



Minutes
Town of Atherton
CITY COUNCIL
ATHERTON CHANNEL DRAINAGE DISTRICT
January 19, 2011
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California
REGULAR MEETING

Mayor Dobbie called the meeting to order at 7:00 p.m.

1. **PLEDGE OF ALLEGIANCE**
2. **ROLL CALL** Lewis, Dobbie, Widmer, McKeithen, Carlson
3. **PRESENTATIONS** - None
4. **PUBLIC COMMENTS**

Mario Puccinelli, Recology General Manager, briefed Council on the new roll out of garbage service. Puccinelli said that although Recology was not satisfied with the first couple of weeks of service they are seeing significant improvements in the third week of service.

John Cornuelle, Atherton resident, urged Council to support a full and complete inquiry into the reason why there is such a dramatic increase in garbage costs.

Jon Buckheit, Atherton resident, spoke in regard to health costs and benefits in Atherton. Buckheit said he is concerned that the Union is too strong and urged Council to put outsourcing options on the table now for successful negotiations.

Peter Carpenter, Atherton resident, welcomed John Danielson as the new interim City Manager. Carpenter urged Council to allow Danielson to fulfill his responsibility of overseeing the Town. Carpenter said Danielson's job performance will be dependant upon the relationship Council establishes with him.

Mayor Dobbie said Council shares Carpenter's enthusiasm for Danielson.

5. **REPORT OUT OF CLOSED SESSION**

No public comments were received.

Mayor Dobbie made a public announcement of items A & B to be taken up in closed session.

- A. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Subsection (b) of Government Code Section 54956.9)
Claim for refund of real property taxes – Dennis McDonnell**
- B. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Subsection (a) of Government Code Section 54956):**

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

Atherton et al v. High-Speed Rail Authority Case No. 34-2010-80000679

City Attorney Furth said, in regard to Item A, Council voted 5-0 to instruct Counsel to write to a letter to Dennis McDonnell declining his claim for refund of property taxes which are barred by the statute of limitations.

Furth reported that there was not reportable action in regard to Item B.

6. CITY MANAGER’S REPORT

City Manager Danielson said he expects monthly variations with Town expenditures but plans to keep a close eye on any significant irregularities. Danielson said the Police Department is running a bit ahead of their budget due to some extenuating circumstances, including the fact that nearly \$100,000 of COPS grants has not come through; they’ve had large unexpected incidents such as gubernatorial candidates which needed extra street patrol and the Bart mutual aid and San Bruno Disaster relief efforts.

**7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT - None
CONSENT CALENDAR**

Danielson said under Item 20 that the recommendation should state “approve an ad-hoc selection committee to *recommend* selection an architect for the concept phase of the new Atherton Library.” Danielson added that under Item 22 since the Teamsters MOU was approved by Resolution, it should be amended by Resolution which has been brought forth at the meeting.

Vice Mayor Widmer removed items 11, 12 and 19.

Council Members Lewis removed item 18.

Atherton resident Jon Buckheit removed item 21.

8. APPROVAL OF DECEMBER 15, 2010 REGULAR MEETING, DECEMBER 15 SPECIAL MEETING MINUTES AND DECEMBER 22, 2010 SPECIAL MEETING MINUTES

Recommendation: Approve December 15, 2010 regular meeting, December 15 special meeting and December 22 special meeting minutes

9. APPROVAL OF BILLS AND CLAIMS FOR DECEMBER 2010 IN THE AMOUNT OF \$1,742,937

Recommendation: Approve Bills and Claims in the amount of \$1,742,937

10. ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR THE SIX MONTHS ENDED DECEMBER 31, 2010

Recommendation: Accept Monthly Financial Report

13. SKIPPED INTENTIONALLY

14. SKIPPED INTENTIONALLY

15. APPROVE A CONTRACT CHANGE ORDER FOR JOS. J. ALBANESE, INC. FOR - THE STREET RECONSTRUCTION 7 PROJECT NUMBER 56006 IN THE AMOUNT OF \$36,937.78

Report: Public Works Director Duncan Jones

Recommendation: Approve a Contract Change Order for Jos. J. Albanese, Inc, for the Street Reconstruction Phase 7 Project, project number 56006 in the amount of \$36,937.78

16. ADOPTION OF A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS WITH CALTRANS FOR FEDERAL HIGHWAY SAFETY IMPROVEMENT PROGRAM (HSIP) FUNDING FOR THE VALPARAISO AVENUE AT HOOVER STREET IN-ROADWAY LIGHTED CROSSWALK PROJECT

Report: Public Works Director Duncan Jones

Recommendation: Adopt Resolution 11-06 authorizing the City Manager to execute agreements with Caltrans for Federal Highway Safety Improvement Program (ARRA) Program funding for the Valparaiso Avenue at Hoover Street In-Roadway Lighted Crosswalk Project

17. AWARD A PURCHASE ORDER TO SERRAMONTE FORD IN THE AMOUNT OF \$25,726.75 FOR THE PURCHASE OF ONE FORD F-250 PICK-UP TRUCK

Report: Public Works Director Duncan Jones

Recommendation: Authorize the purchase of one Ford F-250 pick-up truck from Serramonte Ford for a cost of \$25,726.75 including tax and fees

20. APPROVE AN ARCHITECT SELECTION COMMITTEE FOR THE NEW ATHERTON LIBRARY CONCEPT PHASE

Report: Public Works Director Duncan Jones

Recommendation: Approve an ad-hoc selection committee to select an architect for the concept phase of the new Atherton Library

22. AMEND THE TOWN'S FISCAL YEAR 2010-11 SALARY PLAN

Report: City Manager John Danielson

Recommendation: Amend the Teamster MOU Appendix C - Salary Plan to correct the salary for the position of Parks Supervisor to reflect the salary being the same as the Public Works Supervisor.

23. APPROVAL OF LEASE EXTENSION WITH KNOX PLAYSCHOOL INC.

Report: Interim City Manager John Danielson

Recommendation: Approve a lease extension from February 1, 2011-August 30, 2012 with Knox Playschool, Inc. for the operation of the Playschool in Holbrook-Palmer Park

24. CONTINUING RELATIONSHIP WITH CSG, INC. TO PROVIDE INTERIM BUILDING OFFICIAL SERVICES

Report: Interim City Manager John H. Danielson

Recommendation: Approve the continuation of the provision of interim building official services through a contractual arrangement with CSG, INC. until a decision is made on the permanent arrangement for filling the vacant building official position

25. APPROVAL OF CITY COUNCIL COMMITTEE ASSIGNMENTS

Report: Deputy City Clerk Theresa DellaSanta

Recommendation: Approve Council Committee Assignments made by Mayor Dobbie

MOTION by McKeithen, second by Carlson to approve the consent calendar which consists of items 13, 14, 15, 16, 17, 20, 22, 23, 24, and 25. The motion passed.

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

11. ADOPT A RESOLUTION AUTHORIZING ATHERTON TO BECOME A MEMBER OF A COUNTY WIDE SUB-REGION TO ADMINISTER THE REGIONAL HOUSING NEEDS ALLOCATION FOR THE 2014-2022 HOUSING ELEMENT UPDATE

Report: Town Planner Neal Martin

Recommendation: Approve Resolution 11-01 authorizing the Town of Atherton to become a member of a Countywide Sub-region, an entity that would locally administer ABAG's Regional Housing Needs Allocation Process as part of the regional Sustainable Communities Strategy

Vice Mayor Widmer suggested appointing a Planning Commissioner as the representative to the Committee.

Deputy Town Planner Sanders said the sub-regional working group is comprised of staff from all the different jurisdictions who worked together to come up with the housing allocation and specifically how it would be allocated to each jurisdiction. The staff recommendations go up to the HEART Board which Council Member Lewis is an elected member of.

Vice Mayor Widmer felt that by appointing a Planning Commissioner it would save the Town money.

Sanders said there is technical expertise that is needed at the sub-regional working group meetings.

Council Member Lewis said that given all the funds that were spent on approving the housing element she believed these funds should be expended because it would be more efficient in the long run for the Town.

MOTION by Lewis, second by Carlson to approve Resolution 11-01 authorizing the Town of Atherton to become a member of a Countywide Sub-region, an entity that would locally administer ABAG's Regional Housing Needs Allocation Process as part of the regional Sustainable Communities Strategy. The motion passed.

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

12. REQUEST FOR EXTENSION OF THE DEADLINE TO COMPLETE CONSTRUCTION AT 297 POLHEMUS, ATHERTON

Report: Building Official Dennis Lockard

Recommendation: Grant an extension of the deadline to complete construction or provide a bond or deposit until the work is completed to June 30, 2011

Mayor Dobbie said the property has been under construction for almost three years and neighbors have been upset about it for some time. Dobbie supported imposing the fines but waiving execution of the fines for now and allowing the homeowner to submit a detailed plan on when he will have the home completed with monthly updates.

Council Member McKeithen agreed with Dobbie.

Vice Mayor Widmer said there was no documentation that justifies a request for waiver. Widmer said if the fees are waived for this property owner it should be the same for everyone. He suggested requesting an analysis of what it will take to cure with a time table then allowing Council to make a decision.

Council Member Lewis asked if the home owner was notified any earlier than January 3, 2011 of penalties. Lewis questioned whether the Building Official believes that the home owner can complete the work by the proposed June 30, 2011 date.

Lewis suggested waiving the penalty fees for now and granting the homeowner an extension of time until the March 16 Council meeting to demonstrate the progress made. Staff should be prepared to update Council.

Shawn Massihpour, 297 Polhemus Avenue homeowner, said he and his family have made every attempt possible to keep the project funded in light of the federal banking crisis. Massihpour said his family is selling their current residence at a substantially lower market value just to get funds to complete this project.

Council Member McKeithen requested a list of major items to be completed.

Vice Mayor Widmer suggested staff update Council in February with a plan on what needs to be done and how it will get done with a list of any regulations or requirements placed on homeowners today versus three years ago when this project was started.

Building Official Dennis Lockard said he recognizes that the homeowners of 297 Polhemus Avenue are very compassionate about finishing this project and felt the Town should work with them. Lockard added that the homeowners have always been on time with requesting an extension on their project. Lockard concluded that he does believe the June 30th deadline can be reached.

Council Member McKeithen was concerned that surrounding neighbors have complained about the grading and drainage issues.

Public Works Director Jones said the most recent issue surrounding neighbors had with flooding was not from the 297 Polhemus Avenue property. Jones said issues consist of which pipes go where and how many pipes are needed, and once an as-built plan is received staff will make sure it is properly inspected.

Council discussed several different ideas on timelines and status reports for the property.

City Attorney Furth said that the Building Department will need Council authorization to waive the penalties for now until a progress report is received.

MOTION by Widmer, second by Lewis to authorize the Building Department to continue to work with the property owner at 297 Polhemus Avenue and make inspections for a period of 90 days in order to facilitate the completion of this project. During that 90 days staff will provide a detailed punch list update at the February 16, 2011 Council meeting, which will identify work that still needs to be done; and at the March 16, 2011 meeting a report which will show whether or not the project is on track. If the report does not indicate substantial progress then Council can decide to set a hearing at the succeeding meeting to consider levying fines. The motion passed.

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

Council Member McKeithen said that in order for Council to know whether substantial progress was made they will need the Building Officials guidance which should include a time estimate on the report due in March.

18. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$11,826.38 FOR THE PROJECT NUMBER 56009

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 \$11,826.38 for the Middlefield Road at Encinal Avenue Intersection Improvement Project Number 56009

Council Member Lewis noted that there was a typographical error in the recommendation because amount should include the quantity increases. The amount of change orders is \$14,947.38.

Council Member Lewis asked if the tree trimming and removal scope of work was in the original bid. Jones said tree trimming was overlooked in the design process when the traffic signal was installed.

Lewis concluded that it should be noted that the Town will be reimbursed by Menlo Park and the Menlo Park School District once the invoice is worked out between the three entities.

MOTION by Lewis, second by Dobbie to accept work and authorize recording of a notice of completion and approving contract change orders in the amount of \$11,826.38 for the Middlefield Road at Encinal Avenue Intersection Improvement Project Number 56009. The motion passed.

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

19. ADOPT A RESOLUTION SETTING A 10 MPH SPEED LIMIT IN ALL PUBLIC WORKS CONSTRUCTION AND MAINTENANCE ZONES

Report: Public Works Director Duncan Jones

Recommendation: Adopt Resolution 11-07 setting a 10 mph speed limit in all public works construction and maintenance zones

Vice Mayor Widmer said 10 mph in a maintenance zone seems slow. Public Works Director Jones said there is a very limited space with restricted areas.

Council Member McKeithen said the Town typically only has 2 way roads and there is a reason to make sure we keep the speed limits at a minimum in certain areas especially given the fact that the Town has no curbs and several schools.

MOTION by Lewis, second by McKeithen to adopt Resolution 11-07 setting a 10 mph speed limit in all public works construction and maintenance zones. The motion passed.

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

21. APPROVE THE ACCEPTANCE OF A PRIVATE DONATION DESIGNATED FOR THE POLICE K-9 PROGRAM

Report: Police Chief Mike Guerra

Recommendation: Accept a private donation of \$500 made by Mr. and Mrs. Nawas to offset the FY 2010-11 budgeted cost of deploying the Atherton Police Department's two police service dogs and provide a charitable cost letter to the donor

Jon Buckheit, Atherton resident, said he believes donations should be made anonymously so there is no perception of conflicts. Buckheit added that a K-9 may seem like a good idea but they are an enormous cost to the Town because there have been instances where the K-9 unit is called to another city's emergency. He added that it is hard to keep track of the true costs of maintaining services since a donation is not a sustainable budget item. Buckheit concluded that a policy should be created that requires donations to be made on an anonymous basis only.

MOTION by Dobbie, second by Carlson to accept a private donation of \$500 made by Mr. and Mrs. Nawas to offset the FY 2010-11 budgeted cost of deploying the Atherton Police Department's two police service dogs and provide a charitable cost letter to the donor. The motion passed.

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

REGULAR AGENDA - None

26. COUNCIL REPORTS

Nothing further to add to written reports.

27. FUTURE AGENDA ITEMS

- A. DEVELOP A LIST OF SERVICES PROVIDED BY THE
POLICE DEPARTMENT**
Report: Mayor Dobbie & Vice Mayor Widmer
Recommendation: To Be Determined

**MOTION by McKeithen, second by Dobbie to add Item A to a subsequent Council Agenda.
The motion passed.**

Ayes: 5 Nays: 0 Abstain: 1 (Lewis) Absent: 0

28. PUBLIC COMMENTS

None.

29. ADJOURN

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

Mayor Dobbie adjourned the meeting at 8:31 p.m.

Respectfully submitted,

**Theresa DellaSanta
Deputy City Clerk**