



**AGENDA**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL DRAINAGE**  
**DISTRICT**  
**May 19, 2010**  
**6:30 P.M.**  
**Meeting Room**  
**Town Administrative Offices**  
91 Ashfield Road  
Atherton, California  
**Special Meeting**

**6:30 P.M.     ROLL CALL     Lewis, Dobbie, Marsala, McKeithen, Carlson**

**6:32 P.M.     PUBLIC COMMENTS**

**6:40 P.M.     CLOSED SESSION**

- A.     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*

- B.     CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED  
LITIGATION: (Significant exposure to litigation pursuant to  
subsection (b) of Government Code Section 54956.9): One potential  
case:**

**RECONVENE TO OPEN SESSION**

**Report of action taken.**

**6:59 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**  
**MAY 19, 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**
- NATIONAL POLICE WEEK – Chief Mike Guerra**
- 7:15 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.)*
- 7:20 P.M.    5.    **REPORT OUT OF CLOSED SESSION**
- 7:25 P.M.    6.    **CITY MANAGER'S REPORT**
- 7:30 P.M.    7.    **COMMUNITY ORGANIZATION ROUNDTABLE REPORT**  
(Directed by Resolution No. 99-6)  
**Library eBranch Presentation – Presented by Atherton Branch Manager Carine Risley**
- 7:45 P.M.    **CONSENT CALENDAR** (Items 8-17)  
*(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 APRIL 7, 2010 SPECIAL, APRIL 21, 2010 REGULAR MEETING AND APRIL 21, 2010 6PM AND 7PM SPECIAL MEETING MINUTES**  
**Recommendation:** Approve April 7, 2010 special, April 21, 2010 regular and April 21, 2010 6PM and 7PM special meeting minutes
  
9. **APPROVAL OF BILLS AND CLAIMS FOR MARCH 2010 IN THE AMOUNT OF \$1,042,335**  
**Recommendation:** Approve Bills and Claims in the amount of \$1,042,335
  
10. **APPROVAL OF PLANS AND SPECIFICATIONS AND AUTHORIZATION TO ADVERTISE STREET RECONSTRUCTION PHASE 7 PROJECT NUMBER 56006**  
**Report:** Public Works Director Duncan Jones  
**Recommendation:** Approve the plans and specifications and authorize advertisement for bids for the Street Reconstruction Phase 7 Project, Project No. 56006
  
11. **REMOVE THE CONTINGENCY THAT THE AWARD OF THE FLETCHER/RIDGEVIEW DRAINAGE AND STREET PROJECT NUMBER 08-010 BE WITHIN THE GANN LIMIT**  
**Report:** Public Works Director Duncan Jones  
**Recommendation:** Remove the contingency that the award of the Fletcher/Ridgeview Drainage and Street Project be within the GANN limit
  
12. **APPROVAL OF AGREEMENT WITH CSG CONSULTANTS FOR CODE ENFORCEMENT IN AN AMOUNT NOT TO EXCEED \$56,925**  
**Report:** City Manager Jerry Gruber  
**Recommendation:** Approve a Professional Services Agreement with CSG Consultants, Inc. to provide Code Enforcement Services to the Town of Atherton in the amount of \$56,925.00 for fiscal year 2010-11
  
13. **RESCIND AWARD OF CONTRACT TO METHOD CONSTRUCTION FOR THE GARDEN ROOM RENOVATION PROJECT NUMBER 09-025 AND REJECT ALL BIDS FOR THE GARDEN ROOM RENOVATION PROJECT**  
**Report:** Public Works Director Duncan Jones  
**Recommendation:** Rescind the contract for Garden Room Renovation Project, project number 09-025 to Method Construction; and reject all bids for the Garden Room Renovation Project.
  
14. **AWARD OF CONTRACT TO GALLAGHER & BURK, INC. FOR - THE MIDDLEFIELD ROAD AT ENCINAL AVENUE INTERSECTION IMPROVEMENT PROJECT NUMBER 56009 IN AN AMOUNT NOT TO EXCEED \$326,021.00 PLUS A TEN PERCENT CONSTRUCTION CONTINGENCY, FOR A TOTAL AUTHORIZATION OF \$358,623.10**  
**Report:** Public Works Director Duncan Jones

**Recommendation:** Award the contract for Middlefield Road at Encinal Avenue Intersection Improvement Project, project number 56009 to Gallagher & Burk, Inc., the low bidder on the May 12, 2010 bids, for \$326,021.00, with a 10% construction contingency of \$32,602.10, for a total authorization of \$358,623.10; and to authorize the City Manager to sign the contract on behalf of the Town

**15. PROCLAMATION DECLARING ATHERTON POLLINATOR WEEK JUNE 21 THROUGH JUNE 27, 2010**

**Recommendation:** Approve Proclamation Declaring Atherton Pollinator Week June 21 through June 27, 2010

**16. ADOPT A RESOLUTION TO REDUCE THE SPEED LIMIT ON ALAMEDA DE LAS PULGAS FROM 35 MPH TO 30 MPH**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Approve Resolution 10-25 reducing the speed limit on Alameda de las Pulgas from 35 mph to 30 mph.

**17. ADOPT RESOLUTION APPROVING POLICY 1.6 – RECORDS RETENTION AND DESTRUCTION**

**Staff Report:** Deputy City Clerk Theresa DellaSanta

**Recommendation:** Approve Resolution 10-26 adopting Policy 1.1 Records Management

**8:00 P.M. PUBLIC HEARINGS (18)**

**18. FISCAL YEAR 2010-2011 OPERATING AND CAPITAL IMPROVEMENT BUDGET**

**Report:** Finance Director Louise Ho

**Recommendation:** Take public testimony and continue public hearing on the proposed Town of Atherton Operating and Capital Improvement Budget for Fiscal Year 2010-11 to June 16, 2010

**8:20 P.M. REGULAR AGENDA (Items 19-28)**

**19. APPROVE RESOLUTION 10-20 RESCINDING RESOLUTION 09-26 AND APPROVING A MODIFICATION TO THE ESTABLISHMENT OF THE GENERAL FUND RESERVE POLICY**

**Report:** Finance Director Louise Ho

**Recommendation:** Adopt Resolution 10-20 Rescinding Resolution 09-26 and Approving a Modification to the Establishment of the General Fund Reserve Policy

**8:30 P.M. 20. ADOPTION OF A RESOLUTION APPROVING BUDGET AMENDMENT FOR FY 2009-10**

**Report:** Finance Director Louise Ho

**Recommendation:** Adopt Resolution 10-27 approving the budget amendment for FY 2009-10 for the General Fund

**(Needs 4/5 vote for approval, unless Item 19 is passed then it only needs a majority vote for approval)**

- 8:40 P.M. 21. **MODIFICATION TO FY 2009-10 CAPITAL IMPROVEMENT PROJECT (CIP) BUDGET**  
**Report:** Public Works Director Duncan Jones  
**Recommendation:** Approve a modified 2009-2010 Capital Improvement Program (CIP) to reflect the reduction in Road Impact Fee funds due to the cancellation of the Road Impact Fee
- 8:50 P.M. 22. **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; and Approve Resolution 10-28 Adopting Administrative Fines and Penalties for Violations of the Atherton Municipal Code, other Town Ordinances, Applicable State Codes, and Applicable Conditions on Entitlements and Land Use Approvals  
**(Needs Roll Call Vote and Ordinance to be read by Title)**
- 9:00 P.M. 23. **APPOINTMENT OF ONE MEMBER TO THE TOWN CENTER TASK FORCE**  
**Report:** City Manager Jerry Gruber  
**Recommendation:** To Be Determined
- 9:10 P.M. 24. **CONSIDERATION OF ADDING A SECOND MEETING DATE PER MONTH FOR CITY COUNCIL MEETINGS IN LIEU OF SPECIAL MEETINGS**  
**Recommendation:** To Be Determined  
*(Continued from March 17, 2010)*
- 9:20 P.M. 25. **REPORT FROM PLANNING COMMISSION ON POSSIBLE CHANGES TO THE R1-A ZONING DISTRICT FOR LOTS THAT ARE LESS THAN 10,000 SQUARE FEET IN AREA**  
**Report:** Deputy Planner Lisa Costa Sanders  
**Recommendation:** The Planning Commission recommends the City Council take no further action regarding possible changes to the R1-A zoning regulations for lots with an area less than 10,000 square feet

- 9:30 P.M. 26. **RESPONSE TO COUNCIL QUERY REGARDING CIVIL GRAND JURY REPORT ON SPECIAL EVENTS ORDINANCE**  
**Report:** City Attorney Wynne Furth
- 9:40 P.M. 27. **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
- 9:50 P.M. 28. **APPROVE A CONTRACT CHANGE ORDER FOR BLOSSOM VALLEY CONSTRUCTION FOR THE HOLBROOK-PALMER PARK MASTER IRRIGATION PROJECT, PROJECT NUMBER 09-006 IN THE AMOUNT OF \$23,579.56**  
**Report:** Public Works Director Duncan Jones  
**Recommendation:** Approve a Contract Change Order for Blossom Valley Construction for Holbrook-Palmer Park Master Irrigation Project, project number 09-006 in the amount of \$23,579.56
- 10:00 P.M. 29. **COUNCIL REPORTS**
- 10:10 P.M. 30. **FUTURE AGENDA ITEMS**
- A. **APPROVE ALAIN ENTHOVEN TO FILL THE OPEN SEAT OF THE TOWN FINANCE COMMITTEE**  
**Report:** Council Members Carlson and Lewis
- 10:20 P.M. 31. **PUBLIC COMMENTS**
- 10:30 P.M. 32. **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](http://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.*

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83 Ashfield Road  
Atherton, CA 94027

*Town of Atherton*  
DEPARTMENT OF  
POLICE



BUS (650) 688-6500  
FAX (650) 323-1804

Michael A. Guerra  
*Chief of Police*

HISTORY OF THE CALIFORNIA  
PEACE OFFICERS' MEMORIAL

[www.ci.atherton.ca.us](http://www.ci.atherton.ca.us)

Mission Statement

"The California Peace Officers' Memorial Foundation is a non-profit charitable foundation whose mission is to recognize and honor California's peace officers who gave their lives 'In The Line of Duty' serving the citizens of this great state, and provide support to the family members left behind."

This year, **May 6 – 7, 2010** groups of people will gather together to honor the memory of a member of their family. Surviving spouses grieving a lost partner; children missing a parent; older couples who have survived their son or daughter; brothers, sisters, and fellow peace officers.

Therefore, it is important that those of us here recognize that these officers did not die in vain. We the people owe a debt to those who have given their lives, and the peace officers of this state want this memory to stay fresh in the minds of the citizens.

**Please join with me and wear the pin proudly for National Police Week: May 9 – 15, 2010**

I would like to share with you a poem entitled, "The Monument,"  
By Sergeant George Hahn of the Los Angeles Police Department.

I never dreamed it would be me  
My name for all eternity  
Recorded here at this hallowed place  
Alas, my name, no more my face.

"In the line of duty" I hear them say  
My family now the price will pay  
My folded flag stained with their tears  
We only had those few short years.

The badge no longer on my chest  
I sleep now in eternal rest  
My sword I pass to those behind  
And pray they keep this thought in mind.

I never dreamed it would be me  
And with heavy heart and bended knee  
I ask for all here from the past  
Dear God, let my name be the last.

Please read the page that follows. It is a list of all 6 Police Officers that were killed in the line of duty in 2009.

Sincerely,

Michael A. Guerra  
Chief of Police

# A TRIBUTE TO HEROES

## Roll Call

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### "2009 Fallen Officers, Not Forgotten"

***Sergeant Greg Hernandez***  
Tulare County Sheriff's Department  
EOW: February 6, 2009

***Sergeant Mark Dunakin***  
Oakland Police Department  
EOW: March 21, 2009

***Sergeant Ervin Romans***  
Oakland Police Department  
EOW: March 21, 2009

***Sergeant Daniel Sakai***  
Oakland Police Department  
EOW: March 21, 2009

***Officer John Hege***  
Oakland Police Department  
EOW: March 22, 2009

***Sergeant Steve May***  
Modesto Police Department  
EOW: July 23, 2009

## HONORED OFFICERS ENROLLED FROM PRIOR YEARS

***Marshal Charles F. Lehman***  
Anaheim Police Department  
EOW: July 23, 1872

***Officer Owen F. McManus***  
Union Pacific Railroad Police Department  
EOW: March 31, 1938

***Deputy Marshal Samuel Blundell***  
Vernon Police Department  
EOW: June 21, 1919

***Sheriff Hal A. Singleton***  
Glenn County Sheriff's Department  
EOW: December 26, 1951

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## 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 MAY 19, 2010**

**SUBJECT: CITY MANAGER WRITTEN REPORT**

#### **ADMINISTRATION DEPARTMENT:**

The City Clerks Department is currently working on putting together a candidate's statement guide for interested candidates. The nomination period opens on Monday, July 12, 2010 at 8:00 a.m. and ends on Friday, August 6, 2010 at 5:00 p.m. If nomination papers for an incumbent officer are not filed by or on August 6<sup>th</sup> then the deadline shall be extended to Wednesday, August 11, 2010 at 5:00 p.m.

#### **CITY ATTORNEY:**

1. *Jonathan Buckheit v. Dennis et al.* The Town of Atherton and the County of San Mateo both filed Motions to Dismiss under Federal Rules of Civil Procedure Section 12(b) (6) in this lawsuit. The plaintiff has alleged that his civil rights were violated by an arrest; the Superior Court of San Mateo has found him factually innocent of the charges for which he was arrested. A 12(b)(6) motion asks the court to rule that the plaintiff's allegations, even if proved, are not justification for the claim made. The County's motion was granted, the Town's was not. The federal court has authorized limited discovery. It has also, as is standard procedure, referred the matter to mediation; the mediation is to be completed within 90 days. The arguments raised in the Motion to Dismiss may come before the court again in a Motion for Summary Judgment. This case is being handled by outside counsel retained by the Town's insurer.

2. Conflicts of Interest and High Speed Rail. At the last council meeting, a resident stated that Council member Carlson lived too close to the railroad right of way to lawfully participate in decisions regarding high speed rail. This is not the case. The

Planning Department has reviewed its maps and verified that Mr. Carlson's home is more than 700 feet from the right of way. Because of the large number of Atherton homes near the right of way, and because Mr. Carlson's parcel is not significantly larger than the median Atherton residential lot, Mr. Carlson would only have a conflict if he lived within 300 feet of the right of way.

3. *Town of Atherton et al v. California High Speed Rail Authority.* The writ of *coram nobis* previously authorized by the City Council in this case has now been filed. It alleges that the case, which led to the decertification of the program EIR for high-speed rail, must be reopened because of key information unavailable to the plaintiffs previously. This case is being handled by outside counsel; the costs of litigation are being paid by other plaintiffs. The plaintiffs were previously awarded attorney's fees in this case after obtaining the order to decertify the EIR.

Our office is working with Town staff analyzing other allegations and complaints; we will provide an update when our work is complete.

#### **FINANCE DEPARTMENT PROJECTS AND UPDATES:**

No written update.

#### **POLICE DEPARTMENT:**

For this reporting period, the most significant crime occurred on May 2 around 2:50 AM when a robbery occurred in a vehicle on Selby Lane as it passed through Atherton. The victim of the robbery was a passenger in that car and rang the front gate bell to report the incident to a resident who then reported it to the PD. On April 18 several PD employees volunteered their time at the Special Olympics that was held at Menlo College. The chief held his first two monthly meetings at the Reading park next to the library on April 22. One resident attended the morning session and no one attended that evening session. The next two sessions will be on May 27, 2010 from 9-10 AM and from 6-7 PM at the Reading Park. On May 6 Sergeants Nichols and Hall presented disaster response and crime prevention information at a neighborhood meeting hosted by the Lindenwood Home Owner's Association. While on routine patrol on the evening of May 8, Sgt. Lynch interrupted a burglary on Adam Way. The suspect(s) fled from the scene and a subsequent K-9 search by Officer DeVlugt and Lotty indicated the suspects had fled from the immediate neighborhood.

#### **PUBLIC WORKS PROJECT UPDATES:**

- Encinal Traffic Signal – the bids came in below the estimate. Utilities are preparing to relocate the poles in conflict with project and provide electrical service. The first order of business will be to order the signal poles, mast arms and the controller. Construction will be during summer school break.

- Hoover/Valparaiso Crosswalk –Staff and consultant met with Menlo Park staff to discuss data and recommendation for placement of crosswalk. Requested to be on Menlo Park June Transportation Commission for approval.
- Fair Oaks Traffic Study – reviewed draft report, discussed crosswalk/ 4-way stop at Station Lane/Lloyden Drive intersection. Menlo Fire wants other alternatives studied before approving speed lumps. Fire Code adopted by Town does not permit installation of speed humps on primary response routes such as Fair Oaks Lane.
- Speed Surveys – completed draft Alameda de las Pulgas speed survey, recommending to reduce speed limit based on data and engineering judgment. Speed limits north and south of Atherton are 30 mph, Atherton is 35 mph.
- Traffic Surveys – completed the survey for DeBell restrictions/closure for Transportation Committee. Residents favor “No through Traffic” advisory sign instead of restrictions. Collecting traffic data to prepare a warrant study for Alameda/Stockbridge 4-way stop. Also working with San Mateo County because one sign would be in the County. The survey for the Holbrook closure/one-way is on hold pending results of implementation of County phased approach to reducing neighborhood traffic (see next item).
- 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. If these don’t work, they will consider right turn restriction from Marsh Road to Fair Oaks Avenue. Transportation Committee approved a “No Through Traffic 7-9 AM M-F” advisory sign requested by the residents. Sign will be placed at Atherton border.
- Park Pedestrian Bridge –Final plans are out for bidding. Bids are due May 27 with a planned award at the June Council meeting.
- Park Irrigation project –project piping complete, connections to existing systems underway, well drilling complete. An issue came up this week regarding the wiring size needed due to PG&E transformer limitations. See staff report to Council.
- Park circulation and parking study – Park and Recreation Commission approved one-way circulation at the park entrances, fire access and additional parking with no additional paving. The only cost will be a small amount of striping and some signs. Will bring to Council for approval in June.
- Park corporation yard – plans being revised to incorporate revised NPDES provisions. Project will be re-budgeted next year.
- Upper Atherton Channel – the permit application and materials are completed and will be submitted to the permit agencies (ACOE, USFWS and CDFG) early next week.

- Fletcher/Ridgeview Drainage and Reconstruction – Project bids received (at 61% of budget), award in April Council agenda contingent on GANN limit. See staff report to Council.
- Street Reconstruction 7 – includes Park Lane and the right turn lane from Alejandra to El Camino Real. Polhemus Avenue has been pulled until CIP funding is resolved. Design is completed and on this agenda for authorization to advertise. A public meeting with residents will be scheduled in two weeks. Construction is slated to begin this summer. See staff report to Council.

**BUILDING DEPARTMENT:**

No written update.

**PLANNING DEPARTMENT:**

No written update.

**CODE ENFORCEMENT:**

No written update.

**SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY:**

City Manager did not attend a SBWMA meeting since last Council meeting.

**FUTURE MEETINGS:**

The Town will hold a joint meeting between the City Council and Park & Recreation in early to mid June to discuss the Park budget. Date and time are to be determined.



**Draft Minutes**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL DRAINAGE**  
**DISTRICT**  
**April 7, 2010**  
**6:00 P.M.**  
**Council Chambers**  
94 Ashfield Road  
Atherton, California  
**Special Meeting**

**ROLL CALL**      **Lewis, Dobbie, Marsala, McKeithen, Carlson**

**PUBLIC COMMENTS**

Jim Massey, Atherton resident, stated the Town is in trouble and its finances are out of control. Massey said the City Attorney found no wrongdoing with Council Member Marsala and suggested Council move on to the real issues.

Mayor McKeithen read a statement, for the record, sent to her by former Atherton resident Carol Smith.

**REGULAR AGENDA**

**A.      ALLEGED IMPROPER OFFICIAL CONDUCT AND ALLEGATIONS**  
**THAT COUNCIL MEMBER MARSALA IS NOT A RESIDENT OF THE**  
**TOWN**

City Attorney Furth summarized her staff report on the legal analysis of implications of Council Member Marsala requesting financial assistance from an individual who was suing the Town and residency requirements for Council Members.

Mayor McKeithen asked why Council was not given any summaries of the detailed confidential memorandum distributed on March 26, 2010 which was distributed to the public. Furth said she doesn't give staff reports to Council for review before distribution. Furth said she created, for the public, a summary of her confidential report to Council. Furth concluded she can not discuss anything that is in a confidential memorandum because it is attorney-client privileged but can speak about the summarized public version of the report.

Mayor McKeithen asked who else was interviewed besides Council Member Marsala in the preparation of the City Attorney confidential and public reports and particularly why was Jon Buckheit not interviewed. Furth said she worked with the City Clerk in retrieving records. Furth added that this was a limited scope analysis of a stipulated set of facts and since the Town is currently in litigation with Mr. Buckheit Furth is not allowed to speak with him.

Mayor McKeithen asked how much it has cost the Town so far for research and preparation of the City Attorney memorandums regarding Council Member Marsala and why aren't some of the costs being borne by Council Member Marsala. Furth said when she prepared the memorandum she did it at the City Manager's direction and as the Town's General Counsel. Furth added that if any members of this City Council engage in conduct that violates the Political Reform Act or Government Code Section 1090 then, as General Counsel, she feels that the Town has been placed in jeopardy because it could mean that decisions made or contracts entered into by City Council are not valid. Furth concluded that as General Counsel for the Town the City Manager felt that this should be investigated.

Mayor McKeithen questioned why the complete confidential analysis of Council Member Marsala's conduct was not distributed to the public. Furth said it is the City Council and various City employees who are entitled to her confidential advice and when she prepares a confidential memorandum for City Council she may mix discussion of information that may be confidential because it pertains to litigation.

Council Member Lewis called for a point of order because she felt the City Attorney was being interrogated.

Mayor McKeithen asked to what extent can an individual refer to the confidential memorandum if that individual believes it is inconsistent with the public summary. Furth said it can not be referred to unless the City Council votes to allow it.

Council Member Marsala said at a Council meeting held on January 11, 2010 Mayor McKeithen questioned his residency under public comment. Marsala said after the meeting he went to the Mayor and explained to her that he had made a short term rental on his house and was renting from a friend in Atherton who would be out of Town for an extended period. Marsala said that shortly afterwards he was contacted by two news reporters, one of which stopped by his temporary home and confirmed he was living in Atherton. Marsala added that City Attorney Furth concluded that he legally met residency requirement to be on City Council. Marsala said his renters ended up needing his home for a longer period of time due to health issues and two more reporters stopped by to talk to his renters who confirmed that Marsala was living in Atherton.

Council Member Marsala said he bears no ill will towards Jonathan Buckheit and his vote against the Police review board was obviously a disappointment to Mr. Buckheit. In expressing his disappointment comments were made by Mr. Buckheit concerning a loan. Marsala said it has become public debate that is personally hurtful to him and those who do not look favorable at him have used the comment to exploit and discredit him. Marsala reiterated that he has no animosity towards Buckheit and he believes his views concerning a police board are sincere, and even though they disagree on the issue, he respects Mr. Buckheit's opinions and the fact that he has stepped forward to engage in dialogue on the issue. Marsala said if he had to do it all over again he probably would not discuss the possibility of a loan with Jon Buckheit. Marsala said he can not change what he did and added that he did nothing to interfere with his responsibility as a Council Member. Marsala said given the state of the economy it was tough to get a loan for his small business and approached Mr. Buckheit, whom he had a social relationship with, for possibilities of a loan; Mr. Buckheit indicated it is not something he could do but he could

forward the request to an individual he knew who may be able to help. Marsala said that Mr. Buckheit never gave him a loan or intended to do so and throughout the time of the loan request he did not view Mr. Buckheit in a position to end up suing the Town as he subsequently did.

Marsala said that in order to make full disclosure of the issue he gave the City Attorney all emails, text messages and everything in writing concerning his communications with Mr. Buckheit. Marsala said he also made himself available to the City Attorney for any questions she had concerning the loan request. City Attorney Furth made a determination that Marsala made no violation of any conflict of interest rules. Marsala concluded that if he is guilty of anything it is perhaps poor judgment, something each of us on City Council has had and their conduct should not be called into question as his has been today.

Vice Mayor Dobbie said he believes public officials have a duty to their residents to obey the law and behave in an ethical manner. Dobbie said as a result of the publicity surrounding Marsala there have been serious questions raised about his ethical behaviors. Dobbie said asking someone who has an adverse relationship with the Town is a serious breach of normally accepted standards for all elected officials.

Council Member Carlson thanked the City Attorney for her work on the analysis. Carlson, in referring to the March 26 special meeting, said to his knowledge the City Council has never gone forward with a meeting knowing full well that a quorum would not be present. Carlson had replied within 30 minutes that he had a prior commitment. Standard practice has been that the City Clerk contacts all Council Members to find a date that works for all. Carlson said he felt his integrity was questioned. Carlson said he respects his fellow Council Members and it disturbs him when that respect is not shown in return. Carlson concluded that he takes his job as a public official very serious, puts in a lot of hours, and has never missed a scheduled meeting because of vacation. To imply that he wasn't performing his duties to the best of his abilities is insulting and shows a lack of respect.

Council Member Lewis thanked the City Attorney for her detailed analysis. Lewis echoed Carlson's comments regarding the March 26<sup>th</sup> meeting. Lewis said the March 26 meeting was called against the City Attorney's advice and felt it was irresponsible and a complete misuse of power by the Mayor. Lewis said she had notified City staff a month prior that she would be out of Town on March 26<sup>th</sup>. Lewis suggested the Town's Code of Conduct be updated. Lewis stated the integrity of Council was called into question; they were not defended by the Mayor as being excused and to insinuate that she and other Council Members "boycotted" the meeting is insulting. Lewis called for a motion to accept the City Attorney's legal opinion that Council Member Marsala did nothing wrong.

Mayor McKeithen said she is aware the meeting was called on short notice and chose to still hold it in the event some Council Members may have a change of plans. McKeithen clarified that she called the meeting six days earlier but was told to wait for the City Attorney to complete her legal analysis on the situation. McKeithen said she and Vice Mayor Dobbie stayed to allow residents to speak out on any concerns related to the Town or its staff.

Mayor McKeithen opened up the meeting for public comment.

Jan Simons, Atherton resident, concurred with the Mayor. Simons said she feels the public deserves the full City Attorney analysis.

Melinda Tevis, Atherton resident, questioned why the Town is paying for three separate legal analyses from the City Attorney when the Town has such financial troubles.

Jon Buckheit, Atherton resident, said he bares no ill will towards Council Member Marsala. Buckheit questioned whether the City Attorney could effectively determine the fault of a member of the body responsible for signing her checks. He questioned how a Council Member can accept donations from a Police Union and then decide there is no compelling reason for police oversight. Buckheit asked, could either situation be deemed a conflict of interest? Buckheit concluded that the City Attorney is paid by tax dollars and is in effect here to represent the residents and that he was never contacted or interviewed in regards to the loan and has no idea if the information given to the City Attorney by Council Member Marsala is true.

Lia Meyer, Atherton resident, said she has always viewed Council Member Marsala as honest, ethical and prompt with his advice.

John Ruggeiro, Atherton resident, called for Council Member Marsala to update his residence address in the Town's roster.

John Johns said his lawsuit is widely publicized and he is grateful for the recognition of his service the Town Council is giving him. Johns said Furth's report was an analysis and not an investigation and it did not address any potential violations of Federal law. Johns said he believes Marsala has abused the public trust and Johns will give his written concerns to Council.

Gene Elsbrey, Atherton resident, said it is not 100% clear where Council Member Marsala resides. Elsbrey called for Council Member Marsala to resign.

Peter Gung, Burlingame resident, always thought good things about Marsala and said he was disappointed at all of the finger pointing. Gung asked that Council reconsider the thoughts and images that have been created as a result of the negative publicity.

Joan Solari, said regardless of whether Marsala broke the rules or not there are a huge number of Athertonians here tonight to let Council know they do not feel good about what has gone on. Solari requested that Marsala step down from Council.

Joe Lewis, Atherton resident and husband of Council Member Lewis, said he lives down the street from Charles Marsala and views him as an honorable and loyal citizen of Atherton. Lewis confirmed that Marsala lives in Atherton. Lewis said John Johns wrote attacking comments about how his home was built and as soon as Elizabeth Lewis decided to run for Council Johns began attacking them and he felt it was politically motivated.

Randy Lamb, Atherton resident, said this meeting is just Atherton politics as usual. Lamb felt the March 26 meeting was held inappropriately and wondered if it was really about politics or perceptions. Lamb concluded that Marsala has voted courageously several times when he was the stand alone vote and he respects Marsala for doing so.

Valerie Gardner, Atherton resident and EPC Committee member, said this is a very interesting time and several residents are here to express rage and disappointment for their concern about Council Member Marsala when he has spent years trying to do things for the benefit of the residents. Gardner concluded that there are serious environmental catastrophes for our community and we are wasting time worrying about Council Member Marsala.

Jean Schaaf, Atherton resident, said Council Member Marsala has spent several years on Council and at times has personally helped her and at other times has personally harmed her when she was Chair of the Arts Committee.

Gene Lense, Menlo Park resident, wondered if this is really all Council has to fret about. Lense said the politics has taken over and run amuck.

Jeff Wise, Atherton resident, agreed with residents who say this is an embarrassment. Wise said he has agreed and disagreed with all Council Members on different occasions but respects the amount of time each of them devote to the position. Wise said Council has done an “abysmal” job on interacting with each other and working for the common good. Wise said he accepts Marsala at his word and felt the Town should move on to more important issues.

Rex Dwyer, Palo Alto resident, thanked Council Member Marsala allowing the use of his home for a benefit which raised funds to help at-risk youth go to a summer camp.

Kathy Janz, Atherton resident, said while she respects the members of this Council she has never witnessed these problems in any other City she has lived. Janz urged bringing in a professional facilitator to help stop the divisiveness of Council.

Virginia Ruggeiro, Atherton resident, said she and her husband have attended meetings all their lives and in regards to the March 26<sup>th</sup> meeting people gave up their days and free time to attend and were spurned because a meeting was not held.

Frank Merrill, Atherton resident, echoed Valerie Gardner’s statements.

Mayor McKeithen closed the public comment.

Council Member Carlson said he believes Council Member Marsala created controversy. Carlson said he has questioned Marsala’s judgment in some cases and there have been times when Marsala was right and Carlson was wrong. Carlson suggested Council be more forthright in the future so the City Attorney is not blindsided by certain issues. Carlson believed City Attorney Furth has analyzed the situation satisfactorily. He added that he would like to see the same energy and passion towards issues like High Speed Rail. Carlson concluded that it is time to move on and he hopes Council will strive to be respectful to each and move forward in one direction in order to make progress this year.

Council Member Lewis said Council was blindsided at their very first meeting of the year when Mayor McKeithen publicly accused Council Member Marsala about not being an Atherton resident. Lewis felt it was done to discredit Marsala. Lewis added that if she were the Mayor, as

the leader of Council she would have spoke to Council Member Marsala privately to question if the rumor was accurate. Lewis stated that after the 4-1 vote against the proposal for police oversight Buckheit was upset and lashed out. Lewis said that although it was wrong for Marsala to ask Buckheit for a loan; it was obvious that if Marsala had been a “pawn” for Mr. Buckheit to vote yes for the police oversight then Marsala would have done so. Lewis stated that Marsala voted in good conscience and did not vote in retribution against Mr. Buckheit nor did he vote in favor to garner Mr. Buckheit’s silence about the loan. Lewis concluded that the issue should have been handled in a respectable way and she is embarrassed to sit on this Council.

Vice Mayor Dobbie said he received numerous phone calls and emails suggesting a special meeting on the unethical behavior of Council Member Marsala. Dobbie said the March 26<sup>th</sup> meeting was called in response to an outcry and felt he has a duty to the Town residents.

Council Member Marsala agreed with Carlson that the Town needs to become more engaged in the issue of High Speed Rail. Marsala felt as Council moves forward an Agenda item should be approved by a majority of Council. Marsala read a letter for the record from his current tenants. Marsala concluded that he hopes Council can move on and work together as a team.

Mayor McKeithen said she has been elected to Council three times and has a duty to serve the residents and will continue to do so and remain true. McKeithen said she believes this issue should be investigated further. McKeithen said she did not bring the issue up in January for any political purposes. It was clear the Town was engaged in active litigation when Council Member Marsala requested the loan and he should have known. McKeithen questioned how we know whether or not Marsala solicited loans from other individuals who were in litigations with the Town. McKeithen said there are laws that public officials have to obey and wondered what they mean to someone who passes off this issue.

**MOTION by Lewis, second by Carlson to agree that Council Member Marsala is and has been a legal resident of Atherton and to accept the City Attorney’s report that Council Member Marsala did not violate any conflict of interest rules according to her report; not based on any additional information. The motion failed.**

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

**ADJOURN**

**MOTION by Carlson, second by Lewis to adjourn the meeting. The motion passed.**

Mayor McKeithen adjourned the meeting at 8:10 p.m.

**Respectfully submitted,**

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**Theresa DellaSanta**  
Deputy City Clerk



**DRAFT MINUTES**  
**Town of Atherton**  
**CITY COUNCIL**  
**ATHERTON CHANNEL DRAINAGE DISTRICT**  
**APRIL 21, 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. **PLEDGE OF ALLEGIANCE**

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

3 **PRESENTATIONS**

None

4. **PUBLIC COMMENTS**

Don Horsley, retired Sheriff for County of San Mateo, informed Council that he is running for Supervisor of District 3 in San Mateo County. Horsley briefly indicated his background and reacquainted himself with Council. Horsley concluded that his priorities as Supervisor are public safety, access to good, quality healthcare and quality education.

Morris Brown, Menlo Park, said he is a plaintiff in a lawsuit directed at California High Speed Rail and Caltrain. Brown said the suit seeks to have them adhere to the restrictions that are in place in the Proposition 1A bond measure. Brown suggested Atherton join him in the suit.

Mya Perkins, Aide to San Mateo County Supervisor Rose Jacobs Gibson, read a letter from Supervisor Jacobs Gibson for the record. The letter was addressed to Mayor McKeithen and outlined the efforts San Mateo County is taking to ensure High Speed Rail Authority address concerns and serve the interest of San Mateo County residents.

Mike McPherson, Atherton resident, said refunding road impact fees that are passed the statute of limitations is outrageous. McPherson said Council should reconsider refunding the fee.

Jon Buckheit, Atherton resident, said he took it personally in the special meeting held earlier in the evening when Council Members prevented him from being appointed to the Finance Committee. Buckheit said he would be willing to pay for a polygraph test for all Council Members.

Richard Moore, Atherton resident, said beautification day in the Park was held last weekend and it turned out to be a wonderful event. Moore said he will come back to Council and request holding another event.

Vice Mayor Dobbie thanked Moore on behalf of Council and staff.

Shirley Carlson, Atherton resident, said approximately 900 people attended the Easter egg hunt in the Park. Carlson thanked everyone who was involved in helping put together the successful event.

Melinda Tevis, Atherton resident, asked for an answer on why City Attorney Furth wrote three separate memos regarding the loan allegations of Council Member Marsala. Tevis said Los Altos Hills still charges a road impact fee and asked why Atherton rescinded the fee. Tevis concluded that she is appalled that Council would only fill two seats on the Finance Committee.

John Ruggeiro, Atherton resident, said Don Horsley is running for Atherton's District as a Board of Supervisor and the election is on June 8<sup>th</sup>. Ruggeiro said he will vote for Mr. Horsley.

**MOTION by Dobbie, second by Carlson to continue this meeting to after the special meeting. The motion passed unanimously.**

Council took up the April 21, 7:00 p.m. Special City Council meeting.

**Council resumed the regular meeting at 7:45 p.m.**

**5. REPORT OUT OF CLOSED SESSION**

**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 – 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*

Assistant City Attorney Ben Winig Council only met regarding Item C and there is no reportable action.

Assistant City Attorney Winig reported that at a March 29, 2010 Special City Council meeting Council voted in closed session 3-2, with Marsala and Lewis opposed, to approve a settlement agreement with former finance director John Johns. Winig said the settlement was signed on April 9, 2010 but did not become finalized until April 19 for a variety of legal reasons. Winig concluded that the agreement includes a payment of \$225,000 to Johns for a release of all claims against the Town, its current and former employees, Council Members and contractors.

**6. CITY MANAGER'S REPORT**

City Manager Gruber said he is working to solicit input from the community by keeping his office hours open between 2:00 p.m. and 5:00 p.m. on the fourth Thursday of every month in order to improve communications with Town residents. Gruber said Chief Guerra will also hold his own series of meetings on the same day between 9:00 a.m. and 10:00 a.m. and 6:00 p.m. and 7:00 p.m.

Vice Mayor Dobbie asked if the addition of a southbound left turn lane from Middlefield to Marsh Road in the Menlo Gateway project would lead to two left turn lanes. Gruber said that is what is being currently proposed but nothing has been finalized.

**7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT None  
CONSENT CALENDAR (Items 8-19)**

Council Member Lewis removed Item 14 and had questions on items 15, 16 and 19. Lewis said she will not vote on the March 26 minutes under Item 8 because she was not at the meeting.

Council Member Carlson said he can not vote on the March 26 minutes and has comments on item 13.

Council Member Marsala said he can not vote on the March 26 minutes since he was not present.

Mayor McKeithen said she has comments on item 9. McKeithen said item 14 will be removed and discussed after item 20 and before item 31.

**8. APPROVAL OF MARCH 17, 2010 REGULAR MEETING, MARCH 26 AND APRIL 7 SPECIAL MEETING MINUTES**

**Recommendation:** Approve March 17, 2010 regular, March 26 and April 7 special meeting minutes

**9. APPROVAL OF BILLS AND CLAIMS FOR MARCH 2010 IN THE AMOUNT OF \$1,104,156**

**Recommendation:** Approve Bills and Claims in the amount of \$1,104,156

Mayor McKeithen said the Town is not dealing with a balanced budget and suggested residents start looking through the bills and claims and make suggestions as to where cuts should be made. McKeithen asked Town residents to become more involved in the budget process and attend the workshop on April 26<sup>th</sup>.

10. **ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR THE MONTH ENDED MARCH 31, 2010**  
**Recommendation:** Accept Monthly Financial Report
  
11. **RETURN UNTIMELY CLAIM OF KIMBERLY R. SWEIDY & RAYMOND P. STATA RECEIVED ON MARCH 3, 2010**  
**Report:** Assistant City Manager Eileen Wilkerson  
**Recommendation:** Instruct Staff to return the claim of Kimberly R. Sweidy & Raymond P. Stata without action as it is untimely
  
12. **PROCLAMATION DECLARING WEST NILE VIRUS AND MOSQUITO AND VECTOR CONTROL AWARENESS WEEK**  
**Recommendation:** Approve Proclamation Declaring West Nile Virus and Mosquito and vector Control Awareness Week
  
13. **APPROVE A LETTER TO THE CALIFORNIA HIGH SPEED RAIL AUTHORITY PROVIDING COMMENTS ON BAY AREA TO CENTRAL VALLEY HIGH-SPEED TRAIN REVISED DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT MATERIAL**  
**Report:** Public Works Director Duncan Jones  
**Recommendation:** Approve a letter to the California High Speed Rail Authority (CHSRA) providing comments on Bay Area to Central Valley High-Speed Train Revised Draft Program Environmental Impact Report (EIR) Material.

Council Member Carlson thanked Public Works Director Duncan Jones for the excellent letter he created.

15. **ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$3,131.31 FOR THE PROJECT NUMBER 08-026**  
**Report:** Public Works Director Duncan Jones  
**Recommendation:** Accept work and authorize recording of a notice of completion and approving contract change orders in the amount of \$3,131.31 for the Holbrook Palmer Park Water Tower Lawn (Phase 1) Project Number 08-026

Council Member Lewis said every time a notice of completion is brought to Council it comes with a change order. Lewis said she would like to know before the notice of completion comes whether or no the change orders are absolutely critical. Lewis concluded that the contingency shouldn't be used up just because it is factored in.

16. **ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$6,951.52 AND INCREASED QUANTITY COSTS IN THE AMOUNT OF \$11,230 FOR THE POLHEMUS AVENUE STORM DRAIN IMPROVEMENT PROJECT NUMBER 08-011**  
**Report:** Public Works Director Duncan Jones  
**Recommendation:** Accept work and authorize recording of a notice of completion and approving contract change orders in the amount of \$6,951.52 and increased quantity cost in

the amount of \$11,230 for the Polhemus Avenue Storm Drain Improvement Project Number 08-011

**17. AWARD OF CONTRACT TO METHOD CONSTRUCTION FOR THE GARDEN ROOM RENOVATION PROJECT NUMBER 09-025 IN AN AMOUNT NOT TO EXCEED \$65,000 PLUS A TEN PERCENT CONSTRUCTION CONTINGENCY, FOR A TOTAL AUTHORIZATION OF \$71,500**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Award the contract for Garden Room Renovation Project, project number 09-025 to Method Construction, the low bidder on the April 15, 2010 bids, for \$65,000, with a 10% construction contingency of \$6,500, for a total authorization of \$71,500; and to authorize the City Manager to sign the contract on behalf of the Town

**18. APPROVE RESOLUTION 10-22 OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ELIMINATING THE BLUE RIBBON TASK FORCE**

**Report:** City Manager Jerry Gruber

**Recommendation:** Adopt Resolution 10-22 Disbanding and Eliminating the Blue Ribbon Task Force from the Town Committee Roster

**19. 2009 ANNUAL REPORT TO THE CITY COUNCIL ON THE ATHERTON GENERAL PLAN IMPLEMENTATION**

**Report:** Planner Neal Martin

**Recommendation:** Accept the Annual Report and authorize its transmittal to the California Governor's Office of Planning and Research and the California Department of Housing and Community Development pursuant to Section 65400 of the California Government Code (CGC)

Council Member Lewis asked if this has anything to do with the housing element report. Deputy Town Planner Lisa Costa Sanders said this is only an annual report.

**MOTION by Dobbie, second by Lewis to approve the Consent Calendar excluding the March 26 special meeting minutes in item 8, and item 14. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**MOTION by Dobbie, second by McKeithen to approve the March 26 special meeting minutes. The motion failed.**

Ayes: 2      Nays: 0      Abstain: 3 (Marsala, Carlson, Lewis)      Absent: 0

**REGULAR AGENDA (Items 20-30)**

Council took up item 21 before item 20.

**21. REVIEW AND DISCUSS THE CARGILL/DMB DEVELOPMENT PLAN IN REDWOOD CITY**

**Recommendation:** To Be Determined

*(Continued from March 17, 2010)*

Vice Mayor Dobbie said he is in full support of the draft resolution brought to Council.

Council Member Carlson said because of the size and scope of this project he considers it a regional project that will have impact beyond the Redwood City borders.

Mayor McKeithen opened for public comment.

John Bruno, DMB Development, said the Saltworks project is a 50/50 balance plan and is a result of having worked with Redwood City for the last four years and bringing forth a proposal that addresses community needs. The redevelopment proposal includes open space, parks, housing, recreational activities and create the largest privately funded bay restoration project in the San Francisco Bay. Bruno said the review process is lengthy and hoped Atherton would reserve their right to judge the project, as Woodside did, until the environmental review is completed.

Council Member Carlson asked what the benefits would be for Atherton. Bruno said they are still in the process of reviewing that, but during a “pre-CEQA” review a comment was made that this project provides a once in a generation opportunity for private funding to enhance public transportation improvements.

Tim Frank, Berkeley, sustainability consultant for the Saltworks project, there is an opportunity to both contribute to the expansion of the bay with fully restored wetlands and to create a transit oriented development which would occupy the gap between the ferry terminal and the downtown Caltrains station. Frank said an important way to reduce regional emissions and improve the quality of life we must provide homes in a walk able, transit oriented community and this allows us to do that. Frank concluded that the environmental review process will provide a rigorous analysis.

Council Member Carlson said he has heard there would be a potential of 8,000 cars per hour. Frank said the cars will mainly be commuting through the community of Atherton towards the job site in Redwood City which congests the freeways and is not environmentally safe. Frank said to help reduce these impacts we can create a transit oriented community.

Vice Mayor Dobbie said saying there will be no affect on the environment by filling in 1400 acres of restorable salt ponds and there will be no traffic impacts is close to ludicrous.

Council Member Marsala said traffic is already congested and this would make it more. Marsala said the Town has a General Plan and would be concerned with the impacts of traffic on El Camino Real and Marsh Road. Frank asked for the opportunity to allow the environmental review process in order to address these issues.

Mayor McKeithen opened for public comment.

A group of Sequoia Union High School District students asked Council to support the process that Redwood City has adhered to.

Kelly Bronsnan, asked Council to consider Atherton resident priorities. She added that the Developers will build and be gone having made quite a profit at the expense of the quality of life for Atherton residents.

Denise Kupperman, Atherton resident, said the environmental review process is important and suggested Council have an open mind until the facts are received.

Several Redwood City residents spoke during public comment and requested that Council allow the environmental review process to be completed before they make any decisions.

Jon Buckheit, Atherton resident, said Council should support the residents they represent.

Stephen Knight, Political Director for Save the Bay, stated that if Council opposes the development it will not stop the environmental process. Knight encouraged Council to “be a good neighbor” and send a message to Redwood City letting them know how the Town feels.

Sally Faulkenhagen, Atherton resident, said it has been fifty years since we decided not to build on salt ponds and since this is sea level it will require levies which are expensive to maintain.

Foster Kenny, Redwood City resident, urged Council to look at the environmental review once it is completed.

Jim Janz, Atherton resident and Former Atherton Mayor, said the Bay belongs to everyone and this project will affect the Bay.

Dale Sakai, Atherton resident, pointed out that Redwood City residents have already left the meeting before a decision has been made by Council.

L.K. Mueller, Woodside, opposed the project and said it would destroy the Bay and quality of life.

Mayor McKeithen closed public comment.

Council Member Lewis said she agrees that everything should be done to restore the bay lands to its original environmental condition and reduce traffic and pollution. Lewis said that although she is not in favor of the project she would like to respect Redwood City Council Members and their review process. Lewis concluded she would like to stay apprised of the process.

Council Member Carlson stated that no matter what Atherton Council decides tonight it will not thwart the process and does not give any veto power to Council. Carlson concluded that his responsibility is to Atherton residents and their concerns.

Vice Mayor Dobbie said he believes in simplicity and since he was elected to represent Atherton he will take a position to oppose the project.

Council Member Marsala said the Town has worked with Redwood City on many issues in the past and will in the future on taxation, revenue, pensions, drainage issues and more and would be ok with respecting Redwood City Council but making sure they know Atherton concerns.

**MOTION by Dobbie to approve the statement be it resolved by the Council of the Town of Atherton that it opposes the proposed Cargill development and supports full restoration of the Cargill salt ponds and the inclusion of the salt ponds in the Don Edwards National Wildlife Refuge.**

**Council Member Lewis amended the motion to include a cover letter, as recommended by Council Member Carlson, acknowledging Redwood City’s process and requesting to stay involved in the review.**

Ayes: 1      Nays: 4 (McKeithen, Marsala, Lewis, Carlson)      Abstain: 0      Absent: 0

MOTION by Marsala adopt a Resolution conveying to the City of Redwood City the Town Council serious concerns about the proposed DMB/Saltworks project, indicating its intention to monitor the pending environmental review, and include all of the WHEREAS phrases from the draft Resolution 10-21, and include a cover letter that includes Atherton’s desires to work with Redwood City on concerns for air quality, traffic, transportation and wildlife to the best of the region.

Assistant City Attorney Winig clarified that Marsala made a motion which creates a new resolution that has the title from the Town of Woodside’s resolution (included in the Agenda packet) and includes all of the WHEREAS clauses from the draft resolution 10-21 and will include the NOW, THEREFORE language from the Town of Woodside resolution, and lastly, will include a cover letter with specific concerns from Atherton.

Council Member Marsala withdrew his motion to allow Mayor McKeithen to clarify the motion.

MOTION by McKeithen, second by Carlson to approve a resolution and add a cover letter stating that we understand Redwood City will move forward with the environmental review process and since Atherton has serious concern we would like to stay involved throughout the process and be considered as part of the decision making process.

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**20.      AWARD OF CONTRACT TO GALLAGHER & BURK FOR THE FLETCHER/RIDGEVIEW DRAINAGE AND STREET PROJECT NUMBER 08-010 IN AN AMOUNT NOT TO EXCEED \$922,055.00 PLUS A TEN PERCENT CONSTRUCTION CONTINGENCY, FOR A TOTAL AUTHORIZATION OF \$1,014,260.50**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Award the contract for Fletcher/Ridgeview Drainage and Street Project, project number 08-010 to Gallagher & Burk, the low bidder on the April 8, 2010 bids, for \$922,055.00, with a 10% construction contingency of \$92,205.50, for a total authorization of \$1,014,260.50; and to authorize the City Manager to sign the contract on behalf of the Town

Public Works Director Jones said this project has been high on the important list for a long time and the project includes rehabilitation of the street.

Mayor McKeithen said this has been a long term project and the most substantial project she can remember aside from the channel. McKeithen said the Town lost a valuable resident who had a river running through his property because of the flooding and drainage issues.

Council Member Lewis asked if there has been any work done on the project over the last few years. Jones said only design work has been done. Lewis asked if there is any life threatening issues

with not completing the project. Jones said property damage issues only, primarily affecting six properties.

Finance Director Ho said the purpose of the Gann limit is to make sure the Town is not taking in more tax revenue than is allowed. It is adjusted every year based on the preceding year calculations. Ho said that because we did not have anything in place that increases the appropriations limit in order to permit spending the tax revenue for fiscal year 2010 we have to use qualified capital expenditure to qualify our Gann limit to bring our tax proceed under the limit. Ho said she estimates approximately 1.9 million in capital outlay to do this. Ho concluded that the Auditors will be in Town the next week and that will give her an opportunity to run the calculations for this year and the projections for next year with them. Ho suggested tabling this item until next month in order to do that.

Mayor McKeithen suggested approving it conditionally based upon it being consistent with the Gann limit and if it is not to bring it back to Council. Ho confirmed yes.

Paul Madera, Atherton resident from Ridgeview, said the flooding problems have been a disaster and it is a very serious issue which has been put off for a number of years. Madera urged Council to take it serious.

**MOTION by Lewis Award the contract for Fletcher/Ridgeview Drainage and Street Project, project number 08-010 to Gallagher & Burk, the low bidder on the April 8, 2010 bids, for \$922,055.00, with a 10% construction contingency of \$92,205.50, for a total authorization of \$1,014,260.50; and to authorize the City Manager to sign the contract on behalf of the Town, subject to the Finance Director and Town Auditors determination that the Town will be within the Gann limit appropriation spending criteria.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**Council took up Item 14 next.**

**14. APPROVE A CONSULTANT SERVICES AGREEMENT WITH WILSEY-HAM FOR CONSTRUCTION SERVICES FOR THE FLETCHER-RIDGEVIEW PROJECT, IN AN AMOUNT NOT TO EXCEED \$17,948 PLUS A TEN PERCENT CONTINGENCY, FOR A TOTAL AUTHORIZATION OF \$19,742.80**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Accept the proposal and authorize the City Manager to sign a Professional Services Agreement with Wilsey Ham to provide Construction Services for the Fletcher Ridgeview Project in an amount not exceed \$17,948, plus a 10% contingency, for a total authorization of \$19,742.80

**MOTION by Dobbie, second by Carlson Accept the proposal and authorize the City Manager to sign a Professional Services Agreement with Wilsey Ham to provide Construction Services for the Fletcher Ridgeview Project in an amount not exceed \$17,948, plus a 10% contingency, for a total authorization of \$19,742.80. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**22. APPROVE RESOLUTION 10-20 RESCINDING RESOLUTION 09-26 AND APPROVING A MODIFICATION TO THE ESTABLISHMENT OF THE GENERAL FUND RESERVE POLICY**

**Report:** Finance Director Louise Ho

**Recommendation:** Adopt Resolution 10-20 Rescinding Resolution 09-26 and Approving a Modification to the Establishment of the General Fund Reserve Policy

Jeff Wise, Atherton resident and member of the Citizens Proposal group for Road Impact Fee refunds requested that Council table Items 22, 23, 24, and 25 until the group can come up with a new proposal. Wise said the group has met with the Finance Director to reexamine the Towns budget situation and would like to continue studying the misallocations.

Council concurred to table items 22, 23, 24 and 25.

Finance Director Ho requested that Council take up the 18,000 transfer from the Police Department to the Finance Department budget amendment under Item 23.

Council took up that section under item 23.

**23. APPROVE RESOLUTION 10-21 APPROVING BUDGET AMENDMENT FOR FY 2009-10**

**Report:** Finance Director Louise Ho

**Recommendation:** Adopt Resolution 10-21 approving the budget amendment for FY 2009-10 for the General Fund and Road Construction Impact Fee Fund  
*(Continued from March 17, 2010)*

Council Member Carlson said before he can even support a property tax transfer to cover health care costs or overhead costs he would like to defer it to the Finance Committee for their review.

**MOTION by Carlson, second by Dobbie to approve a budget amendment of a transfer in the amount of \$18,000 from the Police Department to the Finance Department. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

Mayor McKeithen said that if and when the road impact fee refunds are approved there needs to be a plan because the exhibit to the draft resolution says any recommendation shall be accompanied by a plan for the replenishment of reserves to the City Council.

**24. 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 authorizing additional refunding of road impact fees  
*(Continued from March 17, 2010)*

**Item 24 was tabled to the May Council meeting.**

**25. 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

*(Continued from March 17, 2010)*

**Item 25 was tabled to the May Council meeting.**

**26. COMMITTEE APPOINTMENTS**

**Report:** City Manager Jerome D. Gruber

**Recommendation:** Appoint Members to Arts, Audit, Finance, General Plan and Rail Committees based on recommendations made at the April 21, 2010 Special City Council meeting held at 6:00 p.m.

**MOTION by Dobbie, second by Lewis to appoint Sandy Crittenden and Isabella Pieslak to the Arts Committee, Bill Widmer to the Audit Committee, Jeff Wise and Greg Conlon to the Finance Committee, Elizabeth Hammack, Jeff Wise, and David Henig to the General Plan Committee and William Grindley to the Rail Committee. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**27. APPROVAL OF THE CONSULTANT SERVICES AGREEMENT BETWEEN MUNISERVICES, LLC AND THE TOWN OF ATHERTON FOR PROPERTY TAX MISALLOCATION AUDIT**

**Report:** Finance Director Louise Ho

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

*(Continued from March 17, 2010)*

Finance Director Ho said this agreement is like a sales tax audit in which a consultant would look at the work being done by the State Equalization on how sales tax is divided among Cities and the County pool. Since the passage of Proposition 13 voters approved a property tax assessment at no more than 1% and subsequent to passage of proposition 13 if any appreciation within that jurisdiction would be allocated using a different formula which makes property tax allocation from the County a very complex process. Ho concluded that MuniServices would look into this to make sure the County is dividing the property tax and the Town is receiving its proper share.

Council Member Carlson suggested deferring the item to the Finance Committee for their review.

Council Member Lewis wondered why MuniServices would want to do this on a contingency basis and felt this could cause potential misunderstandings.

Vice Mayor Dobbie said the 25% contingency fee should be a net contingency in case the Town ends up owing.

Mayor McKeithen said MuniServices has said they have looked into some entities that did end up owing property tax but it was a very small percentage.

Council Member Lewis said the allocation from the County and how they divide up the pool of property tax money they collect is what will be audited, and the County will not go back to the resident and tell them they owe the money. Lewis concluded it is an audit and analysis of the County Assessors office of how they actually divvy up Atherton's pool of property tax that they receive.

Jeff Wise, Atherton resident, asked if MuniServices has given an average of what they find when they conduct this study. Ho said she will look into this.

**MOTION by Carlson, second by Marsala to defer the item to the Finance Committee. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**28. REVIEW SCOPE OF SERVICE FROM MUNISERVICES FOR BUSINESS LICENSE ORDINANCE MEASURE**

**Report:** Finance Director Louise Ho

**Recommendation:** To Be Determined

Finance Director Ho said this is a basic proposal from MuniServices to see if the Town would like to move forward with revisiting our Business License Ordinance and modify the existing Ordinance which would have to go before voters.

Council Member Carlson questioned how this fits into a plan in terms of addressing cost structure and looking at alternative revenues. Carlson felt it was key to have the Finance Committee define this before Council pushes ahead without a plan.

Mayor McKeithen said the Finance Committee did discuss alternative revenues and the business tax and it was decided that the business license tax would be the most expeditious way given the Towns current financial situation.

City Manager Gruber said this idea was also derived from the January strategic Council meeting where staff was directed to research alternative revenue ideas.

Council Member Marsala felt there should be a lot more to substantiate a \$40,000 contract because it is obvious that a business license tax would create more revenue for the Town.

Vice Mayor Dobbie said before the Town spends \$40,000 to collect two to three examples that could bring in substantial sources of revenues with the business license tax that are not currently paying their fair share.

Mayor McKeithen suggested at least approving the first phase of the scope of work Council Member Lewis said the scope of work is boiler plate language and does not specifically address Atherton needs.

Council Member Marsala suggested discussing with the public if this is something they want to do.

Jeff Wise, Atherton resident, said looking into a business license tax makes sense, but he is disappointed in the Consultants proposal.

MOTION by Marsala, second by Lewis to add a future agenda item to discuss the philosophical approach to increasing the business license tax.

Mayor McKeithen felt that was premature and the public should be able to weigh in on the approach Council should take.

Council Member Marsala said it would provide the public with a better description of the project.

Council concurred to defer the proposal and its elements to the Finance Committee.

**29. INTRODUCTION OF AN ORDINANCE APPROVING ADMINISTRATIVE CITATION PROGRAM**

**Report:** City Manager Jerry Gruber

**Recommendation:** Introduce 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 on Entitlements

City Manager Gruber said this item was failed during its second reading in February with a 2-2 vote with Vice Mayor Dobbie absent from the meeting.

Gruber added that the Town already has a nuisance abatement ordinance, but its procedures are complex; an Administrative Citation Ordinance would provide a more streamlined process while still preserving and protecting residents' due process rights.

Gruber stated that the proposed Administrative Citation Ordinance is comprehensive and intended to address violations of the Town's municipal code, other Town ordinances, applicable state codes, conditions on entitlements, and land use approvals without a criminal prosecution and arrest.

Winig added that this is just another tool that would allow your Code Enforcement Department another mechanism to make people comply with Atherton's Municipal Code.

Gruber added that the Town will focus on the violations with the highest priority and that create the most disturbances to other residents.

Council Member Carlson asked if it will reduce legal costs. Winig said it would be a significant amount of savings to the Town.

Council Member Lewis said she does not support the idea because of public perception and if it is approved the residents should be notified.

Winig concluded that this is not meant to be overly punitive and it is just to help with voluntary compliance.

**MOTION by Dobbie, second by to Introduce 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 on Entitlements. The motion passed.**

Ayes: 3      Nays: 2 (Marsala, Lewis)      Abstain: 0      Absent: 0

**30.      CONSIDERATION OF ADDING A SECOND MEETING DATE PER MONTH FOR CITY COUNCIL MEETINGS IN LIEU OF SPECIAL MEETINGS**

**Recommendation:** To Be Determined

*(Continued from March 17, 2010)*

**MOTION by Carlson, second by Lewis to table Item 30 the next meeting. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**31.      COUNCIL REPORTS**

Mayor McKeithen requested more detailed council reports.

**32.      FUTURE AGENDA ITEMS**

- A.      **COLLEAGUES' MEMO TO ADD ALLOWING COUNCIL MEMBERS WHO WERE INADVERTENTLY LEFT OUT OF THE SLECTION PROCESS FOR TOWN CENTER TASK FORCE MEMBERS TO CHOOSE FIVE MEMBERS FROM THE SEVENTEEN APPLICANTS**

**Report:** Mayor McKeithen and Vice Mayor Dobbie

Mayor McKeithen felt the entire Council did not have a chance to review the applicants for the Town Center Task Force and felt the Council Members who were not involved in the process should be given a chance.

Council Member Carlson said an update item was on the February Council Agenda alerting Council that the Town Center Task Force will review applications and make recommendations. Carlson added that all of the applications were provided to Council subsequent to the March meeting and the applicants were approved by unanimous vote on the consent Agenda.

Mayor McKeithen said she can not remember giving any direction to allow the applicants to be appointed in this manner.

Assistant City Attorney Winig said some Council Members were confused about the process and things happened which some members were not aware of. Winig suggested making a motion to revisit the item or direct him to review the minutes and provide a legal analysis.

Council Member Lewis did not want to spend money on legal bills. Lewis said if Council Members feel left out of the process she would suggest bringing back all 17 applicants along with the criteria that was set by the Blue Ribbon Task Force and the Ad-Hoc Town Center Task Force Committee to evaluate the potential members of the Committee to the next Council meeting for a decision.

**MOTION by Lewis, second by Dobbie to bring 17 applicants along with the criteria for appointment to evaluate at the next meeting. No vote was called for and Council Member Lewis withdrew her motion.**

**MOTION by McKeithen, second by Dobbie to review the issue at the next Council meeting. The motion failed.**

Ayes: 2      Nays: 3 (Marsala, Lewis, Carlson)      Abstain: 0      Absent: 0

**MOTION by Carlson, second by Lewis to consider one vacancy on the Town Center Task Force from the application which have already been received. The motion passed.**

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

**33.    PUBLIC COMMENTS**

None.

**34.    ADJOURN**

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

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

**Respectfully submitted,**

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**Theresa DellaSanta**  
**Deputy City Clerk**



**DRAFT MINUTES**  
**Town of Atherton**  
**CITY COUNCIL**  
**ATHERTON CHANNEL DRAINAGE DISTRICT**  
**APRIL 21, 2010**  
**6:00 P.M**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California

**SPECIAL MEETING**

1. **ROLL CALL** Council Members Lewis, Carlson, Marsala,  
Vice Mayor Dobbie, Mayor McKeithen

**REGULAR AGENDA (Item 2)**

2. **Interviews and Appointments for the Arts Committee, Audit Committee, Finance Committee, General Plan Committee and Rail Committee**  
Staff Report, Attachments, Applications

Arts Committee

MOTION by Lewis, second by Carlson to recommend Sandy Crittenden and Isabella Pieslak to the Arts Committee with terms to expire April 30, 2012. The motion passed unanimously.

Audit Committee

MOTION by Dobbie, second by Lewis to recommend Bill Widmer to the Audit Committee. The motion passed unanimously.

Finance Committee

Jon Buckheit, Applicant, said he has an extensive business background, controlled an eight figure budget and he has the time and background to be a Committee member. Buckheit said he is versed in pensions and health reform as well.

Jeff Wise, Applicant, said he was an entrepreneur, sold his marketing company and has been a residential developer ever since. Wise said the Town needs to be judicious on taxes and figure out how to do more with less.

Greg Conlon, Applicant, said he was a certified public accountant and felt employees should be given a voluntary retirement incentive to help balance the budget. Conlon said he is also interested in getting funding for quad gates.

Council was given ballots to vote on the applicants. Council Member Marsala recused himself due to a conflict of interest.

Council voted to recommend Jeff Wise and Greg Conlon, but was deadlocked on the third set. The third seat was tied between Jon Buckheit and Alain Enthoven.

**MOTION by Carlson, second by Lewis to nominate two people and proceed with the third seat at a future meeting. The motion failed 2-2, McKeithen and Dobbie opposed.**

**MOTION by Lewis, second by Carlson to recommend Jeff Wise and Greg Conlon to the Finance Committee. The motion passed 3-1, McKeithen opposed.**

Buckheit withdrew his application on the basis of not wanting a third seat to go unfilled.

General Plan Committee

**MOTION by Lewis, second by Carlson to recommend Elizabeth Hammack, Jeff Wise and David Henig for terms to expire April 30, 2014. The motion passed unanimously.**

Rail Committee

**MOTION by McKeithen, second by Lewis to recommend William Grindley to the Rail Committee. The motion passed unanimously.**

**3. ADJOURN**

**MOTION by Lewis, second by Dobbie to adjourn the meeting. The motion passed unanimously.**

Mayor McKeithen adjourned the meeting at 6:50 p.m.

**Respectfully submitted,**

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**Theresa DellaSanta  
Deputy City Clerk**



**DRAFT MINUTES**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL DRAINAGE**  
**DISTRICT**  
**April 21, 2010**  
**7:00 P.M.**  
**Council Chambers**  
94 Ashfield Road  
Atherton, California  
**Special Meeting**

Mayor McKeithen called the meeting to order at 7:25 p.m.

**ROLL CALL**      Lewis, Dobbie, Marsala, McKeithen, Carlson

**PUBLIC COMMENTS**

None

**REGULAR AGENDA**

1.     **ADOPTION OF RESOLUTION IN APPRECIATION OF THE PUBLIC SERVICE OF JOHN P. JOHNS**

**Recommendation:** Adopt Resolution 10-23 in appreciation of the public service of John P. Johns

Carol Flaherty, Atherton resident, said Mr. Johns was a destructive individual and was surprised that Council would commend him. Flaherty questioned whether Johns would receive bridge service time and benefits. Flaherty concluded by asking Council to explain why they would expend almost a half a million dollars for someone who created a financial train wreck.

Jon Buckheit, Atherton resident, said he hired Mr. Johns as a forensic accountant for a current project and he has done an exemplary job. Buckheit asked if Atherton is better off financially since Johns left then they were during his tenure or before it. Buckheit concluded that it is important for decision makers to review Johns legacy to figure out how to overcome the Town's current financial struggles.

Melinda Tevis, Atherton resident, said the Town was almost broke in the early part of this decade and Johns came in and built up the Town's reserves. Tevis said the Atherton Civic Interest League (ACIL) presented Johns with a merit award in 2002 for his job performance. Tevis concluded that Johns was discredited personally for his audit of the Building Department which was done by direction of the Council.

Sam Goodman, former resident and Town Audit Chairman, was at the meeting when Johns was called to the task of auditing the building department. Goodman said several years have past

since then and nothing has changed in the Town. Goodman concluded that Johns is a good man and a fine accountant and this issue should be put to rest.

Denise Kupperman, Atherton resident, said she hopes Town employees learn something from this and suggested training to address how to deal with employees who don't perform to standards.

Mayor McKeithen read the resolution in appreciation of the public service of John P. Johns for the record.

Assistant City Attorney Ben Winig said the settlement was for \$225,000 which is made out in two separate checks; one for \$135,000 and the remaining is subject to payroll taxes and withholdings. Winig added that there are no benefits or retirement money. Winig concluded that the settlement agreement is a public document and can be obtained through a public records request.

Mayor McKeithen asked for a roll call vote.

Ayes: 3      Nays: 1 (Marsala)      Abstain:      1 (Lewis)      Absent:      0

Council Member Lewis abstained because she does not know Mr. Johns and was not on Council during his employment.

## **ADJOURN**

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

Mayor McKeithen adjourned the meeting at 7:44 p.m.

**Respectfully submitted,**

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**Theresa DellaSanta**  
**Deputy City Clerk**

**TOWN OF ATHERTON**  
CLAIMS LIST APRIL 2010

		Amt
Payroll Checks #	18-40	\$ 54,200
Direct Deposit - Payroll		290,906
Electronic Transfer - A/P & Payroll		437,502
A/P Checks #	10147-10260 Wells Fargo	259,727
	APRIL 2010 Total	\$1,042,335

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 18-40 (payroll), and 10147-10260 (accounts payable), and electronic transfers for employees direct deposits, federal payroll taxes and fees, inclusive, amount to \$1,042,335 are true and correct, and that there are sufficient funds for payment.

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Jerome D. Gruber  
City Manager

The above claims, check numbers 18-40 (payroll), and 10147-10260 (accounts payable), and electronic transfers for employees direct deposits, federal payroll taxes and fees, inclusive, amount to \$1,042,335 are true and correct, and are authorized for payment.

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Kathy McKeithen  
Mayor, Town of Atherton

**SOURCE OF FUNDS**

101	General Fund	\$ 979,502
105	Tennis	1,068
201	Special Parcel Tax	19,986
202	Measure A	4,940
213	Library	1521
401	GF Projects	19,559
616	Employee Benefits	14885
740	Tree Committee	874
	TOTAL	\$ 1,042,335

<u>Invoice No</u>	<u>Description</u>	<u>Reference</u>	<u>Invoice Date</u>	<u>Check Amount</u>
<b>Check No: 10147</b> 2480	<b>Check Date: 04/09/2010</b> RESTRICTED KEYS, T.LYNCH	<b>Vendor: 00009</b>	<b>A-A LOCK &amp; ALARM INC</b> 03/30/2010	9.01
			<b>Check Total:</b>	9.01
<b>Check No: 10148</b> 170 ENCINAL	<b>Check Date: 04/09/2010</b> REFUND C&D DEP. 170 ENCINA	<b>Vendor: 00056</b>	<b>AMERICAN EAGLE ROOFING</b> 04/05/2010	500.00
			<b>Check Total:</b>	500.00
<b>Check No: 10149</b> 000001258119	<b>Check Date: 04/09/2010</b> 752-0600-022710-032610	<b>Vendor: 00077</b>	<b>AT&amp;T CALNET 2</b> 03/27/2010	223.56
000001258120	752-8099 02/27-03/26/10		03/27/2010	500.87
000001269461	327-4859 03/01-03/31/10		04/01/2010	55.39
000001269460	327-3232 03/01-03/31/10		04/01/2010	15.71
000001269462	327-4866 03/01-03/31/10		04/01/2010	15.73
000001243296	271-1736 02/20-03/19/10		03/20/2010	359.64
000001243297	451-6689-02/20-03/19/10		03/20/2010	66.31
000001258118	566-0280 02/27-03/26/10		03/27/2010	111.78
000001255839	322-8691 02/25-03/24/10		03/25/2010	15.71
000001243293	281-1953 02/20-03/19/10		03/20/2010	96.96
000001243292	251-1053 02/20-03/19/10		03/20/2010	84.16
000001243294	252-8343 02/20-03/19/10		03/20/2010	56.61
000001243295	271-5840 02/20-03/19/10		03/20/2010	265.73
000001243299	451-6691 02/20-03/19/10		03/20/2010	76.61
000001222721	462-1470 02/11-03/10/10		03/11/2010	22.95
000001225624	326-1167 02/13-03/12/10		03/13/2010	15.96
000001243298	451-6690 02/20-03/19/10		03/20/2010	66.31
000001220562	323-6452 02/10-03/09/10		03/10/2010	15.71
000001220560	323-3612 02/10-03/09/10		03/10/2010	30.36
000001220561	323-6131 02/10-03/09/10		03/10/2010	114.14
000001219919	289-9297 02/10-03/09/10		03/10/2010	15.72
000001220565	328-3220 02/10-03/09/10		03/10/2010	30.28
000001220558	323-1801 02/10-03/09/10		03/10/2010	14.42
000001220563	323-7653 02/10-03/09/10		03/10/2010	29.35
000001220564	326-2801 02/10-03/09/10		03/10/2010	155.36
000001220557	323-1014 02/10-03/09/10		03/10/2010	30.09
000001220566	473-9743 02/10-03/09/10		03/10/2010	16.29
000001220567	688-6500 2/10-03/09/10		03/10/2010	625.80
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			<b>Check Total:</b>	3,171.95
<b>Check No: 10150</b> 030210	<b>Check Date: 04/09/2010</b> 72 HOURS DETENTION FORM	<b>Vendor: 00118</b>	<b>BELMONT POLICE DEPARTMENT</b> 03/02/2010	34.50
			<b>Check Total:</b>	34.50
<b>Check No: 10151</b> TV195515	<b>Check Date: 04/09/2010</b> TREES, HP PARK-REIMB FROM	<b>Vendor: 00129</b>	<b>BOETHING TREELAND FARMS</b> 02/10/2010	327.75
TV195666	TREES, HP PARK- REIMB FROM		02/16/2010	546.27
			<b>Check Total:</b>	874.02
<b>Check No: 10152</b> 10049602	<b>Check Date: 04/09/2010</b> SERVICE RECEIVER P.D.. 11/19/0	<b>Vendor: 00214</b>	<b>CALIFORNIA SECURITY ALARMS, IN</b> 03/18/2010	240.00
10049600	REPROGRAMMED RECVR CALL		03/18/2010	300.00
			<b>Check Total:</b>	540.00
<b>Check No: 10153</b> 32927	<b>Check Date: 04/09/2010</b> REPAIR HP-2430 N FUSE, DISPAT	<b>Vendor: 00330</b>	<b>COMPUTER TECHNICIANS, INC</b> 03/10/2010	318.85
32945	REPAIR HP 2600 PRINTER, S.PAR		04/02/2010	108.00
			<b>Check Total:</b>	426.85

<u>Invoice No</u>	<u>Description</u>	<u>Reference</u>	<u>Invoice Date</u>	<u>Check Amount</u>
<b>Check No: 10154</b>	<b>Check Date: 04/09/2010</b>	<b>Vendor: 00427</b>	<b>DMS FACILITY SERVICES, INC</b>	
RC-D061507	JANITORIAL SERVICE TOWN HA		03/01/2010	616.34
RC-D061507	JANITORIAL SRVC P.D. MODUL		03/01/2010	109.68
RC-D061507	JANITORIAL SRVC DPW MODUL		03/01/2010	115.08
RC-D061507	JANITORIAL SRVC ADDITION M		03/01/2010	145.98
RC-D061507	JANITORIAL SRVC 99 STATION		03/01/2010	193.09
RC-D061507	JANITORIAL SRVC ATHERTON L		03/01/2010	445.59
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<b>Check No: 10155</b>	<b>Check Date: 04/09/2010</b>	<b>Vendor: 00433</b>	<b>DOUGLAS PRINTERS</b>	
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			<b>Check Total:</b>	<b>1,350.33</b>
<b>Check No: 10156</b>	<b>Check Date: 04/09/2010</b>	<b>Vendor: 00473</b>	<b>RICK ENGERG</b>	
440 CESANO CORRUMB MLS/REG. ENBERG 04/03/			04/07/2010	44.65
			<b>Check Total:</b>	<b>44.65</b>
<b>Check No: 10157</b>	<b>Check Date: 04/09/2010</b>	<b>Vendor: 00501</b>	<b>FIRST CHOICE SERVICES</b>	
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			<b>Check Total:</b>	<b>31.08</b>
<b>Check No: 10158</b>	<b>Check Date: 04/09/2010</b>	<b>Vendor: 00569</b>	<b>MICHAEL GUERRA</b>	
MAR 2010	REIMB PRKNG-USF CONF, GUER		03/30/2010	72.25
MAR.2010	REIMB PRKG-ROLE P.D. CHF,GU		03/30/2010	15.50
			<b>Check Total:</b>	<b>87.75</b>
<b>Check No: 10159</b>	<b>Check Date: 04/09/2010</b>	<b>Vendor: 00582</b>	<b>ALICIA HAMMARSKJOLD</b>	
98 STEVENSONREFUND C&D DEP., 98 STEVENS			04/05/2010	15,075.90
			<b>Check Total:</b>	<b>15,075.90</b>
<b>Check No: 10160</b>	<b>Check Date: 04/09/2010</b>	<b>Vendor: 00751</b>	<b>CHESTER JOHN KOZLOWSKI</b>	
SEPT 09	FEES FOR TREES TO LUMBER F		02/01/2010	345.00
			<b>Check Total:</b>	<b>345.00</b>
<b>Check No: 10161</b>	<b>Check Date: 04/09/2010</b>	<b>Vendor: 00753</b>	<b>KREFELD'S AWARDS, INC</b>	
21128	NAME PLATES PENINSULA CITI		03/12/2010	122.91
			<b>Check Total:</b>	<b>122.91</b>
<b>Check No: 10162</b>	<b>Check Date: 04/09/2010</b>	<b>Vendor: 00798</b>	<b>TIM LYNCH</b>	
040110	04/01/10-DEFENSIVE DRIVING,		04/07/2010	26.05
			<b>Check Total:</b>	<b>26.05</b>
<b>Check No: 10163</b>	<b>Check Date: 04/09/2010</b>	<b>Vendor: 00913</b>	<b>JANELLE MILLER</b>	
APR 2010	REIMB REG&MEALS 4/3/10,MILL		04/07/2010	44.20
			<b>Check Total:</b>	<b>44.20</b>
<b>Check No: 10164</b>	<b>Check Date: 04/09/2010</b>	<b>Vendor: 00929</b>	<b>MUNI SERVICES LLC</b>	
ALVARADO HARDWARE 7/09-6/10 ALVARADO H			03/29/2010	150.00
ORBITZ PAINTINGS LIC. 1/10-6/10 ORBITZ PAIN			04/02/2010	75.00
MASSEY PAINTING 1/10-6/10 TOM & MITCH MA			04/01/2010	75.00
			<b>Check Total:</b>	<b>300.00</b>
<b>Check No: 10165</b>	<b>Check Date: 04/09/2010</b>	<b>Vendor: 00950</b>	<b>LISA NEWTON</b>	
46 FREDRICK	CANCELLED B.L. FEE,B.P. 39421-		02/22/2010	234.00
46 FREDRICK	CANCELLED PERMIT #39421-46		02/22/2010	599.00
46 FREDRICK	CANCELLED R.I. FEE, B.P. 39421-		02/22/2010	461.50
			<b>Check Total:</b>	<b>1,294.50</b>

<u>Invoice No</u>	<u>Description</u>	<u>Reference</u>	<u>Invoice Date</u>	<u>Check Amount</u>
Check No: 10166 7457969332-1	Check Date: 04/09/2010 ELEC. POLICE STATION 02/25/10-	Vendor: 01037	PG & E 03/26/2010	1,685.20 1,685.20
Check No: 10167 2303091305	Check Date: 04/09/2010 SHRED DOCUMENTS P.D. 2/19-3/	Vendor: 01113	RECALL SECURE DESTRUCTION SERV 03/20/2010	89.08 89.08
Check No: 10168 457907	Check Date: 04/09/2010 REPAIR TIRE, FORD RANGER LI	Vendor: 01133	REDWOOD GENERAL TIRE CO. INC 03/08/2010	32.00 32.00
Check No: 10169 W36055	Check Date: 04/09/2010 INSTALL WATER HEATER, POLI	Vendor: 01141	REDWOOD PLUMBING CO. INC 03/31/2010	1,385.00 1,385.00
Check No: 10170 16518	Check Date: 04/09/2010 P.D. INTERNAL INVESTIGATION	Vendor: 01142	RENNE SLOAN HOLTZMAN SAKAI LLP 02/28/2010	266.50 266.50
Check No: 10171 94901428	Check Date: 04/09/2010 RENT, P.D. TRAILER 3/29-4/28/10	Vendor: 01273	WILLIAMS SCOTSMAN, INC 03/29/2010	729.97 729.97
Check No: 10172 AR263780	Check Date: 04/09/2010 P.D. COPIER CONTRACT,S450N,	Vendor: 01289	SHARP ELECTRONICS CORPORATION 03/25/2010	485.63 485.63
Check No: 10173 130538811-028	Check Date: 04/09/2010 MOBILE DATA COMM. 2/26-3/25	Vendor: 01313	SPRINT 03/29/2010	480.49 480.49
Check No: 10174 35756	Check Date: 04/09/2010 OFF DUTY HOLSTER-TONY DEN	Vendor: 01333	SUMMIT UNIFORMS CORP 03/25/2010	86.31 86.31
Check No: 10175 FEB 2010	Check Date: 04/09/2010 P.D. VEHICLE WASH 2/1-2/28/10	Vendor: 01465	WATER WORKS WEST, LLC 03/02/2010	120.00 120.00
Check No: 10176 T7864	Check Date: 04/09/2010 K-9 TRAINING MAR 2010-REX	Vendor: 01477	WITMER-TYSON IMPORTS INC 04/01/2010	443.70 443.70
Check No: 10177	Check Date: 04/12/2010 PR Batch 501 3 2010 Dental Insuran PR Batch 502 3 2010 Dental Insuran	Vendor: 01349	TEAMSTERS LOCAL 856 H & W 03/10/2010 03/24/2010	3,360.50 3,360.50 6,721.00
Check No: 10178	Check Date: 04/12/2010 PR Batch 502 3 2010 Teamsters Due	Vendor: 01353	TEAMSTERS UNION LOCAL 856 03/24/2010	401.55 401.55
Check No: 10179 206814	Check Date: 04/16/2010 LOCKSMITH SERVICE 160 WAT	Vendor: 00009	A-A LOCK & ALARM INC 03/29/2010	115.00 115.00

<u>Invoice No</u>	<u>Description</u>	<u>Reference</u>	<u>Invoice Date</u>	<u>Check Amount</u>
<b>Check No: 10180</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 00025</b>	<b>ACCONTEMPS</b>	
30936068	FINANCE TEMP, D.SANGHVI 03/		04/05/2010	548.96
30900905	FINANCE TEMP, D.SANGHVI 03/		03/29/2010	548.96
30927390	CREDIT FINANCE TEMP, D.SAN		04/05/2010	-98.00
			<b>Check Total:</b>	<b>999.92</b>
<b>Check No: 10181</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 00069</b>	<b>AT&amp;T</b>	
000001269459	324-5396 03/01-03/31/10		04/01/2010	55.70
000001258117	330-0686 02/27-03/26/10		03/27/2010	15.71
			<b>Check Total:</b>	<b>71.41</b>
<b>Check No: 10182</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 00205</b>	<b>CAL WATER SERVICE</b>	
62126158/3-31-1 94	Ashfield		03/31/2010	45.49
91512681/3-31-1 91	Ashfield		03/31/2010	16.24
91512699/3-31-1	Station Lane Meter		03/31/2010	1.99
91512699/3-31-1	Station Lane Meter		03/31/2010	11.93
91512664/3-31-1 83	Ashfield		03/31/2010	78.39
91512699/3-31-1	Station Lane Meter		03/31/2010	5.97
62051509/3-31-1	Alameda/Atherton		03/31/2010	54.77
62061499/3-31/1	El Camino Real		03/31/2010	54.77
97947324/3-31-1	El Camino Real (2)		03/31/2010	54.77
89783897/3-31-1	Maple		03/31/2010	24.47
62051537/3-31-1 150	Watkins		03/31/2010	131.56
6051537FirePr/3 50	Watkins (Fire Protection)		03/31/2010	26.37
97127159/3-31-1 2	Station Lane		03/31/2010	38.16
			<b>Check Total:</b>	<b>544.88</b>
<b>Check No: 10183</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 00215</b>	<b>CALIFORNIA RAIL FOUNDATION</b>	
APR 2010	HIGH SPEED RAIL EXPERT, ATH		04/12/2010	5,000.00
			<b>Check Total:</b>	<b>5,000.00</b>
<b>Check No: 10184</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 00277</b>	<b>CITY OF MENLO PARK</b>	
0909490	09/14/09 SIGNAL REPAIR VALPA		03/29/2010	205.78
0912491	12/23/09 SIGNAL REPAIR VALPA		03/29/2010	393.06
MAR 2010	9/14/09 ENERGY/MAINT VALPAR		03/29/2010	236.58
			<b>Check Total:</b>	<b>835.42</b>
<b>Check No: 10185</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 00281</b>	<b>CITY OF REDWOOD CITY</b>	
BR24387	I.T. SERVICE MARCH 2010		03/31/2010	2,262.00
			<b>Check Total:</b>	<b>2,262.00</b>
<b>Check No: 10186</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 00289</b>	<b>CLARK PEST CONTROL</b>	
9735904	WEED CONTROL HP PARK MAR		03/26/2010	855.00
			<b>Check Total:</b>	<b>855.00</b>
<b>Check No: 10187</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 00409</b>	<b>DEPT OF JUSTICE ACCOUNTING OFF</b>	
785076	FINGERPRINT APPS, MARCH 201		04/06/2010	32.00
			<b>Check Total:</b>	<b>32.00</b>
<b>Check No: 10188</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 00433</b>	<b>DOUGLAS PRINTERS</b>	
TA040510	(2500) WINDOW ENVELOPES		04/05/2010	208.66
TA040510	BUSINESS CARDS, AIELLO,AND		04/05/2010	207.57
			<b>Check Total:</b>	<b>416.23</b>
<b>Check No: 10189</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 00501</b>	<b>FIRST CHOICE SERVICES</b>	
281415	COFFEE/TEA PERMIT CENTER		04/06/2010	53.02
			<b>Check Total:</b>	<b>53.02</b>

<u>Invoice No</u>	<u>Description</u>	<u>Reference</u>	<u>Invoice Date</u>	<u>Check Amount</u>
<b>Check No: 10190</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 00577</b>	<b>SHERMAN HALL</b>	
APR 2010	REIMB MEALS INTRNL INVEST		04/12/2010	56.93
			<b>Check Total:</b>	56.93
<b>Check No: 10191</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 00585</b>	<b>N HARRIS COMPUTER CORPORATION</b>	
MN002515	TECHNICAL SOFTWARE ASSIST		03/31/2010	1,732.73
			<b>Check Total:</b>	1,732.73
<b>Check No: 10192</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 00609</b>	<b>HOME DEPOT CREDIT SERVICES</b>	
1254/MAR 2010	PARK BOLLARDS		04/05/2010	26.18
1254/MAR 2010	PARK REPAIRS-LAGS,SCREWS,B		04/05/2010	233.50
			<b>Check Total:</b>	259.68
<b>Check No: 10193</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 00645</b>	<b>IDEAL RV AND TRAILER SUPPLY</b>	
26724	PROPANE-OUTDOOR HEATERS		03/30/2010	126.70
			<b>Check Total:</b>	126.70
<b>Check No: 10194</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 00649</b>	<b>IEDA INC</b>	
APR 2010	LABOR RELATIONS CONSULTIN		04/01/2010	1,000.00
			<b>Check Total:</b>	1,000.00
<b>Check No: 10195</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 00657</b>	<b>IMPAC. GOVERNMENT SERVICES</b>	
4832/03-22-10	SALES TAX PAYABLE		03/22/2010	-83.16
4960/03-22-10	HIGH SPEED RAIL COLOR COPY		03/22/2010	165.20
4960/03-22-10	HIGH SPEED RAIL NO. COLOR C		03/22/2010	202.78
4324/03-22-10	LUNCH SUPPLIES-3/15/10		03/22/2010	97.34
4960/03-22-10	CCAC ANNL CONF REG,DELLAS		03/22/2010	410.00
4324/03-22-10	BANNERS		03/22/2010	553.55
7190/03-22-10	CSMFO, BEG GOV'T ACCT, 05/12/		03/22/2010	50.00
7190/03-22-10	PARKING/BART CALPCA 03/19/1		03/22/2010	9.50
7190/03-22-10	CALPCA, L.HO		03/22/2010	395.00
5424/03-22-10	PRE-INKED STAMP "TOWN OF A		03/22/2010	72.64
4324/03-22-10	CONSTANT CONTACT MARCH 2		03/22/2010	15.00
5432/03-22-10	BREAKFAST ITEMS, PD STAFF		03/22/2010	21.97
5432/03-22-10	TRAINING-T.LYNCH,K-9 MGMT,		03/22/2010	393.00
0596/03-22-10	PARKING-GUERRA,ROLE OF PO		03/22/2010	15.50
0596/03-22-10	LUNCH-GUERRA,ROLE OF POLI		03/22/2010	8.59
0596/03-22-10	PARKING-GUERRA,ROLE OF PO		03/22/2010	8.00
0596/03-22-10	PARKING-GUERRA,ROLE OF PO		03/22/2010	8.00
0596/03-22-10	PARKING-GUERRA,ROLE OF PO		03/22/2010	8.00
0596/03-22-10	PARKING-GUERRA,USF CONFER		03/22/2010	22.50
5432/03-22-10	CONSTRUCTION ALARM SUBSC		03/22/2010	19.95
5432/03-22-10	TABS-FTO MANUALS		03/22/2010	7.73
5465/03-22-10	COFFEE P.D. MARCH 2010		03/22/2010	204.00
5432/03-22-10	TONER, DISPATCH		03/22/2010	301.51
5432/03-22-10	INKPADS FOR OFFICERS		03/22/2010	112.45
5432/03-22-10	INK FOR TRAK PRINTER-DISPAT		03/22/2010	316.04
5432/03-22-10	TONERS & INK CARTRIDGES P.		03/22/2010	146.67
5432/03-22-10	BATTERIES FOR RADAR REMOT		03/22/2010	52.84
5432/03-22-10	EVIDENCE SUPPLIES, SGT LYNC		03/22/2010	118.73
5432/03-22-10	TABS, COLORED PAPER, PENS-D		03/22/2010	65.83
5432/03-22-10	P.D., KITCHEN & BATHROOM SU		03/22/2010	454.65
5432/03-22-10	CORDLESS CABLES & CHARGER		03/22/2010	160.41
5432/03-22-10	(6) CHAIRS - SQUAD ROOM		03/22/2010	709.97
4832/03-22-10	ERGO CHAIR, J.MATTES		03/22/2010	982.16
5408/03-22-10	FASTRAK REPLENISHMENT, MA		03/22/2010	25.00
5408/03-22-10	REINFORCEMENT BAR FOR TRA		03/22/2010	18.91
5408/03-22-10	INTERNET FEES FOR IRRIGATIO		03/22/2010	248.80
5408/03-22-10	CARRIAGE HOUSE LIGHT FOR E		03/22/2010	31.94
5408/03-22-10	VANDAL RESISTANT TORX WR		03/22/2010	16.35

<u>Invoice No</u>	<u>Description</u>	<u>Reference</u>	<u>Invoice Date</u>	<u>Check Amount</u>
5408/03-22-10	PODS RENTAL HP PARK MARCH		03/22/2010	382.38
			<b>Check Total:</b>	6,749.73
<b>Check No:</b> 10196	<b>Check Date:</b> 04/16/2010	<b>Vendor:</b> 00678	<b>INTERNAL REVENUE SERVICE</b>	
DEC 2009	SOCIAL SECURITY TAX DEC 20		04/14/2010	27.44
			<b>Check Total:</b>	27.44
<b>Check No:</b> 10197	<b>Check Date:</b> 04/16/2010	<b>Vendor:</b> 00681	<b>INTERSTATE TRAFFIC CONTROL</b>	
127901	HP PARK SIGNS		03/31/2010	56.38
127856	REPAIR 1/A200 BRUSH MOWER		03/26/2010	344.67
			<b>Check Total:</b>	401.05
<b>Check No:</b> 10198	<b>Check Date:</b> 04/16/2010	<b>Vendor:</b> 00697	<b>J.J. NGUYEN INC</b>	
MAR 2010	HP PARK WATER TOWER LAWN		03/29/2010	4,213.71
			<b>Check Total:</b>	4,213.71
<b>Check No:</b> 10199	<b>Check Date:</b> 04/16/2010	<b>Vendor:</b> 00737	<b>KIKUCHI &amp; ASSOCIATES, INC</b>	
MAR 2010	CONSTRUCTION DOCS & PRESE		04/05/2010	5,004.20
			<b>Check Total:</b>	5,004.20
<b>Check No:</b> 10200	<b>Check Date:</b> 04/16/2010	<b>Vendor:</b> 00741	<b>KIMLEY-HORN &amp; ASSOC INC</b>	
4073398	PROG MGMNT ENCINAL/MDLFL		02/28/2010	4,940.00
4073398	PROG MGMNT ENCINAL/MDLFL		02/28/2010	4,940.00
4073398	PROG MGMNT ENCINAL/MDLFL		02/28/2010	4,940.00
			<b>Check Total:</b>	14,820.00
<b>Check No:</b> 10201	<b>Check Date:</b> 04/16/2010	<b>Vendor:</b> 00753	<b>KREFELD'S AWARDS, INC</b>	
21208	NAME PLATE, PENINSULA CITIE		04/03/2010	16.39
			<b>Check Total:</b>	16.39
<b>Check No:</b> 10202	<b>Check Date:</b> 04/16/2010	<b>Vendor:</b> 00801	<b>LYNGSO GARDEN MATERIALS, INC</b>	
792121	NURSERY MIX-HP PARK		04/06/2010	83.03
			<b>Check Total:</b>	83.03
<b>Check No:</b> 10203	<b>Check Date:</b> 04/16/2010	<b>Vendor:</b> 00945	<b>NEC UNIFIED SOLUTIONS INC</b>	
TM0000015270	PHONE LINE FROM TRAILER-TR		03/31/2010	218.00
			<b>Check Total:</b>	218.00
<b>Check No:</b> 10204	<b>Check Date:</b> 04/16/2010	<b>Vendor:</b> 00993	<b>ORCHARD SUPPLY HARDWARE</b>	
1359/MAR 10	SIGN POST CEMENT		03/25/2010	22.64
1359/MAR 10	PARK BOLLARDS		03/25/2010	34.24
1359/MAR 10	PARTS TO REPAIR MENS RESTR		03/25/2010	54.87
1359/MAR 10	PARK BOLLARDS		03/25/2010	57.05
1359/MAR 10	ANNUALS HP PARK		03/25/2010	114.63
1359/MAR 10	WEDGE 1/2 X 4 1/2"		03/25/2010	52.27
1359/MAR 10	SECURITY LIGHTS		03/25/2010	9.82
			<b>Check Total:</b>	345.52
<b>Check No:</b> 10205	<b>Check Date:</b> 04/16/2010	<b>Vendor:</b> 01029	<b>PETTY CASH</b>	
APR 2010	REIMB BRM POSTAGE SPRING A		04/07/2010	40.00
			<b>Check Total:</b>	40.00
<b>Check No:</b> 10206	<b>Check Date:</b> 04/16/2010	<b>Vendor:</b> 01037	<b>PG &amp; E</b>	
3457969588-2/03	Signal E/S Middlefield		03/26/2010	43.51
9291302548-9/M	Station Lane		03/28/2010	75.97
9166302556-6/M	Atherton Library		03/28/2010	473.54
			<b>Check Total:</b>	593.02

<u>Invoice No</u>	<u>Description</u>	<u>Reference</u>	<u>Invoice Date</u>	<u>Check Amount</u>
<b>Check No: 10207</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 01089</b>	<b>PURCHASE POWER</b>	
2882/03-17-10	POSTAGE REFILL 3/17/10		04/04/2010	1,096.97
			<b>Check Total:</b>	1,096.97
<b>Check No: 10208</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 01237</b>	<b>SAN MATEO CNTY SHERIFF'S OFFIC</b>	
8427	LIVE SCAN SERVICE MARCH 20		04/06/2010	18.00
			<b>Check Total:</b>	18.00
<b>Check No: 10209</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 01241</b>	<b>SAN MATEO CNTY SHERIFF'S OFFIC</b>	
CL02383	FORENSIC LAB SERVICE MARC		03/31/2010	409.00
			<b>Check Total:</b>	409.00
<b>Check No: 10210</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 01289</b>	<b>SHARP ELECTRONICS CORPORATION</b>	
AR245405	BAL OWED CONTRACT COPIER		01/11/2010	6.41
			<b>Check Total:</b>	6.41
<b>Check No: 10211</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 01290</b>	<b>SHELTON ROOFING COMPANY INC</b>	
284 GREEN OAK	REFUND C&D DEP 284 GREEN O		04/07/2010	500.00
			<b>Check Total:</b>	500.00
<b>Check No: 10212</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 01369</b>	<b>STACEY THORNBURG</b>	
79	INVESTIGATE POLICE APPLICA		04/05/2010	1,264.52
			<b>Check Total:</b>	1,264.52
<b>Check No: 10213</b>	<b>Check Date: 04/16/2010</b>	<b>Vendor: 01401</b>	<b>TURBO DATA SYSTEMS INC</b>	
16488	CITATION PROCESSING MARCH		03/31/2010	91.96
			<b>Check Total:</b>	91.96
<b>Check No: 10216</b>	<b>Check Date: 04/22/2010</b>	<b>Vendor: 00361</b>	<b>CPOA</b>	
APR 2010	BLLTPRF THE MIND 4/28/10 LNC		04/22/2010	255.00
			<b>Check Total:</b>	255.00
<b>Check No: 10217</b>	<b>Check Date: 04/22/2010</b>	<b>Vendor: 00868</b>	<b>DENNIS MCDONNELL</b>	
061-103-110	RFND 2ND INSTALLMENT- WRN		04/08/2010	187.50
			<b>Check Total:</b>	187.50
<b>Check No: 10218</b>	<b>Check Date: 04/22/2010</b>	<b>Vendor: 00941</b>	<b>NEAL MARTIN &amp; ASSOCIATES</b>	
1032	SACRED HEART DEPOSIT ACCO		01/31/2010	602.00
1034	PLANNING- GARBAGE/RECYCLI		01/31/2010	1,665.63
1041	PLANNING- GARBAGE/RECYCLI		02/28/2010	563.75
1032	PLANNING SERVICES 1/1-1/31/10		01/31/2010	14,055.27
1039	PLANNING SERVICES 2/1-2/28/10		02/28/2010	14,378.41
1033	HOUSING ELEMENT 1/1-1/31/10		01/31/2010	2,287.00
1040	HOUSING ELEMENT 2/1-2/28/10		02/28/2010	2,873.13
			<b>Check Total:</b>	36,425.19
<b>Check No: 10219</b>	<b>Check Date: 04/22/2010</b>	<b>Vendor: 00037</b>	<b>AFLAC</b>	
	PR Batch 501 3 2010 AFLAC Hospit		03/10/2010	76.76
	PR Batch 501 3 2010 AFLAC Intensi		03/10/2010	24.39
	PR Batch 501 3 2010 AFLAC Life Pr		03/10/2010	34.14
	PR Batch 501 3 2010 AFLAC PersDi		03/10/2010	22.29
	PR Batch 501 3 2010 AFLAC Specif		03/10/2010	50.24
	PR Batch 501 3 2010 AFLAC Accide		03/10/2010	227.46
	PR Batch 501 3 2010 AFLAC Cance		03/10/2010	159.75
	PR Batch 501 3 2010 AFLAC Dental		03/10/2010	90.41
	PR Batch 502 3 2010 AFLAC Accide		03/24/2010	227.46
	PR Batch 502 3 2010 AFLAC Cance		03/24/2010	159.75
	PR Batch 502 3 2010 AFLAC Dental		03/24/2010	90.41
	PR Batch 502 3 2010 AFLAC Hospit		03/24/2010	76.76

<u>Invoice No</u>	<u>Description</u>	<u>Reference</u>	<u>Invoice Date</u>	<u>Check Amount</u>
	PR Batch 502 3 2010 AFLAC Intensi		03/24/2010	24.39
	PR Batch 502 3 2010 AFLAC Life Pr		03/24/2010	34.14
	PR Batch 502 3 2010 AFLAC PersDi		03/24/2010	22.29
	PR Batch 502 3 2010 AFLAC Specif		03/24/2010	50.24
MAR 2010	K.PRONSKE 502-03-2010		03/29/2010	-11.12
MAR 2010	K.PRONSKE 501-03-2010		03/29/2010	-11.12
	PR Batch 501 3 2010 Flex Participati		03/10/2010	20.00
MAR 10/043621	HSA SERVICE FEE, E.WILKERSON		04/01/2010	5.00
MAR 10/043621	HSA SERVICE FEE, L.HO,M.COLLI		04/01/2010	10.00
MAR 10/043621	HSA SERVICE FEE, M.GUERRA		04/01/2010	5.00
MAR 10/043621	HSA SERVICE FEE, T.HENDERSO		04/01/2010	5.00
<b>Check Total:</b>				<b>1,393.64</b>
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	PR Batch 501 3 2010 Vision Insuran		03/10/2010	391.69
	PR Batch 502 3 2010 Vision Insuran		03/24/2010	391.69
MAR 2010	PR BATCH 501 3 2010 VISION INS		03/12/2010	17.35
MAR 2010	PR BATCH 502 3 2010 VISION INS		03/12/2010	17.35
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	PR Batch 502 4 2010 Teamsters Due		04/21/2010	401.55
	PR Batch 501 4 2010 Teamsters Due		04/07/2010	401.55
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8002805	ADMIN MARCH 2010		04/01/2010	19.74
8002745	ADMIN FEB 2010		03/01/2010	19.74
8002644	ADMIN JAN 2010		02/01/2010	19.74
8002805	STATION LN PLANNING MAR 20		04/01/2010	7.96
8002745	STATION LN PLANNING FEB 210		03/01/2010	7.96
8002644	STATION LN PLANNING JAN 201		02/01/2010	7.96
8002644	STATION LN BLDG DEPT JAN 20		02/01/2010	47.77
8002745	STATION LN BLDG FEB 2101		03/01/2010	47.77
8002805	STATION LN BLDG MAR 2010		04/01/2010	47.77
8002805	POLICE DEPT MARCH 2010		04/01/2010	33.61
8002745	POLICE DEPT FEB 2010		03/01/2010	33.61
8002644	POLICE DEPT JAN 2010		02/01/2010	33.61
8002644	STATION LN DPW JAN 2010		02/01/2010	23.89
8002745	STATION LN DPW FEB 2101		03/01/2010	23.89
8002805	STATION LN DPW MAR 2010		04/01/2010	23.89
8002644	CORP YARD JAN 2010		02/01/2010	55.01
8002745	CORP YARD FEB 2010		03/01/2010	55.01
8002805	CORP YARD MAR 2010		04/01/2010	55.01
8002805	HP ACTIVITIES BLDG MAR 2010		04/01/2010	18.40
8002745	HP ACTIVITIES BLDG FEB 2010		03/01/2010	18.40
8002644	HP ACTIVITIES BLDG JAN 2010		02/01/2010	18.40
8002805	HP PARK 150 WATKINS MAR 201		04/01/2010	169.84
8002745	HP PARK 150 WATKINS FEB 2010		03/01/2010	169.84
8002644	HP PARK 150 WATKINS JAN 2010		02/01/2010	169.84
8002805	HP PARK 160 WATKINS MAR 201		04/01/2010	144.30
8002745	HP PARK 160 WATKINS FEB 2010		03/01/2010	144.30
8002644	HP PARK 160 WATKINS JAN 2010		02/01/2010	144.30
8002644	STATION LN LIBRARY JAN 2010		02/01/2010	39.42
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APRIL 2010	APRIL 2010 MONTHLY		04/01/2010	720.00

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04102799391498	WATER, P.D. 3/11-4/6/10		04/07/2010	191.12
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0000001308104	251-1053	03/20-04/19/10	04/20/2010	84.16
0000001285023	688-6500	03/10-04/09/10	04/10/2010	618.06
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0000001290371	326-1167	03/13-04/12/10	04/13/2010	16.05
0000001285021	328-3220	03/10-04/09/10	04/10/2010	30.25
0000001285019	323-7653	03/10-04/09/10	04/10/2010	29.31
0000001285014	323-1801	03/10-04/09/10	04/10/2010	14.42
0000001285017	323-6131	03/10-04/09/10	04/10/2010	114.14
0000001285016	323-3612	03/10-04/09/10	04/10/2010	30.35
0000001284375	289-9297	03/10-04/09/10	04/10/2010	15.72
0000001285022	473-9743	03/10-04/09/10	04/10/2010	16.19
0000001285013	323-1014	03/10-04/09/10	04/10/2010	30.09
0000001285020	326-2801	03/10-04/09/10	04/10/2010	155.36
0000001285018	323-6452	03/10-04/09/10	04/10/2010	15.71
0000001285015	323-1802	03/10-04/09/10	04/10/2010	44.00
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11166	HP PARK IRRIGATION 3/1-3/25/1		04/22/2010	2,245.92
11127	HP PARK IRRIGATION 1/5-2/28/1		04/05/2010	17,124.92
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1	ODELL PLACERFUND C&D DEPOSIT 1 ODELL		04/27/2010	3,179.20
			<b>Check Total:</b>	3,179.20
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80445	SPEC BOOK/PLANS ENCINAL IN		04/12/2010	1,052.57
			<b>Check Total:</b>	1,052.57
<b>Check No: 10229</b>	<b>Check Date: 04/29/2010</b>	<b>Vendor: 00205</b>	<b>CAL WATER SERVICE</b>	
90069321/03-10	STATION LANE 3/5-4/2/10		04/05/2010	12.62
62040688/03-10	99 ASHFIELD 3/5-4/2/10		04/05/2010	36.15
			<b>Check Total:</b>	48.77
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APR 2010	REIMB CITY COUNCIL DINNER		04/21/2010	102.55
APR 2010	REIMB EMERGENCY REPAIR FO		04/21/2010	156.55
APR 2010	REIMB PLANTS PAVILION CONT		04/21/2010	40.71
APR 2010	REIMB PLANTS PAVILION CONT		04/21/2010	76.11
APR 2010	REIMB PAINT MAIN HOUSE		04/21/2010	32.79
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601280	ST JOSEPHS TRAFFIC STUDY 3/1		04/16/2010	21,588.85
			<b>Check Total:</b>	21,588.85
<b>Check No: 10232</b>	<b>Check Date: 04/29/2010</b>	<b>Vendor: 00261</b>	<b>THE CITIES GROUP</b>	
MAR 2010	GROUP LIFE/ADD & WI PRGM D		03/01/2010	6,316.62
MAR 2010	LIFE PROGRAM ASSESSMENT 1/		03/01/2010	15,430.76

<u>Invoice No</u>	<u>Description</u>	<u>Reference</u>	<u>Invoice Date</u>	<u>Check Amount</u>
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5835	CALOPPS ANNUAL FEE - 2010		04/05/2010	1,500.00
			<b>Check Total:</b>	1,500.00
<b>Check No:</b> 10234	<b>Check Date:</b> 04/29/2010	<b>Vendor:</b> 00281	<b>CITY OF REDWOOD CITY</b>	
BR24347	FUEL CHARGES BLDG		03/31/2010	38.73
BR24308	VEHICLE REPAIR 2/16-3/15/10 P.		03/31/2010	3,462.71
BR24347	FUEL CHARGES P.D.		03/31/2010	3,051.26
BR24347	FUEL CHARGES DPW ENG		03/31/2010	27.46
BR24308	VEHICLE REPAIR 2/16-3/15/10 DP		03/31/2010	462.94
BR24347	FUEL CHARGES DPW STREETS		03/31/2010	701.69
BR24347	FUEL CHARGES DPW PARKS		03/31/2010	115.60
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1987814-00	LINER,TOWEL,TISSUE,PAPER C		04/07/2010	488.60
			<b>Check Total:</b>	488.60
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530031423	H91730 SYMC Backup EXEC 2010		04/14/2010	1,098.94
530031423	SYMC Backup EXEC 2010 Agent fo		04/14/2010	1,090.78
60254053	H91730 B/U EXEC 2010 WIN SVR		04/30/2010	372.00
60254053	B/U EXEC 2010 AWS BNDL BASI		04/30/2010	1,332.00
60254053	B/U EXEC 2010 XCHING AGT BN		04/30/2010	372.00
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<b>Check No:</b> 10237	<b>Check Date:</b> 04/29/2010	<b>Vendor:</b> 00341	<b>CONTRACT SWEEPING SERVICES</b>	
INV100000128	STREET SWEEPING JAN 2010		01/28/2010	992.70
			<b>Check Total:</b>	992.70
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63 DE BELL	REFUND C&D DEP. 63 DEBELL		04/14/2010	500.00
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<b>Check No:</b> 10239	<b>Check Date:</b> 04/29/2010	<b>Vendor:</b> 00377	<b>CSG CONSULTANTS INC</b>	
017926	SR CODE ENFORCEMENT 3/3-3/2		04/09/2010	3,910.11
			<b>Check Total:</b>	3,910.11
<b>Check No:</b> 10240	<b>Check Date:</b> 04/29/2010	<b>Vendor:</b> 00384	<b>CUTWATER INVESTOR SERVICES COR</b>	
13029A	MARCH 10 SERVICE CHARGE		04/15/2010	1,000.00
			<b>Check Total:</b>	1,000.00
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C6350	COUNCIL OF CITIES DINNER 03/		06/26/2010	1,614.17
			<b>Check Total:</b>	1,614.17
<b>Check No:</b> 10242	<b>Check Date:</b> 04/29/2010	<b>Vendor:</b> 00393	<b>DELL MARKETING L.P.</b>	
XDR4NX781	73GB,15K RPM SCSI 3GBPS HAR		04/15/2010	185.82
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RC-D061760	JANITORIAL SERVICE APR 2010		04/01/2010	616.34
RC-D061760	JANITORIAL SERVICE APR 2010		04/01/2010	109.68
RC-D061760	JANITORIAL SERVICE APR 2010		04/01/2010	115.08
RC-D061760	JANITORIAL SERVICE APR 2010		04/01/2010	145.98
RC-D061760	JANITORIAL SERVICE APR 2010		04/01/2010	193.09
RC-D061760	JANITORIAL SERVICE APR 2010		04/01/2010	445.59

<u>Invoice No</u>	<u>Description</u>	<u>Reference</u>	<u>Invoice Date</u>	<u>Check Amount</u>
			<b>Check Total:</b>	1,625.76
<b>Check No: 10244</b>	<b>Check Date: 04/29/2010</b>	<b>Vendor: 00434</b>	<b>PIETRO DOVA</b>	
44 TUSCALOOSREFUND UTILITY DEP 44 TUSCA			04/15/2010	5,000.00
			<b>Check Total:</b>	5,000.00
<b>Check No: 10245</b>	<b>Check Date: 04/29/2010</b>	<b>Vendor: 00476</b>	<b>JUDITH ENGEL</b>	
35 RALSTON REFUND C&D DEPOSIT 35 RALS			04/27/2010	1,000.00
			<b>Check Total:</b>	1,000.00
<b>Check No: 10246</b>	<b>Check Date: 04/29/2010</b>	<b>Vendor: 00501</b>	<b>FIRST CHOICE SERVICES</b>	
285088 COFFEE-ADMIN			04/16/2010	62.41
281418 COFFEE-CORP YARD			04/06/2010	22.71
			<b>Check Total:</b>	85.12
<b>Check No: 10247</b>	<b>Check Date: 04/29/2010</b>	<b>Vendor: 00797</b>	<b>LIBERTY CASSIDY WHITMORE</b>	
WORKSHOP-MAVOR	WORKSHOP MAY 05 10 E WILKE		04/26/2010	14.00
WORKSHOP-MAVOR	WORKSHOP MAY 05 10 S HALL		04/26/2010	14.00
			<b>Check Total:</b>	28.00
<b>Check No: 10248</b>	<b>Check Date: 04/29/2010</b>	<b>Vendor: 00928</b>	<b>B. COOLEY MUCHMORE</b>	
COOLEY MUCHMORE	PRINT#58 BATCH#46		05/04/2010	256.50
			<b>Check Total:</b>	256.50
<b>Check No: 10249</b>	<b>Check Date: 04/29/2010</b>	<b>Vendor: 00929</b>	<b>MUNI SERVICES LLC</b>	
ROMKON INC BUSINESS LICENSE ROMKON IN			04/27/2010	60.00
LIMEY ROOFING BUSINESS LIC LIMEY ROOFING			04/27/2010	75.00
RMI MECH.INC BUS LIC RMI MECHANICAL INC			04/27/2010	75.00
CENTERLINE CO BUSINESS LISCENS	04/15/10		04/29/2010	75.00
COYLE MASONRY BUSINESS LICENSE	04/12/10		04/30/2010	75.00
SEWER SPECIAL BUSINESS LICENSE	04/09/10		04/29/2010	75.00
JJDESIGN BUSINESS LICENSE	04/07/10		04/29/2010	50.00
CARLBECKS BIZ LICENSE CARL A BECKS 05/			05/04/2010	75.00
			<b>Check Total:</b>	560.00
<b>Check No: 10250</b>	<b>Check Date: 04/29/2010</b>	<b>Vendor: 00977</b>	<b>OFFICE DEPOT</b>	
5149301840001 CHAIR, S.TYLER			04/05/2010	222.31
5147824360001 CALCULATOR, J.CARDONNA			04/02/2010	34.40
			<b>Check Total:</b>	256.71
<b>Check No: 10251</b>	<b>Check Date: 04/29/2010</b>	<b>Vendor: 01037</b>	<b>PG &amp; E</b>	
5678831050/3-10Ashfield/Town Hall 3/1-3/26/10			04/01/2010	421.87
7457969332-1/04 83 Ashfield Rd - PD 03/27/10 - 04/2			04/26/2010	1,818.65
5678831025/3-10Signal-Middlefield/Oak Grove 3/1-3/			04/13/2010	43.99
9531312943-9/3- 93 Dinkelspiel Station Ln 02/25-03/2			03/28/2010	148.28
5678831020/3-10Signal-Marsh/Middlefield 3/1-3/29/1			04/13/2010	23.56
5678831002et al Street Lights			04/13/2010	4,099.96
5678831015/3-10Signal E/S Middlefield 3/3-3/29/10			04/13/2010	48.22
5678831040/3-10Pump 150 Watkins 3/1-3/29/10			04/13/2010	164.03
5678831030/3-10Activity Bldg 150 Watkins 3/1-3/29/			04/13/2010	336.36
5678831035/3-10Modular Building 150 Watkins 3/1-3			04/13/2010	473.05
			<b>Check Total:</b>	7,577.97
<b>Check No: 10252</b>	<b>Check Date: 04/29/2010</b>	<b>Vendor: 01078</b>	<b>PROSOLUTIONS, INC</b>	
PROSOLUTIONSREFUND#57 BATCH#45			05/04/2010	10,159.20
			<b>Check Total:</b>	10,159.20
<b>Check No: 10253</b>	<b>Check Date: 04/29/2010</b>	<b>Vendor: 01076</b>	<b>BARBARA PROULX</b>	
073-202-860 2ND INST WRONG PARCEL CLA			05/04/2010	187.50

<u>Invoice No</u>	<u>Description</u>	<u>Reference</u>	<u>Invoice Date</u>	<u>Check Amount</u>
073-191-040	2ND INST WRONG PARCEL CLA		05/04/2010	240.00
			<b>Check Total:</b>	427.50
<b>Check No: 10254</b>	<b>Check Date: 04/29/2010</b>	<b>Vendor: 01142</b>	<b>RENNE SLOAN HOLTZMAN SAKAI LLP</b>	
16668	P.D. INTERNAL INVESTIGATION		03/31/2010	1,056.00
			<b>Check Total:</b>	1,056.00
<b>Check No: 10255</b>	<b>Check Date: 04/29/2010</b>	<b>Vendor: 00147</b>	<b>RMI MECHANICAL CONTRACTOR, INC</b>	
4018	FURNISH & INSTALL NEW TRAN		04/01/2010	6,512.00
			<b>Check Total:</b>	6,512.00
<b>Check No: 10256</b>	<b>Check Date: 04/29/2010</b>	<b>Vendor: 01237</b>	<b>SAN MATEO CNTY SHERIFF'S OFFIC</b>	
DRIVER TRAINING VEHICLE OPERATIONS, 5/18-5/19			04/26/2010	450.00
			<b>Check Total:</b>	450.00
<b>Check No: 10257</b>	<b>Check Date: 04/29/2010</b>	<b>Vendor: 01261</b>	<b>SBRPSTC</b>	
RADAR/LIDAR RADAR/LIDAR, 5/11-5/14/10 MAR			04/26/2010	190.00
CRIME PREV. CRIME PREV 5/24-5/28/10 DUNPH			04/26/2010	350.00
			<b>Check Total:</b>	540.00
<b>Check No: 10258</b>	<b>Check Date: 04/29/2010</b>	<b>Vendor: 01289</b>	<b>SHARP ELECTRONICS CORPORATION</b>	
AR266670	SN450N COPIER CONTRACT 4/12		04/08/2010	167.00
AR266670	SN450N COPIER OVERAGE 3/12-		04/08/2010	144.88
			<b>Check Total:</b>	311.88
<b>Check No: 10259</b>	<b>Check Date: 04/29/2010</b>	<b>Vendor: 01321</b>	<b>STATE CONTROLLERS OFFICE</b>	
AudCofrm-2010	Audit confirmation FY 2010		04/29/2010	100.00
			<b>Check Total:</b>	100.00
<b>Check No: 10260</b>	<b>Check Date: 04/29/2010</b>	<b>Vendor: 01445</b>	<b>VERIZON WIRELESS</b>	
0854599266	MODEM J.GRUBER 02/22-03/21/1		03/21/2010	45.01
0854599266	CELL PHONES, 02/22-03/21/10 BL		03/21/2010	133.86
0854599266	CELL PHONES, 02/22-03/21/10 P.D		03/21/2010	515.44
0854599266	CELL PHONES, 02/22-03/21/10 DP		03/21/2010	125.16
0854599266	CELL PHONES, 02/22-03/21/10 DP		03/21/2010	223.79
0854599266	CELL PHONES, 02/22-03/21/10 DP		03/21/2010	41.72
0854599266	CELL PHONES, 02/22-03/21/10 DP		03/21/2010	83.14
			<b>Check Total:</b>	1,168.12
			<b>Report Total:</b>	<b>259,726.57</b>



## 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 MAY 19, 2010**

**SUBJECT: APPROVAL OF PLANS AND SPECIFICATIONS AND  
AUTHORIZATION TO ADVERTISE STREET RECONSTRUCTION  
PHASE 7 PROJECT NUMBER 56006**

#### **RECOMMENDATION:**

Approve the plans and specifications and authorize advertisement for bids for the Street Reconstruction Phase 7 Project, Project No. 56006.

#### **INTRODUCTION:**

The FY 2009-10 adopted Capital Improvement Program includes funds for constructing the Street Reconstruction Phase 7 Project. The need for this project resulted from the pavement condition surveys conducted in the summer of 2008.

#### **ANALYSIS:**

Park Lane, with a PCI of 62 in the most recent survey, is a local through street with heavy traffic. As such, it will tend to deteriorate faster than less traveled streets. Reconstruction now will allow this street segment to serve its intended use for the next twenty years or more.

While a 62 PCI is still a fair condition pavement structure, it does not adequately reflect the condition of the roadway base in this segment. Year after year our patching contract included deep lift repairs in this segment, often right next to previous repairs. The street is now a patchwork of Town street patches, utility patches and residence connection patches, providing a fairly rough ride. Further base failures continue to occur.

The project will include layout of work, removal and replacement of asphalt concrete pavement on street, replacement of driveway approaches, installation of graded swales and placement of

permanent striping on the streets. In addition, it was determined during the survey and construction of a residence on the street that the street is not actually located within the public right-of way for a short distance. The project will correct this deficiency.

The Street 7 project will also include the widening of Alejandra Avenue at El Camino Real to provide separate right and left turn lanes from Alejandra Avenue to El Camino Real. The project was approved by Council in December of 2008, and plans are now ready for construction.

The Street Reconstruction Phase 7 project is budgeted for construction in FY 2009-10. Staff prepared the design for the project. The Street Reconstruction Phase 7 Project plans and specifications are ready to be advertised for construction.

Staff is recommending construction of this project this construction season in order to receive the benefits of a competitive bid environment. The current excellent bid environment is not likely to continue into next spring and the project will probably cost more if deferred. It is desirable to advertise the project now in order to award at the first Council meeting of next fiscal year, allowing sufficient time to construct the project before the possibility of rain.

**FISCAL IMPACT:**

Parcel Tax funds in the amount of \$341,000 and Road Impact Fees in the amount of \$559,000, for a total budget of \$900,000 were budgeted for this project in FY 2009-10. Rescinding the Road Impact Fees leaves only the \$341,000 funded from Parcel Tax funds. The project was reduced to one street (Park Lane) in order to reduce the cost to fit within this reduced budget.

The project has been delayed in advertising based on determining funding availability and the project has now been re-budgeted for FY 2010-2011. The FY 2010-2011 budget proposes \$900,000 from Parcel Tax funds (the budget includes other street projects that can be constructed in the spring of 2011 providing funds continue to be available).

The Engineer's Estimate for the Street Reconstruction Phase 7 Project is \$456,000. In addition, a 10% construction contingency of \$45,600 would bring the total estimate to \$501,600. The project is scheduled to receive bids in July and award the contract at the July Council meeting.

Prepared By:

Approved:

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

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Jerome D. Gruber  
City Manager



## 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 APRIL 21, 2010**

**SUBJECT: REMOVE THE CONTINGENCY THAT THE AWARD OF THE  
FLETCHER/RIDGEVIEW DRAINAGE AND STREET PROJECT  
NUMBER 08-010 BE WITHIN THE GANN LIMIT**

#### **RECOMMENDATION:**

Pass a motion to remove the contingency that the award of the Fletcher/Ridgeview Drainage and Street Project be within the GANN limit.

#### **INTRODUCTION:**

At the April 2010 meeting, Council awarded the Fletcher-Ridgeview project contingent on the amount being within the GANN limit. The combination of qualifying projects already spent this year (\$397,138) and this project (\$922,055) will satisfy the GANN limit (exact amount to be provided at the Council meeting). If the total of all projects is below (within) the GANN limit, the remaining unspent Parcel Tax funds would have to be repaid to the taxpayers. Without this project, we will have only spent \$397,138, well below the GANN limit.

#### **FISCAL IMPACT:**

Parcel Tax funds in the amount of \$1,080,000 are included in the revised budget for this project in FY 2009-10. The April award was for \$922,055.00 with 10% construction contingency of \$92,205.50 for a total authorization to \$1,014,260.50.

Prepared By:

Approved:

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

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Jerome D. Gruber  
City Manager



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: JEROME D. GRUBER**

**DATE: FOR THE MEETING OF MAY 19, 2010**

**SUBJECT: APPROVE CONSULTANT SERVICES AGREEMENT WITH CSG CONSULTANTS, INC. FOR CODE ENFORCEMENT**

#### **RECOMMENDATION**

Approve Consultant Services Agreement with CSG Consultants, Inc. to provide Code Enforcement Services to the Town of Atherton in the amount of \$56,925.00 for the fiscal year 2010-11.

#### **BACKGROUND**

The Town of Atherton currently employs a part-time Code Enforcement Officer from CSG Consultants, Inc., to enforce the municipal code on a complaint basis.

The Code Enforcement Officer will continue to work in response to service requests from residents on a regularly scheduled day to provide the best access for the public with the ability to increase or decrease the schedule or to vary the schedule for a maximum of eight hours per week. This level of service is consistent with the level of service provided last fiscal year. Mr. Robert Cushing will continue as the Towns Code Enforcement Officer. The agreement has been reviewed by the City Attorney.

#### **FISCAL IMPACT**

The hourly rate remains at \$103/hour. Sufficient funds to provide these services are included in the draft 2010-11 budget.

Attachment: 1- CSG Proposal  
2- Professional Service 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 CSG Consultants, Inc., herein called the "Consultant".

### Recitals

WHEREAS, Town desires to obtain assessment, field investigations, follow-up, correspondence logging and tracking of complaints and cases, public information and related duties in connection with Code Enforcement 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 Building Official Mike Wasmann 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 July 1, 2010 and be completed not later than June 30, 2011. 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 fifty-six thousand nine hundred and twenty-five Dollars (\$56,925.00). 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, 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.

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. 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.

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.

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; 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.

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



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, Schedule of Performance, 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 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: \_\_\_\_\_  
Title: \_\_\_\_\_

Date:

Date:

APPROVED AS TO FORM:

By: \_\_\_\_\_  
City Attorney

ATTEST:

By: \_\_\_\_\_  
City Clerk

EXHIBIT A

Scope of Work

**See Attached**





May 4, 2010

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

Re: FY 2010/11 Contract Code Enforcement Services

Dear Mr. Gruber

CSG Consultants, Inc. is pleased to provide this proposal to continue to provide code enforcement services for the Town of Atherton. Mr. Robert Cushing will continue to serve in this position. We understand that the Town currently requires these services 8 hours per week, with additional hours as needed. The fee for these services will continue to be billed at \$103 per hour as they have been for the past three years. We propose that Bob's time be scheduled in an 8 hour block every Wednesday (one full day per week). In addition, Bob will be respond to phone calls and emails on behalf of the City. Given the fact that Bob will be taking vacation during the 52 week period, charges for any additional services will be absorbed in our estimated schedule. As requested, we are also including expenses (mileage, etc) as well as phone availability. The estimated annual fee for these services is as follows:

**Fee Schedule: 8 hours per week; 119 hours phone calls/year**

\$103/hr x 8 hours per week @ 52 weeks = \$42,848

Estimate average of \$35 daily expenses (mileage, etc.) @ 52 weeks = \$1,820

\$103/hour - Phone calls at 119 hours per year = \$12,257

Total Estimated Expenses: \$56,925

The contract will be in effect from July 1, 2010 until June 30, 2011. CSG will obtain prior approval from the City Manager before performing any work in excess of the above noted schedule. Additional hours will not exceed 10% over the agreed upon time period without Council approval. The following outlines our proposed scope of work:

**Scope of Service**

Code enforcement services will include assessment, field investigation, follow-up, correspondence, logging and tracking of complaints and cases, public information and related duties as assigned by the City Manager or designee. CSG will schedule and conduct subsequent inspections until violations are in compliance with Town requirements.

Thank you again for the opportunity to further serve the Town of Atherton. Should you have any questions, please contact me at (650) 522-2500.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Mao". The signature is fluid and cursive, written over a horizontal line.

Richard Mao, P.E.  
President



## 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 MAY 19, 2010**

**SUBJECT: RESCIND AWARD OF CONTRACT TO METHOD  
CONSTRUCTION FOR THE GARDEN ROOM RENOVATION  
PROJECT NUMBER 09-025 AND REJECT ALL BIDS FOR THE  
GARDEN ROOM RENOVATION PROJECT.**

#### **RECOMMENDATION:**

Pass a motion to rescind the contract for Garden Room Renovation Project, project number 09-025 to Method Construction; and reject all bids for the Garden Room Renovation Project.

#### **INTRODUCTION:**

After many relocations of the Atherton Arts Committee, the committee found a home in the Garden Room of the Main House at the Park, where the committee has requested to renovate.

The existing garden room was previously used as a garage, which the committee plans to renovate into an art gallery and learning center. The committee has developed plans and specifications in relation to the renovations. The project entails exposing ductworks, replacing existing drywall, relocating and updating utilities, installing new cabinets, sink, and flooring.

On April 21, 2010's council meeting, the council awarded the contract to Method Construction for the Garden Room Renovation Project. Atherton Arts Committee, in a special meeting, had chosen to wait until May's council meeting to decide on whether to move forward with this project. The staff report had been removed prior to sending out the agenda packet; however, the agenda item was not pulled from the consent calendar

during the Council meeting. Thus, Council approved the award of contract to Method Construction.

**ANALYSIS:**

6 bids were received for the Garden Room Renovation Project as follows:

<u>CONTRACTOR</u>	<u>LOCATION</u>	<u>BID</u>
Method Construction	Gilroy, CA	\$65,000
JMA Construction	San Francisco, CA	\$65,200
Ionian Construction	Millbrae, CA	\$73,000
Coulter Construction	Mountain View, CA	\$88,295
Ron Paris Construction	Santa Clara, CA	\$103,430
Rodan Builders	Burlingame, CA	\$111,000

With bids above the engineer's estimate, the Atherton Arts Committee has requested the council to reject all bids for the Garden Room Renovation Project.

**FISCAL IMPACT:**

Arts Committee funds are budgeted for this renovation project in FY 2009-2010. Bids were received for the project on April 15, 2010. Method Construction was the low bidder at \$65,000. This bid was 21.90% above the engineer's estimate prepared by Atherton Arts Committee, the designer of the project, of \$53,317. A 10% construction contingency of \$6,500 would bring the total authorization to \$71,500.

Prepared By:

Approved:

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

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Jerome D. Gruber  
City Manager



## 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 MAY 19, 2010**

**SUBJECT: AWARD OF CONTRACT TO GALLAGHER & BURK, INC. FOR THE  
MIDDLEFIELD ROAD AT ENCINAL AVENUE INTERSECTION  
IMPROVEMENT PROJECT NUMBER 56009 IN AN AMOUNT NOT TO  
EXCEED \$326,021.00 PLUS A TEN PERCENT CONSTRUCTION  
CONTINGENCY, FOR A TOTAL AUTHORIZATION OF \$358,623.10.**

#### **RECOMMENDATION:**

Pass a motion to award the contract for Middlefield Road at Encinal Avenue Intersection Improvement Project, project number 56009 to Gallagher & Burk, Inc., the low bidder on the May 12, 2010 bids, for \$326,021.00, with a 10% construction contingency of \$32,602.10, for a total authorization of \$358,623.10; and to authorize the City Manager to sign the contract on behalf of the Town.

#### **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.

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 May 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.

**ANALYSIS:**

7 bids were received for the Middlefield Road at Encinal Avenue Intersection Improvement Project as follows:

<u>CONTRACTOR</u>	<u>LOCATION</u>	<u>BID</u>
Gallagher & Burk, Inc.	Oakland	\$326,021.00
O'Grady Paving, Inc.	Mountain View	\$333,552.50
Redgwick Construction Co.	Newark	\$343,590.20
Pavex Construction	San Jose	\$346,700.00
G. Bortolotto & Co., Inc.	San Carlos	\$356,251.39
C.F. ArchibaldPaving, Inc.	Redwood City	\$386,363.00
Interstate Grading & Paving, Inc.	S. San Francisco	\$397,940.00

**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.

Bids were received for the project on May 12, 2010. Gallagher & Burk, Inc. was the low bidder at \$326,021.00. This bid was 20% below the engineer's estimate prepared by Kimley-Horn and Associates, Inc., the designer of the project, of \$408,000. A 10% construction contingency of \$-32,602.10 would bring the total authorization to \$358,623.10 which is \$11,091.90 (3%) below the remaining FY 2009-10 budget.

Prepared By:

Approved:

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

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Jerome D. Gruber  
City Manager

# *PROCLAMATION*

Of the Town of Atherton City Council  
Declaring

Pollinator Week in the Town of Atherton fro June 21 through June 27, 2010

**WHEREAS**, pollinator species such as birds and insects are essential partners of farmers and ranchers in producing much of our food supply; and

**WHEREAS**, pollination plays a vital role in the health of our national forests and grasslands, which provide forage, fish and wildlife, timber, water, mineral resources, and recreational opportunities as well as enhanced economic development opportunities for communities; and

**WHEREAS**, pollinator species provide significant environmental benefits that are necessary for maintaining healthy, bio-diverse ecosystems; and

**WHEREAS**, the City of Atherton provides producers with conservation assistance to promote wise conservation stewardship, including the protection and maintenance of pollinators and their habitats on working lands and wild lands; and

**NOW, THEREFORE**, The City of Atherton, does hereby proclaim the week of June 21 - 27, 2010 as:

## **Atherton Pollinator Week**

throughout the City of Atherton, and urge all citizens to recognize this observance.

*IN WITNESS WHEREOF*, I have hereunto set my hand and caused the seal of the Town of Atherton to be affixed this 19<sup>TH</sup> day of May, 2010.

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Kathy McKeithen, MAYOR  
Town of Atherton



## 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 MAY 19, 2010**

**SUBJECT: ADOPT A RESOLUTION REDUCING THE SPEED LIMIT ON  
ALAMEDA DE LAS PULGAS FROM 35 MPH TO 30 MPH**

#### **RECOMMENDATION:**

Adopt Resolution 10-25 reducing the speed limit on Alameda de las Pulgas from 35 mph to 30 mph.

#### **INTRODUCTION:**

The California Manual on Uniform Traffic Control Devices (MUTCD) provides the standards for speed surveys in Section 2B.13. Speed surveys are conducted every five years and Alameda de las Pulgas is due this year. Section 2B.13 provides that the speed limit “shall be established at the nearest 5 mph increment of the 85<sup>th</sup> percentile speed of free-flowing traffic, except as shown in the Option below.” The Option permits the speed limit to be reduced by 5 mph from the nearest 5 mph increment for roadway characteristics not readily apparent to the driver, based upon an engineering and traffic survey. Section 2B.13 also provides that “speed zoning should be coordinated with adjacent jurisdictions.”

#### **ANALYSIS:**

The speed survey for Alameda de las Pulgas has been completed. The 85<sup>th</sup> percentile speed is 37 mph, which would result in a speed limit of 35 mph without the optional 5 mph reduction. However, the speed limits north and south of Atherton on Alameda de las Pulgas are 30 mph. In addition there are roadway characteristics not readily apparent to the driver that indicate that the speed limit should be reduced the allowed 5 mph increment.

The Transportation Committee considered this item at their May 11, 2010 meeting and recommended approval.

**FISCAL IMPACT:**

Four speed limit signs would need to be changed at a cost of approximately \$100 per sign, for a total cost of \$400, plus staff time to change the signs on the existing poles.

Prepared By:

Approved:

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

---

Jerome D. Gruber  
City Manager

Attachments: Speed Survey  
Resolution

**RESOLUTION 10-25**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
REDUCING THE SPEED LIMIT ON ALAMEDA DE LAS PULGAS  
FROM 35 MPH TO 30 MPH**

**WHEREAS**, a 2010 Engineering and Traffic Survey (E&TS) was conducted according to the California Manual on Uniform Traffic Control Devices (MUTCD) Section 2B.13 for Alameda de las Pulgas where the 85<sup>th</sup> percentile speed is shown as 37 mph; and

**WHEREAS**, the E&TS shows roadside conditions not readily apparent to the driver, including the school driveway to the Children’s learning Center; and

**WHEREAS**, the posted speed limits in the County and Menlo Park portions of Alameda de las Pulgas are 30 mph; and

**WHEREAS**, the E&TS recommends that the roadside conditions and coordination with other jurisdictions call for the additional 5 mph reduction to be applied.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the Town of Atherton that the speed limit for Alameda de las Pulgas within the city limits of the Town of Atherton shall be thirty miles per hour (30 mph).

\* \* \* \* \*

*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 19th day of May, 2010, by the following vote:*

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

ATTEST:

\_\_\_\_\_  
Kathy McKeithen, MAYOR  
TOWN OF ATHERTON

\_\_\_\_\_  
Eileen Wilkerson, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Wynne S. Furth, City Attorney



## Town of Atherton

### CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: THERESA N. DELLASANTA, DEPUTY CITY CLERK**

**DATE: FOR THE REGULAR MEETING OF MAY 11, 2010**

**SUBJECT: POLICY 1.1 – RECORDS RETENTION AND DESTRUCTION**

#### RECOMMENDATION:

Approve Resolution 10-26 adopting Policy 1.1 Records Management.

#### BACKGROUND:

An excerpt from Government Code Section 34090 states the following:

**34090.** Unless otherwise provided by law, with the approval of the legislative body by resolution and the written consent of the city attorney the head of a city department may destroy any city record, document, instrument, book or paper, under his charge, without making a copy thereof, after the same is no longer required.

This section does not authorize the destruction of:

- (a) Records affecting the title to real property or liens thereon.
- (b) Court records.
- (c) Records required to be kept by statute.
- (d) Records less than two years old.
- (e) The minutes, ordinances, or resolutions of the legislative body or of a city board or commission.

In order for each Department to begin purging their files and making room for new files the Town must have a records retention policy in place.

As defined by State law, a “record” is more than just “papers” or “documents”: Records include maps, exhibits, all forms of magnetic or electronic media, photos, film, prints,

punch cards, and any other documents produced, received, owned or used by the City, regardless of physical form or characteristics.

A Records Retention Schedule is the Towns legal authority to receive, create, retain and dispose of official public records. The benefits of having a records retention schedule include cost savings, space savings, staff time, improved access, consistency of destruction and legal compliance.

Furthermore, the City Clerks Department recommends a retention schedule in order to reduce staff time on researching historical documents requested under the California Public Record Act and Freedom of Information Act which give access to public records to any person in the state. A retention schedule would reduce the time involved in searching and locating the document(s).

Staff has created a retention schedule for the following Departments for consideration by Council

City Manager  
City Attorney  
City Clerk  
Police Department  
Human Resources  
Planning

Staff predicts that the records retention schedule will need improvements and modifications shall be constantly evolving over the next several months.

A retention schedule for the Building Department, Public Works and Parks Department will be forthcoming.

**Prepared by:**

**Approved by:**

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**Theresa N. DellaSanta**  
**Deputy City Clerk**

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**Jerome D. Gruber**  
**City Manager**

**RESOLUTION NO. 10-26**  
**RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON**  
**ADOPTING POLICY 1.1 – RECORDS RETENTION AND DESTRUCTION**

**WHEREAS**, Section 34090 of the Government Code of the State of California provides a procedure whereby any City records which has served its purpose and is no longer required may be destroyed;

**WHEREAS**, the State of California has adopted guidelines for the retention period for various government records; and

**NOW, THEREFORE, BE IT RESOLVED** that the Council of the Town of Atherton hereby adopts retention schedules for the following Departments:

- City Manager
- City Attorney
- City Clerk
- Police Department
- Human Resources
- Planning Department

**PASSED AND ADOPTED** at a meeting of the City Council of the Town of Atherton held on the 19<sup>th</sup> day of May, 2010 by the following vote:

AYES: Council Members:  
NOES: Council Members:  
ABSTAIN: Council Members:  
ABSENT: Council Members:

\_\_\_\_\_  
Kathy McKeithen, MAYOR  
Town of Atherton

ATTEST:

\_\_\_\_\_  
Theresa N. DellaSanta, Deputy City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Wynne Furth, City Attorney

# TOWN OF ATHERTON

<b>DRAFT POLICY</b>	<b>Number:</b> 1.1	<b>Date of Approval:</b>	<b>Adopted By:</b> Resolution 10-xx
<b>Title:</b> Records Management Policy	<b>Prepared By:</b> E. Wilkerson	<b>Revised By:</b>	<b>Page:</b> Page 1 of 1
<b>Purpose:</b> To establish a comprehensive written Records Management Policy.			

## 1. STATEMENT OF POLICY

The overall objective of this policy is to protect and preserve the Town's records. Our goals include:

1. Continual transfer of inactive records to Records Storage thereby avoiding purchase of new filing equipment.
2. Assisting in maintaining and updating the filing system.

Records eligible for destruction may be destroyed with the approval of the City Council by resolution and the written consent of the City Attorney. The City Clerk is in charge of the destruction of records and must send lists of records eligible for destruction to the City Council and City Attorney for approval for destruction, or have each schedule approved in advance by those two offices, and also forward any changes to them for prior approval.

Section §6200 of the Government Code stipulates it is illegal to destroy any record filed in a public office.

Section §34090 of the Government Code establishes exceptions to the above rule: department heads may destroy any record over two years old, with the Commission and City Council approval as long as it is not one of the following:

The following are considered permanent records and under no circumstances may be destroyed:

- a) Records affecting the title to real property or liens thereon
- b) Court Records
- c) Records required to be kept by statute
- d) The minutes, ordinances, or resolution of the legislative body or of any board or commission.

For those records that cannot be destroyed a procedure described in Government Code Section §34090.5 allows copies to be retained in lieu of originals:

1. Documents must be photographed or micro photographed on film approved by the National Bureau of Standards.
2. Reproduction must be accurate and legible.
3. Reproduction must be as accessible to the public as the original.
4. A true copy of archival quality of film reproduction must be kept in a secure place.

See attached schedules of retention and destruction.

Section	Description	Contains	Department Retention	Total Retention	Historic	Regulation
<b>Planning</b>						
	<b>APPLICATIONS</b>					
		Denied	PERMANENT	PERMANENT	No	Dept. Policy
		Withdrawn	Decision + 5	Decision + 5	No	Dept. Policy
	Approved Applications are moved to project file.					
	<b>PLANNING</b>					
		Assessor Parcel Information	Current Version	Superseded	No	Dept. Policy
		Census Data, Community Profiles	PERMANENT	PERMANENT	Yes	Dept. Policy
		Chronological Index	Current Version	Current Version	No	Dept. Policy
		Code Interpretations	Superseded + 2	Superseded + 2	No	GC 34090
		Historic Resources Inventory	PERMANENT	PERMANENT	Yes	Dept. Policy
		LAFCO - Sphere of Influence Studies, Municipal Services Review	PERMANENT	PERMANENT	Yes	GC 34090
		Landfill - Quarterly Reports	Cur + 5	Cur + 5	No	Dept. Policy
		Landfill - Technical Reports	PERMANENT	PERMANENT	No	Dept. Policy
		Maps - Zoning, Contour, General Plan, USGS, Alquist-Priolo	PERMANENT	PERMANENT	Yes	GC 34090
		Photos - Aerial, Project	PERMANENT	PERMANENT	Yes	Dept. Policy
		General Plan	PERMANENT	PERMANENT	Yes	Dept. Policy
		Specific Plans	PERMANENT	PERMANENT	Yes	Dept. Policy
		Other Plans & Studies	Superseded + 2	Superseded + 2	Review	GC 34090
		California Environmental Quality Act (CEQA) Documents related to Plans	Superseded + 2	Superseded + 2	No	GC 34090
		Preliminary Reviews	Cur + 5	Cur + 5	No	Dept. Policy

		Project Files by Address - Site Related - CEQA Documents (EIRs, Notice of Exemptions, Negative Declarations, Initial Studies), Subdivision Applications, Tentative Maps, Site Plans, Permits, Variances, Staff Reports, Photos, Traffic Studies	PERMANENT	PERMANENT	Yes	GC 34090
		Project Files by Address - Building Related - Plan Checks, Landscape Plans, CC&Rs, Correspondence, & Memos (Dated after Decision), Samples & Colorboards, Notice of Decisions	Life of Structure + 2	Life of Structure + 2	No	GC 34090
		Project Files by Address - Decision Related - Applications, Public Notices, Proofs of Publication & Service, Certificate of Posting, Correspondence & Memo (dated before decision), Action Letter, CEQA Notices (Intent, Preparation, Determination, Completion)	Decisions + 2	Decision + 2	No	GC 34090



## 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 MAY 19, 2010**

**SUBJECT: FISCAL YEAR 2010-2011 OPERATING AND CAPITAL  
IMPROVEMENT BUDGET**

### **RECOMMENDATION**

Take public testimony and continue public hearing on the proposed Town of Atherton Operating and Capital Improvement Budget for Fiscal Year 2010-11 to June 16, 2010.

### **DISCUSSION**

The City Council of the Town of Atherton conducted a special meeting on April 26, 2010, to discuss and review the draft FY 2010-2011 operating and capital improvement budget. The first draft of the General Fund budget revealed a projected General Fund budget shortfall of \$1,224,363 (without any use of Special Parcel Tax Fund). The latest draft is increasing the shortfall to \$1,387,691. The increase is due to Building Department funding of Building portion of the future new Town Center of \$153,356.

The General Fund budget is prepared with the assumption of 1.25% increase in secured property tax revenue, \$530,000 in Excess ERAF, and all other revenues to remain similar to FY 2009-10 except planning revenues to increase from \$75,000 to \$200,000. Overall, General Fund revenues are projected to decrease from FY 2009-10 by 0.8%.

General Fund expenditures are projected to decrease from FY 2009-10 by 3.3% with a 50% funding for GASB 45 (unfunded retiree health care liability) or 0.3% with 100% funding of GASB 45.

For FY 2010-11, the proposed Building Department operating budget includes a transfer of \$153,356 to the Facilities Construction Fund (Fund 406) for the annual debt service payment to be set aside for the Building Department portion of a future new Town Center. This amount was based on the historical reconciliation of Building Department costs of services report prepared by NBS and reviewed and accepted by the City Council on December 16, 2009.

For Engineering Department support of capital improvement projects, the Public Works Director is allocating the salary and benefits of the department staff according to the percentage of time staff works in support of capital improvement projects. The cost is then charged to the Special Parcel Tax Fund. For FY 2010-11, the Engineering salaries and benefits allocation is \$200,329.

As to the positions to be authorized by the City Council, the City Manager is recommending changing the 50.35 full time equivalents (FTE) to 49.6, a decrease of .75. The decrease is a combination of one police officer position being frozen and the creation of a new full-time position, Executive Assistant to the Chief of Police. This is a conversion of the .75 temporary Police Department Administrative Assistant to a full-time benefited position.

To address the shortfall, the City Manager is recommending a 50% funding of annual required contribution (ARC) for GASB 45 (unfunded retiree health care liabilities), use of \$888,470 from Special Parcel Tax Fund for police services and \$499,221 from Building Department Operating Reserve to make up for the projected revenue shortfall from the Building Department.

The final draft of the budget book in June 2010 will include the resolutions, table of contents, and City Manager's and departmental messages.

### **FISCAL IMPACT**

None.

Prepared by:

Approved by:

*/s/ Louise Ho*

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Louise Ho  
Finance Director

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Jerome D. Gruber  
City Manager

Attachment: Draft FY 2010-2011 Budget Book



## 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 MAY 19, 2010 (Continued from April 21, 2010)**

**SUBJECT: ADOPTION OF A RESOLUTION RESCINDING THE  
ESTABLISHMENT OF A GENERAL FUND RESERVE POLICY  
ADOPTED IN RESOLUTION 09-26; AND APPROVE A NEW GENERAL  
FUND RESERVE POLICY**

#### **RECOMMENDATION**

Adopt a resolution of the City Council of the Town of Atherton rescinding the establishment of a General Fund reserve policy adopted in Resolution 09-26; approve a resolution authorizing the establishment of a fund balance policy for the General Fund.

#### **DISCUSSION**

On August 19, 2009, the City Council adopted a General Fund reserve policy which requires a four-fifths (4/5) vote of the City Council to use reserves. At the March 17, 2010, City Council meeting, staff was directed to bring back a new General Fund reserve policy which changes the requirement of a supermajority vote (4/5) to a majority vote of three-fifths (3/5).

#### **FISCAL IMPACT**

None

Prepared by:

*/s/ Louise Ho*

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Louise Ho  
Finance Director

Approved by:

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Jerome D. Gruber  
City Manager

Attachment: Resolution 09-26  
Resolution rescinding 09-26 and adopting a fund balance policy for the General  
Fund  
Fund Balance Policy for the General Fund (new)

RESOLUTION NO. 09-26

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
AUTHORIZING THE ESTABLISHMENT OF A GENERAL FUND RESERVE POLICY

WHEREAS, the City Council of the Town of Atherton would like to improve financial performance, maintain financial solvency, protect against economic uncertainty, and provide a reserve for emergency; and

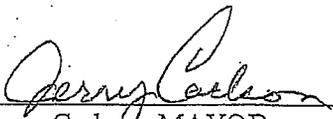
WHEREAS, the City Council desires to establish a reserve fund policy for the General Fund;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the Town of Atherton does hereby approve the establishment of a General Fund Reserve Policy in the form attached as Exhibit A and by reference made a part hereof.

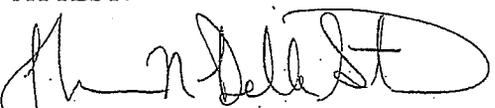
\* \* \* \* \*

*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 19th day of August, 2009, by the following vote:*

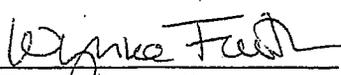
AYES: 4      Council Members: Carlson, McKeithen, Marsala, Lewis  
NOES: 0      Council Members:  
ABSENT: 1    Council Members: Dobbie  
ABSTAIN:    Council Members:

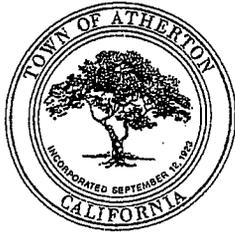
  
Jerry Carlson, MAYOR  
Town of Atherton

ATTEST:

  
Theresa N. DellaSanta, Deputy City Clerk

APPROVED AS TO FORM:

  
Wynne Furth, City Attorney



# Town of Atherton

## Fund Balance Policy for the General Fund

### Exhibit A

#### Purpose

To help the Town of Atherton provide quick response to weather economic uncertainty, unexpected situations such as natural disasters, provide sufficient cash flow to avoid the need for short-term borrowing. The policy establishes the appropriate level of reserves which the Town of Atherton will strive to maintain in its General Fund balance; how the target fund balances will be funded; and the conditions under which fund balances can be used.

For purposes of this Policy, the definition of "reserves" is limited to the portion of fund balance that is *unreserved*. Unreserved is to mean not set aside for existing legal obligations of the Town.

#### 1. Amounts Held in Reserve

The Town of Atherton will strive to hold the amounts listed below in General Fund balance, expressed as a percentage of the Town's annual operating expenditures of the General Fund. These amounts are expressed as goal ranges to recognize that fund balance levels can fluctuate from year to year due to the normal course of Town government operations.

- 15-20% - Budget Stabilization Reserve for economic uncertainty, possible State borrowing of Town's fund, known or anticipated future obligations.
- 15-20% - Emergency Disaster Reserve for unforeseen events such as natural disasters, catastrophic accidents.
- 5-10% - Working Capital to provide sufficient cash flow.

#### 2. Funding Target Fund Balance

Funding of General Fund balance targets will generally come from excess revenues over expenditures or one-time revenues. The reserves will be funded in the following priority order:

- Budget Stabilization
- Emergency Disaster

Budget/Fund Balance Policy Exhibit A 8\_09

- Working Capital
- Self-insurance Reserve
- GASB 45 unfunded post-employment benefits other than pensions (retiree health-care)
- Capital improvement projects

### **3. Conditions for Use of Reserves**

The use of reserves shall be limited to unanticipated, non-recurring needs, or anticipated future obligations. Fund balances shall not be used for normal or recurring annual operating expenditures.

The City Manager is authorized to make recommendations to the City Council for use of reserves. A four-fifths (4/5) vote of the City Council will be required to use reserves. Any recommendation shall be accompanied by a plan for the replenishment of the reserves to the City Council.

In no circumstances shall the total General Fund reserve balance drop below 15% of the Town's annual operating expenditures for the General Fund.

**RESOLUTION NO. 10-20**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
RESCINDING RESOLUTION NO. 09-26 AND APPROVING A NEW GENERAL FUND  
RESERVE POLICY**

**WHEREAS**, on August 19, 2009, the City Council adopted Resolution 09-26 establishing a General Fund reserve policy;

**WHEREAS**, the City Council desires to modify the four-fifths (4/5) vote of the City Council requirement to use reserves of the General Fund Reserve Policy;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the Town of Atherton does hereby rescind Resolution 09-26 and approve the general fund reserve policy attached to this resolution as "Exhibit A".

\* \* \* \* \*

*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 19<sup>th</sup> day of May, 2010 by the following vote:*

*AYES: Council Members:  
NOES: Council Members:  
ABSENT: Council Members:  
ABSTAIN: Council Members:*

\_\_\_\_\_  
Kathy McKeithen, MAYOR  
Town of Atherton

ATTEST:

\_\_\_\_\_  
Theresa N. DellaSanta, Deputy City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Wynne Furth, City Attorney



# Town of Atherton

## Fund Balance Policy for the General Fund

### Exhibit A

#### **Purpose**

To help the Town of Atherton provide quick response to weather economic uncertainty, unexpected situations such as natural disasters, provide sufficient cash flow to avoid the need for short-term borrowing. The policy establishes the appropriate level of reserves which the Town will strive to maintain in its General Fund balance; how the target fund balances will be funded; and the conditions under which fund balances can be used.

For purposes of this Policy, the definition of “reserves” is limited to the portion of fund balance that is *unreserved*. Unreserved is to mean not set aside for existing legal obligations of the Town.

#### **1. Amounts Held in Reserve**

The Town will strive to hold the amounts listed below in General Fund balance, expressed as a percentage of the Town’s annual operating expenditures of the General Fund. These amounts are expressed as goal ranges to recognize that fund balance levels can fluctuate from year to year due to the normal course of Town government operations.

- 15-20% - Budget Stabilization Reserve for economic uncertainty, possible State borrowing of Town’s fund, known or anticipated future obligations.
- 15-20% - Emergency Disaster Reserve for unforeseen events such as natural disasters, catastrophic accidents.
- 5-10% - Working Capital to provide sufficient cash flow.

#### **2. Funding Target Fund Balance**

Funding of General Fund balance targets will generally come from excess revenues over expenditures or one-time revenues. The reserves will be funded in the following priority order:

- Budget Stabilization
- Emergency Disaster

- Working Capital
- Self-insurance Reserve
- GASB 45 unfunded post-employment benefits other than pensions (retiree health-care)
- Capital improvement projects

### **3. Conditions for Use of Reserves**

The use of reserves shall be limited to unanticipated, non-recurring needs, or anticipated future obligations. Fund balances shall not be used for normal or recurring annual operating expenditures.

The City Manager is authorized to make recommendations to the City Council for use of reserves. A three-fifths (3/5) vote of the City Council will be required to use reserves. Any recommendation shall be accompanied by a plan for the replenishment of the reserves to the City Council.

In no circumstances shall the total General Fund reserve balance drop below 15% of the Town's annual operating expenditures for the General Fund.



## 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 MAY 19, 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.

#### DISCUSSION

On April 19, 2010, with the City Council approval, the Town paid \$225,000 to former Finance Director John P Johns. Since this payment is not budgeted in the FY 2009-10 Finance Department budget, a budget amendment of \$226,305 (\$225,000 plus \$1,305 for employer share of the Medicare tax) is needed.

#### FISCAL IMPACT

To fund the \$226,305 settlement expense, the City Manager is recommending the use of General Fund reserve since there are no excess revenues in FY 2009-10 to cover. **A 4/5 vote of the City Council is required based on the existing General Fund fund balance policy.**

Prepared by:

*/s/ Louise Ho*

\_\_\_\_\_  
Louise Ho  
Finance Director

Approved by:

\_\_\_\_\_  
Jerome D. Gruber  
City Manager

Attachment: Budget Amendment Resolution  
Exhibit A

**RESOLUTION NO. 10-27**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF  
ATHERTON APPROVING BUDGET AMENDMENT  
FOR FY 2009-10**

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**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.

*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 19<sup>th</sup> day of May 2010 by the following vote:*

*AYES: Council Members:  
NOES: Council Members:  
ABSENT: Council Members:  
ABSTAIN: Council Members:*

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Kathy McKeithen, Mayor

ATTEST:

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Theresa DellaSanta, Deputy City Clerk

APPROVED AS TO FORM:

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Wynne Furth, City Attorney





## 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 MAY 19, 2010**

**SUBJECT: APPROVE A MODIFIED 2009-2010 CAPITAL IMPROVEMENT  
PROGRAM (CIP)**

#### **RECOMMENDATION:**

Approve a modified 2009-2010 Capital Improvement Program (CIP) to reflect the reduction in Road Impact Fee funds due to the cancellation of the road Impact Fee.

#### **INTRODUCTION:**

In November of 2009 the City Council rescinded the Road Impact Fee. The CIP included funding for four projects from the Road Impact Fee fund. One of those projects, the Atherton Avenue Economic Stimulus project, has already been completed and the Road Impact Fee funds expended. The remaining Road Impact Fee funds will be used to pay refunds. The three other projects need to be transferred to Parcel Tax funds if they will be constructed this year.

Because of this shift in funding, the entire budget was examined and adjusted based on the latest available information, including cost estimates, bid prices and completed project costs, to more accurately reflect the balance of funds available for projects.

#### **ANALYSIS:**

The three remaining Road Impact Fee funded projects are Street Patch, Seal and Overlay; Fletcher/Ridgeview Drainage; and Street Reconstruction 7. The \$500,000 budget for Street Patch, Seal and Overlay is made up of funding from multiple sources. The \$108,000 in Road

Impact Fee funding is being replaced by funding freed by low bids on the Atherton Avenue Economic Stimulus project from Proposition 1B and from Gas Tax.

The Fletcher/Ridgeview project originally planned to replace the \$500,000 from Road Impact Fees with Parcel Tax funds. However, the April 8, 2010 bids came in under \$1,000,000, so the Road Impact Fee portion can be deleted. The required authorization will actually be slightly above \$1,000,000, including engineering costs incurred this year, so the additional budget of \$80,000 will be from Parcel Tax Funds.

The \$559,000 in Road Impact Fee funds for Street Reconstruction 7 is proposed to be replaced with Parcel Tax funds. However, this project has now been delayed and will be re-budgeted next year with construction beginning later this summer. The project is also being phased into two projects, starting with the Park Lane project such that the use of Parcel Tax funds for this project to be more carefully controlled. The Polhemus Avenue Reconstruction project will proceed next spring if bids are favorable on the first phase and if funding continues to be available.

The South Meadow Irrigation and Rehabilitation project needs to be moved to FY 2010-2011 because the Master Irrigation and Second Well project have run nearly into the sports season, so the project should not begin until the fall of 2010.

Due to budget concerns the lower priority drainage projects were not prepared for construction and now need to be deferred and considered in the budget process for the next four years.

The Council Chambers Seismic Retrofit project has been removed from the budget because concerns over continued use of the building have placed the project on hold until a decision to go forward is made. Seismic safety improvements have already been made so the building can be used.

**FISCAL IMPACT:**

There is no direct fiscal impact of this budget adjustment because each project must come back to Council for approval of its individual fiscal impact. However, considerable savings have been obtained by constructing projects during this economic downturn when contractors desperately need the work.

Prepared By:

Approved:

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

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Jerome D. Gruber  
City Manager

Attachments: Revised FY 2009-2010 Capital Improvement Budget

**TOWN OF ATHERTON  
YEAR 5 OF RECOMMENDED CIP  
FY2009/2010 SUMMARY**

				FUND SOURCES							
Priority			Fund Number		201	202	203	210	220	401	403
			Fund Name	Total	Parcel Tax	Measure A	Gas Tax	Road Impact	Prop 42	Capital Imp.	Ath. Chan. District
			Beginning Balance 7/1/2009	3,659,927	2,466,575	133,327	26,310	754,134	63,598	90,080	125,903
			<b>REVENUES</b>	2,363,824	1,858,000	205,000	100,000	58,824	60,000		82,000
	08004	401-50-46017-102	Regional Trails Program (CA State Parks-Federal)	104,800						104,800	
	08004	401-50-46017-301	Atherton Dames (Other Local)	26,200						26,200	
	09007	401-50-46021-301	Atherton Dames (Other Local)	75,000						75,000	
	08028	401-50-46010-202	Safe Routes to School (SRTS)(Caltrans - State)	102,600						102,600	
	08028	401-50-46010-302	Las Lomitas School District (Other Local)	11,400						11,400	
	08015	401-50-46009-302	Menlo Park School District (Other Local)	187,167						187,167	
	08015	401-50-46009-303	Menlo Park Traffic Impact Fees (Other Local)	126,667						126,667	
	08025	401-50-46004-103	Economic Stimulus (ARRA) Tier 1 (Caltrans - Federal)	423,061						423,061	
	08025	401-50-46004-103	Economic Stimulus (ARRA) Tier 2 (Caltrans - Federal)	40,000						40,000	
	09023	401-50-46002-304	P-TAP Grant (MTC) (Other Local)	16,273						16,273	
			<b>TOTAL FUNDS AVAILABLE</b>	7,136,917	4,324,575	338,327	126,310	812,958	123,598	1,203,247	207,903
			<b>EXPENDITURES</b>								
			<b>Encumbered Projects from 2008-09</b>								
In Progress	08004	401-50-56017-102 & 401-50-56017-301	Park Trail and Bridge	131,000						104,800	
In Progress	08028	401-50-56010-202 & 401-50-56010-302	Las Lomitas SR2S Sidewalk Extension	114,000						102,600	
In Progress	08017	201-50-56037-000	Upper Channel Repair Phase 2 Design	70,000	70,000						
In Progress	08022	201-50-56015-000	Main House/Playschool Roof	56,188	56,188						
In Progress	08025	210-50-56004-000 & 401-50-56004-103 202-50-56004-000	Atherton Avenue Economic Stimulus	632,816				169,755		463,061	
			<b>2009-10 Projects</b>								
1	09016	201-50-56044-000	Council Chambers Seismic Retrofit	0	0						
2	09017	403-50-56037-000	Upper Channel Repair Monitoring	10,000							10,000
3	08017	201-50-56037-000 & 403-50-56037-000	Upper Channel Repair Phase 2	50,000	0						50,000
4	09014	201-50-56045-000	Replace tennis courts fence fabric	25,190	25,190						
5	09001	201-50-56003-000 & 202-50-56003-000 & 203-50-56003-000 & 220-50-56003-000 & 401-50-56003-203	Street Patch, Seal & Overlay	495,595	64,488			123,446			
				431,107							
				307,661			120,140				
				187,521					123,598		
6	08015	202-50-56009-000 & 401-50-56009-302 & 401-50-56009-303	Encinal Traffic Signal (1/3)	440,500		126,667					187,167
7	08010	201-50-56033-000 & 210-50-56033-000	Drainage Construction Fletcher/Ridgeview (C)	1,080,000	1,080,000						126,667

**YEAR 5 OF RECOMMENDED CIP  
FY2009/2010 SUMMARY**

Priority			Fund Number	FUND SOURCES								
				Total	201 Parcel Tax	202 Measure A	203 Gas Tax	210 Road Impact	220 Prop 42	401 Capital Imp.	403 Ath. Chan. District	
8	08011	201-50-56036-000	Drainage Construction Polhemus (E3)	160,138	160,138							
9	09024	201-50-56001-000	Traffic Studies (Fair Oaks and Valparaiso)	43,650	43,650							
10	09011	201-50-56023-000	Master Irrigation Plan Upgrade and Second Park Well	237,000	237,000							
12	09007	201-50-56021-000 & 401-50-56021-301	Water Tower Lawn	95,368	20,368							75,000
13	09026	201-50-56019-000	South Meadow Irrigation and Rehabilitation	0	0							
14	09002	201-50-56006-000	Street Reconstruction 7	0	0							
15	08011	201-50-56041-000	Drainage Construction Mulberry (E4), Walsh @ Belbrook	0	0							
16			Drainage Projects	0	0							
			<b>CIP Related Fees</b>									
	09018	202-50-54025-000	Congestion Relief (C/CAG) Fee	24,845		24,845						
	09019	203-50-54026-000	C/CAG Gas Tax Fee	3,920			3,920					
	09020	203-50-52001-000	State Controller Street Report Preparation Fee	2,250			2,250					
	09020	403-50-52001-000	State Controller Drainage District Report Prep. Fee	2,490								2,490
	09021	?	Parcel Tax Roll Preparation Fee	1,500	1,500							
	09022	202-50-52001-000	Annual Financial Audit (Measure A)	1,295		1,295						
	09023	201-50-56002-000 & 401-50-56002-304	Pavement Management Program	19,528	3,255							16,273
		xxx-50-58002-000	Engineering Costs (from next page)	174,826	150,741	13,215	0	0	0	0		10,770
			<b>TOTAL FUNDING USE</b>	<b>3,872,099</b>	<b>1,912,518</b>	<b>338,327</b>	<b>126,310</b>	<b>169,755</b>	<b>123,598</b>	<b>1,187,860</b>		<b>62,590</b>
			<b>Subtotal Fund Balance</b>	<b>3,215,959</b>	<b>2,412,057</b>	<b>0</b>	<b>0</b>	<b>643,203</b>	<b>0</b>	<b>15,387</b>		<b>145,313</b>
		201-50-58001-000	<b>Transfer to General Fund</b>	<b>780,863</b>	<b>780,863</b>							
			<b>PROJECTED END BALANCE 6/30/2010</b>	<b>2,435,096</b>	<b>1,631,194</b>	<b>0</b>	<b>0</b>	<b>643,203</b>	<b>0</b>	<b>15,387</b>		<b>145,313</b>



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

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

**FROM: ROBERT L. CUSHING, CODE ENFORCEMENT  
OFFICER**

**DATE: FOR THE MEETING OF MAY 19, 2010**

**SUBJECT: ADOPTION OF ADMINISTRATIVE CITATION  
ORDINANCE**

#### **RECOMMENDATION**

Staff recommends that the City Council adopt Ordinance No. 585 that will add Chapter 1.21 to the Atherton Municipal Code and establish administrative citations for violations of the Atherton Municipal code, other town ordinances, applicable state codes, and applicable conditions on entitlements and land use approvals.

#### **DISCUSSION**

On April 21, 2010 the City Council introduced Ordinance No. 585 that established administrative citations for violations of the Town's municipal code and other ordinances and regulations. The City Council also adopted Resolution 10-05 that established the amount of fines and penalties imposed for violations of such provisions.

#### **FISCAL IMPACT**

Currently, the Town's Code Enforcement Officer provides code enforcement services on a contractual basis. Such services include assessments, field investigations, correspondence, logging and tracking of complaints and cases, dissemination of public information, and other related duties as assigned by the City Manager. The Code Enforcement Officer conducts follow-up inspections until violations are in compliance with Town requirements. The Code Enforcement Officer's current rate of pay is

\$103/hour and under most enforcement actions such expenditure is not recoverable. We do not foresee the Code Enforcement Officer's rate or duties changing significantly should the Town adopt this ordinance.

If an administrative hearing is requested, the Code Enforcement Officer can represent the Town at an additional hourly cost. Neither the cost of the Code Enforcement Officer or the hearing officer is recoverable. The use of outside counsel is optional for the Town, and the City Attorney would only be involved if deemed necessary (i.e. if the violation was sufficiently complex from a legal standpoint).

If a resident were to appeal a decision of the hearing officer to Superior Court, the City Attorney would need to get involved. While the Town is exempt from paying filing fees for court proceedings, it would be subject to attorneys' fees to defend the Town. We anticipate that very few, if any, administrative citations will end up in court. As noted above, most violations are resolved at the citation level, while a few may reach the administrative hearing level. An administrative appeal is a necessary and final step before an appellant can appeal the matter to Superior Court.

### **ALTERNATIVES**

If the City Council does not wish to adopt the ordinance, it may take one of the following two options:

1. Direct Town staff to revise the ordinance and bring it back at a future meeting.
2. Decline to adopt the ordinance and maintain the Town's current code enforcement protocol.

### **ENVIRONMENTAL CLEARANCE**

The adoption of this ordinance is not subject to the California Environmental Quality Act ("CEQA") because the establishment of an administrative citation program is not a "project" under CEQA. Specifically, in accordance with CEQA Guidelines section 15378(b)(4), the creation of government funding mechanisms that do not involve any commitment to a specific project that may cause a significant effect on the environment is not deemed to be a "project" under CEQA.

### **FORMAL MOTION**

I move that the City Council adopt Ordinance No. 585 entitled 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 Entitlement.

Prepared By:

*/s/ Robert L. Cushing*

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Robert L. Cushing  
Code Enforcement Officer

Approved by:

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Jerome D. Gruber  
City Manager

Attachments:

Ordinance No. 585 - Administrative Citation Ordinance introduced January 20, 2010  
Resolution 10-28 establishing amounts of fines and penalties

**RESOLUTION NO. 10-28**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
TO RESCIND RESOLUTION 10-05 AND ADOPTING ADMINISTRATIVE  
FINES AND PENALTIES FOR VIOLATIONS OF THE ATHERTON  
MUNICIPAL CODE, OTHER TOWN ORDINANCES, APPLICABLE STATE  
CODES, AND APPLICABLE CONDITIONS ON ENTITLEMENTS AND LAND  
USE APPROVALS**

WHEREAS, at its April 21, 2010 regular meeting, the City Council introduced an administrative citation ordinance via Ordinance No. 585 ("Ordinance") that established an administrative citation program to enforce the Town's municipal code, other town ordinances, applicable state codes, and conditions on entitlements and land use approvals;

WHEREAS, section 1.21.060 of the Ordinance states that the City Council shall establish by resolution the amount of fines, including any late payment penalties, for an administrative citation imposed pursuant to the Ordinance;

WHEREAS, section 1.21.060 also states that such resolution may include escalating fine amounts for repeat violations of the same provision by the same person within 12 months from the date of the initial administrative citation; and

WHEREAS, sections 53069.4, 36900, and 36901 of the California Government Code, together with the Ordinance, provide the authority for the City Council to establish by resolution the amount of fines, including any late payment penalties, for an administrative citation imposed pursuant to the Ordinance.

**NOW, THEREFORE, THE CITY COUNCIL OF THE TOWN OF ATHERTON  
DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

Section 1. Findings.

The above recitations are true and correct.

Section 2. Amount of Fee.

The amount of fines, including any late payment penalties, for an administrative citation imposed pursuant to the Ordinance follows:

1. When the violation is charged as an infraction, the administrative fine shall be:
  - a. \$100 for a first violation;
  - b. \$200 for a second violation of the same provision within one year; and
  - c. \$500 for each additional violation of the same provision within one year.

2. When the violation is charged as an infraction and concerns local building and safety codes, the administrative fine shall be:
  - a. \$100 for a first violation;
  - b. \$500 for a second violation of the same provision within one year; and
  - c. \$1,000 for each additional violation of the same provision within one year.
  
3. When the violation is charged as a misdemeanor, the administrative fine shall be:
  - a. \$100 for a first violation;
  - b. \$200 for a second violation of the same provision within one year; and
  - c. \$500 for each additional violation of the same provision within one year.
  
4. Administrative penalties become delinquent 45 days after the invoice date. Delinquent Administrative penalties are assessed a twenty-five (\$25.00) dollar charge plus 1 ½ percent per month on the unpaid balance.

Section 3. Environmental Clearance.

The adoption of this Resolution is not subject to the California Environmental Quality Act ("CEQA") because the establishment of such fines and penalties is not a "project." Specifically, in accordance with CEQA Guidelines section 15378(b)(4), the creation of government funding mechanisms that do not involve any commitment to any specific project that may cause a significant effect on the environment is not deemed to be a "project" under CEQA.

Section 4. Severability.

If any action, subsection, sentence, clause or phrase of this Resolution or the fees established by this Resolution shall be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this Resolution or the fees established by this Resolution that can be given effect without the invalid provisions.

\* \* \* \* \*

*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 19th day of May, 2010 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:

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Wynne Furth, City Attorney

**ORDINANCE 585**

**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**

WHEREAS, enforcement of the Town's municipal code, other town ordinances, applicable state codes, conditions on entitlements, and land use approvals is a matter of local concern and serves to protect the public health, safety and welfare of Town residents;

WHEREAS, the Town desires an alternative method of enforcement for violations of its municipal code and other applicable regulations;

WHEREAS, one such method of enforcement is an administrative citation program authorized by Government Code section 53069.4;

WHEREAS, the Town desires to establish a comprehensive administrative citation program in accordance with state law; and

WHEREAS, the administrative citation program is intended to encourage voluntary compliance with the Town's municipal code and other applicable laws in a timely and cost effective manner for the protection and benefit of Town residents.

**NOW, THEREFORE**, the City Council of the Town of Atherton hereby ordains as follows:

**SECTION 1:** A new Chapter 1.21 of the Atherton Municipal Code is hereby added to read as follows:

"Chapter 1.21 Administrative Citations

Sections:

- 1.21.010 Purpose and intent.
- 1.21.020 Authority to issue administrative citations.
- 1.21.030 Definitions.
- 1.21.040 Issuance.
- 1.21.050 Service procedures.
- 1.21.060 Amount of fines.
- 1.21.070 Payment of fines.
- 1.21.080 Request for administrative hearing.
- 1.21.090 Administrative hearing procedures.
- 1.21.100 Hearing officer decision.
- 1.21.110 Collection of unpaid fines.

- 1.21.120 Right to judicial review.
- 1.21.130 Notices.

**1.21.010 Purpose and intent.**

The city council finds and declares that:

- A. There is a need for an alternative method of enforcement for violations of the Atherton Municipal Code, other town ordinances, applicable state codes, conditions on entitlements, and land use approvals. An appropriate method of enforcement is the imposition of an administrative citation program and related fines as authorized by Government Code section 53069.4.
- B. The issuance of an administrative citation under this chapter is solely at the town's discretion and is one of various options that the town has to address violations of the Atherton Municipal Code, other town ordinances, applicable state codes, conditions on entitlements, and land use approvals. By adopting this chapter, the town does not intend to limit its discretion to use any other remedy, civil or criminal, to address such violations.
- C. Enforcement of the Atherton Municipal Code, other town ordinances, applicable state codes, conditions on entitlements, and land use approvals are matters of local concern and serve to protect the public health, safety and welfare of the citizens of the town, and such enforcement is a valid exercise of the town's police power.
- D. Issuing administrative citations encourages voluntary and complete compliance with the provisions of this code, other town ordinances, applicable state codes, conditions on entitlements, and land use approvals in a timely and cost efficient manner that protects and benefits all town residents.

**1.21.020 Authority to issue administrative citations.**

The following town officers and employees are designated and authorized to issue administrative citations as the town's enforcement officer:

- A. The City Manager or his or her designee;
- B. The Code Enforcement Officer or his or her designee;
- C. The Building Official or his or her designee; and
- D. All sworn police officers.

**1.21.030 Definitions.**

- A. "Enforcement officer" means any officer or employee acting on behalf of the town with the authority to enforce the Atherton Municipal Code, other town ordinances, applicable state codes, conditions on entitlements, and land use approvals in accordance with the provisions of this code.
- B. "Hearing officer" means the person appointed by the city manager, in compliance with any and all applicable legal requirements, to serve as the hearing officer for administrative citation hearings.
- C. "Land use approval" means any approval required for a particular use of land, including without limitation, licenses, conditional use permits, variances, or subdivision maps.

D. "Owner" means the record owner of any parcel of real property according to San Mateo County's last equalized property tax assessment roll, or the supplemental roll, whichever is more current.

E. "Person" means and includes a natural person or legal entity, and the owners, majority stockholders, corporate officers, trustees and general partners of a legal entity.

F. "Responsible person" means any individual who is the owner or occupant of real property, owner or authorized agent of any business, company, or entity, or the parent or the legal guardian of any person under the age of eighteen years, who causes, maintains, or permits a violation of the Atherton Municipal Code, other town ordinances, applicable state codes, conditions on entitlements, and/or land use approvals. For the purposes of this chapter, there may be more than one responsible person for any violation and each responsible person shall be jointly and severally liable for any such violation.

#### **1.21.040 Issuance.**

A. Notwithstanding the provisions set forth in Chapter 1.20 of the Atherton Municipal Code, any person violating any provision of the Atherton Municipal Code, other town ordinances, applicable state codes, conditions on entitlements, and/or land use approvals, including any provision that pertains to building, plumbing, electrical, or other similar structural or zoning issues, may, in the town's discretion, be issued an administrative citation by an enforcement officer. Before the imposition of any administrative fines, the enforcement officer shall allow a reasonable time period not to exceed fourteen calendar days, unless the enforcement officer determines that a longer time period is reasonably warranted and/or necessary under the circumstances, for the person to correct or otherwise remedy the violation.

B. Every person who applies for and receives any type of land use approval or entitlement shall comply with all conditions imposed upon the issuance of such approval or entitlement. Violation of any condition may be subject to an administrative fine in accordance with this chapter.

C. Each and every day a violation exists shall be a separate and distinct violation and may be subject to a separate fine.

D. An administrative citation shall be on a form approved by the city manager and shall contain the following information:

1. Name and address of the responsible person;
2. Date, time, and address or definite description of the location where the violation was observed;
3. The relevant provision violated and a description of the violation;
4. A description of the action required to correct the violation and an explanation of the consequences for failure to correct the violation;
5. An order prohibiting the continuation or repeated occurrence of the violation;
6. The amount of the fine for the violation;
7. An explanation of how and when to pay the fine;
8. A reasonable time period not to exceed fourteen calendar days, unless the enforcement officer determines that a longer period of time is reasonably warranted and/or necessary under the circumstances, within which the responsible person may correct the violation without being subject to a fine;

9. Notification of the right to appeal, including the time within which the administrative citation may be contested and the place to obtain a request for hearing form to appeal the administrative citation;
10. Notification of the right to request a hardship fee waiver;
11. The name and signature of the enforcement officer; and
12. The date the citation was issued.

**1.21.050 Service.**

An administrative citation issued in accordance with section 1.21.040 may be served in any of the following manners:

- A. **Personal Service.** The enforcement officer shall make a reasonable attempt to locate and personally serve the responsible person with the administrative citation and shall also make a reasonable attempt to obtain the signature of the responsible person on the administrative citation. Service by personal service shall be deemed completed at the time of such personal service. If the responsible person accepts service but refuses to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the administrative citation or any subsequent proceedings.
- B. **Service by Mail.** If the enforcement officer is unable to serve the responsible person by personal service, the enforcement officer shall mail the administrative citation to the responsible person by U.S. certified mail, return receipt requested, and by regular, first class mail. Service by mail shall be deemed effective as of the date of deposit. A copy of the mailing receipt used with certified mail shall be affixed to a copy of the administrative citation that is maintained by the enforcement officer.
- C. **Service by Posting Notice.** If the enforcement officer does not succeed in personally serving the responsible person or in serving the responsible person by certified or regular mail, the enforcement officer shall post the administrative citation on the responsible person's real property on which the violation is occurring. Service by posting shall be deemed effective as of the date of posting.

**1.21.060 Amount of fines.**

The city council shall establish by resolution the amount of fines, including any late payment penalties, for an administrative citation imposed pursuant to this chapter. The resolution may include escalating fine amounts for repeat violations of the same provision by the same person within 12 months from the date of the initial administrative citation.

**1.21.070 Payment of fines.**

- A. Within thirty days from the date of service of the administrative citation, the responsible person shall pay the fine to the City Clerk.
- B. If the fine is not paid within the timeframe prescribed herein, a late payment penalty may be charged in an amount to be established by resolution of the city council.
- C. Any fine paid pursuant to this section shall be refunded in accordance with section 1.21.100 if it is determined, after a hearing, that the person charged with the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.

D. Payment of a fine shall not excuse or discharge any continuation or repeated occurrence of any violation that is the subject of the administrative citation, nor shall it bar further enforcement action by the town.

E. Any responsible person who is unable to pay the fine may file a request for fee waiver with the city manager ten calendar days from the date of service of the administrative citation.

1. The request for fee waiver shall be in writing, describe why the fine cannot be paid, and include any relevant documentation supporting the request. The request must be accompanied by a sworn affidavit and must demonstrate to the satisfaction of the city manager the responsible person's actual financial inability to deposit with the town the full amount of the fine in advance of the hearing.

2. Once the request for fee waiver is filed, the requirement to pay the administrative fine shall be stayed until the city manager determines whether to grant or deny the request.

3. If the city manager grants the request for fee waiver, the responsible person shall not be required to pay the fine. Granting a request for fee waiver shall not excuse or discharge any continuation or repeated occurrence of any violation that is the subject of the administrative citation, nor shall it bar further enforcement action by the town.

4. If the city manager denies the request for fee waiver, the fine must be paid within fifteen calendar days from the date of service of the city's manager determination. The city manager may also impose a schedule for payment of the fine that shall not exceed 180 days from the date of his or her determination.

5. The city manager's determination shall be (1) made within ten calendar days of the request, (2) in writing, and (3) served via U.S. certified mail, return receipt requested. The city manager's determination shall be final.

#### **1.21.080 Request for administrative hearing.**

A. A responsible person may appeal the imposition of an administrative citation by completing a request for hearing form obtained from the City Clerk. The responsible person must return the form to the City Clerk within fifteen calendar days from the date of service of the administrative citation. Unless the responsible person was granted a fee waiver pursuant to section 1.21.070(E), the request for hearing form must be accompanied by an advanced deposit of the fine.

B. The request for hearing form must contain the following information:

1. The name, address, and signature of the responsible person appealing the administrative citation;

2. A brief statement in ordinary and concise language of the specific item that is contested, together with any supportive facts; and

3. A brief statement in ordinary and concise language of the relief sought and the reason why the administrative citation should be rescinded, modified, or otherwise set aside.

C. A hearing before the hearing officer shall be set for a date that is not less than fifteen nor more than sixty calendar days from the date the request for hearing is filed. The responsible person requesting the hearing shall be notified of the time and place set for the hearing at least ten calendar days before the date of the hearing.

D. A request for hearing form that fails to provide all of the information required by this section shall be deemed a failure to appeal the administrative citation. The failure of a responsible person to appeal the administrative citation within the timeframe provided by

this section shall constitute (1) a waiver of any right to an administrative hearing for a determination of the matter contested; and (2) a failure to exhaust his or her administrative remedies.

**1.21.090 Administrative hearing procedures.**

A. A hearing to appeal an administrative citation before a hearing officer shall not be held unless the appellant has (1) completed and returned the request for hearing form to the City Clerk, and (2) paid the administrative fine to the town.

B. The hearing officer shall only consider evidence that is relevant to whether the violation occurred and whether the responsible person caused, maintained, and/or permitted the violation.

C. At least ten calendar days before the hearing, the responsible person shall be provided with copies of any and all citations, reports, and other documents submitted or relied upon by the enforcement officer. No other discovery shall be permitted.

D. The formal rules of evidence shall not apply to the administrative hearing. All relevant evidence may be considered, and the hearing officer has the discretion to exclude evidence that he or she finds to be irrelevant or repetitive.

E. The administrative citation and any additional documents submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents.

F. The responsible person contesting the administrative citation shall be given the opportunity to (1) testify and present witnesses; (2) introduce relevant evidence; (3) cross-examine and/or rebut any witness testifying in support of the administrative citation; and (4) be represented by anyone who is lawfully permitted to do so.

G. The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust his or her administrative remedies.

H. The hearing officer may continue the hearing and request additional information from the enforcement officer or the responsible person contesting the administrative citation before issuing a written decision.

I. The city manager shall compile a list of qualified hearing officers and shall designate the hearing officer for the administrative hearing by random selection from the list, subject to availability of each particular hearing officer. The responsible person may request the city manager to recuse a hearing officer for reasons of actual bias or prejudice against the responsible person's cause. The hearing officer shall not be an employee of the town nor have any employment relationship with the town, except for that of hearing officer. The hearing officer's employment, evaluation, compensation, and/or benefits shall not be conditioned, either directly or indirectly, upon the amount of fine imposed on the responsible person or the number of administrative citations upheld by the hearing officer.

J. In administrative proceedings, the prevailing party shall be entitled to recover its reasonable attorneys' fees, but only if the town elects in writing, at the initiation of the administrative proceeding, to seek recovery of its own attorneys' fees. In no event shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the town in the administrative proceedings. The town may recover its attorneys' fees in the same manner as other costs pursuant to this chapter.

**1.21.100 Hearing officer decision.**

A. After considering all of the testimony and evidence submitted for the hearing, the hearing officer shall issue a written decision to uphold, modify or revoke the administrative citation that describes the reasons for the decision. The hearing officer's decision shall be final.

1. If the hearing officer determines that the administrative citation should be upheld, the amount of the fine on deposit with the town shall be retained by the town.

2. If the hearing officer determines that the administrative citation should be modified, the town shall refund or collect, whichever is applicable, the difference between the amount of the original fine and the modified fine within fifteen calendar days from the date of issuance of the hearing officer's decision.

3. If the hearing officer determines that the administrative citation should be revoked, the town shall refund the amount of the deposited fine within fifteen calendar days from the date of issuance of the hearing officer's decision.

B. The hearing officer's decision shall include a statement that the aggrieved party may seek judicial review in accordance with section 1.21.120.

C. Within five calendar days of issuance of the hearing officer's decision, the town shall serve a copy of the written decision on the recipient of the administrative citation by U.S. certified mail, return receipt requested. Service of the hearing officer's decision shall be deemed completed on the date of mailing.

**1.21.110 Collection of unpaid fines and costs.**

A. At its discretion, the town may pursue any and all legal and equitable remedies to collect unpaid fines imposed pursuant to this chapter. Pursuit of one remedy does not preclude the pursuit of any other remedy. It is intended that persons causing, maintaining, and/or permitting the violation, and not the taxpayers, bear the financial burden of the town's code enforcement efforts. Remedies available to the town to collect unpaid fines and costs include the following without limitation:

1. Referring the delinquent account to a collection agency;
2. Authorizing a lien to be recorded on the property; and/or
3. Authorizing a special assessment upon the property.

B. The town shall be entitled to recover all costs related to enforcing any violations that are recoverable under Government Code sections 54988, 38771 *et seq.*, or any other local, state or federal law. Before invoking any of the procedures described in this section, the town shall provide notice to the property owner (if different from the responsible person) based on San Mateo County's last equalized property tax assessment roll, or the supplemental roll, whichever is more current.

C. Any person who fails to pay any fine or penalty shall be liable in any proceeding brought by the town for the costs incurred in securing payment of the unpaid amount, including without limitation, administrative costs and attorneys' fees. Such collection costs shall be in addition to any penalties, interest, and/or late charges imposed upon the unpaid fine.

**1.21.120 Right to judicial review.**

Any person aggrieved by a decision of the hearing officer may obtain review of the administrative decision by filing (1) an appeal with the San Mateo County Superior Court in accordance with Government Code section 53069.4, or (2) a petition for writ of mandate in accordance with Code of Civil Procedure sections 1094.5 and 1094.6.

**1.21.130 Notices.**

Except as specifically provided in this chapter, all notices to be given herein shall be served on the responsible person in accordance with the provisions of section 1.21.050. Failure to receive any notice specified in this chapter does not affect the validity of proceedings conducted herein."

**SECTION 2:** 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 partsof this Ordinance.

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

\* \* \* \* \*

Introduced the 21st day of April, 2010

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the 19<sup>th</sup> day of May, 2010, 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**

**FROM: JEROME D. GRUBER, CITY MANAGER**

**DATE: FOR THE REGULAR MEETING OF MAY 19, 2010**

**SUBJECT: CONSIDERATION OF FILLING ONE VACANCY ON THE TOWN CENTER TASK FORCE FROM THE SIXTEEN APPLICATIONS ALREADY RECEIVED**

#### **RECOMMENDATION:**

To Be Determined.

#### **BACKGROUND:**

The idea of a Town Center Task Force (TCTF) to research funding opportunities first came up at the January 11 Strategic Planning Council meeting. At that meeting Council concurred to bring it back to the regular January 20<sup>th</sup> meeting to discuss formation of a Committee.

Mayor McKeithen recommended Council Members Carlson and Lewis to the Town Center Task Force because they had previously expressed interest in sitting on the Committee, and asked Council Members Carlson and Lewis to form a committee of citizen members and come back to Council in February with their strategy.

The item was brought back to the February 17, 2010 Council meeting with an update of the Town Center Task Force. No action was taken. The February staff report is attached for reference.

On March 16, 2010 the Town Center Task Force met at a joint meeting with the Blue Ribbon Task Force where Council Members Carlson and Lewis made their recommendations based on the qualifications advertised for TCTF members.

On March 17, 2010 City Council approved the Town Center Task Force recommendation on the consent Agenda with a 5-0 vote.

On April 21, 2010 Mayor McKeithen and Vice Mayor Dobbie prepared a Colleagues' memorandum to request a future agenda item to "allow three Council Members who were inadvertently left out of the process to be allowed to select five members from the 17 applications." The motion failed 2-3, Carlson, Lewis and Marsala opposed.

Another motion was made by Council Member Carlson, seconded by Council Member Lewis to consider one vacancy on the Town Center Task Force from the 17 applications which have already been received. The motion passed 3-2, Vice Mayor Dobbie and Mayor McKeithen opposed.

It should be noted that the Town Center Task Force was created with five resident members, one of whom resigned a few days before the April 21, 2010 Council meeting, leaving one vacancy on the Town Center Task Force.

**ATTACHMENTS:** February 17, 2010 Staff Report  
Town Center Task Force Applications



## 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 FEBRUARY 17, 2010**

**SUBJECT: TOWN CENTER TASK FORCE COMMITTEE UPDATE**

#### **RECOMMENDATION:**

No action to be taken. Update only.

#### **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 Member Marsala expressed interest in staying involved in the vision for the town center. Mayor McKeithen suggested keeping the Blue Ribbon Task Force so Council Member Marsala and Dobbie can have joint, publicly noticed meetings with the Financial Committee for a new town center. Council agreed and directed staff to add an item to the agenda for approval of guidelines and memberships at the February meeting.

The Town Center Finance Committee held a joint, publicly noticed meeting with the Blue Ribbon Task Force on Thursday, February 4, 2010. At that time the Town Center Finance Committee was renamed to Town Center Task Force.

Council Member Carlson and Lewis are currently working on a timeline and work plan and soliciting potential memberships to recommend to the full City Council.

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):

- |  |   |
|--|---|
| <input type="checkbox"/> Planning Commission                             | <input type="checkbox"/> Park and Recreation Commission |
| <input type="checkbox"/> General Plan Committee                          | <input type="checkbox"/> Arts Committee                 |
| <input checked="" type="checkbox"/> 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?

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: Jean Schaaf

Address: [REDACTED]

Home Telephone: [REDACTED] Date: 15 March, 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 Hall 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?

*Long-time resident  
Voter  
Tax payer*

2. Have you attended any meeting of the body on which you wish to serve? *None have been called. I remember -*

*( ) Yes Stand the Blue Ribbon ( ) No Task Force (1st of its kind) is Kaput. No one has been appointed as yet to my knowledge.*

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

*\*Kaput - Trans Com - GONE!*

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", Commissions/Committees must be registered voters and reside in Atherton.

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Thank you for your interest in serving the Town of Atherton.

**FAX**

To: Theresa Della Santa  
At: 650-688-6528  
Date: 15 March, 2010  
From: Jean S. Schaaf, (Dedicated FAX # [REDACTED])  
No. of pages: One  
Subject: Town Hall Task Force

My name is Jean Schaaf. I have been a resident of Athol since Dec. 14, 1972. Please include me as a member of the Town Hall Task Force.

I understand today is the last day for sign ups!

Jean Schaaf

TOWN OF ATHERTON

APPLICATION FOR APPOINTMENT TO COMMISSION OR COMMITTEE

Name: Jonathan B. Buckheit, Ph.D.

Address: [REDACTED]

Home Telephone: [REDACTED] Date: March 15, 2010

Work Telephone: [REDACTED]

Are you registered to vote in the Town of Atherton? Yes  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 Committee, Civillian Police Review Committee

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?

My background includes CEO of a high-tech company in Silicon Valley that I founded, for more than ten years (1997-2007). I have a Ph.D. from Stanford University in Statistics. I have significant experience in technology, management, legal issues, and financial issues (both accounting and investment). With respect to the Town Center Committee, I can help to ascertain whether or not the Town of Atherton can afford such at this time, help to raise funding if feasible, and implement the project in a cost-conscious manner. With respect to the Police Review Board, I have done extensive research on how these boards can operate effectively, and believe my membership on this board will enhance police services provided by the Town of Atherton through better resident/police communication and accountability.

2. Have you attended any meeting of the body on which you wish to serve?

( ) Yes (X) 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

To the extent they exist, I have reviewed them; additionally, I have reviewed extensive external source information about the Police Review Board..

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

I have spoken with many residents interested in the Town Center issues as well as the Police Review Board issues

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

I am currently retired from professional job duties.

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):

My first priority for membership is on the Civillian Police Review Board.  
I do have the time to be on both.

( ) 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.

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Thank you for your interest in serving the Town of Atherton.

**TOWN OF ATHERTON**

**APPLICATION FOR APPOINTMENT TO COMMISSION OR COMMITTEE**

Name: Charles Ramorino

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
- 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.)

Yes, Briefly

No



TO - CITY CLERK,  
THERESA  
DELA SANTA

TOWN OF ATHERTON

APPLICATION FOR APPOINTMENT TO COMMISSION OR COMMITTEE

Name: JOHN RUGGEIRO

Address: [REDACTED]

Home Telephone: [REDACTED] Date: 3/15/10

Work Telephone: [REDACTED]

Are you registered to vote in the Town of Atherton? Yes  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?
  - 30 YR. POLICE WORK
  - 30 YR. ATHERTON VOTER, TAX PAYER!!
  - ON COMMITTEE TO PICK TOWN MGR. 1997
  - MEMBER OF TRAFFIC TRANS. COMMITTEE
  - MEMBER OF SEBY STOCKBRIDGE COMMITTEE
  - DIRECTOR OF A.C.I.L. = 18 YRS
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

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 application?

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.

*as ROW 4*

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.

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Thank you for your interest in serving the Town of Atherton.

DEP. TOWN CLERK  
ATTN: THERESA DELLA SANTA

3/15/10

I WOULD LIKE TO BE ON "THE TOWN  
CENTER TASK FORCE" COMMITTEE.

John Ruggero  
JOHN RUGGEIRO

[REDACTED]

ATHERTON CA

650 [REDACTED]

FAX [REDACTED]

**TOWN OF ATHERTON**

**APPLICATION FOR APPOINTMENT TO COMMISSION OR COMMITTEE**

Name: Alex (Sandy) Kaye

Address: [REDACTED]

Home Telephone: [REDACTED] Date: 03/15/10

Work Telephone: [REDACTED]

Are you registered to vote in the Town of Atherton? Yes  No

I am applying for a position on the (check one):

- ( ) Planning Commission
- ( ) General Plan Committee
- ( ) Other: Town Center Task Force
- ( ) Park and Recreation Commission
- ( ) Arts Committee

**FAXED**  
3/15/10  
(NOON)

**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?  
CEO Mult-million dollar corporation  
Interested in New Town Center if  
properly financed & planned
2. Have you attended any meeting of the body on which you wish to serve?  
( ) Yes (X) No doesn't exist?
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 (X) No NO minute

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: Town Center Task Force

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.

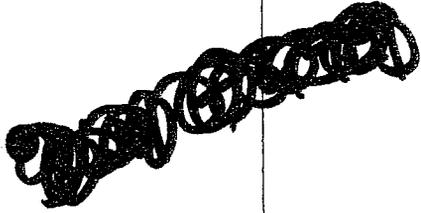
Thank you for your interest in serving the Town of Atherton.



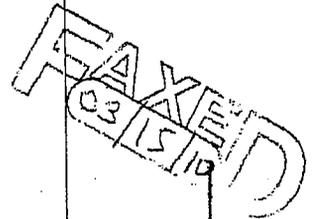
From the desk of  
**Sandy Kaye**  
President and Board Chairman

I'd like to be on the Town Center  
Task force.

Sandy (Alex) Kaye  
88 Shearer Drive



(Faxing from my office)



•The Porta-Bote Building  
1074 Independence Ave., Mountain View, CA 94043-1602 U.S.A  
Tel: 1(650) 961-5334 • Fax: 1(650) 961-3800  
info@porta-bote.com • www.porta-bote.com

688 6528

TOWN OF ATHERTON

APPLICATION FOR APPOINTMENT TO COMMISSION OR COMMITTEE

Name: Howard (Sandy) Crittenden

Address: [REDACTED]

Home Telephone: [REDACTED] Date: 3-15-10

Work Telephone: [REDACTED]

Are you registered to vote in the Town of Atherton? Yes  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?

Building construction experience  
Knowledge of existing facilities including  
library and Park structures.

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

TOWN OF ATHERTON

APPLICATION FOR APPOINTMENT TO COMMISSION OR COMMITTEE

Name: PHILIP D. LIVEN  
Address: [REDACTED] ATHERTON  
Home Telephone: [REDACTED] Date: 15 March 2010  
Work Telephone: same

Are you registered to vote in the Town of Atherton? Yes  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?

*30 year Resident  
Registered Professional Engr.  
Planning Commission Member  
Atherton Real Comm. Member*

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

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: Real Committee

FOR YOUR INFORMATION:

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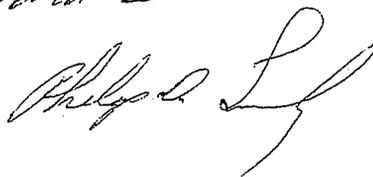
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Thank you for your interest in serving the Town of Atherton.

15 March 2010

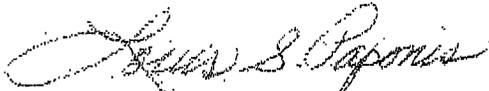


March 15,2010

Atherton Town Council  
c/o Theresa DellaSanta  
Executive Assistant/Deputy City Clerk  
Town of Atherton  
95 Ashfield Road  
Atherton, CA 94027

Atherton Town Council

I do hereby respectfully submit my name for a position on the  
Town Council Task Force.



Louis S. Paponis

[REDACTED]  
Atherton, Ca 94027-4119

[REDACTED]  
email: [REDACTED]

Monday 03/15/10

City Clerk  
Theresa de la Santo

I wish to have my name included  
on the list of possible appointments  
for the Towns reconstituted "Town Center  
Task Force"

Melinda Tevill

~~\_\_\_\_\_~~



## 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 MAY 19, 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.



## **Town of Atherton**

**ITEM 25**

**DATE: CITY COUNCIL MEETING OF MAY 19, 2010**

**TO: CITY COUNCIL**

**FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER**

**SUBJECT: REPORT FROM PLANNING COMMISSION ON POSSIBLE CHANGES TO THE R1-A ZONING DISTRICT FOR LOTS THAT ARE LESS THAN 10,000 SQUARE FEET IN AREA**

### **RECOMMENDATION**

The Planning Commission recommends the City Council take no further action regarding possible changes to the R1-A zoning regulations for lots with an area less than 10,000 square feet.

### **INTRODUCTION**

The City Council, at its March 17, 2010 meeting, discussed the differences between the R1-A and R1-B zoning districts and requested the Planning Commission review the provisions contained in the R1-B zoning district to determine if these provisions should also be included in the R1-A zoning district for properties with less than 10,000 square feet in area.

The Planning Commission, at its April 28, 2010 meeting discussed this item as requested by the City Council. At such meeting the Planning Commission held a public hearing in which it received considerable public comment, both from proponents of leaving the zoning ordinance as is and from proponents who supported making most or all of the R1-B provisions applicable to R1-A lots of less than 10,000 square feet. After further discussion amongst the Commissioners, the Planning Commission voted 3-0 to not recommend any changes to the R1-A zoning regulations for lots that are less than 10,000 square feet in area.

### **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 lot area), where the R1-B zoning district does not have a second floor 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. The R1-A zoning district has a minimum floor area of 2,250 square feet to address the smaller lots. The table attached provides a comparison of the R1-A and R1-B zoning district regulations.

Based on a visual review of the Town’s maps, Staff estimates that there are 26 properties that are less than 10,000 square feet in area and located within the R1-A zoning district (see attached list). The table below compares the R1-A regulations to the R1-B regulations for a 7,800 square foot lot that is 60’ wide by 130’ deep (typical lot on Parker Avenue)

	<b>R1-A</b>	<b>R1-B</b>
Front/Rear Setbacks	39’-0”	23’-3”
Side Setbacks	same	same
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”

The Planning Commission, at its April 28, 2010 meeting discussed the request of the City Council to consider possible changes to the R1-A regulations to accommodate lots less than 10,000 square feet in area. Staff provided notice of the meeting to property owners that could be affected as well as properties immediately adjacent to affected properties. Approximately eleven individuals spoke at the Planning Commission meeting, with three individuals expressing support for changes and eight individuals opposed to possible changes.

Commissioners expressed concern with making changes to the zoning code as the Town has recently completed a comprehensive update to the code. Commissioners also noted that the changes to the R1-A zoning district seems to be a work around to rezoning Parker Avenue. The Commission voted 3-0 to recommend no changes to the R1-A zoning regulations for lots with an area less than 10,000 square feet. (Relevant portion of draft meeting minutes attached).

**CONCLUSION:**

The Planning Commission recommended no changes to the R1-A zoning regulations.

**ALTERNATIVES:**

The Council has several options:

- The City Council could take no further action on this item as recommended by the Planning Commission
- Direct staff to prepare a Resolution for consideration at the next City Council meeting to initiate rezoning for Parker Avenue from R1-A to R1-B,

- Direct staff to prepare a Resolution for consideration at the next City Council meeting to initiate an Ordinance amending the R1-A zoning regulations to incorporate provisions of the R1-B zoning district for lots in the R1-A district with an area less than 10,000 square feet.

**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).

**FORMAL MOTION:**

I move that the City Council accept the recommendation of the Planning Commission to retain the current R1-A zoning regulations with no changes.

Prepared By:

Approved:

*/s/ Lisa Costa Sanders*

---

Lisa Costa Sanders  
Deputy Town Planner

---

Jerome D. Gruber  
City Manager

**Attachments**

1. Planning Commission Draft Meeting Minutes from the April 28, 2010 meeting
2. Comparison of R1-A and R1-B zoning regulations

**PLANNING COMMISSION  
DRAFT MINUTES**

**TOWN OF ATHERTON  
April 28, 2010  
6:00 P.M.  
TOWN COUNCIL CHAMBERS  
94 ASHFIELD ROAD**

**1. ROLL CALL:**

**PRESENT: Herman Christensen Jr.  
Philip Lively  
Paul Quinlan**

**EXCUSED: William Grindley  
Kristi Waldron**

**Acting Assistant City Attorney Veronica Ramirez, Deputy Town Planner Lisa Costa Sanders and Town Arborist Kathy Hughes Anderson were also present.**

**NEW BUSINESS**

**Consideration of possible changes to the R1-A zoning district for lots that are less than 10,000 square feet in area.**

Deputy Town Planner, Lisa Costa Sanders presented the Staff report and advised the Commissioners options on how to proceed with this item.

Commissioner Quinlan asked if one of the differences in R1A vs. R1B included front walls. Ms. Costa Sanders indicated that orientation of end walls and side walls is specifically defined in the R1-B but not in the R1-A where the property owner can choose the orientation of end walls and side walls. Commissioner Quinlan questioned if one of the alternatives presented in the Staff Report (to rezone) is in the Commissioner's power. Commissioner Quinlan also inquired as to what the City Council was requesting since the City Council had recently denied the request to rezone Parker Avenue. Since the Planning Commission is a recommending body and the City Council is a deciding body he was unsure whether the Commission was being asked to consider doing indirectly what the City Council had already denied. Ms. Costa Sanders indicated that the Planning Commission could initiate rezoning properties and that the City Council specifically requested the Planning Commission to consider changes to the R1-A zoning district.

Commissioner Christensen reconfirmed that the Commission can only recommend. Ms. Costa Sanders indicated that is correct, but at this meeting staff is requesting direction only on how to proceed.

Commissioner Quinlan indicated that many hours have been spent updating the Zoning Ordinance and asked why this wasn't addressed during that time. Ms. Costa Sanders indicated that at the

Community Outreach meetings, this topic was raised. The General Plan Committee, however, decided not to recommend further changes to the R1-A regulations to accommodate smaller lots.

## OPEN PUBLIC HEARING

Dwayne Watson, Parker Avenue, referred to the last page of the Staff report. Ms. Costa Sanders indicated that all these attachments are from the March 18, 2009 City Council staff report and have not been updated since that meeting. She further stated that the list of individuals listed as “in favor” or “opposed” was based on letters received prior to the March 18, 2009 City Council meeting. Mr. Watson explained why he believed there should be no change to the existing R1-A guidelines.

John Frenster, Parker Avenue, indicated that this has only become an issue within the last five years and with only a few individuals. Mr. Frenster expressed his feelings as to why there should be no change.

Anne Anderson, Bergesen Court, noted that she shares a fence with five Parker Avenue homes and indicated that if there is a change to the rear setbacks of these Parker Avenue homes, that her property would be extremely affected. Ms. Anderson noted that she printed maps and downloaded information from the County and handed it out to the Commissioners. Ms. Anderson also indicated a letter was submitted by the Eisenbergs, Polhemus Ave., as they were not able to be present at the meeting, but would be greatly affected as well. She indicated that she was not in favor or making changes.

Colleen Anderson, Parker, indicated she and her husband are in support of the change. She noted that in the R1-A zoning district, a pool or guest house can be located 10' from the property line. She noted that her primary concern is getting the cars off of Parker Avenue, by maintaining the rear setbacks and allowing the front setback to decrease in order for many of the Parker Avenue residents to add a garage to the front of their property. Ms. Anderson indicated that these lots are more like R1-B than R1-A lots and feels that it is better to change the rules versus breaking the rules.

Commissioner Quinlan indicated that there are six differences between R1-A and R1-B zoning regulations and questioned if Ms. Anderson wants all six changes. Ms. Anderson indicated that rear setbacks could remain the same, to take what is the rear setback in R1-B and move it to the front as well as increasing the overall square footage and increasing the square footage allowance to 1,500 square feet for second levels. She preferred that the height limits remain as they currently are in R1-A. Commissioner Quinlan clarified what Ms. Anderson is requesting. Ms. Anderson indicated that she wants a smaller set back in the front. Commission Quinlan noted the front setback in the R1-B zone is 23'.

Commissioner Lively clarified that it is a decrease in front setback that Ms. Anderson is requesting. Commissioner Quinlan responded in the affirmative, stating that Ms. Colleen Anderson is requesting a decreased front setback and no restrictions to upper story floor area. Commissioner Quinlan noted that the required front yard setback for Parker Avenue properties is 39'. Ms. Anderson indicated that currently the front yard setback in R1-B is 23 feet and she would like lower. Commissioner Quinlan confirmed building height and sidewalls would remain the same. He further questioned if Ms. Anderson made the same arguments in front of the City Council.

Commissioner Christensen wanted to clarify what Ms. Anderson is suggesting as follows; rear setbacks to remain as current at 39', front setback to change and be between 17'-20', side setbacks remain as current, total allowed floor area to change to R1-B standards, limit on second floor to change to R1-B standards and main building height to remain as current.

Commissioner Lively questioned why all the front fences are lined up on Parker Avenue. Ms. Anderson noted that 49 Parker is not.

Lorna Wadsworth, Parker Avenue, expressed her concern with the changes. Commissioner Quinlan asked if Ms. Wadsworth objected to all the changes. Ms. Wadsworth indicated that she does not want to see Parker Avenue essentially rezoned to R1-B.

Dwayne Wadsworth questioned if it is legal to spot zone. Ms. Ramirez staff would need to conduct further research regarding spot zoning.

Ms. Anderson indicated that in her opinion, Parker Avenue is already spot zoned.

Andrew Carlson, Parker Avenue, indicated he opposes the changes proposed.

Anne Anderson indicated that this is an issue of fairness and equity. She also noted that changes were made to the code in 1991 and that property owners remodeled in good faith and in reliance upon these codes. Ms. Anderson noted that she believes it is a really a problem and opens the Town up to vulnerability. She does not support making changes.

Jonathan Tang, Parker Avenue, stated that he has currently designed a house under the R1-A constraints and is currently in limbo as he does not want to move forward with those plans if changes are going to be made. He noted that he believes those opposing the changes have an unfounded concern with the possibility of huge "boxy" type homes.

Michael Bennett, Parker Avenue, indicated that for the past 24 years he has wanted to construct a garage. The general point is pure fairness; most of the smaller lots in Atherton have R1-B rules except for Parker Avenue. He believes that everything under a certain square footage should be R1-B and anything over should be R1-A.

Linda Grossman, Parker Avenue, explained to the Commissioners why she opposes the impending changes.

Richard Pike, Parker Avenue, also explained why he too opposes the changes.

#### CLOSE PUBLIC HEARING

Commissioner Lively indicated he has looked at the Staff report and maps. He noted that he would like to continue this item so that the other two Commissioners can be present.

Commissioner Quinlan indicated that he preferred to take action at the meeting. Numerous residents had attended and participated in the public hearing and he felt the Commission should make a decision. He further noted that he felt that the City Council should have taken action

themselves rather than to refer the item to the Planning Commission given their recent decision to deny the rezoning. The Commission was basically being asked to consider a de facto rezoning of all lots less than 10,000 square feet in the Town. Commissioner Quinlan noted that he has heard a lot about fairness in the public hearing but that fairness was subjective and generally was in the mind of the person who is making the argument.

Commissioner Christensen indicated that he is not in favor of the front setbacks being 18 or 19 feet and believes it would change the character of the street.

**MOTION to continue this item to the next regular Planning Commission meeting.**

**M/S Lively/**

**Motion fails due to a lack of a second**

**MOTION to recommend no changes to the R1-A zoning district regulations.**

**M/S Quinlan/Christensen                      Ayes: 3              Noes: 0              Excused: 2**

**ADOURN**

**The meeting adjourned at 8:15 p.m.**

**Respectfully submitted,**

---

Lisa Costa Sanders, Deputy Town Planner

### 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 for at least 2,250 square feet of floor area)	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 lot size	No limitation
Main building height limit	30'-0"	28'-0"
Main building sidewall height limit	22'-0"	18'-0"
Accessory structures	Same	Same
Orientation of Building	No restriction	End walls must be perpendicular to the lot depth

### 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



## Town of Atherton

### **CITY ATTORNEY REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
CITY MANAGER**

**FROM: WYNNE S. FURTH, CITY ATTORNEY**

**DATE: FOR THE MEETING OF MAY 17, 2010**

**SUBJECT: RESPONSE TO COUNCIL QUERY RE CIVIL GRAND JURY REPORT  
ON SPECIAL EVENTS ORDINANCE**

The City Council recently received a recommendation regarding hours of operation for non-school sports activities at Menlo-Atherton High School. The report included a recommendation for some expansion of hours for use of the playing fields by youth sports groups. The Council asked that we provide you with information about the April 2009 Civil Grand Jury report *Who Regulates the Use of Public School Facilities in Atherton?*, A copy of that report, and the Town's response to it, is attached.

The Civil Grand Jury acknowledged the value of youth sports and the legitimate concerns of residents about disruptive noise and congestion. It concluded that it was reasonable for cities and towns to regulate public events that might cause such noise and congestion, but it recommended that Atherton not regulate events on Sequoia Unified High School District facilities and that it exempt public school facilities from the Town's special events ordinance and guidelines. The Town has not followed that recommendation. While the Town must respond to a Civil Grand Jury report in writing, there is no legal requirement to follow its recommendations.

*/s/ Wynne Furth*

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Wynne Furth, City Attorney

Attachment: San Mateo County Civil Grand Jury Report *Who Regulates Use of Public School Facilities in Atherton?*  
Atherton Response to Civil Grand Jury Report.



[Issue](#) | [Background](#) | [Findings](#) | [Conclusions](#) | [Recommendations](#) | [Responses](#) | [Attachments](#)

## Who Regulates Use of Public School Facilities in Atherton?

### Issue

Should the Town of Atherton's Special Events Ordinance impose restrictions on non-school groups using facilities at Menlo-Atherton High School?

### Background

In July 2005, the Town Council of the Town of Atherton (Atherton) adopted Ordinance No. 559, Section 17.38 of the Atherton Municipal Code, known as the Special Events Ordinance (Ordinance). The purpose of the Ordinance 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".

The Ordinance was developed in response to citizen complaints about traffic congestion, noise, and parking during events held in the community. Concern was raised regarding the lack of advance notification to residents when an event was scheduled. The ordinance development process included work by Atherton's General Plan Committee, Planning Commission, public meetings, and final review and adoption by the Town Council. The Town Council also adopted Special Event Guidelines (Guidelines), which outline rules for special events held at private and public schools within Atherton as companion administrative guidelines to the Ordinance.

The Ordinance defines a special event as "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." The Ordinance mandates that a special event permit is required if: 1) an event is held in the public right-of-way; 2) an event is held on private property occurring two or more consecutive days and to which the general public is invited; or 3) a non-school-related event on school facilities is planned to occur outside the Guidelines. Special event permits are not required for on-site school-related events and non-school-related events complying with the Guidelines.

The Ordinance authorizes the Atherton Town Manager (Town Manager) or designee to issue a permit when, in the opinion of the Town Manager or designee, the event meets all the requirements of the Atherton General Plan and the Guidelines. In granting a permit, the Town Manager or designee can impose added conditions to insure the event has minimal impact on the community.

The Guidelines for special events held at private or public schools, as adopted by the Town Council, limits school field use and outdoor functions to the hours of 8:00 am to 7:00 pm during the week, and from 9:00 am to 6:00 pm on weekends. The Guidelines further limit indoor activities to

9:00 pm and restrict amplified noise equipment and lighting associated with field or outdoor functions. Any event planned to occur outside of the Guidelines requires a permit from Atherton.

The Sequoia Union High School District (District), like all other school districts throughout the State of California, must comply with the California Education Code Sections 38130-38139, commonly referred to as the Civic Center Act, when allowing the use of school facilities by non-school related community groups. Section 38131(b) of the Civic Center Act states: “The governing board of any school district may grant the use of school facilities or grounds as a civic center upon the terms and conditions the board deems proper, subject to the limitations, requirements, and restrictions set forth in this article...” Section 38131 (b.6) indicates that one of the authorized purposes of the Civic Center Act is: “Supervised recreational activities including, but not limited to, sports league activities for youths that are arranged for and supervised by entities. . .”<sup>1</sup>

### **Outdoor activities**

Outdoor athletic facilities at Menlo-Atherton High School (M-A) are heavily used by non-school-related youth serving groups, including the AYSO (soccer), CYSA (soccer), Pop Warner (football), SOLO (swimming), SPIN (softball), Little League (baseball), and a variety of one-time events. M-A has granted facility use permits to all these organizations without any added use restrictions. However, there has been contention regarding use of the football field between neighbors living close to M-A and the Menlo-Atherton Vikings Pop Warner Football League (Pop Warner).

Pop Warner, a nonprofit youth serving organization, has been using the M-A football field for practices and league games since 1998. Pop Warner use begins in August with practice sessions Monday through Thursday from 5:30 pm to approximately 8:30 pm. Four to five league games were originally held on Sundays beginning at 7:00 am through 6:00 pm. League games are now played on Saturdays and Sundays between 10:00 am and 6:00 pm. All league activity is completed by the end of November.

Atherton defines Pop Warner’s day-to-day football practices and league games as a special event. Because Pop Warner’s approved school use at M-A was outside the Guidelines, Pop Warner applied for a special event permit from Atherton in 2006. The permit request was denied by the Town Manager, and the denial was upheld by the Town Council. Attempting to mitigate citizen concerns regarding the M-A school use by Pop Warner, the District suggested adding conditions to the use permit, such as using low-shrill whistles during games, eliminating the use of an amplified public address system, and reducing early-morning Sunday games by playing over the two day weekend period. Pop Warner agreed to these conditions of the use permit. Since 2006, Pop Warner has continued to maintain its practice schedule as described above. It has chosen not to apply for an Atherton special event permit since 2006 because it believes that doing so would reflect its acceptance of the Ordinance.

The Lindenwood neighborhood of Atherton (Lindenwood) abuts M-A on two sides and is comprised of approximately 400 homes. In 2006, a few Lindenwood residents called the Atherton police approximately 50 times to report violations of the Guidelines by Pop Warner. A Lindenwood resident, who serves on the Planning Commission, made several of the calls to the police and came to the field during a Pop Warner practice and confronted coaches in an agitated manner. This Planning Commission member is now one of the two sub-committee members assigned to propose changes to the Ordinance.

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<sup>1</sup> California Education Code, Sections 38130-38139, Article 2. Use of School Property

The District is composed of four comprehensive high schools: M-A, Woodside, Sequoia, and Carmont. M-A is the only campus in the District that does not have a lighted football field, although the development of the field has been in the master plan for the school and was included in the recent bond issue project list approved by District voters. A group of M-A parents have also offered to cover costs of the field lighting. After some Lindenwood residents objected, the District elected to not move forward with the installation of the field lights, even though District officials believe that case law, specifically *City of Santa Cruz v. Santa Cruz City School Board of Education*, 210 Cal. App .3d 1 1989, gives the District the prerogative to construct field lights if it so chooses.

### **Indoor activities**

The District is currently constructing a Performing Arts Center (PAC) on the M-A site with bond funds recently authorized by the voters of the school district. The City of Menlo Park is participating in the development of the PAC to replace the deteriorating Burgess Center located in and operated by the City of Menlo Park. Their contribution to the project is \$2.6 million, approximately 10% of total project cost, with the agreement that the facility will be available for its use 40 days per year. Atherton is not participating in the PAC development but believes that its Ordinance applies to non-school-related uses at the PAC.

There are differences of opinion among attorneys regarding the legality of Atherton's Ordinance. Correspondence from the District to Atherton, dated August 30, 2006, states that activities authorized under the Civic Center Act "are to be conducted 'upon the terms and conditions the [District] board deems proper'" and further that "the management, direction and control of school facilities under [the Civic Center Act] are vested in the governing board of the school district.... Significantly nowhere in the Civic Center Act is there any reference to regulation of civic center activities by a city or county."<sup>2</sup>

Atherton's opposing position is that its Ordinance has jurisdiction over all non-school related uses at M-A, including field use, outdoor functions, and indoor activities. Atherton cites Education Code Section 17533, which provides that a county or city may impose its zoning regulations on a school district when a "school district seeks to lease a portion of a school building for uses other than public or education-related uses."<sup>3</sup> Further, Atherton asserts that Government Code Section 53091 "requires the District to comply with all applicable zoning regulation of the town," including the Ordinance which is part of the Atherton's zoning ordinance. Atherton included the Ordinance in its Zoning Code with the belief that by doing so it could avoid coverage under the Civic Center Act.

The District believes that collecting a charge for intermittent use of its fields, as allowed by the Civic Center Act, is not the same as renting or leasing space in a school building. The District is aware that other school districts have addressed zoning disputes by turning to a State law which allows a school district to, by adopted resolution, exempt itself from compliance with county or city zoning ordinances.

The dispute between the District and Atherton has consumed significant time and resources for all parties involved. For instance, an Atherton official reports that Atherton spent \$50,000 on outside legal counsel and \$50,000 on staff counsel specifically related to the interpretation of the Ordinance.

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<sup>2</sup> Correspondence from Sequoia Union High School District to Town of Atherton dated August 30, 2006.

<sup>3</sup> Ibid.

## Investigation

The 2008-2009 San Mateo County Civil Grand Jury interviewed representatives from the Town of Atherton, the Sequoia Union High School District, the San Mateo County Counsel's Office, and the Menlo-Atherton Vikings Pop Warner Football League. The Grand Jury reviewed minutes from the Town General Plan Committee, Planning Commission, and Town Council; staff reports; and municipal code documents as well as the California State Education Code and applicable court decisions.

## Findings

The 2008-2009 San Mateo County Civil Grand Jury found that:

1. The Sequoia Union High School District (District) furthers the goals of the Civic Center Act by authorizing the use of school facilities for non-school-related activities.
2. There is a consensus among all parties that there is a need for sports facilities in the area which community groups, such as Pop Warner, can use and that such use benefits the community as a whole. However, there has been disagreement over the hours during the day that the facilities should be available for non-school-related uses.
3. Concern by the Town of Atherton (Atherton) residents about noise and congestion associated with local public events spurred the Atherton Town Council to enact the Special Events Ordinance (Ordinance) and associated Special Events Guidelines (Guidelines).
4. There is a current dispute between two publicly elected entities, Atherton and the District, regarding which entity ultimately is authorized to regulate non-school use of the public school facilities.
5. Pop Warner continues to operate within the conditions specified by the District's use permit but outside of Atherton's Ordinance by conducting practices during the week beyond the 7:00 pm cutoff time specified in the Guidelines.
6. There are eight cities in the District. No other city within the boundaries of the District imposes specific requirements for Civic Center Act, non-school-related uses of fields or outdoor and indoor facilities.
7. The District is concerned that Atherton may attempt to restrict use of the Performing Arts Center for non-school-related uses under the Ordinance.
8. The District has taken into account the concerns of local residents by altering the terms of the Pop Warner use permit for the Menlo-Atherton High School football field to reduce noise and by electing not to install field lights at the school.
9. Atherton's Planning Commission (Planning Commission), recognizing that changes were needed in the Ordinance, formed a sub-committee of two members to formulate potential changes to the Ordinance. Atherton officials and the District have voiced concern as to whether the sub-committee's work will be balanced, given that one of the two members has been an outspoken critic of Pop Warner's use of M-A's football field outside of the Guidelines.
10. According to an Atherton official, four of the five members of the Planning Commission, who will be reviewing proposed changes to the Ordinance, are Lindenwood residents.
11. Both Atherton and District officials report that the working relationship between the District and Atherton staff has improved significantly over the last 18 months.

## **Conclusions**

The 2008 – 2009 San Mateo County Civil Grand Jury concludes that the Town of Atherton should not impose restrictions on non-school groups using facilities at Menlo-Atherton High School.

The Grand Jury also concludes that:

1. The Sequoia Union High School District contributes to the welfare of the community by authorizing the use of school facilities, including athletic facilities and the future Performing Arts Center, for non-school-related uses.
2. It is not unreasonable or unusual for residents of a city or town to be concerned about noise and congestion associated with public events conducted in or around their neighborhoods. It is also reasonable for cities and towns to enact ordinances regulating such public events on private property and public property controlled by the city or town.
3. The Town of Atherton has sought to limit use of Sequoia Union High School District facilities for non-school uses via its Special Events Ordinance.
4. It is reasonable and routine for school districts to grant use of school property for community events and activities. The purpose of the Civic Center Act is to promote community access to public school facilities and give school districts authority to regulate such use.
5. The Sequoia Union High School District and Menlo-Atherton Vikings Pop Warner Football League have both demonstrated good faith in dealing with Lindenwood neighbors. Difficulties and differences should be settled directly between the impacted parties whenever possible.
6. It is encouraging to note the renewed efforts by the Town of Atherton Staff to work collaboratively with the Sequoia Union High School District, Menlo-Atherton High School, and affected residents to resolve issues.
7. The Atherton Planning Commission does not appear to be broadly representative of the Town of Atherton. Moreover, the Planning Commission demonstrated questionable judgment in assigning two members to formulate potential changes to the Special Events Ordinance, given that one of the assigned members had been a strong proponent of restricting use of the Menlo-Atherton High School football field. This sub-committee assignment creates the potential for bias which could impede progress toward a balanced decision on the Special Events Ordinance.

## **Recommendations**

The 2008-2009 San Mateo County Civil Grand Jury recommends that the Board of Trustees of the Sequoia Union High School District:

1. Continue its practice of working with the community to find appropriate resolutions for the concerns expressed by the community regarding use of its facilities.
2. Review with legal counsel the options available to exempt itself from the Town of Atherton Zoning Ordinance, in the event the Town of Atherton chooses to continue including public school facilities in the Special Event Ordinance and the Special Event Guidelines.

The 2008-2009 San Mateo County Civil Grand Jury recommends that the Town Council for the Town of Atherton:

1. Should recognize that the Sequoia Union High School District is also a public body that is accountable to its constituents and is responsible for regulating use of its facilities for both school and non-school use.

2. Expressly exempt all present and future public school facilities from the Special Events Ordinance and Special Event Guidelines.
3. Allow issues related to after-hours use of private school facilities to be left to the schools and their immediate neighbors whenever possible.
4. Encourage qualified citizens from all parts of the Town of Atherton to seek appointment to boards and commissions in order to ensure broader citizen representation that is more reflective of the entire Atherton community.

## **Appendix:**

Town of Atherton, Municipal Code, Chapter 17.38, Ordinance No. 559, "Special Event Ordinance", Adopted September, 21, 2005.

Town of Atherton, School Event Guidelines

California Education Code, Article 2. Use of School Property, Sections 38130-38139

Sequoia Union High School District, correspondence to City Manager, Town of Atherton. Dated, August 30, 2006.

**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**

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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 20<sup>th</sup> 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

*/s/ William R. Conwell*

\_\_\_\_\_  
William R. Conwell, Mayor  
Town of Atherton

ATTEST

*/s/ Linda Kelly*

\_\_\_\_\_  
Linda Kelly, Acting City Clerk

APPROVED AS TO FORM:

*/s/ Marc G. Hynes*

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

## **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.

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# EDUCATION CODE

## SECTION 38130-38139

38130. This article shall be known and may be cited as the Civic Center Act.

38131. (a) There is a civic center at each and every public school facility and grounds within the state where the citizens, parent-teachers' associations, Camp Fire girls, Boy Scout troops, farmers' organizations, school-community advisory councils, senior citizens' organizations, clubs, and associations formed for recreational, educational, political, economic, artistic, or moral activities of the public school districts may engage in supervised recreational activities, and where they may meet and discuss, from time to time, as they may desire, any subjects and questions which in their judgment pertain to the educational, political, economic, artistic, and moral interests of the citizens of the communities in which they reside.

(b) The governing board of any school district may grant the use of school facilities or grounds as a civic center upon the terms and conditions the board deems proper, subject to the limitations, requirements, and restrictions set forth in this article, for any of the following purposes:

(1) Public, literary, scientific, recreational, educational, or public agency meetings.

(2) The discussion of matters of general or public interest.

(3) The conduct of religious services for temporary periods, on a one-time or renewable basis, by any church or religious organization that has no suitable meeting place for the conduct of the services, provided the governing board charges the church or religious organization using the school facilities or grounds a fee as specified in subdivision (d) of Section 38134.

(4) Child care or day care programs to provide supervision and activities for children of preschool and elementary schoolage.

(5) The administration of examinations for the selection of personnel or the instruction of precinct board members by public agencies.

(6) Supervised recreational activities including, but not limited to, sports league activities for youths that are arranged for and supervised by entities, including religious organizations or churches, and in which youths may participate regardless of religious belief or denomination.

(7) A community youth center.

(8) Other purposes deemed appropriate by the governing board.

38133. The management, direction, and control of school facilities under this article are vested in the governing board of the school district which shall promulgate all rules and regulations necessary to provide, at a minimum, for the following:

(a) Aid, assistance, and encouragement to any of the activities authorized in Sections 38131 and 38132.

(b) Preservation of order in school facilities and on school grounds, and protection of school facilities and school grounds, including, if the governing board deems necessary, appointment of a person who shall have charge of the school facilities and grounds for purposes of their preservation and protection.

(c) That the use of school facilities or grounds is not inconsistent with the use of the school facilities or grounds for school purposes or interferes with the regular conduct of schoolwork.

38134. (a) The governing board of any school district shall authorize the use of any school facilities or grounds under its control, when an alternative location is not available, to nonprofit organizations, and clubs or associations organized to promote youth and school activities, including, but not limited to:

(1) Girl Scouts, Boy Scouts, Camp Fire, Inc.

(2) Parent-teachers' associations.

(3) School-community advisory councils.

This subdivision shall not apply to any group that uses school facilities or grounds for fundraising activities that are not beneficial to youth or public school activities of the district, as determined by the governing board.

(b) Except as otherwise provided by law, the governing board may charge an amount not to exceed its direct costs for use of its school facilities. Each governing board that decides to levy these charges shall first adopt a policy specifying which activities shall be charged an amount not to exceed direct costs.

(c) The governing board of any school district may charge an amount not to exceed its direct costs for use of its school facilities by any entity, including a religious organization or church, that arranges for and supervises sports league activities for youths as described in paragraph (6) of subdivision (b) of Section 38131.

(d) The governing board of any school district that authorizes the use of school facilities or grounds for the purpose specified in paragraph (3) of subdivision (b) of Section 38131 shall charge the church or religious denomination an amount at least equal to the district's direct costs.

(e) In the case of entertainments or meetings where admission fees are charged or contributions are solicited and the net receipts are not expended for the welfare of the pupils of the district or for charitable purposes, a charge shall be levied for the use of school facilities or grounds which charge shall be equal to fair rental value.

(f) If any group activity results in the destruction of school property, the group may be charged for an amount necessary to repay the damages, and further use of facilities may be denied.

(g) As used in this section, "direct costs" to the district for the use of school facilities or grounds means those costs of supplies, utilities, janitorial services, services of any other district employees, and salaries paid school district employees

necessitated by the organization's use of the school facilities and grounds of the district.

(h) As used in this section, "fair rental value" means the direct costs to the district, plus the amortized costs of the school facilities or grounds used for the duration of the activity authorized.

(i) Any school district authorizing the use of school facilities or grounds under subdivision (a) shall be liable for any injuries resulting from the negligence of the district in the ownership and maintenance of those facilities or grounds. Any group using school facilities or grounds under subdivision (a) shall be liable for any injuries resulting from the negligence of that group during the use of those facilities or grounds. The district and the group shall each bear the cost of insuring against its respective risks and shall each bear the costs of defending itself against claims arising from those risks. Notwithstanding any other provision of law, this subdivision shall not be waived. Nothing in this subdivision shall be construed to limit or affect the immunity or liability of a school district under Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, for injuries caused by a dangerous condition of public property.

38135. Any use, by any individual, society, group, or organization for the commission of any act intended to further any program or movement the purpose of which is to accomplish the overthrow of the government of the United States or of the state by force, violence, or other unlawful means shall not be permitted or suffered.

Any individual, society, group, or organization which commits any act intended to further any program or movement the purpose of which is to accomplish the overthrow of the government by force, violence, or other unlawful means while using school property pursuant to the provisions of this chapter is guilty of a misdemeanor.

38136. No governing board of a school district shall grant the use

of any school property to any person or organization for any use in violation of Section 38135.

For the purpose of determining whether or not any individual, society, group, or organization applying for the use of the school property intends to violate Section 38135, the governing board shall require the making and delivery to the governing board, by the applicant of a written statement of information in the following form:

STATEMENT OF INFORMATION

The undersigned states that, to the best of his or her knowledge, the school property for use of which application is hereby made will not be used for the commission of any act intended to further any program or movement the purpose of which is to accomplish the overthrow of the government of the United States by force, violence or other unlawful means;

That \_\_\_\_\_, the organization on whose behalf he or she is making application for use of school property, does not, to the best of his or her knowledge, advocate the overthrow of the government of the United States or of the State of California by force, violence, or other unlawful means, and that, to the best of his or her knowledge, it is not a Communist action organization or Communist front organization required by law to be registered with the Attorney General of the United States. This statement is made under the penalties of perjury.

---

(Signature)

The school board may require the furnishing of additional information as it deems necessary to make the determination that the use of school property for which application is made would not violate Section 38135.

Any person applying for the use of school property on behalf of

any society, group, or organization shall be a member of the applicant group and, unless he or she is an officer of the group, must present written authorization from the applicant group to make the application.

The governing board of any school district may, in its discretion, consider any statement of information or written authorization made pursuant to the requirements of this section as being continuing in effect for the purposes of this section for the period of one year from the date of the statement of information or written authorization.

38137. Written statements of information as required by Section 38136 need not be under oath, but shall contain a written declaration that they are made under the penalty of perjury, and any person so signing the statements who willfully states therein as true any material matter which he or she knows to be false, is subject to the penalties prescribed for perjury in the Penal Code.

38138. Notwithstanding the provisions of this article or any other provisions of law, when a nonpartisan charitable organization organized under the laws of this state has constructed or will construct, subject to the provisions of Article 3 (commencing with Section 39140) of Chapter 2 of this part, a school athletic and youth center facility at no cost to a school district, upon a school-district-owned site to be owned by and for the benefit of the school occupying the site, the governing board of the school district, in accepting the donation and prescribing the conditions and restrictions with respect thereto, may permit the general use of the facility under the provisions of this article for specified supervised recreational activities which are sponsored by or conducted by the donor organization, and may also permit the donor organization to use the facility for this purpose at times when the facility is not being used by the school district for the educational program and related school activities of the designated beneficiary school, unless the use and occupancy of the facility by

the donor organization would otherwise interfere with the regular conduct of the school. Any use granted to the donor organization shall, however, immediately and forever terminate if the donor organization denies the use of the facility to any person because of their race, religion, creed, national origin, ancestry, or sex.

This section shall apply only to elementary school districts in San Diego County which had an average daily attendance of 425 or less during the 1970-71 school year, and which, during the 1970-71 school year, had a modified assessed valuation per pupil in average daily attendance of between forty-five thousand dollars (\$45,000) and fifty thousand dollars (\$50,000).

38139. (a) Public primary schools shall post at an appropriate area restricted to adults information regarding missing children provided by the Department of Justice pursuant to Section 14208 of the Penal Code.

(b) Public secondary schools shall post at an appropriate area information regarding missing children provided by the Department of Justice pursuant to Section 14208 of the Penal Code.

# Sequoia Union High School District

480 JAMES AVENUE, REDWOOD CITY, CALIFORNIA 94062-1098

Administrative Offices (650) 369-1411

BOARD OF TRUSTEES

Don Gibson  
Gordon Lewin  
Olivia G. Martinez  
Lorraine Rumley  
Sally D. Stewart

PATRICK R. GEMMA  
Superintendent

August 30, 2006

Refer to: PRG 1284

James Robinson  
City Manager  
Town of Atherton  
92 Ashfield Road  
Atherton, CA 94027

Dear Jim:

Re: Pop Warner Football's Use of Menlo-Atherton High School Facilities

I am writing to thank you for the opportunity to speak at the August 16, 2006, Town Council meeting and to express the District's disappointment in a letter I received, dated August 18, 2006, from the Town Attorney Marc Hynes demanding that the District modify the activities of the Pop Warner football program to strictly comply with Town guidelines applicable to special events. I had hoped that, by explaining the measures that had been taken to mitigate the impact of this worthwhile recreation program, as perceived by some neighbors of the high school, we could all move forward. Regrettably, this appears not to be the case.

Pop Warner has used the athletic fields for many years without attempted restriction from the Town of Atherton. Many of the youth and adults who participate in this program are residents of the Town of Atherton. Therefore, this program certainly adds value to the community.

I need to make clear at the outset that we have, at every step, carefully considered the legal issues raised by Mr. Hynes, including those stated in his letter to District Counsel Michael Murphy, dated August 4, 2006. My decision to refrain from addressing these points directly through District's counsel to date has not been driven by concern that the District's position is legally untenable, but instead by my belief that the best way to resolve disputes such as this is through dialogue. As the Town now appears to believe such dialogue will not achieve the Town's goals, I am presenting the District's legal position on this issue, developed through consultation with the District's counsel.

The State Legislature has forcefully declared that school districts play an indispensable role as "civic centers," serving the needs of the community for a place to engage in "recreational, educational, political, economic, artistic, and moral" activities. (Education Code Section 38130 et seq.) Specifically included in those activities authorized under the Civic Center Act are "[s]upervised recreational activities including, but not limited to, sports league activities for youths that are arranged for and supervised by entities..." (Id., section 38131(b)(6).)<sup>1</sup> These activities are to be conducted "upon the terms and conditions the [District] board deems proper..." (Id., section 38131(b).)<sup>2</sup> Further, "[t]he management, direction, and control of school facilities under [the Civic Center Act] are vested in the governing board of the school district which shall promulgate all rules and regulations" related to the use of District property under the Act. (Id., section 38133.) Significantly, nowhere in the Civic Center Act is there any reference to regulation of civic center activities by a city or county. In our view the Civic Center Act vests the sole authority to regulate and control civic center activities in the District, preempting any zoning authority that the Town may assert with respect to the conduct of such activities.

Mr. Hynes refers to Education Code Section 17533, which provides that a county or city may impose its zoning regulations when a "school district seek[s] to lease a portion of a school building for uses other than public or education-related uses." This section, which appears in an Education Code article prescribing rules related to the renting or leasing of space in "operating school buildings" for joint use, has no applicability here. The District is not renting or leasing space in an operating school building to Pop Warner, but instead is collecting a charge, as authorized by the Civic Center

James Robinson, City Manager

August 30, 2006

Page 2

Act, for intermittent use of District fields. (See Education Code Section 38134(c).) The provisions of the Civic Center Act, when compared to the provisions of the article prescribing the rules for the leasing or renting of space for joint use, make it clear that these two statutory grants of authority are independent, not inter-related. Further, the fact that the Legislature saw fit to explicitly authorize a county or city to impose its zoning regulations in the article addressing joint use while choosing not to do so in the Civic Center Act supports the District's view that civic center uses are not subject to the Town's zoning power.

While the District has taken those steps it believes are reasonable in ensuring Pop Warner's conformance to the Town's special events guidelines, it has never conceded that these guidelines apply to activities such as Pop Warner, even by the express terms of the special events ordinance. The Town's ordinance defines a "special event" as "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." (Town of Atherton Ord. Code, section 17.38.030, (emphasis added).) While Pop Warner practices and games may attract family and friends, we believe it would stretch the meaning of the ordinance beyond reason to conclude that Pop Warner, or other similar youth recreational activities, are events to which "the general public is invited."

Mr. Hynes also asserts that Government Code Section 53091 requires the District to comply with all applicable zoning regulations of the Town. As we have noted above, we believe that the general authority of the Town to impose its zoning regulations is preempted by the specific authority (or, more accurately, the legislative mandate) of the District to provide for civic center uses. The Town has provided for the operation of public schools within the zoning district in which Menlo-Atherton High School is located. Civic center uses are an integral part of the District's operation of a public school at that site. To recognize the authority of the Town to regulate such civic center uses would necessarily be to recognize the authority of the Town to prohibit them, which would run directly counter to the legislative mandate to accommodate such uses "upon the terms and conditions the [District] board deems proper."

In closing, I wish to re-emphasize that the District wishes to continue to work with the Town to resolve issues that affect Town residents living adjacent to Menlo-Atherton High School and will endeavor to resolve these issues in a way that will accommodate both the concerns of our neighbors and the needs of those worthwhile community activities that seek the District's assistance under the Civic Center Act.

Very truly yours,



Patrick R. Gemma, Ed.D.

District Superintendent

dmr

cc: Board of Trustees, SUHSD  
Marc Hynes, Town Attorney  
Michael Murphy, Assistant County Counsel

<sup>1</sup>The particular importance of the role school districts play in providing for recreational activities has been emphasized by one court, which noted that, while educational operations are a school district's primary responsibility, "school districts also serve an important secondary function as providers of recreational facilities for the community. [Citations omitted.]" (Howard Jarvis Taxpayers Assoc. v. Whittier Union High School Dist. (1993) 15 Cal.App.4<sup>th</sup> 730, 736.)

<sup>2</sup>Mr. Hynes refers to Education Code section 38134(a), which *requires* school districts to make school property available for certain activities where "an alternative location is not available". While this mandatory provision emphasizes the indispensable role that school districts play in providing for civic center uses, it in no way impairs the broader, discretionary authority that school districts have under Section 38131, which contains no "alternative location" requirement

# SEQUOIA UNION HIGH SCHOOL DISTRICT

480 JAMES AVENUE, REDWOOD CITY, CALIFORNIA 94062-1098

ADMINISTRATIVE OFFICES (650) 359-1412

BOARD OF TRUSTEES  
DON GIBSON  
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SALLY D. STEWART

PATRICK R. GEMMA  
SUPERINTENDENT

May 8, 2009

Honorable George A. Miram  
Judge of the Superior Court  
Hall of Justice  
400 County Center, Second Floor  
Redwood City, CA 94063-1655

Re: Grand Jury April 6, 2009, report, use of public school facilities in Atherton

Dear Judge Miram:

I am responding on behalf of the President of the Sequoia Union High School District Board of Trustees. The District governance team has read all the findings in the Grand Jury Report regarding the use of public school facilities in Atherton.

We agree with all the findings.

Additionally, we have read the two recommendations addressed to the SUHSD Board of Trustees and comment as follows:

1. The Sequoia Union High School District will continue its practice of dialogue with the Atherton community to find appropriate resolutions for concerns expressed regarding use of the facilities at Menlo-Atherton High School.
2. By June 30, 2009, the Superintendent will review with legal counsel the options available to exempt the Sequoia district from the Town of Atherton's zoning ordinance. We may implement some or all of these options if the Town chooses to continue including public school facilities in its Special Event Ordinance and Guidelines.

The Grand Jury Report and this response were accepted by the Sequoia Union High School District Board of Trustees at its meeting of May 6, 2009.

Sincerely,



Patrick R. Gemma, Ed.D.  
Superintendent

c: James Lianides  
Board of Trustees



Office of the City Manager  
Town of Atherton

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

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June 1, 2009

Honorable George A. Miram  
Judge of the Superior Court  
Hall of Justice  
400 County Center; 2<sup>nd</sup> Floor  
Redwood City, CA 94063-1655

Re: Grand Jury Report: *Who Regulates Use of Public School Facilities in Atherton?*

Dear Judge Miram:

The Town of Atherton (the "Town") has received the above referenced report of the San Mateo County Civil Grand Jury dated April 6, 2009. The City Council reviewed the report and approved this response at its regular City Council meeting on May 20, 2009. Pursuant to California Penal Code sections 933 et seq., the town responds to the findings and recommendations as follows:

The Town agrees with the 11 findings set out in the report with the following additional comments or exceptions:

Finding 5: The Town has not independently verified that Pop Warner continues to operate within the conditions specified by the District's use permit.

Finding 6. The Town has not independently verified whether the other cities in the Sequoia Unified High School District ("District") regulate non-school-related uses of fields or outdoor and indoor facilities.

Finding 7. The Town does not accept in whole the finding that the District is concerned that Atherton may attempt to restrict use of the Performing Arts Center for non-school-related uses under the Ordinance. The Town and the District entered into a Settlement Agreement concerning the construction and operation of the performing arts center at Menlo-Atherton High School in 2008. The Settlement Agreement recognizes the value of the Performing Arts Center and includes a procedure for resolving further disputes on its use.

Finding 8. The Town has not independently verified that the District has taken into account the concerns of local residents by altering the terms of the Pop Warner use permit for the Menlo-Atherton High School football field to reduce noise.

Finding 9. The City Council asked that the Planning Commission further study the special events regulations in the Town's Zoning Ordinance. The Planning Commission has established a sub-committee to work on this task. The City Council is unaware that any Atherton officials have voiced a concern as to whether the sub-committee's work will be balanced. The City Council agrees that that some individuals have "voiced a concern as to whether the sub-committee's work will be balanced, given that one of the two members has been an outspoken critic of Pop Warner's use of M-A's football field outside of the Guidelines." The Town does not dispute the finding that such concerns have been voiced. However, the Town's concurrence in the finding should not be understood as concurrence in the opinion. The Town often appoints individuals with both a strong interest in civic affairs and strong points of view to its committees and commissions. This involvement can be a positive force in arriving at good outcomes.

Finding 10. The City Council is unaware of any public official advising the Grand Jury that four of the five Planning Commission members are Lindenwood residents. Four out of five Planning Commissioners were Lindenwood residents at the time the report was prepared. The Planning Commission currently includes three citizens who reside in Lindenwood and two who do not.

The Town's response to the Grand Jury's recommendations are as follows:

Grand Jury Recommendation 1. *The Town should recognize that the Sequoia Union High School District is also a public body that is accountable to its constituents and is responsible for regulating use of its facilities for both school and non-school use.*

The Town recognizes and respects the fact that the Sequoia Union High School District ("District") is a public body that is accountable to its constituents and responsible for regulating the use of its facilities. In addition, under Government Code Sections 53090 et. seq. the Town's zoning and building ordinances apply to school districts within its boundaries unless their governing boards vote to exempt their districts from those laws.

Grand Jury Recommendation 2. *Expressly exempt all present and future public school facilities from the Special Events Ordinance and Special Event Guidelines.*

The Town's Special Events Ordinance applies to certain non-school activities taking place on school grounds. The regulations in question are part of the Town's lawfully adopted zoning ordinance. The Grand Jury has not found the regulations to be illegal. The Town has asked its Planning Commission to study this matter further and it is doing so. When it receives the Planning Commission's report, the City Council will consider its recommendations carefully, as well as those of the Civil Grand Jury. However, it will not commit itself to any course of action except in compliance with the Government Code procedures for amending zoning codes.

Grand Jury Recommendation 3. *Allow issues related to after-hours use of private school facilities to be left to the schools and their immediate neighbors whenever possible.*

Recommendation 3 has been implemented. The Town's Special Events Ordinance provides a process through which the interests of the event organizers, attendees, and host schools are balanced with those of the neighboring residents. The Town makes every effort to ensure that the special events permitting process is consultative and believes the process has worked well.

*Grand Jury Recommendation 4. Encourage qualified citizens from all parts of the Town of Atherton to seek appointment to boards and commissions in order to ensure broader citizen representation that is more reflective of the entire Atherton community.*

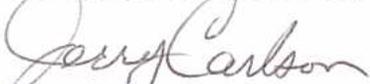
Recommendation 4 has been implemented. The Town solicits applications for service on its boards and commissions from all its citizens and will continue to do so.

If you have any questions please feel to contact the Town of Atherton.

Thank you.

Sincerely,

**TOWN OF ATHERTON**



Jerry Carlson

Mayor



**DATE: FOR THE CITY COUNCIL MEETING OF MAY 19, 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.

*/s/ Lisa Costa Sanders*

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Lisa Costa Sanders  
Deputy Town Planner

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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  
JERRY GRUBER, CITY MANAGER**

**FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR**

**DATE: FOR THE MEETING OF MAY 19, 2010**

**SUBJECT: APPROVE A CONTRACT CHANGE ORDER FOR BLOSSOM  
VALLEY CONSTRUCTION FOR THE HOLBROOK-PALMER  
PARK MASTER IRRIGATION PROJECT, PROJECT NUMBER  
09-006 IN THE AMOUNT OF \$23,579.56.**

#### **RECOMMENDATION:**

Approve a Contract Change Order for Blossom Valley Construction for Holbrook-Palmer Park Master Irrigation Project, project number 09-006 in the amount of \$23,579.56.

#### **INTRODUCTION:**

Holbrook-Palmer Park Master Irrigation Project began on Thursday January 7, 2010. While applying for the permits for the well and electrical, the contractor was required to provide calculations as part of application package for the permit. The design and engineering for this permit submittal was not included as part of the scope of work for this project. The wiring that was required for the permit was different than what was specified in the bid packet.

The architect specified #2 AWG wire for the well pump. Per the manufacturer of the well pump, over a distance of 850 ft., #2 AWG wire was sufficient to provide power to the well pump. The pump manufacturer's design was based upon the assumption that the well pump was the only item drawing power from the PG&E transformer, whereas, the whole park utilizes this transformer. This means that the transformer is unable to push sufficient power through #2 wire to operate the pump without excessive heat. This change in assumption resulted in the need for upsized wiring.

The contractor's electrician, Horizon Electric, calculated that #000 wire was needed to provide power for the distance required per California Electrical Code. This wire size was reviewed and approved by the Atherton Building Department. This size was also verified by Public Works with an electrical engineer.

The upsized wire is much larger and stiffer than the originally specified wire. Therefore the conduit needs to be larger, additional and larger pull boxes are needed due to the difficulty in pulling the wire, and the existing subpanel where power is connected needs to be replaced with a larger and more robust panel. All of the fittings for the larger wire are also larger and more costly.

The electrical work has not been installed due to the cost of upsizing the wiring exceeding the contingency, thus requiring Council's approval.

**ANALYSIS:**

**Field Change Orders**

Design/Engineering =	\$3,080.00
#000 Electrical Wire =	\$10,123.30
2" Conduit Sleeve =	\$1,149.50
N30 Christy Pull Boxes =	\$2,585.00
Subpanel upgrade =	\$7,029.00
Ufer ground installed in Slab =	\$ 792.00
Miscellaneous materials =	\$2,900.70

TOTAL COST =	\$27,659.56
<u>EXISTING ELECTRICAL BID PRICE =</u>	<u>-\$4,080.00</u>

TOTAL REQUESTED CHANGE ORDER AMOUNT = \$23,579.56

These costs are based on regular unit prices and industry standard time and materials costs. The cost of this change order will exceed the contingency of the contract, which is \$20,092.09. Staff recommends that the contract amount and authorization be increased by the amount of the change order, leaving the contingency intact to handle minor items on the remainder of the project to be constructed, as well as contingency items already incurred.

Designing and calculating the electrical connection for the permit prior to construction would have not changed the total cost to construct this project. The bids would have been much higher if #000 wire were originally specified. The architect, Kikuchi & Associates, had an original estimate of \$32,640 for this item. The contractors that bid on this project had a range of \$3,060 to \$10,710, with Blossom Valley Construction at \$4,080, well below the architect's estimate. With the increase in cost of the electrical wiring, the total cost for the electrical item after the change order is \$27,659.56, still below the engineer's estimate by \$4,980.44 (15.3%).

The new well has been drilled and the pump has been installed and is awaiting power to operate the well for our use.

**FISCAL IMPACT:**

This change order for the additional electrical wiring of \$23,579.56 will bring the authorized total to \$244,592.53. The current authorized amount including 10% contingency is \$221,012.97. Parcel Tax funds in the amount of \$200,000 were originally budgeted for this project in FY 2009-10, with an additional \$21,012.97 authorized from Parcel Tax with the award. This additional \$23,579.56 will also need to be authorized from Parcel Tax funds. This new authorized amount is 15% below the architect's original estimate prepared by Kikuchi & Associates, the designer of the project, of \$290,293.

Prepared By:

Approved:

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

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Jerome D. Gruber  
City Manager

## Council Comments – May 2010 – Jerry Carlson

April 22 – Special Council meeting to consider labor negotiating issues.

April 23 – Assemblyman Ira Ruskin's office with Mayors Pat Burk, Palo Alto and Rich Cline, Menlo Park to discuss High Speed Rail and Caltrain issues and possible legislative initiatives. Improving HSR oversight by having an effect Peer Review function as called for in Prop. 1A is a must but needs funding and filling of vacant seats. Ira seems to subscribe to the "doing it right" concept, however, he indicated he has limited time to give to this issue.

April 23 - Ralston Hall Mansion, Belmont Council of Cities – Robert Doety, JRR? discussion of High Speed Rail and Caltrain issues. Bob talks about "doing it right" and then makes statements to the press about how the cities will have to come up with the extra money in they want tunneling. If HSR insists on having dedicated tracks it will mean Caltrain will not be able to use them for cross-overs for their bullet trains which would cause riders between SJ and SF to use HSR rather than Caltrain to reach their destination. Bob alluded to 'hard negotiations' between the two agencies would begin in a couple of months.

Monday April 26 – Council workshop on budget. The biggest challenge is how we should handle the unfunded retirement costs. The finance committee is key to coming up with some options for cost containment and revenue alternatives.

Thursday April 29 – Palo Alto Rail Committee. Simitian is open to pursuing legislative issues re HSR as long as there is state wide application. He is still very much depending on the CEQUA process to come up with the right answers for each corridor. Open to enhancing the Peer Review committee. Palo Alto is planning a couple of community outreach meetings. June 8<sup>th</sup> is the 60<sup>th</sup> day deadline to have comments re Alternatives Analysis submitted to receive 'full consideration' in the process. There was discussion about needing to assess the property value impact associated with different vertical alignments. There is some confusion about what width will be needed for right of way. Currently, the FRA in a technical memorandum calls for 135' when there is a freight train using adjacent tracks. HSR plans call for 100' or less.

April 29 – League of California Cities division Bocci Ball tournament fund raiser for PAC for promoting legislation and ballot measure to safeguard local agency funds. This informal event helped to meet council members and city managers of Santa Clara and San Mateo counties. We (Atherton council) took a fair amount of ribbing for the intra council issues we seem to be getting into lately and the resulting press articles.

April 30 – PCC meeting. The letter to chairman Pringle asking HSR to reimburse Atherton for costs associated with implementing Context Sensitive Solutions, signed by the mayor, was given to the other board members. Since then, the letter has been referred to by other cities, including the Palo Alto Rail Committee and Burlingame and the press.

May 4 – Town Center Task Force meeting. Please refer to minutes. Doing a reality check of the prior needs assessment data pointed to a number of areas where the square footage requirements could be scaled back. The committee is looking for ways to

minimize the size and cost to renovate and expand staff space. Renovating the council chamber and current administration space could result in significant savings from original estimates. If the library moves, renovation of those quarters for town use may be practical. Possible donor funds may be realistic for a new public safety quarters. All the findings will be summarized and made public.

May 4 – High Speed Rail meeting at Pavilion was attended by about 80 people. It was interesting that at least one person whom I had specially invited was new to the issue despite living in town. Two residents decided to attend the Sacramento meeting, and gave testimony, on May 11<sup>th</sup> motivated by their concerns about the project.

May 5 – Caltrain electrification meeting with David Miller and Caltrain staff along with Jack Ringham, Jones and town staff members. Duncan Jones reviewed the Atherton letters that had been sent with our concerns about destruction of trees and unsightly wires which could be avoided to a large extent by moving both set of tracks near the center line of the right-of-way. Current documentation on future service does not specifically spell out restoring service to Atherton and Burlingame's Broadway station. Caltrain would rather not recirculate the EIR for comment even though it is several years old. I proposed then a separate document that would satisfactorily address Atherton's concerns (memorialized side agreement) that would be part of any EIR certification process. Jack and ? raised the economic issues as to how Caltrain will be able to survive since the funding it has been receiving from the three counties will be severely cut back (maybe even eliminated). Electrification will save energy costs but not nearly enough to breakeven. The State is reducing funding as well. It is interesting to note that the reason Sam Trans (the Caltrain funder) is in such bad shape is due to the debt service for the Bart extension to the airport. Caltrain has been using one time funds to close budget gaps in the last several years.

May 6 – Palo Alto Rail Committee. I reported on the Atherton meeting with HSR representatives and the definition given by one resident that "doing it right" means you can't see it, can't hear it and can't feel it. Both Mayor Pat Burk and Councilman Larry Cline provide a good sounding board for possible legislative actions that we may wish to consider for HSR and Caltrain.

May 6 – Caltrain Joint Powers Board meeting included discussion of the budget problems and possible options in service reductions which may further reduce ridership and revenues. David Miller referred to the meeting on electrification he had with us in Atherton as being "constructive". It is very evident that the Gary ? letter along with Atherton's willingness to challenge EIR is making Caltrain weigh the possibility of litigation.

May 11 – Sacramento for Senate Transportation and Housing committee meeting re State Audit report on CHSRA. Both Senators Lowenthal and Smitian are showing signs of frustration re the authority. A new executive director has been named for HSR (van Ark) and will start in June. The authority has until mid January 2011 to address points raised by Smitian including the business plan, funding plan, clarity on the revenue guarantee,

community engagement plan and peer review committee. My testimony focused on making certain van Ark understands directly from the senators their concerns, expectations and time line for getting the project on track.. Point 2 concerned breathing life into the peer review committee by completing its membership, providing adequate funding and giving it a broad mandate under which to operate. My third point was to insist that a funding range be included in the business plan to include the costs for all alternative options, not just an aerial structure the plan now assumes. I have been concerned all along that having only one option will bias the selection of the 'preferred alternative' and they will tell us that there is no money (no business plan) for tunneling in the San Jose to San Francisco section.

Our lobbyist, Ravi Mehta is setting up meetings with individual legislators and chairman Pringle within the next 2-3 weeks for PCC board members.

There was no mention made of UP reasserting its position against HSR being near their rail line along the Monterey Highway south of San Jose. This must be putting HSR in a real bind over their revised Program EIR routing is based on using that route.

I also learned that the ridership study model is under review by U.C. Davis and their work will receive a peer review by the U.C. Berkley Transportation department. This report should be coming out within 2-3 weeks and may add further challenge the viability of HSR's plans. If this should happen it would further strengthen the recent action by attorney Flashman asking the court to reopen the prior judgment because of previously withheld information (ridership model information).

May 19, 2010

Charles Marsala Meetings attended:

Environmental Programs Committee

Items discussed:

1. Acterra's High Energy Program
2. San Mateo Retrofit Bay Area Update
3. 2010 EPC Budget
4. Water Efficiency

County Emergency Preparedness JPA

Items discussed:

1. Budget
2. Training exercises for Earthquake Response

General Plan

Items discussed:

1. Green Building Ordinance
2. Water Efficiency Ordinance

May 19, 2010 Council Report – James Dobbie

Finance Committee 4-22-2010

Main areas of discussion were on the current investment portfolio and where to put the money. No major changes were recommended. Interest rates are still at very low levels and safety is the main consideration.

How to fund GASB 45 was also discussed, clearly of great concern because of the town's financial situation.

The finance director believes lack of sufficient finance staffing is a very large concern and that important work is being delayed.

Audit Committee 4-29-2010

An approved purchasing policy for the town is needed. Mr. Widmer a member of the committee offered to assist in the preparation but the staff wants to pursue it internally.

The method by which we handle checks and monies in Holbrook Palmer was also discussed. The present system is not satisfactory. The town manager will review.

Stale check decisions have not been made. The recommendation is that the town finds a way to take the money into the general fund provided the legalities can be assured.

Town meeting regarding HSR 5-4-2010

There was a large turnout of interested people from Atherton and other communities. The general impression was that the HSR presentation was a sales pitch and it was not well received by the audience. None of the major questions that relate to the impact on the Bay communities were answered.

Transportation Committee 5-11-2010

Much of the discussion involved proposed road changes because of the Sacred Heart school expansion. No decisions were made and much more work needs to be done. Our police will present comparisons of our traffic ticket performance with other local cities at the next meeting.

Parking on Alejandra avenue was also discussed but because of a lack of resident input at the last survey no changes were recommended.

May 6, 2010.

The Lindenwood homeowners called a meeting to discuss Safety, Security and Emergency Preparedness.

The meeting was attended by 55 residents and interest was high.

The Menlo Park Fire District and the Atherton Police Department made presentations as did Doug DeVivo, AA Alarm Systems and the Quake Relief Center.

Companies that had emergency supplies for sale also showed their wares.

16-50 gallon water barrels were sold.

There was serious concern about residents' ability to turn of their gas valves in an emergency. Many of these are old and will not turn. Residents are advised to call PG&E to correct this problem.

15 Block Captains were signed up at the meeting

# MAY 2010 COUNCIL REPORT

## MAYOR KATHY MCKEITHEN

1. THE LIBRARY JPA MET ON MAY 3, 2010. THE PRIMARY PURPOSE OF OUR MEETING WAS TO DISCUSS THE 2010-11 RECOMMENDED BUDGET. IN ORDER TO PRODUCE A BALANCED BUDGET THE FOLLOWING RECOMMENDATIONS WERE MADE:
  - A. A REDUCTION IN THE BASE LEVEL ALLOCATION FOR COLLECTIONS OF 29% FROM \$1.4M TO \$1.0M
  - B. A REDUCTION IN THE ALLOCATION FOR EXTRA-HELP BY 33% FROM \$,1,017,000 TO \$765,200.
  - C. A REDUCTION FOR VARIOUS ACTIVITIES RELATING TO OFFICE SUPPLIES, COPYING CHARGES, MEMBERSHIPS, CONFERENCES AND TRAINING TOTALING \$85,500.
  - D. A ONE TIME UTILIZATION OF RESERVES IN THE AMOUNT OF \$784,297 TO OFFSET THE ANTICIPATED INCREASE IN RETIREMENT COSTS WHICH WILL INCREASE 45% FROM THE CURRENT YEAR OF \$1.5M TO \$2.2M IN FY2010-11.

IN RECOGNITION OF THE IMPACT THE ECONOMY IS HAVING ON PROPERTY TAX REVENUE, THE LIBRARY STAFF IS EXAMINING LONG-TERM STRATEGIES TO MANAGE COSTS IN ORDER TO RETURN TO AN ENVIRONMENT WHERE OPERATING COSTS ARE FULLY OFFSET BY OPERATING REVENUES. TO THAT END, THE PROCESS HAS ALREADY BEGUN OF HOLDING OPEN VACANCIES, LOOKING INTO ANTICIPATING RETIREMENTS AND DISCUSSING A 3% SALARY REDUCTION WITH MANAGEMENT. EMPLOYEES HAVE ALREADY ACCEPTED PICKING UP A LARGER PART OF THE RETIREMENT CONTRIBUTION. THE COUNTY IS PRESENTLY INVOLVED IN ADDITIONAL CONTRACT TERM NEGOTIATIONS.

2. THE AUDIT COMMITTEE MET ON APRIL 29, 2010. THE PRIMARY DISCUSSION ITEM WAS THE UPCOMING 2009-2010 AUDIT SCOPE. ONE ISSUE WHICH NEEDS TO BE RESOLVED IS APPROVAL BY THE COUNCIL OF THE PURCHASING POLICY APPROVED BY THE FINANCE COMMITTEE LAST YEAR AND UTILIZED BY THE AUDITORS IN LAST YEAR'S AUDIT BUT NEVER ADOPTED BY THE COUNCIL BECAUSE THE CITY ATTORNEY HAD NOT YET COMPLETED HER REVIEW. THIS POLICY NEEDS TO BE FINALIZED AND ADOPTED ASAP IN ORDER FOR THE AUDITOR TO RELY ON IT FOR THIS YEAR'S AUDIT.
3. THE TRANSPORTATION COMMITTEE MET ON MAY 11, 2010. IT AGREED TO ALLOW A NO THROUGH TRAFFIC SIGN TO BE PLACED ON HOLBROOK LANE. IT REVIEWED THE TRAFFIC ALTERNATIVES SET FORTH FOR THE VALPARAISO/ELENA INTERSECTION IN THE SACRED HEART MASTER PLAN INCLUDING AN EXTRA TURN LANE ON ELENA, REFUGE MEDIAN ON VALPARAISO AND SIGNAL LIGHT. IT RECOMMENDED LOWERING THE SPEED LIMIT ON ALAMEDA TO 30 MPH TO CONFORM WITH NEIGHBORING JURISDICTIONS.

4. FOR A REPORT OF THE FINANCE COMMITTEE, WHICH I ATTENDED, PLEASE SEE VICE MAYOR DOBBIE'S REPORT.

May 13, 2010

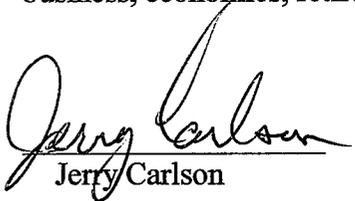
Dear Atherton Council Colleagues

Re: Filling open citizen member seat for Finance Committee

We recommend that the Council approve Alain Enthoven to fill the open seat on the Town Finance Committee.

1. Mr. Enthoven is eminently qualified based on his qualifications and experience to serve on the finance committee. He has been a professor at the Stanford Business School serving as Professor of Public and Private Management. He has been an economist with the RAND Corporation. He will bring a broad background of experience that will serve to complement the experience of other members now on the committee.
2. Unfunded retiree benefits is the single greatest cost issue facing Atherton. Mr. Enthoven has unique qualifications to assist the committee in coming up with viable recommendations for the Council on this issue. He has much experience particularly in the health care field. He is the former chairman of the Health Benefits Advisory Council for CalPERS, the California State employees medical and hospital care plans. He has headed Stanford University's committee on such issues which has gained broad university support.
3. Mr. Enthoven was one of two candidates tied for the third resident seat on the committee. The other candidate withdrew his nomination.

Therefore, given Mr. Enthoven's background we recommend that he be appointed to the open finance committee position. He has a wealth of knowledge in management, business, economics, retiree issues, etc. that the Town would be wise to accept.

  
Jerry Carlson

  
Elizabeth Lewis

## BIOSKETCH

ALAIN C. ENTHOVEN is the Marriner S. Eccles Professor of Public and Private Management (Emeritus) in the Graduate School of Business at Stanford University. He holds degrees in Economics from Stanford, Oxford and MIT. He has been an Economist with the RAND Corporation, Assistant Secretary of Defense, and President of Litton Medical Products. In 1963, he received the President's Award for Distinguished Federal Civilian Service from John F. Kennedy. In 1977, while serving as a consultant to the Carter Administration, he designed and proposed Consumer Choice Health Plan, a plan for universal health insurance based on managed competition in the private sector. He is a member of the Institute of Medicine of the National Academy of Sciences and a fellow of the American Academy of Arts and Sciences. He is Chairman of Stanford University's Committee on Faculty/Staff Human Resources and a consultant to Kaiser Permanente, the former Chairman of the Health Benefits Advisory Council for CalPERS, the California State employees' medical and hospital care plans. He has been a director of the Jackson Hole Group, PCS, Caresoft Inc., and eBenX, Inc. He was the 1994 winner of the Baxter Prize for Health Services Research and also the 1995 Board of Directors Award, Healthcare Financial Management Association. In 1997, Governor Wilson appointed him Chairman of the California Managed Health Care Improvement Task Force. Commissioned by the State legislature, the Task Force addressed healthcare issues raised by managed care. In 1988, he gave the De Vries Lectures in Rotterdam, called *Theory and Practice of Managed Competition in Health Care Finance*, which provided the theoretical foundation for the Dutch model of universal health insurance based on managed competition. In 1998-99, he was the Rock Carling Fellow of the Nuffield Trust of London and also Visiting Professor at the London School of Hygiene and Tropical Medicine. He wrote the Rock Carling Lecture *In Pursuit of an Improving National Health Service* recommending further Introduction of market forces in the National Health Service. He and Laura Tollen recently edited a book called *Toward a 21<sup>st</sup> Century Health System: The Contributions and Promise of Prepaid Group Practice* (Jossey Bass, San Francisco, 2004). He is a member of the Research Advisory Board of the Committee for Economic Development (CED) and since 2006 served as project director for a recently published CED report *Quality, Affordable Health Care for All: Moving Beyond the Employer-Based Health-Insurance System*. November 2007. In 2008, he was awarded the honorary degree of Doctor of Public Policy by the RAND Graduate School.