968	02/25/10	4338	AT&T CALNET 2	101	55.44	55.44
029968	02/25/10	4338	AT&T CALNET 2	101	15.76	15.76
029968	02/25/10	4338	AT&T CALNET 2	101	111.94	111.94
029968	02/25/10	4338	AT&T CALNET 2	101	472.66	472.66
029968	02/25/10	4338	AT&T CALNET 2	101	212.69	212.69

Check Register by Date

Check#	Check Dt	Vn#	Vendor Name	Fnd	Amounts	Amount Paid
029968	02/25/10	4338	AT&T CALNET 2	101	15.77	15.77
029968	02/25/10	4338	AT&T CALNET 2	101	84.16	84.16
029968	02/25/10	4338	AT&T CALNET 2	101	15.74	15.74
029968	02/25/10	4338	AT&T CALNET 2	101	620.86	620.86
029968	02/25/10	4338	AT&T CALNET 2	101	14.50	533.54
029968	02/25/10	4338	AT&T CALNET 2	101	16.57	
				101	30.53	
				101	30.25	
				101	114.47	
				101	15.79	
				101	15.81	
				101	29.55	
				101	30.39	
				101	150.38	
				101	22.94	
				101	16.01	
				101	46.35	
029970	02/25/10	4706	BANDIT EXCAVATION	101	2,500.00	2,500.00
029971	02/25/10	4307	BAY AREA POLYGRAPH MARY MC CONNELL	101	400.00	400.00
029972	02/25/10	67	CALIFORNIA WATER SERVICE	101	109.86	613.17
				101	26.61	
				213	34.52	
				101	30.86	
				101	52.80	
				101	45.49	
				101	87.68	
				101	54.77	
				101	55.01	
				101	35.44	
				101	2.35	
				101	14.13	
				101	7.07	
				101	12.86	
				101	43.72	
029973	02/25/10	160	CALPERS HEALTH BENEFITS DIVISION	101	49,079.68	64,244.88
				101	280.37	
				616	457.87	
				616	3,094.69	
				616	968.28	
				616	275.71	

Check Register by Date

Check#	Check Dt	Vn#	Vendor Name.....	Fnd	Amounts	Amount Paid
029974	02/25/10	1688	CLARK PEST CONTROL	616	519.60	
029974	02/25/10	1688	CLARK PEST CONTROL	616	9,568.68	
029974	02/25/10	1688	CLARK PEST CONTROL	101	200.00	200.00
029974	02/25/10	1688	CLARK PEST CONTROL	101	1,970.00	1,970.00
029974	02/25/10	1688	CLARK PEST CONTROL	101	325.00	325.00
029974	02/25/10	1688	CLARK PEST CONTROL	101	855.00	855.00
029974	02/25/10	1688	CLARK PEST CONTROL	213	350.00	350.00
029974	02/25/10	1688	CLARK PEST CONTROL	213	95.00	95.00
029975	02/25/10	1105	CLEAN SOURCE	101	389.59	389.59
029975	02/25/10	1105	CLEAN SOURCE	101	113.04	113.04
029976	02/25/10	3727	BARRIE D. COATE HORTICULTURAL CONSULTANT	201	655.00	655.00
029977	02/25/10	3125	CODE PUBLISHING INC	101	3,462.00	3,462.00
029978	02/25/10	3918	COLANTUONO & LEVIN, PC	101	23.50	23.50
029979	02/25/10	3940	COMMUNITY OVERCOMING RELATIONSHIP ABUSE	101	2,358.00	2,358.00
029980	02/25/10	2699	CSG CONSULTANTS, INC.	101	3,798.38	3,798.38
029981	02/25/10	4450	DAILY JOURNAL CORPORATION	101	124.15	124.15
029982	02/25/10	1920	DELL MARKETING L.P. C/O DELL USA L.P.	101	991.99	991.99
029983	02/25/10	82	TONY DENNIS	101	27.71	99.21
				101	71.50	
029984	02/25/10	2967	DEPT OF JUSTICE ACCOUNTING OFFICE, CASHIERING UNIT	101	66.00	66.00
029985	02/25/10	3991	GORDON DERE	101	76.30	173.84
				101	97.54	
029986	02/25/10	3766	DISCOUNT PLUMBING & ROOTER	101	2,500.00	2,500.00
029987	02/25/10	3848	DIVERSIFIED MAINTENANCE SERVICE, INC.	101	616.34	1,625.76
				213	445.59	
029988	02/25/10	337	DOUGLAS PRINTERS	101	109.68	
029988	02/25/10	337	DOUGLAS PRINTERS	101	115.08	
029989	02/25/10	1993	DUCKY'S CAR WASH	101	145.98	
029990	02/25/10	4367	DUNBAR ARMORED INC.	101	193.09	
				101	208.66	208.66
029991	02/25/10	3163	FIRST CHOICE	101	208.66	208.66
029991	02/25/10	3163	FIRST CHOICE	101	190.00	190.00
029992	02/25/10	76	HARRIS COMPUTER SYSTEMS	101	185.37	207.41
029993	02/25/10	4707	LARS HERLITZ	101	22.04	
029994	02/25/10	4333	LOUISE HO	101	30.08	30.08
				101	37.26	37.26
				101	801.75	801.75
				101	2,000.00	2,000.00
				101	103.04	111.04
				101	8.00	

Check Register by Date

Check#	Check Dt	Vn#	Vendor Name	Frnd	Amounts	Amount Paid
029995	02/25/10	338	HOME DEPOT CREDIT SERVICES	101	129.68	89.48
				101	-98.19	
				101	27.26	
				101	30.73	
029996	02/25/10	4194	IEDA, INC.	101	1,000.00	1,000.00
029997	02/25/10	290	INFORMATION SERVICES ATTN: ACCTS. RECEIVABLE	101	1,313.42	1,313.42
029998	02/25/10	2840	IWORQ SYSTEMS	101	75.00	75.00
029999	02/25/10	154	ANTHONY KOCKLER	101	27.51	81.41
				101	53.90	
030000	02/25/10	287	KREFELD'S AWARD CTR.	101	30.04	30.04
030001	02/25/10	3243	ELIZABETH LEWIS	101	223.65	223.65
030002	02/25/10	248	LYNGSO GARDEN MATERIAL	101	277.04	277.04
030003	02/25/10	4991	MACIAS, GINI & O'CONNELL LLP ATTN: AIDA SOTO	101	150.00	150.00
030004	02/25/10	138	NEAL MARTIN & ASSOCIATES	101	11,081.75	11,081.75
030005	02/25/10	565	MENLO CIRCUS CLUB	101	1,000.00	1,000.00
030006	02/25/10	328	MID-PENINSULA ANIMAL HOSPITAL	101	18.75	18.75
030007	02/25/10	4370	MUNI SERVICES LLC	101	125.00	125.00
030007	02/25/10	4370	MUNI SERVICES LLC	101	112.09	112.09
030008	02/25/10	511	NCCA ATTN: DELIA GUIJOSA CMC	101	40.00	40.00
030009	02/25/10	1899	NEC UNIFIED SOLUTIONS, INC	101	297.00	297.00
030009	02/25/10	1899	NEC UNIFIED SOLUTIONS, INC	101	218.00	218.00
030010	02/25/10	156	OFFICE DEPOT	101	291.66	291.66
030011	02/25/10	460	GARY M. OLSON, PHD.	101	300.00	300.00
030012	02/25/10	1585	PAW PRINTS	101	136.56	136.56
030013	02/25/10	199	PG & E	101	513.58	5,738.38
				101	17.61	
				101	105.63	
				101	52.82	
				101	292.17	
				101	413.22	
				101	117.12	
				101	48.94	
				101	56.72	
				101	23.68	
				101	4,096.89	
030014	02/25/10	195	PITNEY BOWES INC.	101	330.00	330.00
030015	02/25/10	2298	PLEMONS CONSTRUCTION	101	2,500.00	2,500.00
030016	02/25/10	4704	DENNIS POWELL	101	2,000.00	2,000.00
030017	02/25/10	3650	PROFESSIONAL TREE CARE COMPANY	101	330.00	2,035.00
				101	660.00	

Check Register by Date

Check#	Check Dt	Vn#	Vendor Name.....	Frnd	Amounts	Amount Paid
030018	02/25/10	3001	PURCHASE POWER	213	1,045.00	
030019	02/25/10	3518	THE RADAR SHOP	101	1,318.99	1,318.99
030020	02/25/10	2076	CITY OF REDWOOD CITY FINANCE DEPARTMENT	101	845.00	845.00
				101	3,545.54	4,282.58
				101	737.04	
030021	02/25/10	3483	CITY OF REDWOOD CITY INFORMATION TECHNOLOGY	101	2,262.00	2,262.00
030022	02/25/10	423	CITY OF REDWOOD CITY FINANCE DEPT. ACCTS. RECEIVABLE	101	2,607.02	3,858.15
				101	1,251.13	
030023	02/25/10	3776	SACRED HEART SCHOOLS	101	2,646.54	2,646.54
030023	02/25/10	3776	SACRED HEART SCHOOLS	101	5,000.00	5,000.00
030024	02/25/10	1421	S.M. CO ASSESSOR	101	15,349.13	15,349.13
030025	02/25/10	1669	SAN MATEO COUNTY CHAPLAINCY	101	250.00	250.00
030026	02/25/10	3795	SAN MATEO CO COMMUNICATIONS MANAGERS C/O DALY CITY POLI	101	100.00	100.00
			CE DEPT A.VELASQUEZ			
030027	02/25/10	2092	SM COUNTY CONTROLLER ATTN: GENERAL ACCOUNTING - PARKING	101	120.00	120.00
030028	02/25/10	2947	SAN MATEO CO. CITY MANAGERS ASSOC. CITY OF SSF, CITY MA	101	250.00	250.00
			NAGERS OFFICE			
030029	02/25/10	3293	SAN MATEO CO SHERIFF'S OFFICE FISCAL BUREAU	101	87.00	87.00
030030	02/25/10	251	S M CO SHERIFF'S OFFICE COUNTY GOVERNMENT OFFICE	101	18.00	18.00
030031	02/25/10	2264	SAN MATEO REGIONAL NETWORK, INC.	101	385.00	385.00
030032	02/25/10	147	LEE BUFFINGTON, TAX COLLECTOR SAN MATEO COUNTY	101	414.61	10,654.39
				213	717.93	
				101	419.79	
				101	9,095.54	
				101	1.63	
				101	1.63	
				101	1.63	
				101	1.63	
030033	02/25/10	3648	TEE'S PLUS	101	166.76	152.64
				101	-14.12	
030034	02/25/10	696	DARYL D. JONES, INC. DBA TELECOMMUNICATIONS ENGINEERING	101	934.00	934.00
			ASSOC			
030035	02/25/10	3890	MARY L. TOPLIFF DBA LAW OFFICES OF MARY L. TOPLIFF	101	980.00	980.00
030036	02/25/10	1792	TURBO DATA SYSTEMS INC.	101	72.49	72.49
030037	02/25/10	2697	UNIFIRST CORP.	101	56.48	56.48
030037	02/25/10	2697	UNIFIRST CORP.	101	56.48	56.48
030037	02/25/10	2697	UNIFIRST CORP.	101	56.48	56.48
030037	02/25/10	2697	UNIFIRST CORP.	101	58.18	58.18
030037	02/25/10	2697	UNIFIRST CORP.	101	19.21	48.83
030037	02/25/10	2697	UNIFIRST CORP.	101	14.81	

Check Register by Date

Check#	Check Dt	Vn#	Vendor Name	Fnd	Amounts	Amount Paid
030037	02/25/10	2697	UNIFIRST CORP.	101	14.81	
				101	38.82	68.44
				101	14.81	
				101	14.81	
030037	02/25/10	2697	UNIFIRST CORP.	101	19.21	48.83
				101	14.81	
				101	14.81	
030037	02/25/10	2697	UNIFIRST CORP.	101	16.10	45.72
				101	14.81	
				101	14.81	
030038	02/25/10	2870	AGI PUBLISHING DBA: VALLEY YELLOW PAGES	101	720.00	720.00
030039	02/25/10	4705	VAN ACKER CONSTRUCTION	101	7,825.50	7,825.50
030040	02/25/10	4561	VIEU	101	3,932.78	10,826.32
				101	7,892.48	
				101	-998.94	
030040	02/25/10	4561	VIEU	101	121.27	111.00
				101	-10.27	
030041	02/25/10	1507	VOYAGER	101	15.83	15.83
030042	02/25/10	4283	WILLIAMS SCOTSMAN	101	729.97	729.97
030043	02/25/10	1041	WILSEY HAM	201	481.00	481.00
030044	02/25/10	208	WITMER-TYSON IMPORTS, INC.	101	520.18	520.18
030045	02/25/10	2630	WORKFLOW	101	452.61	452.61
-----					-----	-----
503688					471,799.68	471,799.68
9						

168 records listed



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JEROME GRUBER, CITY MANAGER**

FROM: LOUISE HO, FINANCE DIRECTOR

DATE: FOR THE MEETING OF MARCH 17, 2010

**SUBJECT: FINANCIAL REPORT FOR THE EIGHT MONTHS ENDED
FEBRUARY 28, 2010**

RECOMMENDATION

Receive the General Fund Financial Report for the eight months ended February 28, 2010.

DISCUSSION

Staff revised the format on how the financial report is to be presented. The new format incorporates a column “**Accrual**” to account for revenues and expenditures that need to be included to more accurately reflect the actual data. For the eight months ended February 28, 2010, if revenues and expenditures are assumed to be distributed evenly, 66.7% of the annual FY 2009-10 Budget (8/12) should be earned or incurred.

The accrual amounts only reflect data up to March 5, 2010.

This report included the mid-year budget adjustments approved by the City Council on the February 17, 2010, meeting.

General Fund Revenues

For the eight months ended February 28, 2010, the General Fund reported revenues of \$6,311,068 which is 62.5% of the annual revenue budget for FY 2009-10.

General Fund Expenditures

As to the expenditures for the eight months ended February 28, 2010, the General Fund reported \$7,357,881, which is 66.1% of the annual expenditure budget for FY 2009-10.

FISCAL IMPACT

None

Prepared by:

/s/ Louise Ho

Louise Ho
Finance Director

Approved by:

/s/ Jerome D. Gruber

Jerome D. Gruber
City Manager

Attachment: Financial Report

Town of Atherton										
General Fund										
Financial Report for the Eight Months Ended February 28, 2010										
(Excl. Encumbrances)										
Dept	Description	Adjusted Budget FY09/10	8/12 of Budget	Actual July 09 to Feb. 10	Accrual	Adj. Actual July 09 to Feb. 10	% of 8/12 Budget	Year-To-Date Variance	% of Annual Budget	Actual July 08 to Feb. 09
			66.7%							
		(a)	(b)	(c)	(d)	(e)	(e/b)	(a-e)	(e/a)	(f)
	Revenues									
	Secured	4,740,000	3,160,000	2,659,184		2,659,184	84.2%	2,080,816	56.1%	2,401,745
	Unsecured	298,475	198,983	298,475		298,475	150.0%	0	100.0%	276,459
	Prop 1A Loan	(442,363)	(294,909)	(221,181)		(221,181)	75.0%	(221,182)	50.0%	0
	Prop 1A securitization	442,363	294,909	221,181		221,181	75.0%	221,182	50.0%	0
	SB813 Redemption	30,000	20,000	33,874		33,874	169.4%	(3,874)	112.9%	68,307
	Home Owners Prop Tax Re	40,616	27,077	16,708		16,708	61.7%	23,908	41.1%	(4,503)
	Local Sales & Use Tax	30,000	20,000	47,907		47,907	239.5%	(17,907)	159.7%	53,910
	Public Safety Sales Tax(Prop 172)	50,000	33,333	33,597		33,597	100.8%	16,403	67.2%	31,734
	IN LIEU SALES TAX/TRIPLE FLIP	26,698	17,799	13,349		13,349	75.0%	13,349	50.0%	15,764
	Franchise Taxes-PG&E	220,000	146,667	-		-	0.0%	220,000	0.0%	0
	Franchise Tax-Cal Water	73,000	48,667	79,932		79,932	164.2%	(6,932)	109.5%	0
	Franchise Tax-BFI	175,000	116,667	80,894		80,894	69.3%	94,106	46.2%	91,537
	Franchise Taxes-Cable	102,000	68,000	49,938		49,938	73.4%	52,062	49.0%	75,209
	Document Trsf Tax	225,000	150,000	170,833		170,833	113.9%	54,167	75.9%	99,642
	Motor Vehicle In-Lieu	606,503	404,335	331,999		331,999	82.1%	274,504	54.7%	311,835
	Motor Veh. Lic Fees (MVLF)	15,000	10,000	7,136		7,136	71.4%	7,864	47.6%	13,761
	Business Licenses	150,000	100,000	78,996	6,204	85,199	85.2%	64,801	56.8%	132,131
	Bus Lic Refund -FY 06/07	35,000	23,333	-		-	0.0%	35,000	0.0%	0
	Bus Lic Refund -FY 07/08	40,000	26,667	-		-	0.0%	40,000	0.0%	0
	Bus Lic Refund -FY 08/09	-	-	-		-	0.0%	-	0.0%	0
	Home Occupation	500	333	200		200	60.0%	300	40.0%	1,850
	Building Permit	484,839	323,226	340,724	3,933	344,657	106.6%	140,182	71.1%	409,491
	Encroachment	125,000	83,333	86,207	6,521	92,728	111.3%	32,272	74.2%	129,907
	Grading & Drainage	58,000	38,667	32,000		32,000	82.8%	26,000	55.2%	0
	Other Licenses & Permit	500	333	300		300	90.0%	200	60.0%	375
	Landscape Fee	-	-	-		-	0.0%	-	0.0%	(5,000)
	Vehicle Code Fines (Parking)	2,069	1,379	1,281		1,281	92.9%	788	61.9%	10,953
	Other Fines & Forfeit (County)	17,456	11,637	14,849		14,849	127.6%	2,607	85.1%	10,102
	ERAF Subvention	730,000	486,667	750,175		750,175	154.1%	(20,175)	102.8%	0
	POST Reimb	8,000	5,333	3,711		3,711	69.6%	4,289	46.4%	7,893
	CALNENA Reimbursement	3,000	2,000			-	0.0%	3,000	0.0%	0
	CLEARs Reimbursement	395	263			-	0.0%	395	0.0%	0

Town of Atherton										
General Fund										
Financial Report for the Eight Months Ended February 28, 2010										
(Excl. Encumbrances)										
Dept	Description	Adjusted Budget FY09/10	8/12 of Budget	Actual July 09 to Feb. 10	Accrual	Adj. Actual July 09 to Feb. 10	% of 8/12 Budget	Year-To-Date Variance	% of Annual Budget	Actual July 08 to Feb. 09
			66.7%							
		(a)	(b)	(c)	(d)	(e)	(e/b)	(a-e)	(e/a)	(f)
	DOJ Grant (vest)	1,500	1,000			-	0.0%	1,500	0.0%	0
	DOC Grant	5,000	3,333			-	0.0%	5,000	0.0%	0
	ABAG Grant	10,000	6,667	18,338		18,338	275.1%	(8,338)	183.4%	0
	Other Reimbursements	35,700	23,800	35,722		35,722	100.0%	(22)	100.0%	17,232
	SB 90 reimbursement	-	-	1,219		1,219	100.0%	(1,219)	100.0%	0
	Grants	-	-	9,901		9,901	100.0%	(9,901)	100.0%	54,054
	React Task Force Reimb	-	-	-		-	0.0%	-	0.0%	27,485
	NARCOTICS Task Force	-	-	-		-	0.0%	-	0.0%	0
	Elections Processing Fee	-	-	-		-	0.0%	-	0.0%	2,000
	Document/Research Fee	-	-	-		-	0.0%	-	0.0%	0
	Photocopy Fee	6,000	4,000	3,387	73	3,460	86.5%	2,540	57.7%	5,240
	Alarm Sign Fees	600	400	925		925	231.3%	(325)	154.2%	750
	Vehicle Release	1,000	667	580		580	87.0%	420	58.0%	2,040
	Fingerprinting Fee	-	-	57		57	100.0%	(57)	100.0%	15
	Affidavit of Cost	2,000	1,333	200		200	15.0%	1,800	10.0%	202
	Police Report	2,500	1,667	2,730		2,730	163.8%	(230)	109.2%	1,840
	Special Service Fee	525	350	594		594	169.8%	(69)	113.2%	372
	DUI Recovery (Enforcement)	1,200	800	-		-	0.0%	1,200	0.0%	0
	Post Office	31,768	21,179	34,508		34,508	162.9%	(2,740)	108.6%	34,508
	Solicitor's Permit	400	267	77		77	28.9%	323	19.3%	0
	Application Fee	-	-	800		800	100.0%	(800)	100.0%	225
	Zoning & Planning Fees	75,000	50,000	25,756	7,960	33,716	67.4%	41,284	45.0%	44,750
	Plan Check	292,000	194,667	253,472	1,617	255,089	131.0%	36,911	87.4%	271,082
	Social Fees	60,000	40,000	35,725		35,725	89.3%	24,275	59.5%	86,968
	Meeting Fees	60,000	40,000	43,975		43,975	109.9%	16,025	73.3%	35,919
	Class Fees	15,000	10,000	10,509		10,509	105.1%	4,492	70.1%	6,853
	Weddings	140,000	93,333	63,735		63,735	68.3%	76,265	45.5%	40,473
	Misc. Use Fee	1,400	933	1,160		1,160	124.3%	240	82.9%	449
	Interest Income	60,000	40,000	28,052		28,052	70.1%	31,948	46.8%	104,800
	Cellular One	36,000	24,000	25,053		25,053	104.4%	10,947	69.6%	20,968
	Property Rental-Playscl	77,580	51,720	51,717		51,717	100.0%	25,863	66.7%	45,513
	Sale of Property	-	-	502		502	100.0%	(502)	100.0%	2,246
	Donations/Contributions	14,286	9,524	14,286		14,286	150.0%	(0)	100.0%	13,262

Town of Atherton										
General Fund										
Financial Report for the Eight Months Ended February 28, 2010										
(Excl. Encumbrances)										
Dept	Description	Adjusted Budget FY09/10	8/12 of Budget	Actual July 09 to Feb. 10	Accrual	Adj. Actual July 09 to Feb. 10	% of 8/12 Budget	Year-To-Date Variance	% of Annual Budget	Actual July 08 to Feb. 09
			66.7%							
		(a)	(b)	(c)	(d)	(e)	(e/b)	(a-e)	(e/a)	(f)
	Miscellaneous Income	10,000	6,667	16,346		16,346	245.2%	(6,346)	163.5%	7,529
	Trsf in from Spec Parcel Tax	780,863	520,575	390,432		390,432	75.0%	390,431	50.0%	0
	Transfers in from Facil Constr (406)	82,735	55,157	82,735		82,735	0.0%	-	0.0%	0
	Transfers in from GFCIP	-	-	-		-	0.0%	-	0.0%	0
	Total Revenues	10,090,108	6,726,739	6,284,760	26,308	6,311,068	93.8%	3,779,040	62.5%	4,959,875
	EXPENDITURES									
City Council	Advertising/Publishing	2,000	1,333	-		-	0.0%	2,000	0.0%	0
	Other Contract Services		-	-		-	0.0%	-	0.0%	7,680
	Office Supplies	1,950	1,300	1,816		1,816	139.7%	134	93.1%	4,502
	Membership/Dues	8,407	5,605	8,400		8,400	149.9%	7	99.9%	14,804
	Utilities-Electricity & Water	625	417	207		207	49.8%	418	33.2%	0
	Conferences	5,000	3,333	2,075		2,075	62.2%	2,925	41.5%	4,727
	Mileage Reimbursement	1,300	867	57		57	6.6%	1,243	4.4%	0
	Bus Meeting & Meal	1,100	733	80		80	10.9%	1,020	7.3%	0
	Boards & Commissions	2,000	1,333			-	0.0%	2,000	0.0%	0
	Special Events & Awards	-	-			-	0.0%	-	0.0%	438
	Office Machines & Furniture	7,000	4,667			-	0.0%	7,000	0.0%	0
	Administrative Services		-			-	0.0%	-	0.0%	254
	Computer Services Charge		-			-	0.0%	-	0.0%	531
	City Council Totals:	29,382	19,588	12,636	-	12,636	64.5%	16,746	43.0%	32,935
Administration (CM, CC, HR)	Salaries & Benefits	730,875	487,250	455,885	11,758	467,643	96.0%	263,232	64.0%	339,791
	Contract Services	27,968	18,645	17,624	1,219	18,843	101.1%	9,125	67.4%	86,398
	Supplies & Materials	3,800	2,533	4,267		4,267	168.4%	(467)	112.3%	2,956
	General Expenses	42,745	28,497	25,624		25,624	89.9%	17,121	59.9%	47,111
	Facility & Equipment	3,500	2,333	1,836		1,836	78.7%	1,664	52.5%	493
	Reimbursements	-	-	-		-	0.0%	-	0.0%	17,684
	Administration Totals:	808,888	539,259	505,236	12,977	518,213	96.1%	290,675	64.1%	494,433
City Attorney	Contract Services	423,000	282,000	231,382	95,438	326,819	115.9%	96,181	77.3%	107,182
	General Expenses	-	-			-	0.0%	-	0.0%	53
	Supplies & Materials	-	-			-	0.0%	-	0.0%	0

Town of Atherton										
General Fund										
Financial Report for the Eight Months Ended February 28, 2010										
(Excl. Encumbrances)										
Dept	Description	Adjusted Budget FY09/10	8/12 of Budget	Actual July 09 to Feb. 10	Accrual	Adj. Actual July 09 to Feb. 10	% of 8/12 Budget	Year-To-Date Variance	% of Annual Budget	Actual July 08 to Feb. 09
			66.7%							
		(a)	(b)	(c)	(d)	(e)	(e/b)	(a-e)	(e/a)	(f)
	Reimbursements	-	-			-	0.0%	-	0.0%	0
	City Attorney Totals:	423,000	282,000	231,382	95,438	326,819	115.9%	96,181	77.3%	107,234
Finance	Salaries & Benefits	429,085	286,057	260,157	7,428	267,585	93.5%	161,500	62.4%	228,621
	Contract Services	137,205	91,470	57,182	17,949	75,132	82.1%	62,073	54.8%	13,820
	Supplies & Materials	4,250	2,833	1,206		1,206	42.6%	3,044	28.4%	4,892
	General Expenses	16,605	11,070	5,463		5,463	49.4%	11,142	32.9%	891
	Rents & Leases	-	-			-	0.0%	-	0.0%	590
	Facility & Equipment	3,000	2,000			-	0.0%	3,000	0.0%	330
	Reimbursements	10,000	6,667	5,000		5,000	75.0%	5,000	50.0%	13,077
	Finance Totals:	600,145	400,097	329,009	25,377	354,387	88.6%	245,758	59.1%	262,221
Planning	Contract Services	191,327	127,551	95,008	56,903	151,912	119.1%	39,415	79.4%	142,448
	Supplies & Materials	2,000	1,333	412	-	412	30.9%	1,588	20.6%	53
	General Expenses	2,930	1,953	640	-	640	32.7%		21.8%	
	Planning Totals:	196,257	130,838	96,060	56,903	152,963	116.9%	41,004	77.9%	142,501
Building	Salaries & Benefits	1,009,166	672,777	629,128	17,089	646,217	96.1%	362,949	64.0%	507,588
	Contract Services	19,824	13,216	16,033	180	16,213	122.7%	3,611	81.8%	92,874
	Supplies & Materials	20,790	13,860	6,863	24	6,887	49.7%	13,903	33.1%	13,673
	General Expenses	8,375	5,583	2,957		2,957	53.0%	5,418	35.3%	6,023
	Facility & Equipment	4,500	3,000	-		-	0.0%	4,500	0.0%	436
	Reimbursements	10,000	6,667	5,000	-	5,000	75.0%	5,000	50.0%	32,239
	Building Totals:	1,072,655	715,103	659,982	17,293	677,275	94.7%	395,380	63.1%	652,833
Non-Dept	Retiree Health Care	-	-			-		-		
	Contract Services	150,179	100,119	69,888	3,941	73,829	73.7%	76,350	49.2%	0
	Supplies & Materials	21,167	14,111	11,903		11,903	84.4%	9,264	56.2%	0
	General Expenses	365,638	243,759	281,657		281,657	115.5%	83,981	77.0%	0
	Settlement Expense	-	-	-		-	0.0%	-	0.0%	0
	Non-Dept. Totals:	536,984	357,989	363,448	3,941	367,389	102.6%	169,595	68.4%	-
Police	Salaries & Benefits	4,737,697	3,158,465	3,029,595	74,658	3,104,254	98.3%	1,633,443	65.5%	2,675,142

Town of Atherton										
General Fund										
Financial Report for the Eight Months Ended February 28, 2010										
(Excl. Encumbrances)										
Dept	Description	Adjusted Budget FY09/10	8/12 of Budget	Actual July 09 to Feb. 10	Accrual	Adj. Actual July 09 to Feb. 10	% of 8/12 Budget	Year-To-Date Variance	% of Annual Budget	Actual July 08 to Feb. 09
			66.7%							
		(a)	(b)	(c)	(d)	(e)	(e/b)	(a-e)	(e/a)	(f)
	Contract Services	221,033	147,355	186,673		186,673	126.7%	34,360	84.5%	170,666
	Supplies & Materials	147,665	98,443	81,207	3,000	84,207	85.5%	63,458	57.0%	73,673
	General Expenses	306,238	204,159	273,495	1,594	275,089	134.7%	31,149	89.8%	55,998
	Rent & lease	8,590	5,727	5,811		5,811	101.5%	2,779	67.7%	0
	Facility & Equipment	44,671	29,781	39,129		39,129	131.4%	5,542	87.6%	54,428
	Reimbursement	69,800	46,533	34,900		34,900	75.0%	34,900	50.0%	94,591
	Police Totals:	5,535,694	3,690,463	3,650,810	79,253	3,730,063	101.1%	1,805,631	67.4%	3,124,497
Public Works (& Parks)	Salaries & Benefits	1,399,338	932,892	923,237	27,631	950,868	101.9%	448,470	68.0%	986,562
	Contract Services	288,000	192,000	115,597		115,597	60.2%	172,403	40.1%	237,273
	Supplies & Materials	70,800	47,200	33,434		33,434	70.8%	37,366	47.2%	35,676
	General Expenses	107,393	71,595	82,078		82,078	114.6%	25,315	76.4%	90,778
	Rent & Leases	27,000	18,000	21,399		21,399	118.9%	5,601	79.3%	32,070
	Facility & Equipment	16,000	10,667	4,815		4,815	45.1%	11,185	30.1%	1,253
	Reimbursements	19,892	13,261	9,946	-	9,946	75.0%	9,946	50.0%	39,137
	Public Works Totals:	1,928,423	1,285,615	1,190,506	27,631	1,218,137	94.8%	710,286	63.2%	1,422,749
	Total Expenditures	11,131,428	7,420,952	7,039,068	318,814	7,357,881	99.2%	3,771,256	66.1%	6,239,403
	Excess (Deficiency) of Revenues over Expenditures	(1,041,320)	(694,213)	(754,308)	(292,506)	(1,046,813)	150.8%	7,784	100.5%	(1,279,528)
	Beg. Fund Balance	7,203,277				7,203,277				
	Proj. Ending Fund Balance	6,161,957				6,156,464				



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JEROME GRUBER, CITY MANAGER**

FROM: LOUISE HO, FINANCE DIRECTOR

DATE: FOR THE MEETING OF MARCH 17, 2010

**SUBJECT: APPROVAL FOR THE FINANCE DIRECTOR TO ATTEND THE
2010 SPRINGBROOK SOFTWARE CONFERENCE**

RECOMMENDATION

Approve the Finance Director to attend the Springbrook Software Conference in Portland, Oregon, in May 2010.

DISCUSSION

The Town is in the process of implementing Springbrook Software. The Finance Director is seeking City Council approval to attend the Springbrook Software Conference to be held in Portland, Washington, from May 12 to May 14, 2010.

By attending the conference, the Finance Director will gain further knowledge about the Springbrook products and develop a working relationship with Springbrook technical support staff and project manager. The conference also offers continuing education hours for the Finance Director's CPA license.

FISCAL IMPACT

The conference is estimated to cost:

Registration	\$ 400
Lodging	500
Travel	<u>250</u>
Total	\$1,150

The cost is budgeted on the FY 2009-10 Finance Department training budget.

Prepared by:

Approved by:

Louise Ho
Finance Director

Jerome D. Gruber
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: THE HONORABLE MAYOR AND CITY COUNCIL
CITY MANAGER, JERRY GRUBER**

FROM: NEAL J. MARTIN, TOWN PLANNER

DATE: FOR THE MEETING OF MARCH 17, 2010

**SUBJECT: APPROVAL OF 1ST AMENDMENTS TO PROFESSIONAL SERVICES
AGREEMENT WITH CHRISTOPHER A. JOSEPH & ASSOCIATES FOR
PREPARATION OF ENVIRONMENTAL IMPACT DOCUMENTS AND
REIMBURSEMENT AGREEMENT WITH SACRED HEART SCHOOLS**

RECOMMENDATION:

Approve the attached:

1. First Amendment to the Agreement for Professional Services by and between the Town of Atherton and Christopher A. Joseph & Associates
2. First Amendment to the Reimbursement Agreement by and between the Town Of Atherton and Sacred Heart Schools

BACKGROUND and DISCUSSION:

On May 20, 2009 the City Council approved two agreements related to the preparation of an Environmental Impact Report for the Master Plan projects at Sacred Heart Schools including the reconstruction of St. Joseph's School. The two agreements are list below.

1. Agreement for Professional Services by and between the Town of Atherton and Christopher A. Joseph & Associates for the preparation of the EIR.
2. A Reimbursement Agreement by and between the Town of Atherton and Sacred Heart Schools to reimburse the Town for expenses associated with the EIR preparation.

As preparation of the EIR proceeded the need for additional studies became evident. The additional services include those listed below.

1. Obtain additional traffic counts at the intersections of Crane Street, Johnson Street, Arbor

Road, San Mateo Drive and Cotton Street with Valparaiso Avenue as requested by the City of Menlo Park.

2. Review the Hillview School EIR Traffic Study to determine any impacts to the traffic patterns around Sacred Heart Schools as requested by Sacred Heart.
3. Expand the Noise Analysis originally proposed in the Scope of Work to include improvements proposed by Sacred Heart Schools beyond those limited to the St. Joseph's School area.
4. Purchase traffic data from the City of Menlo Park needed to prepare the traffic analysis for the environmental document.

The additional cost for these services is estimated to be \$16,095. The First Amendment provides for the total not-to-exceed budget to be increased by the additional amount from \$139,605 to \$155,700. It further provides authority to the City Manager to approve additional increases to the not-to-exceed budget for the project by an additional 10 percent of the not-to-exceed budget of \$155,700 without further City Council approval; provided, that Sacred Heart Schools agrees in writing to reimburse the Town for any such additional costs.

Further, the First Amendment to the Reimbursement Agreement provides for the increased budget by adding the language "*or such other amount as may be necessary to satisfy Section 1 of this Agreement, whichever is greater*" to Section 3.

These Amendments have been reviewed by the City Attorney's office.

FINANCIAL IMPACT:

All costs of the services will be paid for by Sacred Heart Schools. Costs for Staff time associated with the project will also be paid for by Sacred Heart Schools through deposits with the Town Finance Department.

FORMAL MOTION:

I move that the City Council approve the First Amendment to the Agreement for Professional Services by and between the Town of Atherton and Christopher A. Joseph & Associates and authorize the City Manager to sign the Agreement.

I further move that the City Council approve the First Amendment to the Reimbursement Agreement by and between the Town Of Atherton and Sacred Heart Schools and authorize the City Manager to sign the Agreement.

Prepared By:

Approved by:

/s/ Neal J. Martin

/s/ Jerome D. Gruber

Neal J. Martin, Town Planner

Jerome Gruber, City Manager

Attachments:

1. First Amendment to the Agreement for Professional Services by and between the Town of Atherton and Christopher A. Joseph & Associates
2. First Amendment to the Reimbursement Agreement by and between the Town Of Atherton and Sacred Heart Schools
3. Agreement for Professional Services by and between the Town of Atherton and Christopher A. Joseph & Associates for the preparation of the EIR.
4. A Reimbursement Agreement by and between the Town of Atherton and Sacred Heart Schools to reimburse the Town for expenses associated with the EIR preparation.

**FIRST AMENDMENT TO THE AGREEMENT FOR PROFESSIONAL SERVICES BY
AND BETWEEN THE TOWN OF ATHERTON AND CHRISTOPHER A. JOSEPH &
ASSOCIATES**

This First Amendment to the Agreement for Professional Services by and between the Town of Atherton ("Town") and Christopher A. Joseph & Associates ("Consultant") for professional services associated with the preparation of environmental studies and documents ("First Amendment") is entered into as of the ____ day of ____, 2010 ("Effective Date") by and between Town and Consultant.

RECITALS

- A. Town and Consultant are parties to that certain Agreement for Professional Services associated with the preparation of environmental studies and documents dated June 5, 2009 ("Agreement").
- B. Town and Consultant desire to obtain additional traffic counts, conduct additional traffic studies, conduct additional noise studies and purchase traffic data from the City of Menlo Park, all of which are needed to prepare an adequate environmental document for the proposed project. None of these counts, studies or data were contemplated when the original scope of work was approved by the Town.
- C. Town and Consultant now desire to enter into this First Amendment to provide for the additional services as described below.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby amend the Agreement as follows:

- 1. Exhibit A, Scope of Services. Exhibit A to the Agreement is amended by adding the items listed below:
 - a. Obtain additional traffic counts at the intersections of Crane Street, Johnson Street, Arbor Road, San Mateo Drive and Cotton Street with Valparaiso Avenue as requested by the City of Menlo Park.
 - b. Review the Hillview School EIR Traffic Study to determine any impacts to the traffic patterns around Sacred Heart Schools as requested by Sacred Heart.
 - c. Expand the Noise Analysis originally proposed in the Scope of Work to include improvements proposed by Sacred Heart Schools beyond those limited to the St. Joseph's School area.
 - d. Purchase traffic data from the City of Menlo Park needed to prepare the traffic analysis for the environmental document.

Section 3. Compensation. Section 3 of the Agreement is amended to increase the not-to-exceed budget by \$16,095 from \$139,605 to \$155,700. Section 3 is further amended to

provide as follows: "The City Manager is hereby authorized to increase the not-to-exceed budget for this project by an additional 10 percent of the current not to exceed budget of \$155,700 without further City Council approval; provided, however that Sacred Heart Schools agrees in writing to reimburse the Town for any such additional costs."

2. Agreement in Effect. The parties acknowledge and agree that the Agreement, except as amended by this First Amendment, remains unmodified and in full force and effect in accordance with its terms.
3. Counterpart Signatures. This First Amendment may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

IN WITNESS THEREOF, the parties have executed this First Amendment as of the Effective Date.

TOWN OF ATHERTON:

By: _____ / _____
Jerry Gruber, City Manager (Date)

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

CONSULTANT:

By: _____ / _____
Name: _____ (Date)
Title: _____

By: _____ / _____
Name: _____ (Date)
Title: _____

FIRST AMENDMENT TO THE REIMBURSEMENT AGREEMENT BY AND BETWEEN THE TOWN OF ATHERTON AND SACRED HEART SCHOOLS

This First Amendment to the Reimbursement Agreement by and between the Town of Atherton ("Town") and Sacred Heart Schools ("School") for reimbursement of costs associated with the preparation of environmental studies and documents ("First Amendment") is entered into as of the ____ day of ____, 2010 ("Effective Date") by and between Town and Consultant.

RECITALS

- A. Town and School are parties to that certain Reimbursement Agreement for reimbursement of costs associated with the preparation of environmental studies and documents dated May 20, 2009 ("Agreement").
- B. Town and School desire to clarify the intent of the Agreement is that School is obligated to reimburse Town for all consultant and staff expenses incurred in preparing environmental studies and documents and processing its project applications.
- C. Town and School now desire to enter into this First Amendment to amend the Agreement as described below.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby amend the Agreement as follows:

1. Section 3. Additional Deposits. Section 3 of the Agreement is replaced with the following:

Additional Deposits. SCHOOL shall pay to the Town a further deposit of \$50,000 within fifteen (15) calendar days of receipt of written notice from TOWN that the initial deposit balance is \$5,000 or less ("additional deposit"). Thereafter, within fifteen (15) calendar days of receipt of written notice from TOWN that the deposit balance is \$5,000 or less, SCHOOL shall pay an additional \$50,000 deposit to TOWN, until the total deposit totals \$169,605 *or such other amount as may be necessary to satisfy Section 1 of this Agreement, whichever is greater.* The total deposit shall consist of the initial deposit and additional deposits. If SCHOOL fails to submit funds to TOWN as described in this Section 3, TOWN will notify its consultants to stop work and will suspend processing permit applications until SCHOOL provides adequate funds to increase the Deposit amount to at least the amount requested by the TOWN. Thirty days after applicant has either obtained all land use entitlements or TOWN has made a final decision denying them, TOWN shall refund the remaining Deposit amount to SCHOOL. If upon completion of TOWN's land use entitlement process the Deposit amount is insufficient to cover all of the costs described in Section 1, SCHOOL will promptly pay the remaining

balance to TOWN. TOWN shall not issue final approval certificate documents until all monies due are paid.

2. Agreement in Effect. The parties acknowledge and agree that the Agreement, except as amended by this First Amendment, remains unmodified and in full force and effect in accordance with its terms.
3. Counterpart Signatures. This First Amendment may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

IN WITNESS THEREOF, the parties have executed this First Amendment as of the Effective Date.

TOWN OF ATHERTON:

By: _____ / _____
Jerry Gruber, City Manager (Date)

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

SCHOOL:

By: _____ / _____
Name: _____ (Date)
Title: _____

By: _____ / _____
Name: _____ (Date)
Title: _____

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into as of the 5th day of JUNE, 2009 by and between the **TOWN OF ATHERTON**, hereinafter referred to a "TOWN" and Christopher A. Joseph & Associates hereinafter referred to as "CONSULTANT".

RECITALS

THIS AGREEMENT is entered into with reference to the following facts and circumstances:

- A. That TOWN desires to engage CONSULTANT to render certain professional services to the TOWN;
- B. That CONSULTANT is qualified to provide such services to the TOWN; and
- C. That TOWN has elected to engage the services of CONSULTANT upon the terms and conditions as hereinafter set forth.

TERMS AND CONDITIONS

1. Services

The services to be performed by CONSULTANT under this Agreement shall include those services set forth in Exhibit A, which is by this reference incorporated herein and made a part hereof as though it were fully set forth herein.

Performance of the work specified in said Exhibit A is hereby made an obligation of CONSULTANT under this Agreement, subject to any changes that may be made subsequently hereto upon the mutual written agreement of said parties.

Where in conflict, the terms of this Agreement supersede and prevail over any terms set forth in Exhibit A.

2. Term of Agreement

Said services shall commence on execution and shall continue until completion of the task set forth in Exhibit A as described in the preceding section, or until terminated by ten (10) days written notice by either party.

3. Compensation

Payment under this agreement shall be as per Exhibit A. This is a time and materials agreement with a not-to-exceed budget of \$139,605.

4. Authorization and Termination

This Agreement becomes effective when endorsed by both parties in the space provided below.

5. Reliance of Professional Skill of Consultant

CONSULTANT represents that it has the necessary professional skills to perform the services required and TOWN shall rely on such skills of the CONSULTANT to do and perform the work.

6. Relationship of Parties

It is understood that the relationship of CONSULTANT to TOWN is that of an independent contractor and all persons working for or under the direction of CONSULTANT are its agents or employees and not agents or employees of TOWN.

7. Non-assignment

This Agreement is not assignable either in whole or in part.

8. Amendments

This Agreement may be amended or modified only by written agreement signed by both parties.

9. Validity

The invalidity, in whole or in part, of any provisions of this Agreement shall not void or affect the validity of any other provisions of this Agreement.

10. Governing Law/Litigation

This Agreement shall be governed by the laws of the State of California and any suit or action initiated by either party shall be brought in the County of San Mateo, California. In the event of litigation between the parties hereto to enforce any provision of the Agreement, the unsuccessful party will pay the reasonable expenses of litigation of the successful party.

11. Mediation

Should any dispute arise out of this Agreement, the parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. Neither party shall be permitted to file legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution. The costs of the mediator, if any, shall be paid equally by the parties. If a mediated settlement is reached, neither party shall be deemed the prevailing party for purposes of the settlement, and each party shall bear its own legal costs.

12. Entire Agreement

This Agreement, including Exhibit A, comprises the entire Agreement.

13. Indemnity

CONSULTANT shall defend, indemnify and hold TOWN and its officers and employees harmless from any and all claims and liabilities related to or as a result of CONSULTANT's performance of this Agreement.

14. Insurance

CONSULTANT shall not commence work under this Agreement until all insurance required under this Paragraph has been obtained. CONSULTANT shall furnish TOWN with certificates of insurance evidencing the required coverage. The TOWN will be named as additional insured in the policy. These certificates shall specify or be endorsed to provide that thirty (30) days notice must be given, in writing, to the TOWN office of any pending change in the limits of liability or of any cancellation or modification of the policy.

a) Workers' Compensation and Employers' Liability Insurance

CONSULTANT shall have in effect during the entire life of this Agreement Workers' Compensation and Employers' Liability Insurance providing full statutory coverage. In signing this Agreement, CONSULTANT makes the following certification, required by Section 1861 of the California Labor Code:

I am aware of the provisions of Section 37900 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.

b) Liability Insurance

CONSULTANT shall take out and maintain during the life of this Agreement such bodily injury liability and property damage liability insurance as shall protect CONSULTANT while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims from property damage which may arise from CONSULTANT's work under this Agreement, whether such work be by CONSULTANT or by any subcontractor or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall be Two Million and no/100 Dollars (\$2,000,000.00) combined single limit bodily injury and property damage for each occurrence. The TOWN, its officers, employees and agents shall be maintained as additional insureds on said policy, and a certificate of said coverage shall be delivered to the TOWN before any work commences. All insurance shall be with insurance carriers licensed in the State of California and in good standing with the California Department of Insurance.

15. Notice

All notices required by this Agreement shall be given to TOWN and CONSULTANT in writing, by first class mail, postage prepaid, addressed as follows:

TOWN:

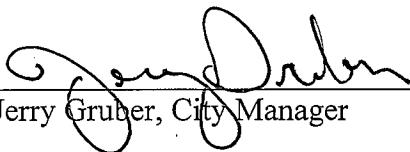
City Manager
Town of Atherton
91 Ashfield Road
Atherton, CA 94027

CONSULTANT:

President
Christopher A. Joseph & Associates
610 16th Street, Suite 514
Oakland, CA 94612

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first written by their respective officers duly authorized in that behalf.

TOWN OF ATHERTON

BY: 
Jerry Gruber, City Manager

Date: 6-9-09

APPROVED AS TO FORM:

BY: 
Wynne S. Furth, City Attorney

Date: 6-11-09

CONSULTANT:
CHRISTOPHER A. JOSEPH & ASSOCIATES

BY: 
for Chris Joseph, President

Date: 6/5/09

**Reimbursement Agreement
Between Town of Atherton and Sacred Heart Schools**

This Reimbursement Agreement (this "Agreement") is entered into effective as of ___ day of May, 2009 (the "Effective Date") by and between the TOWN of Atherton, a California municipal corporation (referred to as "TOWN") and Sacred Heart Schools, a California 501(c)(3) non-profit corporation (referred to as "SCHOOL").

RECITALS

- A. SCHOOL is in the process of preparing plans for the demolition and reconstruction of the St. Joseph's School buildings and other improvements located at 150 Valparaiso. In order to proceed with such a project SCHOOL will need to make application and receive approval for a conditional use permit from the TOWN. SCHOOL may also make other applications to the TOWN during this process.
- B. SCHOOL acknowledges that TOWN's processing of the project applications are for SCHOOL's benefit and agrees to reimburse TOWN for all costs associated with preparing environmental studies and documents, processing its project applications, including but not limited to TOWN staff time, outside consultants, and legal costs, in accordance with the terms of this Agreement.

NOW, THEREFORE, TOWN and SCHOOL agree as follows:

1. Reimbursement of Costs. SCHOOL shall reimburse TOWN for the following costs that are incurred in preparing environmental studies and documents, processing the project applications, managing the project applications, and completing the entitlement review process:
 - 1.1 All actual costs incurred for services rendered by Christopher A. Joseph & Associates (CAJA) and their subconsultants in connection with the preparation of environmental studies and documents as generally outlined in the CAJA proposal dated December 8, 2008. The total cost is estimated to be \$139,605.
 - 1.2 All actual TOWN staff and other costs, such as providing public notice, and TOWN legal costs, estimated to be between \$20,000-\$30,000. TOWN shall calculate staff time at rates established from time to time by resolution of the City Council; City Attorney costs and any other services provided under contract shall be reimbursed at the actual cost to the Town under the contract then in effect between the Town and the contract service provider. However, City Attorney charges shall be calculated at the rates set forth under the agreement between the Town and the City Attorney in effect at the execution of this Agreement.
2. Deposit. Within fifteen (15) calendar days of executing this Agreement, SCHOOL agrees to pay to the TOWN the sum of \$20,000 as an initial deposit ("initial deposit") for the work to be performed by TOWN and its consultant or consultants. TOWN and SCHOOL acknowledge that this is only an initial payment and will not be sufficient to cover the anticipated actual cost of consultant services and TOWN's staff costs and attorneys' fees.

TOWN may use the initial deposit, and additional amounts paid under Section 3 of this Agreement, to cover the costs described in Section 1.

3. Additional Deposits. SCHOOL shall pay to the Town a further deposit of \$50,000 within fifteen (15) calendar days of receipt of written notice from TOWN that the initial deposit balance is \$5,000 or less ("additional deposit"). Thereafter, within fifteen (15) calendar days of receipt of written notice from TOWN that the deposit balance is \$5,000 or less, SCHOOL shall pay an additional \$50,000 deposit to TOWN, until the total deposit totals \$169,605. (The last deposit will be \$49,605.). The total deposit shall consist of the initial deposit and additional deposits. If SCHOOL fails to submit funds to TOWN as described in this Section 3, TOWN will notify its consultants to stop work and will suspend processing permit applications until SCHOOL provides adequate funds to increase the Deposit amount to at least the amount requested by the TOWN. Thirty days after applicant has either obtained all land use entitlements or TOWN has made a final decision denying them, TOWN shall refund the remaining Deposit amount to SCHOOL. If upon completion of TOWN's land use entitlement process the Deposit amount is insufficient to cover all of the costs described in Section 1, SCHOOL will promptly pay the remaining balance to TOWN. TOWN shall not issue final approval certificate documents until all monies due are paid.
4. Accounting by Town. TOWN shall provide SCHOOL with monthly invoices for work performed under this Agreement. Such invoice must provide sufficient detail from which SCHOOL may confirm who performed the services, the nature of the work performed, the hours worked, the rate charged to the TOWN, and that the services were reasonably and directly related to the review and processing of SCHOOL's project. Provided, bills for legal services shall be presented in summary form.
5. Condition Precedent and Failure to Pay. As long as SCHOOL makes the deposit payments and reimburses TOWN for the costs of consultant work, processing, and coordinating, as outlined in this Agreement, TOWN shall perform those functions described herein. SCHOOL acknowledges that failure to pay said amounts when due under this Agreement shall result in the inability of the TOWN to complete its required activities and will result in the immediate cessation of any work in progress and the subsequent inability of the TOWN to continue processing said work.
6. Termination. Should SCHOOL withdraw its applications, it may terminate this Agreement by providing notice in the manner indicated below. SCHOOL shall be responsible for the payment of Consultant's and TOWN's cost for all work performed up to and including the date of termination. Any additional unexpended funds deposited with TOWN pursuant to this Agreement shall be returned to SCHOOL.
7. Indemnity. TOWN shall have no liability for any loss, cost, expense, or damage, direct or indirect, to SCHOOL on account of any act or omission of any consultant or on account of the quality, content, or conclusions of the materials prepared by any consultant engaged by TOWN pursuant to this Agreement. In the event a third party brings a claim, action, or proceeding against TOWN or its officials, agents, officers, or employees involving the work of TOWN and its consultant pursuant to this Agreement, including any claims, actions, or proceedings to attack, set aside, void or annul an approval of TOWN with respect to SCHOOL's project, any advisory agency, appeal board, or legislative body, which claim, action or proceeding is brought within the time period provided for in California law,

SCHOOL agrees that if it decides to proceed with the Project, SCHOOL will be responsible to defend, indemnify or hold harmless TOWN. Provided however, that SCHOOL shall only be responsible for such indemnification, defense and hold harmless to the extent such claims do not arise from TOWN's sole, gross or willful negligence or intentional misconduct. TOWN will promptly notify SCHOOL of any claim, action or proceeding subject to this provision. TOWN will cooperate fully in the defense of any such claim, action, or proceeding. If TOWN elects to participate directly in the defense of any such claim, action, or proceeding, TOWN shall bear its own attorney's fees and costs and TOWN defends the action in good faith. If TOWN fails to promptly notify SCHOOL of any claim, action, or proceeding, or if TOWN fails to cooperate fully in the defense, SCHOOL shall not thereafter be responsible to defend, indemnify, or hold harmless TOWN.

8. Notices. Any written notice to SCHOOL shall be sent to:

Mr. Richard A. Dioli
Director of Schools
Sacred Heart Schools
150 Valparaiso Avenue
Atherton, CA 94027

with a copy to:

Ms. Sandy Dubinsky
Chief Operations Officer
Sacred Heart Schools
150 Valparaiso Avenue
Atherton, CA 94027

Any written notice to TOWN shall be sent to:

City Manager
Town of Atherton
91 Ashfield Road
Atherton, CA 94027

with a copy to:

Wynne Furth, City Attorney
McDonough Holland & Allen PC
1901 Harrison Street, 9th Floor
Oakland, CA 94612-3501

9. Time of the Essence. For the purpose of this Agreement and of each provision of this Agreement, time is of the essence.
10. Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof, and no other agreement, statement or promise made by any

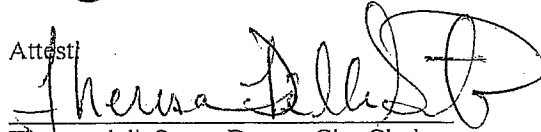
party, or to any employee, officer, or agent of any party, which is not contained in this Agreement shall be binding or valid. This Agreement is not subject to modification except in writing signed by all parties.

11. Attorneys' Fees. If any legal action or any arbitration or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing Party will be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.
12. Cooperation. Each Party to this Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement. The Parties shall act in good faith toward each other and shall act in a fair, diligent, expeditious and reasonable manner, and no Party shall take any action that will prohibit, impair or impede any other Party's exercise or enjoyment of its rights and obligations secured through this Agreement.
13. Relationship of the Parties. SCHOOL acknowledges and agrees that the work performed by Consultant shall be directed and controlled by the TOWN completely independently of SCHOOL and that SCHOOL has no right to direct or control that work.
14. Authorized Signatories. Each of the undersigned hereby warrants and represents that he/she is duly authorized to execute this Agreement on behalf of the entity for whom he/she signs.
15. Governing; Jurisdiction; Venue. This Agreement shall be interpreted under the laws of the State of California. Jurisdiction and venue of litigation arising from this Agreement shall be in the County of San Mateo, State of California.

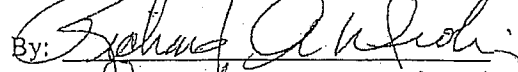
TOWN OF FATHERTON

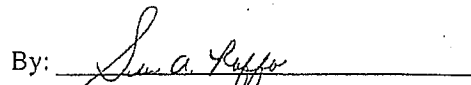

Jerry R. Gruber, City Manager

Attest:

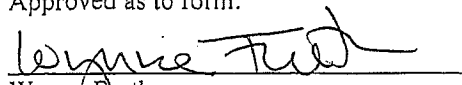

Theresa della Santa, Deputy City Clerk

SACRED HEART SCHOOLS

By: 
Its: Superintendent of Schools

By: 
Its: Chief Financial Officer

Approved as to form:


Wynne Furth
City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
CITY MANAGER, JERRY GRUBER**

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

DATE: FOR THE MEETING OF MARCH 17, 2010

**SUBJECT: REQUEST FOR A CONDITIONAL EXCEPTION TO ALLOW A LOT
MERGER AT 69 CATALPA DRIVE AND 75 CATALPA DRIVE**

RECOMMENDATION:

For the reasons outlined in this staff report, Planning Staff recommends that the City Council conduct the hearing and approve the Conditional Exception to allow the merger of the lots at 69 Catalpa Drive and 75 Catalpa Drive based on the following:

Findings for Conditional Exception, Atherton Municipal Code Section 16.36

1. There are special circumstances or conditions affecting the property.
Basis for finding: The existing site consists of two legal lots that are each less than one acre in area. The improvements at 75 Catalpa Drive result in a non-conforming floor area situation. The merger of the properties would resolve this non-conforming situation. The existing main residence was built in compliance with the setbacks appropriate for the lot width. The location of the existing residence will not change with the lot merger, although the residence will be considered non-conforming with regards to the side yard setback.
2. The exception is necessary for the preservation and enjoyment of a substantial property right of the applicant.
Basis for finding: The granting of the exception is necessary to allow the lot merger and to remedy the existing non-conforming floor area situation at 75 Catalpa Drive. The merged property will allow the property owner to complete additional improvements to the site while still maintaining sufficient setbacks and without the removal of heritage trees.
3. The granting of the exception will not be detrimental to the public welfare of injurious to other properties in the territory in which the property is located.
Basis for finding: The granting of the exception will not be detrimental as the exception will not allow more intense development than is allowed with the separate properties. The exception to

allow the merged properties will also require larger side yard setbacks for any future improvements to the main residence.

4. The granting of the exception will not violate the requirements, goals, policies or spirit of the law.

Basis for finding: The granting of the exception will not violate the requirement, goals, policies or spirit of the law. The existing improvements at 75 Catalpa Drive are considered non-conforming as it exceeds the floor area requirements for the lot. The granting of the exception and lot merger will remedy this situation. The merged property will result in a very limited portion of the existing main residence being considered non-conforming with respect to the side yard setback. As outlined in the staff report, this setback intrusion is de minimis. Any new improvements to the main residence will be required to meet the new setback requirements.

INTRODUCTION:

The subject site consists of two legal lots located at 69 and 75 Catalpa Drive. There is an existing single family residence with detached garage and pool at 75 Catalpa Drive. The owners of 75 Catalpa Drive purchased 69 Catalpa Drive which is currently vacant.

The applicant obtained Planning Commission approval for a Special Structures Permit to allow the construction of a new tennis court at the front setback on 69 Catalpa Drive and a Special Structures Permit to allow a basement under a new detached accessory structure to be constructed on 69 Catalpa Drive.

The applicant is requesting the City Council grant a Conditional Exception to allow the merger of the two properties that will result in a non-conforming side yard setback for the existing main residence. The Planning Commission, at its January 27, 2010 meeting, recommended the City Council grant the Conditional Exception.

ANALYSIS:

The applicant would like to merge the two properties at 69 Catalpa and 75 Catalpa Drive. Merger of the properties would allow the construction of a larger detached accessory structure than if the properties were to remain separate. The parcel at 69 Catalpa Drive is 36,982 square feet in area and the property at 75 Catalpa Drive is 38,729 square feet in area. The merged property would contain 75,712 square feet in area (1.738 acre). Once the properties are merged, they could not be subdivided at a later date as each new lot would need to contain at least one acre of land area.

The property at 75 Catalpa Drive contains a main residence and a detached garage with a total combined floor area of 8,846 square feet. The allowed floor area for the lot is 7,039 square feet. The property is currently considered non-conforming with respect to floor area. If the properties are merged, the allowed floor area for the site would be 13,628 square feet. The lot merger would resolve the existing non-conforming floor area issue and allow for additional improvements to the site.

The property at 75 Catalpa Drive is 166'-3" wide. The required side yard setback based on this lot width is 43'-0". The existing residence is setback 44'-2" from the left side property line (south side) and 47'-4" from the right side property line (north side). If the properties are merged, the lot

width would increase to well over 200', which would result in a required side yard setback of 50'-0". The existing residence would therefore be considered non-conforming with respect to the side yard setback. As noted in the applicant's letter, the encroachment into the side yard setback involves a very small portion of the existing residence. No changes are proposed to the main residence. If the lot merger is approved, all future improvements would be required to meet the new 50' side yard setback requirement. The front and rear yard setback requirement of 60' would not change with the lot merger.

Atherton Municipal Code chapter 16.14 allows the City Manager to approve a lot line adjustment provided that it complies with all the provisions of the subdivision title and the development standards of the Town. The lot merger as proposed by the applicant would remedy the existing non-conforming floor area situation, but would create a non-conforming situation with respect to the side yard setback for the existing main residence. Atherton Municipal Code section 16.36.010 allows a subdivider to apply for a conditional exception to the requirements and regulations in the code, pending a recommendation by the Planning Commission and approval by the City Council.

CONCLUSION:

In order to approve the Conditional Exception, the City Council would need to find that there are special circumstances or conditions affecting the property, the exception is necessary for the preservation and enjoyment of a substantial property right of the applicant, the granting of the exception will not be detrimental to the public welfare or injurious to other properties in the territory in which the property is located and the granting of the exception will not violate the requirements, goals, policies or spirit of the law. The granting of a Conditional Exception would allow the lot merger with a non-conforming side yard setback at one side of the existing main residence. The Conditional Exception will not be detrimental to the neighborhood as the merger of the properties would not allow more intense development than the existing two lot situation. The location of the existing residence will not change with the merger of the properties. The merged properties would increase the side yard setback requirements for any future improvements to the main residence. The merged property also allows the location of new improvements without removing heritage trees.

ALTERNATIVES:

The City Council could approve, deny or request modification of the conditional exception for the lot merger.

FISCAL IMPACT:

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

ENVIRONMENTAL IMPACT:

The proposal has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15305 Class 5; which consists of minor alterations in land use limitations in areas with an average slope of less than 20% which do not result in any changes in land use or density, including but not limited to: (a) minor lot line adjustments, side yard setback variances not resulting in the creation of any new parcel.

FORMAL MOTION:

I move that the City Council approve the Conditional Exception to allow the lot line adjustment to

merge the properties located at 69 Catalpa Drive and 75 Catalpa Drive subject to the conditions in the draft Conditional Exception Permit and based on the findings and for the reasons incorporated in the Staff Report.

Prepared By:

Approved by:

/s/ Lisa Costa Sanders

/s/ Jerome D. Gruber

Lisa Costa Sanders, Town Planner

Jerome D. Gruber, City Manager

Attachments:

1. Draft Conditional Exception Permit to allow Lot Line Adjustment
2. Letter of request from Andrew Young dated January 12, 2010 site plan

**TOWN OF ATHERTON
CITY COUNCIL**

CONDITIONAL EXCEPTION

THIS IS TO CERTIFY THAT the Atherton City Council at a regular meeting thereof, held on Wednesday, March 17, 2010 did grant Conditional Exception to Nancy and Andy Kessler pursuant to Atherton Municipal Code Section 16.36.010 to allow a lot line adjustment that would merge the properties located at 69 Catalpa Drive and 75 Catalpa Drive in Atherton (Assessor's Parcel Number 061-211-070 and 060-211-060) resulting in a non-conforming side yard setback. The Exception was approved subject to the following conditions:

1. Any future improvements to the main residence shall comply with the setback requirements in effect at the time of the improvements.
2. The Conditional exception shall become null and void unless a Lot Line Adjustment merging the properties is recorded at the San Mateo County Records Office within one year of the effective date of this approval.

Lisa Costa Sanders
Deputy Town Planner

Effective Date: _____
Atherton, CA



YOUNG AND BORLIK
ARCHITECTS, INCORPORATED

261 HAMILTON AVENUE SUITE 218
PALO ALTO, CA 94301

TELEPHONE
(650) 688-1950

FAX
(650) 323-1112

WEB
www.ybarchitects.com

January 12, 2010

Town of Atherton Planning Department
For: Planning Commission
91 Ashfield Road
Atherton, CA 94027

RE: Site Improvements for: Nancy and Andrew Kessler
At: 69 Catalpa Drive, Atherton, CA 94027

- 1) Special structure permit for new tennis court up to 60' front setback (per Atherton zoning section 17.40.050 A)
- 2) Proposed lot merger to 75 Catalpa.
- 3) Special structure permit for basement under accessory structure (per Atherton zoning section 17.44.030 B).

Dear Planning Commission Members and Planning Staff,

This letter accompanies the submittal of plans for the three Planning Commission actions and improvements noted above. **The purpose of this letter is to address the justifications and findings as associated with the approval of the lot merger between 69 and 75 Catalpa Drive.** As a result of the lot merger, there will be zoning non-conformities that will be corrected, as well as created.

The first zoning issue to address is regarding minimum lot size. The Town minimum parcel size per Zoning is one full acre (43,560 sf). The parcel at 75 Catalpa is 0.89 acre (38,729 sf), which is a non-conformity in being less than the one full acre. Additionally, the adjacent parcel at 69 Catalpa, which is currently vacant, is even smaller at 0.85 acre (36,982 sf) and also a non-conformity for being less than one acre. The lot merger between these two parcels would correct that non conformity by creating on parcel of 1.738 acre (75,712 sf).

The second zoning issue to address is regarding allowable floor area. The current two-story home at 75 Catalpa is 7,144 sf, with a detached garage of 1,302 sf, for a total floor area of 8,446 sf. It is a two-story French county style home, originally built in 1975, and is typical of size, style, and quality within Atherton's Lindenwood area. The parcel is 0.89 acre (38,729 sf), which is a non-conformity in being less than the Town standard of

one full acre. Based on this lot size of 0.89 acre (38,729 sf), the allowable floor area for this parcel is 7,039 sf. The total existing floor area is currently **26% over** (1,807 sf over) the allowable. A lot merge with the adjacent parcel at 69 Catalpa would increase the total lot size to 1.738 acre (75,712 sf), which would resolve non-conformities for floor area. The residence would go from **126% of allowable** to **65% of allowable floor area** (4,782 sf below allowable).

The third zoning issue to address is regarding the required side yard setbacks for the property. The current parcel width (as measured perpendicular to the front yard setback line) is 166'-3". Since this is less than 200' the table 17.38.010 of the Atherton zoning ordinance sets the minimum side yard at 43'-0". The existing residence is located 44'-2" from the south side property line and 47'-4" from the north side property line at its nearest points. The existing residence is in full compliance of both side yard setbacks. The depth of the lot is over 200', resulting in a 60'-0" front and rear setback, with which the current residence is also in full compliance before and after a lot merge.

A lot merger would increase the lot width to well over 200' (to 340') which would result in a required side yard setback of 50'-0". The existing residence would then be well away from the new south side property line, but because of the recalculation of the setbacks would encroach 2'-8" into the north side yard setback at its nearest point. The encroachment would consist of three small triangular sections (due to the angles of the site) which can be seen on the attached enlarged view. The percentage of these triangles is only **2.2%** of the area of the existing residence, and occupies only **0.6%** of the total side yard area.

Per Town municipal code section 16.36.010, *a subdivider may apply for conditional exceptions to any of the requirements and regulations in the zoning, pending a recommendation by the Planning Commission and approval by the City Council.*

Per the Town municipal code section 16.36.020, *a conditional exception may be granted upon making the following findings (Ord. 441 § 1 (part), 1988):*

1. There are special circumstances or conditions affecting the property;

- Because the original subdivision of the neighborhood created their substandard lot size (about 4,800 sf less than an acre), the current property is not big enough to facilitate the additional recreational amenities they hope to gain (such as a tennis court, which is about 5,000 sf in size).
- There are also many mature heritage oak trees on both properties, for which their preservation is both an amenity for their character and a limitation in their number and location. In either case the pose a limit to flexibility for alternative site design solutions and have made merging the two parcels the most viable option.

2. The exception is necessary for the preservation and enjoyment of a substantial property right of the applicant;

- The primary goal is to create a tennis court on the property for the enjoyment of the family, which includes three adolescent and very athletic sons. The substandard lot size prevents them from adding the additional recreational amenities they hope to gain, such as the tennis court. As noted above, the amount of land the property is short of the standard size acre is about size of a tennis court, and they could conceivably be able to build a tennis court if not for the substandard lot size.

3. The granting of the exception will not be detrimental to the public welfare or injurious to other properties in the territory in which the property is located;

- The granting of this exception will be a benefit to the public welfare and other properties in the area.
- By merging the lot together, it will further reduce the density of the development, contributing to the sparse development pattern and openness that makes Atherton so sought after. Once merged the two lots will never be able to be split again due to the non conformance in being less than one acre, so in any distant future development there will only be one main residence that can be redeveloped on the new large parcel, instead of the two residences currently possible as separate parcels.
- The lot merger will actually reduce the potential size of an accessory structure as part of the future development. With two separate lots, the accessory building can be built to within the main house allowances for height (31'), floor area (6,754 sf), setbacks, etc. After the lot merger, the accessory building will be limited to be within the accessory structure allowances for height (15'), floor area (2,080 sf) and setbacks. Even though this will reduce the development potential of our client, the smaller size is sufficient to satisfy their needs and is outweighed by the increased potential for landscape, open space, and recreation.
- The fraction of the residence that does encroach into the newly applied side setback is very minimal in size and impact, as covered in the discussion above, and will not be detrimental to the public welfare or injurious to other properties. It actually will not change in anyway physically the open space enjoyed by the neighbor on that side. Andy Kessler is reviewing this with his neighbors and expects to have letters of support to include for the Planning Commission review.
- The proposed configuration of the tennis court, future accessory structure, and required drainage retention pit that is made possible with a lot merger also

facilitates the best possible arrangement for the preservation and maintenance of the property's heritage tree population.

- Any reconstruction of a new residence on the larger property would be subject to all of the current zoning ordinance restrictions, so the current sliver of non-conformity will not exist indefinitely as the property is redeveloped.
4. *The granting of the exception will not violate the requirements, goals, policies, or spirit of the law.*
- The spirit and goal of the setbacks is to maintain the sparse density and open development patterns throughout the Town to maintain the rural atmosphere and privacy between neighbors. In merging the two lots and making one large parcel, the existing residence remains in the same location, with no change in distance to the north property line and no change to distance to the north side neighbors. The separation between the two neighbors will maintain status quo, with the only change being the technical application of the side setback as calculated in zoning ordinance.

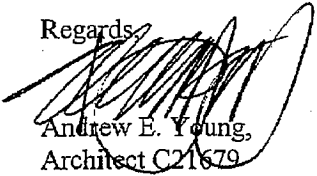
The primary goal of the acquisition and merge with the neighboring lot is the increase in open yard space for landscape, recreation, and enjoyment. There is no desire to increase the main building, even though the larger lot size would make an expansion possible.

We have explored several design directions and options in developing the two parcels to meet the needs and wants of the property owners. We looked at several scenarios that included separate and merged parcels, or that involved tree removals or impacts, or that involved much larger accessory structures designed with the main building allowances.

All of this design work and schemes have coalesced into the proposed developments as submitted with this application, and embody the best use of the properties for our clients and pose the least impacts to the overall landscape, environment, and public welfare.

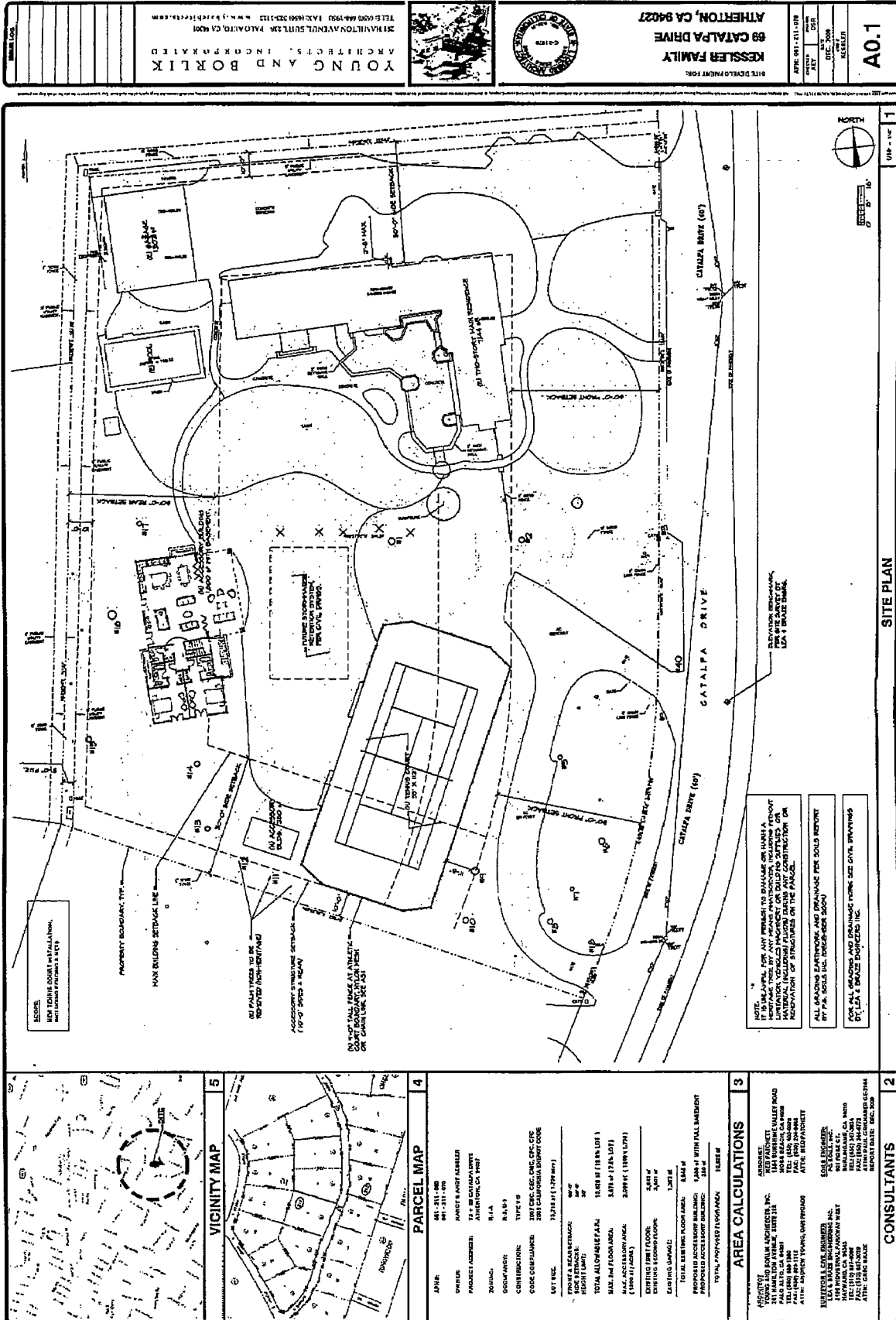
We appreciate your time in the review and consideration of our application and are available at anytime to answer any questions or to provide additional information. We look forward to presenting and discussing this with you at the Public Hearing.

Regards,



Andrew E. Young,
Architect C21679







Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER

FROM: EILEEN M. WILKERSON, ASSISTANT CITY MANAGER

DATE: FOR THE MEETING OF MARCH 17, 2010

SUBJECT: APPROVE PARTICIPATION THROUGH THE TOWN'S CABLE
JOINT POWERS AGREEMENT TO BROADCAST DESIGNATED
PUBLIC EVENTS AS A PUBLIC EDUCATION GOVERNMENT
(PEG) PROGRAMMING SITE USING "STUDIO IN A BOX"

RECOMMENDATION:

Approve Town participation through the Town's Cable Joint Powers Agreement to broadcast designated public events as a Public Education Government (PEG) programming site using "Studio in a Box". Authorize the City Manager to designate "public events" to be broadcast.

INTRODUCTION:

July 1, 2010 the Town of Atherton will lose the ability to broadcast events (including meetings) publicly through the Town's Cable Joint Powers Agreement (JPA) at no charge for cable services unless steps are taken now to begin broadcasting by June 2010.

ANALYSIS:

To receive PEG services without a charge for specific equipment provided by the Cable JPA and cable services into the future, an event must be broadcast by June 2010. See attached report to City Manager Jerry Gruber dated February 4, 2010.

FISCAL IMPACT:

Installation of wireless or copper fiber optic connection estimated between \$1,000 and \$15,000 dependent upon whether the fiber must be placed under ground or can be wireless. Research on wireless is still being conducted but is optimistic resulting in a substantial savings.

\$2,000 per PEG event using "Studio in a Box".

Prepared By:
/s/ Eileen Wilkerson

Eileen M. Wilkerson
Assistant City Manager

Approved:
/s/ Jerome D. Gruber

Jerome D. Gruber
City Manager



Town of Atherton
Office of the City Manager

91 Ashfield Road
Atherton, California 94027
Phone: (650) 752-0500
Fax: (650) 614-1212

DATE: February 4, 2010
TO: Jerry Gruber, City Manager
FROM: Eileen Wilkerson, Assistant City Manager
SUBJECT: Cable JPA – Public Broadcast

July 1, 2010 the Town of Atherton will lose the ability to broadcast publicly through the Cable JPA unless steps are taken now to begin broadcasting by June 2010.

In 2004 the Town received a grant for \$50,000 with a matching component of \$20,000 to acquire the equipment necessary to broadcast events of interest to the public. The Town returned the check and voted not to have the service or equipment.

In early 2008 then Vice Mayor Jerry Carlson and Council Member Charles Marsala contacted the Cable JPA and inquired about improving public communication through public broadcasting. In April 2008 the Cable JPA responded, in writing, but did not receive further contact.

In September 2009 the Cable JPA Board of Directors of which I am a member discussed that the franchise agreement with Comcast was coming to an end June 30, 2010. At that time the City Manager updated the Council through the City Manager Report at the Regular Council Meeting.

In December 2009 the Cable JPA Board of Directors voted to fund the equipment needed to originate video and stream it across the I-Net to the Media Center for new Public Education Government (PEG) programming sites. This opens the door to Atherton one last time to take advantage of the Cable JPA PEG services.

On January 28, 2010 I attended a telephone conference with the Cable JPA consultants to discuss how Atherton might participate in PEG should the Council determine that they want to publicly broadcast events including, but not limited to, Council meetings, D.A.R.E. graduations, community announcements, etc.

Time is of the essence. The Town receives in excess of \$100,000 in franchise tax fees through participation in the Cable JPA. If the Council chooses to designate the franchise fees to pay for the PEG and related expenses, the program will be self funded. A decision to designate franchise fees to public broadcasting will reduce the General Fund Revenue equally.

Options for public broadcasting include:

- 1) Studio In A Box: Hiring the equipment and crew from the Cable JPA Media Center. No initial output of funds until the Council is sure they wish to continue public broadcasting. There is a subscription fee of approximately \$2,000 for each broadcast.
- 2) Purchasing used equipment and subscribing to Media Center broadcasting.
- 3) Purchasing new equipment and subscribing to Media Center broadcasting.
- 4) Residents donate equipment and Town subscribes to Media Center Broadcasting.
- 5) Using a camcorder and bringing a tape to the Media Center (can be done without the Cable JPA equipment to use the I-Net).

There are small variations on each option.

Key to success is the installation of a copper fiber optic connection between the Council Chambers and the Police Department. Five Atherton facilities have the fiber optics: Town Hall, 2 connections at the Police Department, 150 Watkins Avenue, and Fire Station #3 on Almedral Avenue. Unfortunately, the Council Chambers does not have a connection.

Costs associated with the options above include:

Installation of copper fiber optic connection – estimated between \$1,000 to \$15,000 dependent upon whether it must be placed under ground or wireless.

Video equipment to purchase new – estimated at \$60,000.

Ideally, a decision to move forward is needed by the end of March 2010 but could be delayed as late as the end of April 2010.

If the Council would like to move forward with broadcasting I recommend installing the Ethernet wire which is needed and then subscribing to the Studio In A Box until the Council is satisfied with broadcasting and the process at which time they may wish to invest in their own equipment and person to run it.

Side Note: Ethernet wire to a wireless box on the Council Chambers and a wireless box to an Ethernet wire on the PD side is ideal but may not carry the signal well enough for the Media Center. That is why the cost varies from \$1,000 to \$15,000. Can a wire be strung up high across the street? That is about \$2,000. Otherwise, underground will involve trenching and I don't have a clear estimate of that cost.

Attachments

To: Vice Mayor Jerry Carlson
Council Member Charles Marsala
From: Media Center Executive Director Annie Folger
Date: April 29, 2008
Re: Improving Public Communication

Background

The Midpeninsula Community Media Center operates two Government Access Cable TV Channels (Chs. 26 and 29) and three Community Access Channels (Chs. 27, 28 and 30) in the cable franchise area that serves Atherton, East Palo Alto, Menlo Park, Palo Alto and Stanford. Michael Di Battista represents Atherton on our Board of Directors. After meeting with you, Mike asked me to prepare some suggestions for how the Media Center can assist you in improving public communication.

Overview of Media Center Services

- Community Training: Field Production, Editing and Studio Workshops
- Portable video production equipment available to check out for use in field
- Editing equipment available for use at the Media Center
- Studio production for community members with trained volunteer crews, including three cameras, teleprompter and chromakey capability
- "Auto Pilot Studio" for simple one camera announcements or productions
- Program schedules: on website; daily listings in the Palo Alto Daily News; highlights in the Palo Alto Weekly
- Production services: fee based production work affordable to government agencies, schools and public benefit organizations:
 - Single camera event coverage
 - Documentary style projects and training tapes
 - In studio productions
 - Mobile remote productions
 - Tape duplication
 - Internet streaming, indexing and archiving of video programs
 - A/V clips for web sites
 - Satellite down-linking
- Government meeting coverage *fee?*
 - Broadcasting and Webcasting
 - Indexing by agenda item and archiving meetings on the web
- Government scroll for meeting agendas and city resources
- Public announcements: producing and broadcasting
 - Producing
 - Broadcasting on applicable cable channels
- Staff productions providing a venue for the community.
 - Screening Events, Local Heroes, NGO Platforms, Community Forums, and *Game of the Week*

- *Digiquest* digital media summer camps: week-long camps for teens
- Community Collaborations: Key player in community projects, working with others to promote community communications, for example:
 - Youth Broadcast Collaborative with five local school districts
 - Greenlight Earth Day Film Festival with the City of Palo Alto
 - Election Night Wrap Up with the Palo Alto Weekly
 - Candidate Forums with the League of Women Voters

City Hall Video Operations

One way to expand the reach into the community would be to broadcast the council meetings. The Media Center can provide this service in two different ways:

- We can send out a truck and crew with our "studio-in-a-box" to provide multiple camera coverage; or
- We can provide trained operators to use city owned video equipment

Several cities, including Redwood City and Belmont, have hired our remote crew for a period of time as a way to test the level of interest in such a service before investing in a built-in video capability. Currently, Belmont, East Palo Alto, Menlo Park, and the City and County of San Mateo have their own video equipment for this purpose.

Rates: The Joint Powers Authority ("JPA") has established a contract with us, including rates for our services. Currently the charge is \$258/hr for the remote truck and crew (set up and break down takes about 4 hours), and \$86/hr for city hall video operators.

Production equipment costs: If you were to build a video production capability, we would recommend a Tricaster-based system with three cameras for an estimated cost of \$50-60K plus installation.

Web services: We provide an additional indexing and archiving service to some cities, including Palo Alto. We divide the meeting up by agenda items that are then archived and available on your and/or our website. Citizens can go then to the web page and select the agenda item they are interested in viewing without watching the entire meeting. Rates for this web service depend on several variables. If you are interested in exploring this service, please let me know. If you would like to see how it works, please visit our website: <http://www.midpenmedia.org>. Go to the WATCH section and under NAVIGATE, select Palo Alto Meetings.

Contact information: Please let me know if I can be of assistance with further information. You can reach me via email at: annie@midpenmedia.org or by phone at: 650 494-8686 x-17. Thanks you for your interest.



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: CHIEF MIKE GUERRA

DATE: FOR THE MEETING OF MARCH 27, 2010

**SUBJECT: APPROVAL OF CONTRIBUTION OF PARTIES OF THE JOINT
POWERS AGREEMENT ESTABLISHING THE SAN MATEO
COUNTY NARCOTICS TASK FORCE**

RECOMMENDATION:

Staff recommends that Council approve Atherton's FY 2009-10 contribution to the San Mateo County Narcotics Task Force in the amount of \$25,454.

INTRODUCTION:

The San Mateo County Narcotics Task Force (NTF) is comprised of officers and deputies from San Mateo County law enforcement agencies that target regional and local narcotics enforcement and prevention issues. Departments have the option of either assigning an officer or sergeant to work as an agent with the task force full-time, or to pay their contribution based on the JPA formula, which is attached to this report. The calculated contribution for Atherton is \$25,454.

ANALYSIS:

PD did not have to pay our calculated contribution amount for several years because two of our officers were rotated through the task force one at a time. Our rotation ended in May 2008 when our officer rotated back to PD. Since then, we have been required to pay our contribution per the JPA.

When the FY 2008-09 budget was prepared, things like the NTF contribution were included in account 101-40-3165, but not as a line item with a description. This was the practice for years. Since we contributed an officer to the NTF for several years we did

not have to pay anything for some time. The budget preparation process changed for FY 2009-10 when we implemented a more detailed and accurate approach. To prepare the FY 2009-10 budget, staff used past accounts payable data. As a result, the data that were used did not contain payment to NTF at the time the FY 2009-10 budget was prepared and adopted.

FISCAL IMPACT:

No additional funds are requested. When PD's budget was presented for council's mid-year budget review, staff had already calculated that the \$25,454 could be paid through salary savings in the existing PD budget.

Prepared By:

/s/ Mike Guerra

Michael Guerra
Chief of Police

Approved:

/s/ Jerome D. Gruber

Jerome D. Gruber
City Manager

San Mateo County Narcotics Task Force

City Cost-Sharing Contribution Allocation

Fiscal Year 2009/2010

COST RECAP

Cities Base Share @ 100%

\$872,774

COST SHARE FACTORS

Population Factor: \$436,387 / 668,250

Assessed Value Factor: \$436,387 / \$125,423,319

Prepared

05/07/09

City Agency	City Population	Population Percent	Population Cost Share	Assessed Valuation	Assessed Value Percent	Assessed Cost Share	CITY TOTAL COST SHARE
Atherton	7,476	1.12%	\$4,881	\$5,912,856	4.7%	\$20,573	\$25,454
Belmont	26,078	3.90%	\$17,030	\$4,630,938	3.7%	\$16,112	\$33,142
Brisbane	3,861	0.58%	\$2,521	\$1,691,276	1.3%	\$5,884	\$8,406
Broadmoor	4,889	0.73%	\$3,193	\$468,958	0.4%	\$1,632	\$4,824
Burlingame	28,867	4.32%	\$18,851	\$7,135,202	5.7%	\$24,826	\$43,677
Colma	1,613	0.24%	\$1,053	\$700,034	0.6%	\$2,436	\$3,489
Daly City	106,367	15.92%	\$69,457	\$9,204,656	7.3%	\$32,076	\$101,483
East Palo Alto	32,897	4.92%	\$21,483	\$2,510,567	2.0%	\$8,735	\$30,218
Foster City	30,308	4.54%	\$19,792	\$6,584,790	5.3%	\$22,911	\$42,703
Half Moon Bay	13,046	1.95%	\$8,519	\$2,330,008	1.9%	\$8,107	\$16,626
Hillsborough	11,272	1.69%	\$7,361	\$6,353,783	5.1%	\$22,107	\$29,468
Menlo Park	31,490	4.71%	\$20,564	\$9,889,999	7.9%	\$34,410	\$54,974
Millbrae	21,387	3.20%	\$13,966	\$3,515,257	2.8%	\$12,231	\$26,197
Pacifica	39,616	5.93%	\$25,870	\$4,551,215	3.6%	\$15,835	\$41,706
Redwood City	77,269	11.56%	\$50,459	\$15,407,338	12.3%	\$53,607	\$104,066
San Bruno	43,444	6.50%	\$28,370	\$5,511,448	4.4%	\$19,176	\$47,546
San Carlos	28,857	4.32%	\$18,844	\$6,775,221	5.4%	\$23,573	\$42,418
San Mateo	95,776	14.33%	\$62,545	\$17,129,563	13.7%	\$59,599	\$122,144
South San Francisco	63,744	9.54%	\$41,627	\$15,120,210	12.1%	\$52,608	\$94,235
Total City Contributions Set by SMCNTF Board (****)	668,250	100.0%	\$436,387	\$125,423,319	100.0%	\$436,387	\$872,774
Net Contributions to City Trust Fund							\$470,470
Personnel Contributions							\$402,304

(****) City Contributions has NO increase from last year.

JPA COST-SHARING FORMULA - FY 2008-09

Data Sources: State Dept. of Finance, Demographic Research Unit - January 1, 2008 population updates; Assessed Valuation data from San Mateo County Controller's Office - 2008 Statement of SMC Assessed Valuation Roll (in Thousands)

1. Divide the total city cost share in half.
2. Divide half the city cost share by the total city population to derive a Population Factor.
3. Multiply each city's population by the Population Factor and convert to dollars to determine that city's population share.
4. Divide half the city cost share by the total city assessed value to derive an Assessed Value Factor.
5. Multiply each city's assessed value by the Assessed Value Factor and convert to dollars to determine that city's assessed value share.
6. Add the population share and assessed value share together to determine each city's SMCNTF JPA cost share.
7. Subtract out contributions from Cities contributing agents to the SMCNTF to determine the net revenue to the SMCNTF City Fund.



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF MARCH 17, 2010

**SUBJECT: APPROVAL OF PLANS AND SPECIFICATIONS AND
AUTHORIZATION TO ADVERTISE THE PARK BRIDGE
LANDSCAPING PROJECT, PROJECT NUMBER 09-027**

RECOMMENDATION:

Approve the plans and specifications and authorize advertisement for bids for the Park Bridge Landscaping Project, Project No. 09-027.

INTRODUCTION:

The FY 2009-10 adopted Capital Improvement Program includes federal grant funds for constructing the Holbrook-Palmer Park Trail and Bridge Project. The need for this project resulted from the Landscape Master Plan for Holbrook-Palmer Park including a bridge over the Atherton Channel to the park. The project also includes a trail connecting the walking path at the west end the park with the upgraded pedestrian crossing of the Caltrain tracks, as well as a trail connection on the west side of the tracks to get pedestrians past the steep banks adjacent to the open Atherton Channel segment.

The bridge and trails were installed without landscaping because the original estimate used all the grant funds. The low bid for construction left sufficient grant funding to add landscaping to the project.

ANALYSIS:

The Park Bridge Landscaping Project is budgeted for construction in FY 2009-10. Kikuchi and Associates prepared the design for the project. The Park Bridge Landscaping Project plans and specifications are ready to be advertised for construction.

The Park and Recreation Commission reviewed the plans at their March 3, 2010 meeting and recommended approval by the City Council.

FISCAL IMPACT:

Regional Trails Program (RTP) federal funds and Atherton Dames funds in the amount of \$14,026.41 remain from the original \$131,000 budgeted for this project in FY 2009-10. The Architect's Estimate for the Park Bridge Landscaping Project is \$20,737. In addition, a 10% construction contingency of \$2,073.70 would bring the total estimate to \$22,810.70.

This estimate is \$8,784.29 above the grant funds available. Recent bids indicate that estimates have routinely been underbid, therefore the project scope was set higher than the remaining grant funds to assure that all of the grant funds are used. If the bids come in higher than the grant funds, Council would be asked to reallocate a small amount of Parcel Tax funds from other park projects, thus assuring that every penny of federal grant funds is used for landscaping in the park. If the bids are too much over the grant funds, the project scope can be reduced.

In addition (or subtraction), volunteers may be able to plant donated trees for the project during Park Beautification day. This would reduce the cost of the contract. Planting the trees is currently included in the plan and estimate, and can be removed when the trees are planted. The plan being approved here will be used to plant the trees in the correct location.

The project is scheduled to receive bids in May and award the contract at the May 2009 City Council meeting.

Prepared By:

Approved:

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

Jerome D. Gruber
City Manager

Attachments:



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF MARCH 17, 2010

**SUBJECT: APPROVAL OF PLANS AND SPECIFICATIONS AND
AUTHORIZATION TO ADVERTISE THE ENCINAL TRAFFIC
SIGNAL PROJECT NUMBER 08-015**

RECOMMENDATION:

Approve the plans and specifications and authorize advertisement for bids for the Encinal Traffic Signal Project, Project No. 08-015.

INTRODUCTION:

The FY 2009-10 adopted Capital Improvement Program includes funds for constructing the Encinal Traffic Signal Project. The need for this project resulted from the expansion of the Encinal Elementary School Project; however the intersection is already impacted by traffic.

ANALYSIS:

The Town of Atherton and the City of Menlo Park hired traffic engineering consultants (DKS) to study the signals on Middlefield Road from Ringwood Avenue to Marsh Road. A signal at Encinal Avenue was an alternative considered by the DKS study. The study found that the Encinal Avenue intersection is currently operating at level of service F during the AM, afternoon and PM peak hours, with an average delay exceeding 60 seconds. The intersection currently meets standard warrants for installation of a traffic signal.

The Menlo Park School District (MPSD) is expanding the Encinal Elementary School campus to accommodate an increase in enrollment from the current level of

approximately 395 students to a new capacity of 704 students. As a part of the traffic studies, MPSD determined that the intersection of Middlefield Road and Encinal Avenue would be significantly degraded by the increased vehicle and pedestrian traffic to and from the school. Traffic projections indicate an increase in peak trips to and from the school of 115 in the AM (115 in/120 out) and 90 (93 in/90 out) in the afternoon. The result is an increase in average delay per vehicle at the Encinal/Middlefield intersection from 28.6 seconds (Level of Service D) to 50.4 seconds (Level of Service F) in the AM. The mid-afternoon peak trips do not coincide with other peak trips, so the level of service at the intersection remains at B, with delay only increasing from 11.5 seconds to 13 seconds.

The City of Menlo Park has several developments on and near El Camino Real that are projected to increase traffic on Middlefield Road, Encinal Avenue and other streets leading to Middlefield Road. Several of these developments have been or will be charged traffic impact fees. Menlo Park has assigned a portion of these impact fees to mitigating traffic impacts on Middlefield Road by contributing towards a signal at Encinal Avenue, and the City has agreed to participate in the cost because the signal would benefit Menlo Park residents.

It is clear from the traffic studies that the intersection is already operating at a substandard level of service and would benefit greatly from signalization. The school expansion and the Menlo Park developments will impact this intersection, further degrading the level of service. The school and the residents of both Menlo Park and Atherton will benefit from the installation of a traffic signal at the intersection.

Not only would a signal allow traffic to move in and out of Encinal Avenue much easier, the signal would create traffic platoons in the currently unsignalized one-mile section of Middlefield Road from Marsh Road to Oak Grove Avenue. These platoons would provide gaps in traffic allowing easier movements at other intersections such as Watkins Avenue, Lane Place, James Avenue, Prior Lane, Surrey Lane, Glenwood Avenue and Linden Avenue. These gaps would benefit Lindenwood residents and Atherton and Menlo Park residents west of Middlefield Road.

This is very similar in concept to the signal installed in 2003 on Valparaiso Avenue at University Avenue. That signal had the dual purpose of improving access to Menlo School and platooning vehicles on Valparaiso Avenue to provide improved access to and from Emilie Avenue and other side streets. The Town of Atherton, the City of Menlo Park, Menlo School and Sacred Heart Academy shared in the cost of installing that signal.

The Encinal Traffic Signal Project is budgeted for construction in FY 2009-10. Kimley-Horn prepared the design for the project. The Encinal Traffic Signal Project plans and specifications are ready to be advertised for construction.

Construction is scheduled for the Encinal Elementary School summer break, beginning in early June. The award is needed in April to order the signal controllers and mast arms,

which have a fairly long lead time, so that they will be fabricated and delivered when needed during the summertime construction. The completed intersection will be ready when school recommences for the fall.

FISCAL IMPACT:

Parcel Tax funds in the amount of \$126,667 are budgeted for this project in FY 2009-10 for Atherton's portion of the project. Menlo Park has executed a Memorandum of Understanding (MOU) to contribute up to \$126,667 in matching funds towards the traffic signal. The Menlo Park School District has executed an MOU for their portion of the traffic signal and intersection improvements up to \$187,167. Total funding available is therefore \$440,500. To date, \$70,785 has been allocated for design, leaving \$369,715 available for construction.

The Engineer's Estimate prepared by the design consultant Kimley-Horn for the Encinal Traffic Signal Project is \$355,894. In addition, a 10% construction contingency of \$35,589 would bring the total estimate to \$391,483, which is \$21,768 over the available budget.

The bid environment is very favorable at this time, and staff anticipates bids lower than the estimate, which is based on bid averages over the past three years. Staff will also work with the consultant during the bid period to trim the project to lower the cost estimate. If bids equal or exceed the funding, Council may fund the additional from Parcel Tax or cancel the bids and revise the project to reduce the cost. The project is scheduled to receive bids in April and award the contract at the April 2009 City Council meeting.

Prepared By:

/s/ Duncan L. Jones

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

Approved:

/s/ Jerome D. Gruber

Jerome D. Gruber
City Manager

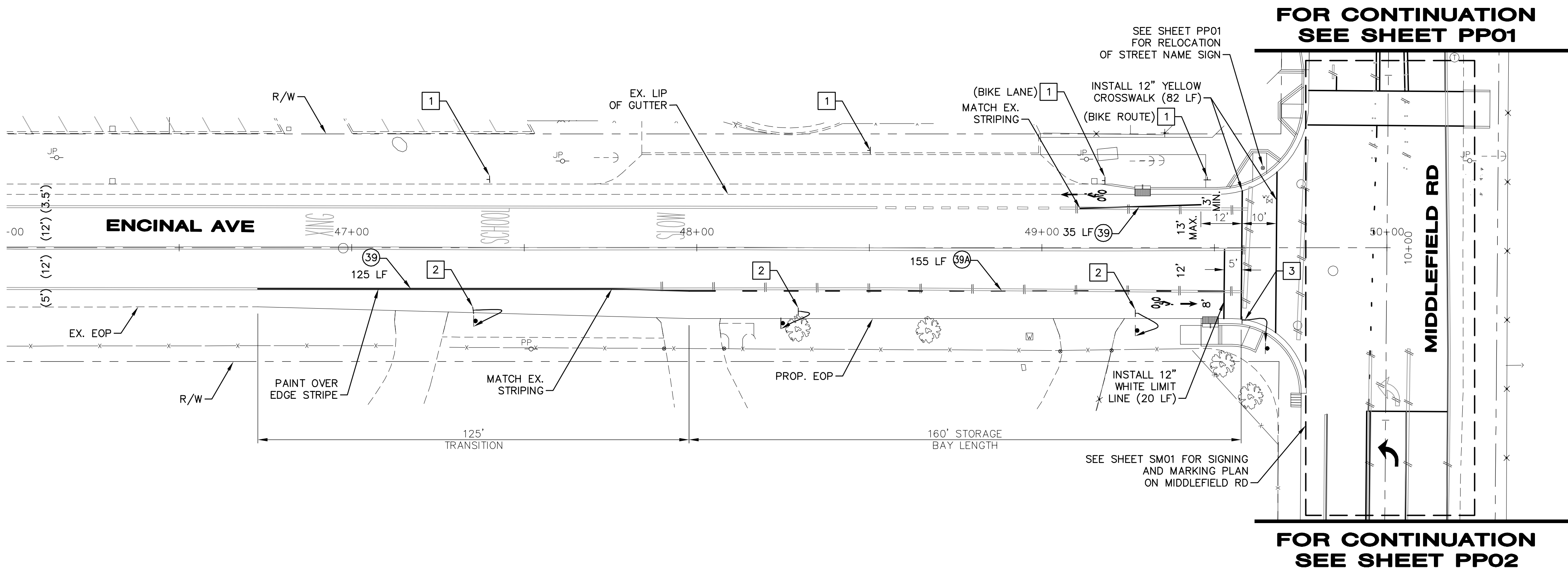
Attachments: Plan



DWG. File: K:\OAK_TPTD\097148009 - Atherton Middlefield-Encinal Improvements - DTP\CADD\148009SM02.dwg

SIGNAGE NOTES

- 1 EX. SIGN AND POST TO REMAIN.
- 2 RELOCATE EX. "NO PARKING" SIGN TO NEW POST AT LOCATION SHOWN ON PLAN. DISPOSE OF EX. POST.
- 3 REMOVE AND SALVAGE EX. "STOP" SIGN; DISPOSE OF EX. POST. RELOCATE EX. "MIDDLEFIELD RD" AND "ENCINAL AVE" STREET NAME SIGNS TO NEW POST AT LOCATION SHOWN ON PLAN.



GENERAL NOTES (THIS SHEET ONLY)

STRIPING AND PAVEMENT MARKER NOTES:

1. STRIPING AND PAVEMENT MARKERS TO CONFORM TO "CHAPTER 3" OF 2006 CALIFORNIA MUTCD.
2. ALL PAVEMENT MARKINGS SHALL BE PAINT UNLESS OTHERWISE NOTED. ARROW INSTALLATIONS SHALL BE PER CALTRANS STANDARD PLANS.

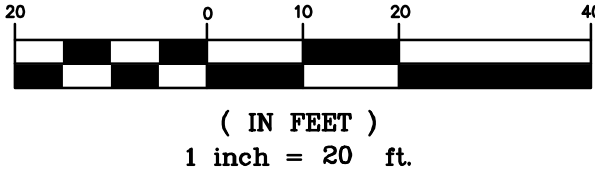
SIGNING NOTES:

1. UNLESS SHOWN OTHERWISE ON THE PROJECT PLANS, ALL EXISTING SIGNS WITHIN THE PROJECT LIMITS SHALL BE PROTECTED IN PLACE.
2. THE LOCATIONS OF NEW SIGNS AND POSTS SHOWN ON THE PLANS IS APPROXIMATE. FINAL LOCATIONS SHALL BE APPROVED BY THE ENGINEER IN THE FIELD. ALL NEW SIGNS AND POSTS SHALL BE INSTALLED TO MAINTAIN A MINIMUM OF 48" CLEAR WALKING SPACE ON THE SIDEWALK AND SHALL MEET ADA STANDARDS.

LEGEND

- REMOVE EX. STRIPING AND PAVEMENT MARKINGS
- INSTALL STRIPING PER CALTRANS STRIPING DETAILS A20A - A20D
- EX. STRIPING/PAVEMENT MARKING
- PROPOSED STRIPING/PAVEMENT MARKING

GRAPHIC SCALE



65% DESIGN
FOR REVIEW ONLY
MARCH 2010

CA: 1-800-227-2600

CALL BEFORE YOU DIG
UNDERGROUND SERVICE ALERT

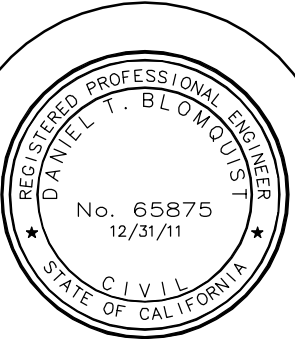
CA: 1-800-227-2600
CALL TWO WORKING
DAYS BEFORE YOU DIG

**Kimley-Horn
and Associates, Inc.**

2005 13th Street, Suite 1200
Oakland, California 94612

Tel. No. (510) 639-2712
Fax No. (510) 639-2714

© 2010



REGISTERED CIVIL ENGINEER DATE

PLANS APPROVAL DATE

THIS PLAN WAS PREPARED
UNDER MY DIRECTION
APPROVED BY:

DAN T. BLOMQUIST R.C.E. 65875

DRAWN	By	H. YOUNG	Checked	D. BLOMQUIST
DESIGN	By	D. BLOMQUIST	Checked	L. FILSON
QUANTITIES	By	H. YOUNG	Checked	D. BLOMQUIST
SCALE: HORIZONTAL: AS NOTED		VERTICAL: NONE		

TOWN OF ATHERTON
DEPARTMENT OF PUBLIC WORKS

0 1 2 3 4
ORIGINAL SCALE IS IN INCHES FOR REDUCED PLANS



**MIDDLEFIELD ROAD AT ENCINAL AVENUE
INTERSECTION IMPROVEMENTS**
SIGNING AND MARKING PLAN - ENCINAL AVENUE

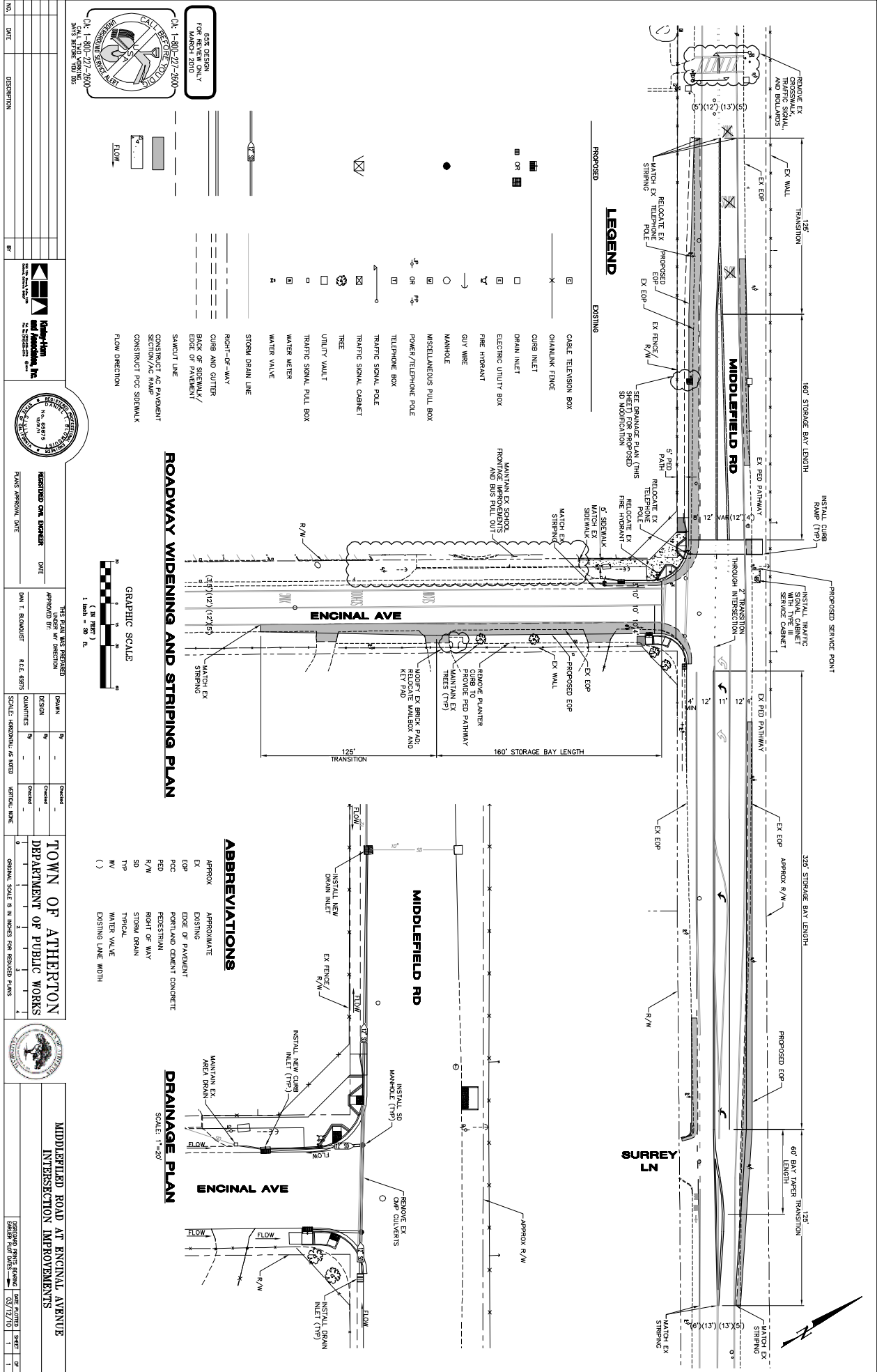
SM02

DISREGARD PRINTS BEARING
EARLIER PLOT DATES

DATE PLOTTED
03/11/10

SHEET
9

OF
11





Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JEROME D. GRUBER, CITY MANAGER

DATE: FOR THE REGULAR MEETING OF MARCH 17, 2010

SUBJECT: RECOMMENDATION BY TOWN CENTER TASK FORCE FOR APPROVAL TO PUBLISH REQUEST FOR STATEMENT OF QUALIFICATIONS FOR DESIGN OF A NEW TOWN CENTER

RECOMMENDATION:

Approval to publish request for statement of qualifications for design of a new Town Center.

BACKGROUND:

The Town Center Finance Committee held a joint, publicly noticed meeting with the Blue Ribbon Task Force on Tuesday, February 23, 2010. A calendar/timeline for review and comment by the Town Center Task Force was presented at the meeting.

The Town Center Task Force seeks approval to publish the attached request for statement of qualifications for the design of a new town center with an application deadline date of April 16th. The Town Center Task Force will meet with the Blue Ribbon Task Force at a joint publicly noticed meeting on Tuesday, April 20th to review the statement of qualifications and make recommendations to City Council at its regular meeting on April 21, 2010.



DRAFT

REQUEST FOR QUALIFICATIONS
For The
DESIGN OF A TOWN CENTER
For the
TOWN OF ATHERTON
March 2010

CLOSING DATE FOR RECEIVING Statement of Qualifications:

Friday, April 16, 2010 – 4:00 p.m.

Questions:

Jerry Gruber, City Manager

(650) 752-0504

jgruber@ci.atherton.ca.us

REQUEST FOR QUALIFICATIONS

Professional Architectural / Engineering Consultant Services

The Town of Atherton seeks Statements of Qualifications (SOQ) from licensed firms to design and supervise the construction of all or part of the needed facilities for a new Town Center complex.

Overview:

A Blue Ribbon Task Force (BRTF), appointed by Town of Atherton in 2008, found that the Town needs about 25,000 square feet of enclosed offices, conference rooms and specialty space. The estimated costs of new facilities would be approximately \$15M as of late 2008-early 2009. About half of that total is for its police force, dispatch and emergency operations center.

At present, Atherton has about 13,700 square feet of offices and facilities from which it serves its approximately 7,400 population. For reasons of both residents' demand as well as state and federal laws, Atherton's public employment in the past 45 years has essentially doubled to approximately 53 Full Time Equivalents (FTE).

In 2006 Edward Gee, Architects prepared an estimate of space needs. The BRTF report updates and expands that report.¹ Figure 1 of this RFQ was constructed using that report as a baseline, but recalculating the needs through repetitive interviews with department and general managers. The Figure 1 shows space available in 2008, the department-by-department space needs, those needs including 22% for circulation and mechanical plant, as well as an additional 5% recommended by BRTF for growth of FTEs.

Figure 1 also estimates the costs of architectural, engineering, construction and landscape; including assumptions concerning enclosed parking for police vehicles and surface parking for visitors and other employees.

Appendices A-I are the details of each department's needs, with reference to the Gee Report.

Statement of Qualifications Format:

Atherton seeks statements of qualifications from licensed firms to design and supervise the construction of all or part of these needed facilities. The submittal is to be prepared in a wire or plastic-bound 8 ½" X 11" format limited to 30 pages including brochures. Covers, dividers and resumes or disclosures will not be included in the page count. 11" X 17" sheets may be used for specialized graphics. Any information that needs to be returned should not be submitted. The Proposal should include the following:

¹ The Gee Report was one of two submitted over the past 15 years measuring the needs for space. On 13 July 1995, G4 Architects Research & Planning, reported to City Council called, Police & Administration Building, Space Needs & Master Plan. Edward J. Gee & Associates submitted Preliminary Master Plan Study, Town Of Atherton Civic Center on October 24, 2006.

- A. FIRM INTRODUCTION, including information such as length of time in business, office location(s) within 50 miles of the project location, number of staff and a general summary of qualifications documenting the strengths of the firm, areas of expertise and licensing. List services provided by prime firm and sub-consultants anticipated.
- B. APPROACH, the firm's design principles and uniqueness of approach, including meeting 'Green' or LEED building standards for essential service facilities.
- C. PROJECT EXPERIENCE, listing specific project experience that is related to the type of services required by the Town. The project experience should reference similar public sector essential service buildings and complexes and list the client contact information for each project. The experience should include:
- 1) A reference list including the names of public agencies where the consultant has provided services and contact information.
 - 2) A reference list of building projects similar to the proposed town center, including the construction contract initial and final value, the project size/scope, and the year of the project.
 - 3) A reference list of projects including essential service facilities and sustainable design / green elements designed or accomplished
 - 4) A demonstration of specific in-depth knowledge of and experience with:
 - a) Design implementation of projects that include occupied buildings
 - b) Public projects including city halls, police stations, council chambers, libraries and areas of public assembly.
- D. KEY STAFF, including the identification of the Principal-in-Charge, Project Manager and key staff. Key Staff/Project Principals shall be licensed professionals in the State of California (Professional Engineer or Registered Architect).
- E. RESUMES should demonstrate experience in architectural/engineering seismic retrofit services including those tasks described above, including registrations
- F. LITIGATION - A list of any current litigation to which the consultant(s) and/or key sub consultants(s) are parties by virtue of their professional service, in addition to a list of any such litigation from the past ten years
- G. DISCLOSURE of any past, ongoing, or potential conflicts of interest that the consultants(s) may have as a result of performing the anticipated work.
- H. CONTRACT & INSURANCE CONFIRMATION, confirming your firm's ability to meet the Town's contract & insurance requirements. Exceptions to the contract and insurance requirements shall be specifically noted in the statements of qualifications. A sample of the Town's standard Master Service Agreement is attached for your review.

Submittal of Proposal:

Proposals are due no later than **4:00 p.m. Friday, April 16, 2010.**

Provide Three (3) copies of the document, which should be enclosed in a sealed envelope and identified clearly with the words “Statement of Qualifications – Professional Services Atherton Town Center”.

Submit proposals to:

Mr. Jerome D. Gruber
City Manager
Town of Atherton
91 Ashfield Road
Atherton, CA 94027

Proposals submitted after the deadline will not be accepted for consideration.

The Town reserves the right to accept or reject any or all statements of qualifications, or to alter the selection process in any way, to postpone the selection process for its own convenience at any time, and to waive any defects in the statements of qualifications. The Town also reserves the right to accept or reject any individual sub-consultant that a candidate proposes to use.

The Town is seeking to engage the most qualified consultant, based on the evaluation criteria described above. The Town reserves the right to negotiate with other qualified firms or solicit additional statements of qualifications at any point in the project should it later fail to negotiate a reasonable fee with the selected consultant.

Short-List Selection Process:

Firms supplying their qualifications can expect the following process, resulting in the selection of three finalists to submit and defend conceptual designs for the Town Center, and finally the award of a design and supervision contract to one firm.

Qualifications shall be received no later than close of business on April 30, 2010 at the Town of Atherton’s Administrative Building.

The Town Center Task Force and the Blue Ribbon Task Force will review all submissions and make a decision which three firms seems most qualified during its meeting scheduled for Tuesday, April 20, 2010. Those two Task Forces shall recommend to the Atherton Town Council a total of five firms, so as to allow Council flexibility in such case as members of Council’s opinions may differ from that of the Town Center Task Force and the Blue Ribbon Task Force.

The Atherton Town Council, during its regular meeting scheduled for April 21, 2010 shall review the Town Center Task Force and the Blue Ribbon Task Force's five selections and make its final recommendations as to which three firms to ask for conceptual designs.

The three firms selected to present conceptual designs shall, upon completion and presentation of those conceptual designs, each be awarded \$5,000.00 (five thousand dollars).

Final Selection Process:

The three firms selected to present conceptual designs shall prepare their conceptual designs and be ready to present and defend these at both of two scheduled town-wide meetings, one in June 2010 and a second in July 2010. Exact dates of these meetings are to be determined later. The conceptual designs are expected to include, basic floor plans, elevations, a drawing or drawings showing their concept in three dimensions. Models of the conceptual design, while not required, would help Atherton residents better select which they see as meeting their needs.

The Town Center Task Force and the Blue Ribbon Task Force will, during a duly noticed joint meeting in mid to late July, choose which design and design firm they will recommend receive the commission for the new Town Center.

During its regular meeting of August 18, 2010 the Atherton City Council will hear the recommendations of The Town Center Task Force and the Blue Ribbon Task Force and choose which firm it wishes to negotiate with for a contract to design Atherton's new Town Center.

Contract Terms and Conditions

It is anticipated that the selected consultant(s) will work under a Consultant Services Agreement with the Town (Exhibit A). Payment for services for the conceptual designs shall be on a "lump sum" basis, and for final design and construction services provided will be on a "time and materials" reimbursable basis. Once an Agreement is negotiated, the following documents will be required by your firm prior to the commencement of any work:

- Signed contract by both the Town and your firm
- Proof of insurance in the following amounts:

Workers' Compensation Coverage as required by the State of California

Commercial General Liability in an amount not less than \$2,000,000

Automobile Liability in an amount not less than \$1,000,000

Professional Liability in an amount not less than \$2,000,000

A separate Additional Insured Endorsement naming the Town as additional insured is required. Please call if you have any questions related to the insurance required by the Town.

- Proof of payment of the Atherton Business License Fee. An Atherton Business License is required of any person who transacts or carries on any business, trade, profession, calling, or occupation in the Town of Atherton.

Being selected under this solicitation will not preclude the consultant from being considered for any other projects advertised by the Town.

Questions:

For questions regarding this Request for statements of qualifications, please contact Jerry Gruber, City Manager at (650) 752-0504, jgruber@ci.atherton.ca.us

Attachments:

Figure 1 – 2008 Space Needs and Cost Estimate
Appendices A-I – Project Program
Exhibit A – Sample Consultant Services Agreement

Figure 1²

Late 2008 Space & Cost Estimates For The Town Of Atherton's Public Services Spaces				
	Estimated 2008 Space Used (sq. ft)	Details Of Enclosed Space Needed (sq. ft)	2008 Space Needs by Dept (includes 22% for circulation)	Late 2008 Estimated Costs (includes equipment and utilities)
Town Council	966		2,196	\$878,400
Council Chambers		1,600		
Council Members Work Space		200		
Town Mgmt & Administration	1,250		5,934	\$1,652,800
Management & Finance		1,800		
Post Office		400		
Lobbies & Common Areas	1,700	2,664		
Police Department	6,900		11,834	\$4,733,600
Chief, Officers & Administration		1,250		
Patrol & Investigation		3,800		
Dispatch (w/EOC compliant areas)		1,650		
Commons Areas		3,000		
Building Department	1,200	1,750	2,135	\$854,000
Planning Department	650	800	976	\$390,400
Public Works Management	1,100	1,275	1,556	\$622,200
Active Records Storage		650	793	\$237,900
Subtotal-Enclosed Space	13,766	20,839		
Enclosed Space Needs			25,424	(includes 22% for circulation)
Total Space Needs - 2008-09			26,695	(includes 5% for expansion)
Construction Costs-Enclosed Space				\$9,837,765
Constructed Parking at \$50K per space			# spaces	
Secured Police Vehicles			18	\$900,000
Town Employees			25	\$1,250,000
Deconstruction, Above Ground Parking, & Landscaping				\$500,000
Estimated Subtotal of Construction Costs				\$12,487,765
Total Costs				\$14,360,930

² Costs calculations are based on office space at \$400/sq.ft: public spaces at \$350/sq.ft, and active storage at \$300/sq.ft. This estimate does not include the costs of seismically retrofitting or bringing up to code other aspects of the 1920's building now used as Council Chambers.

Appendix A					
Council Chambers And Members Offices					
(as of 10 Nov 2008)					
Function/Position	Appx. Sq. Ft Needed				
Council Chambers	1,600				
Council Members' Work Space	200				
	1,800				
Council Chambers, including public official dias, is presently 966 sq. ft. including bathrooms. This seats 15 public officials and 40 residents vis a vis code Proposed Chambers would include dias, AV and equipment storage, two bathrooms at 125 sq.ft per and seating for 120 residents. Using 10 sq.ft/ per for 120 residents,* and counting six Council members, Town Clerk, legal counsel, Town Manager and six staff (total of 15 public officials) design estimates would equal 1600 sq. ft					
* Architectural Graphic Standards, page 726					
	Function not counted in 2006 Gee Report				

(as of 10 Nov 2008)

Function not counted in 2006 Gee Report
Possible double counted or shared function

	(as of 10 Nov 2008)			
Function/Position	Appx. Sq. Ft Needed			
City Management				
City Manager	325			
Asst. Manager & HR	200			
City Clerk	150			
Finance Director	150			
Asst. Finance Director	125			
Data Entry (Finance)	100			
Asst. Finance	100			
Office Assistant	100			
Conference Room	300			
Female Employee Restroom	75			
Male Employee Restroom	75			
Vault - Secure Storage	100			
TOTAL – CITY MANAGEMENT	1,800			
		Function not counted in 2006 Gee Report		
		Possible shared function		

Appendix D					
POLICE ADMINISTRATION, PATROL & INVESTIGATION					
(as of 30 October 2008)					
	Function/Position	Appx. Sq. Ft Needed			
	Police Administration				
1	Chief of Police	300			
2	Admin Assistant	150			
3	Lieutenant	250			
4	Administrative Sergeant	150			
5	Conference Room	250			
6	Community Services Officer	150			
	Subtotal – Police Administration	1,250			
	Patrol & Investigation				
7	Report Writing	150			
8	Briefing & Training Room	600			
9	Sergeants (4) Offices	300			
10	Investigation	300			
11	Inside 'Hard' Interview	100			
12	Audio Equip Room for Interviews	100			
13	Inside 'Soft' Interview	150			
14	Armory + Gun Cleaning	150			
15	General Evidence, Packaging + Property	900			
	Evidence Processing	100			
16	Evidence Vehicle	300			
17	Narcotics, Weapons, Evidence Storage	100			
18	General Supplies Storage	200			
19	Holding & Booking Rm	150			
20	Rest Room (1) in Holding Rm	100			
21	Officers' Resting Room	100			
	Subtotal – Patrol & Investigation	3,800			
22	ADMINISTRATION & PATROL	5,050			
	Police Vehicle Parking (exterior)	4,000	15 autos, 5 motorcycles		
			Function not counted in 2006 Gee Report		

Appendix E					
POLICE DISPATCH & COMMON AREAS					
(as of 30 October 2008)					
	Function/Position	Appx. Sq. Ft Needed			
	Dispatch				
23	Dispatch Station & Records	500			
24	Supervisor	200			
25	Emergency Ops Ctr-Break Room (EOC compliant)	600			
26	Telecom+Radio Equipment Storage(EOC compliant)	100			
27	Kitchen (EOC compliant)	100			
	Restrooms (EOC compliant)	150			
	Subtotal – Dispatch	1,650			
	Support & Common				
28	Lobby	200			
29	Staff Lounge (used by all police functions)	500			
30	Fitness Room	500			
31	Male Rest/Locker/Shower	500			
32	Female Rest/Locker/Shower	300			
33	Central Reproduction	200			
34	Central Storage	60			DoJ requires separate I/Telecom location
35	Computer Equipment	300			DoJ requires separate I/Telecom location
36	Mechanical Equipment	200			DoJ requires separate I/Telecom location
37	Electrical/Telephone Equipment	100			
38	Janitorial	40			Non secure - possibly Live Scan
39	Fingerprint/Interview	100			
	Subtotal - Support & Common	3,000			
	ADMIN+INVESTIGATE+DISPATCH+ SUPPORT	9,700			
					Function not counted in 2006 Gee Report

Appendix G

PLANNING DEPARTMENT FUNCTIONS

(as of 10 Nov 2008)

[illegible]

[illegible]

[illegible]

EXHIBIT A

DESIGN PROFESSIONAL AGREEMENT

THIS AGREEMENT is entered into as of the ____ day of _____ 20__, by and between the TOWN OF ATHERTON, herein called the "Town" and _____, herein called the "Consultant."

Recitals

WHEREAS, Town desires to obtain professional land surveying services in connection with _____, and

WHEREAS, Consultant hereby represents to the Town that Consultant is skilled and able to provide such services described in Section 3 of this Agreement; and

WHEREAS, Town desires to retain Consultant pursuant to this Agreement to provide the services described in Section 3 of this Agreement.

Agreement

NOW, THEREFORE, in consideration of their mutual covenants, the parties hereto agree as follows:

1. Incorporation of Recitals. *The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth herein in full.*

2. Project Coordination.

A. Town. The City Manager or his/her designee, shall represent Town for all purposes under this Agreement. The City Manager or designee is hereby designated as the Project Manager. The Project Manager shall supervise the progress and execution of this Agreement.

B. Consultant. The Consultant shall assign _____, Project Manager, to have overall responsibility for the progress and execution of this Agreement for Consultant.

3. Scope and Performance of Services

A. Scope of Services. Subject to such policy direction and approvals as the Town through its staff may determine from time to time, Consultant shall perform the services set out in the "Scope of Work" attached hereto as Exhibit A and incorporated herein by reference.

B. Time of Performance. The services of Consultant are to commence no sooner than _____, 20__, and be completed not later than _____, 20__. Consultant shall perform its services in accordance with the schedule attached hereto as Exhibit B, and incorporated herein by reference. Any changes to these dates in either this Section 3 or Exhibit B must be approved in writing by the Project Manager.

C. Standard of Quality. Town relies upon the professional ability of Consultant as a material inducement to entering into this Agreement. All work performed by Consultant under this Agreement shall be in accordance with all applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Consultant's field of expertise.

4. Compensation and Method of Payment.

A. Compensation. The compensation to be paid to Consultant, including both payment for professional services and reimbursable expenses, shall be at the rate and schedules attached hereto as Exhibit C, and incorporated herein by reference. However, in no event shall the amount Town pays Consultant exceed _____ Dollars (\$_____.00). Payment by Town under this Agreement shall not be deemed a waiver of unsatisfactory work, even if such defects were known to the Town at the time of payment.

B. Timing of Payment. Consultant shall submit itemized monthly statements for work performed. Town shall make payment, in full, within thirty (30) days after approval of the invoice by the Project Manager.

C. Changes in Compensation. Consultant will not undertake any work that will incur costs in excess of the amount set forth in Paragraph 4(A) without prior written amendment to this Agreement.

D. Taxes. Consultant shall pay all taxes, assessments and premiums under the federal Social Security Act, any applicable unemployment insurance contributions, Workers Compensation insurance premiums, sales taxes, use taxes, personal property taxes, or other taxes or assessments now or hereafter in effect and payable by reason of or in connection with the services to be performed by Consultant.

E. No Overtime or Premium Pay. Consultant shall receive no premium or enhanced pay for work normally understood as overtime, i.e., hours that

exceed forty (40) hours per work week, or work performed during non-standard business hours, such as in the evenings or on weekends. Consultant shall not receive a premium or enhanced pay for work performed on a recognized holiday. Consultant shall not receive paid time off for days not worked, whether it be in the form of sick leave, administrative leave, or for any other form of absence.

F. Litigation Support. Consultant agrees to testify at Town's request if litigation is brought against Town in connection with Consultant's work product. Unless the action is brought by Consultant or is based upon Consultant's negligence, Town will compensate Consultant for the preparation and the testimony at Consultant's standard hourly rates, if requested by Town and not part of the litigation brought by Town against Consultant.

5. Amendment to Scope of Work. Town shall have the right to amend the Scope of Work within the Agreement by written notification to the Consultant. In such event, the compensation and time of performance shall be subject to renegotiation upon written demand of either party to the Agreement. Consultant shall not commence any work exceeding the Scope of Work without prior written authorization from the Town. Failure of the Consultant to secure Town's written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the contract price or time due, whether by way of compensation, restitution, quantum meruit, etc. for work done without the appropriate Town authorization.

6. Term. This Agreement shall commence upon its execution and shall continue in full force and effect until completed, amended pursuant to Section 21, or otherwise terminated as provided herein.

7. Inspection. Consultant shall furnish Town with every reasonable opportunity for Town to ascertain that the services of Consultant are being performed in accordance with the requirements and intentions of this Agreement. All work done and all materials furnished, if any, shall be subject to the Project Manager's inspection and approval. The inspection of such work shall not relieve Consultant of any of its obligations to fulfill the Agreement as prescribed.

8. Ownership of Documents. Title to all plans, specifications, maps, estimates, reports, manuscripts, drawings, descriptions and other final work products compiled by the Consultant under the Agreement shall be vested in Town, none of which shall be used in any manner whatsoever, by any person, firm, corporation, or agency without the expressed written consent of the Town. Basic survey notes and sketches, charts, computations, and other data prepared or obtained under the Agreement shall be made available, upon request, to Town without restriction or limitations on their use. Consultant may retain copies of the above-described information but agrees not to disclose or discuss any information gathered, discussed or generated in any way through this Agreement without the written permission of Town during the term of this Agreement, unless required by law.

9. Employment of Other Consultants, Specialists or Experts. Consultant will not employ or otherwise incur an obligation to pay other consultants, specialists, or experts for services in connection with this Agreement without the prior written approval of the Town.

10. Conflict of Interest.

A. Consultant covenants and represents that neither it, nor any officer or principal of its firm, has, or shall acquire any investment, income, business entity, interest in real property, or other interest, directly or indirectly, which would conflict in any manner with the interests of Town, hinder Consultant's performance of services under this Agreement, or be affected in any manner or degree by performance of Consultant's services hereunder. Consultant further covenants that in the performance of the Agreement, no person having any such interest shall be employed by it as an officer, employee, agent, or subcontractor without the express written consent of the Town. Consultant agrees to at all times avoid conflicts of interest, or the appearance of any conflicts of interest, with the interests of the Town in the performance of the Agreement.

B. Consultant is not a designated employee within the meaning of the Political Reform Act because Consultant:

(1) will conduct research and arrive at conclusions with respect to its rendition of information, advice, recommendation, or counsel independent of the control and direction of the Town or of any Town official, other than normal contract monitoring; and

(2) possesses no authority with respect to any Town decision beyond the rendition of information, advice, recommendation, or counsel. (2 Cal. Code Regs. § 18700(a)(2).)

11. Liability of Members and Employees of Town. No member of the Town and no other officer, employee or agent of the Town shall be personally liable to Consultant or otherwise in the event of any default or breach of the Town, or for any amount which may become due to Consultant or any successor in interest, or for any obligations directly or indirectly incurred under the terms of this Agreement.

12. Indemnity. To the fullest extent permitted by law, Consultant hereby agrees to defend (by counsel reasonably satisfactory to the Town), indemnify, and hold harmless the Town, its officers, agents, employees, from and against any and all claims, damages, and liabilities, but only to the extent actually caused by the negligent acts, errors, or omissions of Consultant, its officers and employees undertaken pursuant to this Agreement excepting liabilities due to the negligence or willful misconduct of Town. Consultant's duty to indemnify and hold harmless, as set forth herein, shall include the duty to defend as set forth in California Civil Code § 2778. This indemnification obligation is not limited in any way by any limitation on the amount or

type of damages or compensation payable by or for Consultant under Workers' Compensation, disability or other employee benefit acts or the terms, applicability or limitations of any insurance held or provided by Consultant and shall continue to bind the parties after termination/completion of this agreement.

13. Consultant Not an Agent of Town. Consultant, its officers, employees and agents shall not have any power to bind or commit the Town to any decision.

14. Independent Contractor. It is expressly agreed that Consultant, in the performance of the work and services agreed to be performed by Consultant, shall act as and be an independent contractor and not an agent or employee of Town; and as an independent contractor, Consultant shall obtain no rights to retirement benefits or other benefits which accrue to Town's employees, and Consultant hereby expressly waives any claim it may have to any such rights.

15. Compliance with Laws.

A. General. Consultant shall use the standard of care in its profession to comply with all applicable federal, state, and local laws, codes, ordinances, and regulations. Consultant represents and represents Town that it has and shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance and approvals which are legally required for Consultant to practice its profession. Consultant shall maintain a Town business license. The Town is not responsible or liable for Consultant's failure to comply with any or all of the requirements contained in this paragraph.

B. Workers' Compensation. Consultant certifies that it is aware of the provisions of the California Labor Code which require every employee to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Consultant certifies that it will comply with such provisions before commencing performance of the Agreement and at all times in the performance of the Agreement.

C. Prevailing Wage. Consultant and Consultant's subconsultants (if any) shall, to the extent required by the California Labor Code, pay not less than the latest prevailing wage rates to workers and professionals as determined by the Director of Industrial Relations of the State of California pursuant to California Labor Code, Part 7, Chapter 1, Article 2. Copies of the applicable wage determination are on file at the Town's Public Works Department office.

D. Injury and Illness Prevention Program. Consultant certifies that it is aware of and has complied with the provisions of California Labor Code § 6401.7, which requires every employer to adopt a written injury and illness prevention program.

E. Town Not Responsible. Town is not responsible or liable for Consultant's failure to comply with any and all of its requirements under this section and Agreement.

F. Waiver of Subrogation. Consultant and Consultant's insurance company agree to waive all rights of subrogation against Town, its elected or appointed officials, officers, agents, employees, and volunteers for losses paid under Consultant's workers' compensation insurance policy which arise from the work performed by Consultant for the Town.

16. Confidential Information. *All data, documents, discussions or other information developed or received by or for Consultant in performance of this Agreement are confidential and not to be disclosed to any person except as authorized by the Town, or as required by law.*

17. Assignment; Subcontractors; Employees

A. Assignment. Consultant shall not assign, delegate, transfer, or convey its duties, responsibilities, or interests in this Agreement or any right, title, obligation, or interest in or to the same or any part thereof without the Town's prior written consent. Any assignment without such approval shall be void and, at the Town's option, shall immediately cause this Agreement to terminate.

18. Insurance.

A. Minimum Scope of Insurance.

(1) Consultant agrees to have and maintain, for the duration of this Agreement, a General Liability insurance policy insuring it and its firm to an amount not less than \$2,000,000 (Two Million Dollars) combined single limit per occurrence and in the aggregate for bodily injury, personal injury, and property damage.

(2) Consultant agrees to have and maintain, for the duration of this Agreement, an Automobile Liability insurance policy insuring it and its staff to an amount not less than \$1,000,000 (One Million Dollars) combined single limit per accident for bodily injury and property damage.

(3) Consultant shall maintain professional errors and omissions liability insurance for protection against claims alleging negligent acts, errors, or omissions which may arise from Consultant's operations under this Agreement, whether such operations be by Consultant or by its employees, subcontractors, or subconsultants. The amount of this insurance shall not be less than \$1,000,000 (One Million Dollars) on a claims-made annual aggregate basis.

(4) A Workers' Compensation and Employers' Liability policy written in accordance with the laws of the State of California and providing coverage for any and all employees of Consultant:

(a) This policy shall provide coverage for Workers' Compensation (Coverage A).

(b) This policy shall also provide required coverage for Employers' Liability (Coverage B).

(5) All of the following endorsements are required to be made a part of each of the required policies, except for the Professional Liability and Workers' Compensation and Employers' Liability policies, as stipulated below:

(a) The Town of Atherton, its officials, officers, agents, employees, and volunteers are hereby added as additional insureds, but only as respects work done by, for, or on behalf of the named insured."

(b) "This policy shall be considered primary insurance as respects any other valid and collectible insurance the Town may possess, including any self-insured retention the Town may have, and any other insurance the Town does possess shall be considered excess insurance only and shall not contribute with it."

(c) "This insurance shall act for each insured and additional insured as though a separate policy had been written for each. This, however, will not act to increase the limit of liability of the insuring company."

(6) Consultant shall provide to Town all certificates of insurance with original endorsements effecting coverage required by this paragraph. Certificates of such insurance shall be filed with Town on or before commencement of performance of this Agreement. Town reserves the right to require complete, certified copies of all required insurance policies at any time.

(7) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to Town, its officials, officers, agents, employees, and volunteers.

(8) Consultant's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

B. All Coverages. Each insurance policy required shall provide that coverage shall not be canceled, except after 30-days' prior written notice by certified mail, return receipt requested, has been given to Town. Current certification of such

insurance shall be kept on file with the City Manager at all times during the term of this Agreement.

C. Acceptability of Insurers. Insurance is to be placed with insurers with a Best's rating of no less than A:VII.

D. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Town. At the Town's option, Consultant shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

E. Verification of Coverage. Consultant shall furnish the Town with original Certificate(s) of Insurance verifying Consultant's receipt of the insurance coverage required herein.

19. Termination of Agreement; Default.

A. This Agreement and all obligations hereunder may be terminated at any time, with or without cause, by the Town upon 5-days' written notice to Consultant.

B. If Consultant fails to perform any of its obligations under this Agreement within the time and in the manner herein provided or otherwise violate any of the terms of this Agreement, in addition to all other remedies provided by law, Town may terminate this Agreement immediately upon written notice. In such event, Consultant shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred hereunder, an amount which bears the same ratio to the total fees specified in the Agreement as the services satisfactorily rendered hereunder by Consultant bear to the total services otherwise required to be performed for such total fee.

C. In the event this Agreement is terminated by Town without cause, Consultant shall be entitled to any compensation owing to it hereunder up to the time of such termination, it being understood that any payments are full compensation for services rendered prior to the time of payment.

D. Upon termination of this Agreement with or without cause, Consultant, after final payment, shall turn over to the City Manager immediately any and all copies of studies, sketches, drawings, computations, and other data, whether or not completed, prepared by Consultant or its subcontractors, if any, or given to Consultant or its subcontractors, if any, in connection with this Agreement. Such materials shall become the permanent property of the Town. Consultant, however, shall not be liable for the Town's use of incomplete materials nor for the Town's use of complete documents if used for other than the project contemplated by this Agreement.

20. Suspension. The Town shall have the authority to suspend this Agreement and the services contemplated herein, wholly or in part, for such period as it deems necessary due to unfavorable conditions or to the failure on the part of the Consultant to perform any provision of this Agreement. Consultant will be paid for satisfactory Services performed through the date of temporary suspension.

21. Merger; Amendment. This Agreement constitutes the complete and exclusive statement of the agreement between the Town and Consultant and shall supersede all prior negotiations, representations, or agreements, either written or oral. This document may be amended only by written instrument, signed by both the Town and Consultant. All provisions of this Agreement are expressly made conditions.

22. Interpretation. This Agreement shall be interpreted as though it was a product of a joint drafting effort and no provisions shall be interpreted against a party on the ground that said party was solely or primarily responsible for drafting the language to be interpreted.

23. Litigation Costs. If either party becomes involved in litigation arising out of this Agreement or the performance thereof, the court in such litigation shall award reasonable costs and expenses, including attorneys' fees, to the prevailing party. In awarding attorneys' fees, the court will not be bound by any court fee schedule, but shall, if it is in the interest of justice to do so, award the full amount of costs, expenses, and attorneys' fees paid or incurred in good faith.

24. Written Notification. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent by prepaid, first class mail. Any such notice, demand, etc. shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 72 hours from the time of mailing if mailed as provided in this section.

If to Town: City Clerk
 Town of Atherton - Town Hall
 91 Ashfield Road
 Atherton, CA 94027

If to Consultant:

25. Consultant's Books and Records.

A. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or

relating to charges for services, or expenditures and disbursements charged to the Town and all documents and records which demonstrate performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

B. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to the Town for inspection when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.

C. The Town may, by written request by any of the above-named officers, require that custody of the records be given to the Town and that the records and documents be maintained in the City Manager's office.

26. Agreement Binding. *The terms, covenants, and conditions of this Agreement shall apply to, and shall bind, the heirs, successors, executors, administrators, assigns, and subcontractors of both parties.*

27. Equal Employment Opportunity. *Consultant is an equal opportunity employer and agrees to comply with all applicable state and federal regulations governing equal employment opportunity. Consultant will not discriminate against any employee or applicant for employment because of race, age, sex, creed, color, sexual orientation, marital status or national origin. Consultant will take affirmative action to ensure that applicants are treated during such employment without regard to race, age, sex, creed, color, sexual orientation, marital status, or national origin. Such action shall include, but shall not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; lay-offs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant further agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.*

28. Town Not Obligated to Third Parties. *The Town shall not be obligated or liable for payment hereunder to any party other than the Consultant.*

29. Waiver. *No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.*

30. Severability. *If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement*

shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.

31. Exhibits. *The following exhibits are attached to this Agreement and incorporated herein by this reference:*

- A. Exhibit A: Scope of Work
- B. Exhibit B: Schedule of Performance
- C. Exhibit C: Compensation

32. Execution. *This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.*

33. News Releases/Interviews. *All Consultant and subconsultant news releases, media interviews, testimony at hearings and public comment shall be prohibited unless expressly authorized by the Town.*

34. Applicable Law; Venue. *This Agreement shall be construed and interpreted according to California law. In the event that suit shall be brought by either party hereunder, the parties agree that trial of such action shall be held exclusively in a state court in the County of San Mateo, California.*

35. Authority. *Each individual executing this Agreement on behalf of one of the parties represents that he or she is duly authorized to sign and deliver the Agreement on behalf of such party and that this Agreement is binding on such party in accordance with its terms.*

IN WITNESS WHEREOF, the Town and Consultant have executed this Agreement as of the date first above written.

TOWN OF ATHERTON

CONSULTANT

By: _____
City Manager

By: _____
Title:

Date:

Date:

APPROVED AS TO FORM:

By: _____
City Attorney

ATTEST:

By: _____
City Clerk

EXHIBIT A

Scope of Work

[to be inserted]

EXHIBIT B

Schedule of Performance

[to be inserted]

EXHIBIT C

Compensation

[to be inserted]



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JEROME GRUBER, CITY MANAGER**

FROM: LOUISE HO, FINANCE DIRECTOR

DATE: FOR THE MEETING OF MARCH 17, 2010

**SUBJECT: APPROVAL OF THE CONSULTANT SERVICES AGREEMENT
BETWEEN MUNISERVICES, LLC AND THE TOWN OF ATHERTON
FOR PROPERTY TAX ALLOCATION AUDIT**

RECOMMENDATION

Approve the consultant services agreement with MuniServices LLC; and authorize the City Manager to execute the agreement.

DISCUSSION

To improve the accuracy of property tax revenues allocated by the County of San Mateo to the Town, Finance Committee met on March 4, 2010, and is recommending that the City Council approve the agreement with MuniServices to conduct an allocation audit of the Town local secured and unsecured valuations to determine if the tax rate area miscoding errors and omissions occur.

The audit is intended to review the records of the County and will have no impact to the residents in the Community. MuniServices will review the findings with Town staff and obtain approval before any action is taken.

FISCAL IMPACT

None. MuniServices are to be paid on a contingency basis.

Prepared by:

Approved by:

Louise Ho
Finance Director

Jerome D. Gruber
City Manager

Attachment: Consultant Services Agreement

CONSULTANT SERVICES AGREEMENT

THIS AGREEMENT is entered into as of the _____ day of _____, _____ by and between the TOWN OF ATHERTON, herein called the “Town”, and MuniServices, LLC, a Delaware limited liability company, its subsidiaries and affiliates, herein called the “Consultant”.

Recitals

WHEREAS, Town desires to obtain Consulting services in connection with Property Tax Services; and

WHEREAS, Consultant hereby warrants to the Town that Consultant is skilled and able to provide such services described in Section 3 of this Agreement; and

WHEREAS, Town desires to retain Consultant pursuant to this Agreement to provide the services described in Section 3 of this Agreement.

Agreement

NOW, THEREFORE, in consideration of their mutual covenants, the parties hereto agree as follows:

1. Incorporation of Recitals. The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth herein in full.

2. Project Coordination.

A. Town. The City Manager or his/her designee, shall represent Town for all purposes under this Agreement. The City Manager or designee is hereby designated as the Project Manager. The Project Manager shall supervise the progress and execution of this Agreement.

B. Consultant. The Consultant shall assign Stephanie Ontiveros to have overall responsibility for the progress and execution of this Agreement for Consultant.

3. Scope and Performance of Services

A. Scope of Services. Subject to such policy direction and approvals as the Town through its staff may determine from time to time, Consultant shall perform the services set out in the “Scope of Work” attached hereto as Exhibit A and incorporated herein by reference.

B. Time of Performance. The services of Consultant are to commence no sooner than this Agreement is fully executed. The town will provide Consultant with a Notice to Proceed. Consultant shall perform its services in accordance with the schedule attached hereto

as Exhibit B, and incorporated herein by reference. Any changes to these dates in either this Section 3 or Exhibit B must be approved in writing by the Project Manager.

C. Standard of Quality. Town relies upon the professional ability of Consultant as a material inducement to entering into this Agreement. All work performed by Consultant under this Agreement shall be in accordance with all applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Consultant's field of expertise.

4. Compensation and Method of Payment.

A. Compensation. The compensation to be paid to Consultant, including both payment for professional services and reimbursable expenses, shall be at the rate and schedules attached hereto as Exhibit C, and incorporated herein by reference. Payment by Town under this Agreement shall not be deemed a waiver of unsatisfactory work, even if such defects were known to the Town at the time of payment.

B. Timing of Payment.

Billing for said services will be invoiced as indicated in Exhibit C.

C. Changes in Compensation. Consultant will not undertake any work that will incur costs in excess of the amount set forth in Paragraph 4(A) without prior written amendment to this Agreement.

D. Taxes. Consultant shall pay all taxes, assessments and premiums under the federal Social Security Act, any applicable unemployment insurance contributions, Workers Compensation insurance premiums, sales taxes, use taxes, personal property taxes, or other taxes or assessments now or hereafter in effect and payable by reason of or in connection with the services to be performed by Consultant.

E. No Overtime or Premium Pay. Consultant shall receive no premium or enhanced pay for work normally understood as overtime, i.e., hours that exceed forty (40) hours per work week, or work performed during non-standard business hours, such as in the evenings or on weekends. Consultant shall not receive a premium or enhanced pay for work performed on a recognized holiday. Consultant shall not receive paid time off for days not worked, whether it be in the form of sick leave, administrative leave, or for any other form of absence.

F. Litigation Support. Consultant agrees to testify at Town's request if litigation is brought against Town in connection with Consultant's work product. Unless the action is brought by Consultant or is based upon Consultant's negligence, Town will compensate Consultant for the preparation and the testimony at Consultant's standard hourly rates, if requested by Town and not part of the litigation brought by Town against Consultant.

5. Amendment to Scope of Work. Town shall have the right to amend the Scope of Work within the Agreement by written notification to the Consultant. In such event, the compensation and time of performance shall be subject to renegotiation upon written demand of

either party to the Agreement. Consultant shall not commence any work exceeding the Scope of Work without prior written authorization from the Town. Failure of the Consultant to secure Town's written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the contract price or time due, whether by way of compensation, restitution, quantum meruit, etc. for work done without the appropriate Town authorization.

6. Term. This Agreement shall commence upon its execution and shall continue in full force and effect until completed, amended pursuant to Section 21, or otherwise terminated as provided herein.

7. Inspection. Consultant shall furnish Town with every reasonable opportunity for Town to ascertain that the services of Consultant are being performed in accordance with the requirements and intentions of this Agreement. All work done and all materials furnished, if any, shall be subject to the Project Manager's inspection and approval. The inspection of such work shall not relieve Consultant of any of its obligations to fulfill the Agreement as prescribed.

8. Ownership of Documents. Title to all plans, specifications, maps, estimates, reports, manuscripts, drawings, descriptions and other final work products compiled by the Consultant under the Agreement shall be vested in Town, none of which shall be used in any manner whatsoever, by any person, firm, corporation, or agency without the expressed written consent of the Town. Basic survey notes and sketches, charts, computations, and other data prepared or obtained under the Agreement shall be made available, upon request, to Town without restriction or limitations on their use. Consultant may retain copies of the above-described information but agrees not to disclose or discuss any information gathered, discussed or generated in any way through this Agreement without the written permission of Town during the term of this Agreement, unless required by law.

9. Employment of Other Consultants, Specialists or Experts. Consultant will not employ or otherwise incur an obligation to pay other consultants, specialists, or experts for services in connection with this Agreement without the prior written approval of the Town.

10. Conflict of Interest.

A. Consultant covenants and represents that neither it, nor any officer or principal of its firm, has, or shall acquire any investment, income, business entity, interest in real property, or other interest, directly or indirectly, which would conflict in any manner with the interests of Town, hinder Consultant's performance of services under this Agreement, or be affected in any manner or degree by performance of Consultant's services hereunder. Consultant further covenants that in the performance of the Agreement, no person having any such interest shall be employed by it as an officer, employee, agent, or subcontractor without the express written consent of the Town. Consultant agrees to at all times avoid conflicts of interest, or the appearance of any conflicts of interest, with the interests of the Town in the performance of the Agreement. Town acknowledges and agrees that Consultant's provision of its services to other government entities is not and shall not be considered a conflict of interest or breach of this agreement.

B. Consultant is not a designated employee within the meaning of the Political Reform Act because Consultant:

(1) will conduct research and arrive at conclusions with respect to its rendition of information, advice, recommendation, or counsel independent of the control and direction of the Town or of any Town official, other than normal contract monitoring; and

(2) possesses no authority with respect to any Town decision beyond the rendition of information, advice, recommendation, or counsel. (2 Cal. Code Regs. § 18700(a)(2).)

11. Liability of Members and Employees of Town. No member of the Town and no other officer, employee or agent of the Town shall be personally liable to Consultant or otherwise in the event of any default or breach of the Town, or for any amount which may become due to Consultant or any successor in interest, or for any obligations directly or indirectly incurred under the terms of this Agreement.

12. Indemnity. To the fullest extent permitted by law, Consultant hereby agrees to defend (by counsel reasonably satisfactory to the Town), indemnify, and hold harmless the Town, its officers, agents, employees, volunteers, and servants, from and against any and all claims, demands, damages, costs, liabilities, or obligations brought on account of or arising out of any negligent acts, errors, or omissions of Consultant, its officers, employees, agents, and subcontractors undertaken pursuant to this Agreement except to the extent of the negligence or willful misconduct of Town. The Town has no liability or responsibility for any accident, loss, or damage to any work performed under this Agreement whether prior to its completion and acceptance or otherwise. Consultant's duty to indemnify and hold harmless, as set forth herein, shall include the duty to defend as set forth in California Civil Code § 2778. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable by or for Consultant under Worker's Compensation, disability or other employee benefit acts or the terms, applicability or limitations of any insurance held or provided by Consultant and shall continue to bind the parties after termination/completion of this agreement.

13. Consultant Not an Agent of Town. Consultant, its officers, employees and agents shall not have any power to bind or commit the Town to any decision.

14. Independent Contractor. It is expressly agreed that Consultant, in the performance of the work and services agreed to be performed by Consultant, shall act as and be an independent contractor and not an agent or employee of Town; and as an independent contractor, Consultant shall obtain no rights to retirement benefits or other benefits which accrue to Town's employees, and Consultant hereby expressly waives any claim it may have to any such rights.

15. Compliance with Laws.

A. General. Consultant shall use the standard of care in its profession to comply with all applicable federal, state, and local laws, codes, ordinances, and regulations.

Consultant represents and warrants to Town that it has and shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance and approvals which are legally required for Consultant to practice its profession. Consultant shall maintain a Town business license. The Town is not responsible or liable for Consultant's failure to comply with any or all of the requirements contained in this paragraph.

B. Workers' Compensation. Consultant certifies that it is aware of the provisions of the California Labor Code which require every employee to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Consultant certifies that it will comply with such provisions before commencing performance of the Agreement and at all times in the performance of the Agreement.

C. Prevailing Wage. Deleted by the agreement of the parties.

D. Injury and Illness Prevention Program. Consultant certifies that it is aware of and has complied with the provisions of California Labor Code § 6401.7, which requires every employer to adopt a written injury and illness prevention program.

E. Town Not Responsible. Town is not responsible or liable for Consultant's failure to comply with any and all of its requirements under this section and Agreement.

F. Waiver of Subrogation. Consultant and Consultant's insurance company agree to waive all rights of subrogation against Town, its elected or appointed officials, officers, agents, employees, and volunteers for losses paid under Consultant's workers' compensation insurance policy which arise from the work performed by Consultant for the Town.

16. Confidential Information. All data, documents, discussions or other information developed or received by or for Consultant in performance of this Agreement are confidential and not to be disclosed to any person except as authorized by the Town, or as required by law.

17. Assignment; Subcontractors; Employees

A. Assignment. Consultant shall not assign, delegate, transfer, or convey its duties, responsibilities, or interests in this Agreement or any right, title, obligation, or interest in or to the same or any part thereof without the Town's prior written consent. Any assignment without such approval shall be void and, at the Town's option, shall immediately cause this Agreement to terminate.

B. Subcontractors; Employees. Consultant shall be responsible for employing or engaging all persons necessary to perform the services of Consultant hereunder. No subcontractor of Consultant shall be recognized by the Town as such; and Consultant agrees to be responsible for their performance. Consultant shall give its personal attention to the fulfillment of the provisions of this Agreement by all of its employees and subcontractors, if any, and shall keep the work under its control. If any employee or subcontractor of Consultant fails or refuses to carry out the provisions of this Agreement or appears to be incompetent or to act in

a disorderly or improper manner, it shall be discharged immediately from the work under this Agreement on demand of the Project Manager.

18. Insurance.

A. Minimum Scope of Insurance.

(1) Consultant agrees to have and maintain, for the duration of this Agreement, a General Liability insurance policy insuring it and its firm to an amount not less than \$1,000,000 (One Million Dollars) combined single limit per occurrence and in the aggregate for bodily injury, personal injury, and property damage.

(2) Consultant agrees to have and maintain, for the duration of this Agreement, an Automobile Liability insurance policy insuring it and its staff to an amount not less than \$1,000,000 (One Million Dollars) combined single limit per accident for bodily injury and property damage.

(3) Consultant shall maintain professional errors and omissions liability insurance for protection against claims alleging negligent acts, errors, or omissions which may arise from Consultant's operations under this Agreement, whether such operations be by Consultant or by its employees,. The amount of this insurance shall not be less than \$1,000,000 (One Million Dollars) on a claims-made annual aggregate basis.

(4) A Workers' Compensation and Employers' Liability policy written in accordance with the laws of the State of California and providing coverage for any and all employees of Consultant:

(a) This policy shall provide coverage for Workers' Compensation (Coverage A).

(b) This policy shall also provide required coverage for Employers' Liability (Coverage B).

(5) All of the following endorsements are required to be made a part of each of the required policies, except for the Professional Liability and Workers' Compensation and Employers' Liability policies, as stipulated below:

(a) "The Town of Atherton, its officials, officers, agents, employees, and volunteers are hereby added as additional insureds, but only as respects work done by, for, or on behalf of the named insured."

(b) "This policy shall be considered primary insurance as respects any other valid and collectible insurance the Town may possess, including any self-insured retention the Town may have, and any other insurance the Town does possess shall be considered excess insurance only and shall not contribute with it."

(c) “This insurance shall act for each insured and additional insured as though a separate policy had been written for each. This, however, will not act to increase the limit of liability of the insuring company.”

(6) Consultant shall provide to Town all certificates of insurance with original endorsements effecting coverage required by this paragraph. Certificates of such insurance shall be filed with Town on or before commencement of performance of this Agreement. Town reserves the right to require complete, certified copies of all required insurance policies at any time.

(7) Any failure by Consultant to comply with reporting provisions of the policies shall not affect coverage provided to Town, its officials, officers, agents, employees, and volunteers.

(8) Consultant’s insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer’s liability.

B. All Coverages. Upon notice from the relevant insurer, Consultant shall provide 30 days prior written notice of cancellation to the Town by certified mail, return receipt requested. Current certification of such insurance shall be kept on file with the City Manager at all times during the term of this Agreement.

C. Acceptability of Insurers. Insurance is to be placed with insurers with a Best’s rating of no less than A:VII.

D. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Town. At the Town’s option, Consultant shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

E. Verification of Coverage. Consultant shall furnish the Town with original Certificate(s) of Insurance verifying Consultant's receipt of the insurance coverage required herein.

19. Termination of Agreement; Default.

A. This Agreement and all obligations hereunder may be terminated, any time, without cause, by the Town upon 30-days written notice to Consultant.

B. If Consultant fails to perform any of its obligations under this Agreement within the time and in the manner herein provided or otherwise violate any of the terms of this Agreement, in addition to all other remedies provided by law, Town may terminate this Agreement immediately upon written notice after having giving Consultant a reasonable opportunity to cure the failure to perform. In such event, Consultant shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred hereunder, an amount which bears the same ratio to the total fees specified in the Agreement as the services satisfactorily rendered hereunder by Consultant bear to the total services otherwise required to be

performed for such total fee; provided, however, that the Town shall deduct from such amount the amount of damages, if any, sustained by Town by virtue of the breach of the Agreement by Consultant.

C. In the event this Agreement is terminated by Town without cause, Consultant shall be entitled to any compensation owing to it hereunder up to the time of such termination, it being understood that any payments are full compensation for services rendered prior to the time of payment. Additionally, Consultant's right to payment on work completed survives termination.

D. Upon termination of this Agreement with or without cause, Consultant shall turn over to the City Manager immediately any and all copies of studies, sketches, drawings, computations, and other data, whether or not completed, prepared by Consultant or its subcontractors, if any, or given to Consultant or its subcontractors, if any, in connection with this Agreement. Such materials shall become the permanent property of the Town. Consultant, however, shall not be liable for the Town's use of incomplete materials nor for the Town's use of complete documents if used for other than the project contemplated by this Agreement.

20. Suspension. The Town shall have the authority to suspend this Agreement and the services contemplated herein, wholly or in part, for such period as it deems necessary due to unfavorable conditions or to the failure on the part of the Consultant to perform any provision of this Agreement. Consultant will be paid for satisfactory Services performed through the date of temporary suspension.

21. Merger; Amendment. This Agreement constitutes the complete and exclusive statement of the agreement between the Town and Consultant and shall supersede all prior negotiations, representations, or agreements, either written or oral. This document may be amended only by written instrument, signed by both the Town and Consultant. All provisions of this Agreement are expressly made conditions.

22. Interpretation. This Agreement shall be interpreted as though it was a product of a joint drafting effort and no provisions shall be interpreted against a party on the ground that said party was solely or primarily responsible for drafting the language to be interpreted.

23. Litigation Costs. If either party becomes involved in litigation arising out of this Agreement or the performance thereof, the court in such litigation shall award reasonable costs and expenses, including attorneys' fees, to the prevailing party. In awarding attorneys' fees, the court will not be bound by any court fee schedule, but shall, if it is in the interest of justice to do so, award the full amount of costs, expenses, and attorneys' fees paid or incurred in good faith.

24. Time of the Essence. Time is of the essence of this Agreement.

25. Written Notification. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent by prepaid, first class mail. Any such notice, demand, etc. shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Notice shall be

deemed communicated within 72 hours from the time of mailing if mailed as provided in this section.

If to Town: City Clerk
Town of Atherton - Town Hall
91 Ashfield Road
Atherton, CA 94027

If to Consultant: MuniServices, LLC
Attn: Legal Department
7335 N. Palm Bluffs Avenue
Fresno, CA 93711

26. Consultant's Books and Records.

A. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to the Town and all documents and records which demonstrate performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

B. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to the Town for inspection when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.

27. Agreement Binding. The terms, covenants, and conditions of this Agreement shall apply to, and shall bind, the heirs, successors, executors, administrators, assigns, and subcontractors of both parties.

28. Equal Employment Opportunity. Consultant is an equal opportunity employer and agrees to comply with all applicable state and federal regulations governing equal employment opportunity. Consultant will not discriminate against any employee or applicant for employment because of race, age, sex, creed, color, sexual orientation, marital status or national origin. Consultant will take affirmative action to ensure that applicants are treated during such employment without regard to race, age, sex, creed, color, sexual orientation, marital status, or national origin. Such action shall include, but shall not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; lay-offs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant further agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

29. Town Not Obligated to Third Parties. The Town shall not be obligated or liable for payment hereunder to any party other than the Consultant.

30. Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.

31. Severability. If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.

32. Exhibits. The following exhibits are attached to this Agreement and incorporated herein by this reference:

- A. Exhibit A: Scope of Work
- B. Exhibit B: Schedule of Performance
- C. Exhibit C: Compensation

33. Execution. This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

34. News Releases/Interviews. All Consultant and sub consultant news releases, media interviews, testimony at hearings and public comment related to this Agreement and the work done hereunder shall be prohibited unless expressly authorized by the Town.

35. Applicable Law; Venue. This Agreement shall be construed and interpreted according to California law. In the event that suit shall be brought by either party hereunder, the parties agree that trial of such action shall be held exclusively in a state court in the County of San Mateo, California.

36. Authority. Each individual executing this Agreement on behalf of one of the parties represents that he or she is duly authorized to sign and deliver the Agreement on behalf of such party and that this Agreement is binding on such party in accordance with its terms.

IN WITNESS WHEREOF, the Town and Consultant have executed this Agreement as of the date first above written.

TOWN OF ATHERTON

CONSULTANT

By: _____
City Manager

By: _____
Marc Herman, President

Date:

Date:

APPROVED AS TO FORM:

By: _____
City Attorney

ATTEST:

By: _____
Deputy City Clerk

EXHIBIT A

Scope of Work

Objectives and Methods

MuniServices Property Tax Program (PTX) assists the Town in recovering the revenue to which it is entitled from its Property Tax. Administrative errors and omissions combined with general compliance problems are inevitable given the non-standard, complex nature of state and local property taxes. Error rates rise with respect to property tax applicability, rates, exceptions, exemptions, quirks and other inconsistencies.

Because of the time limitations on the Town's ability to recover misallocated revenue, prompt correction of these errors and omissions is essential to maximizing revenue potential.

The following steps are taken in conducting PTX:

- Contact Town's designated staff to review service objectives, scope, work plan schedule, public relations and logistical matters. MuniServices will also establish an appropriate liaison with the Town's coordinator and logical checkpoints for progress reviews.
- Conduct an audit of the Town local secured and unsecured valuations, on a parcel-by-parcel basis to determine tax rate area ("TRA") miscoding errors and omissions.
- Establish a comprehensive inventory of every parcel located within the Town, including the database elements needed to facilitate a comparison analysis with County secured and unsecured taxable values.
- Represent the Town for purposes of examining records pertaining to property tax to identify and confirm any errors/omissions that are resulting in deficient payment of tax revenues to the Town.
- For each error/omission identified and confirmed, prepare documentation to substantiate and facilitate recovery of revenue due from prior periods plus applicable interest and penalties (collectively "Misallocations").
- Meet with designated Town official(s) as necessary to review our findings and recommendations.
- Prepare and forward to the appropriate parties requests for corrective action and revenue recovery for Misallocations. The date that the appropriate parties receive and acknowledge these requests is the "Date of Knowledge".
- Provide additional assistance as necessary to support the Town in recovering and preventing tax allocation errors/omissions.

From the Date of Knowledge, the County Assessor's office will review the identified Misallocations, and for those Misallocations for which a correction is required, an Assessor's Roll Correction ("ARC") will be processed by the County correcting those Misallocations, typically triggering a reallocation. The Roll Year in which the assessments first appear corrected is the Date of Correction. Corrected assessments result in proper allocations in subsequent Roll Years ("Corrected Allocations").

EXHIBIT B

Schedule of Performance

Timing and Reporting

MuniServices will perform the Property Tax Service on a one-time basis. MuniServices shall commence the PTX upon receipt from the Town of a Notice to Proceed with the objective of delivering the initial audit reports within 90 to 120 working days.

- Projected revenue forthcoming to the Town as a result of PTX, specified according to source, timing and one-time payment versus ongoing.
- Listing of all errors/omissions detected for the Town including, for each, the account number, correction status, payment amount received by the Town, period to which payment is related and payment type (e.g. reallocation, deficiency assessment, etc.).
- Status of the work including copies of reports provided by the County addressing each reporting error/omission individually, the Incorrect Parcel Number, Correct Parcel Number, Assessee, Correct TRA assignment, Business ID, Address, Secured and Unsecured Valuation, Exemptions, Net Total Valuation of misallocated assessments.

EXHIBIT C

Compensation

COMPENSATION

Town shall pay MuniServices a twenty-five percent (25%) contingency fee. This contingency fee applies to reallocations for the fiscal year during which the Date of Correction falls and all eligible prior period revenues corrected. The contingency fee also applies to Corrected Allocations for three (3) subsequent Roll Years from the Date of Correction. MuniServices shall invoice Town for the above fees at least annually, based on recoveries actually received by Town.

ADDITIONAL CONSULTING.

Town may request that MuniServices provide additional consulting services at any time during the term of the Agreement to which this Addendum is attached. If MuniServices and Town agree on the scope of the additional consulting services requested, then MuniServices shall provide the additional consulting on a Time and Materials basis. Depending on the personnel assigned to perform the work, MuniServices' standard hourly rates range from \$75 per hour to \$300 per hour.

These additional consulting services will be invoiced at least monthly based on actual time and expenses incurred. All reimbursable expenses shall receive prior approval from the Town and shall be reimbursed at cost to MuniServices.

TOWN OBLIGATIONS

Because PTX service may result in correction of misallocations after termination of the Agreement, Town's obligation to pay and MuniServices' right to continue to receive payment, survive termination of this Addendum or the Agreement for any reason.



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JEROME D. GRUBER, CITY MANAGER

DATE: FOR THE REGULAR MEETING OF MARCH 17, 2010

**SUBJECT: APPROVAL OF RESOLUTION 10-15 OF THE CITY COUNCIL
OF THE TOWN OF ATHERTON IN SUPPORT OF THE LOCAL
TAXPAYER, PUBLIC SAFETY AND TRANSPORTATION
PROTECTION ACT OF 2010**

RECOMMENDATION:

Adopt Resolution 10-15 in support of the local taxpayer, public safety and transportation protection act of 2010.

BACKGROUND:

At the February 2010 regular Foster City Vice Mayor Linda Koelling presented Council with a legislative update from the League of California Cities.

With the approval of Resolution 10-15 the Town would be supporting the prevention of State borrowing and help sustain the local economy. The Local Taxpayer, Public Safety and Transportation Act of 2010 would provide Cities with protection so they can create new jobs, build essential infrastructure and strengthen the local economy.

FISCAL IMPACT:

None.

Attachments:

- Resolution 10-15
- Executive Directors Message by Chris McKenzie from February 2010 Western City Magazine

RESOLUTION NO. 10-15

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON IN SUPPORT OF THE LOCAL TAXPAYER, PUBLIC SAFETY AND TRANSPORTATION PROTECTION ACT OF 2010

WHEREAS, California voters have repeatedly and overwhelmingly passed separate ballot measures to stop State raids of local government funds and to dedicate the taxes on gasoline to fund local and state transportation improvement projects; and

WHEREAS, these local government funds are critical to provide the police and fire, emergency response parks libraries and other vital local services that residents rely upon every day and gas tax funds are vital to maintain and improve local streets and roads to make road safety improvements relive traffic congestion and provide mass transit; and

WHEREAS, despite the fact that voters have repeatedly passed measures to prevent the state from taking these revenues dedicated to funding local government services and transportation improvement projects the State Legislature has seized and borrowed billions of dollars in local government and transportation funds in the past few years; and

WHEREAS, this years borrowing and raids of local government redevelopment and transit funds as well as previous ongoing raids of local government and transportation funds have lead to severe consequences such as layoffs of police, fire and paramedic first responders, fire station closures, stalled economic development, healthcare cutbacks, delays in road safety improvements, public transit fare increases and cutbacks in public transit services; and

WHEREAS, State politicians in Sacramento have continued to ignore the will of the voters and current law provides no penalties when state politicians take or borrow these locally-dedicated funds; and

WHEREAS, a coalition of local government transportation and transit advocates recently filed a constitutional amendment with the California Attorney General called the Local Taxpayer Public Safety and Transportation Protection Act of 2010 for potential placement on California's November 2010 statewide ballot; and

WHEREAS, approval of this ballot initiative would close loopholes and change the constitution to further prevent State politicians in Sacramento from seizing, diverting, shifting, borrowing, transferring, suspending, or otherwise taking or interfering with tax revenues dedicated to funding local government services, including redevelopment or dedicated to transportation improvement projects and mass transit.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the Town of Atherton does formally endorse the Local Taxpayer, Public Safety and Transportation Protection Act of 2010, a proposed constitutional amendment.

BE IT FURTHER RESOLVED, that we hereby authorize the listing of the Town of Atherton s being in support of the Local Taxpayer Public Safety and Transportation Protection Act of 2010 and instruct staff to email a copy of this resolution to their campaign offices.

PASSED AND ADOPTED at a meeting of the City Council of the Town of Atherton held on the 17th day of March, 2010, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

Kathy McKeithen, Mayor

ATTEST:

Theresa DellaSanta, Deputy City Clerk

APPROVED AS TO FORM:

Wynne Furth, City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JEROME GRUBER, CITY MANAGER**

FROM: LOUISE HO, FINANCE DIRECTOR

DATE: FOR THE MEETING OF MARCH 17, 2010

**SUBJECT: APPROVAL OF THE CONSULTANT SERVICES AGREEMENT
BETWEEN MUNISERVICES, LLC AND THE TOWN OF ATHERTON
FOR ROAD IMPACT FEE REFUND PROCESSING**

RECOMMENDATION

Approve the consultant services agreement with MuniServices LLC; and authorize the City Manager to execute the agreement.

DISCUSSION

On December 16, 2009, and February 17, 2010, the City Council approved road impact fee refunds beginning July 1, 2006 to December 16, 2010. To ensure efficiency and accurate processing of the road impact fee refund, Finance Committee met on March 4, 2010, and is recommending that the City Council approve the agreement.

MuniServices has experience handling the Town's business license tax refund. The process to refund road impact fees will be very similar to the business license tax refund. MuniServices will work closely with Town staff to review and approve refund claims for the period July 1, 2006, to September 17, 2009.

FISCAL IMPACT

The cost is \$40,000. This amount is not budgeted. City Manager, under a separate budget amendment staff report, is seeking City Council approval to use General Fund reserve to pay for this service. A supermajority (4/5) vote of the Council is required to use reserve.

Prepared by:

/s/ Louise Ho

Louise Ho
Finance Director

Approved by:

/s/ Jerome D. Gruber

Jerome D. Gruber
City Manager

Attachment: Consultant Services Agreement

CONSULTANT SERVICES AGREEMENT

THIS AGREEMENT is entered into as of the _____ day of _____, _____ by and between the TOWN OF ATHERTON, herein called the "Town", and MuniServices, LLC, its subsidiaries and affiliates, herein called the "Consultant".

Recitals

WHEREAS, Town desires to obtain Consulting services in connection with Refund Processing Service for Road Impact Fees; and

WHEREAS, Consultant hereby warrants to the Town that Consultant is skilled and able to provide such services described in Section 3 of this Agreement; and

WHEREAS, Town desires to retain Consultant pursuant to this Agreement to provide the services described in Section 3 of this Agreement.

Agreement

NOW, THEREFORE, in consideration of their mutual covenants, the parties hereto agree as follows:

1. Incorporation of Recitals. The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth herein in full.

2. Project Coordination.

A. Town. The City Manager or his/her designee shall represent Town for all purposes under this Agreement. The City Manager or designee is hereby designated as the Project Manager. The Project Manager shall supervise the progress and execution of this Agreement.

B. Consultant. The Consultant shall assign Joshua Davis and Tony Unger to have overall responsibility for the progress and execution of this Agreement for Consultant.

3. Scope and Performance of Services

A. Scope of Services. Subject to such policy direction and approvals as the Town through its staff may determine from time to time, Consultant shall perform the services set out in the "Scope of Work" attached hereto as Exhibit A and incorporated herein by reference.

B. Time of Performance. The services of Consultant are to commence no sooner than _____ and be completed not later than _____. Consultant shall perform its services in accordance with the schedule attached

hereto as Exhibit B, and incorporated herein by reference. Any changes to these dates in either this Section 3 or Exhibit B must be approved in writing by the Project Manager.

C. Standard of Quality. Town relies upon the professional ability of Consultant as a material inducement to entering into this Agreement. All work performed by Consultant under this Agreement shall be in accordance with all applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Consultant's field of expertise.

4. Compensation and Method of Payment.

A. Compensation. The compensation to be paid to Consultant, including both payment for professional services and reimbursable expenses, shall be at the rate and schedules attached hereto as Exhibit C, and incorporated herein by reference. However, in no event shall the amount Town pays Consultant exceed forty-thousand Dollars (\$40,000). Payment by Town under this Agreement shall not be deemed a waiver of unsatisfactory work, even if such defects were known to the Town at the time of payment.

B. Timing of Payment.

Town shall pay MuniServices a fixed fee of \$40,000 for the Refund Claims Processing Service with 50% of the fixed fee being paid upon execution of this Agreement and the remaining 50% to be paid on July 1, 2010.

C. Changes in Compensation. Consultant will not undertake any work that will incur costs in excess of the amount set forth in Paragraph 4(A) without prior written amendment to this Agreement.

D. Taxes. Consultant shall pay all taxes, assessments and premiums under the federal Social Security Act, any applicable unemployment insurance contributions, Workers Compensation insurance premiums, sales taxes, use taxes, personal property taxes, or other taxes or assessments now or hereafter in effect and payable by reason of or in connection with the services to be performed by Consultant.

E. No Overtime or Premium Pay. Consultant shall receive no premium or enhanced pay for work normally understood as overtime, i.e., hours that exceed forty (40) hours per work week, or work performed during non-standard business hours, such as in the evenings or on weekends. Consultant shall not receive a premium or enhanced pay for work performed on a recognized holiday. Consultant shall not receive paid time off for days not worked, whether it be in the form of sick leave, administrative leave, or for any other form of absence.

F. Litigation Support. Consultant agrees to testify at Town's request if litigation is brought against Town in connection with Consultant's work product. Unless the action is brought by Consultant or is based upon Consultant's negligence, Town will compensate Consultant for the preparation and the testimony at Consultant's standard hourly rates, if requested by Town and not part of the litigation brought by Town against Consultant.

5. Amendment to Scope of Work. Town shall have the right to amend the Scope of Work within the Agreement by written notification to the Consultant. In such event, the compensation and time of performance shall be subject to renegotiation upon written demand of either party to the Agreement. Consultant shall not commence any work exceeding the Scope of Work without prior written authorization from the Town. Failure of the Consultant to secure Town's written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the contract price or time due, whether by way of compensation, restitution, quantum meruit, etc. for work done without the appropriate Town authorization.

6. Term. This Agreement shall commence upon its execution and shall continue in full force and effect until completed, amended pursuant to Section 21, or otherwise terminated as provided herein.

7. Inspection. Consultant shall furnish Town with every reasonable opportunity for Town to ascertain that the services of Consultant are being performed in accordance with the requirements and intentions of this Agreement. All work done and all materials furnished, if any, shall be subject to the Project Manager's inspection and approval. The inspection of such work shall not relieve Consultant of any of its obligations to fulfill the Agreement as prescribed.

8. Ownership of Documents. Title to all plans, specifications, maps, estimates, reports, manuscripts, drawings, descriptions and other final work products compiled by the Consultant under the Agreement shall be vested in Town, none of which shall be used in any manner whatsoever, by any person, firm, corporation, or agency without the expressed written consent of the Town. Basic survey notes and sketches, charts, computations, and other data prepared or obtained under the Agreement shall be made available, upon request, to Town without restriction or limitations on their use. Consultant may retain copies of the above-described information but agrees not to disclose or discuss any information gathered, discussed or generated in any way through this Agreement without the written permission of Town during the term of this Agreement, unless required by law.

9. Employment of Other Consultants, Specialists or Experts. Consultant will not employ or otherwise incur an obligation to pay other consultants, specialists, or experts for services in connection with this Agreement without the prior written approval of the Town.

10. Conflict of Interest.

A. Consultant covenants and represents that neither it, nor any officer or principal of its firm, has, or shall acquire any investment, income, business entity, interest in real property, or other interest, directly or indirectly, which would conflict in any manner with the interests of Town, hinder Consultant's performance of services under this Agreement, or be affected in any manner or degree by performance of Consultant's services hereunder. Consultant further covenants that in the performance of the Agreement, no person having any such interest shall be employed by it as an officer, employee, agent, or subcontractor without the express written consent of the Town. Consultant agrees to at all times avoid conflicts of interest, or the appearance of any conflicts of interest, with the interests of the Town in the performance of the Agreement. Town acknowledges and agrees that Consultant's provision of its services to other

government entities is not and shall not be considered a conflict of interest or breach of this agreement.

B. Consultant is not a designated employee within the meaning of the Political Reform Act because Consultant:

(1) will conduct research and arrive at conclusions with respect to its rendition of information, advice, recommendation, or counsel independent of the control and direction of the Town or of any Town official, other than normal contract monitoring; and

(2) possesses no authority with respect to any Town decision beyond the rendition of information, advice, recommendation, or counsel. (2 Cal. Code Regs. § 18700(a)(2).)

11. Liability of Members and Employees of Town. No member of the Town and no other officer, employee or agent of the Town shall be personally liable to Consultant or otherwise in the event of any default or breach of the Town, or for any amount which may become due to Consultant or any successor in interest, or for any obligations directly or indirectly incurred under the terms of this Agreement.

12. Indemnity. To the fullest extent permitted by law, Consultant hereby agrees to defend (by counsel reasonably satisfactory to the Town), indemnify, and hold harmless the Town, its officers, agents, employees, volunteers, and servants, from and against any and all claims, demands, damages, costs, liabilities, or obligations brought on account of or arising out of any negligent acts, errors, or omissions of Consultant, its officers, employees, agents, and subcontractors undertaken pursuant to this Agreement except to the extent of the negligence or willful misconduct of Town. The Town has no liability or responsibility for any accident, loss, or damage to any work performed under this Agreement whether prior to its completion and acceptance or otherwise. Consultant's duty to indemnify and hold harmless, as set forth herein, shall include the duty to defend as set forth in California Civil Code § 2778. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable by or for Consultant under Worker's Compensation, disability or other employee benefit acts or the terms, applicability or limitations of any insurance held or provided by Consultant and shall continue to bind the parties after termination/completion of this agreement. Notwithstanding anything in this Agreement to the contrary, Consultant has no obligation to defend or indemnify the Town against any claims, demands, damages, costs, liabilities, or obligations brought on account of or arising out of any challenge to the Town's Road Impact Fee or the refund process.

13. Consultant Not an Agent of Town. Consultant, its officers, employees and agents shall not have any power to bind or commit the Town to any decision.

14. Independent Contractor. It is expressly agreed that Consultant, in the performance of the work and services agreed to be performed by Consultant, shall act as and be an independent contractor and not an agent or employee of Town; and as an independent contractor, Consultant shall obtain no rights to retirement benefits or other benefits which accrue

to Town's employees, and Consultant hereby expressly waives any claim it may have to any such rights.

15. Compliance with Laws.

A. General. Consultant shall use the standard of care in its profession to comply with all applicable federal, state, and local laws, codes, ordinances, and regulations. Consultant represents and warrants to Town that it has and shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance and approvals which are legally required for Consultant to practice its profession. Consultant shall maintain a Town business license. The Town is not responsible or liable for Consultant's failure to comply with any or all of the requirements contained in this paragraph.

B. Workers' Compensation. Consultant certifies that it is aware of the provisions of the California Labor Code which require every employee to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Consultant certifies that it will comply with such provisions before commencing performance of the Agreement and at all times in the performance of the Agreement.

C. Prevailing Wage. Deleted by the agreement of the parties.

D. Injury and Illness Prevention Program. Consultant certifies that it is aware of and has complied with the provisions of California Labor Code § 6401.7, which requires every employer to adopt a written injury and illness prevention program.

E. Town Not Responsible. Town is not responsible or liable for Consultant's failure to comply with any and all of its requirements under this section and Agreement.

F. Waiver of Subrogation. Consultant and Consultant's insurance company agree to waive all rights of subrogation against Town, its elected or appointed officials, officers, agents, employees, and volunteers for losses paid under Consultant's workers' compensation insurance policy which arise from the work performed by Consultant for the Town.

16. Confidential Information. All data, documents, discussions or other information developed or received by or for Consultant in performance of this Agreement are confidential and not to be disclosed to any person except as authorized by the Town, or as required by law.

17. Assignment; Subcontractors; Employees

A. Assignment. Consultant shall not assign, delegate, transfer, or convey its duties, responsibilities, or interests in this Agreement or any right, title, obligation, or interest in or to the same or any part thereof without the Town's prior written consent. Any assignment without such approval shall be void and, at the Town's option, shall immediately cause this Agreement to terminate.

B. Subcontractors; Employees. Consultant shall be responsible for employing or engaging all persons necessary to perform the services of Consultant hereunder. No subcontractor of Consultant shall be recognized by the Town as such; and Consultant agrees to be responsible for their performance. Consultant shall give its personal attention to the fulfillment of the provisions of this Agreement by all of its employees and subcontractors, if any, and shall keep the work under its control. If any employee or subcontractor of Consultant fails or refuses to carry out the provisions of this Agreement or appears to be incompetent or to act in a disorderly or improper manner, it shall be discharged immediately from the work under this Agreement on demand of the Project Manager.

18. Insurance.

A. Minimum Scope of Insurance.

(1) Consultant agrees to have and maintain, for the duration of this Agreement, a General Liability insurance policy insuring it and its firm to an amount not less than \$1,000,000 (One Million Dollars) combined single limit per occurrence and in the aggregate for bodily injury, personal injury, and property damage.

(2) Consultant agrees to have and maintain, for the duration of this Agreement, an Automobile Liability insurance policy insuring it and its staff to an amount not less than \$1,000,000 (One Million Dollars) combined single limit per accident for bodily injury and property damage.

(3) Consultant shall maintain professional errors and omissions liability insurance for protection against claims alleging negligent acts, errors, or omissions which may arise from Consultant's operations under this Agreement, whether such operations be by Consultant or by its employees,. The amount of this insurance shall not be less than \$1,000,000 (One Million Dollars) on a claims-made annual aggregate basis.

(4) A Workers' Compensation and Employers' Liability policy written in accordance with the laws of the State of California and providing coverage for any and all employees of Consultant:

(a) This policy shall provide coverage for Workers' Compensation (Coverage A).

(b) This policy shall also provide required coverage for Employers' Liability (Coverage B).

(5) All of the following endorsements are required to be made a part of each of the required policies, except for the Professional Liability and Workers' Compensation and Employers' Liability policies, as stipulated below:

(a) "The Town of Atherton, its officials, officers, agents, employees, and volunteers are hereby added as additional insureds, but only as respects work done by, for, or on behalf of the named insured."

(b) “This policy shall be considered primary insurance as respects any other valid and collectible insurance the Town may possess, including any self-insured retention the Town may have, and any other insurance the Town does possess shall be considered excess insurance only and shall not contribute with it.”

(c) “This insurance shall act for each insured and additional insured as though a separate policy had been written for each. This, however, will not act to increase the limit of liability of the insuring company.”

(6) Consultant shall provide to Town all certificates of insurance with original endorsements effecting coverage required by this paragraph. Certificates of such insurance shall be filed with Town on or before commencement of performance of this Agreement. Town reserves the right to require complete, certified copies of all required insurance policies at any time.

(7) Any failure by Consultant to comply with reporting provisions of the policies shall not affect coverage provided to Town, its officials, officers, agents, employees, and volunteers.

(8) Consultant’s insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer’s liability.

B. All Coverages. Upon notice from the relevant insurer, Consultant shall provide 30 days prior written notice of cancellation to the Town by certified mail, return receipt requested. Current certification of such insurance shall be kept on file with the City Manager at all times during the term of this Agreement.

C. Acceptability of Insurers. Insurance is to be placed with insurers with a Best’s rating of no less than A:VII.

D. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Town. At the Town’s option, Consultant shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

E. Verification of Coverage. Consultant shall furnish the Town with original Certificate(s) of Insurance verifying Consultant's receipt of the insurance coverage required herein.

19. Termination of Agreement; Default.

A. This Agreement and all obligations hereunder may be terminated, any time, without cause, by the Town upon 30-days written notice to Consultant.

B. If Consultant fails to perform any of its obligations under this Agreement within the time and in the manner herein provided or otherwise violate any of the terms of this Agreement, in addition to all other remedies provided by law, Town may terminate this

Agreement immediately upon written notice after having giving Consultant a reasonable opportunity to cure the failure to perform. In such event, Consultant shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred hereunder, an amount which bears the same ratio to the total fees specified in the Agreement as the services satisfactorily rendered hereunder by Consultant bear to the total services otherwise required to be performed for such total fee; provided, however, that the Town shall deduct from such amount the amount of damages, if any, sustained by Town by virtue of the breach of the Agreement by Consultant.

C. In the event this Agreement is terminated by Town without cause, Consultant shall be entitled to any compensation owing to it hereunder up to the time of such termination, it being understood that any payments are full compensation for services rendered prior to the time of payment. Additionally, Consultant's right to payment on work completed survives termination.

D. Upon termination of this Agreement with or without cause, Consultant shall turn over to the City Manager immediately any and all copies of studies, sketches, drawings, computations, and other data, whether or not completed, prepared by Consultant or its subcontractors, if any, or given to Consultant or its subcontractors, if any, in connection with this Agreement. Such materials shall become the permanent property of the Town. Consultant, however, shall not be liable for the Town's use of incomplete materials nor for the Town's use of complete documents if used for other than the project contemplated by this Agreement.

20. Suspension. The Town shall have the authority to suspend this Agreement and the services contemplated herein, wholly or in part, for such period as it deems necessary due to unfavorable conditions or to the failure on the part of the Consultant to perform any provision of this Agreement. Consultant will be paid for satisfactory Services performed through the date of temporary suspension.

21. Merger; Amendment. This Agreement constitutes the complete and exclusive statement of the agreement between the Town and Consultant and shall supersede all prior negotiations, representations, or agreements, either written or oral. This document may be amended only by written instrument, signed by both the Town and Consultant. All provisions of this Agreement are expressly made conditions.

22. Interpretation. This Agreement shall be interpreted as though it was a product of a joint drafting effort and no provisions shall be interpreted against a party on the ground that said party was solely or primarily responsible for drafting the language to be interpreted.

23. Litigation Costs. If either party becomes involved in litigation arising out of this Agreement or the performance thereof, the court in such litigation shall award reasonable costs and expenses, including attorneys' fees, to the prevailing party. In awarding attorneys' fees, the court will not be bound by any court fee schedule, but shall, if it is in the interest of justice to do so, award the full amount of costs, expenses, and attorneys' fees paid or incurred in good faith.

24. Time of the Essence. Time is of the essence of this Agreement.

If to Town: City Clerk
Town of Atherton - Town Hall
91 Ashfield Road
Atherton, CA 94027

26. Consultant's Books and Records.

B. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to the Town for inspection when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.

28. Equal Employment Opportunity. Consultant is an equal opportunity employer and agrees to comply with all applicable state and federal regulations governing equal employment opportunity. Consultant will not discriminate against any employee or applicant for employment because of race, age, sex, creed, color, sexual orientation, marital status or national origin. Consultant will take affirmative action to ensure that applicants are treated during such employment without regard to race, age, sex, creed, color, sexual orientation, marital status, or national origin. Such action shall include, but shall not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; lay-offs or

termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant further agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

29. Town Not Obligated to Third Parties. The Town shall not be obligated or liable for payment hereunder to any party other than the Consultant.

30. Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.

31. Severability. If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.

32. Exhibits. The following exhibits are attached to this Agreement and incorporated herein by this reference:

- A. Exhibit A: Scope of Work
- B. Exhibit B: Schedule of Performance
- C. Exhibit C: Compensation

33. Execution. This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

34. News Releases/Interviews. All Consultant and subconsultant news releases, media interviews, testimony at hearings and public comment related to this Agreement and the work done hereunder shall be prohibited unless expressly authorized by the Town.

35. Applicable Law; Venue. This Agreement shall be construed and interpreted according to California law. In the event that suit shall be brought by either party hereunder, the parties agree that trial of such action shall be held exclusively in a state court in the County of San Mateo, California.

36. Authority. Each individual executing this Agreement on behalf of one of the parties represents that he or she is duly authorized to sign and deliver the Agreement on behalf of such party and that this Agreement is binding on such party in accordance with its terms.

IN WITNESS WHEREOF, the Town and Consultant have executed this Agreement as of the date first above written.

TOWN OF ATHERTON

CONSULTANT

By: _____
City Manager

By: _____
Marc Herman, President

Date:

Date:

APPROVED AS TO FORM:

By: _____
City Attorney

ATTEST:

By: _____
City Clerk

EXHIBIT A

Scope of Work

A. Refund Claims Processing

The refund claims processing service is designed to assist the Town with processing Road Impact Fee Refunds authorized by the City Council on _____. Refunds are payable only from the Towns Road Impact Fee Refund Program. The balance in the fund is approximately \$1.6 million.

The Town will refund Road Impact Fees collected from September 18, 2009 to December 16, 2009 without having the feepayer submit a request form.

For Road Impact Fees paid prior to September 19, 2009, claimants will need to submit a request for refund. The refund period extends back to July 1, 2007.

B. MuniServices will perform the work outlined below.

1. Compile and analyze Town Road Impact Fee payment data as it relates to fee payers.
2. Prepare and mail claim forms subject to Town-approved refund process.
3. Provide toll free phone number for ratepayer consultation and assistance with claim process.
4. Process claims forms by comparing ratepayer claims with the compiled Town database
5. Notify and work with Town and businesses to resolve discrepancies with claims.
6. Forward approved claims to Town for review.
7. Forward Town-provided settlement agreements to claimants and forward checks, drawn by Town and forward to MuniServices, to claimants upon receipt of executed settlement agreements.
8. Applications will be processed and no payments will be made until the time for filing claims has expired and the Town has determined whether there are sufficient funds to refund all amounts in full.
9. If the refund claims that the Town determines, in its sole discretion, to be valid, exceed the Road Impact Fee Funds available for refunds, then the refunds shall be pro-rated. (For example, if valid refund claims totaled \$1,000,000 and funds available for refund payments were \$900,000, each refund would be paid at a rate of ninety cents for each dollar of road impact fee paid.).
10. As a condition of receiving a Road Impact Fee Refund, the individual or entity receiving the refund shall execute a settlement and release form, releasing all claims arising in connection with the Town's Road Impact Fee and indemnifying the Town against any claims by third-parties alleging entitlement to the refund in question, in a form satisfactory to the City Attorney.

C. Additional Consulting. Upon mutual agreement between MuniServices and the Town as to the scope of services to be provided, MuniServices shall provide to Town such additional consulting services as Town may request. Consulting services otherwise included in this Addendum will not be subject to MuniServices' fees for Additional Consulting as set forth below.

EXHIBIT B

Schedule of Performance

After the City Council has approved the Refund Program, MuniServices will begin the work within _____ days. The Refund Program is expected to terminate by _____.

The time for filing a refund claim with the Town shall be a minimum of 90 days after notice is first mailed and the Town publishes notice of the program at least once in the *Atherton Almanac* and such other media as the City Manager may determine to be useful in providing effective notice of the refund program. The Town will also provide notice of the program on its website.

EXHIBIT C

Compensation

- A. Refund Claims Processing.** Town shall pay MuniServices a fixed fee of \$40,000 for the Refund Claims Processing Service with 50% of the fixed fee being paid upon execution of this Agreement and the remaining 50% to be paid on July 1, 2010.
- B. Additional Consulting.** For any agreed scope of services to be performed by MuniServices for Town as Additional Consulting, MuniServices shall be compensated on a Time and Materials basis. Depending on the personnel assigned to perform the work, these additional consulting services will be invoiced no less frequently than monthly based on actual time and expenses incurred.



Town of Atherton

ITEM 22

CITY COUNCIL STAFF REPORT

TO: **HONORABLE MAYOR AND CITY COUNCIL**

FROM: **JEROME D. GRUBER, CITY MANAGER.**

DATE: **FOR THE MEETING OF MARCH 17, 2010**

SUBJECT: **APPROVE CONSULTANT SERVICE AGREEMENT FOR
HIGH SPEED RAIL GOVERNMENT AFFAIR SERVICE
WITH CAPITOL ADVOCATES FOR AN AMOUNT NOT
TO EXCEED \$25,000.00**

RECOMMENDATION:

Approve Consultant Services Agreement for High Speed Rail Government Affair Services with Capitol Advocates

BACKGROUND:

On March 11, 2010 Ravi Mehta, legislative and regulatory advisor from Capitol Advocates presented a proposal to the Rail Committee at a special meeting. Mr. Mehta briefed the Committee on his experience and how his services could benefit the Town of Atherton regarding High Speed Rail.

After a question and answer period the Rail Committee unanimously voted to recommend approval of the proposal to the full City Council.

The agreement would take effect March 18, 2010 and terminate on June 30, 2010.

FISCAL IMPACT:

The funds were approved at the mid-year budget adjustment on February 17, 2010. A total of \$25,000.00 was approved from the general fund for the remainder of fiscal year 2009/10.

Attachments:

- Proposal from Capitol Advocates
- Draft Consultant Services Agreement with Capitol Advocates
- Legislative Update from Capitol Advocates

QuickTime™ and a
decompressor
are needed to see this picture.

March 4, 2010

The Honorable Jerry Gruber
City Manager
91 Ashfield Road
Atherton, California 94025-3483

RE: Proposal for High Speed Rail Project Government Affairs services

Dear Mr. Gruber:

Thank you for the opportunity to present this proposal. As I mentioned in our previous conversations and email correspondence, I am very interested in working with the Town of Atherton and representing your interests before the High Speed Rail Authority (“Authority”) and the legislature on issues related to the design and development of the High Speed Rail Project between the San Jose and San Francisco corridor. The Cities of Palo Alto and Menlo Park recently retained me to assist them with this critical issue, and the City of Burlingame has requested a proposal for consideration.

As many Peninsula elected officials have expressed, the High Speed Train (HST) project must fully address all potential impacts to the Peninsula cities, and the project must include urban design and engineering solutions to minimize impacts and potentially reduce community divisions and barriers. However, the Authority and some Legislators continue to aggressively move forward with the High Speed Train (HST) project without fully studying and appreciating the devastating impact some of the proposed routes will have on the Town of Atherton and other local communities.

As we know, the Authority, with its limited staff and other resources, is inundated with not only design and development issues, but also concerns by affected communities, and other “political” issues. Due to their limited resources, it is quite possible that many of the concerns expressed by smaller communities may not be fully appreciated or addressed. Hence, it is imperative that each city not only continues to work aggressively with the Authority’s staff, but also work with each Board member, as the Board has significant influence on the policy, design and development of the HST project and will have the final word on any final design and development of the HST.

Over the past year, the Town of Atherton has dedicated valuable resources, including significant time spent by the City’s Council and staff working on the HST project’s impact on the City. An integral part of ensuring that the City’s interests are protected, and that proper mitigation measures are adopted and implemented by the Authority and the legislature, is to ensure that you have effective representation at the Authority as well as the legislature. Relationships do matter, and having the ear of key leaders at the Authority and the legislature will

greatly influence whether the Town's interests will be given the proper attention and consideration.

I believe my firm, Capitol Advocates, is extremely well qualified to represent and protect the City's interests.

Experience

Capitol Advocates provides clients with more than 40 years of combined experience in the executive, legislative, and regulatory arenas within state and local governments.

Unlike other firms, we provide legal expertise necessary to analyze legislation and regulations affecting our clients' interests. This makes Capitol Advocates unique because our clients do not have to retain additional legal assistance.

Capitol Advocates' expertise embraces all aspects of public policy and government relations. This includes successfully achieving positive outcomes for clients through legislative and regulatory initiatives.

High Speed Rail Authority

I am extremely familiar with the High Speed Rail Project and have worked on these issues since 1989 when I was Executive Assistant to an Orange County Supervisor. The proposed HST project at that time was to run between Anaheim and Las Vegas.

As Governor Wilson's Deputy Appointments Secretary I appointed members to the High Speed Rail Commission, as well as all Gubernatorial appointments to the Department of Transportation, including the Director, and members of the California Transportation Commission.

In addition to being familiar with the underlying HST issues, I am extremely familiar with many of the Authority's Board members, including the Chairman, Curt Pringle¹. I also personally know and have worked with many of the other Board members, including Quentin Kopp², Tom Umberg³, David Crane⁴, and Richard Katz⁵, for many years.

Legislature

For over two decades, as a public servant in Governor Wilson's Administration, in private practice with two International law firms, and now with Capitol Advocates, I have worked

¹ I have personally known Curt since 1984, and subsequently worked to get him elected to the State Assembly. I also worked with him when I was served as Governor Wilson's Deputy Appointments Secretary and Chairman of the California Fair Political Practices Commission.

² Quentin and I worked very closely together on numerous California Transportation issues when he was a State Senator and Chair of the Senate Transportation Committee.

³ Tom and I have known each other since our days as Prosecutors in Orange County. He was with the US Attorney's office and I with the District Attorney. Tom was subsequently elected to the State Assembly, where I continued to work with him on various legislative issues.

⁴ David and I have worked on a number of budget related and other issues affecting California.

⁵ I have know Richard for many years and worked with him when he was in the legislature.

as a lawyer and lobbyist representing numerous governmental entities and fortune 500 companies on various issues before the California State legislature, agencies, and departments.

In addition to being extremely knowledgeable and effective in the legislative process, I have developed and maintained very strong relationships with key leaders of the legislature, including President Pro Tempore Darrell Steinberg, Speaker John Perez, Senate Minority Leader Dennis Hollingsworth and Assembly Minority Leader Martin Garrick. I have also worked closely with Senator Alan Lowenthal and Assemblyman Mike Eng, Chairs of their respective Transportation Committees. Moreover, Dale Bonner, Secretary of the Business, Transportation and Housing Agency, is a close personal friend whom I have known since we worked together in the "Horseshoe" of the Governor's office.

I believe that through the strength of my personal and professional relationships with most of the Authority's Board members and local elected officials, coupled with my experience as a seasoned and effective lawyer and lobbyist in Sacramento, the City of Burlingame can be assured that their concerns and suggestions will be seriously addressed and that the impact to the City will be considered and mitigated to the maximum extent.

Fee proposal

Based on the magnitude (HSR is the largest public works project in California's history, other than defense) and anticipated scope of work for the High Speed Rail Project, Capitol Advocates proposes to assist the City with representation before the High Speed Rail Authority (which will include attending meetings and directly working with members of the Authority), monitoring and actively lobbying all legislation (currently over 25 bills have been introduced that could directly impact the HSR project) and regularly working with and briefing the City Council and staff, for a minimum monthly retainer of \$5,000 plus necessary expenses.⁶

Given the fact that the Authority is working aggressively towards an agenda that is not in the best interests of Atherton, coupled with the fact that at least 25 potentially detrimental bills are currently pending, and the fact that the Authority is releasing the Bay Area to Central Valley HST Revised Draft Program EIR material on March 11, 2010 with a 45 day comment period, it is imperative that Atherton engage on all fronts without delay to protect its interests. I am confident that I will be able to immediately assist to have a positive impact on the City.

Additional information about the firm, our capabilities, and case studies is available on our website <http://www.capitol-advocates.com>.

Again, thank you for your consideration. Please let me know if you need any additional information. I look forward to meeting with the City's High Speed Rail Committee on March 11, 2010.

Sincerely,

Ravi Mehta

⁶ The City will be billed at a reduced hourly rate of \$325 against the minimum monthly retainer for any time in excess of the minimum \$5,000/month. The agreement is for a minimum one-year agreement. As other cities are participating on HSR issues, any time spent on common issues will be divided equally, thus benefiting each city. Time spent on City specific issues will be billed to each city (against the minimum monthly retainer).

CONSULTANT SERVICES AGREEMENT

THIS AGREEMENT is entered into as of the _____ day of March, 2010 by and between the TOWN OF ATHERTON, herein called the "Town", and Capitol Advocates, herein called the "Consultant".

Recitals

WHEREAS, Town desires to obtain Government Affairs consulting services in connection with legislative, regulatory, and High Speed Rail related issues; and

WHEREAS, Consultant hereby warrants to the Town that Consultant is skilled and able to provide such services described in Section 3 of this Agreement; and

WHEREAS, Town desires to retain Consultant pursuant to this Agreement to provide the services described in Section 3 of this Agreement.

Agreement

NOW, THEREFORE, in consideration of their mutual covenants, the parties hereto agree as follows:

1. Incorporation of Recitals. The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth herein in full.

2. Project Coordination.

A. Town. The City Manager or his/her designee, shall represent Town for all purposes under this Agreement. The City Manager or designee is hereby designated as the Project Manager. The Project Manager shall supervise the progress and execution of this Agreement.

B. Consultant. The Consultant shall assign Ravi Mehta to have overall responsibility for the progress and execution of this Agreement for Consultant.

3. Scope and Performance of Services

A. Scope of Services. Subject to such policy direction and approvals as the Town through its staff may determine from time to time, Consultant shall perform the services set out in the "Scope of Work" attached hereto as Exhibit A and incorporated herein by reference.

B. Time of Performance. The services of Consultant are to commence no sooner than March 18, 2010 and be completed not later than June 30, 2010.

C. Standard of Quality. Town relies upon the professional ability of Consultant as a material inducement to entering into this Agreement. All work performed by Consultant under this Agreement shall be in accordance with all applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Consultant's field of expertise.

4. Compensation and Method of Payment.

A. Compensation. The compensation to be paid to consultant for performance of the services described in Exhibit "A", shall be at the consultants reduced rate of \$325 per hour, to be applied against a minimum monthly \$5,000 retainer, plus expenses. Any services performed beyond the minimum monthly retainer amount will be billed at the reduced hourly rate of \$325. However, in no event shall the amount Town pays Consultant exceed Twenty-Five Thousand Dollars (\$25,000). Payment by Town under this Agreement shall not be deemed a waiver of unsatisfactory work, even if such defects were known to the Town at the time of payment. It is specifically understood by both parties that contingency fee agreements are prohibited by law for any lobbying activities, as described in the California Government Code. Any fees paid for services related to lobbying activities shall be established in advance and paid regardless of the result.

B. Timing of Payment.

C. Billing. Billing for said services shall be made periodically but at least once per month. Town shall review Consultant's billing statement and pay Consultant for services rendered within 30 days of receipt of a complete billing statement that meets all requirements of this Agreement.

D. Changes in Compensation. Consultant will not undertake any work that will incur costs in excess of the amount set forth in Paragraph 4(A) without prior written amendment to this Agreement.

E. Taxes. Consultant shall pay all taxes, assessments and premiums under the federal Social Security Act, any applicable unemployment insurance contributions, Workers Compensation insurance premiums, sales taxes, use taxes, personal property taxes, or other taxes or assessments now or hereafter in effect and payable by reason of or in connection with the services to be performed by Consultant.

5. Amendment to Scope of Work. Town shall have the right to amend the Scope of Work within the Agreement by written notification to the Consultant. In such event, the compensation and time of performance shall be subject to renegotiation upon written demand of either party to the Agreement. Consultant shall not commence any work exceeding the Scope of Work without prior written authorization from the Town. Failure of the Consultant to secure Town's written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the contract price or time due, whether by way of compensation, restitution, quantum meruit, etc. for work done without the appropriate Town authorization.

6. Term. This Agreement shall commence upon its execution and shall continue in full force and effect until completed, amended pursuant to Section 21, or otherwise terminated as provided herein.

7. Ownership of Documents. Title to all plans, specifications, maps, estimates, reports, manuscripts, drawings, descriptions and other final work products compiled by the Consultant under the Agreement shall be vested in Town, none of which shall be used in any manner whatsoever, by any person, firm, corporation, or agency without the expressed written consent of the Town. Basic survey notes and sketches, charts, computations, and other data prepared or obtained under the Agreement shall be made available, upon request, to Town without restriction or limitations on their use. Consultant may retain copies of the above-described information but agrees not to disclose or discuss any information gathered, discussed or generated in any way through this Agreement without the written permission of Town during the term of this Agreement, unless required by law.

8. Employment of Other Consultants, Specialists or Experts. Consultant will not employ or otherwise incur an obligation to pay other consultants, specialists, or experts for services in connection with this Agreement without the prior written approval of the Town.

9. Conflict of Interest.

A. Consultant covenants and represents that neither it, nor any officer or principal of its firm, has, or shall acquire any investment, income, business entity, interest in real property, or other interest, directly or indirectly, which would conflict in any manner with the interests of Town, hinder Consultant's performance of services under this Agreement, or be affected in any manner or degree by performance of Consultant's services hereunder. Consultant further covenants that in the performance of the Agreement, no person having any such interest shall be employed by it as an officer, employee, agent, or subcontractor without the express written consent of the Town. Consultant agrees to at all times avoid conflicts of interest, or the appearance of any conflicts of interest, with the interests of the Town in the performance of the Agreement.

B. Consultant is not a designated employee within the meaning of the Political Reform Act because Consultant:

(1) will conduct research and arrive at conclusions with respect to its rendition of information, advice, recommendation, or counsel independent of the control and direction of the Town or of any Town official, other than normal contract monitoring; and

(2) possesses no authority with respect to any Town decision beyond the rendition of information, advice, recommendation, or counsel. (2 Cal. Code Regs. § 18700(a)(2).)

10. Liability of Members and Employees of Town. No member of the Town and no other officer, employee or agent of the Town shall be personally liable to Consultant or otherwise in the event of any default or breach of the Town, or for any amount which may

become due to Consultant or any successor in interest, or for any obligations directly or indirectly incurred under the terms of this Agreement.

11. Indemnity. To the fullest extent permitted by law, Consultant hereby agrees to defend (by counsel reasonably satisfactory to the Town), indemnify, and hold harmless the Town, its officers, agents, employees, volunteers, and servants, from and against any and all claims, demands, damages, costs, liabilities, or obligations brought on account of or arising out of any acts, errors, or omissions of Consultant, its officers, employees, agents, and subcontractors undertaken pursuant to this Agreement excepting liabilities due to the sole negligence or willful misconduct of Town. The Town has no liability or responsibility for any accident, loss, or damage to any work performed under this Agreement whether prior to its completion and acceptance or otherwise. Consultant's duty to indemnify and hold harmless, as set forth herein, shall include the duty to defend as set forth in California Civil Code § 2778. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable by or for Consultant under Worker's Compensation, disability or other employee benefit acts or the terms, applicability or limitations of any insurance held or provided by Consultant and shall continue to bind the parties after termination/completion of this agreement.

12. Consultant Not an Agent of Town. Consultant, its officers, employees and agents shall not have any power to bind or commit the Town to any decision.

13. Independent Contractor. It is expressly agreed that Consultant, in the performance of the work and services agreed to be performed by Consultant, shall act as and be an independent contractor and not an agent or employee of Town; and as an independent contractor, Consultant shall obtain no rights to retirement benefits or other benefits which accrue to Town's employees, and Consultant hereby expressly waives any claim it may have to any such rights.

14. Compliance with Laws.

A. General. Consultant shall use the standard of care in its profession to comply with all applicable federal, state, and local laws, codes, ordinances, and regulations. Consultant represents and warrants to Town that it has and shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance and approvals which are legally required for Consultant to practice its profession. Consultant shall maintain a Town business license. The Town is not responsible or liable for Consultant's failure to comply with any or all of the requirements contained in this paragraph, including without limitation failure to properly report lobbying activities to the Fair Political Practices Commission.

B. Workers' Compensation. Consultant certifies that it is aware of the provisions of the California Labor Code which require every employee to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Consultant certifies that it will comply with such provisions before commencing performance of the Agreement and at all times in the performance of the Agreement.

C. Prevailing Wage. Consultant and Consultant's subconsultants (if any) shall, to the extent required by the California Labor Code, pay not less than the latest prevailing wage rates to workers and professionals as determined by the Director of Industrial Relations of the State of California pursuant to California Labor Code, Part 7, Chapter 1, Article 2. Copies of the applicable wage determination are on file at the Town's Public Works Department office.

D. Town Not Responsible. Town is not responsible or liable for Consultant's failure to comply with any and all of its requirements under this section and Agreement.

E. Waiver of Subrogation. Consultant and Consultant's insurance company agree to waive all rights of subrogation against Town, its elected or appointed officials, officers, agents, employees, and volunteers for losses paid under Consultant's workers' compensation insurance policy which arise from the work performed by Consultant for the Town.

15. Confidential Information. All data, documents, discussions or other information developed or received by or for Consultant in performance of this Agreement are confidential and not to be disclosed to any person except as authorized by the Town, or as required by law.

16. Assignment; Subcontractors; Employees

A. Assignment. Consultant shall not assign, delegate, transfer, or convey its duties, responsibilities, or interests in this Agreement or any right, title, obligation, or interest in or to the same or any part thereof without the Town's prior written consent. Any assignment without such approval shall be void and, at the Town's option, shall immediately cause this Agreement to terminate.

B. Subcontractors; Employees. Consultant shall be responsible for employing or engaging all persons necessary to perform the services of Consultant hereunder. No subcontractor of Consultant shall be recognized by the Town as such; rather, all subcontractors are deemed to be employees of the Consultant, and Consultant agrees to be responsible for their performance. Consultant shall give its personal attention to the fulfillment of the provisions of this Agreement by all of its employees and subcontractors, if any, and shall keep the work under its control. If any employee or subcontractor of Consultant fails or refuses to carry out the provisions of this Agreement or appears to be incompetent or to act in a disorderly or improper manner, it shall be discharged immediately from the work under this Agreement on demand of the Project Manager.

17. Termination of Agreement; Default.

A. This Agreement and all obligations hereunder may be terminated at any time, with or without cause, by the Town upon 5-days' written notice to Consultant.

B. If Consultant fails to perform any of its obligations under this Agreement within the time and in the manner herein provided or otherwise violate any of the terms of this Agreement, in addition to all other remedies provided by law, Town may terminate this Agreement immediately upon written notice. In such event, Consultant shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred hereunder,

an amount which bears the same ratio to the total fees specified in the Agreement as the services satisfactorily rendered hereunder by Consultant bear to the total services otherwise required to be performed for such total fee; provided, however, that the Town shall deduct from such amount the amount of damages, if any, sustained by Town by virtue of the breach of the Agreement by consultant.

C. In the event this Agreement is terminated by Town without cause, Consultant shall be entitled to any compensation owing to it hereunder up to the time of such termination, it being understood that any payments are full compensation for services rendered prior to the time of payment.

D. Upon termination of this Agreement with or without cause, Consultant shall turn over to the City Manager immediately any and all copies of studies, sketches, drawings, computations, and other data, whether or not completed, prepared by Consultant or its subcontractors, if any, or given to Consultant or its subcontractors, if any, in connection with this Agreement. Such materials shall become the permanent property of the Town. Consultant, however, shall not be liable for the Town's use of incomplete materials nor for the Town's use of complete documents if used for other than the project contemplated by this Agreement.

18. Merger; Amendment. This Agreement constitutes the complete and exclusive statement of the agreement between the Town and Consultant and shall supersede all prior negotiations, representations, or agreements, either written or oral. This document may be amended only by written instrument, signed by both the Town and Consultant. All provisions of this Agreement are expressly made conditions.

19. Interpretation. This Agreement shall be interpreted as though it was a product of a joint drafting effort and no provisions shall be interpreted against a party on the ground that said party was solely or primarily responsible for drafting the language to be interpreted.

20. Litigation Costs. If either party becomes involved in litigation arising out of this Agreement or the performance thereof, the court in such litigation shall award reasonable costs and expenses, including attorneys' fees, to the prevailing party. In awarding attorneys' fees, the court will not be bound by any court fee schedule, but shall, if it is in the interest of justice to do so, award the full amount of costs, expenses, and attorneys' fees paid or incurred in good faith.

21. Written Notification. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent by prepaid, first class mail. Any such notice, demand, etc. shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 72 hours from the time of mailing if mailed as provided in this section.

If to Town:

City Clerk
Town of Atherton - Town Hall
91 Ashfield Road
Atherton, CA 94027

If to Consultant: Ravi Mehta
Capitol Advocates
1215 K Street, 17th Floor
Sacramento, CA 95814

22. Consultant's Books and Records.

A. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to the Town and all documents and records which demonstrate performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

B. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to the Town for inspection when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.

C. The Town may, by written request by any of the above-named officers, require that custody of the records be given to the Town and that the records and documents be maintained in the City Manager's office.

23. Agreement Binding. The terms, covenants, and conditions of this Agreement shall apply to, and shall bind, the heirs, successors, executors, administrators, assigns, and subcontractors of both parties.

24. Equal Employment Opportunity. Consultant is an equal opportunity employer and agrees to comply with all applicable state and federal regulations governing equal employment opportunity. Consultant will not discriminate against any employee or applicant for employment because of race, age, sex, creed, color, sexual orientation, marital status or national origin. Consultant will take affirmative action to ensure that applicants are treated during such employment without regard to race, age, sex, creed, color, sexual orientation, marital status, or national origin. Such action shall include, but shall not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; lay-offs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant further agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

25. Town Not Obligated to Third Parties. The Town shall not be obligated or liable for payment hereunder to any party other than the Consultant.

26. Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.

27. Severability. If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.

28. Execution. This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

29. News Releases/Interviews. All Consultant and subconsultant news releases, media interviews, testimony at hearings and public comment shall be prohibited unless expressly authorized by the Town.

30. Applicable Law; Venue. This Agreement shall be construed and interpreted according to California law. In the event that suit shall be brought by either party hereunder, the parties agree that trial of such action shall be held exclusively in a state court in the County of San Mateo, California.

31. Authority. Each individual executing this Agreement on behalf of one of the parties represents that he or she is duly authorized to sign and deliver the Agreement on behalf of such party and that this Agreement is binding on such party in accordance with its terms.

IN WITNESS WHEREOF, the Town and Consultant have executed this Agreement as of the date first above written.

TOWN OF ATHERTON

CONSULTANT

By: _____
City Manager

By: _____
Title: _____

Date:

Date:

APPROVED AS TO FORM:

By: _____
City Attorney

ATTEST:

By: _____
City Clerk

EXHIBIT A

Scope of Work

[to be inserted]

EXHIBIT B

Schedule of Performance

[to be inserted]

EXHIBIT C

Compensation

[to be inserted]



CAPITOL ADVOCATES

Legislative and Regulatory Advocacy

M E M O R A N D U M

To: Atherton- High Speed Rail Committee

From: Ravi Mehta

Date: March 11, 2010

RE: Legislative Update: Pending legislation that directly or indirectly impacts the California High Speed Rail Project

The 2010 legislative session is in full swing with over 3,000 new bills introduced. As anticipated, a significant number of bills affecting High Speed Rail ("HSR") have also been introduced. These bills range from carving out exemptions to CEQA, to restructuring the HSR Authority, creating a Department of HSR, providing funding for HSR workforce training, reconstituting the HSR Board membership, authorizing the HSR Authority to acquire land for rights-of-way, etc.

Some bills affecting CEQA are spot bills, which merely amend a code section in such an innocuous way as to be totally non-substantive. Spot bills are introduced to assure that a germane vehicle will be available at a later date after the deadline has passed to introduce bills. At that future date, the bill can be amended with more substance included. These bills will also have to be monitored carefully to ensure that they do not affect HSR.

A number of CEQA bills were heard in Committee about 10 days ago. These bills, marked SBX because they are deemed urgency bills as part of the Special Legislative Session, were held in the Senate Environment Quality Committee at the request of the Authors who did not believe they had the votes for passage. Unfortunately, bills with identical language were also introduced, and we should expect them to be amended to address some of the concerns raised by Senator Samitani and other Committee members.

The foregoing are summaries and status of each bill (with the exception of budget bills) I believe affects HSR. The City should consider taking a formal position of Support, Support if Amended, Oppose, or Monitor for each bill. I can provide more detailed information as requested. A letter stating the City's position, other than Monitor, should be sent to the legislature to ensure that the City's official position is formally recorded.

CEQA Legislation

ABX8 37 (Calderon, Charles) Environment: CEQA

Status: 02/11/2010-From printer.

Summary: This Bill would enact the CEQA Litigation Protection Pilot Program of 2010 and would require the Business, Transportation and Housing Agency to select projects that meet specified requirements from specified regions for each calendar year between 2010 and 2014. The bill would exempt from judicial review, pursuant to CEQA, a lead agency's decision to certify the EIR of, or to adopt a mitigated negative declaration based on an initial study for, the selected projects, a lead agency's and responsible agency's approval of the selected project, and the Business, Transportation and Housing Agency' s selection of the projects. The bill would require the Business, Transportation and Housing Agency, by December 31 of each year, to submit an annual report to the Governor and to the Legislature summarizing the designation of projects, and the job creation and investment attributable to the designated projects.

AB 1805 (Calderon, Charles) Environment: (CEQA)

Status: 02/25/2010-Referred to Com. on NATURAL RESOURCES & JUDICIARY

Summary: This bill would enact the CEQA Litigation Protection Pilot Program of 2010 and would require the Business, Transportation and Housing Agency to select projects that meet specified requirements from specified regions for each calendar year between 2010 and 2014. The bill would exempt from judicial review, pursuant to CEQA, a lead agency's decision to certify the EIR of, or to adopt a mitigated negative declaration based on an initial study for, the selected projects, a lead agency's and responsible agency's approval of the selected project, and the Business, Transportation and Housing Agency' s selection of the projects. The bill would require the Business, Transportation and Housing Agency, by December 31 of each year, to submit an annual report to the Governor and to the Legislature summarizing the designation of projects, and the job creation and investment attributable to the designated projects.

AB 2713 (Knight) Environment: CEQA (Spot Bill)

Status: 02/22/2010-Read first time.

Summary: The (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. The CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. This bill would make technical, non-substantive changes to the CEQA.

SBX8 42 (Correa) Environment: CEQA

Status: 02/24/2010-Set, first hearing. **Held in committee without recommendation.**

Summary: Would enact the CEQA Litigation Protection Pilot Program of 2010 and would require the Business, Transportation and Housing Agency to select projects that meet specified requirements from specified regions for each calendar years between 2010 and 2014. The bill would exempt from judicial review, pursuant to CEQA, a lead agency's decision to certify the EIR of, or to adopt a mitigated negative declaration based on an initial study for, the selected projects, a lead agency's and responsible agency's approval of the selected project, and the Business, Transportation and Housing Agency' s selection of the projects. The bill would require the Business, Transportation and Housing Agency, by December 31 of each year, to submit an annual report to the Governor and to the Legislature summarizing the designation of projects, and the job creation and investment attributable to the designated projects.

SBX8 56 (Hollingsworth) Environmental Quality: CEQA: exemption: critical infrastructure projects

Status: 02/24/2010-Hearing canceled at the request of author.

Summary: This Bill would exempt from CEQA a critical infrastructure project, which would include, among other projects, projects funded under the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 or the Disaster Preparedness and Flood Prevention Bond Act of 2006. The bill would provide that this exemption applies retroactively. Because a permitting agency, which includes a local agency, would be required to determine the applicability of, and to give notice of, that exemption, this bill would create a state-mandated local program.

SB 1010 (Correa) Environment: CEQA

Status: 02/18/2010-To Coms. on ENVIRONMENTAL QUAL. and JUDICIARY.

Summary: This Bill would enact the CEQA Litigation Protection Pilot Program of 2010 and would require the Business, Transportation and Housing Agency to select projects that meet specified requirements from specified regions for each calendar year between 2010 and 2014. The bill would exempt from judicial review, pursuant to CEQA, a lead agency's decision to certify the EIR of, or to adopt a mitigated negative declaration based on an initial study for, the selected projects, a lead agency's and responsible agency's approval of the selected project, and the Business, Transportation and Housing Agency' s selection of the projects. The bill would require the Business, Transportation and Housing Agency, by December 31 of each year, to submit an annual report to the Governor and to the Legislature summarizing the designation of projects, and the job creation and investment attributable to the designated projects.

SB 1012 (Runner) Environmental quality: CEQA (Spot Bill)

Status: 02/18/2010-To Com. on RULES.

Summary: CEQA requires a lead agency, as defined, to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect. This bill would make technical, non-substantive changes to those provisions.

SB 1195 (Wyland) Environment: CEQA (Spot Bill)

Status: 03/04/2010-To Com. on RULES.

Summary: CEQA requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. This bill would make technical, non-substantive changes to CEQA.

SB 1261 (Ashburn) Environment: CEQA: expedited review (Spot Bill)

Status: 03/04/2010-To Com. on RULES.

Summary: This bill would state the intent of the Legislature to enact legislation establishing a fast track environmental review process that maintains current environmental protection while expediting the review of projects related to green or renewable industries that will create jobs in the state.

High Speed Rail Legislation

AB 153 (Ma) High-Speed Rail Authority

Status: 07/02/2009-In committee: Set, first hearing. **Hearing canceled at the request of author.**

Summary: This Bill would eliminate those contingencies to the exercise of the Authority's authority and would specify that the Authority constitutes a "governing body" for the purpose of adopting a resolution of necessity. The bill would authorize the Authority to employ its own legal staff or contract with other state agencies for legal services, or both.

AB 289 (Galgiani) High-speed rail

Status: 02/11/2010-Re-referred to Com. on TRANSPORTATION & HOUSING

Summary: Would authorize the Governor to appoint up to 5 deputy directors exempt from civil service who would serve at the pleasure of the executive director.

AB 1375 (Galgiani) High-speed rail

Status: 02/11/2010-Referred to Committees. on TRANSPORTATION & HOUSING and RULES.

Summary: This Bill would revise and recast these provisions by repealing and reenacting the California High-Speed Train Act. The bill would continue the High-Speed Rail Authority in existence to make policy decisions relative to implementation of high-speed rail consistent with Proposition 1A. The bill would create the Department of High-Speed Trains within the Business, Transportation and Housing Agency, which would implement those policies. The bill would transfer certain of the existing powers and responsibilities of the authority to the department and would specify additional powers and duties of the authority and department relative to implementation of the high-speed rail project, including the annual submission of a 6-year high-speed train capital improvement program and progress report to the Legislature. The director of the department would be appointed by the Governor, who would serve at the pleasure of the authority, and the Governor would be authorized to appoint up to 10 executive employees of the department who would be exempt from civil service and serve at the pleasure of the director. The bill would provide for acquisition and disposition by the department of rights-of-way for the high-speed rail project. The bill would enact other related provisions.

AB 1747 (Galgiani) High-Speed Rail Authority

Status: 02/18/2010-Referred to Com. on TRANSPORTATION.

Summary: Would authorize the authority to consider, to the extent permitted by federal and state law, the creation of jobs in California when awarding major contracts or purchasing high-speed trains, as specified.

AB 2121 (Harkey) High-speed rail

Status: 03/04/2010-Referred to Com. on TRANSPORTATION.

Summary: This Bill would reduce the amount of general obligation debt authorized pursuant to the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century to the amount contracted as of January 1, 2011.

AB 2703 (John A. Perez) Transportation funding

Status: 02/22/2010-Read first time.

Summary: This Bill would state the intent of the Legislature to enact legislation to ensure that federal transportation funds received in 2010 are expeditiously awarded to maximize job retention in California and to ensure robust oversight of those funds.

SBX8 36 (Lowenthal) Federal transportation economic stimulus funds: 2nd round

Status: 02/10/2010-Re-referred to Com. on TRANSPORTATION & HOUSING

Summary: This Bill Would require the Department of Transportation to work with local transportation agencies to develop a list of potential projects that may be

awarded within a 90-day period of the award to the state of 2nd round federal transportation economic stimulus funds. The bill would require the department to submit a monthly status report to the Legislature, as specified, with respect to certain milestones for expenditure of these funds. The bill would make related legislative findings and declarations.

SB 409 (Ducheny) Passenger rail programs: strategic planning

Status: 02/11/2010-To Com. on TRANS.

Summary: Would place the High-Speed Rail Authority within the Business, Transportation and Housing Agency. The bill would require the 5 members of the authority appointed by the Governor to be appointed with the advice and consent of the Senate. The bill would require the authority to annually submit a funding plan to the California Transportation Commission for approval, identifying the need for investments during the fiscal year and the amount of bond sales necessary to accommodate those investments.

SB 455 (Lowenthal) High-speed rail

Status: 07/24/2009-Placed on inactive file on request of Assembly Member Torrico.

Summary: Would provide that the members of the authority appointed by the Governor are subject to appointment with the advice and consent of the Senate. The bill would require the members of the authority, at a scheduled board meeting, to cause to be prepared an overall project schedule with project delivery milestones on a quarterly basis, and to approve a quarterly contract status report, beginning at the first board meeting after March 1, 2010. The bill would also require the members of the authority to approve all contract amendments at a scheduled board meeting.

SB 879 (Cox) Construction projects: alternative bidding procedures: design-build.

Status: 01/21/2010-To Com. on LOCAL GOVERNMENT

Summary: Existing law authorizes counties to use alternative procedures, known as design-build, for bidding on construction projects in the county in excess of \$2,500,000, in accordance with specified procedures. Each county that elects to use the design-build method on a public works project is required to submit a report to the Legislative Analyst's Office before December 1, 2009, containing a description of each public works project procured through the design-build process and completed after November 1, 2004, and before November 1, 2009. Existing law also requires the Legislative Analyst, on or before January 1, 2010, to report to the Legislature on the use of the design-build method by counties. This bill would repeal those reporting provisions.

SB 964 (Alquist) Workforce development program: high-speed rail

Status: 02/18/2010-To Coms. on TRANSPORTATION & HOUSING and EDUCATION.

Summary: Would require the authority to contract with the California Community Colleges Chancellor's office to develop a labor market assessment of the workforce and identify the education and skills needed for **high-speed rail**, and to develop a

comprehensive workforce training and certification program or programs to facilitate the availability of that workforce. The bill would require the authority and the chancellor's office to form a Jobs Advisory Task Force, as specified, to advise the authority and the chancellor's office on the establishment and operation of training and certification programs required to produce an adequate skilled workforce for this project. The bill would require the labor market assessment to be incorporated into the authority's biennial revised business plan.

SB 965 (DeSaulnier) High-speed rail

Status: 02/18/2010-To Com. on TRANSPORTATION & HOUSING

Summary: Would authorize the authority to receive and expend any federal funds awarded to the authority for the purposes of developing a project or projects along the high-speed rail network, thereby making an appropriation. The bill would require the authority to take various actions in that regard. The bill would also require the authority to submit to the Legislature an expenditure plan for the federal funds within 30 days of enactment of this act and to submit a progress report on expenditure of the funds to the Legislature within 180 days of the award of those funds and annually thereafter. The bill would make legislative findings and declarations relative to the award of federal funds to the state under the federal American Recovery and Reinvestment Act (ARRA) for high-speed rail purposes.

SB 1260 (Yee) High-speed rail

Status: 03/04/2010-To Com. on RULES.

Summary: Existing law, the California High-Speed Rail Act, creates the High-Speed Rail Authority to develop and implement a high-speed rail system in the state, with specified powers and duties. Existing law, pursuant to the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, approved by the voters as Proposition 1A at the November 4, 2008, general election, provides for the issuance of \$9.95 billion in general obligation bonds for high-speed rail and related purposes. This bill would state the intent of the Legislature to enact legislation to implement the bond act.

SB 1371 (Lowenthal & Correa) Federal transportation economic stimulus funds: 2nd round.

Status: 03/04/2010-To Com. on TRANSPORTATION & HOUSING

Summary: Would require the Department of Transportation to work with local transportation agencies to develop a list of potential projects that may be awarded within a 90-day period of the award to the state of 2nd round federal transportation economic stimulus funds. The bill would require the department to submit a monthly status report to the Legislature, as specified, with respect to certain milestones for expenditure of these funds. The bill would make related legislative findings and declarations.



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JEROME D. GRUBER, CITY MANAGER

DATE: FOR THE MEETING OF MARCH 17, 2009

**SUBJECT: ADOPTION OF RESOLUTION 10-16 APPROVING UPDATE
OF THE TOWN'S CONFLICT OF INTEREST CODE AND APPENDIX
"A" DESIGNATING POSITIONS IN THE CONFLICT OF INTEREST
CODE**

RECOMMENDATION

Adopt the attached Resolution No. 10-16 approving Appendix "A" dated March 2010, which updated the designated positions disclosure categories in the Conflict of Interest Code

BACKGROUND

The Political Reform Act of 1974, approved by the voters, requires state and local government agencies to adopt a Conflict of Interest Code. The Town has adopted a Conflict of Interest Code which references the terms of 2 California Code of Regulations §18730, as may from time to time be amended by the Fair Political Practices Commission.

A Conflict of Interest Code lists each position within the Town that makes or participates in the making of governmental decisions. Individuals employed in these positions are called "designated employees." In addition, under newly adopted Code section 18219 the term "designated employee" includes a consultant as defined under regulation 18701(a)(2) and an employee in a newly created position that makes or participates in the making of positions and whose specific position is not yet listed in an agency's conflict-of-interest code.

The Town's conflict-of-interest code has been revised to add the Town's IT Consultant and to add the Director of Finance position. When the Town engages the services of other consultants, their duties are reviewed to see if they should be treated as designated employees.

Attached are a resolution and an Appendix "A" dated June 2010 that accurately reflect positions that may make or participate in making governmental decisions for the Town.

FISCAL IMPACT

There is no fiscal impact.

Attachments: Resolution No. 10-16
Appendix "A"

RESOLUTION 10-16

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON AMENDING THE CONFLICT OF INTEREST CODE FOR DESIGNATED EMPLOYEES BY APPROVING APPENDIX “A” DATED MARCH 2010

WHEREAS, The Political Reform Act of 1974, amended (Government Code Section 81000, et seq.), requires state and local government agencies to adopt and promulgate a Conflict of Interest Code;

WHEREAS, This Council approved a Conflict of Interest Code adopted by Resolution 91-6 on June 19, 1991, and amended by adopting Resolution No. 02-23 on July 17, 2002 again by Resolution No. 04-16 on July 21, 2004, and again by Resolution 09-18 on June 17, 2009 which adopted by reference the terms of 2 Cal. Code of Regulations 18730, as may, from time to time be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act, and by also approving as an APPENDIX “A” thereto, disclosure categories for certain designated positions with the Town of Atherton;

WHEREAS, the APPENDIX “A” containing the disclosure categories warrants updating to reflect current personnel status; and

WHEREAS, This Council, has determined that the attached APPENDIX “A” accurately sets forth those positions which should be designated and the categories of financial interests which should be made reportable for each position.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the Town of Atherton that the APPENDIX “A” dated March 2010, attached hereto and by reference made a part of the Conflict of Interest Code of the Town of Atherton, is hereby approved.

All former resolutions or parts thereof conflicting or inconsistent with the provisions of this resolution are superseded and repealed.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the 17th day of March, 2010 by the following vote:

AYES:	Councilmembers:
NOES:	Councilmembers:
ABSENT:	Councilmembers:
ABSTAIN:	Councilmembers:

Kathy McKeithen, Mayor
Town of Atherton

ATTEST:

Theresa N. DellaSanta, Deputy City Clerk

APPROVED AS TO FORM:

Wynne Furth, City Attorney

APPENDIX "A"

TOWN OF ATHERTON
CONFLICT OF INTEREST CODE

LIST OF DESIGNATED POSITIONS

Date: March 2010

<u>JOB TITLE</u>	<u>DISCLOSURE CATEGORY</u>
Accountant	1
Assistant City Attorney	1
Assistant City Manager	1
Building Official/Planning Administrator	1
Chief of Police	1
Deputy Town Planner	1
Director of Finance	1
Executive Assistant/Deputy City Clerk	1
Consultants*	1*
City Attorney	1
Finance Assistant	1
Information Technology	1
Park Program Manager	1
Police Lieutenant	1
Public Works Director/City Engineer	1
Associate Engineer	1
Assistant Engineer	1
Public Works Superintendent	1
Public Works Supervisors (2)	1
Town Arborist/Public Works Specialist	1
Town Planner	1

*Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The City Manager may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements described in this section. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The City Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

APPENDIX "A"

DISCLOSURE CATEGORY 1

SPECIFICATION SHEET

REPORTABLE INVESTMENTS, INTEREST IN REAL PROPERTY, AND INCOME

CONFLICT OF INTEREST CODE TOWN OF ATHERTON

- * Investments (partnerships, common stock, etc.)
 - Worth \$2,000 or more in business entities located in or doing business in the Town.
- * Interests in Real Property
 - Worth \$2,000 or more located in the Town.
- * Interests in Real Property and Investments Held by Business Entities or Trusts
- * Income (Other than Loans, Gifts and Honoraria) Received During the Reporting Period
 - Aggregating \$500 or more received from a source located in or doing business in the Town.
- * Loans (Received or Outstanding During the Reporting Period)
 - Aggregating \$500 or more from a source located in or doing business in the Town.
- * Gifts (Received During the Reporting Period)
 - Must disclose \$50 or more received from any source located inside or outside the Town. May not exceed \$420 from any single source.
- * Honoraria
 - Received from any source located inside or outside the Town – generally prohibited, and if not, may be reportable as income or gift depending on the circumstances.
- * Business Positions
 - Held in a business entity located in or doing business in the Town.

- * Commission Income (Gross payments received as a result of services rendered as a broker, agent, or salesperson).
- * Income and Loans to Business Entities or Trusts.
- * Income from Rental Property.

FOOTNOTE: Refer for more detailed information to Definitions and Explanations in the Manual issued by the California Fair Political Practices Commission.



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF MARCH 17, 2010

**SUBJECT: APPROVE A LETTER TO THE PENINSULA JOINT
POWERS BOARD REGARDING THE CALTRAIN
ELECTRIFICATION FINAL EA/EIR**

RECOMMENDATION:

Approve a letter to the Peninsula Joint Powers Board (JPB) regarding the Caltrain Electrification Final Environmental Assessment/Environmental Impact Report (EA/EIR)

INTRODUCTION:

The Town submitted comments on the Draft EA/EIR in March of 2004. The majority of the minor comments received satisfactory responses in the Final EA/EIR. However, the responses regarding visual impacts and impacts to trees were not adequately addressed. The Town's comment letter included a simple solution to avoid impacts by moving the tracks to the center of the right of way. This suggestion was dismissed.

The Final EA/EIR is about to be certified by the JPB. The Rail Committee reviewed the report and recommended that a letter be drafted to the JPB asking for these significant impacts to Atherton to be reconsidered and that JPB staff be directed to take additional actions.

In addition, the Town wants to remind the JPB of their promise to restore service to Atherton once the system is electrified. To accomplish this, the center platform needs to be removed to eliminate the "hold-out" status of the Atherton Station. "Hold-out" means that, when one train is stopped in the station, a train in the opposite direction must "hold",

or stop, outside of the station until the first train leaves the station. This is a safety consideration for passengers using the center platform to board the northbound train.

ANALYSIS:

A key aspect of environmental law is that wherever possible impacts should be avoided. Impacts that cannot be avoided should be mitigated. The Draft and Final EA/EIR dismiss the visual and tree impacts as insignificant, requiring neither avoidance or mitigation. A key flaw in the consideration is that the report says the dense vegetation in Atherton will screen any visual impacts, but the vegetation section states that the dense vegetation will be pruned or removed.

With the tracks through Atherton being much closer to the right of way than in other areas, the vegetation screening, consisting mostly of heritage trees, will be dramatically pruned, and many trees will need to be removed, either because they are not in good condition or because the drastic pruning required to clear the electrification wires would make the tree unstable. Moving the tracks would avoid both impacts at the same time.

The plans for the station modification were completed years ago. Construction of outboard platforms and removal of the center platform would be necessary for the tracks to be moved away from the trees. Constructing the station modification would also open the door to resumption of weekday service to the Atherton station.

The letter points out these several aspects of the project relative to Atherton. It does not ask the JPB not to certify the EA/EIR, instead it asks that the project be modified, and combined with the already planned "hold-out" station project. By directing JPB staff to make these changes to the project, the impacts would become insignificant and the EA/EIR would be correct, and weekday service can be restored to the Atherton station.

FISCAL IMPACT:

There is no fiscal impact to the Town from this action.

Prepared By:

Approved:

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

Jerome D. Gruber
City Manager

Attachments: Caltrain Electrification Final EA/EIR Letter



Town of Atherton

91 Ashfield Road
Atherton, California 94027
650-752-0500
Fax 650-688-6528

March 18, 2010

Peninsula Corridor Joint Powers Board
1250 San Carlos Avenue
San Carlos, CA94070

Subject: Final Electrification EIR

Dear JPB:

The Town of Atherton has received and reviewed the Final EA/EIR for the Caltrain Electrification. The Town submitted comments on the Draft EA/EIR for Caltrain Electrification in May of 2004. The Town's primary concerns expressed in the 2004 letter were impacts to heritage trees and visual impacts. The letter presented a very simple method to avoid many of these impacts and reduce others, move the tracks away from the right of way line and closer to the centerline. These concerns and suggestions were not adequately addressed in the Final EA/EIR nor incorporated in the recommended project. This action would also facilitate the completion of the Atherton "hold-out" station project discussed below.

The two impacts, trees and visual, are directly related. The response to the visual impact section states that there is "dense vegetation between the railroad and adjacent uses", however the tree impacts section states quite clearly that this vegetation will be at least pruned, and in many cases removed. If the catenaries are near the right of way line, the dense vegetation that screened the visual impacts will be removed, causing even more serious visual impacts. The pruning and/or removal of trees is also a serious environmental impact.

If the canopy on one side of a heritage tree is pruned, the tree becomes unbalanced and is likely to fall towards the adjacent property. Such drastic pruning will require the removal of the tree for safety. The *Tree Survey and Assessment for the Caltrain Electrification Project* (HortScience, March 2003) indicates that a large number of heritage trees will need to be removed because of the proximity of the electrical wires and the need to comply with PUC requirements for clearance. Replacement of heritage trees is inadequate mitigation, and is no substitute for avoiding the impact in the first place.

To avoid these impacts, the Town's 2004 letter proposed that the tracks through Atherton be moved to the center of the right of way. In most of the corridor this is already the case, but Atherton still has an old center platform. Plans for removing this "hold-out" configuration have already been prepared by the JPB and are ready to bid. Constructing the "hold-out" project is essential to resuming weekday service to Atherton, service that was promised to be restored to Atherton upon completion of electrification. Those plans should be revised to move the tracks to the center. This would improve the "hold-out" project by providing additional space outboard of the tracks, avoiding the sub-optimal (very narrow) configuration of the east platform in the "hold-out" project.

It should be noted that service to Atherton has steadily declined since the JPB purchased the rail line, resulting in a drop in ridership at the station. Even a cursory review of the service and ridership statistics shows that ridership dropped after service was reduced to the station, not before. When Atherton was an express stop for service to the City, ridership was significantly greater than in recent times. It becomes even more obvious now that weekday service is stopped that ridership can be reduced by reduction in service, although it is the extreme example.

The Town of Atherton respectfully requests that the JPB, in certifying the Final EA/EIR for the Caltrain Electrification Project, recognize that the visual and tree impacts in Atherton, as the project is currently envisioned, are significant and avoidable, and direct staff to do the following:

- Modify the Atherton "hold-out" station plans to move the tracks to the center of the right of way and improve the outboard platform configuration
- Commence construction of the Atherton "hold-out" station project
- Modify the design plans for electrification to minimize the impact to trees, both removal and pruning, and the commensurate reduction in visual screening.
- Develop a service schedule that restores Atherton's historic level of service

It is inappropriate to certify the EA/EIR with these significant impacts not addressed, and it is also inappropriate to certify the EA/EIR with findings of overriding considerations for significant unavoidable impacts, because these impacts are avoidable.

Please address the above comments in your deliberations regarding the Final EA/EIR. Thank you for your consideration.

Sincerely,
Town of Atherton

Kathy McKeithen
Mayor



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JEROME GRUBER, CITY MANAGER**

FROM: LOUISE HO, FINANCE DIRECTOR

DATE: FOR THE MEETING OF MARCH 17, 2010

SUBJECT: UPDATE ON BUSINESS LICENSE REFUND

RECOMMENDATION

Receive update on the business license refund authorized by the City Council on December 17, 2008.

DISCUSSION

On December 17 2008, the City Council authorized the refund of business license tax paid beginning December 17, 2006, through December 17, 2008. The Town engaged the services of MuniServices to assist in the processing of business license refund applications. Attached is a business license refund summary report from MuniServices. The last day to submit a refund application was on December 17, 2009.

For the five pending claims that did not respond to request for additional information, MuniServices mailed final letters with a due date to respond. The Town will consider the five pending claims as closed if no response is received.

FISCAL IMPACT

The refund was budgeted in FY 2008-09. Claims paid in FY 2009-10 were accrued in the FY 2008-09 audited financial statements.

Prepared by:

Approved by:

/s/ Louise Ho

Louise Ho
Finance Director

/s/ Jerome D. Gruber

Jerome D. Gruber
City Manager

Attachment: MuniServices Business Tax Refund Summary



Town of Atherton

Business Tax Refund Summary

March 02, 2010

Refund Summary by Number of Claims Submitted

Total number of claims submitted = 71 *

Claims approved / refund checks issued = 52

Claims outside refund period (declined) = 06

Duplicate claims (removed) = 05

No Refund Due (paid at new rate) = 03

Pending – Proof of Payment Required / Missing Tax ID = 05 **

* Total individual permits reviewed = 448

** Final letter mailed on 03/02/2010 requesting proof of payment / missing information

Refund Summary by Number of Claims



Approved / Refund Check Issued	Outside Refund Period
Duplicate Refund Request	Paid at New Rate
Pending	



Town of Atherton

Business Tax Refund Summary

March 02, 2010

Refund Summary by Dollar Amount

Total amount submitted for refunds = \$647,420.54 *

Claims approved / refund checks issued = \$321,349.56

Claims outside refund period (declined) = \$100,967.96

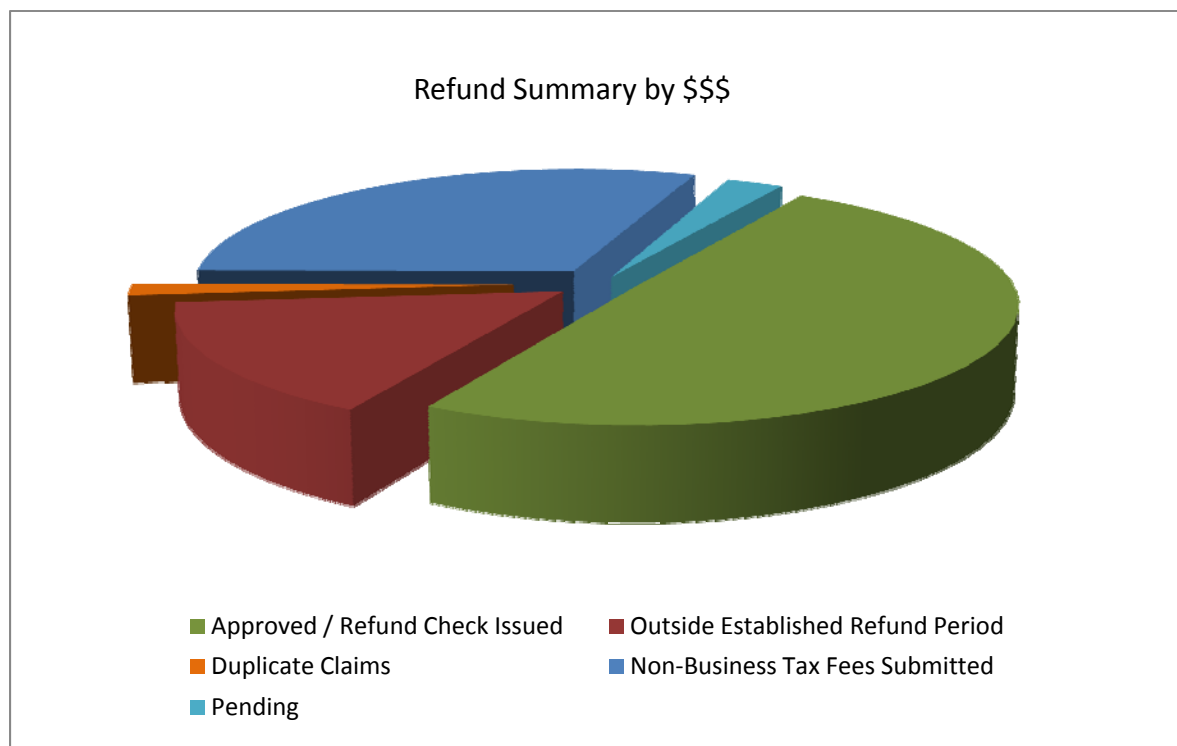
Duplicate claims (removed) = \$9,893.60

Non-business tax fees submitted (declined) = \$198,018.40

Pending – Proof of Payment Required / Missing Tax ID = \$17,191.02 **

** Total amount requested includes non-business tax fees submitted for refund*

*** Final letter mailed on 03/02/2010 requesting proof of payment / missing information*





Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JEROME D. GRUBER, CITY MANAGER

DATE: FOR THE REGULAR MEETING OF MARCH 17, 2010

SUBJECT: RECONSTITUTE THE AD-HOC SUBCOMMITTEE TOWN CENTER TASK FORCE AND APPROVE APPOINTMENTS, MEMBERSHIPS AND GUIDELINES OF TOWN CENTER TASK FORCE

RECOMMENDATION:

Reconstitute the Ad-Hoc Subcommittee Town Center Task Force and Approve Appointments recommended Town Center Task Force Members.

BACKGROUND:

At the January 11, 2010 strategic workshop Council directed staff to add an item to the January 21, 2010 agenda for approval of an ad-hoc subcommittee to research finance options for a new town center.

At the January 21, 2010 meeting, Council appointed Council Members Carlson and Lewis to the town center finance committee. Council suggested that the ad-hoc subcommittee bring back guidelines and memberships of the Committee.

The Town Center Finance Committee held a joint, publicly noticed meeting with the Blue Ribbon Task Force on Tuesday, February 23, 2010. A calendar/timeline for review and comment by the Town Center Task Force was presented at the meeting. The ad-hoc subcommittee would like to reconstitute to a Brown Act Committee and appoint Town resident to the Task Force.

An ad was placed in the Almanac on March 3, and posted around Town, soliciting applications for members to the Town Center Task Force. An application deadline of

Monday, March 15 was given. The City Clerks Department received the applications. The Town Center Task Force and Blue Ribbon Task Force sent out notice of a special meeting to be held on Tuesday, March 16 to review the applications, and discuss guidelines and memberships in order to make recommendations to the City Council at its March 17th regular meeting.

A supplemental report will follow from the March 16th joint meeting between the Town Center Task Force and the Blue Ribbon Task Force.



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF MARCH 17, 2010

**SUBJECT: AWARD A PURCHASE ORDER TO SERRAMONTE FORD IN
THE AMOUNT OF \$45,209.95 FOR THE PURCHASE OF ONE
FORD F-350 UTILITY BODY PICK-UP TRUCK**

RECOMMENDATION:

Authorize the purchase of one Ford F-350 utility body pick-up truck from Serramonte Ford for a cost of \$45,209.95.

INTRODUCTION:

The Public Works Department lost its 1999 F-250 utility body truck in a traffic collision on December 9, 2009 when another vehicle ran a red light at the corner of El Camino Real and Fair Oaks and broadsided the Town truck.

This 1999 truck was due for replacement in the 2010/2011 fiscal year. In an effort to replace this important vehicle in our fleet as soon as possible, staff requests that the money proposed for the 2009/2010 replacement of the dump truck be used towards replacement of this vehicle. We will replace the dump truck through the 2010/2011 budget process. The amount approved in the 2009/2010 budget was \$42,000.

ANALYSIS:

Redwood City shop has estimated repairs of the wrecked truck at \$14,000 which is above the current depreciated value of the vehicle which is \$0.00 (as of 12/31/2009) per the Town's financial records.

Staff, with the assistance of the fleet specification experts at the Redwood City equipment facility, developed a specification for the replacement vehicle. This specification was then sent to 4 local Ford dealerships with fleet departments, as well as the current holder of the California Multiple Awards Schedule (CMAS) in Sacramento. The following final bid results include the vehicle price, including tax, extended warranty and all applicable associated costs with the purchase of the vehicle:

Dealership	City	Vehicle price	Final
Serramonte Ford	Colma	\$40,413.00	\$45,209.95
Towne Ford	Redwood City	\$42,226.99	\$45,954.46
San Francisco Ford	San Francisco Ford	\$40,375.00	\$45,971.94
Fremont Ford	Fremont	declined	declined
Downtown Ford (CMAS)	Sacramento	41,806.00*	\$45,835.30*

*CMAS fees need to be added on top of final price. Current estimate is additional \$2000

FISCAL IMPACT:

Vehicle Replacement funds in the amount of \$42,000 are budgeted in FY 2009-10 for the replacement of the Public Works 1986 dump truck with a more current “used” model. The F350 Ford utility body is a new vehicle. The utility body truck will be used daily by Public Works crews, so a new truck should be purchased to replace the totaled vehicle so that it will not need to be replaced for at least 10 years. The cost of the new truck is \$45,209.05. The additional \$3,209.95 will need to be allocated from the Vehicle Replacement fund.

Normally, we would use the CMAS schedule for this type of purchase, but it appears the town will show extra savings by having taken the extra effort to also go out to bid with local vendors.

Prepared By:

Approved by:

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

Jerome D. Gruber
City Manager

Attachments: Price quotation from Serramonte Ford, Fleet sales



PRICE QUOTE

DATE: 02/17/10

TO: STEVEN TYLER
SUPERINTENDENT
ATHERTON PUBLIC WORKS

FROM: BILL LAZAR
ASST. FLEET DIRECTOR
650-301-7069(PHONE)
650-301-7121 (FAX)

SUBJECT: 2011 FORD F350 DUAL REAR WHEEL CHASSIS W/SCELZI BODY

BID PRICE	\$ 40,413.00	INCLUDING SCELZI BIDY
SALES TAX	C 3738.20	
DMV	EXEMPT	
CAL TIRE FEE	8.75	

TOTAL \$ 44,159.95

EXTENDED WARRANTY \$ 1,050.00

GRAND TOTAL \$ 45,209.95

SEE ATTACHED SPEC'S. DRAWINGS ON REQUEST

CNGP530

VEHICLE ORDER CONFIRMATION

02/17/10 12:46:13

==>

Dealer: F72024

2011 F-SERIES SD

Page: 1 of 2

Order No: 9999 Priority: C2 Ord FIN: QC608 Order Type: 5B Price Level: 120

Ord PEP: 640A Cust/Flt Name: ATHERTON

PO Number:

RETAIL

RETAIL

X3G	F350 4X2 S/C CC \$30865		13000# GVWR PKG	
	162" WHEELBASE	425	50 STATE EMISS	NC
Z1	OXFORD WHITE		JOB #1 BUILD	
A	VNYL 40/20/40		SPARE TIRE/WHL3	350
S	STEEL	52B	BRAKE CONTROLLR	230
640A	PREF EQUIP PKG	525	CRUISE CONTROL	235
	.XL TRIM	61J	JACK	NC
572	.AIR CONDITIONER	NC	65Z	AFT AXLE TANK NC
	.AM/FM STER/CLK			
996	6.2L EFI V8 ENG	NC	TOTAL BASE AND OPTIONS	33025
44P	6-SPD AUTOMATIC	NC	TOTAL	33025
TBK	.LT245 BSW AS 17	NC	*THIS IS NOT AN INVOICE*	
X37	3.73 REG AXLE	NC		
	CAL. BOARD FEES	NC	* MORE ORDER INFO NEXT PAGE *	
18B	MOLDED BLK STEP	370	F8=Next	

CNGP530

VEHICLE ORDER CONFIRMATION

02/17/10 12:46:20

==>

Dealer: F72024

2011 F-SERIES SD

Page: 2 of 2

Order No: 9999 Priority: C2 Ord FIN: QC608 Order Type: 5B Price Level: 120

Ord PEP: 640A Cust/Flt Name: ATHERTON

PO Number:

RETAIL

RETAIL

	SP DLR ACCT ADJ	
	SP FLT ACCT CR	
	FUEL CHARGE	
B4A	NET INV FLT OPT	NC
	PRICED DORA	NC
	DEST AND DELIV	975

TOTAL BASE AND OPTIONS 33025

TOTAL 33025

THIS IS NOT AN INVOICE

Bill Lazar
Serramonte Ford
999 Serramonte Blvd.
Colma, CA 94014
Tel. (650) 301-7069
Fax. (650) 301-7121

F7=Prev

F1=Help

F2=Return to Order

F3/F12=Veh Ord Menu

F4=Submit

F5=Add to Library



Scelzi Enterprises, Inc.
Custom Truck Body Manufacturing

2286 E. Dale Street, Fresno, CA 93706, Phone: 800-858-2883
Fax: 559-237-5554 Toll Free: (800) 858-2883

WORK ORDER / ESTIMATE

24090

Page 1 of 3

Customer: SERRAMONTE FORD, INC.
Address: TOWN OF ATHERTON
999 SERRAMONTE BLVD.
COLMA, CA 94014

Date: 01/29/10
Phone: (650) 301-7054 FAX: (650) 301-7121
Contact: BILL LAZAR
Terms: Net 10

Make	Year	Model	Vehicle Info	Type	VIN #
	2011	CUSTTRUCK	FORD - F-350 - SUPER CAB - DRW - GAS - WHITE - 60" CA	Customer	

Quantity	Part No / Description	Price

PAINT BODY - WHITE

1 EA SB-CUSTOM

\$17,245.00/EA

SBD - 108 - 94 - 49 - 38 - VO - V

NOTE: 1) STAINLESS STEEL PADDLE LATCHES
2) ALL LIGHTS TO BE LED
3) LIGHTS IN END PANEL WITH GUARD

1EA - DIAMOND PERFORATED CAB PROTECTOR TO COVER ENTIRE WINDOW

1EA - HEAVY DUTY CONE HOLDER PER REDWOOD CITY DESIGN ON FRONT
BUMPER DRIVERSIDE

6EA - RECESSED TIE DOWNS IN BACKWRAPPER (3EA) SIDE 6" DOWN FROM
TOP START AT BULKHEAD THEN EVENLY SPACED #D1722ZN 2000 LB CAPACITY

1EA - VERTICAL SHOVEL HOLDER FOR 5 SHOVELS IN CARGO AREA DRIVERSIDE
PER DRAWING

1EA - REMOVABLE FRONT BUMPER MOUNT PIPE SADDLE PASSENGER SIDE TO
MATCH HEIGHT OF SADDLES IN CARGO AREA

1EA - EMBERTON ROLLER DRAWER MODULE WITH (3EA) 3" DEEP (2EA) 4" DEEP
AND (1EA) 6" DEEP MOUNTED IN DRIVERSIDE FRONT COMPARTMENT

1EA - DIAMOND PERFORATED BASKET 100" L X 8" H X 18" W MOUNTED ON TOP
OF BODY PASSENGER SIDE

1EA - 1500 WATT VANEER #VLT-12-1500 INVERTER MOUNTED IN PASSENGER
SIDE HORIZONTAL WITH EXTRA BATTERY 500 AMP FUSE AND FUSE HOLDERS

1EA - GFI PLUG IN PASSENGER REAR END PANEL WIRED TO INVERTER

1EA - SET OF LED DOME LIGHTS FOR COMPARTMENTS CODE 3# ECVDNLTW-00
WITH SWITCH IN DASH AND SWITCH AT LIGHT

2EA - WHELEN 5GA00FAR LED WARNING LIGHTS MOUNTED (1EA) SIDE IN REAR



Scelzi Enterprises, Inc.
Custom Truck Body Manufacturing

2286 E. Date Street, Fresno, CA 93706, Phone: 800-858-2883
Fax: 559-237-5554 Toll Free: (800) 858-2883

WORK ORDER / ESTIMATE

24090

Page 2 of 3

Customer: SERRAMONTE FORD, INC.
Address: TOWN OF ATHERTON
999 SERRAMONTE BLVD.
COLMA, CA 94014

Date: 01/29/10
Phone: (650) 301-7054 FAX: (650) 301-7121
Contact: BILL LAZAR
Terms: Net 10

Make	Year	Model	Vehicle Info	Type	VIN #
	2011	CUSTTRUCK	FORD - F-350 - SUPER CAB - DRW - GAS - WHITE - 60" CA	Customer	
Quantity	Part No / Description				Price

END PANEL ON SINGLE SWITCH IN DASH

1EA - CODE 3 NASL847 LED AMBER NARROW STICK MOUNTED ON CAB
PROTECTOR WITH CONTROLLER IN CAB

1 EA	BUMPER 6" DIAMOND PLATE STEP BUMPER - POWDER COATED GRAY	\$0.00/EA
	1EA - CLASS IV RECEIVER HITCH WITH BH8 2000 2" BALL COMBO PINTLE AND PM 87 INSERT	
	1EA - COLE HERSEE 7 PIN PLUG #12063	
	1EA - SWW 128 SLIDE OUT VISE STAND PASSENGER REAR END PANEL	
1 EA	LADDER RACK SINGLE SIDE PIPE RACK PASSENGER SIDE 12" W X 6" DEEP TO ALLOW PIPE TO GO OVER CAB	\$0.00/EA
1 EA	WEIGHT CERTIFICATE PRICE INCLUDES WEIGHT CERTIFICATE AND TRANSPORTATION ONE WAY	\$25.00/EA



Scelzi Enterprises, Inc.
Custom Truck Body Manufacturing

2286 E. Date Street, Fresno, CA 93706, Phone: 800-858-2883
Fax: 559-237-5554 Toll Free: (800) 858-2883

WORK ORDER / ESTIMATE

24090

Page 3 of 3

Customer: SERRAMONTE FORD, INC.
Address: TOWN OF ATHERTON
999 SERRAMONTE BLVD.
COLMA, CA 94014

Date: 01/29/10
Phone: (650) 301-7054 FAX: (650) 301-7121
Contact: BILL LAZAR
Terms: Net 10

Make	Year	Model	Vehicle Info	Type	VIN #
	2011	CUSTTRUCK	FORD - F-350 - SUPER CAB - DRW - GAS - WHITE - 60" CA	Customer	
Quantity	Part No / Description				Price

NOTE

SCELZI ENTERPRISES INC. DOES NOT GUARANTEE A PERFECT COLOR MATCH DUE TO INCONSISTENCIES IN FACTORY PAINTS AND PROCEDURES

**REVISIONS AFTER APPROVAL DATE ARE
SUBJECT TO ADDITIONAL CHARGES**

PRICES SUBJECT TO CHANGE WITHOUT NOTICE

THIS WORK
AUTHORIZED BY: _____

DATE: _____

Total: \$17,270.00

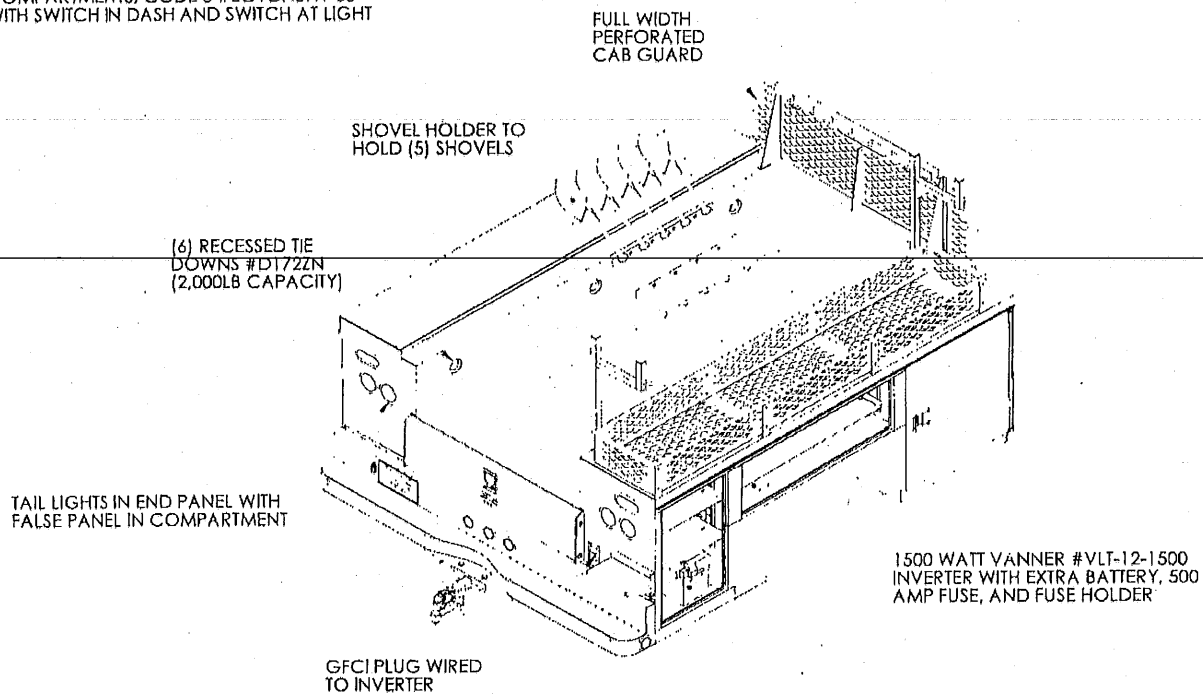
Payment in full on completion of job if credit arrangements have not been made in advance.

The above quotation is submitted according to specifications submitted by customer. Any alterations or changes increasing production costs will be charged for accordingly.

ESTIMATE
PREPARED BY: Paolilli, Joanna
SALESMAN: MITCH LEINER

SBD-108-94-49-38-VO-V
 PAINT BODY WHITE
 -ALL STAINLESS STEEL PADDLE LATCHES
 -ALL LIGHTS TO BE L.E.D.
 -SET OF L.E.D. DOME LIGHTS FOR
 COMPARTMENTS, CODE 3 #ECVDNLTW-00
 WITH SWITCH IN DASH AND SWITCH AT LIGHT

24090 - 108" SERVICE BODY



CUSTOMER SIGNATURE X _____

REV. E.C.O.
0 -

DESCRIPTION OF REVISION
DRAWING CREATED

DATE
2/2/2010

APP'D BY:
KDO

THIS DRAWING OR DOCUMENT AND/OR ELECTRONIC DATA OR COPY THEREOF, IS THE PROPERTY OF SCELZI ENTERPRISES, INC. & IS CONSIDERED PROPRIETARY & CONFIDENTIAL. DISCLOSURE OF THIS INFORMATION IN ANY FORM, IN WHOLE OR IN PART TO ANY THIRD PARTY IS STRICTLY PROHIBITED WITHOUT THE EXPRESS ADVANCED WRITTEN PERMISSION FROM AN AUTHORIZED REPRESENTATIVE OF SCELZI ENTERPRISES, INC. USERS OF THE INFORMATION CONTAINED HEREIN SHALL TAKE APPROPRIATE MEASURES TO ENSURE THIS INFORMATION REMAINS CONFIDENTIAL.

DRAWN BY: CJB
 DATE: 2/2/2010
 SCALE: 1:28
 LAYOUT: 1 OF 5
 SHEET SIZE: A
 DEALER:

SCELZI ENTERPRISES, INC.
 2772 S. CHERRY AVE., FRESNO, CA 93706

YEAR: 2011 CA: 60'
 MAKE: FORD
 MODEL: F-350 SUP CAB
 DWG NAME: BOM LAYOUT
 24090

WORK ORDER
24090

TOWNE FORD SALES

CUSTOMER TOWN OF ATHERTON

DESCRIPTION
108" SERVICE BODY

REV 1.3

24090 - 108" SERVICE BODY

CODE 3 #NASL847 L.E.D.
AMBER NARROW STICK
WITH CONTROLLER IN CAB

PIPE RACK WITH 12" X 6"
OPENING, WITH MATCHING
INSERT AT FRONT BUMPER

DIAMOND PERFORATED
BASKET 100" X 8" X 18"

EMBERTON ROLLER DRAWERS,
STARTING FROM THE TOP:
(3) 3" DEEP DRAWERS
(2) 4" DEEP DRAWERS
(1) 6" DEEP DRAWER

STAINLESS STEEL
SLIDE OUT VISE STAND

(2) WHELEN 5GA00FAR L.E.D.
WARNING LIGHTS IN END
PANEL, WIRED TO SINGLE
SWITCH IN DASH

6" DIAMOND PLATE
STEP BUMPER POWDER
COATED GRAY

CLASS IV RECEIVER
HITCH WITH PM87 INSERT
AND BH82000 PINTLE

COLE HERSEE 7
PIN PLUG #12063

CUSTOMER SIGNATURE _____

REV. ECO.
0 -

DESCRIPTION OF REVISION
DRAWING CREATED

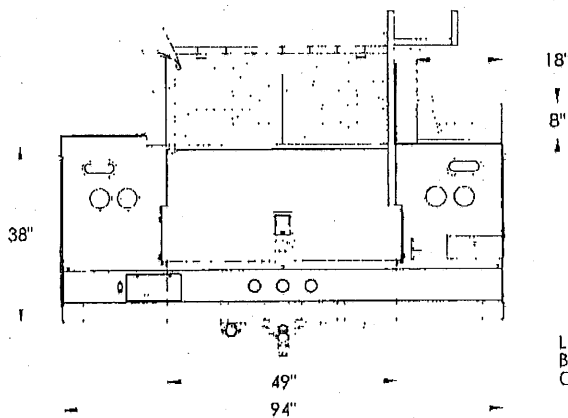
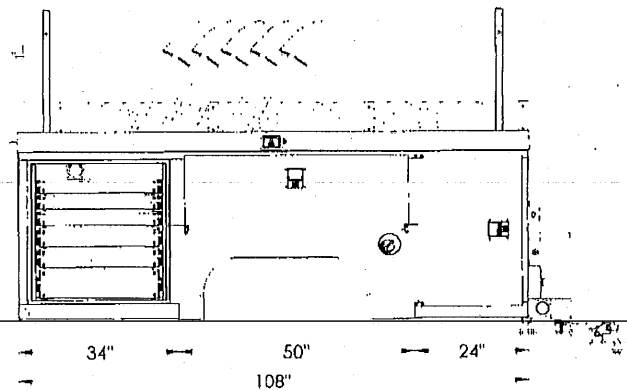
DATE: 2/2/2010
APPVD BY: KDO

THIS DRAWING OR DOCUMENT AND/OR
ELECTRONIC DATA OR COPY THEREOF IS
THE PROPERTY OF SCELZI ENTERPRISES,
INC. & IS CONSIDERED PROPRIETARY &
CONFIDENTIAL. DISCLOSURE OF THIS
INFORMATION IN ANY FORM, IN WHOLE OR
IN PART, TO ANY THIRD PARTY IS STRICTLY
PROHIBITED WITHOUT THE EXPRESS
ADVANCE WRITTEN PERMISSION FROM AN
AUTHORIZED REPRESENTATIVE OF SCELZI
ENTERPRISES, INC. USERS OF THE
INFORMATION CONTAINED HEREIN SHALL
TAKE APPROPRIATE MEASURES TO ENSURE
THIS INFORMATION REMAINS CONFIDENTIAL

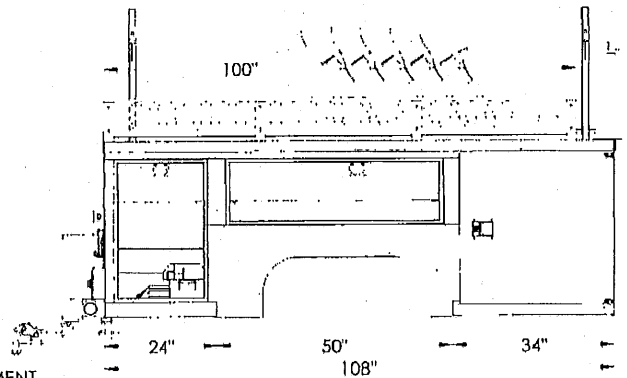
SCELZI ENTERPRISES, INC.
2772 S. CHERRY AVE., FRESNO, CA 93706
DRAWN BY: CJB
DATE: 2/2/2010
SCALE: 1:28
LAYOUT: 2 OF 5
SHEET SIZE: A
YEAR: 2011
MAKE: FORD
MODEL: F-350 SUP CAB
DWG NAME: BOM LAYOUT
24090
TOWNE FORD SALES
108" SERVICE BODY
PART NO:
CUSTOMER: TOWN OF ATHERTON
WOPK CODEP: 24090

REV 1.3

24090 - 108" SERVICE BODY



LOUVER
BATTERY
COMPARTMENT



CUSTOMER SIGNATURE X _____

REV. ECO.
0

DESCRIPTION OF REVISION
DRAWING CREATED

DATE
2/2/2010

APPVD BY:
KDO

THIS DRAWING OR DOCUMENT AND/OR
ELECTRONIC DATA, OR COPY THEREOF, IS
THE PROPERTY OF SCELZI ENTERPRISES,
INC. & IS CONSIDERED PROPRIETARY &
CONFIDENTIAL. DISCLOSURE OF THIS
INFORMATION IN ANY FORM, IN WHOLE OR
IN PART, TO ANY THIRD PARTY IS STRICTLY
PROHIBITED WITHOUT THE EXPRESS
ADVANCED WRITTEN PERMISSION FROM AN
AUTHORIZED REPRESENTATIVE OF SCELZI
ENTERPRISES, INC. USERS OF THIS
INFORMATION CONTAINED HEREIN SHALL
TAKE APPROPRIATE MEASURES TO ENSURE
THIS INFORMATION REMAINS CONFIDENTIAL

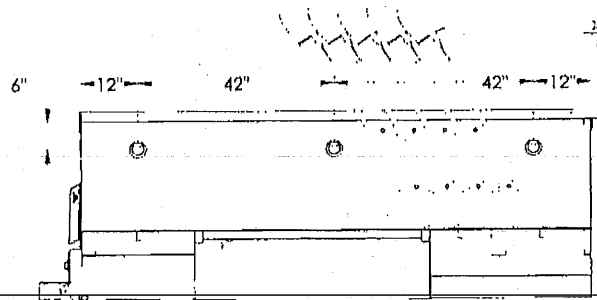
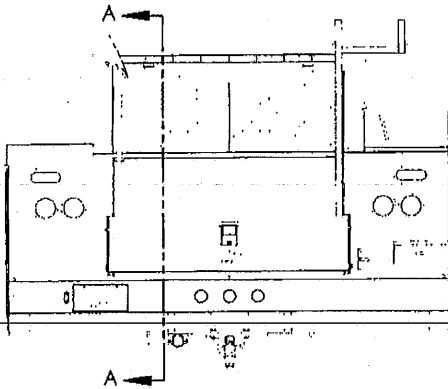
DRAWN BY: CJB
DATE: 2/2/2010
SCALE: 1/2B
LAYOUT: 3 OF 5
SHEET SIZE: A
DEALER

SCELZI ENTERPRISES, INC.
2772 S. CHERRY AVE., FRESNO, CA 93706

YEAR: 2011 CA: 60" PART 142
MAKE: FORD
MODEL: F-350 SUP CAB
DWG NAME: BOM LAYOUT
24090
WORK ORDER: 24090
CUSTOMER: TOWN OF ATHERTON
DESCRIPTION: 108" SERVICE BODY

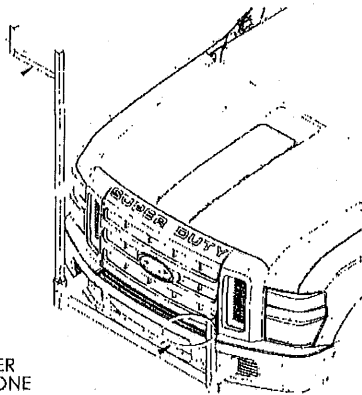
REV 1.3

24090 - 108" SERVICE BODY



SECTION A-A

REMOVABLE FRONT
BUMPER MOUNT PIPE
SADDLE TO MATCH
HEIGHT OF SADDLES
IN CARGO AREA



FRONT BUMPER
MOUNTED CONE
HOLDER WITH
11" RING

CUSTOMER SIGNATURE X _____

REV. ECO.
0 —

DESCRIPTION OF REVISION
DRAWING CREATED

DATE APPVD BY:
2/2/2010 KDO

THIS DRAWING OR DOCUMENT AND/OR
ELECTRONIC DATA OR COPY THEREOF, IS
THE PROPERTY OF SCELZI ENTERPRISES,
INC. & IS CONSIDERED PROPRIETARY &
CONFIDENTIAL. DISCLOSURE OF THIS
INFORMATION IN ANY FORM, IN WHOLE OR
IN PART, TO ANY THIRD PARTY IS STRICTLY
PROHIBITED WITHOUT THE EXPRESS
ADVANCED WRITTEN PERMISSION FROM AN
AUTHORIZED REPRESENTATIVE OF SCELZI
ENTERPRISES, INC. USERS OF THE
INFORMATION CONTAINED HEREIN SHALL
TAKE APPROPRIATE MEASURES TO ENSURE
THIS INFORMATION REMAINS CONFIDENTIAL.

SCELZI ENTERPRISES, INC.

2772 S. CHERRY AVE., FRESNO, CA 93706

DRAWN BY: CJB
DATE: 2/2/2010
SCALE: 1:28
LAYOUT: 4 OF 5
SHEET SIZE: A
DEALER:

YEAR: 2011 CA: 60"
MAKE: FORD
MODEL: F-350 SUP CAB
DWG NAME: BOM LAYOUT
24090

PART NO
WORK ORDER
24090

TOWNE FORD SALES

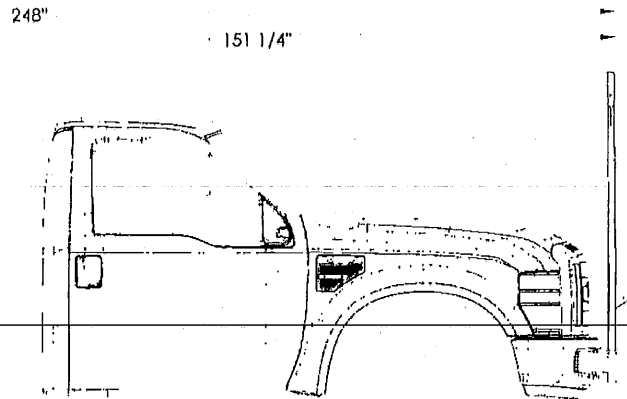
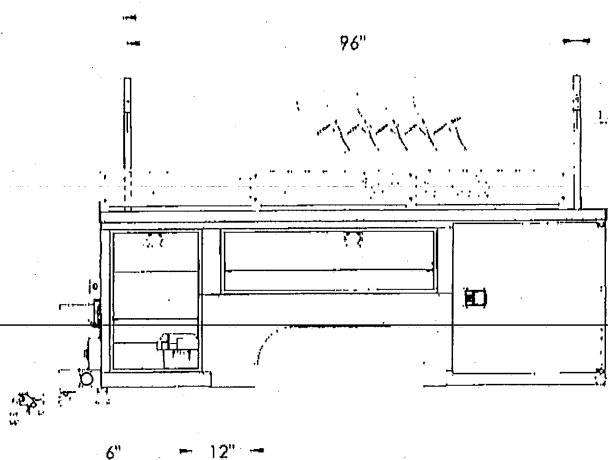
CUSTOMER
TOWN OF ATHERTON

DESCRIPTION:

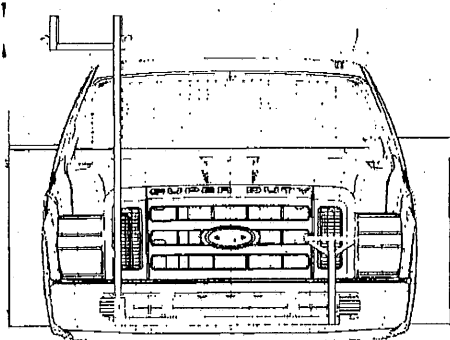
108" SERVICE BODY

REV 1.3

24090 - 108" SERVICE BODY



6" 12"



REG CAB SHOWN IS
FOR REFERENCE ONLY,
ACTUAL VEHICLE WILL
BE SUPER CAB (SPACING
SHOWN IS FOR SUPER CAB)

CUSTOMER SIGNATURE X _____

REV. ECO.
0 -

DESCRIPTION OF REVISION
DRAWING CREATED

DATE
2/2/2010

APPVD BY:
KDO

THIS DRAWING OR DOCUMENT AND/OR
ELECTRONIC DATA OR COPY HEREOF, IS
THE PROPERTY OF SCELZI ENTERPRISES,
INC. & IS CONSIDERED PROPRIETARY &
CONFIDENTIAL. DISCLOSURE OF THIS
INFORMATION IN ANY FORM, IN WHOLE OR
IN PART TO ANY THIRD PARTY IS STRICTLY
PROHIBITED WITHOUT THE EXPRESS
ADVANCED WRITTEN PERMISSION FROM AN
AUTHORIZED REPRESENTATIVE OF SCELZI
ENTERPRISES, INC. USERS OF THE
INFORMATION CONTAINED HEREIN SHALL
TAKE APPROPRIATE MEASURES TO ENSURE
THIS INFORMATION REMAINS CONFIDENTIAL

DRAWN BY: CJB
DATE: 2/2/2010
SCALE: 1:28
LAYOUT: 5 OF 5
SHEET SIZE: A
DEALT:

YEAR: 2011 CA: 60"
MAKE: FORD
MODEL: F-350 SUP CAB
DWG NAME: BCM LAYOUT
24090

PART 11/1
WORK ORDER
24090

TOWNE FORD SALES
DESIGN
CUSTOMER
TOWN OF ATHERTON
108" SERVICE BODY

SCELZI ENTERPRISES, INC.
2772 S. CHERRY AVE., FRESNO, CA 93706

REV 1.3



Town of Atherton

****SUPPLEMENTAL STAFF REPORT WRITTEN ON MARCH 17, 2010****

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JEROME D. GRUBER, CITY MANAGER

DATE: FOR THE REGULAR MEETING OF MARCH 17, 2010

SUBJECT: RECONSTITUTE THE AD-HOC SUBCOMMITTEE TOWN CENTER TASK FORCE AND APPROVE APPOINTMENTS, MEMBERSHIPS AND GUIDELINES OF TOWN CENTER TASK FORCE

RECOMMENDATION:

Reconstitute the Town Center Task Force Ad-Hoc Subcommittee and approve appointments, memberships and guidelines as recommended by the Ad-Hoc Subcommittee Town Center Task Force.

BACKGROUND:

A public notice was placed in the Almanac on March 3, and posted around Town, soliciting applications for members to the Town Center Task Force. An application deadline of Monday, March 15 was given. The City Clerks Department received the applications.

The Town Center Task Force Ad-Hoc Subcommittee held a special meeting on Tuesday, March 16, 2010 to discuss the guidelines and memberships of the Task Force and to review the 16 applications that were received.

The Town Center Task Force Ad-Hoc Subcommittee is recommending that Council approve a Charter for the Task Force as follows:

To research finance options, be involved in the request for proposal process, public outreach and fundraising for a new town center. The Town Center Task Force shall consist of two (2) Council Members (Carlson, Lewis) and five (5) appointed Atherton resident members. The term of office for all members shall expire on September 30, 2010. The Town Center Task Force shall have the ability to extend these terms if needed.

The following is a list of Atherton residents who submitted an application:

Phil Lively
John Shenk
Steve Dostart
William Grindley
Sandy Crittenden
Pat Haines
Rose Hau
Sandy Kaye
Melinda Tevis
John Rugeiro
Marie Zahn
Charles Ramorino
Jean Schaaf
Lou Paponis
Didi Fisher
Jon Buckheit

A list of the applicants was provided to Town Center Task Force Ad-Hoc Subcommittee members Elizabeth Lewis and Jerry Carlson. Each member was asked to rank their top seven choices. Attached are the ballots.

The top five candidates made by the Town Center Task Force Ad-Hoc Subcommittee members were as follows (in no particular order):

William Grindley
Didi Fisher
John Shenk
Steve Dostart
Rose Hau

Council Member Elizabeth Lewis and Council Member Jerry Carlson both stated their reasoning for choosing the five candidates above.

ALTERNATIVES:

1. Approve the top five recommendations made by the Town Center Task Force Ad-Hoc Subcommittee members.

2. Option to choose five of the top seven candidates.
3. Do not appoint any members to the Town Center Task Force Ad-Hoc Subcommittee.

Attachments: Ballots

Applications for the top seven candidates.



TOWN OF ATHERTON COMMITTEES/COMMISSIONS RECRUITMENT

Join us and Make a Difference

The Town of Atherton invites dedicated volunteers to submit an application for the following new committee:

Town Center Task Force:

The Town Center Task Force has been created to create a vision and explore financial opportunities for a new town community center.

Committee guidelines and memberships will be created, discussed and potentially approved at the March 17, 2010 City Council meeting.

Committee Member Qualifications:

- 1- Applicant should have a civic interest in working with Town to create a vision of a new town community center
- 2- Applicant should be willing to devote time and talent on this short-term (approximately 40 hours over 6 to 9 months) planning project
- 3- Experience working with architects, planners, developers and contractors
- 4- Ability to be objective and willingness to work towards the public best interests and not personal gain
- 5- Willing to assist in raising private funds from individuals, corporations and other financing means
- 6- Experience working with a team and the ability to compromise to solutions within the Committee guidelines

Applicants must be Atherton residents and registered voters of the Town of Atherton. **Applications must be received in the City Clerk's Office by Monday, March 15, 2010. The Town Center Task Force will review applications at a special meeting on Tuesday, March 16, 2010. Recommendations for appointments will be made to City Council on March 17, 2010.**

For more information or to obtain an application, contact Theresa DellaSanta, Deputy City Clerk, Town Administrative Offices, 91 Ashfield Road, Atherton, CA 94027, phone (650) 752-0529, e-mail: tdellasanta@ci.atherton.ca.us. Applications may be downloaded from the Town website, <http://www.ci.atherton.ca.us/armm.html>

Elizabeth Lewis

March 16, 2010 – Town Center Task Force Joint Meeting with the Blue Ribbon Task Force

Please choose your top 7 candidates in rank from 1 (highest) to 7 (lowest).

~~Phil Lively~~

1 John Shenk

2 Steve Dostart

3 William Grindley

~~Sandy Crittenden~~

6 Pat Haines

5 Rose Hau

~~Sandy Kaye~~

~~Melinda Tevis~~

~~John Rugeiro~~

~~Marie Zahn~~

7 Charles Ramorino

~~Jean Schaaf~~

~~Lou Paponis~~

4 Didi Fisher

~~Jon Buckheit~~

7 Bella Santa

- ① John Shenk
- ② Steve Dostart
- ③ William Grindley
- ④ Didi Fisher
- ⑤ Rose Hau
- 6 Pat Haines
- 7 Charles Ramorino

Jerry Carlson

March 16, 2010 – Town Center Task Force Joint Meeting with the Blue Ribbon Task Force

Please choose your top 7 candidates in rank from 1 (highest) to 7 (lowest).

 Phil Lively

 3 John Shenk

 4 Steve Dostart

 1 William Grindley

 Sandy Crittenden

 6 Pat Haines

 5 Rose Hau

 Sandy Kaye

 Melinda Tevis

John Ruggiero

 Marie Zahn

 7 Charles Ramorino

 Jean Schaaf

 Lou Paponis

 2 Didi Fisher

 Jon Buckheit

T. Della Santa

① William Grindley

② Didi Fisher

③ John Shenk

④ Steve Dostart

⑤ Rose Hau

6 - Pat Haines

John Ruggiero

7 - Charles Ramorino

TOWN OF ATHERTON

APPLICATION FOR APPOINTMENT TO COMMISSION OR COMMITTEE

Name: William Grindley

Address: [REDACTED]

Home Telephone: [REDACTED]

Date: March 10, 2010

Work Telephone: NA

Are you registered to vote in the Town of Atherton? Yes x No

I am applying for a position on the (check one):

☐ Planning Commission

☐ Park and Recreation Commission

☐ General Plan Committee

☐ Arts Committee

☒ Other: Town Center Task Force

TO THE APPLICANT:

This application form is intended to provide you with information about the body on which you would like to serve. The completed application will also help the interviewing Council Members learn more about you. In responding to the questions here, please feel free to use separate sheets of paper to expand on your answers if you wish to do so.

1. Why do you want to serve on the body for which you are submitting your application?
What particular skills, interest or experience would you bring to it if selected?

I had the pleasure of participating in the Blue Ribbon Task Force on the new town center. I believe I have some of the skills needed to help the Town Center Task Force complete its work in an effective manner

2. Have you attended any meeting of the body on which you wish to serve?

☒ Yes ☐ No

Joint meeting with BRTF which I am a member

3. Have you reviewed the minutes of the past meetings of the body on which you wish to serve?
(Minutes and past agendas of Town bodies are available for review at Town Hall during normal business hours.)

☒ Yes ☐ No

4. Have you spoken with any current or former members of the body on which you wish to serve about service on that body?

☒ Yes
Council Member Lewis
Council Member Carlson

☐ No

5. Do you believe that other time demands might interfere with your ability to devote the time necessary to serve if you are selected?

☐ Yes

☒ No

Understand that this is a project-oriented, short-term committee

6. Vacancies occur periodically on Town bodies. If you are not selected for the position for which you are applying, would you like to be considered for future vacancies occurring within one year of the date of this applications?

☒ No

☐ Yes, for (check as many as you wish):

☐ Planning Commission

☐ Park and Recreation Commission

☐ General Plan Committee

☐ Arts Committee

☐ Other: _____

FOR YOUR INFORMATION:

The two-member screening committee of the Council will interview all applicants, if feasible. The Committee makes its recommendation of the person or persons to fill the existing vacancies to the full Council. The recommendation is not binding, although it is usually followed. Council Members may nominate others for appointment.

Council Members and Planning Commissioners must annually file a "Statement of Economic Interests", which is a public document and is forwarded to the Fair Political Practices Commission. All members of Town Commissions/Committees must be registered voters and reside in Atherton.

Service on Town bodies is without compensation. Application for reimbursement by the Town for expenses incurred in Town service may be made on forms available from the City Clerk. There is no assurance that expenses will be reimbursed.

Length of service on Town bodies is controlled by ordinance or resolution. Persons appointed may be reappointed within the restrictions of the ordinance. The fact that an individual is appointed does not necessarily mean the individual will be re-appointed. Copies of appropriate ordinances, (and statutes, if applicable) are available from the City Clerk.

Thank you for your interest in serving the Town of Atherton.

TOWN OF ATHERTON

APPLICATION FOR APPOINTMENT TO COMMISSION OR COMMITTEE

Name: John Shenk

Address: [REDACTED]

Home Telephone: [REDACTED]

Date: March 10, 2010

Work Telephone: [REDACTED]

Are you registered to vote in the Town of Atherton? Yes x No

I am applying for a position on the (check one):

☐ Planning Commission

☐ Park and Recreation Commission

☐ General Plan Committee

☐ Arts Committee

☒ Other: Town Center Task Force

TO THE APPLICANT:

This application form is intended to provide you with information about the body on which you would like to serve. The completed application will also help the interviewing Council Members learn more about you. In responding to the questions here, please feel free to use separate sheets of paper to expand on your answers if you wish to do so.

1. Why do you want to serve on the body for which you are submitting your application?
What particular skills, interest or experience would you bring to it if selected?

Yes. I bring 30+ years experience in the commercial real estate profession, specializing in commercial real estate finance. Having lived in Atherton for better than 28 years I would bring a real appreciation for the unique character of the town and desire to keep it.

2. Have you attended any meeting of the body on which you wish to serve?

☐ Yes

☒ No

3. Have you reviewed the minutes of the past meetings of the body on which you wish to serve?
(Minutes and past agendas of Town bodies are available for review at Town Hall during normal business hours.)

☒ Yes

☐ No

4. Have you spoken with any current or former members of the body on which you wish to serve about service on that body?

☒ Yes ☐ No
Council Member Lewis
Council Member Carlson

5. Do you believe that other time demands might interfere with your ability to devote the time necessary to serve if you are selected?

☐ Yes ☒ No
Understand that this is a project-oriented,
Short-term committee

6. Vacancies occur periodically on Town bodies. If you are not selected for the position for which you are applying, would you like to be considered for future vacancies occurring within one year of the date of this applications?

☒ No ☐ Yes, for (check as many as you wish):

☐ Planning Commission
☐ Park and Recreation Commission
☐ General Plan Committee
☐ Arts Committee
☐ Other: _____

FOR YOUR INFORMATION:

The two-member screening committee of the Council will interview all applicants, if feasible. The Committee makes its recommendation of the person or persons to fill the existing vacancies to the full Council. The recommendation is not binding, although it is usually followed. Council Members may nominate others for appointment.

Council Members and Planning Commissioners must annually file a "Statement of Economic Interests", which is a public document and is forwarded to the Fair Political Practices Commission. All members of Town Commissions/Committees must be registered voters and reside in Atherton.

Service on Town bodies is without compensation. Application for reimbursement by the Town for expenses incurred in Town service may be made on forms available from the City Clerk. There is no assurance that expenses will be reimbursed.

Length of service on Town bodies is controlled by ordinance or resolution. Persons appointed may be reappointed within the restrictions of the ordinance. The fact that an individual is appointed does not necessarily mean the individual will be re-appointed. Copies of appropriate ordinances, (and statutes, if applicable) are available from the City Clerk.

Thank you for your interest in serving the Town of Atherton.

TOWN OF ATHERTON

APPLICATION FOR APPOINTMENT TO COMMISSION OR COMMITTEE

Name: Steve Dostart

Address: [REDACTED]

Home Telephone: [REDACTED] Date: March 10, 2010

Work Telephone: [REDACTED]

Are you registered to vote in the Town of Atherton? Yes x No

I am applying for a position on the (check one):

☐ Planning Commission	☐ Park and Recreation Commission
☐ General Plan Committee	☐ Arts Committee
☒ Other: Town Center Task Force	

TO THE APPLICANT:

This application form is intended to provide you with information about the body on which you would like to serve. The completed application will also help the interviewing Council Members learn more about you. In responding to the questions here, please feel free to use separate sheets of paper to expand on your answers if you wish to do so.

1. Why do you want to serve on the body for which you are submitting your application?
What particular skills, interest or experience would you bring to it if selected?

I care deeply about the environments in which we live and work. I believe that when they are well thought through in their design and execution, they enhance the lives and relationships that they touch. I have endeavored throughout my career, as a commercial developer, and my personal life, as a home owner, to create these kinds of special spaces. Examples of projects I have done in my commercial work can be seen at www.dostart.com.

2. Have you attended any meeting of the body on which you wish to serve?

☐ Yes ☒ No

3. Have you reviewed the minutes of the past meetings of the body on which you wish to serve? (Minutes and past agendas of Town bodies are available for review at Town Hall during normal business hours.)

☒ Yes ☐ No

4. Have you spoken with any current or former members of the body on which you wish to serve about service on that body?

☒ Yes

☐ No

Council Member Lewis
Council Member Carlson

5. Do you believe that other time demands might interfere with your ability to devote the time necessary to serve if you are selected?

☐ Yes

☒ No

Understand that this is a project-oriented,
Short-term committee

6. Vacancies occur periodically on Town bodies. If you are not selected for the position for which you are applying, would you like to be considered for future vacancies occurring within one year of the date of this applications?

☒ No

☐ Yes, for (check as many as you wish):

☐ Planning Commission

☐ Park and Recreation Commission

☐ General Plan Committee

☐ Arts Committee

☐ Other: _____

FOR YOUR INFORMATION:

The two-member screening committee of the Council will interview all applicants, if feasible. The Committee makes its recommendation of the person or persons to fill the existing vacancies to the full Council. The recommendation is not binding, although it is usually followed. Council Members may nominate others for appointment.

Council Members and Planning Commissioners must annually file a "Statement of Economic Interests", which is a public document and is forwarded to the Fair Political Practices Commission. All members of Town Commissions/Committees must be registered voters and reside in Atherton.

Service on Town bodies is without compensation. Application for reimbursement by the Town for expenses incurred in Town service may be made on forms available from the City Clerk. There is no assurance that expenses will be reimbursed.

Length of service on Town bodies is controlled by ordinance or resolution. Persons appointed may be reappointed within the restrictions of the ordinance. The fact that an individual is appointed does not necessarily mean the individual will be re-appointed. Copies of appropriate ordinances, (and statutes, if applicable) are available from the City Clerk.

Thank you for your interest in serving the Town of Atherton.

TOWN OF ATHERTON

APPLICATION FOR APPOINTMENT TO COMMISSION OR COMMITTEE

Name: Rose Hau

Address: [REDACTED]

Home Telephone: [REDACTED] Date: 3-15-10

Work Telephone: [REDACTED]

Are you registered to vote in the Town of Atherton? Yes X No

I am applying for a position on the (check one):

- () Planning Commission () Park and Recreation Commission
() General Plan Committee () Arts Committee
(X) Other: Town Center Task Force

TO THE APPLICANT:

This application form is intended to provide you with information about the body on which you would like to serve. The completed application will also help the interviewing Council Members learn more about you. In responding to the questions here, please feel free to use separate sheets of paper to expand on your answers if you wish to do so.

1. Why do you want to serve on the body for which you are submitting your application?
What particular skills, interest or experience would you bring to it if selected?

I have been involved in Town Administration for the past 14 years, serving on the General Plan Committee, Planning Commission, and presently the Audit Committee. As an Architect, the outcome of the Town Center is of particular interest to me. In my professional career, I have directed and managed architectural/construction projects with values of up to \$200 million, having direct responsibility from project design to construction completion, and budgeting. Because of my longtime interest in Town matters, combined with my professional background, I feel I can contribute to the process and success of the Town Center Task Force.

2. Have you attended any meeting of the body on which you wish to serve?

(X) Yes () No

3. Have you reviewed the minutes of the past meetings of the body on which you wish to serve? (Minutes and past agendas of Town bodies are available for review at Town Hall during normal business hours.)

(X) Yes () No

4. Have you spoken with any current or former members of the body on which you wish to serve about service on that body?

☒ Yes

☐ No

5. Do you believe that other time demands might interfere with your ability to devote the time necessary to serve if you are selected?

☐ Yes

☒ No

6. Vacancies occur periodically on Town bodies. If you are not selected for the position for which you are applying, would you like to be considered for future vacancies occurring within one year of the date of this applications?

☐ No

☐ Yes, for (check as many as you wish):

☐ Planning Commission

☐ Park and Recreation Commission

☐ General Plan Committee

☐ Arts Committee

☒ Other: _____

FOR YOUR INFORMATION:

The two-member screening committee of the Council will interview all applicants, if feasible. The Committee makes its recommendation of the person or persons to fill the existing vacancies to the full Council. The recommendation is not binding, although it is usually followed. Council Members may nominate others for appointment.

Council Members and Planning Commissioners must annually file a "Statement of Economic Interests", which is a public document and is forwarded to the Fair Political Practices Commission. All members of Town Commissions/Committees must be registered voters and reside in Atherton.

Service on Town bodies is without compensation. Application for reimbursement by the Town for expenses incurred in Town service may be made on forms available from the City Clerk. There is no assurance that expenses will be reimbursed.

Length of service on Town bodies is controlled by ordinance or resolution. Persons appointed may be reappointed within the restrictions of the ordinance. The fact that an individual is appointed does not necessarily mean the individual will be re-appointed. Copies of appropriate ordinances, (and statutes, if applicable) are available from the City Clerk.

Thank you for your interest in serving the Town of Atherton.

TOWN OF ATHERTON

APPLICATION FOR APPOINTMENT TO COMMISSION OR COMMITTEE

Name: Didi Fisher

Address: [REDACTED]

Home Telephone: [REDACTED] Date: March 15, 2010

Work Telephone: [REDACTED]

Are you registered to vote in the Town of Atherton? Yes _x_ No

I am applying for a position on the (check one):

☐ Planning Commission	☐ Park and Recreation Commission
☐ General Plan Committee	☐ Arts Committee
☒ Other: <u>Town Center Task Force</u>	

TO THE APPLICANT:

This application form is intended to provide you with information about the body on which you would like to serve. The completed application will also help the interviewing Council Members learn more about you. In responding to the questions here, please feel free to use separate sheets of paper to expand on your answers if you wish to do so.

1. Why do you want to serve on the body for which you are submitting your application?
What particular skills, interest or experience would you bring to it if selected?

I have been a council member, long-term resident of the Town, and am interested in helping with private fund-raising efforts to finance the new town center.

2. Have you attended any meeting of the body on which you wish to serve?

☐ Yes ☒ No

3. Have you reviewed the minutes of the past meetings of the body on which you wish to serve?
(Minutes and past agendas of Town bodies are available for review at Town Hall during normal business hours.)

☒ Yes ☐ No

4. Have you spoken with any current or former members of the body on which you wish to serve about service on that body?

☐ Yes ☐ No

Council Member Elizabeth Lewis

5. Do you believe that other time demands might interfere with your ability to devote the time necessary to serve if you are selected?

☐ Yes ☒ No

6. Vacancies occur periodically on Town bodies. If you are not selected for the position for which you are applying, would you like to be considered for future vacancies occurring within one year of the date of this applications?

☒ No ☐ Yes, for (check as many as you wish):

☐ Planning Commission

☐ Park and Recreation Commission

☐ General Plan Committee

☐ Arts Committee

☐ Other: _____

FOR YOUR INFORMATION:

The two-member screening committee of the Council will interview all applicants, if feasible. The Committee makes its recommendation of the person or persons to fill the existing vacancies to the full Council. The recommendation is not binding, although it is usually followed. Council Members may nominate others for appointment.

Council Members and Planning Commissioners must annually file a "Statement of Economic Interests", which is a public document and is forwarded to the Fair Political Practices Commission. All members of Town Commissions/Committees must be registered voters and reside in Atherton.

Service on Town bodies is without compensation. Application for reimbursement by the Town for expenses incurred in Town service may be made on forms available from the City Clerk. There is no assurance that expenses will be reimbursed.

Length of service on Town bodies is controlled by ordinance or resolution. Persons appointed may be reappointed within the restrictions of the ordinance. The fact that an individual is appointed does not necessarily mean the individual will be re-appointed. Copies of appropriate ordinances, (and statutes, if applicable) are available from the City Clerk.

Thank you for your interest in serving the Town of Atherton.

TOWN OF ATHERTON

APPLICATION FOR APPOINTMENT TO COMMISSION OR COMMITTEE

Name: Patricia M. Haines

Address: [REDACTED]

Home Telephone: [REDACTED] Date: 3/15/10

Work Telephone: same

Are you registered to vote in the Town of Atherton? Yes X No

I am applying for a position on the (check one):

☐ Planning Commission	☐ Park and Recreation Commission
☐ General Plan Committee	☐ Arts Committee
☒ Other: <u>Town Center Task Force</u>	

TO THE APPLICANT:

This application form is intended to provide you with information about the body on which you would like to serve. The completed application will also help the interviewing Council Members learn more about you. In responding to the questions here, please feel free to use separate sheets of paper to expand on your answers if you wish to do so.

1. Why do you want to serve on the body for which you are submitting your application?
What particular skills, interest or experience would you bring to it if selected?

I would like to continue membership of the Town Center Task Force representing the CARA neighborhood. I have been an active member in the former BRTF since its inception and feel the continued service would best serve the needs of this neighborhood. It is pivotal that the neighborhood feels contributory rather than victimized, as happened with the arbitrary placement of modular units.

I have been retired since June, 2009 and can devote the time required to augment this Project, as needed. I have > 30 years professional experience in the fields of Education, High Tech Operations, and Finance. I have a BS in Education, as well as an MBA.

2. Have you attended any meeting of the body on which you wish to serve?

☒ Yes ☐ No

3. Have you reviewed the minutes of the past meetings of the body on which you wish to serve? (Minutes and past agendas of Town bodies are available for review at Town Hall during normal business hours.)

☒ Yes ☐ No

Patricia M. Haines application (cont.)

4. Have you spoken with any current or former members of the body on which you wish to serve about service on that body?

(X) Yes () No

5. Do you believe that other time demands might interfere with your ability to devote the time necessary to serve if you are selected?

() Yes (X) No

6. Vacancies occur periodically on Town bodies. If you are not selected for the position for which you are applying, would you like to be considered for future vacancies occurring within one year of the date of this applications?

(X) No () Yes, for (check as many as you wish):

- () Planning Commission
- () Park and Recreation Commission
- () General Plan Committee
- () Arts Committee
- () Other: _____

FOR YOUR INFORMATION:

The two-member screening committee of the Council will interview all applicants, if feasible. The Committee makes its recommendation of the person or persons to fill the existing vacancies to the full Council. The recommendation is not binding, although it is usually followed. Council Members may nominate others for appointment.

Council Members and Planning Commissioners must annually file a "Statement of Economic Interests", which is a public document and is forwarded to the Fair Political Practices Commission. All members of Town Commissions/Committees must be registered voters and reside in Atherton.

Service on Town bodies is without compensation. Application for reimbursement by the Town for expenses incurred in Town service may be made on forms available from the City Clerk. There is no assurance that expenses will be reimbursed.

Length of service on Town bodies is controlled by ordinance or resolution. Persons appointed may be reappointed within the restrictions of the ordinance. The fact that an individual is appointed does not necessarily mean the individual will be re-appointed. Copies of appropriate ordinances, (and statutes, if applicable) are available from the City Clerk.

Thank you for your interest in serving the Town of Atherton.

TOWN OF ATHERTON**APPLICATION FOR APPOINTMENT TO COMMISSION OR COMMITTEE**Name: Charles RamorinoAddress: [REDACTED]Home Telephone: [REDACTED]

Date: 3/15/10

Work Telephone: [REDACTED]Are you registered to vote in the Town of Atherton? Yes X No

I am applying for a position on the (check one):

☐ Planning Commission☐ Park and Recreation Commission☐ General Plan Committee☐ Arts Committee☒ Other: Town Center Task Force **TO THE APPLICANT:**

This application form is intended to provide you with information about the body on which you would like to serve. The completed application will also help the interviewing Council Members learn more about you. In responding to the questions here, please feel free to use separate sheets of paper to expand on your answers if you wish to do so.

1. Why do you want to serve on the body for which you are submitting your application?
What particular skills, interest or experience would you bring to it if selected?

I served on the General Plan Comm. at one time. I have some experience in Commercial Development. I built some commercial buildings and now occupy them. I am a trustee of a local hospital, and have just been involved with retrofit, building expansion, and loan financing matters, including chairing a capital campaign to raise funds.

2. Have you attended any meeting of the body on which you wish to serve?

☐ Yes☒ No

3. Have you reviewed the minutes of the past meetings of the body on which you wish to serve?
(Minutes and past agendas of Town bodies are available for review at Town Hall during normal business hours.)

(X) Yes, Briefly

() No



Town of Atherton

ITEM 28

DATE: CITY COUNCIL MEETING OF MARCH 17, 2010

TO: CITY COUNCIL

FROM: JERRY GRUBER, CITY MANAGER
LISA COSTA SANDERS, DEPUTY TOWN PLANNER

SUBJECT: APPROVAL OF REFUSE AND RECYCLING COLLECTION RATES

RECOMMENDATION

Staff and the Environmental Programs Committee recommend the City Council hold a public hearing, determine whether a majority protest has been received, and if there is no majority protest, introduce Ordinance 584 increasing refuse and recycling rates effective March 19, 2010. A two-thirds vote is required.

BACKGROUND

The City Council, at its January 20, 2010 meeting reviewed various rate increase options. The City Council provided direction to staff to provide customers with a notice of a proposed 16.9% increase to the garbage/recycling rates and a \$20 backyard surcharge. Republic (formerly Allied) mailed the notice to all customers on February 1, 2010.

Pursuant to the Uniform Franchise Agreement for Collection Services ("Collection Agreement") with Republic Services, the Atherton City Council is required to adopt collection rates to cover the cost of waste management services provided by Allied to Atherton residents. Each year, the firm of HF&H completes a review of Republic's rate application and prepares recommendations to each jurisdiction for the collection rates. The Collection Agreement establishes the process for setting collection rates based on expenses and revenues projected, which is in turn based on actual results, trends and management plans. Republic is eligible for cost plus 9% profit applied to reasonable and necessary operating expenses, net of certain "pass-through" expenses (i.g. disposal expenses and franchise fees).

Atherton has not increased its refuse and recycling rates since 2002, when rates were increased by 14%. That rate increase was necessary to cover the increased costs associated with the roll-out of unlimited "green waste" service. Atherton's collection revenue subsequently exceeded Republic's expenses for a number of years, which resulted in accumulation of a positive balancing account with Republic. However, in calendar year 2009, collection revenue was less than expenses. At the close of 2009, the balancing account had been expended in full to cover current expenses. HF&H estimates that a rate increase is necessary during 2010 due to increased operating expenses and increased disposal costs. These new costs include bond expenses for improvements to the Recycling Facility at 333 Shoreway in

San Carlos currently operated by Republic under contract with the South Bay Waste Management Authority.

As the Council is aware, the Collection Agreement with Republic expires on December 31, 2010. The Town of Atherton has until December 31, 2011 (i.e. 12 months from the date Republic stops providing service) to "true-up" with Republic on any revenue due to them. If there has been an overpayment, Republic has until that time to return any excess revenue collected to the Town of Atherton.

The City Council has approved a new Collection Agreement with Recology that will commence on January 1, 2011. The new Collection Agreement includes standard container sizes and establishes a different rate setting process.

ANALYSIS

Rate Setting: The City Council establishes the collection rates that are then billed to residential and commercial customers by the franchised service provider. All costs of service are paid by the rate payers. The City Council requested staff advertise a rate increase of 16.9% and include a new \$20 per month surcharge for backyard service. The backyard surcharge would not apply to households where physical disabilities prevent the customer from making use of curbside service. The rate increase equates to a \$4 per month increase for customers with 32-gallon containers (majority of Atherton customers).

Notice and Hearing Procedure. The Town has chosen to follow the procedures for the adoption of "property related fees and charges" under Proposition 218. Proposition 218 requires written notice by mail of the proposed rate increase at least 45 days before the public hearing either to the record owner of each parcel or in a mailing to the address to which refuse bills are normally sent. (Cal. Const. art XIID Section 6; Gov. Code §§ 53750(i)(j), 53755). The notice must contain: (1) the amount of the proposed fee; (2) the basis on which the proposed fee was calculated; (3) the reason for the fee; and (4) the date, time and location of a public hearing on the proposed fee. For variable fees such as refuse fees, the notice must contain a proposed fee schedule. The notice must also advise customers that they may file a written protest of the fees. The required notice was mailed to all customers on February 1, 2010. The Town has also published and posted notice of the public hearing.

At the public hearing, the Town will consider all protests of the rate increase; if written protests are presented for a majority of the parcels, the rate increase will not take effect. If there is no majority protest, then the rate increases can be imposed by an ordinance approved by 2/3 vote of the members of the City Council under Health & Safety Code § 5471.

As of the preparation of this staff report, the Town has received 3 notices protesting the rate increase. As noted above, additional protests may be received up to and at the City Council hearing.

ALTERNATIVES

The City Council has the option to approve a 16.9% rate increase with backyards surcharge at noticed to the rate payers. The Council also has the option to approve a lower rate increase at this meeting. If a lower rate increase is approved at this meeting, it may result in the need for a higher

rate increase next year if refuse and recycling costs are to be paid solely out of fees. If the Council wishes to approve a higher rate increase, staff would need to re-notice the hearing (with a new 45 day notice period).

FISCAL IMPACT

Refuse and recycling fees are paid by the residential and commercial customers. No impact to the Town's General Fund.

RECOMMENDATION

Staff and the Environmental Programs Committee recommend the City Council introduce Ordinance No.584.

Attachments:

1. Ordinance No 584
2. Notice of Public Hearing
3. Written protests

ORDINANCE 584

AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON INCREASING THE RATES FOR SOLID WASTE/RECYCLING COLLECTION SERVICES

WHEREAS, the Town of Atherton ("Town") has provided a franchise to Republic Services (formerly Allied) ("Franchisee") allowing for and governing the collection of refuse, recyclable material and plant material within the Town of Atherton's limits and the Town has approved rates, most recently by Resolution 02-05, that Franchisee may charge for these solid waste/recycling collection services; and

WHEREAS, pursuant to the Uniform Franchise Agreement for Collection Services ("Solid Waste/Recycling Collection Agreement") between Franchisee and the Town, the Town is required to adopt solid waste/recycling collection rates that produce revenues sufficient to provide payment to Franchisee in accordance with the amount due under the Solid Waste/Recycling Collection Agreement; and

WHEREAS, after an audit by Hilton, Frankophf and Hobson, the Town has determined that Franchisee is entitled to an increase in the solid waste/recycling collection rates; and

WHEREAS, at the City Council meeting of January 20, 2010, staff presented the City Council with various options for increasing the solid waste/recycling collection rates; and

WHEREAS, after considering the various solid waste/recycling collection rate increase options, the City Council directed staff to take the necessary steps under Proposition 218, including the mailing of notices regarding a public hearing to consider a proposed ordinance to adopt a 16.9% increase in the solid waste/recycling collection rates and a \$20 backyard surcharge fee; and

WHEREAS, the Town has identified the parcels upon which the increased solid waste/recycling collection rates will be imposed, calculated the amount of the rates, and caused Franchisee to mail notice to the refuse service billing address for all parcels in the Town of Atherton, wherein the Town provided written notice of the proposed rates, the basis for the calculation, the reason for the rates and the date, time and location of a public hearing not less than 45 days after sending the notice; and

WHEREAS, the Town further provided published and posted notice of the foregoing; and

WHEREAS, the City Council held the duly noticed public hearing and considered any and all protests; and

WHEREAS, written protests against the solid waste/recycling collection rates were not presented by a majority of owners or tenants of the identified parcels;

NOW, THEREFORE, THE CITY COUNCIL OF THE TOWN OF ATHERTON DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. In accordance with Article XIII D, Section 6(b), of the California Constitution, the City Council makes the following findings:

A. The revenues derived from the increased solid waste/recycling collection rates do not exceed the funds required to provide solid waste/recycling collection services because the rates are calculated to allow Franchisee to recover its costs of providing the service plus a 9% profit applied to reasonable and necessary operating expenses, all pursuant to the Solid Waste/Recycling Collection Agreement. This finding is based upon the information contained in the mailed notice and the staff reports from the January 20, 2010 and March 17, 2010 City Council meetings.

B. The revenues derived from the increased solid waste/recycling collection rates will not be used for any purpose other than solid waste/recycling collection services pursuant to the Solid Waste/Recycling Collection Agreement.

C. The increased solid waste/recycling collection rates do not exceed the proportional cost of the service to each parcel.

D. The solid waste/recycling collection services are presently available.

SECTION 2. Beginning on [REDACTED] the solid waste/recycling collection rates will increase by 16.9% with a \$20 per month backyard surcharge, as applicable. The rate schedule includes a fixed rate for each gallon of refuse, with no additional charge for recycled materials or green waste collection.

Solid Waste/Recycling Collection Rate Schedule

<u>Quantity</u>	<u>Volume</u>	<u>Solid Waste/Recycling Collection Rates</u>
1	20 gallon	\$17.31
1	32 gallon	\$27.69
1	45 gallon	\$34.61
2	32 gallon	\$55.38

The new \$20 per month surcharge covers the cost of backyard service and will not be charged to households where disability prevents the use of the curbside service.

SECTION 3. 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 in 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 4. This Ordinance was approved by a 2/3 vote of the City Council pursuant to Health & Safety Code section 5471.

SECTION 5. This Ordinance shall take effect thirty (30) days after adoption as provided by Government Code section 36937.

SECTION 6. This Ordinance shall be published once fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Government Code section 36933.

* * * * *

Introduced at a regular meeting of the City Council held on March 17, 2010, and passed and adopted by the City Council of the Town of Atherton on the 17th day of March, 2010 by the following roll call vote, to wit:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

Kathy McKeithen, Mayor
Town of Atherton

ATTEST:

Theresa DellaSanta
Deputy City Clerk

APPROVED AS TO FORM:

Wynne Furth
City Attorney

Ordinance ____
Adopted _____, 2010
Page 3 of 3

John M. Carter
[REDACTED]
[REDACTED]

February 5, 2010

Allied Waste
225 Shoreway Road
San Carlos, CA 94070

Gentlemen,

In your notice for proposed new rates, please consider the following in regard to the \$20 per month coverage to cover the cost of my backyard service. My wife and I are the only residents at the above address. We are not considered legally disabled but I am 91 years old and my wife is 90 years old. It would not be safe for us to try to move the 32 gallon container from the position it has occupied for the past 50 years.

Please consider the above and do not add the \$20 per month additional fee.

Thank you,

John Carter
John M. Carter
Owner

THE PROPOSED CHANGE IN GARBAGE PICK UP RATE
STRUCTURE WILL DIMINISH TOWN SECURITY AND AESTHETICS

We object to the proposed monthly charge to homeowners whose garbage cans are not placed at the street. Many residents leave their homes unattended during brief periods that include garbage pick-up days. Cans brought out early or left after the pick-up day would be a clear signal to would-be thieves that the house is temporarily vacant. Those who do not subscribe to the \$20 service will place themselves at risk and contribute to an unsightly appearance of our streets. If a reduction in service is inevitable it should apply to all residences and all should be required to have aesthetically suitable garbage can enclosures at the street. Preferably the pick up service should remain unchanged and the fees increased as needed for all residences.

[REDACTED]
[REDACTED]
[REDACTED]

Edwin F. Ullman
Edwin F. Ullman, trustee

2/6/10
date

Elizabeth F. Ullman
Elizabeth F. Ullman, trustee

2/6/10
date

02-09-10A11:40 RCVD

To: City Council, Town of Atherton
94 Ashtfield Road
Atherton, CA, 94027

From: Charles De Maria

[REDACTED]
Atherton, CA, 94027
[REDACTED]

Dear Sirs:

I oppose the proposed rate
increase by Allied Waste company.
In these difficult times they should
tighten their belts like everyone else.

Sincerely

Charles De Maria



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: THE HONORABLE MAYOR AND CITY COUNCIL
CITY MANAGER, JERRY GRUBER**

FROM: NEAL J. MARTIN, TOWN PLANNER

DATE: FOR THE MEETING OF MARCH 17, 2010

**SUBJECT: PROPOSED CHANGES TO DRAFT ATHERTON HOUSING ELEMENT
2007-14 UPDATE IN RESPONSE TO CALIFORNIA DEPARTMENT OF
HOUSING AND COMMUNITY DEVELOPMENT (HCD) COMMENTS**

RECOMMENDATION:

Review the “*Draft No. 2 - Proposed Changes to Atherton 2007-14 Housing Element in Response to HCD Review Letter 12/24/09*”. Provide direction to Staff to make any additional changes and direct Staff to forward the “*Draft Proposed Changes*” to the California Department of Housing and Community Development (HCD) for review and comment.

BACKGROUND and DISCUSSION:

Pursuant to State law, HCD provided comments on the draft Atherton Housing Element 2007-14 Update by letter dated December 24, 2009. There were 15 comments summarized below.

- Describe the methodology for calculating multifamily residential capacity of sites at the private schools.
- Describe the fees applicable to multifamily developments (at private schools) and analyze the constraints posed.
- Expand the discussion on constraints on persons with disabilities.
- Expand the analysis of opportunities for energy conservation to include a discussion of how the Town promotes such opportunities in residential land use planning or for existing development.
- Include a table that shows the estimated number of new, rehabilitated and conserved units by income category.
- Possibly add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing programs.
- Describe when the Town will work with private schools to facilitate multifamily

development on their campuses.

- Include a program to initiate contact with agencies and developers and commit to specific steps the Town will take to facilitate housing development for low and moderate income households.
- Expand the discussion about how the Town specifically assists in the development of a variety of housing types to meet the housing needs of extremely low income households.
- Describe how the Town will encourage the development of second dwelling units.
- Possibly revise or add programs to address and remove governmental constraints to housing development.
- Describe how the Town will disseminate fair housing information.
- Describe how public input was solicited during the Update process.
- Commit to transmitting a copy of the adopted Housing Element to the water and sewer providers.
- Acknowledge that recent statutory changes require amendment of the safety and conservation elements of the general plan regarding flood hazard information.

One of HCD's comments in Section C.1. is that State law requires local programs designed to address a shortfall of adequate sites for lower income households to permit owner-occupied and rental multifamily housing "by right". "By right" means local government review must not require a conditional use permit (CUP), planned unit development or other discretionary review or approval. Atherton proposes to use planned multifamily student and faculty housing at Menlo School and Menlo College to satisfy a substantial portion of its lower income housing requirement. Currently zoning regulations require a conditional use permit for multifamily uses on the school campuses. In order to comply with State law Staff has included three options in the *Draft Proposed Changes* to address this requirement. These are summarized below:

Option 1: Permitting residential uses by right in the PFS Zoning District (i.e. no Conditional Use Permit required)

Option 2: Changing the CUP requirement to a Planning Commission review process which focuses on location, size, proximity to heritage trees and environmental aspects of the project but shall not result in the denial of the use. The Planning Commission review would occur at a noticed public hearing.

Option 3: Changing the CUP process for proposed lower income multifamily housing in the PFS Zoning District to require that the CUP be approved unless the Planning Commission finds that such approval would be contrary to the purpose and intent of the General Plan. This is similar to the Atherton Heritage Tree Removal request that requires the Planning Commission to approve the request unless it finds that the tree removal would be contrary to the purpose and intent of the General Plan. As noted in the *Draft Proposed Changes*, this option would continue to require a CUP and therefore would not be in compliance with State law.

The Housing Element Subcommittee recommends that the City Council select Option 2. The final *Draft Proposed Changes* will be modified to state only the option selected by the City Council.

Planning Staff has prepared responses to the HCD comments designed to be inserted into the draft Update. These responses were reviewed by the Housing Element Subcommittee (composed of Planning Commissioners Philip Lively and Paul Quinlan) at two public meetings held on February 12, 2010 and March 3, 2010. The Housing Element Subcommittee has recommended the City Council direct Staff to forward the “*Draft Proposed Changes*” to the California Department of Housing and Community Development (HCD) for review and comment.

The “*Draft Proposed Changes*” have been reviewed by the City Attorney’s office and their comments have been incorporated.

FINANCIAL IMPACT:

There are sufficient funds in the 2009-10 Planning Services budget to cover the costs of preparing the first round of responses. Additional responses beyond the first round will most likely require a budget amendment.

FORMAL MOTION:

I move that the City Council select Option ____ under response A.1. and direct Staff to forward the “*Draft Proposed Changes*” to the California Department of Housing and Community Development (HCD) for review and comment.

Prepared By:

Approved by:

/s/ Neal J. Martin

/s/ Jerome D. Gruber

Neal J. Martin, Town Planner

Jerome D. Gruber, City Manager

Attachments:

1. *Draft No. 2 - Proposed Changes to Atherton 2007-14 Housing Element in Response to HCD Review Letter 12/24/09*, dated March 5, 2010
2. HCD Letter, *RE: Review of the Town of Atherton’s Draft Housing Element*, December 24, 2009
3. *Housing Element Update 2007 – 2014*, City Council Draft, October 21, 2009
4. Memorandum, *Re: Comments to Revised Housing Element*, Benjamin D. Winig, Assistant City Attorney, February 16, 2010
5. *Meeting Minutes*, Atherton Housing Element Subcommittee, February 12, 2010 and March 3, 2010



Town of Atherton

City Council Draft

**Housing Element Update
2007 – 2014**

October 21, 2009

**Prepared by:
Neal Martin & Associates
751 Laurel Street, Suite 622
San Carlos, CA 94070**

**In Consultation with:
Barbara E. Kautz, Esq.
Goldfarb & Lipman LLP
1300 Clay Street, Ninth Floor
Oakland, CA 94612**

TABLE OF CONTENTS

3.100	INTRODUCTION	1
	Purpose	1
	Definition of Income Categories	1
	Relation to Other General Plan Elements	3
3.200	ASSESSMENT OF HOUSING NEEDS	4
	Population	4
	Household Characteristics	6
	Overpaying and Overcrowding	8
	Housing Characteristics	11
	Special Housing Needs Groups	14
	Affordable Housing Preservation	22
	Employment Characteristics	22
	Jobs Housing Balance	25
	Energy Conservation	25
3.300	PROJECTED HOUSING NEEDS	27
	Population Projections	27
	Employment Projections	27
	Housing Needs Allocation	27
	Carryover from 1999 – 2006	28
3.400	HOUSING RESOURCES	30
	Inventory of Sites Suitable for Residential Development	30
	Environmental Constraints Analysis	40
	Zoning Appropriate to Accommodate Lower Income Housing Development	42
	Moderate and Above Moderate Income Housing	44
	Analysis of Zoning that Encourages a Variety of Housing Types	45
	Identification of Adequate Sites for Emergency Shelters	46
	Identification of Adequate Sites for Transitional and Supportive Housing	46
	Identification of Adequate Sites for Farm Worker Housing	46
	Other Housing Resources	46
3.500	CONSTRAINTS ON HOUSING	48
	Governmental Constraints Analysis	48
	Non-governmental Constraints Analysis	54
3.600	REVIEW AND EVALUATION OF THE 1999-2006 HOUSING ELEMENT .	55
	Progress in Implementation	55
	Appropriateness of Goals, Objectives and Policies	56
3.700	HOUSING GOALS, QUANTIFIED OBJECTIVES AND POLICES	62
3.800	HOUSING PROGRAMS	65

New Construction, Conservation and Rehabilitation	65
Special Housing Needs	67
Consistency with State Requirements	70
Other Housing Programs	71

3.900	EFFORTS TO ACHIEVE PUBLIC PARTICIPATION	72

3.000 HOUSING ELEMENT (2007-14 UPDATE)

3.100 INTRODUCTION

3.110 Purpose

The State of California Government Code¹ requires that all cities within the San Francisco Bay Area update the Housing Element of their General Plan by June 30, 2009. The purpose of this document is to meet this requirement by evaluating the existing and projected housing needs of all economic segments of Atherton, evaluating existing policies and programs aimed at the preservation, improvement and development of housing and developing new ones.

The contents of this update includes an analysis of housing needs, statements of goals and policies, a schedule of programs and actions and an estimate of the number of housing units the Town expects to be developed, improved and maintained in the local housing stock. Programs and policies included in the existing Housing Element were evaluated and modified where necessary to reflect changing market conditions and policy priorities.

Atherton is a residential community of approximately 7,200 residents with a land area of approximately six square miles. The Town is bordered by Menlo Park, Woodside, Redwood City and unincorporated San Mateo County. Founded in the early 1920's, Atherton is characterized by large lot residential land use, where minimum lot size is 1/3 to 1 acre throughout the Town. There is no commercial or industrial land use in Atherton. There are eleven schools in Town, three of which are private.

3.120 Definition of Income Categories

Since the determination of housing need is often discussed in terms of income categories, it is important to define the categories used in this update at the outset. The California Department of Housing and Community Development (HCD) has established household income categories based on a proportion of the area's median family income as summarized below:

TABLE HI-1: HCD INCOME CATEGORIES DEFINED

Income Category	Approximate Percent of Median Income
Above Moderate	Above 120% of median
Moderate	80% to 120% of median
Low	50% to 80% of median
Very Low	30% to 50% of median
Extremely Low	Below 30% of median

The income limits established by HCD for San Mateo County in 2008 are presented in

¹ § 65588(e)(2)

Table HI-2.

Housing affordability limits are derived using the Standard Definition of Affordability level. Thirty percent of gross household income is the standard affordability level. A household that spends greater than 30% of its gross income on housing is described as overpaying for housing. The maximum affordable monthly housing costs for each income category are calculated from the income limits established by HCD for San Mateo County in 2008 and are presented in Table HI-3.

TABLE HI-2: ANNUAL INCOME LIMITS BY HOUSEHOLD SIZE - 2008(US\$)

Income Category	Number of Persons in Family							
	1	2	3	4	5	6	7	8
Extremely Low	23,750	27,150	30,550	33,950	36,650	39,400	42,100	44,800
Very Low	39,600	45,250	50,900	56,550	61,050	65,600	70,100	74,650
Low	63,350	72,400	81,450	90,500	97,700	104,950	112,200	119,450
Median	66,500	76,000	85,500	95,000	102,600	110,200	117,800	125,400
Moderate	79,800	91,200	102,600	114,000	123,100	132,200	141,400	150,500

Source: HCD figures for San Mateo County, 2008

TABLE HI-3: MONTHLY MAXIMUM AFFORDABLE HOUSING COST BY HOUSEHOLD SIZE - 2008 (US\$)

Income Category	Number of Persons in Family							
	1	2	3	4	5	6	7	8
Extremely Low	594	679	764	849	916	985	1,053	1,120
Very Low	990	1,131	1,273	1,414	1,526	1,640	1,753	1,866
Low	1,584	1,810	2,036	2,263	2,443	2,624	2,805	2,986
Median	1,663	1,900	2,138	2,375	2,565	2,755	2,945	3,135
Moderate	1,995	2,280	2,565	2,850	3,078	3,305	3,535	3,763

3.130 Relation to Other Elements (including General Plan Consistency Analysis)

The Housing Element is closely related to the Land Use, Open Space and Circulation Elements. In the Housing Element, residential land use is translated into terms of household units to be accommodated in the future. Lands designated for residential use are identified in the Land Use Element; the location, site area and terrain suitable for housing is related to both open space and land use; and the capability of serving residential neighborhoods by an efficient circulation system is discussed in the Circulation Element.

State law requires that all elements of the general plan be consistent with each other. The goals and policies of this Housing Element are consistent with the other elements of the Town's General Plan.

3.200 ASSESSMENT OF HOUSING NEEDS

3.210 Analysis of Population and Employment in Atherton

This section contains background information on the Town's population and employment characteristics, including historic population growth, age and income characteristics of the population and the condition of the housing stock. It also includes an analysis of population and employment trends

3.211 Historic Population Trends

At the time of incorporation, in 1923, the Town of Atherton had a population of 650 people.¹ Over the next three decades, the town expanded to 3,630 people. The most significant growth took place between 1950 and 1960 when the population more than doubled to 7,717 people. Population growth slowed dramatically in the following decade and reached a peak by 1970 of just over 8,000. The 1980 Census counted 7,797 people, a 3.5 percent decline from 1970. The population declined further in 1990 (8.1%) and increased slightly in 2000 (0.4%). In the period 1970-2000 Atherton's population actually decreased by 11 %.

TABLE HII-1: HISTORIC POPULATION TRENDS

Year	Population	Source
1923	650	Historic Publication, City of Atherton
1950	3,630	U.S. Census
1960	7,717	U.S. Census
1970	8,085	U.S. Census
1980	7,797	U.S. Census
1990	7,163	U.S. Census
2000	7,194	U.S. Census

The slight increase in population which took place in Atherton (0.4%) from 1990 to 2000 compares to a countywide increase of 8.9 percent and an overall increase in the Bay Area of 15.1 percent.

¹ Bush, Sarah and Genevieve Merrill, Atherton Lands 1979; printed privately.

TABLE HII-2: RECENT TRENDS IN LOCAL AND REGIONAL POPULATION

	Atherton 1990	Atherton 2000	San Mateo County 1990	San Mateo County 2000	Bay Area 1990	Bay Area 2000
Total Population	7,613	7,194	649,623	707,163	6,051,500	6,783,762

3.212 Age Characteristics

In 1970, the percentage breakdown of Atherton residents in various age groups closely corresponded to the County-wide percentages. Out of a total of 8,085 people, 32 percent were children under 18, 60 percent were between the ages of 18 and 64, and approximately 8 percent were seniors 65 and over.

The 1980 Census revealed an overall aging of the population. The percentage of young people under age 18 declined to 24 percent. The percent of people between the ages of 18 and 64 increased slightly to 63 percent, and the number of seniors increased to nearly 13 percent. County-wide trends were comparable.

TABLE HII-3: AGE CHARACTERISTICS

Age Group (Total Population)	Atherton 1990 Number of Persons ¹	Percent	Atherton 2000 Number of Persons ²	Percent	Atherton 2008 Number of Persons ³	Percent	San Mateo County 1990 Percent	San Mateo County 2000 Percent	San Mateo County 2008 Percent
Persons under 19	1,470	20.5	1,703	23.7	1,788	24.3	23.1	22.9	24
Persons Age 19-64	4,370	61.0	4,040	56.2	4,019	54.6	64.6	64.6	64
Persons Age 65+	1,323	18.5	1,451	20.1	1,553	21.1	12.3	12.5	13

The overall aging of Atherton population continued into the 1990's. The percentage of young people declined to about 20 percent. The percentage of people between the ages of 19 and 64 was about 61 percent of the total and seniors grew to over 18 percent. By 2008, the Town's younger population increased to over 24 percent. The senior population increased to over 21 percent and the group between 19 and 64 years decreased to 54 percent.

3.213 Ethnic and Racial Characteristics

From 1990 to 2000 the proportion of African American in Atherton remained essentially

¹ 1990 U.S. Census

² 2000 U.S. Census

³ Claritas Demographic Snapshot, 2008 from 21 Elements, adjusted for consistency with ABAG Projections.

unchanged. The percentage of Asians

TABLE HII-4: RACIAL CHARACTERISTICS

Racial Group (% of Total Population)	Atherton 1990 ¹	Atherton 2000 ²	San Mateo County 1990	San Mateo County 2000
White	90.9%	85.3%	71.9%	59.5%
African American	0.8	0.7	5.4	3.5
American Indian or Alaskan Native	0.2	0.2	0.5	0.5
Asian or Pacific Islander	7.3	10.2	16.8	21.3
Other	0.8	1.0	5.4	10.2
Two or more Races **		2.6		5.0

and Pacific Islanders have grown by 3% to 10.2% of the population. The racial mix in Atherton is not comparable to the County pattern, however, as shown in the table above. Additionally, in 2000 about 3% of the population stated they were of Hispanic or Latino heritage.

TABLE HII-5: HISPANIC OR LATINO

	Atherton 2000	San Mateo County 2000
Hispanic or Latino	2.8%	21.9%
Not Hispanic or Latino	97.2%	78.1%

3.214 Households

3.214a Household Population

People living in "Households" are differentiated from people living in "Group Quarters" by the Census Bureau and in California Housing Element law. A household includes all persons who occupy a housing unit; such as a house or an apartment, whether related or unrelated. Group quarters include all persons not living in households; such as rooming houses, group homes and school dormitories. The two group quarters facilities existing in Atherton are: Oakwood Home for the Retired Religious at Sacred Heart Schools and Menlo College on-campus residency for students and faculty. Many lower income residents of Atherton reside at Oakwood or Menlo College.

Household population data for 1980-2008 is included in the table below. Household population decreased between 1980 and 1990 following the general pattern of decreasing population during the same period. Household population increased slightly from 1990 to

¹ 1990 U.S. Census

² 2000 U.S. Census

2000, however group quarters population decreased, leaving the general population total essentially the same during that period.

TABLE HII-6: HOUSEHOLD CHARACTERISTICS

	1980	1990	2000¹	2008²
Population	7,796	7,163	7,194	7,360
Household Population	7,488	6,675	6,875	N/A
Group Quarters Pop.	308	488	319	N/A
No. of Households	2,496	2,403	2,413	2,452
Persons/Household	3.0	2.78	2.85	2.9

3.214b Number of Households

The number of households in Atherton remained relatively constant during the period 1980-2000. A 3.7 percent decline in the number of households occurred from 1980 to 1990 and an increase of less than 0.5 percent occurred from 1990 to 2000.

3.214c Average Household Size

The population of Atherton is fairly evenly dispersed throughout the community in a low density single family home development pattern. The two greatest concentrations of population are housed in the group quarters at Menlo College and at Sacred Heart Schools.

In 2000, the average household size for all residential units in Atherton was 2.85 persons, slightly higher than the County average of 2.78. For owner occupied units the average was slightly lower at 2.84 persons per unit, and for renter occupied units it was higher than the overall average at 2.94 persons per unit. The average household size measured in persons per household declined by 7 percent from 1980 to 1990 and increased 2.5 percent from 1990 to 2000.

3.214d Household Income

The numbers of households by income category and tenure are shown in the table below. In 2000, approximately 69% of Atherton households had above moderate incomes. Census data shows that there were no renter households in the extremely low, very low or above moderate income categories. Only 5% of households were renters in the low and moderate income categories. Approximately 26% of households were owners in the extremely low to moderate income categories.

¹ U.S. Census

² ABAG Projections 2007, CA Dept. of Finance E-5 from 21 Elements

TABLE HII-7: HOUSEHOLD INCOME BY TENURE¹

Income Category	Income Range	Rent	Own	Total
Extremely Low	Less than \$30,000	0	68	68
Very Low	\$30,000 to \$49,999	0	141	141
Low	\$50,000 to \$84,999	22	244	266
Moderate	\$85,000 to \$124,999	103	180	283
Above Moderate	\$125,000 or more	0	1,655	1,655
Total		125	2,288	2,413

3.214e Household Types**TABLE HII-8: HOUSEHOLD TYPE**

Category	Number	Percent
Family without Children	1,180	48.9
Family with Children	804	33.3
Single Person	308	12.8
Non-family Multi-person Household	121	5.0

3.214f Extremely Low Income Households

Table HII-7 shows that in 1999 there were 68 households in Atherton in the Extremely Low Income category. All of these households lived in owner occupied housing units. Given high housing costs in Atherton, this suggests that they were older residents who had owned their homes for a substantial period. In Atherton second dwelling units are the kind of housing that is generally available and suitable for extremely low income households. The existing zoning permits these housing types.

3.215 Overpaying and Overcrowding**3.215a Level of Payment Compared with Ability to Pay**

Overpayment is defined by HCD in terms of a percentage of the gross household income a household spends for housing. Thirty percent of gross household income is the standard affordability level. Severe overpaying occurs when households pay 50 percent or more of their gross income for housing.

The median value of housing for the Town taken as a whole was about \$3,288,000² in June 2008. The median value is also a function of the asking price for homes in the two zoning districts; R-1A (one acre) and R-1B (one-third acre). In June 2008 the median asking price for

¹ 2000 U.S. Census, Table P52 Household Income in 1999 (SF3)

² Source: www.paloaltoonline.com/real_estate

homes in the R-1A District was \$6,747,000 and in the R-1B District was \$1,921,500.

In the year 2000 there were 40 dwelling units in Atherton identified by the U.S. Census as renter occupied units. Thirty one of the units were rented for \$2,000 or more per month and nine of the units had "no cash rent". The median contract rent was \$2,000+¹. The most affordable housing is provided through second units and private schools.

The table below shows the number of households in Atherton that had costs or rents of 30 percent or more of the household income in 1999. The countywide median family income for a family of three (the average household size in Atherton) was \$74,900 in 2000. The lower income limit was \$52,500.

TABLE HII-9: OVERPAYMENT BY TENURE AND INCOME²

Tenure and Income Level	Household Income in 1999 (for Lower Income Households) ³	Number of Occupied Housing Units with Costs or Rents as a Percentage of Household Income	
		30 to 34 %	35 % or more
Owner	< \$10,000	0	10
	\$10,000-\$19,999	0	19
Very Low	\$20,000-\$34,999	10	23
Low Income	\$35,000-\$49,999	5	20
	\$50,000-\$74,999	24	71
Moderate	\$75,000-\$99,999	30	42
Above Mod.	\$100,000-149,999	10	79
	\$150,000+	71	123
Renter	< \$10,000	0	0
	\$10,000-\$19,999	0	0
Very Low	\$20,000-\$34,999	0	0
Low Income	\$35,000-\$49,999	0	0
	\$50,000-\$74,999	0	4
Moderate	\$75,000-\$99,999	0	10
Above Mod.	\$100,000+	0	0
Total		150	401

The income limit for a family of three in the very low income category was \$33,700 in 2000. Using that gauge there would have been about 62 (11%) very low income households, 34 (6%)

¹ 2000 U.S. Census, Table H54 Contract Rent (SF3)

² 2000 U.S. Census Table H73 Household Income in 1999 by Gross Rent as a Percentage of Household Income in 1999 (SF3) and Table H97 Household Income in 1999 by Selected Monthly Owner Costs as a Percentage of Household Income in 1999 (SF3)

³ Defined as at or below 80 percent of the median income.

low income households, 172 (31%) moderate income households and 283 (51%) above moderate income households in Atherton paying 30 percent or more of their household income for housing. All but 14 of these households were living in owner occupied units.

TABLE HII-10: HOUSEHOLD INCOME IN 1999 BY TENURE

Household Income in 1999 (for Lower Income Households)	Number of Occupied Housing Units	
	Owner Occupied	Renter Occupied
< \$10,000	32	0
\$10,000-\$19,999	26	0
\$20,000-\$34,999	53	0
\$35,000-\$49,999	89	0
\$50,000-\$74,999	179	4
\$75,000-\$99,999	203	10
\$100,000-\$149,999	301	26
>\$150,000	1,450	0
Total	2,333	40

Table HII-10 shows the total number of households by household income living in Atherton in 1999 so that the reader may obtain a perspective of the household income picture.

3.215b Overcrowding by Tenure

The Census Bureau defines an overcrowded unit as one occupied by 1.01 persons or more per room (excluding bathrooms and kitchens). Units with more than 1.5 persons per room are considered severely overcrowded.

Table HII-11 shows occupancy data for Atherton. In 1990 about 0.4 percent of the housing units in Town were considered overcrowded and about 0.2 percent were considered severely overcrowded. Only 15 or 0.6 percent of the dwelling units in Town were considered overcrowded in the 2000 Census enumeration.

The Census data was not available by tenure; however, since 95 percent of Atherton households live in owner occupied units the occupancy by tenure can be extrapolated. It is estimated that 14 of the overcrowded and severely overcrowded units were owner occupied and 1 of the overcrowded and severely overcrowded units were renter occupied.

TABLE HII-11: OVERCROWDING¹

Persons per Room	1990	Percent	2000	Percent
1.00 or less	2,388	99.4	2,399	99.4
1.01 to 1.50	10	0.4	0	0.0
1.50 or more	5	0.2	14	0.6

3.216 Housing Characteristics

3.216a Number of Housing Units and Type of Housing

A total of 2,496 housing units were counted in Atherton during the 1980 Federal Census, 103 units more than in 1970. That number stayed essentially constant through the year 2000. The 2000 Census counted 2,505 housing units in Atherton. Most of the housing units in Atherton, with the exception of second dwelling units and group quarters, are single-family homes.

Private Schools. Most of the affordable housing in Atherton is concentrated at the several private schools located in the community. The primary group quarter facilities are located at Menlo College, which can accommodate on-campus residency of approximately 450 students and at Oakwood Home for the Retired Religious on the campus of the Sacred Heart Schools which provides congregate housing, similar to SRO's, for approximately 52 residents in a group of buildings devoted to that purpose. The incomes of the residents are considered extremely low.

Menlo School provides 9 small single family detached dwelling units on campus that are rented at low rates to faculty members. The rental structure for these units equates to the very income category². Menlo College currently has 19 on-campus housing units rented exclusively to faculty and staff. The rental structure for these units equates to the very low income category³.

Second Dwelling Units. It is estimated that from 194 to 266 second dwelling units and 48 to 121 internal living quarters⁴ currently exist in Atherton.⁵ Experience during the period 1999 to 2007 shows that 4 new second dwelling units were constructed. That was a rate of about one new second unit constructed every two years. During the same period it is estimated that about 50 to 75 new internal living quarters were constructed. That was a rate of 6-10 internal living units constructed per year. For comparison purposes there were 265 new main houses

¹ 1990 U.S. Census, Table H021Persons per Room (STF1), 2000 U.S. Census

² Current rates range from \$465 per month for a 2 bedroom, 1 bath unit to \$757 per month for a 4 bedroom, 2 bath unit.

³ Current rates range from \$750 to \$1,500 per month.

⁴ Internal living quarters do not meet the definition of a second dwelling because they do not have a full kitchen.

⁵ Atherton resident survey about second dwelling units, guest houses and internal living quarters, October 2008.

constructed in Atherton over the same 8 year period for an average of 33 new main houses per year.

Most second dwelling units were less than 600 square feet in size. The current zoning regulations restrict second units to a maximum of 600 square feet. A Zoning Ordinance amendment is being considered to increase the minimum size to 1,200 square feet.

Most second dwelling units are reported as attached. All internal living quarters are reported as attached.

Second dwelling units are split nearly evenly between studios and one bedroom units with slightly more studios. Almost 60% of internal living quarters are studios.

Most occupants of second dwelling units and internal living quarters are not charged rent. Where rent is charged it generally ranges from under \$600 to \$1,500 per month for second units and from under \$600 to \$1,000 per month for internal living quarters. All second units and internal living quarters were rented at levels affordable to extremely low income and very low income households.

3.216b Tenure Characteristics

The number of households in Atherton remained almost unchanged from 1990 to 2000; growing by only 0.4% or at a rate of 1 household per year. The proportion of renter and owner households also stayed almost constant with ownership growing by about 1.5% during the decade and renter households decreasing by the same amount. ABAG projects that the number of Atherton households will increase to approximately 2,510 by 2015. However, it is expected that the tenure ratio will not change significantly. The housing needs of owners are being met by the resale of existing single family homes and the net increase of new single family homes in Town. The housing needs of rental households are being met by the rental of second units, some limited rentals of single family homes, and housing for students, faculty, and the retired religious provided on institutional sites.

Vacancy rates for all housing units have fluctuated from 1.5 percent in 1980, to 4.6 percent in 1990 and 3.7 percent in 2000.

TABLE HII-12: TENURE

Tenure	1980	1990	2000
Owner Occupied	2,311	2,242	2,288
Renter Occupied	148	161	125
Total Occupied	2,459	2,403	2,413
Vacant	37	115	92
Total Housing Units	2,496	2,518	2,505

3.216c Condition of Housing Stock

A windshield survey of all of the housing stock in Atherton was conducted in May and June 2008 by the Town Planning Staff. During that survey any substandard units (i.e. those in need of rehabilitation [repair] and those in need of replacement [demolition]) were identified with specific notations concerning the elements that contributed to its substandard condition. Only one house was found to be in need of rehabilitation and no house was found to be in need of demolition. All other housing units were found to be in good or excellent condition.

The 2000 Census data showed that about 1,714 or 68 percent of the housing units in Atherton were built before 1960. However, since the mid-and late 1990's a trend of demolishing existing single-family houses and replacing them with larger houses, has developed. That trend continued through the through 2008. Between 1999 and 2006 about 240 existing housing units were demolished and replaced with 245 housing units. An average of approximately 34 houses per year was replaced over the 7 year period of 1999-2006.

The condition of nearly all residential structures in Atherton is well-maintained. Renovation permit requests are common according to Building Department records.

3.216d Vacancy Rates

A vacancy rate of approximately 5 percent is considered to permit normal turnover of single family homes. Atherton has had a vacancy rate of less than 5 percent over the past 25 years. The vacancy rate according to the 2000 U.S. Census was 3.7%.

3.216e Housing Costs and Affordability

The median sales price in 1999 for a single family home in Atherton was \$1,975,000. That median sales price increased to \$3,065,000 in 2008. The 2008 Atherton median price is compared to those in nearby cities of Menlo Park - \$837,500, Redwood City - \$830,000 and San Carlos - \$945,000. It appears that the purchase of homes in Atherton is only available to above-moderate households. Rental information in Atherton for 2008 is not available¹ but typical rents in other nearby jurisdictions are \$1,100 per month for a studio apartment, \$1,500 for a one bedroom apartment, \$1,800 for a two bedroom apartment and \$2,500-\$3,500 for a three bedroom two bath house. The Center for Housing Policy estimates that an annual income of \$251,541 is necessary to afford a \$770,000 home in the San Francisco Bay Area and an hourly wage of \$23.83 is necessary in order to afford the rent of a one bedroom apartment and an hourly wage of \$29.83 is necessary in order to afford the rent of a two bedroom apartment.

TABLE HII-13: HISTORIC VACANCY RATES

Year	Number of Vacant Units	Percent
1980	37	1.5%
1990	115	4.6%
2000	92	3.7%

¹ Sample universe too small to avoid disclosure of individual information according to 21 Elements

3.217 Special Housing Needs Groups

3.217a Single Parent

In 2000 there were 54 families living in Atherton that had single parent heads of household. Of the total of 1,984 families 1.7 percent (34) were families with single female heads of household and 1.0 percent were families with single male heads of household.

TABLE HII-14: SINGLE PARENT FAMILIES WITH CHILDREN UNDER 18 YEARS¹

Head of Household	2000
Male	20
Female	34

3.217b Elderly

TABLE HII-15: HOUSEHOLDS OCCUPIED BY PERSONS 65 YEARS AND OVER²

Household Type	2000
Total Households	938
One-person Household	174
Family Household	694
Non-Family Household	70

According to the 2000 Census, there were 1,578 elderly residents (65 years of age and older) living in Atherton, representing 21.9% of the total population. In addition, there were 555 residents between the ages of 60 and 64, and 713 residents between the ages of 55 and 59. There were 46 (2.9%) elderly Atherton residents "in poverty". Also, there were 781 or 32% of heads of household age 65 and over. Of these, 763 elderly householders owned their homes and 18 elderly householders rented their homes.³ The 2000 Census reports that the Town had 938 households or 39 percent of all the households in Atherton with one or more people 65 years and over. Of those 19 percent lived in one-person households, 74 percent lived in family households and 7 percent lived in non-family households. This suggests that a majority of the Town's elderly are likely being cared for by family members or assisted by others in the same household. For elderly residents living alone, obtaining needs such as the provision of meals (due to mobility issues), transportation, and other typical senior services becomes a considerable challenge. These needs are now satisfied through a variety of programs operated and funded by San Mateo County and various social service agencies. With the Town's older population there is a probability that there are a considerable number of single family detached

¹ 2000 U.S. Census, Table P34 Family Type by Presence and Age of Own Children (SF1)

² 2000 U.S. Census, Table PCT19 Households by Presence of People 65 Years and Over by Household (SF4)

³ 2000 U.S. Census from 21 Elements

residential units which are under-utilized due to the fact that they were constructed to accommodate large families and now provide living space for one or two people. The Town permits shared living arrangements such as through the Human Investment Project to provide support for elderly residents and a home for a lower income person.

The California Health and Safety Code Section 1568.031 provides that a residential care facility (defined as a facility serving six or fewer persons) is a residential use and must be permitted wherever residential uses are allowed. Similarly, California Government Code Section 65583(c)(1) also requires provisions for supportive housing serving lower income, disabled adults, who may be elderly. The proportion of elderly is expected to grow, and housing for the elderly will be a continuing concern in San Mateo County. Although many elderly can continue to live in their own homes, particularly if structural modifications are made to help them cope with the disabilities that accompany aging, there will nevertheless be an increasing demand for specialized care facilities. The Housing Element includes programs that will allow development of such housing and other opportunities for some long-term Atherton residents who can no longer remain in their homes to continue to living in Atherton.

3.217c Disabled Persons

TABLE HII-16: RESIDENTS WITH DISABILITIES¹

Disability Type	2000
Total Disabilities Tallied	983
Sensory Disability	78
Physical Disability	343
Mental Disability	172
Self-care Disability	78
Go-outside-home Disability	195
Employment Disability	117

According to the 2000 Census there were 983 persons with some type of disability living in Atherton. This was about 14% of the total population. There were 73 disabled children between the ages of 5 and 15 years old; 59 of which had mental disabilities. There were 365 adults between the ages of 16 and 64 with disabilities. The most reported types of disabilities were physical, "go-outside-of-home", and employment disabilities. However, 64% of this group was employed. There were 545 adults 65 years and over with disabilities; the most common reported disabilities were physical, "go-outside-of-home", and mental. No data is available about the incomes of households with disabled members.

The housing needs of the physically disabled in Atherton are similar to those of the elderly and are usually met by removal of barriers to living within the dwelling and in public areas. Changes to home design features to allow for access to the physically challenged is the responsibility of the homeowner. The Town is responsible for removing barriers to living in

¹ 2000 U.S. Census, Table P41 Age by Type of Disability for the Civilian Noninstitutionalized Population 5 Years and Over with Disabilities (SF3)

responsibility of the homeowner. The Town is responsible for removing barriers to living in public areas such as public streets, library, Town Hall and Holbrook-Palmer Park. The Housing Element includes a program that requires review of the Zoning Ordinance to identify provisions that might pose constraints to the development of housing for persons with disabilities and to, where applicable, establish a reasonable accommodation procedure that will continue to provide adequate flexibility in the development and retrofitting of housing for persons with disabilities.

3.217d Large Families

Large family households are defined as households where 5 or more people reside. In 2000 there were 319 large family households and 9 large nonfamily households living in Atherton¹. The Census data shows that 310 of these households were living in owner occupied dwellings and 18 were living in renter occupied dwellings. Some data² indicates that about 19% or 64 of these large family households are burdened by paying too much for their housing. Overcrowding is rare. A large portion of the housing stock in Atherton is large and spacious, providing ample living space for the larger than average family. Town records indicate that the construction of new residences has maintained this trend, resulting in the addition of large homes which can serve the needs of large families.

3.217e Female Headed Households

In 2000 there were 108 family households that had female heads of household living in Atherton. There were 34 families that had female heads of household with children under 18 years of age and 5 female headed households with incomes under the poverty level. The special needs of this group include low cost housing, suitable for children and located near schools and child care facilities. Innovative shared living arrangements, including congregate cooking and child care, would also be suitable. Policies contained in the Housing Element Update which benefit this group includes those intended to prevent discriminatory housing practices, promote housing affordability and increase the supply of second units.

3.217e Farm Workers

In 2000 there were no people living in Atherton employed as farm workers and the closest agricultural areas are at least 30 minutes distant. ABAG has determined that housing for farmworkers is not suitable in the urbanized portion of the Bay Area located far from agricultural areas.

3.217f Homeless Persons and Families

- *Local Context/Overall Policy and Strategy*

In 2005-2006, a countywide group of diverse stakeholders undertook an intensive community-

¹ 2000 U.S. Census, Table PCT17 Household Type by Household Size (SF4)

² State of the Cities Data Systems, CHAS Data

result – entitled “Housing Our People Effectively (HOPE): Ending Homelessness in San Mateo County” (“the HOPE Plan”) – lays out concrete strategies designed to end homelessness in our community within 10 years. The report incorporates the experiences and expertise of over 200 stakeholders, including members of the business, nonprofit and government sectors. These stakeholders met in working groups over a period of 12 months to develop the recommendations in the plan. Homeless and formerly homeless persons were represented in the working groups, as well as in several focus groups conducted in emergency shelters and transitional housing programs. The result of this year-long community planning process was the finalized HOPE Plan, which was completed in March 2006. The plan has been formally adopted by the San Mateo County Board of Supervisors and many of San Mateo County’s 21 jurisdictions.

One of the key strategies for ending homelessness laid out in the HOPE Plan is to increase the supply of permanent affordable and supportive housing for people who are homeless and develop strategies to help them to move into permanent housing as rapidly as possible (a “housing first” or “rapid re-housing” approach). The HOPE Plan intentionally made no recommendation to expand the supply of emergency or transitional housing. Although the HOPE planners recognized that there is a lack of needed resources throughout the housing continuum, including emergency and transitional housing, the greatest need and the most effective use of new and/or redirected resources is for creating and sustaining quality affordable housing and supportive housing.

- *Existing Resources and Programs*

The following chart provides a summary of the emergency shelter, transitional housing and supportive housing units for homeless people that are located in Atherton. The source of this information is the HOPE Plan (San Mateo County’s 10-Year Plan to End Homelessness), which has been updated by the San Mateo County Human Services Agency, Center on Homelessness.

Atherton is committed to expanding the resources for homeless individuals in our community, particularly the supply of permanent supportive housing. The chart below summarizes units in San Mateo County for which a funding source has been either secured or identified.

TABLE HII-17: INVENTORY OF EMERGENCY SHELTER, TRANSITIONAL HOUSING AND SUPPORTIVE HOUSING IN ATHERTON

Facility/Program	Provider	Facility Type	Shelter/TH Beds for Families	Shelter/TH Beds for Individuals	SH Units
Shelter Plus Care Program ¹	San Mateo County Housing Authority	Supportive Housing	0	0	1

¹ Indicates scattered-site/tenant based voucher program. Units have been allocated to jurisdiction based on average distribution of units in these programs from January to October 2008.

TABLE HII-18: EMERGENCY SHELTER, TRANSITIONAL HOUSING AND SUPPORTIVE HOUSING UNITS UNDER DEVELOPMENT IN SAN MATEO COUNTY

Program Name	Provider	No. of Units	Funding Source and Status
Housing Readiness Program	San Mateo County Housing Authority	60	The Housing Authority has requested to convert 60 "welfare to work" tenant-based Section 8 vouchers for use by homeless people. The proposed program is awaiting final HUD approval and is expected to begin in 2009.
Shelter Plus Care Program	San Mateo County Housing Authority	15	Each year San Mateo County is eligible to apply for about 3 additional S+C units from HUD. Over the next five year, it is anticipated that 15 new tenant-based S+C vouchers will be added to the existing S+C program.
Mental Health Services Act Housing Program	San Mateo County Mental Health	45	San Mateo County has been allocated funding from the State of California through the MHSA to create new supportive housing units for homeless people with mental illness. Mental Health is planning to issue RFP's for these housing dollars by the end of 2008 and expects to fund about 45 units. These will be new construction or acquisition/rehab projects. Developers and locations are not yet known.
TOTAL		120	

Since none of these programs currently have identified sites, the number of units that will be developed in Atherton has been estimated based on the percentage of the county's current inventory of supportive housing units that is located in Town.

TABLE HII-19: PROJECTED BREAKDOWN OF UNITS UNDER DEVELOPMENT

Total Units Under Development	Percentage of Existing SH Units Located in Atherton	Estimated Number of New Units To Be Located Atherton
120	1%	1

Homeless people near Atherton also have access to a wide range of supportive services designed to help them gain greater stability and self-sufficiency and to meet their health and behavioral health needs. These services include the ones listed below.

Provider/Program	Services Provided	Service Area
Core Service Agencies		
Samaritan House	Information and referral, emergency assistance, rental and utility assistance	Central County
El Concilio Emergency Services Partnership	Information and referral, emergency assistance, rental and utility	South County

	assistance	
Fair Oaks Community Center	Information and referral, emergency assistance, rental and utility assistance	South County
Emergency Assistance		
Salvation Army	Emergency food and clothing; information and referrals	North, Central, South County
St. Vincent DePaul Society	Emergency food and clothing; information and referrals; homeless help desks	All County (Homeless help desks located in Redwood City, San Mateo, South SF)
Homeless Outreach		
Mateo Lodge Mobile Support Team	Mobile mental health services for homeless people with mentally illness	All County
Health Services		
Mobile Health Clinic (San Mateo County Health Dept.)	Health screening, immunization, etc. for low income and homeless people	All County
Mental Health Services		
Mental Health Association of San Mateo County	Mental health services for homeless people with mental illness	All County
San Mateo County Behavioral Health and Recover Services, Mental Health Access Team	Information, assessment, consultation and referral	All County
Alcohol and Drug Services		
Asian-American Recovery Services	Outpatient services	All County
Free At Last	Outpatient and residential treatment	All County
Women's Recovery Association	Outpatient and residential treatment	All County
Palm Avenue Detoxification Program	Drug and alcohol detox	All County
Latino Commission on Alcohol and Drug Abuse Services	Residential treatment	All County
Project 90	Residential treatment	All County
Youth and Family Services		
Youth and Family Enrichment Services	Services for homeless youth	All County
Family Resource Centers (San Mateo County Human Services Agency)	Prevention and early intervention services at school sites throughout San Mateo County	All County
Domestic Violence Services		
CORA	DV hotline, legal assistance, counseling, prevention services	All County
Employment and Training		
Department of Rehabilitation	Employment and training services for people with disabilities	All County
Peninsula Works (San Mateo County Human Services Agency)	One-stop careers centers	All County
Legal Services		
Legal Aid Society of San Mateo County	Free civil legal services for low income and homeless people	All County

- *Unmet Need – Number and Characteristics of Homeless People*

The January 2007 San Mateo County Homeless Census and Survey found no homeless people in Town, either sheltered or unsheltered. The Town's Police Department confirms that it has not encountered any homeless people living in Atherton in the past year.

Although the 2007 San Mateo County Homeless Census and Survey found no homeless people in Atherton, the Executive Summary of that report provides a useful analysis of the characteristics of the County's homeless population: "the survey indicated that the typical homeless person in San Mateo County is a single man with at least one disability. At least 85% of homeless adults surveyed were single individuals or couples who are not living with children, 66% were men, and 72% had at least one disability (mental illness, substance use, chronic health condition, physical or developmental disability). All had extremely limited incomes and the vast majority (80%) was unemployed. More than one quarter (27%) were veterans of the U.S. Armed Forces."

- *Assessment of Unmet Year Round Need for Emergency Shelter*

Atherton estimates that the Town does not need any year-round emergency shelter beds to meet the needs of the unsheltered homeless people in our community. The following methodology was used to arrive at this estimate:

TABLE HII-20: ASSESSMENT OF UNMET YEAR ROUND NEED FOR EMERGENCY SHELTER

Daily average number of unsheltered homeless people	0
Minus number of available shelter, transitional housing and supportive housing beds	-1
Minus number of supportive housing units under development or for which funding has been identified	-1
Equals unmet need for emergency shelter beds	-2

This methodology has been recommended by consultants to the San Mateo County Housing Element Update Consortium's "21 Elements" project and is consistent with best practices in the field of homeless housing and services, HUD publications on estimating the numbers of homeless people and unmet need for housing.

- *Assessment of Seasonal Need for Emergency Shelter*

There is no data presently available documenting the increased level of demand for shelter in San Mateo County during particular times of the year. Due to the relatively mild climate, the only time of year when increased demand appears to be a factor is during the winter months (December to February). During extremely cold periods, some shelters set up additional cots to accommodate increased demand for shelter and the County periodically opens special "warming shelters" during extended cold spells. Anecdotal evidence suggests that this

additional capacity is sufficient to meet the need during these periods.

Additionally, it should be noted that the biannual homeless count always takes place in the last week of January, which is a period of time when demand for shelter typically is at its highest. Since the year-round need described above is based on that biannual count, we therefore believe that the seasonal need for emergency shelter is no greater than the year-round need.

- *Assessment of Unmet Need for Supportive Housing*

As part of the planning process for the HOPE Plan, a working group was convened to develop an estimate of the number of supportive housing units that would have to be developed to meet the housing needs of all the homeless people in San Mateo County. This working group drew from best practices in the field of supportive housing as well as the expertise of local housing and shelter providers to develop their methodology. The result was an estimate that San Mateo County needed to create 1,682 units of supportive housing for homeless people during the 10-year period from 2006 to 2015. In the two years since the plan was published, 34 supportive housing units for homeless people have been created, leaving a balance of 1,648 units needed.

The estimates presented in the HOPE Plan do not provide a breakdown of unmet need by jurisdiction. However, Atherton has estimated the Town's share of the needed units, based on the percentage of the total number of unsheltered homeless people living in our community. Given that it is estimated that no unsheltered homeless people in the county are residing in Atherton, it is estimated that the Town's has met its need for supportive housing through the Shelter Plus Care program.

- *Policies and Programs to Meet Need – Zoning for Emergency Shelters*

By June 30, 2010, Atherton will establish a zone that meets requirements set forth in SB2 relating to emergency shelters. The Town will amend the existing PFS (Public Facilities and Schools) Zoning District to provide for emergency shelters as an allowable use when located within the Town Civic Center property.

Within this zone shelters will be permitted without a conditional use permit or other discretionary action. The zone will contain approximately 6 acres, which can accommodate up to three shelter beds, providing adequate capacity to meet the identified need. A typical shelter approximately 1,000 sq. ft. in size would be allowed in this zone by right.

Within this zone, shelters will be subject to the same development and management standards as other uses within the zone and require only a building permit. The Town will also develop objective and predictable standards for shelter operation as provided by law.

There is a realistic potential for redevelopment or reuse within the proposed zone since a substantial portion of the site is currently an underutilized parking lot. This zoning district currently allows Town Hall and associated community uses including a library, corporation yard, and public schools. Private schools and associated residential uses are allowed as conditional uses. Properties surrounding the Civic Center are zoned for single family

residential uses. The Civic Center uses are low intensity uses and are compatible with adjacent existing residential uses that have co-existed for many years. A shelter would also be compatible with the residential uses and the Civic Center.

In order to establish this amended zone, the following process steps will be followed. Atherton Planning Staff will develop draft language for the zoning ordinance amendment and development and management standards by December 31, 2009 and present the proposal to the Town General Plan Committee at its January 2010 monthly meeting. A public hearing will be held and recommendation made to the City Council by the Atherton Planning Commission on the proposal by April 30, 2010. The City Council will hold a public hearing and adopt the proposal by June 30, 2010.

- *Zoning for Transitional and Supportive Housing*

By June 30, 2010, Atherton will amend the zoning code to explicitly state that any use is permitted if required by State law. Under this revision, supportive and transitional housing will only need to obtain the same types of permits and approvals as any other residential development. Residential uses, including transitional and supportive housing, will be permitted in the following zones; R-1A and R-1B.

The following process steps will be followed to amend the zoning. Atherton Planning Staff will develop draft language for the zoning ordinance amendment by December 31, 2009 and present the proposal to the Town General Plan Committee at its January 2010 monthly meeting. A public hearing will be held and recommendation made to the City Council by the Atherton Planning Commission on the proposal by April 30, 2010. The City Council will hold a public hearing and adopt the proposal by June 30, 2010.

- *Housing Accountability Act*

The Town has not denied affordable housing, emergency shelters, transitional housing or supportive housing and will comply with the Housing Accountability Act in reviewing any application for one of these uses.

3.218 Affordable Housing Preservation

3.218a Summary of At-Risk Units

“Assisted housing development” means a multifamily rental housing development that receives governmental assistance under any federal, State, county or local program. There are no existing assisted housing developments in Atherton that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage pre-payment, or expiration of restrictions on use. The only multifamily rental housing in Atherton is at Oakwood, Menlo School and Menlo College. The existing low income housing provided at Oakwood, Menlo School and Menlo College was not built with federal or state assistance and consequently is not deed-restricted; its affordability is maintained by those institutions. This type of housing is not considered to be “at-risk housing” as defined in Housing Element Law.

3.220 Employment Characteristics

The total number of people in the labor force decreased by 10% from 1990 to 2000; however the total population remained constant. While the number of males in the labor force has remained relatively constant, the percentage of females has increased, from 29 percent of the women age 16 and over in 1970 to over 45 percent in 1990 but then decreased to 40% in 2000. In 2000 only 57 percent of those Atherton residents 16 and over were in the labor force while County-wide, the proportion was 66.5 percent.

TABLE HII-21: EMPLOYMENT PICTURE¹

Category	1970	1980	1990	2000
Persons Under 16				
Male	1,140	740	617	763
Female	1,046	780	602	750
Persons 16 & Over				
Male	2,976	3,158	2,907	2,716
Female	2,923	3,119	3,037	2,965
In Labor Force				
Male	2,125	2,304	2,208	2,037
Female	839	1,103	1,381	1,193
Not in Labor Force				
Male	851	854	699	679
Female	2,084	1,989	1,656	1,772
Number Employed				
Male	2,055	2,210	2,171	2,014
Female	786	1,113	1,354	1,152
Number Unemployed				
Male	70	94	37	23

¹ 2000 U.S. Census, Table DP-3 Profile of Selected Economic Characteristics (SF 3)

Female	53	17	27	41
Percent Unemployed				
Male	3.3%	4.1%	1.3%	1.1%
Female	6.3%	1.5%	0.9%	3.4%

3.220a Employment by Industry

TABLE HII-22: EMPLOYMENT BY INDUSTRY¹

Industry	1990		2000	
	Number	Percent	Number	Percent
Agriculture, forestry, and fisheries	22	0.7%	0	0
Mining	6	0.2%	0	0
Construction	93	2.9%	138	4.4%
Manufacturing	347	10.7%	396	12.5%
Wholesale trade	151	4.7%	135	4.3%
Retail trade	462	14.3%	308	9.7%
Transportation, warehousing and utilities	104	3.2%	39	1.2%
Information	20	0.6%	162	5.1%
Finance, insurance, real estate	668	20.7%	433	13.7%
Professional, scientific, management, administrative	495	15.3%	723	22.8%
Educational, health and social services	808	25.0%	558	17.6%
Arts, entertainment, recreation, accommodation and food services	28	0.9%	171	5.4%
Other Services			79	2.5%
Public Administration	25	0.8%	24	0.8%
Total	3229	100.0%	3166	100.0%

Atherton residents are primarily employed in the Finance, Professional, Educational and Health Services sectors of the economy. This has been a consistent pattern over the last 30 years. During that time 54% to 61% of the workforce living in Atherton has been employed in these

¹ 1990 U.S. Census, Table PO77 Industry (STF 3)

2000 U.S. Census, Table P49 Sex by Industry for the Employed Civilian Population 16 Years and Over (SF 3)

sectors. Table HII-22 shows employment by industry category for the years 1990 and 2000. There are no significant changes anticipated in the employment sectors of the workforce living in Atherton during the Planning Period. Consequently there are no anticipated resulting impacts on the housing market.

3.220b Employers in Atherton

A recent survey of employers in Atherton¹ showed that there are about 1,800 jobs in town. The largest sources of employment in Town are the 5 public and 5 private schools located within the City Limits. Approximately 47% of the jobs are with the schools. The numerous construction sites in Town produce an estimated 25% of the jobs and home occupations account for about 16%.

In 2007 the annual income² of a typical elementary school teacher was \$58,241, a police officer was \$57,562 and a carpenter was \$52,100. A one person household wage-earner in one of these categories would not be able to purchase a home in Atherton; and could probably not purchase a home in another city on the San Francisco Peninsula where the median home price in 2007 was \$770,000. However, they could afford to rent a one or perhaps two bedroom apartment in a nearby city such as Redwood City or in unincorporated San Mateo County (e.g. North Fair Oaks).

3.220c Jobs Housing Balance

Jobs/housing balance is a measure of the relationship between employment and dwelling units in an area. The jobs/housing balance is simply a ratio of the number of jobs divided by the number of housing units in a community. A low jobs/housing balance indicates a community that has more housing than employment; sometimes referred to as a "bedroom community". A high jobs/housing ratio indicates an employment center. Although there is no universally accepted ratio for a "balance", it is generally accepted that an area is considered "in balance" if it has a ratio of 1 to 1.5 jobs per housing unit.

Atherton has a jobs/housing ratio of 0.725³. That means that the Town has a surplus of housing in comparison with the jobs in the community. A more realistic view of the current jobs/housing status would be to look at the Atherton, Menlo Park, Redwood City area where the jobs/housing ratio is 1.34⁴ and considered within the range of the generally accepted definition of "in balance" since many households contain more than one worker.

3.221 Energy Conservation Opportunities

Given the importance of promoting land use and housing strategies to address climate change

¹ Compiled by Town Planning Staff.

² Center for Housing Policy, *Paycheck to Paycheck – 2007 Third Quarter Findings*, San Francisco SMSA

³ Derived by dividing 1,817 jobs by 2,505 housing units.

⁴ 2000 U.S. Census, Tables DP-3 and H34 (SF 3), derived by dividing 59,115 jobs by 44,171 housing units.

and energy conservation, this analysis could facilitate adoption of housing and land use policies and programs in the housing element that meet housing and conservation objectives. Planning to maximize energy efficiency and the incorporation of energy conservation and green building features can contribute to reduced housing costs for homeowners and renters. For example, the housing element could encourage green building techniques and materials in new and resale homes, promote energy audits and participation in utility programs, and facilitate energy retrofits upon resale of homes.

The Town will be considering adopting “green building” policies as part of the General Plan during fiscal year 2009-10.

3.300 PROJECTED HOUSING NEEDS

3.310 Analysis of Population and Employment Projections

This section contains information on the Town's population and employment projections. It also includes documentation of Atherton's share of the regional housing need as determined by the Association of Bay Area Governments (ABAG) and the San Mateo County Sub-regional RHNA Process.

3.311 Population Projections

Bi-annually ABAG publishes its 35 year forecast for the San Francisco Bay Area. The forecasts are for population, labor force, households, income and jobs. These projections are made for the 9 county region and then distributed among the counties and cities of the region. The latest study and publication is "Projections-2007" issued by ABAG in December 2006. The forecasts for Atherton are found in Table HIII-1.

ABAG projects that Atherton's population will increase by about 8%, or by about 600 people in the 35 years from 2000 to 2035. That is an increase of slightly over 1% every 5 years. The number of households is projected to grow by about 7 % in the 35 year period. The population per household is projected to hold steady over the time frame.

3.312 Employment Projections

ABAG forecasts that the number of jobs in Atherton will increase by about 9% in the 35 years from 2000 to 2035, for a total of 250 new jobs. Most growth is projected to occur in the Financial & Professional Service, Health, Education and Recreation Service and Other Jobs categories.

3.313 Housing Needs Allocation

During the Planning Period 2007-14 San Mateo County and all 20 cities within the County formed a Sub-region pursuant to California Government Code Section 65584.03. The San Mateo County Sub-region worked together to allocate the housing needs for the County as a whole, to each of the 21 member jurisdictions. A total of 15,738 dwelling units were allocated to the San Mateo County Sub-region jurisdictions. A total of 83 of those dwelling units were allocated to Atherton for the Planning Period. The Allocation made by the Sub-region was approved by ABAG. The Atherton allocation broken down by income categories is found in Table HIII-2. The number of extremely low income units was derived by assigning 50% of the very low income units to the extremely low category.

TABLE HIII-1: ABAG PROJECTIONS – 2007 FOR ATHERTON

	2000	2005	2010	2015	2020	2025	2030	2035
Population	7,194	7,300	7,400	7,500	7,600	7,700	7,700	7,800
Household Pop- ulation	6,876	7,000	7,100	7,200	7,200	7,300	7,300	7,400
Households	2,413	2,440	2,480	2,510	2,530	2,550	2,570	2,590
Persons per Household	2.85	2.87	2.86	2.87	2.85	2.86	2.84	2.86
Employed Residents	3,234	2,770	2,900	3,050	3,250	3,380	3,430	3,570
Total Jobs	2,830	2,540	2,680	2,780	2,850	2,920	3,000	3,080
Agriculture & Natural Resources	0	0	0	0	0	0	0	0
Manufacturing, Wholesale & Transportation	130	100	100	100	100	100	100	100
Retail	200	150	160	160	160	160	160	160
Financial & Professional Service	450	430	460	480	500	520	540	560
Health, Education & Recreation Svc.	1,520	1,370	1,450	1,520	1,570	1,620	1,670	1,730
Other Jobs	530	490	510	520	520	520	530	530

TABLE HIII-2: ATHERTON'S SHARE OF REGIONAL HOUSING NEEDS ALLOCATION

Income Category	Number of Units
Above Moderate	35
Moderate	16
Low	13
Very Low	10
Extremely Low	9
Total	83

3.314 Carryover from 1999 - 2006

In its 1999 – 2006 Housing Element, the Town was assigned a fair share allocation of 166 units. The Town proposed to meet its RHNA allocation as follows:

	Very Low	Low	Moderate	Above Moderate
RHNA (1999 – 2006)	22	10	27	107
1) Existing Lots that could be subdivided				107
2) Menlo College and Menlo School	22	10	27	31
TOTAL	22	10	27	138
Total Sites Designated	197			

However, HCD considered only the Menlo College and Menlo School sites as providing suitable housing sites, and so found that the Town had provided sites for only 90 units, rather than the 166 required.

Under new section 65584.09 of the Government Code, if a city in the prior housing element planning period failed to identify or make available adequate sites to accommodate the regional housing need allocated, then the city must, within the first year of the planning period of the new housing element, zone adequate sites to accommodate the unaccommodated portion of the regional housing need allocation from the prior planning period.

While the Town believes that it had designated adequate sites in the prior housing element planning period, it will amend its zoning ordinance to ensure that adequate sites exist as follows:

	Very Low	Low	Moderate	Above Moderate	Total
RHNA (1999 – 2006)	22	10	27	107	166
1) Units constructed	4			5	9
2) Previously identified sites currently available (Capacity) ¹	22	10	27	31	90
3) Sites rezoned pursuant to Housing Element Program	0	0	0	0	0
4) Sites rezoned (other) ²	19	18	0	30	67
Remaining Need	(23)	(18)	0	41	0
Total Remaining Need	0				

¹ As identified by HCD. The Town believes that, under prior housing element law, additional sites were available by income category as shown in the previous table.

² Modifications to zoning code to allow all internal living quarters constructed between 1999 and 2006 to be utilized as second units and occupied permanently. Although the Town's survey has shown that virtually all second units are rented at very low income rents, 30 of these units are shown as affordable to above-moderate income households.

3.400 HOUSING RESOURCES

3.410 Inventory of Sites Suitable for Residential Development

3.411 Parcel-specific List of Available Sites

This section contains an inventory of specific sites suitable for residential development so that a comparison may be made with Atherton's new construction need by affordability category with its residential development capacity.

The table below identifies lands suitable for residential development in Atherton. Each site is identified by address and includes the site acreage and existing land use. Existing zoning falls into the categories listed below. It should be noted that Atherton has only four zoning districts, the three listed below plus a Parks and Open Space District.

R-1A (Residential District) - Limits land uses to single-family detached homes on minimum one-acre size lots.

R-1B (Residential District)-Limits uses to single-family detached homes on minimum size 13,500 square foot (0.31 acre) lots.

PFS (Public Facilities and Schools District) - Limits land uses to public and private schools including affiliated residential uses, town hall, library and other similar public and quasi public uses without limitation on lot size. This district also permits single-family and multifamily residences pursuant to a master plan.

There are no vacant parcels in town. The residential parcels included in the table are identified as underutilized since they are of sufficient size to be further subdivided according to the existing zoning and lot size limits.

3.412 Map Showing Location of Sites

The map entitled "Location of Sites Suitable for Residential Development" shows the location of sites in the residential land inventory.

TABLE HIV-1: INVENTORY OF SITES SUITABLE FOR RESIDENTIAL DEVELOPMENT

Site No.	Assessor's No.	Address	Area (acres)	Zoning	Gen. Plan Designation and Density	Realistic Unit Capacity	Existing Use	Comments ¹ -Other On-Site Constraints
Non-Residentially Zoned Sites that May Be Redeveloped for Residential Use								
1	070-250-190 Menlo College	1000 El Camino Real	22.0	PFS	Public and Quasi-Public Land Use No density specified	79	Private college and faculty housing	Additional units shown in Master Plan
2	070-360-070 Menlo School	50 Valparaiso	14.0	PFS	Public and Quasi-Public Land Use No density specified	11	Private middle school and high school and apartments for faculty and students	Additional units shown in Master Plan
	Subtotal					90		
Underutilized Residentially Zoned Sites that Can Be Redeveloped at Higher Density								
3	061-260-140	60 Parkwood	2.40	R-1A	1 DU/Acre	1	Single Fam. Home ²	C
4	061-232-140	260 Oakgrove	2.48	R-1A	1 DU/Acre	1	Single Fam. Home	C
5	060-210-210	175 Fair Oaks	2.47	R-1A	1 DU/Acre	1	Single Fam. Home	C
6	060-220-060	188 Fair Oaks	2.35	R-1A	1 DU/Acre	1	Single Fam. Home	C
7	060-321-080	2 Fair Oaks	0.74	R-1B	3 DU/Acre	1	Single Fam. Home	C
8	060-321-110	62 Fair Oaks	0.80	R-1B	3 DU/Acre	1	Single Fam. Home	C
9	060-313-070	77 Fair Oaks	0.80	R-1B	3 DU/Acre	1	Single Fam. Home	C
10	060-312-060	4 Burnetta	1.03	R-1B	3 DU/Acre	1	Single Fam. Home	C

¹ A – Vacant residentially zoned site.

B – Vacant non-residentially zoned site that allows residential uses.

C – Underutilized residentially zoned sites which are capable of being developed at a higher density or with greater intensity.

D – Non-residential zoned sites that can be redeveloped for, and/or rezoned for, residential use (via program actions).

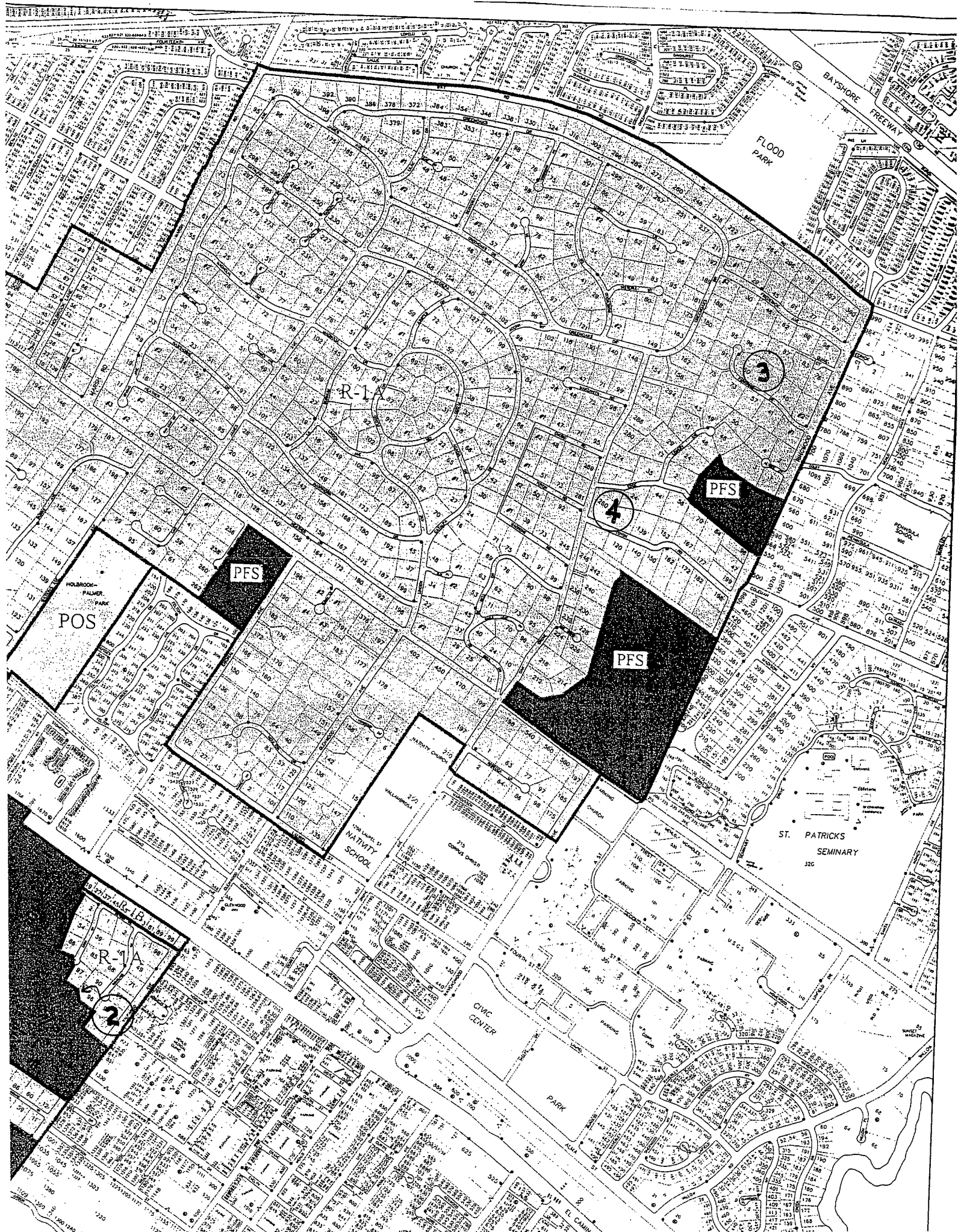
² Requires demolition of an existing dwelling unit

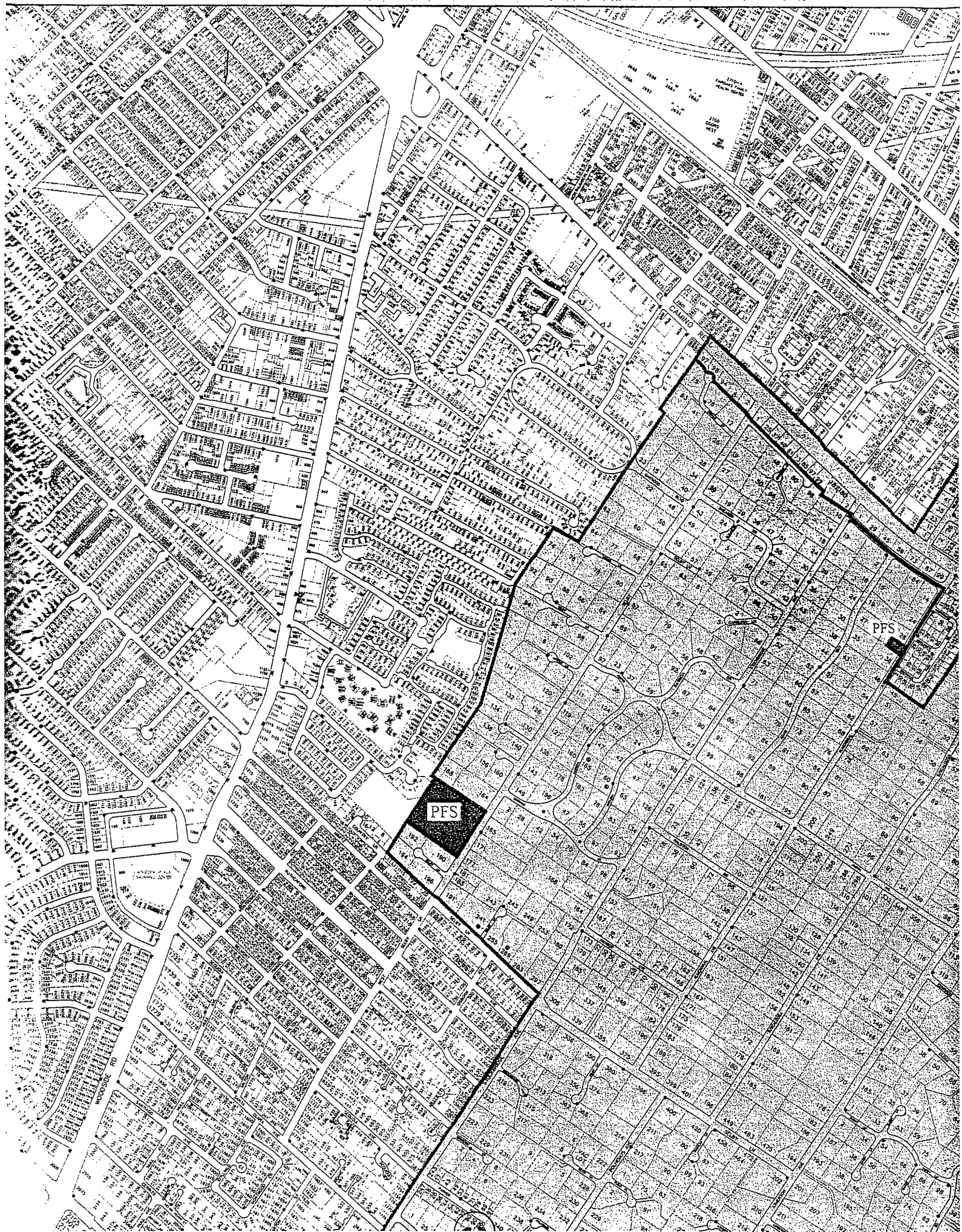
Site No.	Assessor's No.	Address	Area (acres)	Zoning	Gen. Plan Designation and Density	Realistic Unit Capacity	Existing Use	Comments ¹ -Other On-Site Constraints
11	070-222-150	1 Winchester	0.75	R-1B	3 DU/Acre	1	Single Fam. Home	C
12	070-221-020	3 Odell	0.80	R-1B	3 DU/Acre	1	Single Fam. Home	C
13	070-221-010	1 Odell	0.80	R-1B	3 DU/Acre	1	Single Fam. Home	C
14	070-250-100	101 Isabella	2.29	R-1A	1 DU/Acre	1	Single Fam. Home	C
15	070-214-110	101 Britton	2.50	R-1A	1 DU/Acre	1	Single Fam. Home	C
16	070-221-450	124 Isabella	2.70	R-1A	1 DU/Acre	1	Single Fam. Home	C
17	070-250-130	85 Isabella	5.09	R-1A	1 DU/Acre	3	Single Fam. Home	C
18	070-240-050	82 Isabella	4.00	R-1A	1 DU/Acre	2	Single Fam. Home	C
19	070-060-030	137 Alemendral	2.43	R-1A	1 DU/Acre	1	Single Fam. Home	C
20	070-050-080	163 Alemendral	2.56	R-1A	1 DU/Acre	1	Single Fam. Home	C
21	070-110-210	75 Tuscaloosa	2.32	R-1A	1 DU/Acre	1	Single Fam. Home	C
22	070-230-270	29 Atherton	2.39	R-1A	1 DU/Acre	1	Single Fam. Home	C
23	070-120-140	42 Atherton	2.72	R-1A	1 DU/Acre	1	Single Fam. Home	C
24	070-120-130	30 Atherton	3.17	R-1A	1 DU/Acre	2	Single Fam. Home	C
25	070-110-090	52 Atherton	2.88	R-1A	1 DU/Acre	1	Single Fam. Home	C
26	059-281-150	158 Stockbridge	2.50	R-1A	1 DU/Acre	1	Single Fam. Home	C
27	070-070-250	170 Atherton	4.81	R-1A	1 DU/Acre	3	Single Fam. Home	C
28	070-032-310	396 Atherton	2.60	R-1A	1 DU/Acre	1	Single Fam. Home	C
29	070-180-180	150 Elena	2.00	R-1A	1 DU/Acre	1	Single Fam. Home	C
30	070-343-170	2 Prado Secoya	2.00	R-1A	1 DU/Acre	1	Single Fam. Home	C
31	070-343-310	43 Santiago	2.51	R-1A	1 DU/Acre	1	Single Fam. Home	C
32	070-342-260	279 Park Lane	2.06	R-1A	1 DU/Acre	1	Single Fam. Home	C
33	070-310-110	93 Camino Por Los Arboles	2.54	R-1A	1 DU/Acre	1	Single Fam. Home	C
34	070-191-120	207 Atherton	2.43	R-1A	1 DU/Acre	1	Single Fam. Home	C
35	070-380-030	98 Faxon	2.63	R-1A	1 DU/Acre	1	Single Fam. Home	C
36	070-180-100	95 Faxon	3.00	R-1A	1 DU/Acre	1	Single Fam. Home	C
37	070-341-040	270 Park Lane	2.26	R-1A	1 DU/Acre	2	Single Fam. Home	C

Site No.	Assessor's No.	Address	Area (acres)	Zoning	Gen. Plan Designation and Density	Realistic Unit Capacity	Existing Use	Comments ¹ -Other On-Site Constraints
38	070-341-030	266 Park Lane	3.30	R-1A	1 DU/Acre	1	Single Fam. Home	C
39	070-341-150	223 Camino al Lago	3.19	R-1A	1 DU/Acre	2	Single Fam. Home	C
40	070-310-010	1 Camino por Los Arboles	2.23	R-1A	1 DU/Acre	2	Single Fam. Home	C
41	070-320-160	220 Camino al Lago	5.03	R-1A	1 DU/Acre	1	Single Fam. Home	C
42	070-143-030	236 Camino al Lago	2.00	R-1A	1 DU/Acre	3	Single Fam. Home	C
43	070-180-240	95 Monte Vista	3.10	R-1A	1 DU/Acre	1	Single Fam. Home	C
44	070-180-230	73 Monte Vista	5.30	R-1A	1 DU/Acre	2	Single Fam. Home	C
45	070-131-010	15, 25 Monte Vista	2.00	R-1A	1 DU/Acre	3	Single Fam. Home	C
46	070-170-010	237 Atherton	9.52	R-1A	1 DU/Acre	1	Single Fam. Home	C
47	070-132-150	251 Atherton	2.00	R-1A	1 DU/Acre	7	Single Fam. Home	C
48	070-151-030	34 Linda Vista	2.80	R-1A	1 DU/Acre	1	Single Fam. Home	C
49	070-161-090	83 Fairview	2.00	R-1A	1 DU/Acre	1	Single Fam. Home	C
50	070-032-440	260 Atherton	5.75	R-1A	1 DU/Acre	1	Single Fam. Home	C
51	070-032-190	270 Atherton	2.35	R-1A	1 DU/Acre	1	Single Fam. Home	C
52	070-032-200	268 Atherton	2.65	R-1A	1 DU/Acre	1	Single Fam. Home	C
53	070-022-820	53 Euclid	2.00	R-1A	1 DU/Acre	1	Single Fam. Home	C
54	070-0120350	282 Polhemus	2.10	R-1A	1 DU/Acre	1	Single Fam. Home	C
55	070-012-180	290 Polhemus	5.30	R-1A	1 DU/Acre	3	Single Fam. Home	C
56	073-220-030	336 Walsh	2.50	R-1A	1 DU/Acre	1	Single Fam. Home	C
57	073-220-020	346 Walsh	2.90	R-1A	1 DU/Acre	1	Single Fam. Home	C
58	073-220-010	354 Walsh	2.50	R-1A	1 DU/Acre	1	Single Fam. Home	C
59	0740130-300	86 Tallwood	2.80	R-1A	1 DU/Acre	1	Single Fam. Home	C
60	074-130-320	383 Walsh	10.35	R-1A	1 DU/Acre	8	Single Fam. Home	C

Site No.	Assessor's No.	Address	Area (acres)	Zoning	Gen. Plan Designation and Density	Realistic Unit Capacity	Existing Use	Comments ¹ -Other On-Site Constraints
61	073-261-030	10 Sargent	2.43	R-1A	1 DU/Acre	1	Single Fam. Home	C
62	073-263-010	75 Reservoir	3.27	R-1A	1 DU/Acre	2	Single Fam. Home	C
63	073-261-120	19 Sargent	4.43	R-1A	1 DU/Acre	3	Single Fam. Home	C
64	070-012-020	291 Stockbridge	2.00	R-1A	1 DU/Acre	1	Single Fam. Home	C
65	070-022-410	396 Selby	2.58	R-1A	1 DU/Acre	1	Single Fam. Home	C
66	060-332-060	51 Watkins	0.30	R-1B	3 DU/Acre	1	Single Fam. Home	C
67	060-332-050	59 Watkins	0.30	R-1B	3 DU/Acre	1	Single Fam. Home	C
68	060-332-040	69 Watkins	0.30	R-1B	3 DU/Acre	1	Single Fam. Home	C
69	060-332-160	38 Walnut	0.30	R-1B	3 DU/Acre	1	Single Fam. Home	C
70	060-331-260	32 Maple	0.30	R-1B	3 DU/Acre	1	Single Fam. Home	C
71	060-332-120	2 Walnut	0.30	R-1B	3 DU/Acre	1	Single Fam. Home	C
72	060-323-080	33/41 Maple	0.48	R-1B	3 DU/Acre	1	Single Fam. Home	C
73	060-321-120	76 Fair Oaks	0.59	R-1B	3 DU/Acre	1	Single Fam. Home	C
74	070-103-390	42 Tuscaloosa	1.85	R-1A	1 DU/Acre	1	Single Fam. Home	C
75	070-120-040	25 Tuscaloosa	1.00	R-1A	1 DU/Acre	1	Single Fam. Home	C
76	070-230-080	78 Winchester	1.04	R-1B	3 DU/Acre	1	Single Fam. Home	C
77	070-223-060	28 Isabella	0.74	R-1B	3 DU/Acre	1	Single Fam. Home	C
78	070-223-030	2 Isabella	0.58	R-1B	3 DU/Acre	1	Single Fam. Home	C
79	060-304-020	48 Lloyd	1.20	R-1B	3 DU/Acre	2	Single Fam. Home	C
	Subtotal					110		
	Total					199		











3.413 Environmental Constraints Analysis

The analysis of environmental constraints to development of housing is provided in the discussion below.

1. Areas Subject to Flood Inundation in Event of Dam Failure

The areas below Bear Gulch Reservoir and along Atherton Channel (shown on Environmental Constraints Map HE-2) are subject to flooding in the event that the Bear Gulch Dam were to fail. This dam is located within about 6,000 feet of the Cañada Fault zone and 10,500 feet of the San Andreas Fault zone¹. Residential development is precluded in the area immediately down stream from the dam by ownership by the California Water Service Company and by open space zoning and General Plan designation. None of these sites are included in the Town's land inventory.

2. Areas Susceptible to Flooding

According to the Federal Insurance Administration, there are no areas in Atherton identified as flood prone. However, in the 1975 San Mateo County "Seismic and Safety Element" of the General Plan, a few areas in the Town of Atherton were identified as being located within the 100 Year Flood Zone (shown on the Environmental Constraints Map HE-2). The main concentration of these areas is along the Atherton Channel with other scattered sites in the area west of El Camino Real. Areas susceptible to flooding do not have any impact on development potential.

3. Areas Subject to Wildland Fire Hazard

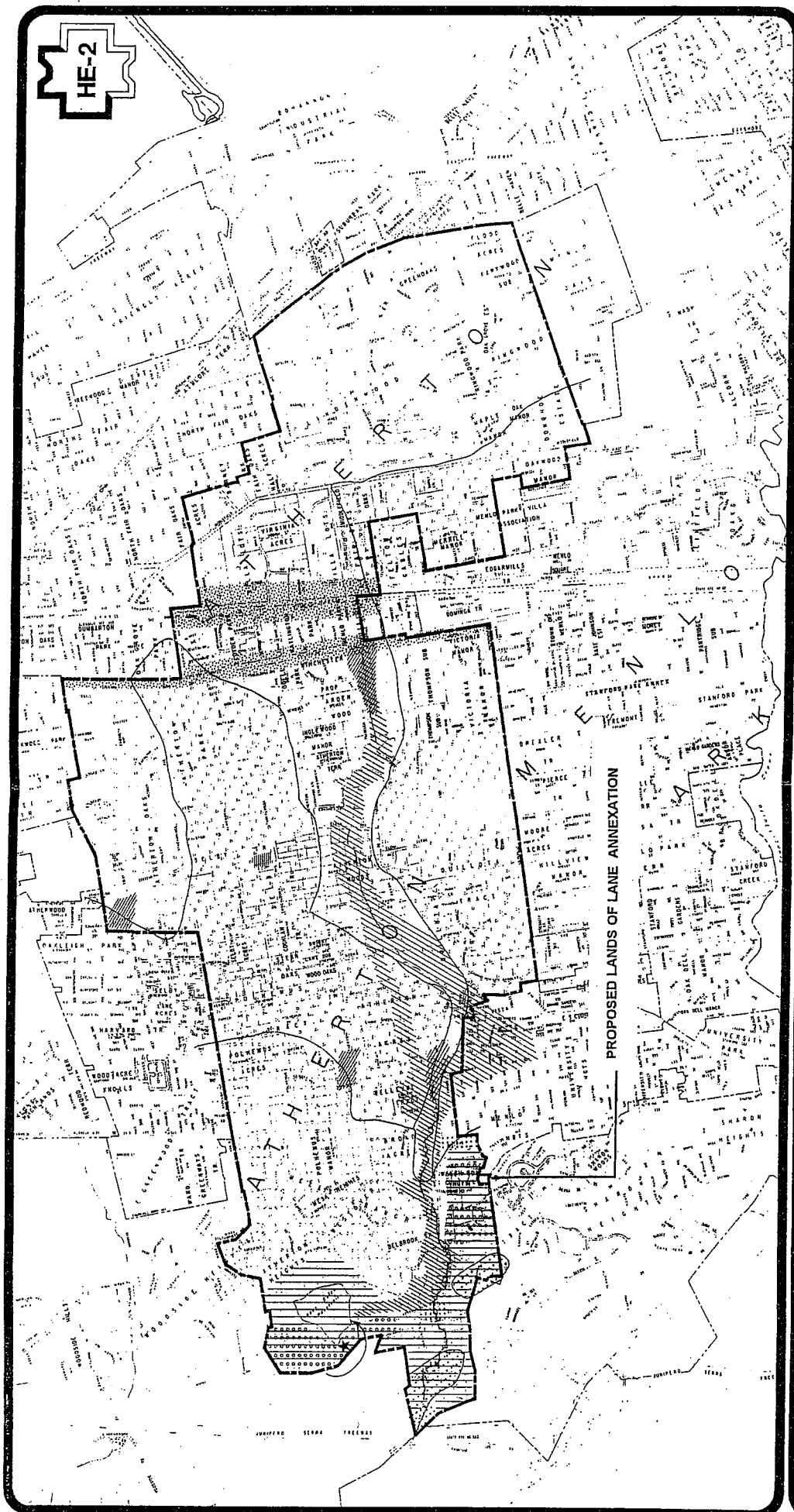
Areas identified on the Environmental Constraints map as subject to Wildland Fire Hazard are generally west of Alameda de las Pulgas in the vicinity of Bear Gulch Reservoir and along Walsh Road and Reservoir Road. Residential building is precluded around Bear Gulch Reservoir because of its ownership by the California Water Service Company, and the open space zoning and General Plan designation. The adopted Fire Code requires all buildings exceeding 1,000 square feet be sprinklered and that roofs be constructed of fire resistant materials. All buildings in the wildland interface must have fire sprinklers to protect the interface from a dwelling fire incident. In addition, the Menlo Park Fire Protection District inspects the area annually and recommends homeowners to clear combustible vegetation near structures. This constraint requires mitigation but does not prevent residential construction.

3.414 Infrastructure Description

Adequate infrastructure exists through out the entire Town to accommodate the existing and planned density of development. This includes existing paved streets, sewer, water supply for domestic and fire suppression purposes and drainage facilities. Available public services

¹ County of San Mateo Geotechnical Hazard Synthesis Map

HE-2



ATHERTON GENERAL PLAN

ENVIRONMENTAL CONSTRAINTS

- COARSE-GRAINED ALLUVIAL FAN DEPOSITS (TYPE A1)
- COARSE-GRAINED ALLUVIAL FAN DEPOSITS (TYPE B1)
- UPLAND BEDROCK (TYPE A1)
- UPLAND BEDROCK (TYPE B1)
- SUBJECT TO FLOOD INUNDATION IN EVENT OF DAM FAILURE
- ONE-HUNDRED YEAR FLOOD ZONE
- WILLAND FIRE HAZARD AREA 2
- PRIME NOISE LEVELS INCOMPATIBLE WITH RESIDENTIAL LAND USE 2
- NATURAL VEGETATION OF PARK 2
- AGRICULTURE 2
- MOUNTAIN VIEW AND INTERMITTENT STREAM 2
- SMALL LANDSCAPE 1

COUNTY OF SAN MATEO, EARTH AND WATER RESOURCES, 1975
 2. MARTIN, CARPENTER ASSOCIATES CLASSIFICATION, 1982

include Police, Fire, Parks and Recreation, Public Works, Building Inspection and Town Administration.

There are no sites in the Town of Atherton identified as available for housing that are in areas not served by public sewer systems. Consequently there are no sites identified as available for housing for any of the four income level households in areas not served by a public sewer system.

3.420 Zoning Appropriate to Accommodate the Development of Housing Affordable to Lower Income Households

The Town is required to provide sites suitable for construction of 32 lower income units (13 low income and 19 very low income). As described below, currently available sites (not requiring any change in the Town's zoning) provide available sites for at least 67 lower income units, primarily housing planned at Menlo College and Menlo School.

However, to enhance the production of affordable housing in the Town, zoning ordinance modifications are being proposed that will increase the expected production of affordable second units to a total of 120 units¹ over the 2007 – 2014 planning period.

3.420a 1000 El Camino Real - Menlo College

This is site number 1 in the Inventory of Sites Suitable for Residential Development. The Menlo College Master Plan calls for the development of 79 additional units of faculty and student housing units. The Master Plan calls for the development of 16 new faculty units in townhouse style at densities of approximately 9 dwelling units per acre. The Master Plan also calls for development of 63 new student housing units for juniors and seniors designated for independent living with separate entries, kitchens, baths, and living space. These units would be in apartment style buildings at densities of 20-25 units per acre. The Menlo College Master Plan was filed with the Town in 2002 and was most recently updated in spring 2008. The capacity of this site was established based on the Menlo College Master Plan. Based on the affordability levels of current on-campus faculty and student housing (\$750 to \$1,500 per month), all units should be affordable to households in the extremely low and very low income categories. However, to be more conservative, the 16 faculty units are shown as moderate-income housing, and the 63 units to be built at densities of 20-25 units per acre are shown to be suitable for lower income housing.

This site is zoned PFS (Public Facilities and Schools) District which allows private schools and accessory uses (faculty and student housing are considered accessory uses) upon the issuance of a Conditional Use Permit. The zoning encourages the preparation of a Master Plan for future development. The purpose of providing faculty and student housing on campus is to retain quality faculty and attract students through the provision of affordable housing at below market levels.

¹ 92 units in the extremely low, very low and low income category and 28 units in the moderate category.

3.420b 50 Valparaiso Avenue - Menlo School

This is site number 2 in the Inventory of Sites Suitable for Residential Development. The Menlo School Master Plan calls for the development of 11 additional units of faculty housing on campus. These units would be in the townhouse style at densities of approximately 9 dwelling units per acre. The Menlo School Master Plan was filed with the Town in 2002 and was most recently updated in spring 2008. The capacity of this site was established based on the Menlo School Master Plan. Based on the affordability levels of current on-campus faculty housing (\$465 to \$757 per month), all units should be affordable to households in the extremely low category. However, to be more conservative, and because these are intended to be townhouse-style units, the 11 faculty units are shown as moderate-income housing.

Like Menlo College, this site is zoned PFS (Public Facilities and Schools) District which allows private schools and accessory uses (faculty housing is considered an accessory use) upon the issuance of a Conditional Use Permit. The purpose of providing faculty housing on campus is to retain quality faculty through the provision of affordable housing.

3.420c 150 Valparaiso Avenue – Sacred Heart Schools

The Sacred Heart Schools Master Plan calls for the development of 2 additional units on the campus to be available to very low income staff. The Sacred Heart Schools Master Plan was filed with the Town in 2002 and was most recently updated in 2008. Like the other schools in Town, the site is zoned PFS (Public Facilities and Schools) District which allows private schools and accessory uses (staff housing is considered an accessory use) upon the issuance of a Conditional Use Permit. The purpose of providing staff housing on campus is to retain quality staff through the provision of affordable housing.

3.420d Second Dwelling Units

Second dwelling units in Atherton provide needed extremely low income and very low income housing. The Atherton second unit survey revealed that 100% of the existing second units, and internal living quarters were affordable to households in the extremely low and very low income categories (compared with 80 percent of second units in the County as a whole). This level of affordability applied to all second units, not just older second units. Therefore, all new second units are projected to be available to households in the extremely low and very low income categories.

During the previous Housing Element Planning Period (1999 – 2006) there were only 4 new second dwelling units permitted and constructed. There are proposals in this Housing Element Update to expand the allowable size of second units to greater than the current maximum of 600 square feet (up to 1,200 square feet), to allow some encroachment into the side and rear setbacks, to exempt the floor area of the second unit from the accessory structure and overall lot floor area limitation up to 1,200 square feet (but not to exceed 10% of the allowed floor area for the lot), to eliminate the minimum lot size provisions, and to waive building permit fees in order to substantially increase the rate of second unit production in the future. In addition, the Town intends to allow a full kitchen in internal living quarters, so that they also

may be considered as second dwelling units. Internal living quarters were built at a rapid rate between 1999 and 2006. As described below, if these units are considered as dwelling units, and based on the rates of construction of second units, and internal living quarters between 1999 and 2006, the Town estimates that 52 to 80¹ second units will be built between 2007 and 2014.

- Zoning Changes Proposed in Relation to Second Dwelling Units

Currently zoning regulations limit the size of second dwelling units to a maximum of 600 square feet of floor area, require the same setbacks as a main dwelling prohibit second units on smaller lots, require that the second unit floor area be counted as part of the total allowable floor area on a lot and are charged normal building permit fees. In order to provide incentives for the construction of additional second dwelling units in Atherton, changes to the zoning ordinance listed below are proposed:

- Expand the allowable size of second units to a maximum of 1,200 square feet.
- Allow detached or attached second units, if located behind the rear line of the main building, to encroach into the side and rear yard setbacks by not to exceed 20% of the required setback.
- Exempt the floor area of the second unit from the accessory structure and overall lot floor area limitation up to 1,200 square feet, but not to exceed 10% of the allowed floor area for the lot.
- Eliminate the minimum lot size provisions for second units.
- Waive building permit fees for second units.

- Zoning Changes Proposed in Relation to Internal Living Quarters

Currently zoning regulations prohibit internal living quarters from having full kitchen facilities, therefore they cannot be classified as dwelling units. However, there is a proposal included in this Housing Element Update to allow full kitchen facilities in internal living quarters thereby allowing them to be occupied and counted as second dwelling units. Building Department data show that from 1999 to 2007 about 50 to 75 new internal living quarters were constructed. That was a rate of 6 to 10 new internal living quarters per year. Therefore, the projected number of new second dwelling units (i.e. second dwelling units plus internal living quarters) available for full time occupancy will be from 52 to 80 units during the 2007 – 2014 Planning Period.

An Atherton survey in November 2008 indicated that there are from 50 to 125 existing internal living quarters in Atherton.

Table HIV-2 shows the expected additional 57 second units to be constructed in the Town if these zoning ordinance changes are made.

¹ Based on 10 new second units and 6-10 internal living quarters units/year times 7 years = 52-80.

3.421 Moderate and Above Moderate Income Housing

As noted, Master Plans for Menlo College and Menlo School include plans for 27 units of townhouse-style faculty housing. In the past rents for such housing have been affordable to very low income households, but to be conservative, the Housing Element projects these as moderate-income units.

Sites numbered 3 - 79 in the Inventory of Sites Suitable for Residential Development are suitable for above-moderate income housing. The inventory lists 79 sites with the potential for the development of 110 new, above market rate housing units. The listed sites are either large enough to be subdivided into smaller lots consistent with the existing zoning density limitations or are already legal lots that have been combined into a single building site. All are currently developed with a single family residence. There are no zoning or other constraints adopted by the Town that would prevent development of these 110 new homes.

However, over the past 20 years there has been a trend to demolish existing, older homes and replace them with new, larger homes. For example, during the last housing element period (1999 – 2006), there were 240 single family homes demolished and 245 new homes built for a net increase of 5 homes. The increase was the result of some parcels being subdivided into additional building sites and others where a home was demolished to use 2 or more existing lots. This was a rate of approximately 0.75 net new dwelling unit per year. The current rate is projected to continue during the 7 year 2007-2014 Housing Element Planning Period, resulting in the addition of 5 net new above moderate income housing units. This is an extremely conservative number, as market conditions may change, and the Town has imposed no obstacles to the addition of the 110 new homes permitted by current zoning.

In addition, rents for all second units in Atherton also were affordable to above moderate-income households, according to the *21 Elements* survey and the Town's own survey. Although the Town's own survey indicated that all units were affordable to very low income households, to be conservative 30 units are shown as above-moderate income units.

TABLE HIV-2: SUMMARY OF AVAILABLE SITES BY INCOME CATEGORY

Sites	Household Income Categories					TOTAL
	Extremely Low	Very Low	Low	Moderate	Above Moderate	
RHNA Allocation	32			16	35	83
Currently Available Sites						
1000 El Camino Real	63			16		79
50 Valparaiso				11		11
150 Valparaiso	2					2
Town-wide Above Market Homes					5	5
Town-wide 2 nd Dwelling Units*	27			0	30	57
Total	92			28	35	154

*While surveys show that all of these units are expected to be affordable to extremely low and very low income households, as a conservative estimate, some are projected to be affordable to moderate and above moderate income households.

3.430 Analysis of Zoning that Encourages and Facilitates a Variety of Housing Types

As required by State law, the Town allows factory-built housing or mobilehomes on permanent foundations under the same terms applicable to other single-family homes in the R-1A and R-1B zones. The Town does not have architectural review of new homes, and consequently does not impose architectural review on factory-built housing.

Multifamily rental housing and single-room occupancy units are permitted in the PFS zones when included in an approved master plan and with a use permit. Multifamily housing now exists on the Menlo College site, and congregate housing for the retired religious on the Sacred Heart Schools site.

3.440 Identification of Adequate Sites for Emergency Shelters

As stated in Section 3.318, by June 30, 2010, Atherton will establish a zone that meets requirements set forth in SB2 relating to emergency shelters. The Town will amend the existing PFS (Public Facilities and Schools) Zoning District to provide for emergency shelters as an allowable use when located within 500 feet of the Town Civic Center. Within this zone shelters will be permitted without a conditional use permit or other discretionary action. The zone will contain approximately 6 acres, which can accommodate up to three shelter beds, providing adequate capacity to meet the identified need. A typical shelter approximately 1,000 sq. ft. in size would be allowed in this zone by right, and the Town would adopt management and other standards as permitted by State law.

3.450 Identification of Adequate Sites for Transitional and Supportive Housing

As stated in Section 3.318, by June 30, 2010, Atherton will amend the zoning code to explicitly state that any use is permitted if required by State law. Under this revision, supportive and transitional housing will only need to obtain the same types of permits and approvals as the same type of residential development in that zone. Residential uses, including transitional and supportive housing, are permitted without discretionary permits in the following zones; R-1A and R-1B; and are permitted with a use permit in the PFS zone.

3.460 Identification of Adequate Sites for Farm Worker Housing

As stated in previous sections, there are no agricultural jobs and no farm workers living in Atherton. The closest significant location of agricultural employment is located at least 30 minutes drive away. Since there is no need for farm worker housing in Atherton, no sites are identified.

3.470 Other Housing Resources

The Town has no financial resources to spend on affordable housing. However, the Town is willing to consult with other agencies such as the County of San Mateo or non-profit institutions in the County about resources that might be available to the Town for affordable housing.

3.500 CONSTRAINTS ON HOUSING

This section contains analyses of potential governmental constraints contained in the Town ordinances, codes and policies that could constitute a barrier to the maintenance, improvement or development of housing for all income levels.

3.510 Governmental Constraints Analysis

3.511 Land Use Controls

The General Plan and Zoning Ordinance of a community are two primary tools for planning and regulating land use.

General Plan - The Town of Atherton updated its General Plan in 2002. The land use character of the Town has remained that of a mainly single family residential and institutional (e.g. schools) nature. The General Plan reveals that the most significant constraint to housing development is land availability. There is no vacant developable land in the Town, and most of the Town's land acreage is developed at existing General Plan densities.

Zoning Ordinance - The Atherton Zoning Ordinance designates land uses, height, bulk, density and parking standards throughout the city. The Zoning Ordinance was designed for consistency with the General Plan. The General Plan's four basic land use designations: Single-Family Residential, Single Family Residential Low Density, Public Facilities and Schools, and Parks and Open Space are directly reflected by the zoning districts of the R-1A (Single Family Residential one acre minimum), R-1B (Single Family Residential – 0.31 acre minimum), PFS (Public Facilities and Schools), and POS (Parks and Open Space). Table HVI-1 presents the Atherton Zoning Categories and Standards of density, setbacks, height limits, floor area ratios, lot coverage and parking requirements.

The zoning categories reflect the Town's low-density residential, large lot, single-family character. Commercial and industrial land uses are prohibited. The standards require large setbacks, limited floor area ratios and height restrictions. However, some standards are quite unrestrictive compared to other cities. For example, Atherton does not require on-site parking, nor is architectural review and approval required. Consistent with State law, the Town allows factory-built housing or mobilehomes on permanent foundations under the same terms applicable to other single family homes.

Second Dwelling Units are permitted in both the R-1A and R-1B zoning districts. The zoning ordinance was amended in 2003 to make Second Dwelling Units permitted by right in the R-1 districts. A second dwelling unit requires the same setbacks as the main dwelling but is limited to 15 feet in height and 600 square feet of floor area. The size and setback limits could be considered constraints to construction of new second units or conversion of existing Guest Houses to full time occupied second units.

Internal Living Quarters (additional living quarters inside homes) are permitted by right in both the R-1A and R-1B zoning districts. These may include a bedroom, a bath and two of three

kitchen elements (stove, sink, and/or refrigerator). Internal living quarters are also commonly constructed in Atherton (approximately 7 per year), and the limitation on kitchen facilities is a constraint on the development of new affordable dwelling units

TABLE HV-1: ATHERTON'S ZONING CATEGORIES AND STANDARDS

Zoning	Density	Front Setbacks	Side Setbacks	Rear Setbacks	Height Limit	FAR	Max Lot Coverage	Parking Required	Arch. Approval
R-1A (Single Family Residential)	1 d.u./acre	60'	50'	60'	30*	18%	N/A	None	None
R-1B (Single Family Residential)	0.3 d.u./ac.	30'	26'	30'	28'	18%	N/A	None	None
PFS (Public Facilities and Schools)	None	60'	75'	75'	34'	N/A	40%	None	None
POS (Parks and Open Space)	None	60'	Varies	60'	34'	N/A	20%	None	None

* 34' maximum with increased setbacks and Conditional Use Permit

The Municipal Code and Ordinance provides a variety of lot sizes with densities ranging from one dwelling unit per five acres to three units per acre. Although the Town's low allowable densities constitute a constraint to affordable housing development, the impact is offset somewhat by the relatively large proportion of homes containing second dwelling units. In addition, Atherton's large homes provide opportunities for internal living quarters. These characteristics of the local housing stock assists the Town in meeting its regional share of affordable housing. Housing associated with the underlying use (including multifamily rental housing and single room occupancy units) is permitted in the PFS (Public Facilities and Schools) Zoning District.

Recommendations for Removal of Land Use Constraints

1. Amend the Second Dwelling Unit provision of the zoning ordinance to allow construction of attached and detached units to encroach up to 20% into side and rear yard setback areas, if located behind the rear line of the main build.
2. Amend the Second Dwelling Unit provision of the zoning ordinance to increase their allowable size up to 1,200 square feet and to exempt the floor area of the Second Dwelling Unit from maximum floor area limits on the building site.
3. Amend the zoning ordinance to eliminate restrictions on minimum lot sizes for Second Dwelling Units.

4. Amend the zoning ordinance to permit Internal Living Quarters that may include all three kitchen elements (stove, sink, and refrigerator).
5. Waive building permit fees for Second Dwelling Units.

3.512 Codes and Enforcement

The latest edition of the Uniform Building Code is enforced in Atherton. The Town's Building Department sees that new residences, additions, auxiliary structures, etc., meet all of the latest construction and safety standards. Building permits are required for any construction work. The Town has not adopted any local amendments to the State Housing Law or the Uniform Building Code. The Uniform Building Code is imposed by State law and does not pose an unusually significant constraint to housing development, maintenance or the supply and affordability of housing.

The Town has recently instituted a part-time code enforcement program. This is primarily a land use enforcement, complaint-based program. Typical complaints and violations relate to noise, construction activity without a Building Permit and parking of contractors' vehicles and has not resulted in housing being deemed unfit for human habitation or vacated. The code enforcement program does not pose a constraint to housing development, maintenance or the supply and affordability of housing.

3.513 On and Off-Site Improvement Requirements

The on and off-site improvements required for residential development in Atherton are listed below.

Street Width:	20 feet
Curbs and Gutters:	Rolled curbs and gutters required for new subdivisions
Sidewalks:	Prohibited
Water and Sewer Connections:	Required
Drainage:	Storage improvements required to prevent increased runoff during storm conditions (required by the San Francisco Bay Area Regional Water Quality Control Board)

Since Atherton is a completely developed urban area all streets are paved, water mains and sewer trunks have been installed and major drainage improvements are in place. Atherton's improvement standards are substantially less restrictive than those imposed by many communities, which often require wider streets and additional off-site improvements. The on

and off-site improvement requirements do not pose a significant constraint to housing development, maintenance or the supply and affordability of housing.

3.514 Fees and Exactions

In Atherton development fees are charged for both planning review and building permits. Planning fees are charged in order to recover the costs associated with the administration of the Town's land use regulations. Planning fees for review of projects that do not require Planning Commission action are charged on an hourly rate and do not require a set fee or deposit. Most of the residential projects in Atherton fall into this category. Review times are typically 1 to 5 hours. Planning fees for projects that require Planning Commission action consist of a non-refundable fee and a deposit, against which professional planning staff charge to provide review services. Charges currently range from \$70 to \$175 per hour depending upon the level of personnel involved in the review. Unused portions of the deposit are returned to the applicant at the end of the process. The fee structure reflects the Town's actual cost for the service. The Town reviews its fee structure and levels on a regular basis to ensure they reflect the cost of delivering services. Typical planning fees are shown in the table below.

TABLE HV-2: PLANNING FEES - 2008

Type of Fee	Fee	Deposit
Conditional Use Permit	\$1,500	\$2,000
Variance	\$1,500	\$2,000
Subdivision	\$5,000	\$2,500
Lot Line Adjustment	\$2,500	\$1,000

The Atherton planning fees are consistent with similar charges in other small jurisdictions and do not pose a significant constraint to housing development, maintenance or the supply and affordability of housing.

Building fees are charged to cover costs associated with checking that the building plans conform to requirements of the Uniform Building Code (UBC) as well as costs associated with conducting building construction inspections. Fees charged for building permits are based on the valuation of construction. The fee structure reflects the Town's actual cost for the service. The Town reviews its fee structure and levels on a regular basis to ensure they reflect the cost of delivering services. Currently¹ new construction valuation is determined by use of a standard factor of \$350 per square foot for habitable space and \$250 per square foot for non-habitable space. The same factor is used for remodeling projects however, the Building Department has the option to adjust the permitted value to the actual cost of the remodeling provided evidence is presented in the form of an executed contract substantiating the value. The actual building permit fee is determined using Table 1-A of the UBC. For example, where construction is valued over \$1,000,000 the fee is calculated as \$5,608.75 for the first \$1,000,000 plus \$3.65 for each additional \$1,000 or fraction thereof. An additional 65% of the building permit fee is charged for plan checking.

¹ City Council Fee Resolution No. 07-17 adopted June 18, 2007.

The Town charges a Road Impact Fee on all building construction projects. A road impact fee of 0.71% of the project valuation is required for all construction projects. Road impact fees and are used to fund roadway projects to maintain and repair local roadways, including normal engineering, administrative overhead and other associated costs. For example, a project valued at \$1,000,000 would require a Road Impact Fee of \$7,100. The fee is based on a nexus study completed by the Town in 2005.¹

While not imposed by the Town, local school districts charge a fee that is based on the square footage of new construction and must be paid prior to issuance of the building permits. The purpose of the fee is to compensate the school districts for the costs associated with the demand or additional services and classroom space generated by new residential construction. The Sequoia Union High School District collects the fees and distributes a portion to one of the three elementary school districts serving Atherton (i.e. Las Lomas School District, Menlo Park City School District and Redwood City School District). In areas served by the Menlo Park City School District the current fee is \$2.97 per square foot with \$1.052 distributed to the Sequoia District and \$1.918 distributed to the Menlo Park District. In areas served by the Las Lomas and Redwood City School Districts the current fee is \$2.63 per square foot with \$1.284 distributed to the Sequoia District and \$1.346 distributed to the Las Lomas or Redwood City Districts.

The Town does not have any park, open space, parking or other similar development or impact fees. Nor does it have any in-lieu housing or other fees, below-market-rate housing requirements or specific land dedication requirements for streets, public utility rights-of-way, easements, parks or open space.

A recent survey by 21 Elements² revealed that a 2,800 square foot house built in Atherton would have a land cost of \$3,000,000, building construction costs of \$980,000 to \$1,400,000, building permit fees of \$10,785, sewer connection fee of \$550, recycling fee of \$1,000, street impact fee of \$6,674, business license fee of \$3,384 and school district fees of \$8,316 for a total cost of \$4,010,709 to \$4,430,709. The 21 Elements Fee Survey revealed that 14 cities in San Mateo County had development fees for single family homes that were higher than Atherton's; some had fees 1.5 and 2 times higher. With fees substantially lower than those of adjacent communities, they do not pose a constraint on housing construction.

3.515 Processing and Permit Procedures

The following table describes the Town's permit process procedures in general. These processes are required for the development of all housing for all income categories. Only two levels of residential permit processing are available; a Conditional Use Permit or a Building Permit. The Town does not have an Architectural Review and approval

¹ Analysis performed by Town Staff in consultation with Kimley Horn and Associates.

² 21 Elements: San Mateo Countywide Housing Element Update Kit, *Development Fees Survey*, September 17, 2008

process.

Most residential construction, including second dwelling units and guest houses (estimated 90% to 95% of building permits) does not require Planning Commission action or permits. Only Planning Department review of the project for conformance with Town zoning standards and Building Department review for Building Code conformance are required.

Where Conditional Use Permits are required, the process involves submitting an application to the Planning Commission for review of the proposal. Preliminarily site plans and elevations are required as part of the submittal. An advertised public hearing is held by the Planning Commission with mailed notice to all property owners within 500 ft. of the proposed project. Upon Planning Commission approval, plans may be submitted to the Building Department for Building Plan Check and Building Permit issuance.

Building permits must be secured before commencement of any residential construction, reconstruction, conversion, alteration or addition. Approval of permit applications is based on conformity with the Uniform Building Code and the Zoning Ordinance, although the Town has the power to grant variances from the terms of the Zoning Ordinance within the limitations provided in the Ordinance.

The Building Permit process has very little impact on the development of above moderate income housing in Atherton as evidenced by building activity and the number of replacement housings being constructed. The Building Department currently has approximately 800 active permits and approximately 30 - 40 houses are demolished and replaced with new houses each year. While removal of the process and reduction of fees might function to reduce costs slightly, there are many other factors that act to deter development of such housing. Factors such as the high cost of land (currently at about \$3 million per acre), the limitations on density and non-availability of funds (e.g. in the private educational institutions and from local public sources) are the most likely deterrents to the development of low and moderate-income housing.

TABLE HV-3: RESIDENTIAL PERMIT PROCESSING PROCEDURES AND TIMES

Type of Construction	Use Permit	Building Permit	Plan. Commission Public Hearing	Typical Time for Staff Plan Check & Building Permit Issue (weeks)
Single Family Residential		X		6
Second Dwelling Unit		X		6
Guest House		X		6
Housing on PFS Sites	X	X	X	9

The Town does not have any overly zones such as community plan implementation zones, hillside overlay zones or environmentally sensitive areas.

Atherton has only two residential zoning districts; R-1A where the minimum lot size is 1 acre and R-1B where the minimum lot size is 13,500 square feet. Single family detached dwelling units, second dwelling units and guest houses are permitted by right in these districts. Attached and multiple family dwelling units are not permitted in either district. All construction in PFS zoning districts, including attached and multiple family dwelling units and single room occupancy units requires a conditional use permit. Housing in PFS zoning districts is permitted when the residential use is associated with a conditional or permitted use in that district. Such residential uses are typically associated with private schools.

3.520 Non-Governmental Constraints Analysis

3.521 Land Prices

Land scarcity and high real estate prices are the most significant non-governmental constraints to affordable housing in Atherton. There are virtually no vacant lots in Atherton. Land currently sells for about \$3 million per acre and can only be acquired by purchase of a developed parcel or by subdividing the property, which also most likely involves the removal of an existing residence. The inventory of sites suitable for residential development described in section 3.230 showed a potential of 107 new parcels that can be created by subdividing existing developed parcels. Vacant lots are few in number and render discussions of lot prices virtually meaningless. This is a result of economic forces which are well beyond the capacity of the local government to influence or control. In this context, it is difficult to think in terms of market-based affordable housing provision.

3.522 Construction Costs

Construction costs are also high in the San Francisco Peninsula. Building costs range from \$225 to over \$500 per square foot. Such costs are not particularly higher in Atherton than in other surrounding jurisdictions.

3.523 Financing Availability

Prior to the 2008 mortgage credit crisis, home financing was generally available in Atherton and there did not appear to be any mortgage deficient areas within the community. The availability of financing is usually not a constraint to the construction of housing units consistent with Atherton's regional housing needs and, even in 2008, financing can be obtained for home purchases, albeit on stricter terms.

3.600 REVIEW AND EVALUATION OF THE 1999-2006 HOUSING ELEMENT

3.610 Effectiveness of the Element

A detailed analysis of the goals, objectives, policies and programs contained in the 1999-2006 Housing Element Update is presented in the table below.

3.620 Progress in Implementation

A comparison of the number of projected or planned housing units (i.e. 1999-2006 Housing Need Allocation) with what was actually achieved is summarized in Table H-2 below.

TABLE HVI-1: PROGRESS IN IMPLEMENTATION

Income Group	1999-2006 Housing Need Allocation	Actual Achievement			
		Private Const- ruction	Second Dwelling Unit Program	Total	Met (M), Exceeded (E) or Fell Short (S) of Goal
Very Low	22	2	4	6	S
Low	10				S
Moderate	27				S
Above Moderate	107	5		5	S
Totals	166	7	4	11	S

The construction of new market rate housing fell short of the 107 unit objective. Although 245 new market rate units were constructed in Atherton between 1999 and 2006, 240 existing units were demolished to accommodate the new units. Therefore, a net five new market rate units were added to the housing stock. Only one subdivision occurred during the Planning Period where four new lots were created.

During the Planning Period it was anticipated that new faculty housing would be constructed at Menlo School and Menlo College. A net of eleven new faculty units affordable to very low and moderate income households were planned at Menlo School and sixteen new faculty units affordable to very low and moderate income households were planned at Menlo College. Although the plans for these units remain on the Master Plans for these institutions there were insufficient funds available to construct them during the Planning Period. It is recommended that this program be carried forward to the 2007-14 Planning Period.

It was also anticipated that 63 new student housing units affordable to very low, low, moderate and above moderate income households would be constructed at Menlo College. Although the plans for these units remain on the Master Plans for these institutions there were insufficient funds available to construct them during the Planning Period. It is recommended that this program be carried forward to the 2007-14 Planning Period.

Two very low income units were privately constructed at Sacred Heart Schools during the 1999-2006 Planning Period. The units were added to the "castle" in 2000 and the Rosewood addition to Oakwood in 2003-4.

During the Planning Period there were four new Second Dwelling Units were constructed. A survey of second units in the Town has shown that all are affordable to low income households (with 80% affordable to extremely low income households).¹ The objective was construction of ten Second Dwelling Units. During the Planning Period the requirement for a Conditional Use Permit for Second Dwelling Units was removed and they are now permitted by right.

The Town supports the Shared Housing Program sponsored by the Human Investment Project, a San Mateo County non-profit organization that helps match people or households seeking affordable housing with owners of housing who are interested in renting or sharing space in their home. One placement was made in Atherton in a unit affordable to low income households during the Planning Period. However, because the shared housing program does not create new dwelling units, the unit is not shown in the table above.

Although few second units were constructed in the Town, numerous internal living quarters were built from 1999 and 2006. These are very similar to second units but have not been considered as "dwelling units" because internal living quarters do not have a complete kitchen. However, internal living quarters in fact provide housing affordable primarily to extremely low income households. The Town has committed to amending its zoning ordinance so that these units added to the housing stock.

3.630 Appropriateness of Goals, Objectives and Policies

The goals, objectives, policies and programs, which are new or revised and are appropriate for use in the 2007-14 Planning Period, are shown in Table HIV-3.

¹ Based on results contained in the study: *Affordability of Second Units in San Mateo County*, 21 Elements: San Mateo Countywide Housing Element Update Kit, October 24, 2008 and on the study *Atherton Second Unit Survey*, December 2008.

TABLE HVI-3: EVALUATION OF EXISTING GOALS, OBJECTIVES, POLICIES AND PROGRAMS

Policy/Program Ref. # and brief description	Quantified Objective	Result	Evaluation	Continue/Modify/Delete
3.312 Work with private developers to encourage new housing development.	107 new housing units in the above-moderate income category	Net 5 new housing units developed in the above-moderate income category	5% of objective met due to : • Market choosing to construct 1 unit for each demolished unit. • Extremely limited supply of land available for subdivision.	Modify: Project development of approx. 5 net new housing units in the above moderate income category in 2007-14 Planning Period
3.321 Encourage the construction of new housing units affordable to moderate and low income households.	59 new housing units in the moderate to very low income category	4 new housing units constructed in the extremely low and very low income category (these were 2 nd Units as described in §3.331 below).	7% of objective met due to : • Ordinance limiting size of 2nd units to 600 sq. ft. • Ordinance limiting occupancy of guest houses to 30 days per year. • Market failed to construct any faculty or student units during the planning period.	Continue: Modify second unit ordinance in 2007-14 Planning Period as described in next item.

Policy/Program Ref. # and brief description	Quantified Objective	Result	Evaluation	Continue/Modify/Delete
3.331 Construction of 2 nd dwelling units for occupancy by moderate to very low income households.	10 new 2 nd dwelling units	• 4 new 2nd dwelling units (also described in §3.321 above. • Zoning Ordinance amended to eliminate Use Permit requirements for 2nd units (Ord. #544, 9/17/03)	40% of 2nd dwelling unit construction objective met. Zoning Ordinance amendment objective met.	Modify: take the following actions in the 2007-14 Planning Period: Allow internal living quarters to be second units by taking the following actions: • Amend 2nd unit ordinance to permit larger units (up to 1,200 s.f.). • Amend 2nd unit ordinance to permit construction in portions of side and rear setback areas. • Publicize the Town's 2nd unit ordinance in the Town newsletter and in the Building Department. • Allow internal living quarters to have a full kitchen.
3.332A Encourage rental of existing legal, full time 2 nd units.	None	Survey showed that many second units are rented.		Delete: City cannot require owners to rent 2nd units. However, City intends to encourage more second unit rental through a public outreach program.

Policy/Program Ref. # and brief description	Quantified Objective	Result	Evaluation	Continue/Modify/Delete
3.332B Continue to implement the 2 nd unit ordinance.	None	4 new 2 nd units were constructed in the planning period	Same as §3.331 above.	Same as §3.331 above.
3.342 Encourage private schools to provide affordable faculty and student housing on their campuses.	27 new faculty units and 63 new student housing units with kitchens in the mod-erate to very low income categories	No new units constructed.	Objective not met because market failed to construct any faculty or student units during the planning period.	Retain program. Seek to encourage production of these units.
3.352A Promote conservation and improvement of the condition of the existing affordable housing stock.	None	Oakwood, a home for the retired religious at Sacred Heart Schools providing residence for about 52 people was expanded and renovated during the planning period.	Objective met.	Continue policy, Oakwood provides housing affordable to extremely low income persons. However, units do not have kitchens and so are not considered to be dwelling units.

Policy/Program Ref. # and brief description	Quantified Objective	Result	Evaluation	Continue/Modify/Delete
3.352B Encourage the provision of 2 nd units by publicizing its 2 nd dwelling unit program.	None	Building and Planning Staff have encouraged homeowners and developers to construct new 2 nd units.	40% of construction objective met.	Modify by the actions below: - Annually publicize the program in the Town newsletter. - Publicize the program at the Building Permit counter. - Modify the second unit ordinance so that internal living quarters may be considered as dwelling units. Based on past construction this should add 52-80 dwelling units in the current planning period.
3.362A Continue to enforce the Uniform Building Code provision of handicap access in residential structures.	None	Handicap access provisions of UBC were enforced by the Building Department.	Provision successful	Continue
3.362C Contribute funds to the Shelter Network Program that provides shelters and homeless assistance in San Mateo County.	None	No funds contributed	Town budget constraints preclude its ability to contribute.	Monitor

Policy/Program Ref. # and brief description	Quantified Objective	Result	Evaluation	Continue/Modify/Delete
3.372 Actively support housing opportunities for all persons regardless of race, sex, marital status, ancestry, national origin or color.	None	Town cooperates with District Attorney to enforce fair housing laws	Objective met	Continue
Continue to support the Shared Housing Program implemented by the Human Investment Project.	None	One low income household was accommodated through home sharing during the planning period.	Program assists low income individuals but does not result in any net new housing units.	Continue

3.700 HOUSING GOALS, QUANTIFIED OBJECTIVES AND POLICES

This section contains the Housing Goals, Quantified Objectives and Polices of the Town. These goals, objectives and polices will be implemented by the Housing Programs described in Section 3.800 of this Element.

3.710 GOAL: FACILITATE THE PRIVATE DEVELOPMENT OF HOUSING TO MEET A PORTION OF THE ABOVE MODERATE INCOME HOUSING NEED IDENTIFIED FOR ATHERTON

3.711 OBJECTIVES

A. Realize the construction of approximately 5 net new housing units in the above-moderate income category in Atherton from 2007-2014.

3.712 POLICIES

A. Within the limitations of the private housing market the Town shall work with private developers to encourage new housing development.

3.720 GOAL: USE SECOND DWELLING UNITS TO MEET A SUBSTANTIAL PORTION OF THE TOWN'S MODERATE TO VERY LOW INCOME HOUSING NEED.

3.721 OBJECTIVES

A. Realize the construction of 57 new second dwelling units planned for occupancy by moderate to extremely low income households in Atherton from 2007-2014.

3.722 POLICIES

A. Amend the Atherton Zoning Ordinance as listed below:

- Expand the allowable size of second units to a maximum of 1,200 square feet.
- Allow detached or attached second units, if located behind the rear line of the main building, to encroach into the side and rear yard setbacks by not to exceed 20% of the required setback.
- Exempt the floor area of the second unit from the accessory structure and overall lot floor area limitation up to 1,200 square feet, but not to exceed 10% of the allowed floor area for the lot.
- Eliminate the minimum lot size provisions for second units.
- Waive building permit fees for second units.

B. Amend the Atherton Zoning Ordinance to allow the construction and occupancy of internal living quarters containing a full kitchen, and facilities

for living and sleeping.

- C. Encourage occupancy of legal, full time second units and internal living quarters.
- D. Implement the Town's second dwelling unit ordinance.
- E. Encourage the private provision of second unit dwellings by publicizing the existence of its Second Dwelling Unit Program.

3.730 GOAL: FACILITATE THE DEVELOPMENT OF FACULTY AND STUDENT HOUSING ON SCHOOL CAMPUSES TO MEET A PORTION OF THE MODERATE AND VERY LOW INCOME HOUSING NEED IDENTIFIED FOR ATHERTON

3.731 OBJECTIVES

- A. Encourage the construction of 27 new faculty housing units and 63 new student housing units with kitchens at private schools in the moderate to very low income categories in Atherton from 2007-2014.
- B. Encourage the construction of 2 new staff housing units at Sacred Heart Schools in the moderate to extremely low income categories in Atherton from 2007-2014.

3.732 POLICIES

- A. Encourage schools in Atherton to provide affordable faculty, staff and student housing on their campuses.

3.740 GOAL: PROMOTE PRIVATE EFFORTS TO CONSERVE AND IMPROVE ATHERTON'S EXISTING HOUSING SUPPLY.

3.741 OBJECTIVES

- A. Promote the improvement, maintenance and enhancement of the existing housing stock through ongoing private and public rehabilitation efforts, with the objective of processing 1,000 applications for rehabilitation and home improvement between 2007 and 2014.
- B. Obtain support from local lending institutions to provide loans for property improvement.

3.742 POLICIES

- A. The Town shall promote conservation and improvement of the condition of its existing affordable housing stock with the goal of conserving all existing affordable units.

3.750 GOAL: ENCOURAGE SPECIAL CONSIDERATION TO THE MAINTENANCE AND EXPANSION OF HOUSING OPPORTUNITIES

FOR ELDERLY, HANDICAPPED AND LOW AND MODERATE INCOME
AND HOMELESS PERSONS

3.751 OBJECTIVES

- A. Enforce uniform building code regulations regarding provision of access for handicapped in residential structures, where applicable.
- B. Support the conservation and development of affordable housing for citizens of modest means.

3.752 POLICIES

- A. The Town shall continue to enforce the uniform building code regulations regarding provision of handicapped access in residential structures.
- B. The Town shall continue to encourage the production and availability of more affordable housing through the development of new second dwelling units, internal living units, and private school faculty and student housing.
- C. The Town shall cooperate with agencies providing emergency shelter, transitional and supportive housing for the homeless and those in crisis.

3.760 GOAL: CONTINUE TO PROMOTE HOUSING OPPORTUNITIES FOR ALL PERSONS REGARDLESS OF RACE, SEX, MARITAL STATUS, ANCESTRY, NATIONAL ORIGIN OR COLOR

3.761 OBJECTIVES

- A. Eliminate discrimination in housing to the extent feasible through Town actions.

3.762 POLICIES

- A. The Town shall actively support housing opportunities for all persons regardless of race, sex, marital status, ancestry, national origin or color.

3.800 HOUSING PROGRAMS

This section contains Atherton's Housing Programs for the Planning Period 2007 – 2014.

3.810 New Construction, Conservation and Rehabilitation

3.811 New Construction of Above Moderate Units

- a. Continue to facilitate and expedite the development of new **above moderate income housing** units. An average of 33 new homes in this income category is constructed in Atherton each year. However an almost equal number of homes are demolished. It is projected that a net of 5 additional homes in the above moderate income category will be constructed during the 2007 – 2014 Planning Period.

Time frame for implementation: January 1, 2014 (Long-term Action)

Agency/Official responsible for implementation: Building Department

Proposed Measurable Outcomes: Construction of net 5 new above moderated income dwelling units

Funding Sources: General Fund, Building Department Budget

3.812 New Construction of Affordable Units

- a. Amend the Atherton Zoning Ordinance to permit **Internal Living Units** that may include all three kitchen elements (stove, sink and refrigerator).
- b. Amend the **Second Dwelling Unit** provision of the zoning ordinance as listed below:
- Expand the allowable size of second units to a maximum of 1,200 square feet.
 - Allow attached and detached second units, if located behind the rear line of the main building, to encroach into the side and rear yard setbacks by not to exceed 20% of the required setback.
 - Exempt the floor area of the second unit from the accessory structure and overall lot floor area limitation up to 1,200 square feet, but not to exceed 10% of the allowed floor area for the lot.
 - Eliminate the minimum lot size provisions for second units.
 - Waive building permit fees for second units.

Time frame for implementation (both items a. and b.): Prior to June 30, 2010 (Immediate Action)

Agency/Official responsible for implementation: City Council/Planning Commission/Town Planner

Proposed Measurable Outcomes: Construction of 52 to 80 new Second Dwelling Units in the extremely low and very low income categories by January 1, 2014 (Long-term Action)

Funding Sources: General Fund, Planning Department Budget

- c. Actively promote the **Second Dwelling Unit** provision of the Atherton Zoning Ordinance by encouraging homeowners and developers to include attached or detached Second Dwelling Units in existing or new homes.

Time frame for implementation: June 30, 2010 (Short-term Action)

Agency/Official responsible for implementation: Planning Commission/Town Planner

Proposed Measurable Outcomes: Construction of 52 to 80 new Second Dwelling Units in the extremely low and very low income categories by January 1, 2014

Funding Sources: General Fund, Planning Department Budget

- d. Work and cooperate with Menlo School, Menlo College and Sacred Heart to facilitate development of affordable **faculty, student and staff housing** on school properties, and provide incentives for development through and expedited review process.

Time frame for implementation: January 1, 2014 (Long-term Action)

Agency/Official responsible for implementation: Planning Department and Building Department

Proposed Measurable Outcomes: Construction of 11 new faculty units at Menlo School, 79 new faculty and student units at Menlo College and 2 new staff units at Sacred Heart Schools in the extremely low to very low income category by January 1, 2014

Funding Sources: General Fund, Building Department Budget

3.813 Conservation and Rehabilitation of Existing Units

- a. Continue to facilitate and expedite the **rehabilitation and reconstruction** of

existing residential units. The prompt processing of subdivision, planning review and building permit issuance has resulted in average review times that are some of the most reasonable in San Mateo County. The Town will continue to assist the property owners and development community in the housing development, conservation and rehabilitation process.

Time frame for implementation: On-going (Long-term Action)

Agency/Official responsible for implementation: Planning and Building Departments

Proposed Measurable Outcomes: N/A

Funding Sources: General Fund, Planning and Building Department Budgets

3.820 Special Housing Needs

3.821 Seniors

- a. Facilitate the provision of board and care opportunities, particularly for seniors, some of whom may be longtime Atherton residents who can no longer remain in their homes and who wish to continue living in Atherton. State law provides that a **residential care facility** (defined as a facility serving six or fewer persons) is a residential use and must be permitted wherever residential uses are allowed.

The Town will amend its Zoning Ordinance to specify that residential care facilities are allowable uses in the R-1A and R-1B Zoning Districts and are permitted by right.

Time frame for implementation: June 30, 2010 (Short-term Action)

Agency/Official responsible for implementation: Planning Department

Proposed Measurable Outcomes: N/A

Funding Sources: General Fund, Planning Department Budget

- b. The Town will provide information at Town Hall regarding the numerous Senior Centers in San Mateo County that offer **assistance in home repairs**. Some of these programs offer subsidized services and others maintain a list of skilled workers who charge below market rates. The information will also include San Mateo County's Home Repair Program to assist low and moderate homeowners in rehabilitating their residences. The Town will occasionally publicize the availability of these services in the Town newsletter.

Time frame for implementation: Ongoing (Long-term Action)

Agency/Official responsible for implementation: Planning Department

Proposed Measurable Outcomes: N/A

Funding Sources: General Fund, Planning Department Budget

- c. The Town will continue to support the County **Property Tax Postponement Program**, which provides seniors with a means of postponing property tax payment. This program has the benefit of extending the length of time they can remain in their homes. Inquiries will be directed to the County Tax Collector's Office and information regarding the program will be available at Town Hall and occasionally publicized in the Town's newsletter.

3.822 Disabled Persons

- a. Continue to review new residential developments and major remodels for **compliance with the Americans with Disabilities Act (ADA)**.

Time frame for implementation: On-going (Long-term Action)

Agency/Official responsible for implementation: Building Department

Proposed Measurable Outcomes: N/A

Funding Sources: General Fund, Building Department Budget

- b. Continue to support the **County Housing Accessibility for Disabled Persons** program at the Center for the Independence of the Disabled. The Town will direct inquiries for house modifications for the disabled to the County program. Public information regarding the program will be available at Town Hall and occasionally publicized in the Town's newsletter.

Time frame for implementation: Ongoing (Long-term Action)

Agency/Official responsible for implementation: Planning Department

Proposed Measurable Outcomes: N/A

Funding Sources: General Fund, Planning Department Budget

- c. Review the Zoning Ordinance to identify provisions that could pose constraints on the development of housing for persons with disabilities, and amend the ordinance as needed to expedite retrofit efforts to comply with the ADA, require ADA compliance in all new development that is subject to ADA, and provide adequate flexibility in the development of housing for persons with disabilities.

Time frame for implementation: June 30, 2011 (Long-term Action)

Agency/Official responsible for implementation: Planning Department

Proposed Measurable Outcomes: N/A

Funding Sources: General Fund, Planning Department Budget

3.823 Equal Housing Opportunity

- a. Refer complaints of discrimination in housing access based on race, religion, national origin, age, sex, marital status or physical handicap, and other arbitrary barriers that prevent choice of housing to groups such as the Midpeninsula Citizens for Fair Housing.

Time frame for implementation: Ongoing (Long-term Action)

Agency/Official responsible for implementation: Planning Department

Proposed Measurable Outcomes: N/A

Funding Sources: General Fund, Planning Department Budget

3.824 Emergency Shelters, Transitional and Supportive Housing

- a. Establish a zone that meets requirements set forth in SB2 relating to **emergency shelters**. The Town will amend the existing PFS (Public Facilities and Schools) Zoning District to provide for emergency shelters as an allowable use when located within the Town Civic Center **property**.

Within this zone shelters will be permitted without a conditional use permit or other discretionary action. The zone will contain approximately 6 acres, which can accommodate up to three shelter beds, providing adequate capacity to meet the identified need. A typical shelter approximately 1,000 sq. ft. in size would be allowed in this zone by right.

Within this zone, shelters will be subject to the same development and management standards as other uses within the zone and require only a building permit. The Town will also develop objective and predictable standards for shelter operation.

Time frame for implementation: June 30, 2010 (Short-term Action)

Agency/Official responsible for implementation: Planning Department

Proposed Measurable Outcomes: Designation of a location in Town when an emergency shelter is permitted

Funding Sources: General Fund, Planning Department Budget

- b. Amend the Atherton Zoning Ordinance to explicitly state that any use is permitted if required by State law. Under this revision, **supportive and transitional housing** will only need to obtain the same types of permits and approvals as any other residential development. Residential uses, including transitional and supportive housing, will be permitted in the following zones; R-1A and R-1B.

Time frame for implementation: June 30, 2010 (Short-term Action)

Agency/Official responsible for implementation: Planning Department

Proposed Measurable Outcomes: Designation of a location in Town when an emergency shelter is permitted

Funding Sources: General Fund, Planning Department Budget

3.830 **Consistency with State Requirements**

3.831 Energy Conservation

- a. Continue to require compliance with Title 24 of the State's Building regulations. In addition, disseminate energy conservation information available from other agencies, such as PG&E's solar subsidy program and energy audits.

Time frame for implementation: On-going (Long-term Action)

Agency/Official responsible for implementation: Building Department

Proposed Measurable Outcomes: N/A

Funding Sources: General Fund, Building Department Budget

3.831 Mobile and Manufactured Homes

- a. The Town will amend the Zoning Ordinance to clarify that "manufactured housing" (modular or mobile homes on foundations) is allowed, subject only to the same development standards that apply to a conventional single family residential dwelling on the same lot, including, but not limited to, building setback standards, vehicle parking, and minimum square footage requirements.

Time frame for implementation: June 30, 2010 (Short-term Action)

Agency/Official responsible for implementation: Planning Department

Proposed Measurable Outcomes: N/A

Funding Sources: General Fund, Planning Department Budget

3.840 Other Housing Programs

3.841 Shared Housing

- a. The Town will continue to support the Human Investment Program (HIP), a non-profit organization that matches people needing housing and people owning a home who desire additional income and/or companionship. The Town will make information about the Home Sharing program available at Town Hall and will publicize the effort through the Town's newsletter. (Home sharing does not count toward the Town's Housing Needs Allocation.)

Time frame for implementation: On-going (Long-term Action)

Agency/Official responsible for implementation: Planning Department

Proposed Measurable Outcomes: 1 - 2 home-share matches each year

Funding Sources: General Fund, Planning Department Budget

Extensive public participation is an essential component to the housing element update process. During this Planning Period Atherton has made a major effort to involve current and potential beneficiaries of housing programs and services and their advocates (e.g. lower-income representatives, tenants of affordable complexes groups targeted for special housing needs consideration, community based organizations, health and human service providers, homeless shelter and service providers) in the update process. Various community stakeholders including neighborhood leaders, local businesses, employers and environmentalists have been invited to participate. The participation of development professionals including local builders, for- and non-profit developers, architects, trade labor unions, realtors, mortgage bankers and brokers, area lenders, and others has been requested.

The process was started with a joint City Council, Planning Commission, General Plan Committee workshop on the housing element update held on September 23, 2008. The workshop focused on State housing element statutory requirements and strategies for compliance. An extensively publicized community-wide workshop on the Atherton Housing Element Update was held on October 29, 2008. Current and potential beneficiaries of housing programs and services, community stakeholders and development professionals were invited to attend and participate. Notice was also mailed to every Town resident and a notice was published in The Almanac, the local newspaper of general circulation in Atherton.

Beginning on January 7, 2009 the Atherton General Plan Committee began holding public meetings on the draft Housing Element Update. A total of three such meetings were held. In order to ensure a significant and inclusive public process, citizen committees, the public, current and potential beneficiaries of housing programs and services, community stakeholders and development professionals and elected officials were invited to attend and to review and consider the document and policy recommendations.

An article about the Housing Element Update process and a local survey about second dwelling units, guest houses and internal living quarters were included in The Athertonian, the Town's newsletter in early October 2008. The Athertonian is mailed to every resident in Town. The survey served to obtain updated information on second units, guest houses and internal living quarters such as number of units, rental rates and other information. The article provided Town residents with information about the update process and tentative review schedule.

Copies of a summary of the draft were circulated to and comments requested from local citizens, affordable housing advocates and other interested parties. The draft was available upon request. The distribution list included:

- Atherton General Plan Committee (eight Atherton residents)
- Mid-Peninsula Housing Coalition
- Human Investment Project
- Housing Leadership Council
- Center for the Independence of the Disabled

- Samaritan House
- Peninsula Policy Partnership—Housing Action Team
- C.A.L.L. Primrose Center
- Shelter Network
- C/CAG (City/County Association of Governments)
- SAMCAR (San Mateo County Association of Realtors)

In addition, the draft summary and public hearing information was disseminated in the following ways:

- An article was published in the Athertonian, a Town sponsored newsletter that is mailed to every household in Atherton describing the Element and inviting residents to Planning Commission and City Council public hearings.
- Press Release- a press release went to all local newspapers
- Letters of invitation to all housing-related institutions that the Town has worked with such as Shelter Network, Samaritan House, Human Investment Project, C.A.L.L. Primrose Center, SAMCEDA, Mid-Peninsula Housing Coalition, Center for the Independence of the Disabled, and Housing Leadership Council.
- Posting in City Hall
- Mailing to the City Council and Planning Commission
- Mailing to the school district
- Distributed to the Police Department

In addition, the Planning Commission held noticed public hearings on the draft Update on April 29, May 18, June 18, August 17 and September 23, 2009. At the conclusion of the hearings the Planning Commission recommended that the City Council forward the Draft Housing Element to the California Department of Housing and Community Development for review and comment.

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

1800 Third Street, Suite 430
P. O. Box 952053
Sacramento, CA 94252-2053
(916) 323-3177 / FAX (916) 327-2643
www.hcd.ca.gov



December 24, 2009

Mr. Neal J. Martin
Town Planner
Town Administrative Offices
Town of Atherton
91 Ashfield Road
Atherton, CA 94027

Dear Mr. Martin:

RE: Review of the Town of Atherton's Draft Housing Element

Thank you for submitting Atherton's draft housing element received for review on October 30, 2009. The Department is required to review draft housing elements and report the findings to the locality pursuant to Government Code Section 65585(b). A telephone conversation on December 22, 2009 with Mr. Jerry Gruber, City Manager, Ms. Lisa Costa Sanders, Deputy Town Planner, and you facilitated the review.

The Department recognizes Atherton's proactive efforts to address housing needs by encouraging the development of second units, including expanding the allowable size of second units to 1,200 square feet and eliminating the minimum lot size provisions. The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State housing element law (Article 10.6 of the Government Code). In particular, the element should include an analysis of potential constraints on housing for persons with disabilities and evaluate opportunities for energy conservation in residential development. The enclosed Appendix describes these and other revisions needed to comply with State housing element law.

The Department appreciates the cooperation provided by you, Mr. Gruber and Ms. Costa Sanders during the course of the review and is committed to assist Atherton in addressing all statutory requirements of housing element law. If you have any questions or need additional technical assistance, please contact Raquel Medina, of our staff, at (916) 324-9629.

Sincerely,

Cathy E. Creswell
Deputy Director

Enclosure

APPENDIX

TOWN OF ATHERTON

The following changes would bring Atherton's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on the Department's website at www.hcd.ca.gov/hpd. Refer to the Division of Housing Policy Development and the section pertaining to State Housing Planning. Among other resources, the Housing Element section contains the Department's latest technical assistance tool *Building Blocks for Effective Housing Elements (Building Blocks)* available at www.hcd.ca.gov/hpd/housing_element2/index.php, the Government Code addressing State housing element law and other resources.

A. Housing Needs, Resources, and Constraints

1. *Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

Atherton has a regional housing need allocation (RHNA) of 83 housing units, of which 32 are for lower-income households and 16 are for moderate-income households. To address this need, the Town is relying on the development of multifamily housing on school sites and the development of second units. However, to demonstrate the adequacy of these sites and strategies to accommodate the Town's RHNA, the element must include complete analyses as follows:

Multifamily Housing: The element identifies school properties zoned Public Facilities and School District (PFS) (page 30), which allow multifamily uses to accommodate the regional housing need for lower- and moderate-income households. However, to demonstrate their suitability and availability for development in the planning period, the element must:

- Describe the methodology for calculating residential capacity accounting for land-use controls and site improvements. For assistance, please refer to the analysis of Residential Development Capacity on the *Building Blocks*' website at http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php.
- Include information on available acreage of sites allowing multifamily development.
- Describe existing uses of non-vacant sites and the extent existing uses impede development in the planning period. For assistance, please refer to the Analysis of Non-Vacant Sites on the *Building Blocks*' website at http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php.
- Discuss the status and timing of plans for development.

2. *Analyze potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7) (Section 65583(a)(5)).*

Fees and Exactions: While the element lists planning fees (page 51, Table HV-2) and development costs, including planning and impact fees, for a single-family house, it must also describe all fees and analyze the cumulative impact for multifamily developments. Refer to the Fees and Exaction analysis on the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/CON_home.php.

Constraints on Persons with Disabilities: The element did not address this requirement. The element must include a complete analysis of potential constraints on the development, maintenance, and improvement of housing for persons with disabilities. The analysis should address zoning, development standards, building codes, and approval procedures for the development of housing for persons with disabilities. Examples of standards and requirements that could be analyzed include: (1) spacing or concentration requirements; (2) development standards for community care facilities for more than six persons; (3) whether the Town has adopted a reasonable accommodation procedure for providing exception in zoning and land-use; (4) any definitions of family in the zoning code; and, (5) whether there are relaxed parking standards for housing for persons with disabilities. Refer to the Department's memo and the *Building Blocks'* sample analysis at http://www.hcd.ca.gov/hpd/housing_element2/CON_disabilities.php.

3. *Analyze the opportunities for energy conservation with respect to residential development (Section 65583(a)(8)).*

The element indicates the Town will be considering adopting "green building" as part of the General Plan during 2009-10 (page 26) and has a program to continue compliance with Title 24 and to disseminate available energy conservation information. However, it does not describe how the Town promotes opportunities for energy conservation in residential land-use planning or for existing development. Given the importance of promoting strategies to address climate change and energy conservation, the element should include an analysis to facilitate policies and programs that could be implemented in the housing element. For example, the element could encourage green building techniques and materials in new and resale homes, promote energy audits and participation in utility programs, and facilitate energy conserving retrofits upon resale of homes. Additional information on potential programs to address energy conservation objectives and a sample analysis is available in the *Building Blocks'* technical assistance tool at http://www.hcd.ca.gov/hpd/housing_element2/SIA_conservation.php and the Department's *Green Building and Sustainability Resources* bibliography at http://www.hcd.ca.gov/hpd/green_build.pdf. Under separate cover, the Department will send sample analyses.

B. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame (Section 65583(b)(1 & 2)).

The element did not address this requirement. The element must include an estimate of the number of new, rehabilitated, and conserved units by income category, including extremely low-income (ELI). Each quantified objective should be described by income level and could be illustrated as follows:

	New Construction	Rehabilitation	Conservation
Extremely Low-Income			
Very Low-Income			
Low-Income			
Moderate-Income			
Above Moderate-			
TOTAL			

Additional information on Quantified Objectives is available on the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element/screen30_program.pdf.

C. Housing Programs

1. *Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing, mobilehomes, and emergency shelters and transitional housing. Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low- and low-income households (Section 65583(c)(1)).*

As noted in Finding A-1, the element does not include a complete site analysis and therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the Town may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. Programs to address a shortfall of sites must be consistent with Government Code Sections 65583.2 and 65583(c)(1) to permit owner-occupied and rental multifamily uses by-right sufficient to accommodate the remaining need for lower-income households, permit a minimum of 16 units per site, and require at least 50 percent of the lower-income needs to be accommodated on sites designated for residential use only. Pursuant to Section 65583.2(i), "by-right" means local government review must not require a conditional use permit (CUP), planned unit development or other discretionary review or approval. In addition:

Program 3812d: Given the lack of progress toward the objectives of this program in the previous planning period (page 59), the program should include specific actions with timelines for implementation. For example, the program should describe when the Town

will work with the schools to facilitate multifamily development on their campuses.

2. *The housing element shall contain programs which "assist in the development of adequate housing to meet the needs of extremely low-, low- and moderate-income households (Section 65583(c)(2)).*

The element notes the Town is willing to "consult with other agencies... about resources that might be available to the Town for affordable housing". However, the element does not include a program to implement this objective. The element should include programs to initiate contact with agencies and developers and commit to specific steps Atherton will take to facilitate the development, including rental affordable to lower- and moderate-income households. Programs could include fee waivers and providing funding or supporting applications for funding. See the Department's *Financial Assistance Program Directory* at http://www.hcd.ca.gov/fa/LG_program_directory.pdf.

In addition:

ELI Households: Pursuant to Chapter 891, Statutes of 2006 (AB 2634), existing programs should either be revised or new programs added to specifically assist in the development of a variety of housing types to meet the housing needs of ELI households. To address this requirement, the element could revise programs to prioritize or target some funding for the development of housing affordable to ELI households, and/or offer financial incentives or regulatory concessions to encourage the development of housing types, such as single-room occupancy units, multifamily and supportive housing, which can address the needs of this income group.

Program 3812: Describe how the Town will encourage the development of second dwelling units. In addition, the Program should be revised to annually evaluate the effectiveness of the second-unit strategy in addressing the housing needs of lower-income households, including surveying affordability.

3. *The housing element shall contain programs which "address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing" (Section 65583(c)(3)).*

As noted in Finding A-2, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the Town may need to revise or add programs and address and remove or mitigate any identified constraints.

4. *The housing program shall promote equal housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin or color (Section 65583(c)(5)).*

Program 3.823a: Should include a specific commitment to disseminate fair housing information throughout the Town in a variety of public locations. For information, refer to the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/PRO_eho.php.

D. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the element shall describe this effort (Section 65583(c)).

While the element lists various organizations consulted (pages 72-73), it should describe how input was solicited, considered, and incorporated into the element to demonstrate diligent efforts to achieve public participation for all economic segments of the community. Engaging the community and organizations and service providers representing lower-income households is important in developing, adopting and implementing an effective housing element. The Town should continue to engage the community through the adoption of the housing element, by making revisions available with sufficient notice to comment and considering and incorporating comments, where appropriate. Refer to the *Building Blocks*' website at http://www.hcd.ca.gov/hpd/housing_element2/GS_publicparticipation.php.

E. Water Sewer Priority

For your information, Government Code Section 65589.7 requires local governments to immediately deliver the housing element to water and sewer providers. The Department recommends including a cover memo describing the Town's housing element, including the Town's housing needs and share of the regional housing need. For additional information, refer to the Department's memo at http://www.hcd.ca.gov/hpd/memo_sb1087.pdf.

F. AB 162 – Flood Management

Atherton should also note recent statutory changes to Government Code Section 65302 (Chapter 369, Statutes 2007 [AB 162]) which requires amendment of the safety and conservation elements of the general plan to include analysis and policies regarding flood hazard and management information upon the next revision of the housing element on, or after, January 1, 2009. For additional information, refer to Department's website at http://www.hcd.ca.gov/hpd/hrc/plan/he/ab_162_stat07.pdf.



McDonough Holland & Allen PC
Attorneys at Law

Memorandum

Benjamin D. Winig
Attorney at Law

Oakland Office
510.273.8780 tel
510.839.9104 fax
bwinig@mhalaw.com

DATE February 16, 2010
TO Neal J. Martin, City Planner
FROM Benjamin D. Winig, Assistant City Attorney *BDW*
RE Comments to Revised Housing Element

We have reviewed the proposed changes to the draft Housing Element responding to HCD's December 24, 2009 comment letter. Generally, the changes satisfy HCD's concerns, but there are several sections that warrant additional clarification and/or discussion.

Finding A-1:

- **Menlo College.** In the introductory paragraphs to the new section 3.412, both Sacred Heart Schools and Menlo School are mentioned, but Menlo College is not. For the sake of consistency and readability, we recommend adding a brief discussion of Menlo College in the introduction.
- **Methodology for calculating residential capacity.** Although the proposed changes reference preliminary architectural building designs and floor plans prepared by Miller/Kelley Architects, the revisions do not discuss what the methodology entailed. This warrants additional discussion.
- **Realistic development potential.** The proposed changes state that the building designs and floor plans "took into consideration applicable Town standards." It may suffice simply to mention that the building designs and floor plans are consistent with Town zoning standards, but we may want to discuss which standards are applicable and why. (Also include a similar discussion for Menlo School (p. 3 of proposed changes.)
- **Multifamily uses by right.** With regards to the three-bulleted options outlined in the proposed changes, we recommend proposing the first two

Sacramento
500 Capitol Mall
18th Floor
Sacramento, CA
95814
tel 916.444.3900
toll free 800.403.3900
fax 916.444.8334

Oakland
1901 Harrison Street
9th Floor
Oakland, CA
94612
tel 510.273.8780
toll free 800.339.3030
fax 510.839.9104

February 16, 2010

Page 2

options to the Council for further discussion/direction. The third option should be removed, as it is likely noncompliant with HCD's requirements.

Finding A-2:

- **Fees and exactions.** The proposed changes reference "development fees" in Atherton but later state that "no impact fees are charged in Atherton." We need to clarify this section by differentiating between "development review fees" and "development *impact* fees." Also, we should add to the discussion regarding the cumulative impact of such fees on multifamily housing.
- **Energy conservation.** Please clarify whether the Town is considering adoption of a green building ordinance or simply green-building "policies" as part of its General Plan. Also, if applicable, we should reference the Town's plans for adoption of a water conservation ordinance or that the Town is currently operating under the state ordinance.

Finding B:

- **Table HVII-1.** There appears to be a typo in footnote 4 (it should read "4" and not "44"). Also, HCD's comments reference a "five-year time frame" but footnote 4 references 6.5 years. Please explain this discrepancy or bring the calculation into compliance with HCD comments.

Finding C-1:

- **Program 3.812d.** Please include additional discussion on the "specific actions with the timelines for implementation" to achieve the objectives of this program.

Finding C-2:

- **Program 3.812e.** We should explain which agencies and developers of affordable housing will be contacted. In addition, we should add a brief discussion about how the Town will "offer expedited processing and support for applications for funding."

Finding C-3:

- **Government constraints.** Please explain the analysis undertaken to reach the conclusion that "no new constraints were identified."



**Town of Atherton
HOUSING ELEMENT
SUBCOMMITTEE AGENDA**

February 12, 2010

4:30 p.m.

ADMINISTRATIVE CONFERENCE ROOM

91 ASHFIELD ROAD
ATHERTON, CALIFORNIA

SPECIAL MEETING

Meeting Minutes

1. ROLL CALL

The meeting was called to order at 4:32 p.m. Present: Subcommittee members Philip Lively and Paul Quinlan. Staff: Town Planner Neal Martin

2. PUBLIC COMMENTS (only for items, which are not on the agenda - limit of 3 minutes per person)

There were no members of the public present. There were no public comments

3. DISCUSSION AND RECOMMENDATION TO CITY COUNCIL ON HOUSING ELEMENT CHANGES

- a. Consideration and recommendation to the City Council on draft Proposed Changes to the Atherton 2007-14 Housing Element in Response to the California Department of Housing and Community Development (HCD) review letter of December 24, 2009.

It was noted that Subcommittee member Lively and Town Planner Martin had met with City Council member Elizabeth Lewis on Wednesday, February 10 to review the draft Proposed Changes because Ms. Lewis was unable to attend the February 12 meeting. Committee member Lively reported the Ms. Lewis expressed a preference for adopting a policy of permitting full time occupancy of guest houses as opposed to encouraging the development of second dwelling units by relaxation of existing zoning standards. The Subcommittee discussed whether to recommend that the Town revert back to a policy of full time occupancy of guest houses. The Subcommittee concluded that since HCD has not commented negatively about the proposed second dwelling unit approach they would recommend that the Town proceed with the current direction.

Planner Martin reported that the draft Proposed Changes had been transmitted to the Deputy City Attorney for review. Deputy City Attorney Winig was unable to finish his review in time for this meeting but would have his comments available on or about February 16, 2010.

The Subcommittee reviewed and discussed the Proposed Changes as presented by Town Planner Martin. They first focused on the HCD comment (Comment A.1.) that rental multifamily uses planned for lower income households must be permitted by right (i.e. conditional use permits shall not be required). The draft Proposed Changes includes three options for consideration. The Subcommittee requested a change in language be made to Option 2 to state "... shall be replaced by a Planning Commission public hearing and review process which concentrates on location, size, proximity to heritage trees, and environmental aspects of the project ..." With that change the Subcommittee recommends that the City Council direct staff to include Option 2 in the draft Proposed Changes.

Next, the Subcommittee focused on Table HVII-1: Estimate of New, Rehabilitated and Conserved Units, 2007-2014. They reviewed the staff estimates and concluded that they were acceptable as presented.

The Subcommittee indicated that they had reviewed the balance of the draft Proposed Changes report and that it was acceptable as presented. However, they noted that no members of the public were in attendance. They suggested that perhaps another meeting of the Subcommittee would be appropriate to allow the public to attend and provide input into the responses to the HCD review. In addition, the comments from the Deputy City Attorney should be available.

4. ADJOURN

The Subcommittee set Wednesday, March 3, 2010 at 6:00 p.m. in the Town Hall Administrative Conference Room as the time and place for the next Subcommittee meeting. The meeting was adjourned at 4:50 p.m.

Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the City Clerk's Office at (650) 752-0500. Notification 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting. (29CRF35.104 ADA Title II.)

Please contact the City Clerk's office at (650)752-0500 with any questions

Dated & Posted 02/09/10



**Town of Atherton
HOUSING ELEMENT
SUBCOMMITTEE AGENDA**

March 3, 2010

6:00 p.m.

ADMINISTRATIVE CONFERENCE ROOM

91 ASHFIELD ROAD
ATHERTON, CALIFORNIA

SPECIAL MEETING

Meeting Minutes

1. ROLL CALL

The meeting was called to order at 6:00 p.m. Present: Subcommittee members Philip Lively and Paul Quinlan. Staff: Deputy Town Planner Lisa Costa Sanders

2. APPROVAL OF MINUTES (from Special Meeting of February 12, 2010)

M/S Lively/Quinlan to approve the minutes from the February 12, 2010 special meeting as submitted. Motion passed 2-0.

3. PUBLIC COMMENTS (only for items, which are not on the agenda - limit of 3 minutes per person)

Elizabeth Lewis stated that the Subcommittee and staff have done an admiral job responding to the State comments, however, she still feels that philosophically, we are going down the wrong path. She is opposed to increasing the floor area to encourage more second units and prefers allowing the use of detached accessory buildings as second dwelling units.

4. DISCUSSION AND RECOMMENDATION TO CITY COUNCIL ON HOUSING ELEMENT CHANGES

- a. Consideration and recommendation to the City Council on draft Proposed Changes to the Atherton 2007-14 Housing Element in Response to the California Department of Housing and Community Development (HCD) review letter of December 24, 2009.

Subcommittee members indicated that they received and reviewed the draft changes to the Housing Element, noted as Draft No. 2 dated March 3, 2010 which incorporates comments from Deputy City Attorney Ben Winig. Subcommittee members were in agreement with these changes.

Subcommittee members also reviewed the draft Staff report to the City Council as prepared by Neal Martin. Subcommittee members discussed the three options relating to the approval process for new second dwelling units. There was concurrence to recommend option 2 – with the intent that the Planning Commission review would be focused on review of site plan in

relation to property lines and heritage trees and there would be an opportunity for neighborhood input.

M/S Quinlan/Lively to recommend the City Council accept the changes to the Housing Element as outlined in the draft memo no. 2 and authorize Staff to transmit the revised document to the State for review with inclusion of Option 2 for the second dwelling unit review process. Motion passed 2-0

4. ADJOURN

The meeting was adjourned at 6:13 p.m.



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: CHIEF MICHAEL GUERRA

DATE: FOR THE MEETING OF MARCH 17, 2010

SUBJECT: CIVILIAN POLICE OVERSIGHT

Purpose:

The purpose of this staff report is to provide information for Council concerning civilian and internal administrative police oversight methods, models, and historical trends. If the Council wishes to consider retaining a police auditor or establishing police commissions of some type, then the City Manager recommends a council study session/workshop as the next step.

Background:

This report will discuss the common civilian oversight options that are in use, and provide information on what other municipalities and law enforcement agencies are doing across the country, in San Mateo County, and in our local region. In addition, the current Atherton PD procedures for dealing with citizen's complaints and internal administrative investigations relating to employee conduct along with the scope, frequency, and results of those investigations over the last five years will be discussed.

Historical Summary:

It is appropriate that in conferring the police with powers, particularly the power to use lethal force, that civilians have a role in determining standards by which they are policed. In nearly all municipal jurisdictions in the United States this function is fulfilled by a City Manager and ultimately a City/Town Council. A few communities have determined they wanted to take a different approach to civilian police oversight. The two dominant

models for oversight that are in addition to the oversight provided by the City Manager and Council are independent civilian review boards and independent police auditors. Both models afford citizens with an opportunity to engage in that role by providing a venue through which to air grievances, express concerns, and voice recommendations.

A civilian review board is an appointed panel charged with the responsibility of overseeing a local police department relating to the citizen's complaint function. It may also make more general recommendations on policies and operations. A police auditor is an independent office or person(s) that reviews police misconduct investigations, and recommends policy changes to promote accountability. Both a review board and an auditor operate under the confidentiality and procedural standards of the Public Safety Officers Procedural Bill of Rights Act (Gov. Code Section 3300 and following.)

Functions of Civilian Review Boards:

The movement to establish civilian review boards, often led by local bar associations or rights groups such as the American Civil Liberties Union, emphasizes that the most effective civilian review boards are independent. They conduct an independent investigation of complaints and not a civilian review of an internal administrative investigation conducted by the police. The integrity of a civilian review board derives from direct civilian review of police conduct, not a civilian review of a police review. A civilian review board may investigate and hear complaints on police activity and ensure that citizens with grievances have a place to turn and thereby to help discourage police misconduct. Boards may also promote community awareness as to the citizen's opportunity to file a complaint concerning police misconduct, as well as to disseminate information as to how and where to file a complaint, educate the public as to its rights in dealing with the police and about the merits of civilian oversight. Some boards make concrete recommendations about police policies and procedures and to suggest improvements in training and alert police administrators to the steps they must take to prevent abuse. They also hold regular (often monthly) meetings that are open to the public so that citizens and representative organizations can voice criticisms, make proposals, and introduce resolutions to review or reform specific police practices, and publish a periodic report (often semi-annually) providing useful information about the number, nature, and disposition of complaints, as well as recommendations for improved practices.

ACLU Civilian Review Board Model:

The ACLU has developed what they believe to be an effective civilian review board model (CRB). In their model, complaints are investigated and completed within 60 days of having received the complaint. Within 120 days of having received the complaint, a hearing is held, a decision on the complaint is rendered, sanctions are determined, and both the complainant and respondent are informed as to the disposition of the complaint. The time frame can be extended to 180 days if there are special circumstances.

Professional investigators are an integral part of the CRB and whom its board members choose, conduct the initial fact-finding in a complaint investigation and submit a report to the CRB. There is some flexibility in the ACLU model where the CRB's executive director conducts the investigation. The executive director is usually a paid and/or full-time position that reports directly to the Board. The ACLU believes that it is important that the investigator not be a sworn officer or former officer.

A CRB is often comprised of 7-9 members who are representatives of community organizations (i.e., ACLU, NAACP, etc.) and volunteer to serve in two year appointments. In many instances, the Police Chief appoints the members.

The ACLU model CRB has subpoena power to require witnesses to testify and documents be produced within a timely manner. This provision would not be available in Atherton, because in a general law city subpoena power is limited to the city council. It also has the authority to sanction police officers for misconduct. All board meetings and hearings are open to the public and are announced and advertised to the public at least a week in advance, along with an agenda. While a civilian review board in California may hold public meetings, the investigation of complaints against police officers is confidential and may not be conducted in public.

A CRB should have an explicit, written mission that defines the roles of the executive director, the board members, and the investigators. A CRB should also produce a clearly defined matrix or table listing the standard of proof it uses, the decisions it can render, and the sanctions it can impose. Also, the ACLU strongly suggests that all board members receive training concerning how to investigate a complaint and how to function as a board member.

Typically, a CRB will investigate and hear all complaints that concern the use of force, including shootings; deaths in custody; harassment; abuse of authority; and improper searches or detention. A CRB has the authority to broaden its reach to decide other types of complaints as well.

Police Auditor Model (San Jose & Palo Alto PD):

In this model, an independent auditor is tasked with reviewing completed internal investigations and citizen's complaint investigations of police misconduct to determine the thoroughness of the investigation, the objectivity, and the appropriateness of the disposition. The auditor can also receive citizen complaints, and in some cases conduct the investigation. When they receive a complaint they are often allowed to interview the complainant before turning the complaint over to the police department for investigation. An auditor can also be tasked with data collection and analysis as it relates to citizen's complaints and community concerns about police conduct, which the auditor can then use to make recommendations for improving police services. Any reports on complaints and investigations must be in a form that does not reveal the identity of the officer involved.

Atherton PD:

Atherton PD has management practices and procedures in place to acknowledge professional work by employees, and to correct and/or improve deficient performance through training, performance improvement plans, and discipline. The PD's procedure manual includes what is required of supervisors, the standards of conduct for all employees and volunteers, and the processes for criminal and administrative investigations and citizen's complaints. There is ongoing individual and team training and testing on these policies and procedures through our Lexipol and Department training programs where the training and test results are documented and maintained by the Training Manager. There are also a variety of management tools that are available to managers, sergeants, and supervisors to assist them in managing employee performance. A brief explanation of specific tools is indicated below:

In-Car Audio-Video

Every patrol car contains an in-car audio/video recorder that begins recording when the emergency equipment on the patrol vehicle is activated (forward red light activation). Officers are required to wear an audio recording device that is linked to the in-car system. The data that is recorded is automatically downloaded to a storage device at the station when a patrol vehicle drives into the PD parking lot. Sergeants are tasked with ensuring officers are using the in-car system and periodically review the audio/video for quality control and to ensure officers are practicing the correct police tactics and procedures. The Lieutenant performs the same management function for the sergeants as the sergeants do for the officers on their watch. This data is secured and stored according to Department of Justice standards.

Patrol Vehicle GPS

When an employee signs on to their mobile data terminal (MDT) in a patrol vehicle, it activates the unit's GPS system. Patrol supervisors and the dispatcher in the communication's center can view the GPS location of a patrol vehicle in real time. This affords supervisors the ability to manage a pursuit if one should occur, to determine the location if an officer needs help, and to help manage the work performance of an employee in their day-to-day tasks. This is a useful audit tool, for example, if a citizen reports a patrol vehicle speeding at a particular date and time, we have the ability to actually see we had a patrol car in that area or possibly determine it may have been one from another agency driving through town.

Police Radio & Phone Line Recording

All radio traffic on PD radio frequencies is digitally recorded along with all calls for service that are received through our communications center. This data is secured and stored according to Department of Justice standards (DOJ).

Police Activity Records Management System

PD's record management system (RIMS) records and stores, according to DOJ standards, all entries into the system that includes:

- a. Officer initiated activity such as traffic stops.

- b. Calls for service.
- c. Criminal and non-criminal investigative reports.
- d. Criminal history and DMV inquiries.
- e. Court subpoenas and other case management information.

Employee Photos

In the lobby of the PD is a photo board with the pictures of all PD employees. This is accessible to the public, which means that a person not wishing to be identified can come to the PD and identify a specific employee(s) who may be a subject of their Citizen's Complaint. They could then file a complaint while they are at the station or even file one by mail, phone, or even anonymously.

Individual Audio-Video Recording Devices

With the assistance of ABAG funding last year, PD acquired all-weather individual audio-video recording devices, which were provided to all police officers and sergeants so they can use them in the field by attaching them to their uniforms. The recordings from these devices are downloaded and stored in accordance with DOJ/Dept. standards.

Early Warning Intervention System

PD is developing a more effective Early Warning Intervention System where we will have a systematic method for identifying employees who may have a pattern of being the subject of Citizen's Complaints regardless of whether or not the complaint was sustained. Those employees who are identified as having a pattern of complaints will receive additional interpersonal communication training, conflict resolution training, problem-solving training, and other resources designed to develop their skills and abilities in order to prevent complaints from occurring. This system will also be used to track any employees who have patterns of sustained complaints so corrective performance measures can be implemented to help employees improve their performance. This reconfigured program will be implemented in April 2010.

Customer Satisfaction Feedback

Beginning in February 2010, PD began to randomly mail customer satisfaction surveys to people who requested police services. From the PD incident log, the Chief randomly mailed 10 customer survey questionnaires concerning the quality of services that were received. Besides surveys being mailed on a monthly basis, the PD management team is working on a similar questionnaire that a Sergeant/Lt. can use to solicit feedback from residents either in-person or over the telephone. This method should be implemented in March 2010. If a person receives a survey in the mail they won't be contacted by a Sergeant and vice versa. These two approaches will provide an additional method for supervisors to audit the field performance of employees and provide feedback to employees that they are doing a good job and/or they need to improve their performance.

APD Policies & Procedures:

To help understand the practices and procedures relating to personnel and the quality control of services, parts of the relevant organizational policies are briefly highlighted below. The actual policies are included in this report as attachments.

1. Policy 340: Disciplinary Policy

- a. The continued employment of every employee of this Department shall be based on conduct that reasonably conforms to guidelines established in this policy. Failure of any employee to meet the guidelines in this policy, whether on-duty or off-duty, may be cause for disciplinary action.

An employee's off-duty conduct shall be governed by this policy to the extent that it is related to acts that may materially affect or arise from the employee's ability to perform official duties, or to the extent that it may be indicative of unfitness for his/her position.

- b. Categories concerning conduct which may result in discipline:
 - i. Attendance
 - ii. Conduct
 - iii. Discrimination
 - iv. Intoxicants
 - v. Performance
 - vi. Safety
 - vii. Security

2. Policy 1020: Personnel Complaint Procedure

- a. Personnel complaints consist of any allegation or misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state or local law.

This policy shall not apply to any interrogation, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of an employee in the normal course of duty by a supervisor or any other employee, nor shall this policy apply to an investigation concerned solely and directly with alleged criminal activities [Cal. Govt. Code 3301(i)].

- b. Personnel complaints shall be classified in one of the following categories:
 - i. **Informal:** A matter in which the complaining party is satisfied that appropriate action has been taken by a department supervisor of rank greater than the accused employee in the normal course of duty. Informal complaints need not be documented on a personnel complaint form and the responsible supervisor shall have the discretion to handle the complaint in a manner consistent with this policy.
 - ii. **Formal:** A matter in which the complaining party requests further investigation or which a department supervisor determines further action is warranted. Such complaints may be investigated by a department supervisor of rank greater than the accused employee

or referred to the sergeant depending on the seriousness and complexity of the investigation.

- iii. **Incomplete:** A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or sergeant, such matters need not be documented as personal complaints, but may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

c. Complaints

- i. Personnel complaint forms are available at PD's front counter. A Department employee becoming aware of alleged misconduct shall immediately notify a supervisor.
- ii. A complaint may be filed in person, in writing, or by telephone.

3. Policy 1043: Standards of Conduct

- a. Recognizing that law enforcement personnel are highly visible representatives of local government and are entrusted with the responsibility of ensuring the safety and security of the community, the Standards and Conduct for members of this department are higher than the Standards and Conduct for other occupations and those of the general public. In this regard, Department members will conduct themselves in a manner that does not bring discredit upon himself or herself, the Department, the town of Atherton, or the community.

APD Administrative & Citizen's Complaint Investigative Process:

Atherton PD has a formal investigative process once a complaint is received (Policy 1020.6). This includes compliance with Government Code Section 3303 and the subsequent subsections. The Department has one year to complete the investigation unless there are extenuating circumstances. Below is the formal investigative procedure:

1. A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation. In general, the primary responsibility for the investigation of a personnel complaint shall rest with the employee's immediate supervisor. The Chief of Police or authorized designee may direct another supervisor to investigate it. The supervisor shall be responsible for the following:
 - a. A supervisor receiving a formal complaint involving allegations of a potential serious nature shall ensure that the Watch Commander, Commanding officer and Chief of Police are notified as soon as practicable. A supervisor receiving or initiating any formal complaint shall ensure that a Personnel Complaint form has been completed as fully as possible (Policy 1020.3).
2. Investigative Format (Policy 1020.6.2)
 - a. Investigations of personnel complaints shall be detailed, complete, and essentially follow this format:

- i. Introduction: Include the identity of the employee(s), the identity of the assigned investigator(s), the initial date and source of the complaint.
 - ii. Synopsis: Provide a brief summary of the facts give rise to the investigation.
 - iii. Summary of Allegations: List the allegations separately (including applicable policy sections) with a brief summary of the evidence relevant to each allegation.
 - iv. Evidence As to Each Allegation: Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of employee and witness statements. Other evidence related to each allegation should also be detailed in this section.
 - v. Conclusion: A recommendation regarding further action or disposition should be provided.
 - vi. Exhibits: A separate list of exhibits (recordings, photos, documents, etc.) should be attached to the report.
- b. Allegations of Criminal Conduct (Policy 1020.5)
 - i. Where an employee of this department is accused of potential criminal conduct, a separate supervisor or assigned detective shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.
- 3. Disposition of Personnel Complaints (Policy 1020.7)
 - a. **Unfounded:** When the investigation discloses that the alleged act(s) did not occur or did not involve Department personnel. Complaints which are determined to be frivolous will fall within the classification of unfounded per Section 832.5(c) PC.
 - b. **Exonerated:** When the investigation discloses that the alleged act occurred, but that the act was justified, lawful and/or proper.
 - c. **Not Sustained:** When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.
 - d. **Sustained:** When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.
 - e. If an investigation discloses misconduct or improper job performance which was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.
- 4. Completion of Investigations (Policy 1020.8)
 - a. Upon completion, the report should be forwarded thorough the chain of command to the commanding officer of the involved employee(s). Once received, the Chief of Police may accept or modify the classification and recommendation for disciplinary action contained in the report. Within 30 days of the final review by the Chief of Police, written notice of the findings shall be sent the complaining party. This notice shall indicate the findings, however, will not disclose the amount of discipline, if any imposed. The complaining party should also be provided with a copy of

his/her own original complaint per Section 832.7 PC. Any complaining party who is not satisfied with the findings of the Department concerning their complaint may contact the Chief of Police to discuss the matter further.

5. Counseling & Discipline (Policy 340.4)
 - a. Minor violations of department rules and procedures are first dealt with through training and informal counseling. Informal counseling is appropriate for first-time, minor deficiencies in performance or minor infractions of the orders, rules and regulations of this department or the Town of Atherton.
 - b. **Documented Oral Counseling:** Supervisors will document oral counseling where minor violations of Department rules and procedures are repetitive in number or when a member, during the counseling session indicates resistance to the counseling provided. Oral counseling may also be documented in the employee's performance appraisal. Management is required to look at documented counseling as being lesser in severity than a written reprimand.
 - c. **Written Reprimand:** A written reprimand is a formal notification to a member regarding failure to meet reasonable standards in their work, conduct, or a demonstration of a performance deficiency requiring immediate improvement.
 - d. **Suspension, Demotion, and Termination:** These are punitive actions involving significant or repetitive violations of conduct or performance.
6. Confidentiality of Personnel Files
 - a. All investigations of personnel complaints shall be considered confidential peace officer personnel files. The contents of such files shall not be revealed to other than the involved employee or authorized personnel except pursuant to lawful process.
 - b. All formal personnel complaints shall be maintained for a period of no less than five years per Section 832.5 PC. All non-citizen (e.g., those that originate internally) initiated complaints shall be maintained no less than two years per Government Code Section 34090 et seq.
 - c. Complaints which are unfounded, exonerated, sustained or not sustained shall be maintained by the Chief of Police apart from the employee's personnel file.

What other communities are doing:

To help understand this issue, it may be helpful to learn what other communities and police departments are doing in or near San Mateo County, across California, and across the country. A brief overview of what others are doing is discussed below.

San Mateo County

All San Mateo Co. Police Chiefs and the Sherriff were surveyed to learn if their communities had civilian oversight models in place, and what type of model they were using. Of this group, the only reported jurisdiction with a process was Hillsborough. In

Hillsborough each council member is also a police commissioner. [NOTE: Norm Book, the City Attorney, says that they don't have a police commission and that one council member is the police department liaison. You may want to double check this.] These commissioners are required to work/speak as a group/commission, and cannot act as an independent commissioner (Note: Not identified by NACOLE).

San Jose and Palo Alto

They have independent police auditors that appear to function differently. The San Jose model functions similar to a civilian oversight committee while the Palo Alto model has the auditor reviewing the completed police administrative investigations.

State-Wide

According to the National Association for Civilian Oversight of Law Enforcement (www.nacole.org), 21 out of the 480 municipalities in California have civilian oversight models in place. These include:

San Francisco, San Jose, Sausalito, Tulare, Berkeley, Claremont, Davis, Inglewood, Long Beach, Los Angeles, National City, Novato, Oakland, Orange County, Palo Alto, Redlands, Richmond, Riverside, Sacramento, Santa Cruz, and San Diego.

Sausalito Police Department

As identified above, Sausalito PD has a civilian oversight model in place. They are the only local PD that was similar to Atherton in size. On March 3, 2010 the chief spoke to Novato Police Chief Joseph Kreins who helped form and implement this model in Sausalito when he was the Sausalito Police Chief. He mentioned that it was an advisory board and not an investigative body as described on pages two and three of this report. A printout of Sausalito's description of their program is attached to this document.

Santa Cruz Police Auditor

On March 10, 2010 the chief spoke to the Robert Aaronson who is the independent police auditor for the City of Santa Cruz. In his capacity as auditor, he oversees the administrative investigations and provides oversight of the Department's internal police investigators as they progress through the investigation. He reviews completed administrative investigative reports and the interview recordings for their accuracy.

Atherton PD Citizen's Complaints & Personnel Investigations 2005 to Date:

The scope of this report is to provide an introduction to civilian oversight models and to explore what other local communities have in place. In addition, it may be helpful to policy makers to have a historical reference point for the scope, frequency, and disposition of Citizen's Complaints and administrative personnel investigations at Atherton PD.

The two tables below depict both our citizen's complaint and internal administrative investigations from 2005 to date. Since 2005 there have been 9 reported Citizen's Complaints that warranted an investigation, and 5 internal issues that warranted

administrative investigations. The Department determined that it would be a conflict of interest to investigate parts of the two investigations dated 12-2007 and 4-2009. Concerning case 12-2007, the San Mateo Co. District Attorney's Office conducted the criminal portion of the investigation while Atherton handled the administrative investigation. Concerning case 4-2009, the San Mateo Co. District Attorney's Office handled the criminal investigation while an external investigator was contracted to complete the administrative investigation.

Note: Each investigation usually entails investigating more than one policy violation. For instance, an employee who is accused of being rude at a traffic stop would be investigated for not only being discourteous, but also a general charge of conduct unbecoming of a police officer, and for not effectively performing their job. There would be three separate policy violations with a disposition for each charge. Consequently, the tables below do not contain a laundry list of dispositions for each complaint when they are not sustained and/or unfounded. Instead, the most frequent disposition is noted when there are multiple allegations of misconduct.

Citizen's Complaint Investigations 2005 to Date

Date	Reason For Complaint	Disposition	Traffic/Vehicle Related	Resident/Non-Resident
10-18-2005	Officer stopped suddenly when conducting stop and was rude	Not Sustained	Yes	Menlo Park Resident
12-5-2005	Rude, improper conduct	Exonerated & Not Sustained	Yes	Redwood City Resident
10-26-2006	Rude while issuing a parking citation	Unfounded	Yes	San Jose Resident
12-13-2007	Went to wrong address for alarm call	Exonerated	No	Atherton Resident
2-28-2008	Mistreated a citizen during a traffic accident investigation	Unfounded	Yes	Menlo Park Resident
6-25-2008	Mistreated, Rude	Exonerated	Yes	East Palo Alto Resident
7-31-2008	Officer drove in excessive speed	Not Sustained	Yes	San Mateo Co. Resident
11-11-2008	Lack of courtesy to a citizen, mistreated	Unfounded & Not Sustained	No	Atherton Resident
9-22-2009	Officer racially profiled traffic stop and rude	Exonerated	Yes	Menlo Park Resident

Internal Administrative/Personnel Investigations 2005 to Date

Date	Reason for Complaint	Disposition	Traffic/Vehicle Related	Citizen Generated
6-2005	Vehicle damage to patrol car	Sustained	Yes	No
3-2006	Conduct unbecoming of an officer	Sustained	No	No
12-2007	Theft	Sustained	No	No
4-2009	Conduct unbecoming of an officer	Sustained	No	No
10-2009	Conduct unbecoming of an officer	Unfounded	No	Yes

Annual Frequency of Incidents to Complaints

Year	Total Annual Calls For Service & Officer Initiated Incidents	Number of Citizen's Complaints	Number of Internally Generated Personnel Investigations	Total Number of Investigations
2005	11,837	2	1	3
2006	11,438	1	1	2
2007	10,361	1	1	2
2008	11,664	3	0	3
2009	14,052	1	2	3

As part of the Police Chief's monthly report to the City Manager on the Department's performance, there are metrics directly relating to the Use of Force and the Exercise of Authority Fairly, Efficiently, and Effectively. These metrics include citizen's complaints, internal administrative investigations, and service audits. A copy of those metrics and the other six performance dimensions are attached to this report.

Financial Impact:

The financial impact will vary depending on the civilian oversight model that might be adopted. The existing City Manager/Council model along with the model Hillsborough has adopted would probably be the least costly as it relates to set-up and maintenance costs. An all volunteer civilian oversight board with a paid investigator would probably be the second most cost effective model. An independent auditor or a paid executive director of a civilian oversight board would be the most costly. For example, the auditor in Palo Alto receives up to \$27,500 per year based on an hourly rate of \$190.

There would also be legal costs associated with researching the legality of the models along with developing the framework or structure to be adopted by Council.

The current model where the PD investigation is managed through the chain-of-command by the City Manager and ultimately Council does incur legal costs when an employee challenges the investigative process, the dissemination of information about their case, the findings, and the disposition. A different oversight system would most likely incur similar legal costs.

Legal Issues:

Establishment of a police auditor program or civilian police oversight group would require the preparation of an authorizing document, in the form of an ordinance or resolution, and possibly contract and job description. The 2008 case of *Berkeley Police Association v. City of Berkeley* (167 Cal. App. 4th 385) held that any form of civilian review board, with or without disciplinary authority, must operate in compliance with the Peace Officers Procedural Bill of Rights. This means that in addition to providing appropriate notice to officers of any questioning and holding interviews at reasonable hours, the board must honor the confidentiality requirements of the law. Hearings may not be public and publicity concerning the outcomes is limited. Civilian review boards typically are provided with both training on the applicable law and access to legal advice from the City Attorney's office.

Organizational Impact:

The impact on morale and the organizational processes will vary depending on the model that is adopted. It may involve meet and confer with the APOA.

Depending on the adopted model, there could be the issue of concurrent investigations where the PD conducts an internal administrative investigation at the same time as an independent investigator. If there are different standards for initiating an investigation, this could affect organizational morale.

Civilian review boards normally operate with significant staff support; police auditors may require little or none, other than access to staff for the purposes of inquiry and advice.

Attachments: APD Department Policies 340, 1020, 1043; Sausalito PD CARB.

Prepared By:

Approved:

Michael Guerra
Chief of Police

Jerome D. Gruber
City Manager



Disciplinary Policy

340.1 PURPOSE AND SCOPE

To provide employees of this Department with guidelines for their conduct in order that they may participate in meeting the goals of this Department in serving the community. This policy shall apply to all sworn and non-sworn members of this Department (including part-time and reserve employees). This policy is intended for internal use only and shall not be construed to increase or establish an employee's civil or criminal liability. Nor shall it be construed to create or establish a higher standard of safety or care. A violation of any portion of this policy may only serve as the basis for internal disciplinary and/or administrative action.

340.2 DISCIPLINE POLICY

The continued employment of every employee of this Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure of any employee to meet the guidelines set forth in this policy, whether on-duty or off-duty, may be cause for disciplinary action.

An employee's off-duty conduct shall be governed by this policy to the extent that it is related to act(s) that may materially affect or arise from the employee's ability to perform official duties, or to the extent that it may be indicative of unfitness for his/her position.

340.3 CONDUCT WHICH MAY RESULT IN DISCIPLINE

The following list of causes for disciplinary action constitutes a portion of the disciplinary standards of this Department. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for specific action or inaction that is detrimental to efficient Department service:

340.3.1 ATTENDANCE

- (a) Leaving job to which assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness on scheduled day(s) of work.
- (c) Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.
- (d) Failure to notify the Department within 24 hours of any change in residence address, home phone number, or marital status.

340.3.2 CONDUCT

- (a) Unauthorized or unlawful fighting, threatening, or attempting to inflict unlawful bodily injury on another.
- (b) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment without first notifying the Chief of Police of such action.
- (c) Using departmental resources in association with any portion of their independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.

Atherton Police Department

Policy Manual

Disciplinary Policy

- (d) Engaging in horseplay resulting in injury or property damage or the reasonable possibility thereof.
- (e) Unauthorized possession of, loss of, or damage to department property or the property of others or endangering it through unreasonable carelessness or maliciousness.
- (f) Failure of any employee to promptly and fully report activities on their own part or the part of any other employee where such activities may result in criminal prosecution or discipline under this policy.
- (g) Failure of any employee to promptly and fully report activities that have resulted in official contact by any other law enforcement agency.
- (h) Using or disclosing one's status as an employee with the Department in any way that could reasonably be perceived as an attempt gain influence or authority for non-departmental business or activity.
- (i) Disclosing or soliciting for financial or personal gain any information, photograph or video obtained or accessed as a result of employment with the Department (Penal Code § 146g).
- (j) Seeking restraining orders against individuals encountered in the line of duty without the expressed permission of the Chief of Police.
- (k) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department.
- (l) Unwelcome solicitation of a personal or sexual relationship while on duty or through the use of official capacity.
- (m) Engaging in on-duty sexual relations including, but not limited to sexual intercourse, excessive displays of public affection or other sexual contact.

340.3.3 DISCRIMINATION

- (a) Discriminate against any person because of age, race, color, creed, religion, sex, sexual orientation, national origin, ancestry, marital status, physical or mental disability or medical condition.

340.3.4 INTOXICANTS

- (a) Reporting for work or being at work following the use of intoxicants, where such use may impair the employee's ability to perform assigned duties, or where there is an immediate suspicion of ineffectiveness during public contact resulting from the use of intoxicants.
- (b) Unauthorized possession or use of, or attempting to bring intoxicants to the work site, except as authorized in the performance of an official assignment. An employee who is authorized to consume intoxicants is not permitted to do so to such a degree that it may impair on-duty performance.
- (c) Reporting for work or being at work following the use of a "controlled substance" or any drug (whether legally prescribed or otherwise) where such use may impair the employee's ability to perform assigned duties.
- (d) Unauthorized possession, use of, or attempting to bring controlled substance or other illegal drug to any work site.

340.3.5 PERFORMANCE

- (a) Unauthorized sleeping during on-duty time or assignments.

Atherton Police Department

Policy Manual

Disciplinary Policy

- (b) Careless workmanship resulting in spoilage or waste of materials or work of an unacceptable nature as applicable to the nature of the work assigned.
- (c) Unsatisfactory work performance, including but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or instructions of supervisors without reasonable and bona fide excuse.
- (d) Concealing, attempting to conceal, removing, or destroying defective or incompetent work.
- (e) Disobedience or insubordination to constituted authorities, including refusal or deliberate failure to carry out or follow lawful directives and orders from any supervisor or person in position of authority.
- (f) The wrongful or unlawful exercise of authority on the part of any employee for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (g) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of the Department or subverts the good order, efficiency and discipline of the Department or which would tend to discredit any member thereof.
- (h) Knowingly making false, misleading or malicious statements that are reasonably calculated to harm or destroy the reputation, authority or official standing of the Department or members thereof.
- (i) The falsification of any work-related records, the making of misleading entries or statements with the intent to deceive, or the willful and unauthorized destruction and/or mutilation of any department record, book, paper or document.
- (j) Wrongfully loaning, selling, giving away or appropriating any department property for the personal use of the employee or any unauthorized person(s).
- (k) The unauthorized use of any badge, uniform, identification card or other department equipment or property for personal gain or any other improper purpose.
- (l) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the employee's duties (lawful subpoena fees and authorized work permits excepted).
- (m) Any knowing or negligent violation of the provisions of the department manual, operating procedures or other written directive of an authorized supervisor. Employees shall familiarize themselves with and be responsible for compliance with each of the above and the Department shall make each available to the employees.
- (n) Work-related dishonesty, including attempted or actual theft of department property, services or the property of others, or the unauthorized removal or possession of departmental property or the property of another person.
- (o) Criminal, dishonest, infamous or disgraceful conduct adversely affecting the employee/employer relationship, whether on or off duty.
- (p) Failure to disclose, or misrepresenting material facts, or the making of any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.
- (q) Failure to take reasonable action while on-duty and when required by law, statute, resolution or approved Department practices or procedures.
- (r) Substantiated, active, continuing association with or membership in organized crime and/or criminal syndicates with knowledge thereof, except as specifically directed and authorized by the Department.
- (s) Offer or acceptance of a bribe or gratuity.

Atherton Police Department

Policy Manual

Disciplinary Policy

- (t) Misappropriation or misuse of public funds.
- (u) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (v) Unlawful gambling or unlawful betting on department premises or at any work site.
- (w) Substantiated, active, continuing association on a personal rather than official basis with a person or persons who engage in or are continuing to engage in serious violations of state or federal laws, where the employee has or reasonably should have knowledge of such criminal activities, except where specifically directed and authorized by the Department.
- (x) Solicitations, speeches, or distribution of campaign literature for or against any political candidate or position while on-duty, on department property or while in any way representing him/herself as a member of this agency, except as expressly authorized by the Chief of Police.
- (y) Engaging in political activities during assigned working hours except as expressly authorized by the Chief of Police.
- (z) Violating any misdemeanor or felony statute.
- (aa) Any other on-duty or off-duty conduct which any employee knows or reasonably should know is unbecoming a member of the Department or which is contrary to good order, efficiency or morale, or which tends to reflect unfavorably upon the Department or its members.
- (ab) Any failure or refusal of an employee to properly perform the function and duties of an assigned position.
- (ac) Giving false or misleading statements, or misrepresenting or omitting material information to a supervisor, or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.

340.3.6 SAFETY

- (a) Failure to observe posted rules, signs and written or oral safety instructions while on duty and/or within department facilities or to use required protective clothing or equipment.
- (b) Knowingly failing to report any on-the-job or work-related accident or injury within 24 hours.
- (c) Substantiated employee record of unsafe or improper driving habits or actions in the course of employment.
- (d) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (e) Any personal action contributing to involvement in a preventable traffic collision, or other unsafe or improper driving habits or actions in the course of employment.
- (f) Violating departmental safety standards or safe working practices.

340.3.7 SECURITY

- (a) Unauthorized, intentional release of designated confidential information, materials, data, forms or reports.

Atherton Police Department

Policy Manual

Disciplinary Policy

340.3.8 SUPERVISION RESPONSIBILITY

- (a) Failure of a supervisor to take appropriate action to ensure that employees adhere to the policies and procedures of this Department and the actions of all personnel comply with all laws.
- (b) Failure of a supervisor to timely report known misconduct of an employee to his or her immediate supervisor or to document such misconduct appropriately or as required by policy.
- (c) The unequal or disparate exercise of authority on the part of a supervisor toward any employee for malicious or other improper purpose.

340.4 INVESTIGATION OF DISCIPLINARY ALLEGATIONS

Regardless of the source of an allegation of misconduct, all such matters will be investigated in accordance with Personnel Complaint Procedure Policy Manual § 1020. Pursuant to Government Code §§ 3304(d) and 3508.1, the investigation should be completed within one year of the discovery of the allegation unless such investigation falls within one of the exceptions delineated within those provisions.

340.4.1 TRAINING

Training will be provided as a corrective measure when the underlying cause of deficient performance is clearly attributed to a demonstrated lack of special skills, not required as prerequisite job skills, or trained, either formally or while on-duty, prior to assignment where the deficiency was noted.

340.4.2 INFORMAL COUNSELING

Informal counseling is appropriate for correction of first-time, minor deficiencies in performance or minor infractions of the orders, rules and regulations of this Department or the Town of Atherton.

340.4.3 DOCUMENTED ORAL COUNSELING

Supervisors will document oral counseling in cases where minor violations of Department rules and procedures are repetitive in number or when the member, during the counseling session indicates a resistance to the counseling provided. Oral counseling may also be documented in the employee's performance appraisal. Management is required to look at documented counseling as being lesser in severity than a written reprimand.

340.4.4 WRITTEN REPRIMAND

A written reprimand is a formal notification to a member regarding their failure to meet reasonable standards in their work or conduct, or a demonstration of a performance deficiency requiring immediate improvement.

340.4.5 SUSPENSION, DEMOTION, AND TERMINATION

These are punitive actions involving significant or repetitive violations of conduct or performance.

Atherton Police Department

Policy Manual

Disciplinary Policy

340.5 POST INVESTIGATION PROCEDURES

340.5.1 DIVISION COMMANDER RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Division Commander of the involved employee shall review the entire investigative file, the employee's personnel file and any other relevant materials.

The Division Commander may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

- (a) Prior to forwarding recommendations to the Chief of Police, the Division Commander may return the entire investigation to the assigned detective or supervisor for further investigation or action.
- (b) When forwarding any written recommendation to the Chief of Police, the Division Commander shall include all relevant materials supporting the recommendation. Actual copies of an employee's existing personnel file need not be provided and may be incorporated by reference.

340.5.2 RESPONSIBILITIES OF THE CHIEF OF POLICE

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials.

The Chief of Police may modify any recommendations and/or may return the file to the Division Commander for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, to be imposed.

In the event disciplinary action is recommended, the Chief of Police shall provide the employee with written (Skelly) notice of the following information:

- (a) Specific charges set forth in separate counts, describing the conduct underlying each count.
- (b) A separate recommendation of proposed discipline for each charge.
- (c) A statement that the employee has been provided with, or given access to, all of the materials considered by the Chief of Police in recommending the proposed discipline.
- (d) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the Skelly notice.
 - 1. Upon a showing of good cause by the employee, the Chief of Police may grant a reasonable extension of time for the employee to respond.
 - 2. If the employee elects to respond orally, the presentation shall be recorded by the Department. Upon request, the employee shall be provided with a copy of the recording.

340.6 EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) This Skelly response is not intended to be an adversarial or formal hearing.

Atherton Police Department

Policy Manual

Disciplinary Policy

- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the Skelly response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results of such subsequent investigation prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issue(s) of information raised in any subsequent materials.
- (f) Once the employee has completed his/her Skelly response or, if the employee has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall thereafter render a timely written decision to the employee imposing, modifying or rejecting the recommended discipline. In the event of a termination, the final notice of discipline shall also inform the employee of the reason(s) for termination and the process to receive all remaining fringe and retirement benefits.
- (g) Once the Chief of Police has issued a written decision, the discipline shall become effective.

340.7 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that an employee tenders a written retirement or resignation prior to the imposition of discipline, it shall be noted in the file.

The tender of a retirement or resignation by itself shall not serve as grounds for the termination of pending discipline.

340.8 POST SKELLY PROCEDURE

In situations resulting in the imposition of a suspension, punitive transfer, demotion, or termination of a non-probationary employee, the employee shall have the right to an evidentiary appeal of the Chief of Police's imposition of discipline pursuant to the operative Memorandum of Understanding (MOU) and personnel rules.

340.9 DISCIPLINARY ACTION AGAINST PROBATIONARY EMPLOYEES

In the event that a probationary employee is terminated solely for unsatisfactory performance or the failure to meet department standards, the employee shall have no right to appeal and the following shall be considered:

- (a) Termination of a probationary employee for such failure to pass probation shall be so reflected in the employee's personnel file.
- (b) In the event that a probationary employee is disciplined or terminated for misconduct, the employee shall only be entitled to appeal the decision in the same manner as set forth in the Skelly procedure as set forth above. This appeal process may be held prior to or within a reasonable time after the imposition of discipline.
- (c) At all times during any investigation of allegations of misconduct involving a probationary officer, such officer shall be afforded all procedural rights set forth in Government Code § 3303 and applicable Department policies.

Atherton Police Department

Policy Manual

Disciplinary Policy

- (d) A probationary employee's appeal of disciplinary action shall be limited to an opportunity for the employee to attempt to establish that the underlying allegations should not be sustained. Nothing in this policy or procedure, however, should be construed to establish any sort of property interest in or right to the employee's continuation of employment.
- (e) The burden of proof for any probationary employee's appeal of disciplinary action shall rest with the employee and will require proof by a preponderance of the evidence.
- (f) In the event that a probationary employee meets his or her burden of proof in such a disciplinary appeal, the Department shall remove all reference to the underlying allegations of misconduct from the employee's personnel file.
- (g) In the event that a probationary employee fails to meet his or her burden of proof in such a disciplinary appeal, the employee shall have no further right to appeal beyond the Chief of Police.

Personnel Complaint Procedure

1020.1 PURPOSE AND SCOPE

The purpose of this procedure is to provide guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members and employees of this Department.

1020.1.1 PERSONNEL COMPLAINTS DEFINED

Personnel complaints consist of any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state or local law.

Inquiries about employee conduct which, even if true, would not qualify as a personnel complaint may be handled informally by a department supervisor and shall not be considered complaints.

This policy shall not apply to any interrogation, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of an employee in the normal course of duty, by a supervisor or any other employee, nor shall this policy apply to an investigation concerned solely and directly with alleged criminal activities (Cal. Govt. Code 3303(i)).

Personnel Complaints shall be classified in one of the following categories:

Informal - A matter in which the complaining party is satisfied that appropriate action has been taken by a department supervisor of rank greater than the accused employee. Informal complaints need not be documented on a personnel complaint form and the responsible supervisor shall have the discretion to handle the complaint in any manner consistent with this policy.

Formal - A matter in which the complaining party requests further investigation or which a department supervisor determines that further action is warranted. Such complaints may be investigated by a department supervisor of rank greater than the accused employee or referred to the Sergeant depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Sergeant, such matters need not be documented as personnel complaints, but may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

1020.2 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1020.2.1 AVAILABILITY OF COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public lobby. Forms may also be available at other government facilities.

1020.2.2 SOURCE OF COMPLAINTS

- (a) A Department employee becoming aware of alleged misconduct shall immediately notify a supervisor.

Atherton Police Department

Policy Manual

Personnel Complaint Procedure

- (b) A supervisor receiving a complaint from any source alleging misconduct of an employee which, if true, could result in disciplinary action.
- (c) Anonymous complaints and third party complaints should be accepted and investigated to the extent that sufficient information is provided.

1020.2.3 ACCEPTANCE OF COMPLAINTS

A complaint may be filed in person, in writing, or by telephoning the Department. Although not required, every effort should be made to have the complainant appear in person. The following should be considered before taking a complaint:

- (a) Complaints shall not be prepared unless the alleged misconduct or job performance is of a nature which, if true, would normally result in disciplinary action.
- (b) When an uninvolved supervisor or the Watch Commander determines that the reporting person is satisfied that their complaint required nothing more than an explanation regarding the proper/improper implementation of Department policy or procedure, a complaint need not be taken.
- (c) When the complainant is intoxicated to the point where his/her credibility appears to be unreliable, identifying information should be obtained and the person should be provided with a Personnel Complaint form.
- (d) Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with their parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint.

1020.2.4 COMPLAINT DOCUMENTATION

Formal complaints of alleged misconduct shall be documented by a supervisor on a personnel complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

A supervisor may elect to document informal complaints as a supervisor or Watch Commander log entry.

When a Personnel Complaint form is completed in person, the complainant should legibly write a detailed narrative of his/her complaint. If circumstances indicate that this is not feasible, the complaint may be dictated to the receiving supervisor. In an effort to ensure accuracy in any complaint, it is recommended that a recorded statement be obtained from the reporting party. A refusal by a party to be recorded shall not alone be grounds to refuse to accept a complaint. Whether handwritten or dictated, the complainant's signature should be obtained at the conclusion of the statement. The complainant should be provided with a copy of his/her own original complaint per Penal Code § 832.7.

1020.3 SUPERVISOR RESPONSIBILITY

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation. Moreover, supervisors shall also maintain the ability to engage in the interrogation of an employee in the normal course of duty, counseling, instruction, or informal verbal admonishment, or other routine or unplanned contact (Cal. Govt. Code 3303(i)).

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the employee's immediate supervisor. The Chief of Police or authorized designee may,

Atherton Police Department

Policy Manual

Personnel Complaint Procedure

however, direct that another supervisor investigate it. The supervisor shall be responsible for the following:

- (a) A supervisor receiving a formal complaint involving allegations of a potentially serious nature shall ensure that the Watch Commander, Commanding Officer and Chief of Police are notified as soon as practicable.
- (b) A supervisor receiving or initiating any formal complaint shall ensure that a Personnel Complaint form has been completed as fully as possible. The original complaint form will then be directed to the Commanding Officer of the accused employee, via the chain of command, who will take appropriate action or forward the complaint to the Sergeant for further action.
 - 1. During the preliminary investigation of any complaint, the supervisor should make every reasonable effort to obtain names, addresses and telephone numbers of additional witnesses.
 - 2. Once immediate medical attention has been provided, photographs of alleged injuries as well as accessible areas of non-injury should be taken.
 - 3. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the employee's Division Commander or the Chief of Police who will initiate appropriate action.
- (c) A supervisor dealing with an accused employee shall ensure that the procedural rights of the employee are followed pursuant to Government Code § 3303, et seq.
- (d) When the nature of a personnel complaint relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination, the supervisor receiving the complaint shall promptly contact the Personnel Department and the Chief of Police for direction regarding their role in investigation and/or addressing the complaint.

1020.4 ASSIGNMENT TO ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature or when circumstances practically dictate that it would impose an unreasonable risk to the Department, the employee, other employees or the public, a supervisor may assign the accused employee to inactive duty pending completion of the investigation or the filing of administrative charges.

1020.4.1 ADMINISTRATIVE LEAVE

An employee placed on administrative leave may be subject to the following guidelines:

- (a) Under such circumstances, an employee placed on administrative leave shall continue to receive regular pay and benefits pending the imposition of any discipline.
- (b) An employee placed on administrative leave may be required by a supervisor to relinquish any badge, Departmental identification, assigned weapon(s) and any other Departmental equipment.
- (c) An employee placed on administrative leave may be ordered to refrain from taking any action as a Departmental employee or in an official capacity. The employee shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (d) An employee placed on administrative leave may be temporarily reassigned to a different shift (generally normal business hours) during the pendency of the investigation and the employee may be required to remain available for contact at all times during such shift and report as ordered.

Atherton Police Department

Policy Manual

Personnel Complaint Procedure

- (e) It shall be the responsibility of the assigning supervisor to promptly notify the employee's Division Commander and the Chief of Police.
- (f) At such time as any employee placed on administrative leave is returned to full and regular duty, the employee shall be returned to their regularly assigned shift with all badges, identification card and other equipment returned.

1020.5 ALLEGATIONS OF CRIMINAL CONDUCT

Where an employee of this Department is accused of potential criminal conduct, a separate supervisor or assigned detective shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practical when an employee is formally accused of criminal conduct. In the event of serious criminal allegations, the Chief of Police may request a criminal investigation by an outside law enforcement agency.

An employee accused of criminal conduct shall be provided with all rights and privileges afforded to a civilian and the employee may not be administratively ordered to provide any information to a criminal detective.

No information or evidence administratively coerced from an employee may be provided to a criminal detective.

Any law enforcement agency is authorized to release information concerning the arrest or detention of a peace officer, which has not led to a conviction, however, no disciplinary action, other than paid administrative leave shall be taken against the accused employee based solely on an arrest or crime report (Labor Code § 432.7(b)). An independent administrative investigation shall be conducted based upon the allegations in the report in accordance with Department policy.

1020.6 ADMINISTRATIVE INVESTIGATION OF COMPLAINT

Whether conducted by a supervisor or an assigned member of the Sergeant, the following procedures shall be followed with regard to the accused employee(s):

- (a) Interviews of accused employees shall be conducted during reasonable hours and, if the employee is off-duty, the employee shall be compensated (Government Code § 3303(a)).
- (b) No more than two interviewers may ask questions of an accused employee (Government Code § 3303(b)).
- (c) Prior to any interview, an employee shall be informed of the nature of the investigation (Government Code § 3303(c)).
- (d) All interviews shall be for a reasonable period and the employee's personal needs shall be accommodated (Government Code § 3303(d)).
- (e) No employee shall be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively or be subject to discipline for insubordination. Nothing administratively ordered may be provided to a criminal investigator (Government Code § 3303(e)).
- (f) Absent circumstances preventing it, the interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the

Atherton Police Department

Policy Manual

Personnel Complaint Procedure

employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview (Government Code § 3303(g)).

- (g) If the allegations involve potential criminal conduct, the employee shall be advised of his/her Constitutional rights pursuant to *Lybarger*. This admonishment shall be given administratively whether or not the employee was advised of these rights during any separate criminal investigation. (Government Code § 3303(h)).
- (h) All employees subjected to interviews that could result in punitive action shall have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual employee's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).
- (i) All employees shall provide complete and truthful responses to questions posed during interviews.
- (j) No employee may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

1020.6.1 ADMINISTRATIVE SEARCHES

An employee of this department may be administratively ordered to submit to a blood, breath, or urine test for alcohol and drugs under any of the following circumstances:

- When the employee, whether on or off-duty, is involved in a shooting or police related death.
- When the employee is involved in an injury or fatal accident while on duty.
- When the employee is involved in an injury or fatal accident while operating any Town owned vehicle whether on or off-duty.
- When the employee is found to be exhibiting objective symptoms of intoxication or drug influence while on duty.

The use of compelled testing results shall be restricted to the administrative investigation.

Any employee may be compelled to disclose personal financial information pursuant to proper legal process; if such information tends to indicate a conflict of interest with official duties, or, if the employee is assigned to or being considered for a special assignment with a potential for bribes (Government Code § 3308).

Employees shall have no expectation of privacy when using telephones, computers, radios or other communications provided by the Department.

Assigned lockers and storage spaces may only be administratively searched in the employee's presence, with the employee's consent, with a valid search warrant or where the employee has been given reasonable notice that the search will take place (Government Code § 3309).

All other departmentally assigned areas (e.g., desks, office space, assigned vehicles) may be administratively searched by a supervisor, in the presence of an uninvolved witness, for non-investigative purposes. (e.g., obtaining a needed report or radio). An investigative search of such areas shall only be conducted upon a reasonable suspicion that official misconduct is involved.

Atherton Police Department

Policy Manual

Personnel Complaint Procedure

1020.6.2 ADMINISTRATIVE INVESTIGATION FORMAT

Investigations of personnel complaints shall be detailed, complete and essentially follow this format:

Introduction - Include the identity of the employee(s), the identity of the assigned investigator(s), the initial date and source of the complaint.

Synopsis - Provide a very brief summary of the facts giving rise to the investigation.

Summary Of Allegations - List the allegations separately (including applicable policy sections) with a very brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence As To Each Allegation - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of employee and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion - A recommendation regarding further action or disposition should be provided.

Exhibits - A separate list of exhibits (recordings, photos, documents, etc.) should be attached to the report.

1020.7 DISPOSITION OF PERSONNEL COMPLAINTS

Each allegation shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged act(s) did not occur or did not involve Department personnel. Complaints which are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.5(c)).

Exonerated - When the investigation discloses that the alleged act occurred, but that the act was justified, lawful and/or proper.

Not Sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.

Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance which was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

1020.8 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation. In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or Government Code § 3508.1. If the nature of the allegations dictate that confidentiality is necessary to maintain the integrity of the investigation, the involved employee(s) need not be notified of the pending investigation unless and until the employee is interviewed or formally charged within one year of discovery.

Atherton Police Department

Policy Manual

Personnel Complaint Procedure

Upon completion, the report should be forwarded through the chain of command to the commanding officer of the involved employee(s).

Once received, the Chief of Police may accept or modify the classification and recommendation for disciplinary action contained in the report.

Within 30 days of the final review by the Chief of Police, written notice of the findings shall be sent to the complaining party. This notice shall indicate the findings, however, will not disclose the amount of discipline, if any imposed. The complaining party should also be provided with a copy of his/her own original complaint (Penal Code § 832.7).

Any complaining party who is not satisfied with the findings of the Department concerning their complaint may contact the Chief of Police to discuss the matter further.

1020.8.1 CONFIDENTIALITY OF PERSONNEL FILES

All investigations of personnel complaints shall be considered confidential peace officer personnel files. The contents of such files shall not be revealed to other than the involved employee or authorized personnel except pursuant to lawful process.

In the event that an accused employee (or the representative of such employee) knowingly makes false representations regarding any internal investigation and such false representations are communicated to any media source, the Department may disclose sufficient information from the employee's personnel file to refute such false representations (Penal Code § 832.5).

All formal personnel complaints shall be maintained for a period of no less than five years (Penal Code § 832.5). All non-citizen (e.g., those that originate internally) initiated complaints shall be maintained no less than two years (Government Code § 34090 et seq.).

Complaints which are unfounded, exonerated, sustained or not sustained shall be maintained by the Chief of Police apart from the employee's personnel file.

Standards of Conduct

1043.1 POLICY

- (a) Recognizing that law enforcement personnel are highly visible representatives of local government and are entrusted with the responsibility of ensuring the safety and security of the community, the Standards and Conduct for members of this Department are higher than the Standards of Conduct for other occupations and those of the general public.
- (b) In this regard, Department members will conduct themselves in a manner that does not bring discredit upon himself or herself, the Department, the Town of Atherton, or the community.

1043.2 STANDARDS OF CONDUCT

Listed below are the Standards of Conduct which each member of this Department shall adhere to.

1043.2.1 GENERAL RESPONSIBILITIES

- (a) All members of this Department will become thoroughly familiar with these rules and regulations and will abide by them.
- (b) All members of this Department will observe and obey all federal, state and local laws, all written Departmental orders and directives, and all lawful orders of their superior officers.
- (c) All members of this Department shall maintain loyalty to the Police Department as is consistent with law, professional ethics and duties.

1043.2.2 REPORTING FOR DUTY

(a) Absence from Duty

- 1. Every member who fails to report for duty at the time, date and place specified without proper authorization is deemed to be "absent without leave." Such absences, whether for any portion of one shift or watch, or for the entire assigned shift or watch, may be subject to disciplinary action. Regardless of any disciplinary action imposed, employees absent without official leave shall not be entitled to use any paid leave or adjustment of their work schedule as compensation for the absence.

(b) Illness

- 1. Barring unforeseen circumstances, members unable to report for duty because of illness or injury shall notify the Department, if practical, at least four hours prior to their scheduled reporting time. No member of this Department shall malingering, feign illness, nor attempt to shirk their duties by reason of this reported illness or injury.
- 2. Members found to be violating this section may be subject to discipline.

(c) Tardiness

- 1. All members shall be punctual in reporting for duty and other assignments.

Atherton Police Department

Policy Manual

Standards of Conduct

2. Members may be considered tardy if they are not dressed in uniform or otherwise prepared for their assigned work scheduled at the appointed time.

(d) **Relief**

1. All members are to remain at their assignment and on duty until relieved by another member, or until dismissed by competent authority.

(e) **Availability to Call**

1. Members shall not conceal themselves except for a bonifide law enforcement purpose. They shall be immediately and readily available to the public during duty hours. All personnel are subject to emergency call-out at any hour of the day or night, including days off and holidays.

(f) **Address and Telephone Numbers**

1. Members shall keep the Department informed of their correct address and telephone number at all times.
2. Change of address or phone number shall be reported in writing to the office of the Chief of Police and the Division Commander within 24 hours of such change.
3. All members are required to have an operational telephone at their place of residence.
4. No member shall release another Department member's phone number or address to any person outside the Department.

(g) **Physical Fitness**

1. All members of the Police Department shall maintain themselves in good physical condition to the extent that the ability to perform their job is not impaired.

(h) **Incapacity to Perform Duties**

1. Department members, while on duty, who are unable to perform their duties due to illness, exhaustion or any other impairment will report this fact to their supervisor, who will determine the proper disposition.

1043.2.3 ATTENTION TO DUTY

(a) **Duty Responsibilities**

1. Members of the Police Department are always subject to duty, although periodically relieved of its routine performance.
2. Members of the Police Department shall at all times respond to the lawful orders of superior officers and other proper authorities.
3. Proper law enforcement action must be taken whenever required.
4. The administrative delegation of the enforcement of certain laws and ordinances to particular units of the Police Department does not relieve members from other units from the responsibility of taking prompt, effective action within the scope of those laws and ordinances when occasions so require.
5. Members assigned to special duties are not relieved from taking proper action outside the scope of their specialized assignment when necessary.

(b) **Performance of Duty**

Atherton Police Department

Policy Manual

Standards of Conduct

1. All members shall perform their duties as required or directed by law, Department Rules and Policies, or orders from a superior officer.
2. All lawful duties required or directed by competent authority shall be performed promptly as directed, notwithstanding the general assignment of duties and responsibilities.

(c) **Responding to Calls for Service**

1. Members on duty shall respond without unreasonable or unnecessary delay to all calls for law enforcement assistance from citizens or other personnel.
2. Emergency calls take precedence; however, all calls shall be answered as soon as possible, consistent with safety precautions and vehicle laws.
3. Failure to answer calls for law enforcement assistance without justification is misconduct.
4. Except under the most extraordinary circumstances, or when otherwise directed by a competent authority, no member shall fail to answer any known telephone or radio call directed to him.
5. The dispatcher will be informed at all times when changing locations or status.

(d) **Sleeping**

1. Members shall not sleep while on-duty.
2. This prohibition shall not be applied when the member has not been allowed to go home, or has been required to remain at work in unusual circumstances such as disasters.
3. Department members taking part in the "Planned Break" Program are not in violation of this section.

(e) **Inattention to Duty**

1. Members shall not waste time or fail to be attentive to their duties.

(f) **Personal Activities on Duty**

1. Members of the Department will not devote any of their on-duty time to any activity that does not relate to a law enforcement function.
2. Members of the Department will not perform any law enforcement duty for the purposes of private gain, nor will they make any private purchases when in uniform unless for personal maintenance or sustenance, or as authorized by competent authority.

(g) **Judicial and Investigative Actions, Appearances and Testifying**

1. Attendance at court or quasi-judicial hearings as required by subpoenas and arising out of law enforcement duties is an official duty assignment.
2. Permission to omit this duty must be obtained from the judge, District Attorney's office, or other competent court official.
3. When appearing in court, the member will report in uniform or appropriate civilian clothes. Members shall present a neat, clean appearance and avoid any conduct that might imply disrespect to the court.

(h) **Reports**

1. Members shall promptly submit such reports as are required by the performance of their duties or by competent authority.

Atherton Police Department

Policy Manual

Standards of Conduct

2. All reports must be completed before the end of the members work day, unless exempted by the members immediate supervisor.
3. Any report which includes an "In-Custody" arrest must be completed before the members is allowed to go off-duty.

(i) **Loitering**

1. All members on duty shall not loiter about or remain idle in any public place or business except as is necessary to perform a Departmental task.

(j) **Policy in Joint Jurisdictional Cases**

1. In order to minimize confusion and efficiently execute the basic responsibilities of the law enforcement functions, it shall be the policy of this Department that when jurisdiction disputes arise between this Department and other police agencies, Atherton Police Department personnel shall accept and handle the case.
2. After reasonable attempts to resolve the dispute have failed, the decision will be made by the Watch Commander.
3. The matter will then be brought to the attention of a higher authority through proper channels and will be resolved at the administrative level.

(k) **Assistance**

1. All members are required to take appropriate law enforcement action toward aiding a fellow peace officer exposed to danger, or in a situation where danger might be impending.

1043.2.4 DUTY TO OBEY ORDERS

(a) **Transaction of Official Business**

1. Every member of this Department must transact official business through proper legal channels.
2. This regulation does not deny a member the privileges of contacting the Chief of Police or Lieutenant on matters of a personal nature.

(b) **Questions Regarding Assignment**

1. Members in doubt as to the nature or detail of their assignment shall seek such information from their supervisor by going through the chain of command.

(c) **Manner of Issuing Orders**

1. Orders from a superior officer to a subordinate officer shall be in clear and understandable language, civil in tone and issued in pursuit of Departmental business.

(d) **Conflicting Orders**

1. Upon receipt of an order conflicting with any previous order or instructions, the member affected will advise the person issuing the second order of this fact.
2. Responsibility for countermanding the original instruction rests with the individual issuing the second order. He/she shall report said action to the member issuing the original order.
3. If so directed, the latter command shall be obeyed first.

Atherton Police Department

Policy Manual

Standards of Conduct

(e) **Unlawful Orders**

1. No command or supervisory officer shall knowingly issue any order that is in violation of any law, ordinance or Departmental policy.

(f) **Obedience to Unlawful Orders**

1. Obedience to an unlawful order is never a defense for an unlawful action; therefore, no member is required to obey any order that is contrary to any law.
2. Responsibility for refusal to obey an order rests with the members. He/she shall be strictly required to justify his/her actions.

(g) **Obedience to Unjust or Improper Orders**

1. Members who are given orders they feel to be unjust or contrary to the rules and regulations must first obey the order to the best of their ability and then proceed to appeal through the chain of command.

(h) **Reports and Appeals - Unlawful, Unjust and Improper Orders**

1. A member receiving an unlawful, unjust or improper order shall, at first opportunity, report in writing to the Chief of Police through official channels.
2. This report shall contain the facts of the incident and the action taken.
3. Appeals for relief from such orders may be made at the same time.
4. Extra Departmental action regarding such an appeal shall be conducted through the Chief of Police.

(i) **Legal Opinions Requested**

1. Legal opinions may be obtained through the City Attorney or the District Attorney's Office. This shall be done in writing and carried through the chain of command.

(j) **Criticism of Orders**

1. Members, in their official capacity, shall not publicly criticize instructions or orders received by them from a superior officer or other lawful authority.
2. Members who wish to criticize a Departmental policy, procedure, or order may do so by going through proper channels within the organizational structure.

(k) **Insubordination**

1. Failure or refusal of any member to obey a lawful order, given by a superior officer or authorized investigator, shall be considered insubordination.
2. Ridiculing a superior officer or his/her orders, whether in or out of his/her presence, to the extent that such ridicule affects the operations of the Department, is insubordination.

(l) **Honesty in the Performance of Duty**

1. No member shall falsify any report, official record or official communication (oral, written, electronic).
2. Falsification of information shall include communications that are misleading.

1043.2.5 USE OF ALCOHOL AND/OR DRUGS

(a) **Consumption of Intoxicants**

Atherton Police Department

Policy Manual

Standards of Conduct

1. No intoxicants are to be consumed eight (8) hours prior to going on duty.

(b) **Consumption of Drugs**

1. Members under the influence of prescription drugs and/or medications, to the extent their ability to perform their assigned duties is impaired, shall not report for duty.
2. They shall be excused from duty on sick leave after making proper notification to the Department, consistent with the Departmental Sick Leave Policy.
3. Members shall not consume such drugs/medications while on duty if the effect of the substance impairs their ability to carry out their duties.

(c) **Intoxication**

1. Members and employees shall not, at anytime, be under the influence of alcohol and/or drugs while on duty.

(d) **Chemical Tests**

1. A supervisor may order a subordinate to submit to a chemical test of his blood, breath, or urine to determine the alcoholic and/or drug levels of his/her blood.
2. The supervisor must first be able to articulate the objective symptoms of being under the influence of intoxicants.

(e) **Officer in Charge, Responsibility**

1. Any member reporting for duty who is intoxicated, or unfit for duty because of emotional instability or physical disability, shall be relieved of duty by the Officer in Charge, and a written report shall be submitted to the Division Commander setting forth the circumstances of the incident.
2. If appropriate, the Division Commander may submit this matter for an Internal Affairs investigation if it is determined that inappropriate behavior or misconduct was the cause of the incident.

(f) **Intoxicants on Department Premises**

1. Members shall not bring into, or keep, any intoxicants, whether alcohol or drugs, onto Department premises or within Department vehicles except:
 - (a) When necessary in the performance of a Department task or function.

1043.2.6 COURTESY

(a) **Courtesy to the Public**

1. Department members will be courteous to the public and tactful in the performance of their duties.
2. Members should refrain from the use of coarse, violent, profane, sarcastic or insolent language, and shall not express any prejudice concerning sex, race, religion, politics, national origin, or similar personal characteristics.

(b) **Conduct Toward Supervisors, Subordinates and Associates**

1. Members shall treat superior officers, subordinates, and associates with respect.
2. Members shall be courteous and civil at all times in their relationships with one another.

Atherton Police Department

Policy Manual

Standards of Conduct

3. When on duty, and in the presence of the public, members should be referred to by rank and/or title.

(c) **Criticism of Others**

1. Members in their official capacity shall not publicly criticize or ridicule any official act of any member of this, or any other, department or office of a city, county, state or federal government.

(d) **Cooperation**

1. Cooperation between ranks and units of the Police Department is essential for smooth operations.
2. All members are responsible for establishing and maintaining a high spirit of cooperation within the Police Department.

(e) **Questions Pertaining to Departmental Procedures**

1. Members receiving an inquiry pertaining to Departmental procedure will explain the procedure's content and purpose, or refer the person making the inquiry to a Department member having the information.
2. Department members will not release any information pertaining to confidential or tactical procedures, and will advise the person making the inquiry of this restriction.
3. When necessary, the member receiving a question pertaining to confidential or tactical procedures may refer the person initiating the inquiry to the Chief of Police.

(f) **Contact of City Council**

1. When a member of the City Council contacts a Department member concerning sensitive Departmental business, the councilperson will be referred to the Officer in Charge.
2. If the Officer in Charge determines the matter is particularly sensitive, the councilperson will be referred to the Chief of Police.

(g) **Impartial Attitude**

1. All members must conduct themselves impartially toward all persons coming to the attention of the Department.
2. All citizens are guaranteed equal protection under the law.
3. Exhibiting partiality for or against a person because of sex, race, creed, national origin, or influence is conduct unbecoming an officer.
4. Unwarranted interference in the private business of others when not in the interests of justice is also unbecoming conduct.

(h) **Supplying Identification**

1. Consistent with officer safety and protection of the public, members, while acting in an official capacity, will supply their name, rank and position in a professional manner to any person who may inquire.

Atherton Police Department

Policy Manual

Standards of Conduct

1043.2.7 GRATUITIES AND BRIBES

- (a) Members will not accept a bribe or engage in any act of influence, extortion or other unlawful means of obtaining money or property through their position with the Department.
- (b) Members will not accept, either directly or indirectly, a fee, loan, reward or gift of any kind from any person in custody, discharged from custody, liable to arrest or complaint, or from any friend or relative of such person.
- (c) Members, either indirectly or collectively, will not solicit any reward for the performance of duties or seek or ask for a gratuity of any kind.
- (d) Members will not use their positions to seek favors or gratuities which would not ordinarily be accorded private persons.
- (e) Members shall not seek, in any way, nor shall they accept from any person, money or other compensation for damages sustained, or expenses incurred by them in the line of duty without first notifying the Chief of Police in writing.

1043.2.8 ILLEGAL POLITICAL ACTIVITIES

(a) Membership in Organizations

- 1. No Department member shall become a member or become connected with any group, organization, or party whose purpose is the violent overthrow of the American government.
- 2. No member shall be deprived of his constitutional or legal rights to join, participate in, or be connected with any legal organization whose purpose is to promote the racial, ethnic, religious, or political ideas and/or ideals of its members as long as such membership does not affect the performance and efficiency of the member while on duty.

(b) Political Campaigning

- 1. On duty members will refrain from engaging in activities related to political campaigning.
- 2. Improper activities include, but are not limited to: engaging in campaign speeches, distribution of pamphlets, posting of campaign ads, willfully being photographed in uniform, either on or off duty, with political candidates.

1043.2.9 TOWN PROPERTY AND EQUIPMENT

(a) Town Property

- 1. No property of the Town of Atherton shall be converted to private use or taken or removed for personal reasons.

(b) Department Property and Equipment

- 1. Members are responsible for the proper care of the Police Department equipment assigned to them.
- 2. Damaged or lost property may subject the responsible individual to reimbursement charges and/or appropriate disciplinary action.

(c) Damaged, Inoperative Property or Equipment

- 1. Members shall immediately report to their Division Commander, in writing, any loss or damage to any Departmental property assigned to their use or used by them.

Atherton Police Department

Policy Manual

Standards of Conduct

2. The immediate supervisor will be notified of any defects or hazardous conditions existing in any Department equipment or property.
- (d) **Surrender of Departmental Property**
1. Members are required to surrender all Departmental property in their possession upon separation from the Department.
- (e) **Transporting Citizens**
1. Authorization for the transportation of citizens in Departmental vehicles will be made at the discretion of the Watch Commander and must be for a departmental purpose or in the furtherance of the Departmental mission within the community.
- (f) **Purchases**
1. No Department purchases are to be made by any employee at any time without the specific authorization of the individual(s) responsible for purchasing.
 2. When authorized purchases are made, receipts and/or invoices will be obtained and turned in immediately to the payroll / accounting office for processing.
 3. The supervisor in charge may authorize the purchase of items deemed necessary to accomplish the task at hand in exigent circumstances.

1043.3 CONDUCT UNBECOMING OF A MEMBER OF THE POLICE DEPARTMENT

A member's conduct or behavior, either on or off duty, which is of such a nature that it causes discredit to the Police Department or the Town of Atherton is conduct unbecoming of a member of the Police Department.

- (a) Such conduct or behavior is subject to disciplinary action.

1043.3.1 OTHER PROHIBITED CONDUCT

(a) **Assisting Criminals**

1. Members shall not communicate in any manner, directly or indirectly, any information which might assist persons guilty of criminal or quasi-criminal acts to escape arrest or punishment, or enable them to dispose of, or secrete evidence of unlawful activity such as money, merchandise, or other property.
2. This section shall not apply unless to further a specific police mission, investigation, or the development of an informant.

(b) **Compromising Criminal Cases**

1. Members shall not interfere with the proper administration of criminal justice.
2. Members shall not attempt to interrupt the legal process except where a manifest injustice might otherwise occur, or in the interest of justice, and shall not participate in, or be concerned with, any activity that might interfere with the process of law.

(c) **Recommending Attorneys and Bail Brokers**

1. Members shall not suggest, recommend, advise or otherwise counsel the retention of any specific attorney or bail broker to any person coming to their attention as a result of law enforcement business, nor shall they display any advertising matter for any attorney or bail broker.

Atherton Police Department

Policy Manual

Standards of Conduct

2. In any such case where such advice is given where a fee, gratuity, or reward is solicited, offered or accepted from an attorney or bail broker, that action shall constitute gross misconduct subject to disciplinary action.

(d) **Publicity**

1. Members shall not seek personal publicity in the course of their employment.
2. Members shall not permit their names or photographs to be used to endorse any product or service that in any way is connected with official duties without the permission of the Chief of Police.
3. Members shall not, without permission from the Chief of Police, allow their names or photographs to be used in any commercial testimonial that alludes to their position or employment with the Department.
4. All requests for public appearances, speeches, demonstrations, etc., are to be directed to the Office of the Chief of Police, or his designee, for assignment of appropriate personnel through the chain of command.

(e) **Private Use of Department Address**

1. Members and employees will not use the Department as their primary mailing address for private purposes.
2. The Department's address will not be used as the primary address on any motor vehicle registration or operator's license.

(f) **Social Conduct**

1. While on duty, Department members shall not:
 - (a) Encourage, suggest, offer or accept sexual favors.
 - (b) Encourage, suggest, offer or provide lenience in enforcement in return for sexual or social encounters.
 - (c) Encourage, suggest, offer, or perform any services in the line of duty in return for sexual or social encounters.
 - (d) Engage in sexual activity.
 - (e) Engage in any form of sexual harassment.
2. While off duty, members shall not use their official law enforcement position to further any of the above listed activities.

(g) **Gambling**

1. No member shall gamble while on duty.

(h) **Neighborhood Disputes**

1. When on or off duty, Department members will avoid becoming officially involved, under the color of authority, in quarrels or disputes occurring in their own neighborhoods, unless the incident involves an immediate threat to human life.
2. In any event, Department members will give first consideration to their capacity to render appropriate and adequate response before any action is taken.

1043.3.2 ENFORCEMENT ACTIVITIES

(a) **Use of Physical Force**

Atherton Police Department

Policy Manual

Standards of Conduct

1. Malicious assaults or batteries committed by members in the performance of their law enforcement duties constitute gross misconduct.
 2. The use of physical force shall be restricted to circumstances specified by law when necessary to accomplish a law enforcement task or to overcome actual resistance.
- (b) **Custody of Prisoners**
1. Members charged with the custody of prisoners shall observe all laws and Departmental orders regarding this activity.
 2. Prisoners shall be kept secure, treated firmly and humanely, and shall not be subjected to unnecessary restraint.
- (c) **Transportation of Prisoners**
1. All prisoners must be searched before being transported. If multiple prisoners are transported, additional personnel should be used if deemed necessary by the Watch Commander.
- (d) **Arrests**
1. In making arrests, members shall strictly observe the laws of arrest and the following provisions:
 - (a) Only necessary restraint to assure safe custody and the safety of the officer shall be employed.
 - (b) The arresting or transporting officer is responsible for the safety and protection of the arrested person while in his custody.
 - (c) The arresting officer shall notify his/her supervisor and the custodial officer of any injury, or apparent illness or other condition, that indicates the arrested person may need special care.
- (e) **Special Weapons**
1. No special weapon shall be used without specific authorization from the Chief of Police, Lieutenant, or the Watch Commander.
- (f) **Official Records**
1. No official records will be destroyed by any member of this Department except as provided by law.
- (g) **Reports and Bookings**
1. No member shall knowingly falsify any official report.
- (h) **False Reports, Statements, Affidavits**
1. No member of this Department shall knowingly and intentionally prepare, sign, and/or submit a false report, statement, or affidavit.
- (i) **Off-duty Enforcement Action**
1. Prior to taking enforcement action, off duty officers will give first consideration to causing the appropriate action to be effected by on duty personnel from the law enforcement agency in which the activity occurs.
 2. The Department recognizes that off duty officers cannot rely on the immediate assistance or application of law enforcement resources in the same capacity as

Atherton Police Department

Policy Manual

Standards of Conduct

while on duty and does not expect officers to jeopardize themselves or others by taking law enforcement action while off duty.

3. When action is considered necessary and consistent with the tactical situation, offense involved, or other factors as articulated by the involved officer, any law enforcement action taken may be governed by the same policies, procedures, rules and regulations that apply to on duty personnel in a similar situation.

1043.3.3 DONATIONS FROM CITIZENS

- (a) Department members who are approached by a citizen who expresses a desire to donate money or other items of value to the Police Department will advise the person to contact the Chief of Police and/or take the person's name and telephone number and provide that information to the Chief of Police.
- (b) Nothing in this order prevents the members from listing or explaining various funds or organizations available if the citizens so requests.

1043.4 TOWN OF ATHERTON CODE OF CONDUCT POLICY

All members of this Department are required to adhere to the Town of Atherton's "Code of Conduct" Policy. This policy was approved on September 17, 2008, and adopted by Town of Atherton Resolution number 08-36.

CITIZENS' ADVISORY REVIEW BOARD ON POLICE MATTERS (CARB)

Length of Term: 2 years

Meets: At least Quarterly and as needed

Requirements: Must be a resident of Sausalito having basic understanding of police policies and practices; members are encouraged to complete the Citizens Police Academy

[Click Here for the Phone Roster \(PDF\)](#)

The purpose of the Board is to enhance citizen understanding of the process of submitting, processing and responding to citizen complaints regarding police officers; to add a citizen perspective in developing or revising police policies or practices perceived to infringe on civil liberties and civil rights; and to recommend alternatives for investigating complaints alleged to infringe upon civil liberties and civil rights.

Applications may be obtained weekdays at the Administration Office at the City Hall at 420 Litho Street or by submitting a request by email to dpagliaro@ci.sausalito.ca.us or by phone to 289-4165. Applicants are interviewed and appointed by the City Council.

Applications are accepted for any Board/Commission year-round and are kept on file for ONE year after application is received.

MEMBER	TERM	PHONES	FAX	EMAIL
Updated information coming soon...				



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF MARCH 17, 2010

**SUBJECT: ADOPT A RESOLUTION MODIFYING THE TOWN
DRAINAGE CRITERIA TO EXEMPT DETACHED
SINGLE-FAMILY HOMES FROM THE MAINTENANCE
AGREEMENT REQUIREMENT**

RECOMMENDATION:

Council has given direction to rescind the Maintenance Agreements except for those projects where it is required by our permit ("regulated projects"). Staff recommends that exempting detached single-family homes from the requirement is the appropriate modification. The exemption would also retroactively rescind all Maintenance Agreements for detached single-family homes previously recorded.

Staff recommends that the Maintenance Agreement be retained in either its current form or, if the Maintenance Agreement exemption is approved, that the Municipal Code be amended to provide for an abatement procedure for drainage systems that fail to function properly.

INTRODUCTION:

Residents have voiced their concerns that the Maintenance Agreement is an onerous provision of the Town's Drainage Criteria. A Public Meeting was held on February 1, 2010 where the matter was discussed. The City Council heard additional public comment and gave direction on February 17, 2010 to proceed with rescinding the agreement for single family homes.

ANALYSIS:

The day after the Council meeting, a resident called and asked the Town for help with drainage run-on from her neighbor's drainage system that was not functioning correctly. Staff realized that, without the Maintenance Agreement or some other provision, Town staff would have no authority to assist homeowners with problems such these.

The difference between these systems and other property systems is that, if the system fails, it impacts neighboring properties, not necessarily the property being drained. The neighbors would be left with negotiating with the owner, or filing private nuisance actions as a last resort. One of the reasons the Town passed the 2007 Drainage Criteria was due to complaints by residents about drainage from uphill neighbors. An essential element of the provisions passed at that time was the ability of Town staff to do something about it if the systems caused problems.

Staff discussed the issue with the ad-hoc drainage committee where the consensus was to proceed with rescinding the agreement and to consider providing more teeth in an abatement procedure within the Municipal Code.

Staff remains of the opinion that the Maintenance Agreement that is used by all jurisdictions in the Bay Area requires owners to do nothing more than is needed to provide for their system to continue functioning, along with allowing the Town to inspect the system once every five years and ask for the system to be fixed if it does not work. The agreements were adopted for single family homes in Atherton because most of them equaled or exceeded the size of regulated projects in other jurisdictions where the standard maintenance agreement is applied. Most projects have submitted the agreements without complaint.

ALTERNATIVES

The standard Maintenance Agreement must be retained for those projects classified as "regulated projects" according to the Municipal Regional Permit (MRP) C.3 Provisions in order to remain in compliance with the MRP. For detached single family home projects, the Council has the following options:

1. Retain the standard agreement – If an agreement is retained, retaining the standard agreement is recommended by staff so that Atherton remains consistent with other jurisdictions. If the standard agreement is updated by the regional agency, Atherton's would be updated and remain consistent.
2. Modify the agreement for detached single family homes to adjust the "onerous" language, based on a thorough study of the issues involved in each objectionable clause. The City attorney should advise the council on the indemnification clause. Many of the other clauses can be easily modified, such as including a reference to an abatement procedure and restricting access to require an appointment with the property owner. Modification of existing agreements is optional, either at Council direction or upon request of owners.

3. Exempt detached single-family homes from the maintenance agreement requirement, including rescinding all agreements entered into since 2007. This places the burden of maintaining the systems completely on the property owner, with no independent check by the Town. The Town can undertake a program to annually notify all properties with systems of the need to maintain the systems, i.e., before the winter rains begin.
4. If detached single-family homes are exempted and previous agreements are rescinded, it may be appropriate to still require a recorded notification of the presence of the detention system and the need to maintain it. This will serve to notify subsequent purchasers of the property. The amended notification can be included in the rescission document for previously recorded agreements.
5. If detached single-family homes are exempted and previous agreements are rescinded, it may be appropriate to amend the Municipal Code to provide for strengthened abatement procedures in the event a drainage system fails. The Municipal Code already contains abatement procedures within the grading and drainage sections, but those sections would need amendment to provide staff and Council with adequate authority to remedy the failure.

FISCAL IMPACT:

Exemption of detached single-family homes from the Maintenance Agreement requirement would require staff time for drafting the criteria modification and a new resolution adopting the criteria, as well as drafting and recording rescission documents for each maintenance agreement already recorded. If a replacement notification is desired, it can be included in the rescission document. City Attorney time will be needed to draft a standard document and to prepare documents for each affected property. There will also be some City Clerk time to record the rescission documents. If an amended ordinance is desired, City Attorney time will be required to draft the ordinance and bring it back to Council.

Prepared By:

Approved:

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

Jerome D. Gruber
City Manager

Attachments: Resolution
Rescission Document

RESOLUTION NO. 10-17

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON MODIFYING THE DRAINAGE CRITERIA ESTABLISHED UNDER CHAPTER 8.54 TO EXEMPT DETACHED SINGLE-FAMILY HOME PROJECTS FROM THE REQUIREMENT TO EXECUTE AND RECORD A MAINTENANCE AGREEMENT FOR DRAINAGE FACILITIES

WHEREAS, the Town of Atherton adopted drainage criteria by Ordinance No. 573 in 2007, and the drainage criteria require the execution and recordation of a maintenance agreement for stormwater treatment and detention measures; and

WHEREAS, section 8.54.050 of the Atherton Municipal Code allows for revisions and/or amendments to the criteria to be adopted by resolution; and

WHEREAS, the City Council has determined that owners of detached single-family dwellings are highly motivated to maintain the stormwater treatment and detention facilities on their properties and that a maintenance agreement is not necessary to secure compliance with the Town's drainage criteria; and

WHEREAS, the Town's Municipal Regional Stormwater Permit requires that the Town record maintenance agreements for the stormwater treatment and detention facilities on all "regulated projects" under the Town's Municipal Regional Water Permit but not for detached single-family home projects:

NOW, THEREFORE, BE IT RESOLVED by the City Council of the Town of Atherton that:

Section 1. The Drainage Criteria are amended as follows:

1. Section B.1.(c) 5 is modified by adding the following sentence at the end of the second paragraph:

Provided, detached single-family home projects are exempt from the requirement to execute or record a maintenance agreement but are required to present a Monitoring and Maintenance Program for approval as a part of their Storm Water Management Plan.

2. Section C. 3 is modified to read:

3. Developers are required to sign an Operations and Maintenance Agreement for any new permanent control measures. The Operations and Maintenance Agreement shall be based on the Town's model Operations and Maintenance agreement (Attachment

B). Provided, detached single-family home projects which are not “regulated projects”, as defined in Provision C.3 of Municipal Regional Stormwater Permit Order No. R2-2009-0074, and any amendment, revision or reissuance thereof, are exempt from the requirement to sign an Operations and Maintenance Agreement but not from the requirement to maintain permanent control measures in good operating condition.

Section 2. The City Manager is authorized and directed to make available to each detached single-family home project for which a maintenance agreement has been recorded the opportunity to execute a rescission agreement terminating the obligations of the parties under the maintenance agreement and to record a notice of such rescission in a form acceptable to the County Recorder of San Mateo County.

Section 3. The City Council finds that this modification of the Drainage Criteria could not have an impact on the environment and is not a project within the meaning of the California Environmental Quality Act. The City Manager is directed to file a Notice of Exemption.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on this 17th day of March, 2010, by the following vote:

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

ATTEST:

Kathy McKeithen, MAYOR
TOWN OF ATHERTON

Theresa N. DellaSanta, Deputy City Clerk

APPROVED AS TO FORM:

Wynne S. Furth, City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JEROME GRUBER, CITY MANAGER**

FROM: LOUISE HO, FINANCE DIRECTOR

DATE: FOR THE MEETING OF MARCH 17, 2010

**SUBJECT: ADOPTION OF A RESOLUTION APPROVING BUDGET
AMENDMENT FOR FY 2009-10**

RECOMMENDATION

Adopt the resolution approving the budget amendment for FY 2009-10 for the General Fund Special Tax Fund, and Road Construction Impact Fee Fund.

DISCUSSION

On February 17, 2010, the City Council accepted staff recommendation to correct the inappropriate charges made to the Road Construction Impact Fee Fund in FY 2003-04 of \$432,713 and transfers to General Fund between FY 2002-03 to FY 2005-06 of \$679,849, for a total of \$1,112,562.

To correct and repay the Road Construction Impact Fee Fund of \$1,112,562 the City Manager, based on the Town's Fund Balance Policy, is recommending the use of General Fund reserve. **To use reserve, a supermajority (4/5) vote of the City Council is required.**

To refund the authorized road impact fees, City Manager is also seeking City Council approval to use General Fund reserve to pay the \$40,000 cost of MuniServices consultant agreement to assist in the road impact fee refund processing. **This also requires a supermajority (4/5) vote of the City Council.**

Furthermore, the Finance Committee met on March 4, 2010, in addition to the road impact fee matter, is also recommending that the City Council approve an additional transfer from the Special Tax Fund of \$339,653 to the General Fund for Police Department share of the GASB 45 (unfunded retiree healthcare cost) and the overhead allocation cost.

Budget Amendment Road Impact Fee

FISCAL IMPACT

The road impact fee refund will cost approximately \$1,650,000, the cash available in the Road Construction Impact Fee Fund. No further funding source will be available once this sum is exhausted.

If the City Council approves the transfer of Special Tax to General Fund for police, the transfer of General Fund to Road Construction Fee Fund, and the MuniServices' agreement, the net impact to General Fund is -\$812,909.

Prepared by:

Approved by:

Louise Ho
Finance Director

Jerome D. Gruber
City Manager

Attachment: Budget Amendment Resolution
Exhibit A

Town of Atherton		
Budget Amendment Request		
FY 2009-10	Exhibit A	
	<u>General Fund</u>	<u>Amount</u>
	GASB 45 unfunded retiree healthcare cost for Police Dept	244,307
	Overhead allocation - Police Dept	876,209
		1,120,516
	Parcel Tax transferred at adoption of budget for Police	(780,863)
Transfers in from Special Tax Fund	Additional Transfers in Request	339,653
Transfers out to Road Construction Impact Fee Fund	To reimburse for FY 2002-03 to FY 2005-06 inappropriate charges	1,112,562
Non-Dept - Other Contract Services	Road impact fee refund processing - MuniServices	40,000
	Additional expenditure appropriation request	1,152,562
	<u>Special Tax Fund</u>	
Transfers out to General Fund	For police services	339,653
	<u>Road Construction Impact Fee Fund</u>	
Road Impact Fee Refund	Refund fee collected from 7/1/06 to 12/16/2009	1,654,754

RESOLUTION NO. 10-18
A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF
ATHERTON APPROVING BUDGET AMENDMENT
FOR FY 2009-10

WHEREAS, it is in the best interest of the citizens of the Town of Atherton that the Fiscal Year 2009-2010 Operating Budget be amended as set forth in Exhibit A, attached hereto and incorporated herein.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the Town of Atherton does hereby approve an amendment to the FY 2009-10 Town Budget to enact the changes identified on Exhibit A attached hereto.

PASSED AND ADOPTED, at a meeting of the City Council of the Town of Atherton held on the 17th day of March, 2010 by the following vote:

AYES: Council members:
NOES: Council members:
ABSTAIN: Council members:
ABSENT: Council members:

Kathy McKeithen
MAYOR

ATTEST:

Theresa N. DellaSanta
DEPUTY CITY CLERK



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JEROME GRUBER, CITY MANAGER**

FROM: LOUISE HO, FINANCE DIRECTOR

DATE: FOR THE MEETING OF MARCH 17, 2010

**SUBJECT: ADOPTION OF RESOLUTION 10-18 APPROVING BUDGET
AMENDMENT FOR FY 2009-10**

RECOMMENDATION

Adopt resolution 10-18 approving the budget amendment for FY 2009-10 for the General Fund and Road Construction Impact Fee Fund

DISCUSSION

On February 17, 2010, the City Council accepted staff recommendation to correct inappropriate charges made to the Road Construction Impact Fee Fund in FY 2003-04 of \$432,713 and transfers to General Fund between FY 2002-03 to FY 2005-06 of \$679,849, for a total of \$1,112,562.

To correct and repay the Road Construction Impact Fee Fund of \$1,112,562, the City Manager, based on the Town's Fund Balance Policy, is recommending the use of General Fund reserve. To use reserve, a supermajority (4/5) vote of the City Council is required.

To refund the authorized road impact fees, staff is also seeking City Council approval to appropriate approximately \$1,610,000 for fees and \$40,000 for the MuniServices consultant agreement to assist in the road impact fee refund processing.

FISCAL IMPACT

The refunds including processing will cost approximately \$1,650,000, the cash available in the Road Construction Impact Fee Fund. No further funding source will be available once this sum is exhausted.

Budget Amendment Road Impact Fee

Prepared by:

/s/ Louise Ho

Louise Ho
Finance Director

Approved by:

/s/ Jerome D. Gruber

Jerome D. Gruber
City Manager

Attachment: Budget Amendment Resolution

RESOLUTION NO. 10-18
A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF
ATHERTON APPROVING BUDGET AMENDMENT
FOR FY 2009-10

WHEREAS, it is in the best interest of the citizens of the Town of Atherton that the Fiscal Year 2009-2010 Operating Budget be amended as set forth in Exhibit A, attached hereto and incorporated herein.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the Town of Atherton does hereby approve an amendment to the FY 2009-10 Town Budget to enact the changes identified on Exhibit A attached hereto.

PASSED AND ADOPTED, at a meeting of the City Council of the Town of Atherton held on the 17th day of March, 2010 by the following vote:

AYES: Council members:
NOES: Council members:
ABSTAIN: Council members:
ABSENT: Council members:

Kathy McKeithen
MAYOR

ATTEST:

Theresa N. DellaSanta
DEPUTY CITY CLERK

Town of Atherton		
Budget Amendment Request		
FY 2009-10	Exhibit A	
		<u>Adjustment</u>
<u>General Fund</u>		
Transfers Out	Transfer to Road Construction Impact Fee Fund	1,112,562
Non-Dept	Road impact fee refund processing	40,000
		<u>1,152,562</u>
<u>Road Construct</u>		
<u>Impact Fee Fund</u>		
Fee Refund	Refund 7/1/06 to 12/16/2009	1,654,754



Town of Atherton

ITEM 33

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JEROME D. GRUBER, CITY MANAGER.

DATE: FOR THE MEETING OF MARCH 17, 2010

**SUBJECT: RESOLUTION 10-19 IMPLEMENTING REFUND
PROGRAM FOR ROAD IMPACT FEES PAID FROM
JULY 1, 2006 THROUGH SEPTEMBER 17, 2009**

RECOMMENDATION:

Adopt Resolution 10-19 setting out the procedures for refunding road impact fees paid from July 1, 2006 through September 17, 2009. The Council previously authorized refunds of road impact fees paid on or after September 18, 2009. The Town ceased collecting road impact fees on December 18, 2009.

BACKGROUND:

At its January 2010 regular meeting, the council authorized a refund program for road impact fees collected by the Town on or after July 1, 2006, but before September 18, 2009, which was the cut-off date for the initial road impact fee refund period. The council directed that the refunds be payable out of the funds remaining in the road impact fee. If funds are insufficient to pay all valid refund claims received, then the refunds are to be pro-rated. A combination of newspaper notices, website postings, and direct mailings are to be used to provide notice to those who may be eligible for a refund. This is a voluntary refund program authorized by the City Council based on its determination

ANALYSIS:

The attached resolution sets out the procedures to be followed in giving notice and reviewing claims for refunds. The Town's records of fee payers after May of 2008 list the individual or entity paying the road impact fee. Unfortunately, before that date, the records are less clear. Staff is able to identify all contractors who applied for, or pulled,

building permits during the refund period from its business license records. It also has a good data base of architects who applied for permits since May of 2008. In order to be sure that property owners receive notice of their possible eligibility for a refund, notice will also be sent to all names and addresses listed on the County Assessor's Roll for the Town.

Claimants will have 90 days after notice is sent to file a claim with the Town. They will be required to provide proof of payment, in the form of a receipt, a cancelled check, or an affidavit. No payments will be made until the claim period is closed. If the total claims do not exceed the balance available for payment, then claims will be paid as soon as they can be approved. A settlement and release agreement will be required before payment is made.

FISCAL IMPACT:

The refunds not including staff time will cost approximately \$1,650,000, the cash available in the Road Construction Impact Fee Fund. No further funding source will be available once this sum is exhausted.

RESOLUTION 10-19
RESOLUTION OF THE COUNCIL OF THE TOWN OF ATHERTON
AUTHORIZING ADDITIONAL REFUNDING OF ROAD IMPACT FEES

WHEREAS, on December 16, 2010, the City Council of the Town of Atherton adopted Resolution No. 09-50 rescinding its road impact fee and authorizing full refunds of all road impact fees paid on or after September 18, 2009 and now wishes to establish a program allowing additional refunds of road impact fees paid between July 1, 2006 through September 17, 2009 for an amount not to exceed the funds available in the road impact fee fund, now therefore:

THE CITY COUNCIL OF THE TOWN OF ATHERTON DOES FIND AND DETERMINE AS FOLLOWS:

Section 1. The proceeds of the Town's Road Impact Fee are maintained in a separate Road Impact Fee Fund. Following the payment of refunds authorized by Resolution 09-50, it is estimated that approximately \$1,435,596.00 in unexpended funds will remain in the Road Impact Fee Fund.

Section 2. Because of irregularities in Road Impact Fee increase authorized in 2007, and continuing uncertainty about the legality of road impact fees generally, it is in the best interests of the Town of Atherton to authorize those individuals and entities who paid road impact fee between July 1, 2006 through September 17, 2009 to file a claim for a refund of those fees. The Town has determined that it does not wish to collect, or retain, fees that may have been collected without full legal authority. Refunds shall be payable only from the Road Impact Fee Fund and not from the Town's general funds or any other special funds.

Section 3. If the valid claims for refunds exceed the funds available in the Road Impact Fee Fund (after payment in full of the refunds authorized under Resolution No. 09-50) exceed the balance of the Road Impact Fee Fund, the refunds shall be pro-rated.

Section 4. No new legal rights to road impact fee refunds are created by this refund program. The City Council has established this refund program because it believes it is the right thing to do, and not because it waives any legal defense to such refunds claims.

NOW, THEREFORE, THE CITY COUNCIL OF THE TOWN OF ATHERTON DOES RESOLVE AND ORDER AS FOLLOWS:

Section 1. The City Manager is hereby directed to establish a program whereby those individuals and entities paying road impact fees to the Town of Atherton between July 1, 2006 through September 17, 2009 may apply for a refund of all or a portion of those fees.

Section 2. The Town shall provide written notice of the refund program to (1) each improved parcel within the Town of Atherton, as shown on the most recent assessor's roll; (2) those architects and contractors listed in the Town's business license registry

during the period for which refunds are authorized; (3) such other entities and individuals as the City Manager may determine, in his sole discretion, as may be appropriate in order that those eligible to apply for a refund shall have knowledge of the program. The Town shall also publish notice of the program at least once in *Atherton Almanac* and such other media as the City Manager may determine, in his sole discretion, are useful in providing effective notice of the refund program. The Town shall provide notice of the program on its website.

Section 3. The Town shall make available instructions and application forms for refunds in electronic and paper form. The deadline for filing a refund claim with the Town shall be established by the City Manager and shall be a minimum of 90 days after notice is first mailed and published as described above. The publishing of additional and/or supplemental notices shall not extend the refund period.

Section 4. Each applicant shall provide proof of payment of a road impact fee, such as a receipt or cancelled check. The Town shall make available to the public at City Hall such information as is readily available on the road impact fees paid between July 1, 2006 through September 17, 2009, including the building permit number, address at which the construction took place, payor, and amount of the road impact fee. If the Town has records establishing the amount and payor of a road impact fee, and the payor is unable to provide a cancelled check or receipt, the Town may accept proof of payment in the form of a sworn affidavit from the presumed payor.

Section 5. Refunds shall be made to the individual or entity that paid the fee, unless that individual or entity specifies otherwise in writing.

Section 6. No refunds shall be paid until the time for filing claims for refunds has expired and the Town has determined whether there are sufficient funds to refund all amounts in full. If the refund claims that the Town determines, in its sole discretion, to be valid, exceed the Road Impact Fee Funds available for refunds, then the refunds shall be pro-rated. (For example, if valid refund claims totaled \$1,000,000 and funds available for refund payments were \$900,000, each refund would be paid at a rate of ninety cents for each dollar of road impact fee paid.).

Section 7. As a condition of receiving a road impact fee refund, the individual or entity receiving the refund shall execute a settlement and release form, releasing all claims arising in connection with the Town's Road Impact Fee and indemnifying the Town against any claims by third-parties alleging entitlement to the refund in question, in a form satisfactory to the City Attorney. .

Section 8. Costs of the refund program shall be payable out of the Town's general fund and not the Road Impact Fee fund.

Section 9. The City Manager is authorized and directed to establish such rules and procedures, including appropriate forms, as are necessary to carry out the intention of this program. His decisions shall be final.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on this 17th day of March 2009 by the following vote:

AYES: Council Members:
NOES: Council Members:
ABSENT: Council Members:
ABSTAIN: Council Members:

Kathy McKeithen, Mayor
TOWN OF ATHERTON

ATTEST:

Theresa DellaSanta, Deputy City Clerk

APPROVED AS TO FORM:

Wynne Furth, City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JEROME GRUBER, CITY MANAGER**

FROM: LOUISE HO, FINANCE DIRECTOR

DATE: FOR THE MEETING OF MARCH 17, 2010

**SUBJECT: FIVE-YEAR GENERAL FUND FINANCIAL FORECAST FOR
FY 2009-10 TO FY 2013-14**

RECOMMENDATION

Receive the Five-Year General Fund Financial Forecast for FY 2009-10 to FY 2013-14.

DISCUSSION

As directed by the City Council, staff prepared a five-year financial forecast for General Fund covering FY 2009-10 to FY 2013-14. The Finance Committee met and reviewed the forecast on March 4, 2010, and is recommending that the City Council accept the forecast for discussion

To prepare the forecast, staff made assumptions for revenues and expenditures. The assumptions are intended to present one of the many scenarios of what could happen to the Town's finances in the next four years. It is a projection and not a reflection of actual. It is also important to note that not too much energy should be spent in debating the assumptions. For example, a three percent salary increase was included in each year expenditure assumption. But it does not mean that the increase would actually take place. The assumption is to allow the Council to see the impact of revenue and expenditure increases or decreases based on the assumptions.

The attached forecast is prepared using FY 2009-10 as a baseline and on a very conservative basis assuming the current economic climate continues. To more accurately reflect the changes in operating conditions, the forecast needs to be updated at least annually to reflect changes in conditions.

Based on the forecast, staff is projecting that the Town would face some fiscal challenges each fiscal year. The analysis clearly shows that the property tax revenue, the Town's single largest revenue, is not sufficient to support the Police and Public Works Departments. There is no funding for administration. Furthermore, without road impact fee revenue and with special parcel tax being used mostly for police services, the Town would face funding challenges for large capital improvement projects for future years.

To balance FY 2009-10, General Fund reserve was used. According to the forecast, without new revenues or cost cutting, General Fund reserve could be depleted by FY 2002-13. A community meeting was held on March 1, 2010, to seek community input on alternate revenue options. Reduction in certain expenditures may impact the level of services.

FISCAL IMPACT

None.

Prepared by:

Approved by:

/s/ Louise Ho

/s/ Jerome D. Gruber

Louise Ho
Finance Director

Jerome D. Gruber
City Manager

Attachment: Five-Year Financial Forecast Assumption
Financial Forecast FY 2010-2014
Financial Forecast FY 2010-2014 Expenditures by Departments

Town of Atherton
Five-Year Financial Forecast
FY 2010-2014

Assumptions:

1. Use FY 2009-10 adjusted budget as a base line.
2. Fund 100% of GASB 45 (unfunded retiree healthcare costs) annual required contribution using the Actuarial Report dated July 1, 2009.
3. Maintain 50.35 FTE benefited positions. Same as FY 2009-10.
4. Use CalPERS medical premium trend rate for medical cost increase.
5. Use CalPERS June 30, 2007, valuation report to project retirement rates. The projection took into consideration the CalPERS loss in 2008 & 2009. The Town CalPERS Actuary did an informal review on February 2, 2010, and supported the rates even though they were more conservative than CalPERS.
6. Receive COPS Grant at \$100,000 per year
7. Use the same % charge for worker's comp insurance, unemployment insurance, and compensated absences.
8. Contribute the same amount each year to equipment replacement fund.
9. No set-aside for building replacement fund except \$120,000 for Building/DPW/Planning trailer in FY 2012.
10. Salary adjustment (**purely for projection purpose only**)
 - FY 2010 Teamster & Non-represented 3%; APOA actual 70% percentile
 - FY 2011 to FY 2014 annual 3% cost of living adjustment for all groups
11. City Attorney other legal services to drop 25% in FY 2012 and 5% increase in FY 2013 & FY 2014
12. Risk management cost to increase 5% per year.
13. Election cost for FY 2011.
14. Police overtime cost (\$) stay the same as FY 2009-10.
15. No further State take-away.
16. Does not include one-time nonrecurring expense.
17. No changes to existing employee benefit structure (**purely for projection purpose only**).
18. Continue ERAF distribution from County.
19. \$50,000 per year plus 5% adjustment for High Speed Rail and other consulting services.
20. Police per diem, reserve officer, and DPW temp salary costs (\$) stay the same as FY 2009-10.
21. Continue same amount of salary allocated to CIP. Same as FY 2009-10.

Town of Atherton
General Fund
Financial Forecast FY 2010-2014

Description	Adjusted Budget 2009-10	Projected 2010-11	Projected 2011-12	Projected 2012-13	Projected 2013-14
Revenues	9,226,510	9,173,493	9,427,146	9,768,729	10,207,247
Expenditures	10,503,924	10,555,919	11,175,389	11,639,391	12,252,007
GASB 45 Annual Required Contribution	627,504	665,036	705,289	746,964	795,518
Excess (Deficiency) of Revenues Over Expenditures	(1,904,918)	(2,047,462)	(2,453,532)	(2,617,626)	(2,840,277)
Parcel Tax for Police	1,120,516	1,109,153	1,234,670	1,328,385	1,397,203
Transfer from Fund 406 Bldg Dept Facil	82,735				
Transfer to Road Impact Fee Fund	(1,112,562)				
Projected General Fund Deficit	(1,814,229)	(938,309)	(1,218,862)	(1,289,241)	(1,443,074)
Beg. Fund Balance	7,203,277	5,389,048	4,450,739	3,231,877	1,942,636
End. Fund Balance	5,389,048	4,450,739	3,231,877	1,942,636	499,562
Min. GF Reserve - 15% of GF Exp	1,669,714	1,683,143	1,782,102	1,857,953	1,957,129



ITEM 35

DATE: FOR THE CITY COUNCIL MEETING OF MARCH 17, 2010

TO: THE CITY COUNCIL

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

SUBJECT: AMEND THE SCHOOL EVENT GUIDELINES UNDER THE SPECIAL EVENTS ORDINANCE

RECOMMENDATION:

The Planning Commission recommends the City Council amend the School Event Guidelines for the Special Events Ordinance to change the hours of use of the outdoor field for non-school related events held on school property.

INTRODUCTION

The City Council referred the review of the Special Event Ordinance to the Planning Commission. Specifically, the Planning Commission was charged with reviewing the hours of operation for non-school related outdoor events held on school properties. The Planning Commission established a subcommittee, consisting of Commissioners Lively and Grindley to review the Special Events Ordinance in greater detail and to provide a recommendation to the Planning Commission.

The Special Events Subcommittee compiled a binder of background information, interviewed school representatives, interviewed school field users and interviewed property owners adjacent to school site. The Subcommittee also researched the field use hours as well as park hours in adjacent jurisdictions. Specifically, the Subcommittee met with the representatives from the following entities:

- Los Lomas School District
- Redwood City Elementary School District
- Menlo College
- Menlo School
- Sacred Heart School
- Pop Warner
- AYSO
- Neighbors of Menlo/Atherton High School Fields
- Neighbors of Menlo College/High School Fields

ANALYSIS

The Special Event Ordinance requires that non-school related events held on school properties be conducted in compliance with the School Event Guidelines or else be subject to a Special Event Permit.

The School Event Guidelines currently establish the following for non-school related functions;

- Hours of use of fields and outdoor functions for non-school related events are limited to Monday through Friday from 8:00 am until 7:00 pm, Saturdays from 9:00am until 6:00pm and Sundays from 10:00am until 5:00pm.
- Indoor activities for non-school related events are required to cease at 9:00 pm.
- No amplified noise equipment is permitted for non-school related outdoor activities
- Any lighting associated with non-school related outdoor functions must be shielded and down lit.

As noted above, any non-school related function that is planned to occur outside of these guidelines is required to obtain a Special Event Permit from the City Manager.

The City Council received a request from the Pop Warner organization to exempt itself from the Special Event Ordinance. Pop Warner utilizes the fields at Menlo Atherton High School for practices and games. The City Council did not act on this request; instead, it referred the issue of outdoor field use hours to the Planning Commission for further consideration.

As noted above, the Planning Commission Subcommittee met with representatives from all the schools or school districts in Atherton, neighbors of the high school fields and representatives from the field users. The Subcommittee also researched the field and park use hours in other jurisdictions. In addition, Holbrook-Palmer Park is open Monday through Friday from 7:30 a.m. until sunset and Saturday, Sunday and Holidays from 8:30 a.m. until sunset.

Based on this information, the Planning Commission recommends that the School Event Guidelines be amended to permit non-school related field use and outdoor functions to cease at sunset on Monday through Friday. No changes are recommended for the weekend hours of use.

CONCLUSION

Atherton Municipal Code section 17.56.040(C)(2) states that the School Event Guidelines are to be prepared by the City Manager and accepted by the City Council. Staff is supportive of the recommendation of the Commission as the field use hours would be consistent with the park use hours.

ALTERNATIVES

The City Council could accept the amended Special Event Guidelines as recommended by the Planning Commission could recommend additional changes or could take no action on the item.

FISCAL IMPACT

All costs covering the review of the Special Event Ordinance are borne by the Town's General Fund. All costs associated with the processing of a Special Event Permit are paid for by the applicant.

ENVIRONMENTAL IMPACT

Pursuant to CEQA Guidelines section 15061(b)(3); the expansion of hours for outdoor field use will not have a significant effect on the environment. The amendment to the Special Event Guidelines will not result in any changes in land use or density and the change of hours is de minimis.

FORMAL MOTION

I move that the City Council accept the recommendation from the Planning Commission and amended School Event Guidelines for non-school related outdoor field use cease at Sunset on Mondays through Fridays.

Lisa Costa Sanders
Deputy Planner

Jerome D. Gruber
City Manager

Attachments:

1. Atherton Municipal Code Section 17.38; Special Events
2. School Event Guidelines

TOWN OF ATHERTON



**SPECIAL EVENT APPLICATION
FOR NON-PROFIT ORGANIZATIONS**

91 ASHFIELD ROAD, ATHERTON, CA 94027
PH 650-752-0500 FAX 650-688-6528

Title of Event: _____

Type of Event: PROCESSION _____ WALK-A-THON _____ BIKE-A-THON _____ HOUSE TOUR _____

OTHER _____

SPONSOR OF EVENT AND CONTACT PERSON:

Contact Person: _____

Phone Number: _____ **Fax Number:** _____

Name of organization: _____

Mailing address: _____

Date(s) of event: _____

Hours of the event: _____

(If different each day, please note)

Location(s) of the event in Atherton: _____

Contact person day of event (if different than above): _____

Phone Number: _____ **Fax Number:** _____

PLEASE ANSWER THE FOLLOWING QUESTIONS:

Total number of participants and visitors expected per day: _____

Description of activities: _____

Parking plan (if applicable): _____

Type of advertising do you plan to do: _____

If this is a procession event, please attach route showing all locations in Atherton of sign postings, monitor locations, rest stops, etc.

Will there be a need for directional signs? _____ yes _____ no

If yes, attach a map with proposed locations.

Will there be a need for security or traffic control? _____ yes _____ no

If yes, attach a description of what is needed and how you propose to meet the need.

If the event is on public property, attach certificate of insurance and for the event in the amount of at least \$2,000,000 naming the Town of Atherton as additional insured.

Will there be amplified music or voice? _____ yes _____ no

If yes, indicated when and where. The Town has strict restrictions on amplified sound. Please check the regulations to ensure that your event is in compliance.

Will there be a need for town services? _____ yes _____ no

(There may be extra charges for these services.)

Street barricades? _____ yes _____ no

Police protection? _____ yes _____ no

Traffic control? _____ yes _____ no

Other? _____ yes _____ no

Describe what you need and when: _____

On the basis of this application, your event may be approved by the building official, or it may require review by the Planning Commission. If it is eligible for staff approval, the cost for the application is \$75.00. Applications should be submitted a minimum of 60 days before the event to allow adequate time to process, should it be necessary to go to the planning commission.

On behalf of _____, I guarantee that we will conduct this event in accordance with the laws of the town of Atherton. I certify that I have received and read ordinance 499 regulating special events, which covers the basic laws and rules that apply to special events within the Town of Atherton.

Signature: _____ Date: _____

FOR STAFF REVIEW ONLY:

DEPOSIT FOR TOWN SERVICES RECEIVED (IF APPLICABLE)? _____

APPROVAL:

SPECIAL CONDITIONS OF APPROVAL: _____

CITY MANAGER

PUBLIC FOLDERS SPECIAL EVENT APPLICATION 2009 REVISED 5/14/09

AGREEMENT AND RELEASE FROM LIABILITY

Voluntary Participation

1. I, _____ [name of releasor] acknowledge that I have voluntarily applied to the Town of Atherton for a special event for non-profit organization. The event is a

_____ [describe event]
to be held on _____, _____, 200 ____ [date of event] in the Town of Atherton.

Assumption of Risk

2. I AM AWARE THAT THE ACTIVITY DESCRIBED ABOVE IN WHICH I AM ENGAGING MAY INVOLVE SOME RISK OF INJURY TO ME OR TO MY PERSONAL PROPERTY. I AM VOLUNTARILY PARTICIPATING IN THESE ACTIVITIES WITH KNOWLEDGE OF THE DANGER INVOLVED, HEREBY AGREE TO ACCEPT ANY AND ALL RISKS OF INJURY, DEATH, OR PROPERTY DAMAGE AND VERIFY THIS STATEMENT BY PLACING MY INITIALS HERE:
_____.

Release

3. As consideration for being permitted by the Town of Atherton to participate in these activities and use their facilities, I hereby agree that I, my assignees, heirs, distributees, guardians, and legal representatives will not make a claim against or sue the Town of Atherton or any of its elected officials, employees, agents or attorneys for injury or damage resulting from the negligence or other acts, howsoever caused, by any elected official, employee, agent, attorney or contractor of the Town of Atherton as a result of my participation in the activity described above. I hereby release the Town of Atherton, its elected officials, employees, agents, attorneys or contractors from all actions, claims or demands that I, my assignees, heirs, distributees, guardians and legal representatives now have or may hereafter have for injury or damage resulting from my participation in the above described activity.

Knowing and Voluntary Execution

4. I HAVE CAREFULLY READ THIS AGREEMENT AND FULLY UNDERSTAND ITS CONTENTS. I AM AWARE THAT THIS IS A RELEASE OF LIABILITY AND A CONTRACT BETWEEN MYSELF AND THE TOWN OF ATHERTON AND SIGN IT OF MY OWN FREE WILL.

Executed at _____, California, on _____ [date].

RELEASOR

_____ [signature of releasor]

_____ [typed name]

Declaration of Witness

I certify that _____ [name of releasor] acknowledged in my presence that _____ [he or she] had read and fully understood the meaning and consequences of the foregoing release, and signed it in my presence.

Executed at _____, California, on _____ [date].

_____ [signature of witness]

_____ [typed name]

_____ [street address]

_____ [city, zip code]

ATHERTON NOISE AND CONSTRUCTION ORDINANCE SUMMARY

CONSTRUCTION & DELIVERY ACTIVITIES

By Anyone

0800 - 1700 MON THRU FRI	ALLOWED
ALL OTHER TIMES (INCL HOLIDAY)	NOT ALLOWED 15.40.160 (MISD)

By Residents / Property Owners: Personally Operating Hand and Power Tools

1000 - 1700 SAT, SUN, HOLIDAY	ALLOWED
ALL OTHER TIMES	NOT ALLOWED 15.40.160 (MISD)

NOISE GENERAL LIMITATIONS

Applies to noises emanating from any property, public or private, beyond the property line. Measurements made at any location on the receiving property.

0700 - 2200	60 DBA
2200 - 0700	50 DBA

EXCEPTIONS TO NOISE LIMITATIONS

CONSTRUCTION

loud and raucous noise (amplified music or "any other form")

AT ALL TIMES	NOT ALLOWED

LANDING

Power Equipment: *leaf-blowers, vacuums, power mowers, rototillers, etc*

0800 - 1800 MON THRU FRI	EXEMPT FROM GENERAL
1000 - 1700 SAT	EXEMPT FROM GENERAL
1000 - 1500 SUN	EXEMPT FROM GENERAL
ALL OTHER TIMES	MUST ADHERE TO GENERAL

Heavy Duty Equipment: *wood-chippers, chainsaws, stump removers, etc*

0800 - 1800 MON THRU FRI	EXEMPT FROM GENERAL
ALL OTHER TIMES	MUST ADHERE TO GENERAL

SOCIAL GATHERINGS

1000 - 2400 FRI, SAT	NOT EXCEED 75 DBA
1000 - 2000 SUN, HOL	NOT EXCEED 75 DBA
ALL OTHER TIMES	MUST ADHERE TO GENERAL

ANIMALS

INCESSANT FOR 5 MINUTES	VIOLATION
INTERMITTENT FOR 30 MINUTES	VIOLATION
ALL OTHER CASES	EXEMPT

HOLIDAYS

New Years Day	Martin Luther King Day	President's Day	Memorial Day	Fourth of July
Labor Day	Veteran's Day	Thanksgiving Day	Christmas Day	

SCHOOL EVENT GUIDELINES

GUIDELINES FOR SPECIAL EVENTS HELD AT PRIVATE AND PUBLIC SCHOOLS WITHIN THE TOWN OF ATHERTON

The Town of Atherton requests public and private schools enforce the following special events guidelines with regards to non-school-related special events held on school property within the Town of Atherton;

1. Field use and outdoor functions shall be limited to the hours of 8:00 a.m. until 7:00 p.m. unless further limited by the school. Field use shall include setup, breakdown, warm-up, and practice sessions. Field use and outdoor functions shall be limited to the hours of 9:00 a.m. until 6:00 p.m. on Saturdays and 10:00 a.m. until 5:00 p.m. on Sundays, excluding non-coach/player interactions.
2. Indoor activities shall cease at 9:00 p.m.
3. No amplified noise equipment shall be used in conjunction with any outdoor activity.
4. Any lighting associated with field or outdoor functions use shall be shielded or downlit so the source of light shall not shine onto adjacent properties.

A responsible school contact person shall be made available to immediately enforce any violation of the above-listed guidelines.

Any non-school-related event that is planned to occur outside of the above-listed guidelines (i.e.; earlier/later than the specified hours, use of amplified noise, spill overlighting) would be required to obtain a special events permit pursuant to section 17.38 of the Atherton Municipal Code.

ORDINANCE NO. 559

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF
ATHERTON REPEALING CHAPTER 8.52 AND ADDING CHAPTER
17.38 OF THE ATHERTON MUNICIPAL CODE REGULATING
SPECIAL EVENTS WITHIN THE TOWN OF ATHERTON**

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

SECTION 1: Chapter 8.52 is hereby entirely repealed.

SECTION 2: Chapter 17.38 is hereby added as follows:

17.38 SPECIAL EVENTS

17.38.010 Title.

This chapter shall be known as the "Special Event Ordinance" and may be so cited.

17.38.020 Purpose and intent.

- A. The purpose of this chapter is to insure the comfort, safety and general welfare of the Town citizens by controlling the number of special events and impacts of such events on the community and by providing a simplified permit process. It is also the purpose of this chapter to defray the costs of processing applications for these events.
- B. The intent of this chapter is to protect the residents from excessive noise, traffic and other intrusions upon their privacy.

17.38.030 Definitions.

A "special event" is an activity sponsored by one or more organizations, individuals, or other entities, held at one or more locations within the Town of Atherton to which the general public is invited.

17.38.040 Permit required.

- A. All special events held in the public right-of-way shall obtain a special event permit. Activities include, but are not limited to; processions such as: walks, road races, bicycle rides, skate-a-thons and similar activities.
- B. A special event permit is required for any special event held on private property, occurring on two or more consecutive days where members of the general public are invited. Activities requiring a permit include, but are not limited to the following;
 - 1. Motion picture filming;
 - 2. House and garden tours;
 - 3. Fundraisers

4. Auctions;
5. Antique shows;
6. Concerts;
7. Other similar activities.

C. The following provisions shall apply to special events held at private and public schools and country clubs:

1. A permit is not required for on-site school-related events. Responsible parties shall notify the Town of school events that may result in additional traffic or parking.
2. A permit is not required for non-school-related events held at schools and country clubs that meet the School Event Guidelines as prepared by the City Manager and accepted by the City Council. Responsible parties shall notify the Town of events that may result in additional traffic or parking.
3. A special event permit is required for non-school-related events that are planned to occur outside of the School Event guidelines.

D. Open house tours for the purpose of selling property under the regular course of a real estate transaction shall be exempt.

17.38.050 Application submittal requirements.

The following items and information shall be submitted to the City Manager or designee:

- A. Completed application (application form supplied by the town) submitted to the Town at least two months prior to the event;
- B. Detailed description of the event;
- C. Contact person available prior to and during the event;
- D. Application fee, (as set by resolution of the city council);
- E. The anticipated number of attendees and number of vehicle trips per day;
- F. An on- and off-site parking plan including the placement of barricades, etc;
- G. A deposit as determined by the Police Chief for the funding of any additional security measures not provided by the applicant;
- H. A hold harmless agreement, naming the Town, its employees and agents; and certificate of insurance, naming the Town as additional insured. A form of hold harmless agreement, and insurance in the amount of \$2,000,000 and insurance provider shall be reviewed and approved by the City Attorney.

17.38.060 Permit issuance.

- A. The City Manager or designee may issue a special event permit when in the opinion of the City Manager or designee the event meets all of the requirements of this code and the Atherton General Plan. The City Manager or designee may refer items to the Planning Commission when, in his or her opinion, the public interest would be better served by the Planning Commission conducting a public hearing. The City Manager or designee shall issue, deny or refer a special event permit within thirty (30) days of receipt of a completed application. If the event will not be in conformance with either this code or the Atherton General Plan the application shall be denied.

- B. If a special event permit is issued by the City Manager or designee, such official may impose any reasonable conditions to insure the event will have a minimal impact on the community. Such conditions may include, but are not limited to, any of the following:
1. Adequate arrangements to prevent:
 - a. Violation of Chapter 8.16 Noise Control,
 - b. Violation of Chapter 8.20 Nuisance Abatement,
 - c. Amplified sound,
 - d. Violation of any traffic laws,
 - e. Violation of any other section of this code;
 2. Posting of docents at key/dangerous locations;
 3. Events, including setup and tear down, will be done during daylight hours if feasible;
 4. Signs on public property shall be kept to a minimum and shall not be displayed for longer than one hour prior to or after the end of the event;
 5. Other materials or mitigation measures deemed necessary by the City Manager or designee;
 6. Parking barricades shall be set back a minimum distance as required by the City Manager or his or her designee to insure site distance clearance from special event site driveways and neighboring driveways.

17.38.070 Permit requirements.

- A. All special events held on private property shall be limited to no more than two consecutive weeks, including no more than two consecutive weekends. Any event for a longer period of time requires a Conditional Use Permit from the Planning Commission.
- B. All special events shall be publicly noticed at least ten days prior to the issuance of a permit, pursuant to the process outlined in State Planning and Zoning Law section 65091, with a five hundred foot radius notification. However, if the event is not conducted on a single site, or is to be conducted within the public right-of-way, the applicant shall pay for the cost associated with the publication of the notice in a newspaper of general circulation at least ten days prior to issuance of a permit.
- C. The applicant shall execute an agreement acknowledging obligations to comply with all required conditions of the special event permit.
- D. No more than two special event permits shall be issued in a twelve-month period for special events on any private residential property.

17.38.080 Permit revocation.

A special event permit may be revoked by the City Manager or his or her designee in the event of any violation of the special events permit or this code.

17.38.090 Violation as a public nuisance.

Each violation of this chapter is a misdemeanor and shall constitute a public nuisance and be subject to abatement as such.

SECTION 3: 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 of this Ordinance are severable and, if for any reason any sentence, paragraph or section of this Ordinance shall be held invalid, such decision shall not effect the validity of the remaining parts of this Ordinance.

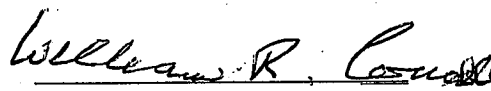
SECTION 4: This Ordinance shall be posted in at least three public places according to law and shall take affect and be in force from and after 30 days after its passage and adoption.

* * * * *

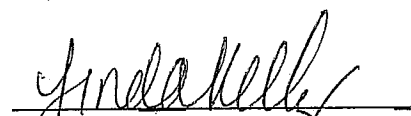
Introduced this 20th day of July, 2005.

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the 21st day of September, 2005, by the following vote

AYES:	5	COUNCILMEMBERS:	Janz, Marsala, Carlson, Conwell, McKeithen
NOES:	0	COUNCILMEMBERS	None
ABSTAIN:	0	COUNCILMEMBERS	None
ABSENT:	0	COUNCILMEMBERS	None


William R. Conwell, Mayor
Town of Atherton

ATTEST


Linda Kelly, Acting City Clerk

APPROVED AS TO FORM:


Marc G. Hynes, City Attorney



Town of Atherton

ITEM 36

DATE: CITY COUNCIL MEETING OF MARCH 17, 2010

TO: CITY COUNCIL

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

SUBJECT: COMPARISON OF THE R1-A AND R1-B ZONING DISTRICTS

RECOMMENDATION

Staff recommends that the City Council discuss the request and provide direction to staff as appropriate.

INTRODUCTION

The City Council, at its February 17, 2010 requested an agenda item be placed on this Council agenda to discuss the differences between the R1-A and R1-B zoning districts.

The City Council, at its March 18, 2009 meeting discussed the request to initiate rezoning of the properties on Parker Avenue from R1-A to R1-B. The Council decided not to proceed with the rezoning request. At that meeting, staff reviewed the differences between the two zoning districts as it applies to the Parker Avenue properties (see attachment #2).

The Town of Atherton recently completed a comprehensive review of the Zoning Code. This process included public workshops, and review by the General Plan Committee and Planning Commission at several meetings. There were several comments along the process from property owners requesting consideration of the smaller lots in Town when developing regulations. A couple of new items were added to the code in response to these comments. Specifically, a new provision was added to allow bay windows and light wells to encroach into the required side and rear setbacks for R1-B properties as well as lots with less than 10,000 square feet in area in the R1-A district.

ANALYSIS

The Town of Atherton is divided into several zoning districts. The majority of the Town is zoned R1-A, which is characterized as the larger lots in Town (typically an acre in area). A portion of Town (mostly surrounding the Town Hall) is zoned R1-B. These properties are typically less than an acre in area. The school sites and Town offices are zoned PFS (Public Facilities and Schools). Holbrook Palmer Park, the Menlo Circus Club and Bear Gulch Reservoir are all zoned POS (Public Open Space).

The key difference between the R1-A zoning district and the R1-B zoning district is the allowed floor area. The R1-A zoning district also has a limitation on the second floor area (limited to 7.5% of the allowed floor area), where the R1-B zoning district does not have a second floor area limit. There is also a lower height limit in the R1-B zone and reduced front and rear yard setbacks. All other regulations are essentially the same. Side yard setbacks vary based on the lot width, but are the same for all zoning districts.

Comparison of R1-A and R1-B Zoning District regulations

	R1-A	R1-B
Front/Rear Setbacks	60'-0" for lots less than 200' deep: 30% of lot depth (with a minimum of 30')	30'-0" For lots less than 160' deep: 18% of lot depth (with a minimum of 20')
Side Setbacks	Same	same
Total Floor Area (including second floor, garage & accessory structures)	One acre or greater: 18% of lot size Less than one acre: 16.3% of lot size plus 726 square feet (allowing at least a 2,250 square foot)	One acre or greater: 18% of lot size Less than one acre: 16.5% of lot size plus 1,500 square feet
Second floor area	7.5% of the allowed floor area	No limitation
Main building height limit	30'-0"	28'-0"
Main building sidewall height limit	22'-0"	18'-0"
Accessory structures	Same	same

Comparison of allowed floor area

	R1-A	R1-B
43,560 square feet (one acre)	7,840 square feet	7,840 square feet
20,000 square foot lot	3,986 square feet	4,800 square feet
10,000 square foot lot	2,356 square feet	3,150 square feet
7,800 square foot lot*	2,250 square feet	2,787 square feet

* typical lot size for properties on Parker Avenue

CONCLUSION:

As the zoning code was just recently reviewed and adopted, staff does not recommend any changes at this time.

ALTERNATIVES:

- The City Council could refer the review of the R1-A and R1-B regulations to the General Plan Committee for review.
- The Council could direct staff to prepare and Ordinance Amendment to modify the R1-A and R1-B regulations for review by the Planning Commission and City Council.
- Finally, the Council could take no further action on this item.

FISCAL IMPACT:

If the Council were to direct further review of this item, there would be expenses for Planning Staff time as well as City Attorney time. As the extent of the work is unknown at this time, staff is unable to provide a cost estimate.

Prepared by:

/s/ Lisa Costa Sanders

Lisa Costa Sanders
Deputy Town Planner

Approved by:

/s/ Jerome D. Gruber

Jerome D. Gruber
City Manager

Attachments

1. Atherton Municipal Code Section 17.32 and 17.33 (graphics omitted)
2. City Council Staff report on the Request to Initiate Rezoning of Parker Avenue from R1-A to R1-B Zoning District for the March 18, 2009 meeting

Chapter 17.32
RESIDENTIAL DISTRICT R-1A

Sections:

- [17.32.010](#) Purpose.
- [17.32.020](#) Characteristics of the District.
- [17.32.030](#) Allowed Uses and Permit Requirements.
- [17.32.040](#) Development Standards.

17.32.010 Purpose.

This chapter identifies the allowed use and permit requirements and development standards for the residential district R-1A. The intent of this district is to implement the residential land use categories of the town's general plan. It is designed to designate land for the development of residential uses consistent with the development regulations set forth in this title. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.32.020 Characteristics of the District.

Residential district R-1A provides for the development of single-family residential uses at a density of one dwelling unit per lot. It allows for new subdivisions with a minimum lot size of one acre. Second dwelling units are permitted, consistent with the development standards of this title. Home occupations are also appropriate for this district, consistent with the development standards of this title. Other uses, including churches and public utilities and facilities, may be allowed upon issuance of a conditional use permit. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.32.030 Allowed Uses and Permit Requirements.

Table 17.32.030-1 (Allowed Uses and Permit Requirements for Residential District R-1A) identifies the allowed uses in the R-1A zoning district subject to the development standards of this chapter and all other provisions of this title. Allowed use provisions are symbolized in the table as follows:

- P = Land use permitted by right
- CUP = Land use permitted with
approval of a conditional use
permit

Table 17.32.030-1
Allowed Uses and Permit
Requirements for Residential
District R-1A

Land Use	Zoning District
	R-1A
Single-family dwelling ¹	P
Second dwelling unit ²	P
Home occupations	P
Churches and places of	CUP

worship	
Public utilities or facilities	CUP

Notes:

1. Includes associated accessory uses, accessory buildings, and accessory structures (Note: Garages are accessory buildings).
2. Subject to compliance with section [17.32.040](#) (Development Standards) and chapter [17.52](#) (Second Dwelling Units). (Ord. 582 § 1 (Exh. A) (part), 2009)

17.32.040 Development Standards.

The following minimum and maximum requirements shall apply in the R-1A district. The town planner will review development applications against these standards to determine compliance with applicable zoning regulations.

A. Height. The maximum building heights permitted are provided below. See also chapter 17.42 for height measurement.

1. The standard maximum height for main buildings shall be thirty feet; provided, that vertical sidewalls and columns may not exceed twenty-two feet; and provided further, that these standard maximum heights may be increased, but in no event to exceed thirty-four feet for main buildings nor to exceed twenty-eight feet for vertical sidewalls and columns, under any of the following circumstances:

- a. The main building, vertical sidewalls, and columns height may be increased in any case where the front, rear, and side yards are increased above the standard setbacks by a ratio of at least five feet for each one-foot increase of height.

- b. Increased height for a main building (but not to exceed thirty-four feet) or for vertical sidewalls or columns (but not to exceed twenty-eight feet) shall be permitted upon approval of a special structure permit.

2. Accessory structures: see chapter 17.40.

3. Detached garages: see chapter 17.40.

4. Consistent with the sidewall height limit for the R-1A zone, dormers that exceed or are otherwise built above the sidewall height limit for the structure, as measured from the extension of the eave line across the width of the dormer, shall be developed consistent with the following standards (see figures 17.32.040-1a (Dormers) and 17.32.040-1b (Excessive Dormers)).

- a. The maximum combined length of all dormers on a side or elevation of a building shall not exceed fifty percent of the total length of the respective side or elevation of the building to which they are associated (see figure 17.32.040-1b (Excessive Dormers)).

Excessive Dormers

- b. The face of the dormer shall be a minimum of two feet below the ridge line (see figure 17.32.040-2 (Dormer Height and Placement)).

Figure 17.32.040-2

Dormer Height and Placement

B. Lot Size Requirements. New lots created in the R-1A district shall be consistent with the lot size requirements established in section 16.24.050 (Lot Size Requirements).

C. Maximum Floor Area Ratio. The maximum floor area ratio shall be eighteen percent of the lot size except for those lots smaller than forty-three thousand five hundred sixty square feet (one acre), which shall be determined by the following equation:

Floor area in square feet = (lot size in square feet × 0.163) + 726 square feet, with a minimum allowable floor area of 2,250 square feet.

The floor area above the first floor of the main building for all lots shall not exceed seven and one-half percent of the lot size.

The following conditions shall not be included in floor area calculations:

1. Structures, open on all sides, with substantially open roofs (e.g., trellis) (see figure 17.32.040-3 (Substantially Open Roof)), with the following provisions:

a. No more than one side of the structure shall be attached to the main building and no more than one side of the structure may be enclosed by small structural features (e.g., outdoor kitchens/barbeques, fire pits/fireplaces, cabinets); provided, that on the side with the structural feature at least fifty percent of the side is still open (see figure 17.40.040-2 (Attached Trellis Exempt from Floor Area Requirement); or Figure 17.32.040-3

b. No more than two sides shall be partially enclosed with small structural features (e.g., outdoor kitchens/barbeques, fire pits/ fireplaces, cabinets); provided, that at least fifty percent of both sides is still open and the other two sides are completely open; and

2. Roofed areas completely open on two or more sides up to five percent of the maximum allowed floor area for the lot plus five hundred square feet (e.g., awning, patio cover, covered walk).

D. Front and Rear Yards. Minimum front and rear yard requirements are:

1. Main building, interior, and corner lots: sixty feet minimum; provided, however, on lots of record prior to adoption of Ordinance No. 146 (April 16, 1946) with a depth of less than two hundred feet, the front and rear yards shall each be thirty percent of the lot depth with a minimum of thirty feet; provided further, where main building heights are between thirty feet and thirty-four feet, the front and rear yards shall be increased by a ratio of five feet for each one-foot increase in height.

2. Accessory structures: as provided in chapter 17.40.

3. The property owned by the City and County of San Francisco, known as the Hetch Hetchy property, over which the owner of adjacent property with contiguous frontage has reserved surface rights, may be utilized by the adjacent property owner for setback calculation purposes. The adjacent property owner may calculate setbacks to the original property line prior to the acquisition by the City and County of San Francisco, or, in the case of properties subdivided after that date, to the centerline of the Hetch Hetchy property.

E. Side Yards. Minimum side yard requirements are as shown in Table 17.38.010; provided, however, where main building heights are between thirty feet and thirty-four feet with the issuance of a special structure permit, the side yards shall be increased by a ratio of five feet for each one-foot increase in height.

1. The property owned by the City and County of San Francisco, known as the Hetch Hetchy property, over which the owner of adjacent property with contiguous frontage has reserved surface rights, may be utilized by the adjacent property owner for setback calculation purposes. The adjacent property owner may calculate setbacks to the original property line prior to the acquisition by the City and County of San Francisco, or, in the case of properties subdivided after that date, to the centerline of the Hetch Hetchy property.

F. Accessory Structure Area. Maximum area permitted for all accessory structures, exclusive of pools, tennis courts, garages, carports, drives, and other paved surfaces, on a building site shall not exceed the ratio of one thousand two hundred square feet of accessory structure for each forty-three thousand five hundred sixty square feet of lot area.

G. Eaves. Roof eaves may encroach into any yard not to exceed a maximum of four feet on the main building and not to exceed one foot on an accessory building.

H. Kitchens.

1. There is no limitation on the maximum number of kitchens for the main dwelling.
2. One kitchen may be within an approved second dwelling unit that is located within the main dwelling building setback lines. (Ord. 582 § 1 (Exh. A) (part), 2009)

Chapter 17.33
RESIDENTIAL DISTRICT R-1B

Sections:

- [17.33.010](#) Purpose.
- [17.33.020](#) Characteristics of the District.
- [17.33.030](#) Allowed Uses and Permit Requirements.
- [17.33.040](#) Development Standards.

17.33.010 Purpose.

This chapter identifies the allowed use and permit requirements and development standards for the residential district R-1B. The intent of this district is to implement the residential land use categories of the town's general plan. It is designed to designate land for the development of residential uses consistent with the development regulations set forth in this title. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.33.020 Characteristics of the District.

Residential district R-1B provides for the development of single-family residential uses at a density of one dwelling unit per lot. It allows for new subdivisions with a minimum lot size of one acre. Second dwelling units are permitted, consistent with the development standards of this title. Home occupations are also appropriate for this district, consistent with the development standards of this title. Other uses, including churches and public utilities and facilities, may be allowed upon issuance of a conditional use permit. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.33.030 Allowed Uses and Permit Requirements.

Table 17.33.030-1 (Allowed Uses and Permit Requirements for Residential District R-1B) identifies the allowed uses in the R-1B zoning district subject to the development standards of this chapter and all other provisions of this title. Allowed use provisions are symbolized in the table as follows:

- P = Land use permitted by right
- CUP = Land use permitted with
approval of a conditional use
permit

Table 17.33.030-1
Allowed Uses and Permit
Requirements for Residential
District R-1B

Land Use	Zoning District
	R-1B
Single-family dwelling ¹	P
Second dwelling unit ²	P
Home occupations	P

Churches and places of worship	CUP
Public utilities or facilities	CUP

Notes:

1. Includes associated accessory uses, accessory buildings, and accessory structures (Note: Garages are accessory structures).
2. Subject to compliance with section [17.33.040](#) (Development Standards) and section 17.52 (Second Dwelling Units). (Ord. 582 § 1 (Exh. A) (part), 2009)

17.33.040 Development Standards.

The following minimum and maximum requirements shall apply in the R-1B district. The town planner will review development applications against these standards to determine compliance with applicable zoning regulations.

A. Height. The maximum building heights permitted are provided below. See also chapter 17.42 for height measurement.

1. Main buildings: twenty-eight feet; provided, that neither vertical side walls or columns exceed eighteen feet. End walls shall be perpendicular to the lot depth.
2. Accessory structures: see chapter 17.40.
3. Detached garages: see chapter 17.40.
4. Consistent with the sidewall height limit for the R-1B zone, dormers that exceed or are otherwise built above the sidewall height limit for the structure, as measured from the extension of the eave line across the width of the dormer, shall be developed consistent with the following standards (see figures 17.33.040-1a (Dormers) and 17.33.040-1b (Excessive Dormers)).

a. The maximum combined length of all dormers on a side or elevation of a building shall not exceed fifty percent of the total length of the respective side or elevation of the building to which they are associated (see figure 17.33.040-1b (Excessive Dormers)).

Figure 17.33.040-1b

b. The face of the dormer shall be a minimum of two feet below the ridge line (see figure 17.33.040-2 (Dormer Height and Placement)).

Figure 17.33.040-2

Dormer Height and Placement

B. Lot Size Requirements. New lots created in the R-1B district shall be consistent with the lot size requirements established in section 16.24.050 (Lot Size Requirements).

C. Maximum Floor Area Ratio. The maximum floor area ratio shall be eighteen percent of the lot size except for those lots smaller than forty three thousand five hundred sixty square feet (one acre), which shall be determined by the following equation:

$$\text{Floor area in square feet} = (\text{lot size in square feet} \times 0.165) + 1,500 \text{ square feet.}$$

The following conditions shall not be included in floor area calculations:

1. Structures, open on all sides, with substantially open roofs (e.g., trellis) (see figure 17.33.040-3 (Substantially Open Roof)), with the provisions of subsections (C)(2)(a) and (b) of this section.

2. Roofed areas open on two or more sides not exceeding five percent of the maximum allowed floor area for the lot plus five hundred square feet (e.g., awning, patio cover, covered walk), with the provisions of subsections (C)(2)(a) and (b) of this section.

a. No more than one side of the structure shall be attached to the main building and no more than one side of the structure may be enclosed by small structural features (e.g., outdoor kitchens/barbeques, fire pits/fireplaces, cabinets); provided, that on the side with the structural feature at least fifty percent of the side is still open (see figure 17.40.040-2 (Attached Trellis Exempt from Floor Area Requirement)); or Figure 17.33.040-3

b. No more than two sides shall be partially enclosed with small structural features (e.g., outdoor kitchens/barbeques, fire pits/ fireplaces, cabinets); provided, that at least fifty percent of both sides is still open and the other two sides are completely open.

D. Front and Rear Yards. Minimum front and rear yard requirements are:

1. Main buildings, interior and corner lots: thirty feet minimum; provided, however, on lots of record prior to adoption of Ordinance No. 277 (October 30, 1967) with a depth less than one hundred sixty feet, the front and rear yards shall each be eighteen percent of the lot depth with a minimum of twenty feet; and

2. Accessory structures, as provided in chapter 17.40.

E. Side Yards. Minimum side yard requirements are as shown in Table 17.38.010.

F. Eaves. Roof eaves may encroach into any yard not to exceed a maximum of four feet on the main building and not to exceed one foot on an accessory building.

G. Kitchens.

1. There is no limitation on the maximum number of kitchens for the main dwelling.

2. One kitchen may be within an approved second dwelling unit that is located within the main dwelling building setback lines. (Ord. 582 § 1 (Exh. A) (part), 2009)



Town of Atherton

DATE: CITY COUNCIL MEETING OF MARCH 18, 2009 – previous staff report*****

TO: CITY COUNCIL

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

SUBJECT: REQUEST TO INITIATE REZONING OF PARKER AVENUE FROM R1-A TO R1-B ZONING DISTRICT

RECOMMENDATION

Staff recommends that the City Council consider the rezoning request.

INTRODUCTION

Parker Avenue consists of twenty-two legal lots (currently owned by twenty property owners). Parker Avenue is accessed off Stockbridge Avenue and is currently zoned R1-A.

Staff received applications to rezone Parker Avenue from ten out of the twenty property owners. Atherton Municipal Code Section 17.60 allows amendment to zoning code by a petition to the City Council by an owner or owners of real property in the town, resolution of intention by the Planning Commission or resolution of intention by the City Council directing Planning Commission to consider a proposed amendment. An individual property owner cannot request rezoning of another property without the consent of that property owner. Atherton Municipal Code also provides for the City Council to initiate rezoning. If the City Council were to initiate rezoning, the item would be reviewed by the Planning Commission with its recommendation to the City Council for consideration.

ANALYSIS

As indicated above, Parker Avenue is currently zoned R1-A. Individual lots are 60' wide by 130' deep (7,800 square feet in area).

The requesting property owners feel the R1-B zoning district is more appropriate for this street as the lots are approximately 1/5 acre in area. The R1-B zoning district allows for a larger floor area and reduced front and rear yard setbacks. The R1-B zoning district does not have a limitation on the amount of floor area that can be constructed on the second floor, where in the R1-A district, the floor area of the second floor is limited to 7.5% of the lot area. The table on the following page compares the provisions of the R1-A and R1-B zoning provisions for a Parker Avenue lot.

Zoning requirements as applied to a 7,8000 square foot lot on Parker Avenue:

	R1-A	R1-B
Front/Rear Setbacks	39'-0"	23'-3"
Side Setbacks	14'-0"	14'-0"
Total Floor Area (including second floor, garage & accessory structures)	2,250 square feet	2,797 square feet
Second floor area	585 square feet	No limitation
Main building height limit	30'-0"	28'-0"
Main building sidewall height limit	22'-0"	18'-0"

As noted above, changing to the R1-B zoning district would allow the construction of a larger home (or additional accessory structures) by 547 square feet, allow the construction of a larger second floor and have a reduced front yard setback. The R1-A zoning district has a higher height limit (by 2' for the main building and by 4' for the main building sidewalls). The accessory structure setbacks and the main building setbacks apply Town-wide, so those requirements would not change with a zoning district change.

If the Council initiates rezoning of Parker Avenue, Staff will prepare a more complete analysis of the two different zoning districts and how it applies to the properties along Parker Avenue, as well as conduct the appropriate environmental review documentation. The reduction in height with the rezoning may create non-conforming situations along Parker Avenue.

Staff sent a letter in August 2008 with the public notice to all property owners along Parker Avenue requesting their input on the rezoning request. Ten properties owners are supportive of the rezoning, eight property owners expressed opposition to the rezoning, one property owner indicated neutral opinion on the matter and two property owners did not respond. In addition to the affected property owners along Parker Avenue, staff also heard from four neighboring property owners expressing their opposition to the rezoning request.

The R1-B zoning district generally encompasses the smaller lots in Town. There are other scattered smaller lots in Town that are currently zoned R1-A, as well as another similar neighborhood of smaller lots zoned R1-A at the corners of Alameda, Walsh Road and Camino al Lago. The provisions of the R1-B zoning district recognizes the smaller lot size and allows for a higher floor area and reduced front and rear yard setbacks. Staff is concerned with proceeding with this request for a zone change as the lots are fully developed and the zoning district change may create building height non-conforming situations. If the Council proceeds by initiating the rezoning request, staff would further analyze the issue of non-conforming structures in a report to the Planning Commission and City Council as well as analyze the existing and potential floor areas of the lots.

CONCLUSION:

If the Council chooses to initiate the rezoning request, it should adopt the attached resolution and forward consideration to the Planning Commission.

ALTERNATIVES:

If the Council does not initiate the rezoning request, Parker Avenue will remain zoned R1-A.

FISCAL IMPACT:

If the Council were to initiate the rezoning, the cost of processing the rezoning request would be borne by the Town. Staff estimates cost between \$7,500 and \$10,000 (including planning staff and City Attorney time).

Lisa Costa Sanders, Deputy Town Planner

Attachments

1. Resolution
2. Map of Parker Avenue
3. Table of property owner's position
4. Applications and letters of request
5. Letters from residents
6. Atherton Municipal code sections 17.60, 17.20 and 17.24

Zoning History relating to Floor Area and Height

Year	R1-A	R1-B
1985	Floor area: 50% of lot area Height: 34' main building and 28' sidewalls	Floor area: <i>(not mentioned)</i> Height: 34' main building and 28' sidewalls
1988	Floor area reduced to 20% of lot area Height reduced to 30' main building and 22' sidewalls with ability to obtain a height exception with increased setbacks	
1989		Floor area: 40% of lot area Height reduced to 30' main building and 22' sidewalls
1990		Floor area: 0.165 times lot area plus 1,500 square feet Height reduced to 28' main building and 18' sidewalls
1991	Floor area reduced to 18% of lot area Added provision for lots less than one acre; "floor area equal to 0.163 times lot size plus 726 square feet"	
1992	Added for lots less than one acre: "a minimum allowed floor area of 2,250 square feet". Also added: "Floor area above the first floor of the main building for all lots shall not exceed 7.5% of the lot size"	
1993	Floor area: added exemption from floor area for "the first 500 square feet of roofed area completely open on two or more sides" and "structures open on all sides with substantially open roofs".	Floor area: added exemption from floor area for "the first 500 square feet of roofed area completely open on two or more sides" and "structures open on all sides with substantially open roofs".

Inventory of Parker Avenue home size based on Town of Atherton microfilm records and County of San Mateo Assessor records

The current R1-A zoning district allows a minimum home size of 2,250 square feet (or 28.8% floor area)

Address	S.F.	% of lot size	Source
11 Parker Avenue	1,160	14.8%	County
17 Parker Avenue	2,242	28.7%	Microfilm
18 Parker Avenue	1,440	18.4%	County
28 Parker Avenue	1,270	16.2%	County
36 Parker Avenue	2,250	28.8%	Microfilm
43 Parker Avenue	2,340 (per variance)	30%	Microfilm (Variance)
44 Parker Avenue	2,380	30.5%	County
49 Parker Avenue*	2,628	16.8%	Microfilm
53 Parker Avenue	1,594	20.4%	Microfilm
54 Parker Avenue	1,500	19.2%	County
61 Parker Avenue	1,865	23.9%	Microfilm
62 Parker Avenue	1,640	21%	County
71 Parker Avenue	1,660	21.2%	County
72 Parker Avenue	1,670	21.4%	County
79 Parker Avenue	1,240	15.8%	County
80 Parker Avenue	2,250	28.8%	County
89 Parker Avenue	1,360	17.6%	County
90 Parker Avenue	1,620	20.7%	Microfilm
97 Parker Avenue	1,897	24.3%	Microfilm
98 Parker	1,580	20.2%	County

*49 Parker consists of two legal lots and is 15,600 square feet in area

Parker Avenue rezoning request

Property Owner position

Address	Property Owner	Position
247 Stockbridge	Frenster	
11 Parker	Leznik	
17 Parker	Rabson/Oritz	
18 Parker	Frenster	
28 Parker	Tang/Yu	Support
36 Parker	Riley	Support
43 Parker	Warner	Support
44 Parker	Johnston	
49 Parker	Bagshaw	Support
53 Parker	Carlson	
54 Parker	Watkins	Neutral
61 Parker	Kassayan/Goshayeshgar	Support
62 Parker	Nguyen/Pham	Support
71 Parker	Wadsworth	Opposed
72 Parker	Anderson	Support
79 Parker	Polster	Opposed
80 Parker	Pike/Grossman	Opposed
89 Parker	Harrington	
90 Parker	Gardner	Support
97 Parker	Bennett	Support
98 Parker	Kramer	Support

Neighboring Property Owners - position

Address	Property Owner	Position
4 Bergesen	Carson	Opposed
6 Bergesen	Anderson	Opposed



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JEROME D. GRUBER, CITY MANAGER

DATE: FOR THE REGULAR MEETING OF MARCH 17, 2010

**SUBJECT: CONSIDERATION OF ADDING A SECOND MEETING DATE
PER MONTH FOR CITY COUNCIL MEETINGS IN LIEU OF
SPECIAL MEETINGS**

RECOMMENDATION:

To Be Determined.

BACKGROUND:

At the February 2010 regular City Council meeting Council Member Carlson motioned (seconded by Council Member Lewis) to add the following item to the Agenda for discussion and vote:

Add a second meeting date per month for City Council meetings in lieu of special meetings.

Council could agree to calendar up to 12 extra special meetings per month on a set date of each month which would require 24 hours notice. Alternatively, Council could choose to bring the item back to a subsequent regular meeting to amend section 2.04.010 of the Atherton Municipal Code to establish a second regular meeting per month.



DATE: FOR THE CITY COUNCIL MEETING OF MARCH 17, 2010

TO: THE CITY COUNCIL

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

SUBJECT: CONSIDERATION OF THE REQUEST TO REFER THE REVIEW OF HOME OCCUPATION REGULATIONS TO THE GENERAL PLAN COMMITTEE.

RECOMMENDATION

Staff recommends that the City Council discuss the request and provide direction to staff as appropriate.

INTRODUCTION

The City Council, at its February 17, 2010 requested an agenda item be placed on this Council agenda to discuss having the General Plan Committee review Home Occupation regulations.

ANALYSIS

Atherton Municipal Code section 17.48 regulates home occupations (home based business). The code defines a home occupation as follows; "Home occupation" means any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character or appearance thereof.

Businesses that are conducted out of residences in Atherton are required to obtain a business license and a zoning clearance by the town planner to ensure the business complies with the home occupation requirements (see attachment #1).

There are approximately 39 home based businesses currently registered in Atherton.

As the Council is aware, the Town recently completed a comprehensive review and update of the Zoning Code. This process included public workshops, and review by the General Plan Committee and Planning Commission at several meetings. There was one comment from one Planning Commissioner relating to home occupations. That Commissioner requested home occupation businesses be required to obtain a Conditional Use Permit from the Planning Commission with a public hearing rather than the current staff review process. The Commission as a whole did not support this request and it was therefore not included in the zoning code update. No other changes to this code section were deemed necessary by the members of the public, the General Plan Committee or the Planning Commission.

CONCLUSION:

As the zoning code was just recently reviewed and adopted, staff does not recommend any changes at this time.

ALTERNATIVES:

- The City Council could refer the review of the chapter 17.48 of the Atherton Municipal code regulating Home Occupations to the General Plan Committee for review.
- The Council could direct staff to prepare and Ordinance Amendment to modify chapter 17.48 for review by the Planning Commission and City Council.
- Finally, the Council could take no further action on this item.

FISCAL IMPACT:

If the Council were to direct further review of this item, there would be expenses for Planning Staff time as well as City Attorney time. As the extent of the work is unknown at this time, staff is unable to provide a cost estimate.

Lisa Costa Sanders
Deputy Town Planner

Jerome D. Gruber
City Manager

Attachments

1. Chapter 17.48 of the Atherton Municipal Code regulating Home Occupations

Chapter 17.48
HOME OCCUPATIONS

Sections:

- [17.48.010](#) Purpose.
- [17.48.020](#) Permit Required—Standards.

17.48.010 Purpose.

The purpose of this chapter is to allow limited non-residential uses within a residential neighborhood or zoning district consistent with established criteria to ensure compatibility and to keep the integrity of the surrounding residential uses and character. It will also minimize noise, traffic nuisances, hazardous material use, and other possible side effects of non-residential uses being conducted in residential areas. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.48.020 Permit Required—Standards.

Home occupations shall be permitted upon issuance of a zoning clearance by the town planner only when that use conforms to all of the applicable following standards:

- A. The use is clearly incidental and secondary to the use of the dwelling for dwelling purposes.
- B. The use is conducted entirely within a dwelling and is carried on by the inhabitants thereof.
- C. No persons other than the inhabitants are employed at the premises in relation to the home occupation.
- D. No signs or commercial names are displayed for any purpose on or about the premises.
- E. No business address listings are used in telephone or business directories, web sites, advertisements, or similar publications.
- F. The use does not change the character of the dwelling or adversely affect the uses permitted in the surrounding district. There shall be no external evidence of business activity.
- G. The use creates only infrequent or occasional additional traffic.
- H. The entrance to the space devoted to such use is from within the building and no internal or external alterations or construction features not customary in dwellings are involved.



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JEROME D. GRUBER, CITY MANAGER

DATE: FOR THE REGULAR MEETING OF MARCH 17, 2010

SUBJECT: REVIEW AND DISCUSS THE CARGILL/DMB DEVELOPMENT PLAN

RECOMMENDATION:

To Be Determined.

BACKGROUND:

At the February 2010 regular City Council meeting 4 members of the public spoke under public comment in opposition to the Cargill/DMB Development Plan (Saltworks). Under Future Agenda Items, Council Member Marsala moved (seconded by Council Member Lewis) to add the Cargill/DMB Development Plan item to the Agenda for discussion.

The Saltworks Proposal

Redwood City's Planning Department has received a development proposal for the Cargill Saltworks property. The plans from DMB Associates outline a proposal for development of 1,400-plus acres east of Highway 101 and immediately south of Seaport Boulevard.

The City Council of Redwood City has determined that it is in the public's interest to review the development proposal. Accepting and analyzing a development proposal does not constitute an approval or denial of a project.

According to the documents submitted, the proposal envisions 50 percent of the property to be used for a mix of housing, retail and commercial uses and 50 percent dedicated for wetlands restoration, open space and recreation.

Redwood City's leaders recognize the importance of this property and the tremendous interest in it and have promised keep residents informed throughout the review of this development proposal. This is the beginning of what could be a multi-year process of public engagement and environmental review to shape the plan and its alternatives, and prepare for the decision-making process. As the process unfolds, the City will provide detailed information about the development proposal.

Those opposed to the project have argued that it should be rejected now on principal because it involves filling land that is legally part of the San Francisco Bay and that no further study is required. (No CEQA review is required for a project denial.)

Elizabeth Lewis

Council Report –February 17, 2010 – March 17, 2010

Feb 18	Closed Session Council to discuss City Attorney and City Manager evaluations.
Feb 23	Met with William Grindley to prepare for the Joint Meeting with the BRTF and Town Center Task Force Committees.
Feb 23	Joint meeting of BRTF and Town Center Task Force committees.
Feb 26	Council of Cities tour of SF Airport and dinner.
Mar 1	Met with City Manager and Chief of Police to discuss filling the vacant lieutenant position.
Mar 1	Public Town workshop to discuss current revenue positions and brainstorm new revenue ideas.
Mar 3	Environmental Program Committee
Mar 3	Housing Element Public Meeting. Reviewed response to State's questions.
Mar 4	Closed Session Council to discuss legal issued
Mar 4	Attended Finance Committee meeting
Mar 11	Sustainable San Mateo Green Building Awards silent auction and dinner. Sacred Heart honored for green building of new facility
March 16	Attended the joint meeting of the BRTF and Town Center Task Force committees. Reviewed applications for committee and made recommendations to bring to Council March 17 meeting.

Council Comments March 2010 – Jerry Carlson

- February 11 – Meeting with Chief Guerra and City Manager.
Meeting with Councilperson Lewis re Town Center
Meeting of C/CAG Legislative Committee re Sacramento activities
C/CAG Board meeting
- February 12 - Hosted a table at the Atherton Dames Valentine's luncheon
- February 15 - Meeting with Councilperson Lewis re Communication Policy
- February 17 – Monthly City Council meetings
- February 18 - Council evaluations of City Attorney and City Manager
- February 19 - Peninsula Cities Consortium board meeting re Caltrain corridor
Preliminary High Speed Rail Plans meeting
- February 22 - Attended Police Chief and City Manager's 'Meet and Greet' meeting
- February 23 - Meeting with High Speed Rail consultants and town staff re Community outreach for Atherton when Project Alternative Analysis plans are available.
Joint meeting of Town Center finance committee and Blue Ribbon task force to map out a time line for the town center project.
- February 24 – Met with Councilperson Lewis and Steve Dostart re town center planning process.
The committee has identified several potential committee members to assist in the next steps towards defining the town center project in a visual way so that the residents can be engaged in the decision making process.
- February 25 - Attended the Peninsula Division California League of Cities meeting, in Mt. View. Former Palo Alto Mayor Peter Dreke, Program Manager for the Tuolumne River Trust discussed the importance of the Tuolumne river system. It was announced that the League's board has voted to approve the Compensation Policy Committee's recommendation from preferring Defined Benefit pension programs for public employees to a pension program that is "fair to the employee and tax payer".
- February 26 - San Mateo County Council of Cities meeting at San Francisco airport. Airport John Martin spoke on the airport's past, present and future.
- March 1 - Met with Chief of Police and City Manager
Attended Community Meeting re potential town revenue enhancements
- March 4 - Closed Council meeting re litigation matter

- March 5 - Peninsula Cities Consortium (PCC) will begin meeting in the Atherton Council Chambers starting April 2nd. Gearing up to respond on the Program EIR is a major focus. Belmont and Burlingame have identified funds for the high speed rail campaign.
- March 9 - Attended the Menlo College for launch of Financial Literacy program financed by a major bank. Sequoia High School District is participating and has designated Woodside H.S. to partner with Menlo.
- March 11 - Rail Committee meeting. Committee is sending to Council recommendation to engage Ravi Mahta of Capitol Advocates as a Sacramento lobbyist to assist on high speed rail matters. If approved Ravi will be representing Palo Alto, Menlo Park and potentially Burlingame, as well. The committee approved a letter drafted by Duncan Jones to the Joint Powers board re electrification issues and restoring train service to Atherton after electrification is complete, as once promised. The comment period on the revised Program EIR for high speed rail and extends to April 26th. Rail committee members have been asked to read the document and submit comments to Duncan to be summarized. Attorney Michael Brady advised the committee of a another law suit he is about to file against CHSRA.

Colleagues' Memo Re: Administrative Citation Ordinance

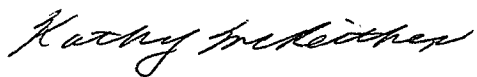
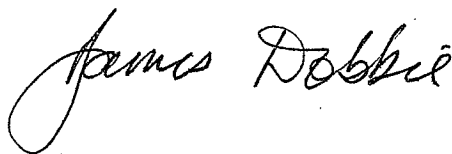
March 4, 2010

To: Members of the Atherton Town Council

Vice-Mayor James Dobbie and I hereby request that the Administrative Citation Ordinance, which was introduced by a four-to one vote at the Council's regular January meeting but received only two affirmative notes at the Council's February 17, 2010 meeting, be reintroduced at the regular council meeting in March 2010. Our reason for this request is that we believe the ordinance is an important one for purposes of strong code enforcement as well as the need to place the costs of enforcement on the violators and not on the Town's general fund. In addition, Vice-Mayor Dobbie was not given an opportunity to vote on this proposed ordinance as he was unable to attend the February 17, 2010 meeting.

Respectfully requested,

Mayor Kathy McKeithen and Vice-Mayor James Dobbie

Handwritten signature of Kathy McKeithen in cursive script.Handwritten signature of James Dobbie in cursive script.