



Minutes
Town of Atherton
CITY COUNCIL
ATHERTON CHANNEL DRAINAGE DISTRICT
February 16, 2011
7:00 p.m.
Holbrook Palmer Park Pavilion
150 Watkins Avenue
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

McKeithen was excused.

3. **PRESENTATIONS** - None.

4. **PUBLIC COMMENTS**

Jon Buckheit, Atherton resident, spoke in regards to a newspaper article regarding former Finance Director John Johns. Buckheit suggested allowing Johns to come back and complete an audit of the Police Department which has already begun.

Mayor Dobbie said that item 15 was pulled from the agenda at the request of staff. It will not be taken up.

5. **REPORT OUT OF CLOSED SESSION** - February 16, 2011

ROLL CALL Lewis, Dobbie, Widmer, McKeithen (Excused), Carlson

PUBLIC COMMENTS – None

Mayor Dobbie gave a verbal announcement of closed session items.

CLOSED SESSION

- A. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
(Subsection (b) of Government Code Section 54956.9)
(1 Case)

B. CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION (Subdivision (a) of Section 54956.9)

Pacific Peninsula Group v. Town of Atherton

RECONVENE TO OPEN SESSION

Report of action taken

Acting City Attorney Ben Winig said that there was no reportable action from Closed Session.

Mayor Dobbie adjourned the special meeting at 6:45 p.m.

6. CITY MANAGER'S REPORT

Interim City Manager Danielson said he is working with staff to be as economic as possible in light of the budget situation.

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

Council Member Lewis removed items 13, 17, and 19.

8. APPROVAL OF JANUARY 19 REGULAR 2011 MEETING MINUTES

Recommendation: Approve January 19, 2011 regular meeting minutes

9. APPROVAL OF BILLS AND CLAIMS FOR JANUARY 2011 IN THE AMOUNT OF \$1,016,134

Recommendation: Approve Bills and Claims in the amount of \$1,016,134

10. FINANCIAL REPORT FOR THE SEVEN MONTHS ENDED JANUARY 31, 2011

Report: Finance Director Louise Ho

Recommendation: Receive the General Fund Financial Report for the seven months ended January 31, 2011

11. RESOLUTION AUTHORIZING ESCHEAT OF UNCLAIMED BUILDING AND PUBLIC WORKS DEPOSITS TO THE GENERAL FUND

Report: Finance Director Louise Ho

Recommendation: Adopt Resolution 11-02 approving the escheating of \$30,618.91 of unclaimed building deposits and \$45,036.00 of unclaimed public works deposits to the General Fund

12. ACCEPTANCE OF FISCAL YEAR 2009-2010 SINGLE AUDIT REPORT

Report: Finance Director Louise Ho

Recommendation: Accept FY 2009-2010 Single Audit Report.

14. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION FOR THE 09-10 ATHERTON CAPE SEAL PROJECT NUMBER 09-001

Report: Public Works Director Duncan Jones

Recommendation: Accept work and authorize recording of a notice of completion for the Atherton Cape Seal Project Number 09-001

15. APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH MARK THOMAS & COMPANY, INC. FOR SURVEYING SERVICES FOR THE HOLBROOK-PALMER PARK SURVEY

Report: Public Works Director Duncan Jones

Recommendation: Accept the proposal and authorize the City Manager to sign a Professional Services Agreement with Mark Thomas & Company to provide surveying services for the Holbrook-Palmer Park Survey in an amount not exceed \$29,965, plus a 10% contingency, for a total authorization of \$32,961.50

16. APPROVE GROUP 4 ARCHITECTURE RESEARCH + PLANNING, INC. AS THE ARCHITECT FOR THE NEW ATHERTON LIBRARY CONCEPT PHASE

Report: Public Works Director Duncan Jones

Recommendation: Approve the selection of Group 4 Architecture Research + Planning, Inc. as the Architect for the concept phase of the new Atherton Library

18. APPROVE CONTINUATION OF CODE ENFORCEMENT SERVICES THROUGH AN AMENDMENT UNTIL A DECISION IS MADE FOR A PERMANENT ARRANGEMENT

Report: Interim City Manager John Danielson

Recommendation: Approve the continuation of the provision of code enforcement services through a contractual amendment to the current Code Enforcement services agreement with CSG, INC. until a decision is made on the permanent arrangement

MOTION by Lewis, second by Widmer to approve the consent calendar which includes items 8, 9, 10, 11, 12, 14, 16, and 18. The motion passed.

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

ITEMS PULLED FROM CONSENT

19. APPROVE A BUDGET AMENDMENT FOR CONTRACT PLAN REVIEW IN AN AMOUNT NOT TO EXCEED \$79,000 AND WAIVE REQUIREMENTS OF CHAPTER 3.16 (PURCHASING SYSTEM) OF THE ATHERTON MUNICIPAL CODE TO AUTHORIZE PAYMENT OF AN AMOUNT NOT TO EXCEED \$51,350 TO CSG CONSULTANTS FOR PLAN REVIEW AND INSPECTION SERVICES FOR THE MENLO SCHOOL PROJECT

Report: Interim City Manager John Danielson

Recommendation: Approve a budget amendment for contract plan review in an amount not to exceed \$79,000 and waive the requirements of Chapter 3.16 (Purchasing System) of the Atherton Municipal Code to authorize payment of an amount not to exceed \$51,350 to CSG Consultants for plan review and inspection services for the Menlo School project, on a one-time basis

Council Member Lewis questioned whether this is a pass through and reimbursable expense. Public Works Director Jones affirmed that it was.

13. ADOPT A RESOLUTION APPROVING A “NO PARKING ANYTIME” ZONE ON THE SOUTH SIDE OF JAMES AVENUE FROM THE MIDDLEFIELD ROAD GATE TO 100 FEET EAST OF THE GATE AND PAINT THE CURB RED

Report: Public Works Director Duncan Jones

Recommendation: Adopt Resolution 11-03 approving a “No Parking Anytime” zone on the south side of James Avenue from the Middlefield Road gate to 100 feet east of the gate, including painting the existing curb red

Council Member Lewis voiced her concern that putting up so many “no parking” signs around Encinal school is may create a negative impact on traffic. Lewis suggested a thorough traffic study.

Mayor Dobbie said this came up at the Transportation meeting and the issue was that people were parking between Middlefield and Heather Drive which was causing traffic congestion.

Public Works Director Jones said that as soon as Encinal school is done with the punch list on all the new buildings they plan to work together and do a thorough study of where people can park.

Betsy Colby, Atherton resident, said there is only a narrow lane for children to walk through James and Middlefield and if cars are parked then the area is blocked.

MOTION by Dobbie, second by Widmer to adopt Resolution 11-03 approving a “No Parking Anytime” zone on the south side of James Avenue from the Middlefield Road gate to 100 feet east of the gate, including painting the existing curb red. The motion passed.

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

17. PROGRESS REPORT ON CONSTRUCTION AT 297 POLHEMUS, ATHERTON
Report: Building Official Dennis Lockard

Recommendation: Authorize the continued extension of the deadline for the collection of deposits and charging of fines for subject property, receive and file this report

Interim Building Official Dennis Lockard said that since the last Council meeting he has instituted a couple of monitoring activities which include physical onsite tours, and impromptu visits. Lockard said there has been activity each and every day and the home owners are making good progress.

Vice Mayor Widmer said that he needs to see substantial progress by the next meeting otherwise he will not vote to waive fees.

MOTION by Lewis, second by Dobbie to authorize the continued extension of the deadline for the collection of deposits and charging of fines for subject property, receive and file this report. The motion passed.

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

PUBLIC HEARINGS (20)

20. INTRODUCTION OF AN ORDINANCE TO ADOPT REFUSE AND RECYCLING COLLECTION RATES

Report: Interim City Manager John Danielson

Recommendation: Hold a public hearing, determine whether a majority protest has been received, and if there is no majority protest, and introduce the attached Ordinance increasing refuse and recycling rates. A two-thirds vote is required (i.e.; four affirmative votes).

Interim City Manager John Danielson gave a Power Point presentation of the refuse and recycling collection rates. The presentation covered topics which included the purpose of the hearing, background information and history on the increases, Allied Waste billing, Recology Franchise agreement, options and actions. [A copy of the presentation can be found in the City Clerks Office].

Council Member Carlson said he has had an issue with the South Bay Waste Management Authority (SBWMA) for several years and believes they need an oversight board of elected officials. Carlson said he is concerned that the trucks picking up waste has doubled. Carlson added that there has been no logical justification for why the rate went up so high from the original proposed rate of 16.9%. Carlson concluded that he wants definitive answers on how much it costs to pick up each bin and dump it.

Council Member Lewis said the Environmental Programs Committee made a recommendation to approve the rates when they were proposed at much lower rates. Lewis said the goal of Recology is to get each household to use less garbage and recycle more. Lewis questioned how much Recology makes on composting and how much it is subsidizing the rates.

Mayor Dobbie said residents are upset because Recology made promises that they could not keep. Dobbie suggested staff reviewing the bid put forward by Recology and see what they are and are not honoring.

Vice Mayor Widmer said he looked into the history of rate increase discussions and it first came up in 2007. Widmer said the Town needs to sort this out and find a way to move forward as fast as possible and stop dwelling on what happened in the past. Widmer said staff should review the bid, examine all aspects and factors of the franchise agreement and examine Allied Waste fees as well.

Acting City Attorney Winig asked how many written bid protests were received. Deputy City Clerk DellaSanta said approximately 40.

Mayor Dobbie opened up for public comment.

Melinda Tevis, Atherton resident, said there may have been a lack of leadership with the previous City Manager during the rate increase discussions. Tevis said she hopes the Town looks further into the reason why the increase was so high.

Mel Britton, Atherton resident, said the Town needs to find out what it really costs to perform the services Recology is doing and how much money they are making to execute the job.

Virginia Rugeiro, Atherton resident, said since the implementation of weekly service there are garbage cans out all over Town every single day.

Tom Glenwood, Atherton resident, asked if the residents were surveyed on what services they prefer. He said Recology is the poorest run organization he has ever dealt with.

Helen Harm, Atherton resident, said weekly pick up is not an enhanced service or improvement.

Jon Buckheit, Atherton resident, said the cost was very misguided. Buckheit encouraged the Town to find a new vendor and get the true cost. He concluded that the prior vendor had a huge surplus and gave raises to eradicate it which should be considered a crime.

Henry Ilg, said he never had a problem with Allied Waste. He added that Recology's service is ridiculous and has very bad management.

Gail William, said the only enhancement of services is the pick up of organics and the transfer to single stream recycling.

Janet Simons, Atherton resident, said she does her best to drag the containers out to the street. She tried her best to place them correctly and still received a ticket from Recology saying it was an incorrect set out.

Jack Ringham, Atherton resident, handed out a spreadsheet of his personal thoughts regarding the containers and their true costs.

James Duvway, Atherton resident, said Atherton is a generous community but they don't like to be ripped off.

John Thomas, Atherton resident, questioned why the increases vary from agency to agency.

Larry Sweeney, Atherton resident, said he has been composting for years. Sweeney suggested getting rid of food scraps and go back to the bi-weekly pick up.

Bob Watkins, Atherton resident, said he never asked for weekly service and preferred the bi-weekly pick up.

Mayor Dobbie closed public comments.

Dobbie said he has received numerous complaints about garbage cans being left out on the streets for too long. Dobbie said that in his opinion it is not high enough on the priority list at the moment in light of the many major problems the Town is currently faced with.

Vice Mayor Widmer thanked the residents for voicing their concerns. Widmer said the Town needs to do a thorough investigation to see that we are getting what we paid for. Widmer said the contract needs to be enforced as-is and the rates needs to be addressed to reflect the costs of services. Widmer concluded that staff should make every effort possible to determine how much road impact there is and consider using some of it to defray some costs and spread out any fee we might have once settled with Allied.

Council Member Lewis said the Town should begin polling residents to see what services they want. Lewis said a survey was sent out years ago and residents did want weekly service back then

and 60% preferred single stream recycling. Lewis concluded that the survey may not have considered the Towns population and a new survey should be done.

Council Member Carlson requested that staff have comparative data at the next meeting in regards to the franchise fee, its purpose, and how it compares with other agencies.

City Council unanimously decided to continue the item to the next meeting to allow City Manager Danielson to form an “action team” to address resident concerns. The rates will remain as is, for now.

Action for staff to follow up on:

1. Why a 16.9% increase in rates was not even close to the final settlement.
2. How much of our residents monthly bills are going to pay off bonds that were issued for the transfer station.
3. Negotiate for post payment in the future, rather than pre-payment for garbage services.
4. Facts about why the rate is so much higher than other cities (and not vague answers about large lot sizes).
5. What is the cost of servicing all of the different types of waste containers and then, compare those to the proposed billing rates.

REGULAR AGENDA (Items 21-24)

21. APPROVE AN AGREEMENT TO CONDUCT AN ORGANIZATIONAL EFFECTIVENESS AND EFFICIENCY STUDY FOR PUBLIC WORKS, BUILDING, ADMINISTRATION, AND OTHER RELATED FUNCTIONS

Report: City Manager John Danielson

Recommendation: Approve an agreement to conduct an organizational effectiveness and efficiency study for Public Works, Building, Administration and other related functions, and authorize the City Manager to sign the contract on behalf of the Town

Interim City manager Danielson said he is committed to looking at every efficiency and opportunity possible for cost saving, to make sure public funds are being spent properly.

Council Member Carlson said the Town is very fortunate to get an interim City Manager with such experience and he is very comfortable supporting the agreement.

Mayor Dobbie said the Town has serious financial problems and hopes that the result of this study will give recommendation that will significantly approve the budget.

MOTION by Dobbie, second by Widmer to approve an agreement to conduct an organizational effectiveness and efficiency study for Public Works, Building, Administration and other related functions, and authorize the City Manager to sign the contract on behalf of the Town. The motion passed.

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

22. APPROVE AN AGREEMENT TO CONDUCT AN ORGANIZATIONAL EFFECTIVENESS AND EFFICIENCY STUDY FOR POLICE SERVICES AND THE

COMMUNICATIONS CENTER AND AUTHORIZE THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE TOWN

Report: City Manager John Danielson

Recommendation: Approve an agreement to conduct an organizational effectiveness and efficiency study for police services and the communications center, and authorize the City Manager to sign the contract on behalf of the Town

Danielson said this study is the exact same as the previous agreement approved in item 22 except that this covers the Police Department and Communications.

Danielson noted that he either knows or has worked with almost all of the firms who submitted proposals.

Council concurred that this item will trump the colleagues memorandum brought forth by Mayor Dobbie and Vice Mayor Widmer at the January Council meeting.

Valerie Gardner, Atherton resident, urged the consultant to look into the facilities issues at the Police Department.

MOTION by Dobbie, second by Widmer to Approve an agreement to conduct an organizational effectiveness and efficiency study for police services and the communications center, and authorize the City Manager to sign the contract on behalf of the Town. The motion passed.

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

23. APPROVE RECOMMENDATION FROM AD-HOC LEGAL COUNSEL COMMITTEE AND LEGAL COUNSEL SELECTION COMMITTEE TO ESTABLISH A CHARTER FOR THE LEGAL COUNSEL SELECTION COMMITTEE AND DEVELOP A PROCESS FOR SELECTING A CITY ATTORNEY

Report: Interim City Manager John H. Danielson

Recommendation: Approve recommendation from ad-hoc legal counsel committee and legal counsel selection committee to establish a charter for the legal counsel selection committee and for developing a process for selecting a City Attorney

Interim City Manager Danielson said the committee has presented an outstanding process to screen the City Attorney applicants.

Council Member Lewis illustrated each committee member and their background and expertise in the field.

Legal Counsel Committee member Peter Carpenter thanked Council for the opportunity to be involved in the process.

MOTION by Dobbie, second by Carlson to allow the committee to rate all ten firms based on a matrix provided by staff, review the ratings at a special meeting on March 2nd and create a

list of the top 3 to 5 firms to recommend to Council at their March 16 meeting, and allow the committee to hold interviews for 3 to 5 firms on March 14th. The motion passed.

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

24. ADOPTION OF A RESOLUTION APPROVING THE MID-YEAR BUDGET ADJUSTMENTS FOR FY 2010-11

Report: Finance Director Louise Ho

Recommendation: Adopt Resolution 11-04 Approving the Mid-Year Budget Adjustments for FY 2010-11

Finance Director Louise Ho reviewed the revenues and expenditures with Council. Ho said that based on the 6 month operation staff is projecting revenue for General Fund to increase by \$498,422.

Ho added that excluding Building Department revenue and expenditure, General Fund is projecting a surplus at June 30, 2011 of \$93,411. Ho said the conservatively speaking the Building Department is projecting a \$528,557 loss for the FY 2011 which leaves the Building Department operating reserve with a projected balance at June 30, 2011, of \$502,079. Ho concluded General Fund reserve is projected to decrease by \$793,943 to cover a transfer of \$902,355 to reimburse Road Impact Fee Fund for incorrect charges.

Dobbie reminded staff to make sure that all things related to building a new library are continually charged to the library fund and not to the Towns General Fund. Ho said she frequently pays particular attention to that area.

Council questioned some of the expenses, in particular the \$100,000 for administration.

Danielson said there were many factors into the amount including the MOU salary adjustments based on the approval of MOU's at the November, 2010 meeting and an expenditure made for the City Attorney to conduct the search for an interim city manager.

Mayor Dobbie said the Finance Committee plans to review the parcel tax appropriations between capital improvement projects and the Police Department.

MOTION by Lewis, second by Dobbie to Adopt Resolution 11-04 Approving the Mid-Year Budget Adjustments for FY 2010-11. The motion passed.

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

25. COUNCIL REPORTS

Nothing further to add to written report.

26. FUTURE AGENDA ITEMS

None.

27. PUBLIC COMMENTS

None.

28. ADJOURN

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

Mayor Dobbie adjourned the meeting at 9:23 p.m.

Respectfully submitted,

**Theresa DellaSanta
Deputy City Clerk**