



Minutes
Town of Atherton
CITY COUNCIL
ATHERTON CHANNEL DRAINAGE DISTRICT
April 20, 2011
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California
REGULAR MEETING

1. PLEDGE OF ALLEGIANCE

2. ROLL CALL Lewis, Dobbie, Widmer, McKeithen, Carlson

Mayor Jim Dobbie announced that at a prior meeting the Town hired William B. Connors as the City Attorney. Jennifer Connors Larson, Bill's daughter, has been appointed as the Assistant City Attorney.

3 PRESENTATIONS

San Bruno Vice Mayor Rico Medina – City of San Bruno update re: Pipelines

Vice Mayor Medina discussed the September 9, 2009 pipeline explosion in San Bruno. Medina said San Bruno was lucky to have overwhelming support during the disaster. Within the first 48 hours of the incident San Bruno had 500 fire personnel and 300 police personnel respond and provide services to the city. Medina said Atherton provided immediate and initial fire personnel and equipment, command staff, police officers, communication and records personnel.

Vice Mayor Medina said the City of San Bruno continues to investigate the incident and to focus on addressing the safety of the natural gas pipelines in our community.

Medina presented the proclamation to Council on behalf of the City of San Bruno with sincere and deepest appreciation.

Mayor Dobbie thanked Medina and noted that the community coming together so fast and diligently was a demonstration of what all cities may need at some time or another. Dobbie wished Medina and the City of San Bruno support for their future.

Presentation for California Police Week May 8-15, 2011 – Chief Mike Guerra

Chief Guerra said National Police week is to recognize police officers who passed in the line of duty. Guerra reflected on local incidents of officers who were killed in the line of duty. Guerra presented each Council Member with the 2011 California Peace Officers Memorial pen and magazine which lists the 11 officers that died in 2010 and three officers who died in prior years.

Mayor Dobbie thanked Chief Guerra for his presentation and handouts.

Dobbie alerted the public that on item 16 the City Manager requested that the 15K funding from parcel tax be deleted, that in item 23 no contract be awarded, and that in item 18 the 10% contingency is removed.

Mayor Dobbie then presented Public Works Director Duncan Jones with a plaque from City Council thanking him for his service over the last 8 years.

Council Member Carlson thanked Jones for all of his work on the High Speed Rail issue.

Council Member McKeithen thanked Jones for everything he did including his assistance in shoring up the Atherton Channel and for protecting the red-legged frog while doing so.

Council Member Lewis thanked Jones for his “invaluable” information and assistance which he provided to the Town Center Task Force. Lewis said Jones takes away a lot of institutional knowledge.

Vice Mayor Widmer thanked Jones for his dedication, thoroughness, and diligence.

4. PUBLIC COMMENTS –

Virginia Ruggeiro, Atherton resident, said good luck to Jones on his retirement. Ruggeiro urged Council to make room in the budget for traffic calming devices throughout the Town.

Denise Kupperman, Atherton resident, thanked Jones for his instrumental assistance to the Library Steering Committee and wished him luck in his future.

5. REPORT OUT OF CLOSED SESSION – April 20, 2011 6:00 p.m. (Item A) and 6:30 p.m. (Item 4) meetings

- A. CONFERENCE WITH LABOR NEGOTIATORS (Government Code Section 54957.6)**
Agency Designated Representatives: John Danielson, Glenn Berkheimer
Employee Organizations: Teamsters, APOA
Unrepresented Employees: All Management and Confidential Employees

Mayor Dobbie said there was no reportable action from the 6pm closed session meeting.

4. PUBLIC EMPLOYEE APPOINTMENT: CITY ATTORNEY (Subsection (b)(1) of Government Code Section 54957)

Mayor Dobbie reported that City Council unanimously approved a contract with William B. Conners to perform the services of City Attorney for the Town.

6. CITY MANAGER’S REPORT

Council Member Lewis asked what the savings are for the elimination of the coffee budget.

City Manager Danielson said the Department heads voluntarily purchased replacement machines and 6 months of coffee for their department which is a gracious gesture. Lewis agreed.

Lewis said the building department revenue is up about 50% opposed to this time last year and hopes the trend continues.

Mayor Dobbie said the small things that employees help with helps the entire Town get out of the budgetary issues they are in and he appreciates all of it.

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT - None

CONSENT CALENDAR (Items 8-27)

Mayor Dobbie pulled item 25.

Vice Mayor Widmer said he has comments on items 9 and 11 and pulled item 15, 17 and 18.

Council Member Carlson said he would like item 9 pulled.

Council Member Lewis wanted item 11, 16, 18, 23, and 25 pulled and had a comment on item 13.

Items pulled: 11, 15, 16, 17, 18, 23 and 25.

8. APPROVAL OF MARCH 16, 2011 REGULAR MEETING MINUTES

Recommendation: Approve March 16, 2011 regular meeting minutes

9. APPROVAL OF BILLS AND CLAIMS FOR MARCH, 2011 IN THE AMOUNT OF \$1,134,947

Recommendation: Approve Bills and Claims in the amount of \$1,134,947

Vice Mayor Widmer said there are a number of discretionary items on the bills and claims and requested that staff bring items to Council before checks are written. Staff should do a thorough job reviewing each bill before paying. Widmer concluded by requesting that any memberships that are not put in the FY11/12 budget should not be paid.

10. FINANCIAL REPORT FOR THE NINE MONTHS ENDED MARCH 31, 2011

Report: Finance Director Louise Ho

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

12. APPROVAL OF 1ST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES FOR TRAFFIC AND PARKING ANALYSIS AT MENLO SCHOOL

Report: Town Planner Neal Martin

Recommendation: Approve the attached First Amendment to the Agreement for Professional Services by and between the town of Atherton and Kimley-Horn and Associates, Inc.

13. 2010 ANNUAL REPORT TO THE CITY COUNCIL ON THE ATHERTON GENERAL PLAN IMPLEMENTATION

Report: Deputy Town Planner Lisa Costa Sanders

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 suggested Council direct the General Plan to begin considering revising the General Plan because the League of California Cities recommends that the general plan get updated every 10 years.

14. ADOPT A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON TO INDEMNIFY 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 11-09 indemnifying Caltrans from any liabilities in the event the right-of-way is not clear as certified for Federal Highway Safety Improvement Program (HSIP) Program funding for the Valparaiso Avenue at Hoover Street In-Roadway Lighted Crosswalk Project

19. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$11,097.09 FOR A TOTAL PROJECT COST OF \$401,010.12 FOR THE STREET RECONSTRUCTION PHASE 7 PROJECT NUMBER 56006

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 \$11,097.09 for a total project cost of \$401,010.12 for the Street Reconstruction Phase 7 Project Number 56006

20. AWARD OF CONTRACT FOR THE 2011 SPRING PATCHING PROJECT NUMBER 56050

Report: Public Works Duncan Jones

Recommendation: Award the contract for 2011 Spring Patching Project, project number 56050 to G. Bortolotto & Company, the low bidder on the April 6, 2011 bids, for \$96,390.00, with a 10% construction contingency of \$9,639.00, for a total authorization of \$106,029.00; and to authorize the City Manager to sign the contract on behalf of the Town

21. PROCLAMATION DECLARING ARBOR DAY IN THE TOWN OF ATHERTON ON MARCH 7, 2011

Report: None

Recommendation: Approve Proclamation Declaring Arbor Day in the Town of Atherton on March 7, 2011

22. MENLO SCHOOL COMMERCIAL BUILDING PLAN REVIEW

Report: Interim City Manager John Danielson

Recommendation: Authorize the payment of \$15,938.10 from the collected plan review fees of \$24,520.16. Further authorize plan review services for this project

23. APPROVE SANDIS, HMH AND MARK THOMAS FOR ON-CALL SURVEYING SERVICES AND APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH SANDIS 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 Sandis to provide surveying services for the Holbrook-Palmer Park Survey in an amount not exceed \$29,000, plus a 10% contingency, for a total authorization of \$31,900.00

24. PROCLAMATION DECLARING WEST NILE VIRUS AND MOSQUITO AND VECTOR CONTROL AWARENESS WEEK OF APRIL 24, THROUGH APRIL 30, 2011

Report: Deputy City Clerk Theresa DellaSanta

Recommendation: Approve Proclamation declaring West Nile Virus Week

26. APPROVE RESOLUTION REJECTING CLAIM OF JOHN P. JOHNS Report:

Deputy City Clerk Theresa N. DellaSanta

Recommendation: Approve Resolution 11-11 approving rejection of claim submitted by John P. Johns on January 11, 2011

27. AWARD OF CONTRACT FOR THE POLICE DEPARTMENT HVAC PROJECT NUMBER 56042

Report: Public Works Director Duncan Jones

Recommendation: Award the contract for Police Department HVAC Project, project number 56042 to Alex Kushner, General Contractors, the low bidder on the April 13, 2011 bids, for \$27,985.00, with a 10% construction contingency of \$2798.50, for a total authorization of \$30,783.50; and to authorize the City Manager to sign the contract on behalf of the Town

MOTION by McKeithen, second by Lewis to approve the consent calendar which includes items 8, 9, 10, 12, 13, 14, 19, 20, 21, 22, 24, 26, and 27.

REGULAR AGENDA (Items 28-29)

28. FORM AN AD-HOC COMMITTEE TO HELP DEVELOP AND IMPROVE COMMUNICATIONS AND WORK ON REVIEW OF RATES AND CONTRACTS WITH THE REFUSE AND RECYCLING AGREEMENT BETWEEN THE TOWN AND RECOLOGY

Report: Interim City Manager John Danielson

Recommendation: Form an ad-hoc committee of two Council Members to be designated to act as liaisons to help develop and improve communications and work on review of rates and contracts with the refuse and recycling agreement between the Town and Recology

City Manager Danielson said that while all Council Members have done their own research on this issue he feels the Town is at a point where a subcommittee should be established to finalize where we are headed on the rate adjustment and the underlying costs.

MOTION by Carlson, second by Lewis to allow the Mayor to appoint a subcommittee of two Council Members to be designated to act as liaisons to help develop and improve communications and work on review of rates and contracts with the refuse and recycling agreement between the Town and Recology. The motion passed.

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

Mayor Dobbie said he would think about whom to appoint and let the City Clerk know. [Dobbie appointed Vice Mayor Widmer and Council Member Carlson to the subcommittee].

Lewis requested on behalf of a resident that any more information pieces sent out to the public are completely specific and clear.

29. PROGRESS REPORT ON CONSTRUCTION STATUS AND COMPLIANCE – 297 POLHEMUS AVENUE, ATHERTON, CA
Report: Interim Building Official Dennis Lockard
Recommendation: To Be Determined

Interim Building Official Dennis Lockard said he has continued to follow the progress of the construction and visits the site on a weekly basis. Lockard said he is optimistic that the owners finish on time. He recommended allowing the resident to continue his progress.

Council Member Carlson said he visited the site and it looks like the completion date is within the boundaries set by Council.

Vice Mayor Widmer said he visited the site the previous day and he has seen significant progress on the construction.

Mayor Dobbie said he has visited the site and is afraid the deadlines won't be met. Dobbie wondered if an agreement can be created requesting the owner to agree to penalties if construction is not completed on time.

City Attorney Connors said an agreement would be problematic because there is no ordinance that allows for it. Connors said in the event Council does decide to impose an agreement there cannot be a penalty if the owner does not agree. Connors said he will do some more research and discuss the codes with Lockard and let Council know what they can do.

PULLED ITEMS

11. APPROVAL OF PROFESSIONAL SERVICES AGREEMENT WITH LSA ASSOCIATES, INC. FOR ENVIRONMENTAL CONSULTANT SERVICES ASSOCIATED WITH THE LIBRARY BUILDING PROJECT
Report: Public Works Director Duncan Jones/ Deputy Planner Lisa Costa Sanders

Recommendation: Approve the attached Professional Services Agreement with LSA Associates, Inc. for the preparation environmental analysis and California Environmental Quality Act (CEQA) environmental documents associated with site selection and the approval process for the new Library Building Process.

Council Member Carlson wanted to make sure there is a method set up to capture all costs of staff time associated with the project.

Carlson reviewed and compared the general cost the Town incurs for the library and felt it should be researched further to make sure the incurred costs are being covered.

Vice Mayor said he supports moving the project forward but he believes there are deficiencies in the contract that need to be fixed. Widmer suggested adding clauses that protect the Town more and to keep the project from going on for too long. Widmer said he will work with Danielson and Connors on his concerns.

Council Member McKeithen said the Planning Department worked on this contract because the Library JPA wanted to move forward with the environmental part of the project. McKeithen asked Deputy Town Planner Lisa Costa Sanders if this contract is standard. Costa Sanders said yes.

Council Member Lewis asked what the Towns financial liability is in approving the contract. Lewis said the scope of service is missing from the contract. Lewis concluded that she is very excited to see this project move forward and supports it but wants to make sure the Town is not liable for any costs associated with the project.

Council Member McKeithen said all costs for this project are paid out of the library fund.

Denis Kupperman, Library Steering Committee, said the Committee took careful consideration in creating the contract and relied on the Towns standard form agreement. Kupperman said it is critical to approve the agreement in order to stick to the library timeline.

Council agreed to approve the contract based on comments received from Widmer who will work with City Manager Danielson and City Attorney Connors to re-draft the contract.

MOTION by Dobbie, second by Lewis to approve a modified Professional Services Agreement with LSA Associates, Inc., based on comments from Council and subject to City Attorney approval, for the preparation environmental analysis and California Environmental Quality Act (CEQA) environmental documents associated with site selection and the approval process for the new Library Building Process. The motion passed.

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

Lewis questioned when the community outreach will take place. Kupperman said the first meeting will be held on June 25th and will focus on the site selection. During that process there will be outreach, focus groups, and community meetings that will address the library programming. Kupperman said all meetings will be well advertised.

15. APPROVE AN AGREEMENT WITH THE MASTER GARDENERS OF SAN MATEO COUNTY TO CONSTRUCT A HOOPHOUSE GREENHOUSE IN HOLBROOK-PALMER PARK

Report: Public Works Director Duncan Jones

Recommendation: Approve an agreement with the Master Gardeners of San Mateo County to construct a “hoophouse” greenhouse in Holbrook-Palmer Park

Vice Mayor Widmer said he has concerns with a hoophouse because of the uncertainty of the parks future including the possibility of moving the library into the park and all other activities in the park. Widmer added that in the event of outsourcing the corporation yard may be used for storage which is where the hoophouse is being proposed. Widmer did not support a hoophouse at this time, primarily because there is no long term vision of the park.

Council Member McKeithen said the hoophouse is not an activity that is comparable to other activities in the park such as soccer, lacrosse and little league. McKeithen said the hoophouse would use a portion of the corporation yard in the park and won't even be noticeably visible. She concluded that it can be terminated at any time.

Council Member Carlson supported the hoophouse greenhouse.

Council Member Lewis wanted to hear the public's vision for the hoophouse. Lewis added that she thinks it is great idea.

Mayor Dobbie said that signing a 5-year agreement still has stipulations for termination and suggested a one-year contract to see if it works for the park.

Cindy Bordock, Master Gardener, said the reason for a hoophouse is to bring the knowledge and education from UC schools to the general public.

Nancy Grove, founding member of San Mateo Master Gardeners, said having a place where adults and children can learn to garden is good for the Town. She urged Council to support the hoophouse.

Council Member McKeithen said the more you can encourage people to come to the park with these types of ideas the more you can encourage other to volunteer to beautify the park with incurring additional costs to the Town.

Council Member Lewis supported a 5-year lease cancellable in 2 years.

Denise Kupperman, Atherton resident, said the project would need a minimum of 3 years for erection of the hoophouse from start to finish.

Vice Mayor Widmer said he has the utmost respect for the organization but thinks it is bad faith to sign a multiple year contract knowing that it may get cancelled.

MOTION by Carlson, second by McKeithen to approve an agreement with the Master Gardeners of San Mateo County to construct a “hoophouse” greenhouse in Holbrook-Palmer Park. The motion passed.

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

16. APPROVE AN AMENDED CAPITAL IMPROVEMENT PROGRAM BUDGET FOR FY 2010-2011

Report: Public Works Director Duncan Jones

Recommendation: Approve an amended Capital Improvement Program (CIP) budget for FY 2010-2011 to reflect changes in project delivery

MOTION by McKeithen, second by Carlson to approve an amended Capital Improvement Program (CIP) budget for FY 2010-2011 to reflect changes in project delivery. The motion passed.

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

17. APPROVE A CONTRACT CHANGE ORDER FOR GALLAGHER AND BURK, INC. FOR THE FLETCHER DRIVE/RIDGEVIEW DRIVE PAVEMENT AND DRAINAGE IMPROVEMENT PROJECT NUMBER 56033 IN THE AMOUNT OF \$305,108

Report: Public Works Director Duncan Jones

Recommendation: Approve a Contract Change Order for Gallagher and Burk, Inc. for the Fletcher Drive/Ridgeview Drive Pavement and Drainage Improvement Project, project number 56033 in the amount of \$305,108

Vice Mayor Widmer said he was concerned that a consultant was hired to find out where the utilities were and the reports ended up being erroneous which results in the Town spending extra money. Widmer asked whether the Town is the only entity liable for this.

Public Works Director Jones said it is typical to hire a consultant to go out and find where the utilities are before a project is started. Jones said if the consultant had located all the correct utilities spots the Town would have incurred these same costs because a more expensive system would have been designed.

Vice Mayor Widmer felt that somebody made a mistake along the way and the Town should not bear the full cost of that burden. Widmer suggested that staff does not pay the bill until there is review of the liabilities and warranties offered by the company/individual who did the utilities survey. Widmer suggested the City Attorney research this.

Council Member Lewis agreed that it is a staggering amount of money to pay for a change order and someone should hold more culpability.

MOTION by Lewis, second by Carlson to approve a Contract Change Order for Gallagher and Burk, Inc. for the Fletcher Drive/Ridgeview Drive Pavement and Drainage Improvement Project, project number 56033 in the amount of \$305,108, contingent upon City Attorney review. The motion passed.

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

Paul Madera, Atherton resident, said it has been a mess in his neighborhood for years. He urged Council to finish the last phase by paving the street.

- 18. APPROVE AN AGREEMENT FOR ARCHITECTURAL SERVICES WITH GROUP 4 ARCHITECTURE RESEARCH + PLANNING, INC. FOR CONCEPTUAL DESIGN SERVICES FOR THE ATHERTON LIBRARY PROJECT, IN AN AMOUNT NOT TO EXCEED \$147,050 PLUS A TEN PERCENT CONTINGENCY OF \$15,000, FOR A TOTAL AUTHORIZATION OF \$162,050 AND AUTHORIZE A BUDGET AMENDMENT TO ADD \$162,050 TO THE LIBRARY BUDGET FOR FY 2010-2011**

Report: Public Works Director Duncan Jones

Recommendation: Accept the proposal and authorize the City Manager to sign an Agreement for Architectural Services with Group 4 Architecture Research + Planning, Inc. to provide conceptual design services for the Atherton Library Project in an amount not exceed \$147,050, plus a 10% contingency, for a total authorization of \$162,050 and authorize a budget amendment to add \$162,050 to the library budget for FY 2010-2011

Council directed City Attorney to work with the City Manager on addressing concerns posed by Council earlier in the night when item 11 was taken up.

MOTION by Widmer, second by Lewis to accept the proposal and authorize the City Manager to sign an Agreement for Architectural Services with Group 4 Architecture Research + Planning, Inc. to provide conceptual design services for the Atherton Library Project in an amount not exceed \$147,050 and authorize a budget amendment to add \$147,050 to the library budget for FY 2010-2011. The motion passed.

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

- 23. APPROVE SANDIS, HMH AND MARK THOMAS FOR ON-CALL SURVEYING SERVICES AND APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH SANDIS 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 Sandis to provide surveying services for the Holbrook-Palmer Park Survey in an amount not exceed \$29,000, plus a 10% contingency, for a total authorization of \$31,900.00

Mayor Dobbie said the City Manager has requested that Council modify this item to limit the scope to approving the professional services provider as described, but no contract actually be awarded. Council agreed to approve the list of surveyors but not to award the contract at this time.

MOTION by McKeithen, second by Widmer to approve the list of surveyors for on-call surveying services. The motion passed.

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

- 25. APPROVE RESOLUTION REJECTING CLAIM OF MICRO LITHOGRAPHY, INC.**

Report: Deputy City Clerk Theresa DellaSanta

Recommendation: Approve resolution 11-10 rejecting the claim of Micro Lithography, Inc.

Gary Lindberg, Microlithography Inc., read a letter to Council on behalf of his company. Lindberg felt that the Town had a duty and an obligation to make the roads for people safe. Lindberg said his company made a delivery to Atherton residents and the truck collided with low hanging branches which caused over \$18,000 in damage to the truck. Lindberg said the Town is taking no responsibility for the incident since there is an ordinance that requires homeowners to be responsible for maintenance of the trees. Lindberg urged Council to support their residents and take responsibility for the claim.

Mayor Dobbie asked what caused the driver to collide with the tree.

Lindberg said the driver was not born in the United States and the branches were low hanging.

Police Chief Guerra said it is very typical for drivers to drive into other lanes, when safe, to go around tree since this isn't a typical city street with sidewalks.

City Attorney Connors said the primary collision factor was "other than the driver," which means by law it may not have been the drivers fault. Connors said for the Town to be at fault there would have to have been notice. Notice would constitute that the Town was put on notice that the trees were low hanging in order to be legally responsible.

Council Member Carlson said he is compassionate but when it comes to taxpayers dollars we have to do what is legally correct.

Council Member Lewis said the Town is a thickly wooded rural community that takes a lot of pride in their trees. It is very typical that trees are hit and branches fly onto the streets.

Vice Mayor Widmer said he is sorry that this happened but the Town has an ordinance stating that it is the homeowner's responsibility to maintain the tree.

Council Member McKeithen gave her sympathy.

MOTION by Dobbie, second by Widmer to approve resolution 11-10 rejecting the claim of Micro Lithography, Inc. The motion passed.

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

30. COUNCIL REPORTS - Nothing further to add.

31. FUTURE AGENDA ITEMS - None.

32. PUBLIC COMMENTS – None.

33. ADJOURN

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

Mayor Dobbie adjourned the meeting at 8:59 p.m.

Respectfully submitted,

Theresa DellaSanta
Deputy City Clerk