



Minutes
Town of Atherton
CITY COUNCIL
October 17, 2012
7:00 p.m.
COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California
REGULAR MEETING

1. **PLEDGE OF ALLEGIANCE** –
2. **ROLL CALL** – Lewis, Widmer, Carlson, McKeithen, and Dobbie
3. **ADOPT RESOLUTION APPROVING AN AGREEMENT WITH GEORGE RODERICKS AND APPOINTING MR. RODERICKS FOR THE POSITION OF CITY MANAGER**
Report: City Attorney Bill Connors/Mayor Bill Widmer
Recommendation: Adopt Resolution approving agreement with George Rodericks and appointing Mr. Rodericks for the position of City Manager

Vice Mayor Lewis would like a correction to the resolution – in Section 2, it should refer to the City Clerk’s pay returning to the regular rate.

Councilmember Carlson asked for clarification about the living and travel allowance provision in the City Managers contract. Mayor Widmer answered that it was requested since Mr. Rodericks will be commuting from Marin County until such time as he can sell his house and move to the area.

Councilmember Carlson asked about the 40 hours of vacation that the City Manager will receive at the outset of his contract. City Attorney Connors remarked that this is typical of this type of contract and explained that otherwise any plans Mr. Rodericks had in place for vacation etc. would have to be taken without pay.

Councilmember Carlson asked about vacation accrual and how it is worded. City Attorney Connors pointed out a typographical error. The contract should read: “120 hours per year for years of service three to *seven*, and 160 hours per service in excess of seven.”

Councilmember Carlson asked about the cell phone allowance and how it was different from other city employees. Mayor Widmer answered that the City Manager has specific data needs that prompted his request for the cell phone clause in his contract.

Councilmember Carlson asked if, at the time of the six month evaluation, if there was an implication that there would be a salary increase. Mayor Widmer answered in the negative.

4. **OATH OF OFFICE: City Manager – Administered by Mayor Widmer**
5. **PRESENTATIONS**

PROCLAMATION – Shirley Carlson – Volunteerism
Willie Mays – San Mateo County History Maker 2012
Presented by Mayor Widmer

Mayor Widmer read a proclamation for Shirley Carlson for her service and dedication to the Town of Atherton.

Mayor Widmer noted that he signed a proclamation honoring Willie Mays for his contributions to the community – it will be mailed to his home.

6. PUBLIC COMMENTS

Joan Sanders, Hawthorne Drive, spoke on behalf of Friends of the Atherton Library to announce a performance by Lucky Diaz, Saturday October 27 at the Holbrook Palmer Park Pavilion.

Bonnie Mace with the City of San Jose invited the Councilmembers to attend the city's annual Turkey Trot on Thanksgiving.

Walter Sleeth, Catalpa Drive, enumerated facts and offered his support of the Library project.

Ann McNertney, Watkins Avenue, gave a handout to the Councilmembers and spoke about recent articles in the Almanac regarding the Atherton Police Department and questioned conduct by Councilmembers.

Mary Sweeney, Irving Avenue, spoke in favor of a new library and urged people to vote in favor of Measure F.

John Ruggiero, resident, wondered where the other City Council candidates are and noted that they have not been visible to him during the campaign. Vice Mayor Lewis pointed out Cary Wiest. (Ms. Kupperman was in the audience and Mr. Conlon showed up later in the evening).

7. REPORT OUT OF CLOSED SESSION - none

8. CITY MANAGER'S REPORT

City Manager George Rodericks announced that a tentative date of December 12 has been set for a Holiday Party. Staff will present a plan and proposed budget to Council at the next meeting.

City Manager Rodericks mentioned that the Council has the City Manager's report and he or Theresa would take any questions.

Councilmember Carlson thanked City Clerk DellaSanta and City Manager Rodericks for the project list that he requested. He thinks it is important to get the HR policies done. Further, he would like continuing updates on the meetings with CalTrans regarding safety issues on El Camino Real.

Councilmember Carlson also expressed concern with the number of police calls made to both Menlo Atherton High School and Selby Lane School.

Councilmember Dobbie is concerned with the safety of El Camino Real.

Vice Mayor Lewis agrees with the concerns about police calls to Menlo Atherton High School and Selby Lane School. Vice Mayor Lewis asked Lieutenant Joe Wade to comment on whether a Student Resource Officer (SRO) would be helpful.

Lieutenant Joe Wade answered that an SRO would be helpful but it is not something that the Town can impose on a school. The school and the Police Department must work together to implement an SRO on campus.

Vice Mayor Lewis asked if the training that is being provided for the police department is specific to Atherton. She wants to make sure that the training is applicable to serving in Atherton. Lieutenant Joe Wade answered that all of the training made available is applicable to Atherton.

Vice Mayor Lewis asked if a resident can take over a “triangle” of Town land to beautify it. Public Works Director Mike Kashiwagi answered that the resident should contact Public Works to discuss the details. It is not likely that there is irrigation on the triangle as well as other details that might prohibit the project.

9. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

CONSENT CALENDAR (Items 10-18)

Items pulled from the Consent Calendar: 13, 14, 16, and 17.

10. APPROVAL OF SEPTEMBER 19 REGULAR MEETING MINUTES

Recommendation: Approve meeting minutes

11. APPROVAL OF BILLS AND CLAIMS FOR AUGUST, 2012 IN THE AMOUNT OF \$1,225,161

Recommendation: Approve Bills and Claims in the amount of \$1,225,161

Vice Mayor Lewis asked a question about Nova Partners, the Project Managers for the Library project. Since the project is on hold until after the election, Vice Mayor Lewis wonders why payment to them still appears on the Bills and Claims.

Public Works Director Mike Kashiwagi answered that their invoice was paid late due to the fact that Nova Partners did not provide a detailed status report. Their work has been suspended until after the election

12. ACCEPT THE RECOMMENDATION OF THE FINANCE COMMITTEE TO APPROVE THE STATEMENT OF INVESTMENT POLICY FOR FISCAL YEAR 2012-13

Report: Finance Director Robert Barron

Recommendation: Review and recommend approval of the Statement of Investment Policy for FY 2012-13. The Finance Committee agreed with the Investment policy with recommendation of maintaining minimum investment requirement on investing in AAA for Medium Term Notes and the City to have discretion to make a decision to sell or hold securities that may have been downgraded below the minimum ratings level described herein policy.

15. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$2500.00 FOR A TOTAL PROJECT COST OF \$31,500.00 FOR THE PARK PAINTING PROJECT NUMBER 56054

Report: Public Works Director Mike Kashiwagi

Recommendation: Authorize recording of a notice of completion and approving contract change orders in the amount of \$2500.00 for a total project cost of \$31,500.00 for the Park Painting Project Number 56054.

18. ADOPTION OF RESOLUTION ACCEPTING EXPEDITURES FOR BALANCE OF FISCAL YEAR 2012/13 SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND (SLESF), CITIZEN’S OPTION FOR PUBLIC SAFETY (COPS) GRANT

Report: Police Chief Ed Flint

Recommendation: Adopt a resolution accepting the recommended expenditures of the remaining balance of FY 2012-13 Supplemental Law Enforcement Services Fund (SLESF), Citizen’s Option for Public Safety (COPS) Grant in the amount of \$100,000.00 in accordance with state requirements. The funds must be expended by June 30, 2013.

MOTION by Carlson, second by Dobbie to approve the Consent Calendar excluding items 13, 14, 16, and 17. The motion passed.

Ayes: 5 Nays: 0 Abstain: 0

PUBLIC HEARINGS - (Item 19)

19. ANNEXATION OF LANDS OF SONMEZ, 70 CAMINO POR LOS ARBOLES (APN 070-302-300) – PUBLIC HEARING FOR OBJECTIONS AND RESOLUTION ORDERING ANNEXATION

Report: Planning Director Lisa Costa Sanders

Recommendation: Adopt ordering the annexation of the Lands of Sonmez to the Atherton Channel Drainage District and request the Board of Supervisors detachment from the University Height Drainage Maintenance District.

Planning Director Lisa Costa Sanders presented the staff report. Brian Heffernen, attorney for the applicants, addressed the Council and thanked the Town of Atherton for their assistance with the matter.

PUBLIC COMMENT - none

MOTION by Lewis, second by Dobbie to approve the annexation of Lands of Sonmez, 70 Camino Por Los Arboles (APN 070-302-300) – Public Hearing for Objections and Resolution Ordering Annexation.

Ayes: 5 Nays: 0 Abstain: 0

REGULAR AGENDA – (Items 20-22)

20. POTENTIAL ADJUSTMENT TO REGULAR CITY COUNCIL MEETING SCHEDULE

Report: Interim City Manager Theresa DellaSanta

Recommendation: To Be Determined

MOTION by Carlson, second by Dobbie to move the November City Council Meeting to Wednesday, November 28, 2012 due to the Thanksgiving holiday.

Ayes: 3 Nays: 1 (Widmer) Abstain: 1 (McKeithen)

21. TOWN RESPONSE TO CIVIL GRAND JURY REPORT WHETHER SAN MATEO COUNTY NEEDS 13 SEPARATE POLICE DISPATCH CENTERS

Report: Police Chief Ed Flint

Recommendation: Accept the attached final proposed draft as the Town's response to the Civil Grand Jury regarding whether San Mateo County Needs 13 Separate Police Dispatch Centers.

Lieutenant Joe Wade presented the staff report.

Councilmember McKeithen commented that in the response to the Grand Jury, #4 is too general and should be addressed with specific statistics and data.

Mayor Wider thinks the response should be more specific to the needs of Atherton. He commented that the specifics are in the report but they are stated later in the response. Mayor Widmer feels they should be repeated.

Councilmember McKeithen agreed that the numbers are addressed in #s 2 and 3 but should be carried over.

Councilmember McKeithen commented that the response takes issue with the fact that names are withheld but she thinks that the Grand Jury is not allowed to disclose the names of the interviewees but rather just enumerate positions held.

Councilmember McKeithen disagrees with #7. She does not think the report was suggesting that people aren't doing their jobs but rather are distracted when they have other tasks to manage.

Councilmember McKeithen does not agree with the logic that because the Grand Jury didn't speak with Police Chief Flint that they would disagree with some of the findings.

Councilmember Carlson asked what would happen if the letter is not received by the Grand Jury on time. City Attorney Conners answered that there is no penalty other than that the Grand Jury will not use their response.

Vice Mayor Lewis pointed out some formatting and grammatical errors.

OPEN PUBLIC COMMENT

Wally Sleeve, 227 Catalpa, spoke to the fact that the answer to the question of dispatch services is simply one of cost.

CLOSE PUBLIC COMMENT

City Attorney Conners suggested that the Council approve the bones of the response and that Mayor Widmer can approve the final once the revisions are made. He added that the Grand Jury may not even respond.

MOTION by Carlson, second by McKeithen to approve the basic framework of the response and the final document will be approved by Mayor Widmer before it is sent to the Grand Jury. The motion passed.

Ayes: 5 Nays: 0 Abstain: 0

**22. COUNCIL RESPONSE TO ATHERTON POLICE OFFICERS ASSOCIATION (APOA)
TOWN-WIDE MAILING**

Report: Mayor Widmer, Councilmember Dobbie

Recommendation: To Be Determined

Mayor Widmer presented the item.

Vice Mayor Lewis clarified that the response shouldn't make mention of the robo-call. Mayor Widmer agreed that the response would not reference the call.

Councilmember Carlson doesn't approve of the insinuation that the Council does not hold public safety as its top priority. The Council takes public safety very seriously and it is the Council's foremost concern.

Vice Mayor Lewis feels that since we are in campaign mode the Council should refrain from comment. The pamphlet was a demonstration of free speech.

OPEN PUBLIC COMMENT

Pat Dobbie, James Avenue, would like the endorsement signs posted in the Town's garden removed.

Greg Conlon wanted to set the record straight that while he was endorsed by the APOA, he does not want to outsource the police department.

Malcolm Dudley, Catalpa Drive wanted to remind Atherton to respect and honor the work of the police and enumerated the events that lead to the response of the APOA.

Steven Goldby, 180 Stockbridge Avenue, supports what the APOA did. He voted for the parcel tax to avoid this kind of situation.

Ann McNertney, Watkins Avenue wants to know how we will pay for services if we sunset the Parcel Tax.

Bob Roeser, resident, suggested that the Council should not sound defensive in their response to the APOA pamphlet.

Jon Buckheit, Selby Lane, expressed concern that the candidates sought endorsements from the APOA.

Michael Stogner, victims advocate spoke in support of the Council.

John Ruggiero, resident, stated that the APOA should not be allowed to post signs in yards without asking permission.

CLOSE PUBLIC COMMENT

Councilmember Dobbie read a statement in opposition of the tactics employed by the APOA.

Councilmember McKeithen stated that the Council has an obligation to correct misinformation. She feels they should restate the Town's official position.

Councilmember Carlson doesn't see a lot of gain from responding as a collective group.

A member of the audience suggested that Vice Mayor Lewis recuse herself since she is one of the candidates endorsed by the APOA. City Attorney Connors answered that she has an obligation if not a right to participate.

Vice Mayor Lewis commented that she has published the APOA survey and her responses on her website.

Mayor Widmer thinks there should be a response.

Vice Mayor Lewis suggests that the Council respond with a high level response reiterating their commitment to public safety.

Councilmember Dobbie thinks the response should go to all residents.

Councilmember Carlson would support a press release from the office of the Mayor. He would like to see a high level response with a few specifics and would leave it up to the Mayor and staff.

Councilmember McKeithen doesn't agree that the proposed letter is too detailed.

Councilmembers Dobbie and Vice Mayor Lewis trust the Mayor to send the response.

MOTION by Dobbie, second by Carlson for Mayor Widmer to write a high level and fair press release in response to the pamphlet distributed by the APOA. The motion passed.

Ayes: 5 Nays: 0 Abstain: 0

The Council then took up those items that were pulled from the Consent Calendar:

13. APPROVE THE RECOMMENDATION OF THE FINANCE COMMITTEE TO ACCEPT THE ACTUARIAL VALUATION OF OTHER POST EMPLOYMENT (HEALTH-CARE) BENEFITS (OPEB) AS REQUIRED BY GASB 45 AND AUTHORIZE STAFF TO TRANSFER THE NET OPEB OBLIGATION OF \$1,299,316 FROM THE EMPLOYEE BENEFITS FUND TO THE PARS OPEB TRUST

Report: Finance Director Robert Barron

Recommendation: Approve the recommendation of the Finance Committee to accept the actuarial valuation of Other Post Employment (health-care) Benefits (OPEB) as required by GASB 45 and approve the resolution authorizing staff to transfer the Net OPEB Obligation of \$1,299,316 from the Employee Benefits Fund (Fund 616) to the City's PARS OPEB Trust Account.

Councilmember Carlson would like to get the Council together with an actuarial group to go over some of the issue. Councilmember Carlson clarified that he is in favor of this item.

Vice Mayor Lewis asked if the Town could get the data refreshed because a lot has changed since the valuation was completed.

City Attorney Connors suggested that they follow Councilmember Carlson's suggestion and schedule a joint meeting of the Council, Finance Committee and actuaries.

MOTION Carlson, second by Dobbie to approve the recommendation of the Finance Committee to accept the actuarial valuation of Other Post Employment (Health Care) Benefits (OPEB) as required by GASB 45 and authorize staff to transfer the net OPEB obligation of \$1,299,316 from the Employee Benefits Fund to the PARS OPEB Trust.

Ayes: 5 Nays: 0 Abstain: 0

14. APPROVAL TO ISSUE REQUEST FOR PROPOSAL FOR PREPARATION OF THE TOWN OF ATHERTON BICYCLE PEDESTRIAN MASTER PLAN

Report: Public Works Director Mike Kashiwagi

Recommendation: Approve the issuance of a Request For Proposal (RFP) for the preparation of a Bicycle Pedestrian Master Plan for the Town of Atherton

Vice Mayor Lewis is excited that there is a budget item for this but she would like to get input on the project from stakeholders.

Public Works Director Mike Kashiwagi answered that the report was prepared by staff, not stakeholders but the process will involve stakeholders.

Vice Mayor Lewis asked who the RFP will go out to.

Public Works Director Mike Kashiwagi answered that it will go to Transportation Engineering firms and some Planning firms. He commented that usually it is posted on the website but they will send out an email to firms to let them know that the RFP has been posted.

Mayor Widmer is not sure that the RFP will get the results they are looking for. He thinks it is too broad in scope and will not yield the right results.

Public Works Director Mike Kashiwagi answered that by design they don't want to be specific. The RFP is written more broadly to see what the firms come up with. Then, when the proposals come in, they get more specific.

Mayor Widmer thinks there should first be a Request for Information (RFI) that would craft a plan for the RFP. He also suggested that the Facebook money should be used to complete this portion.

City Manager Rodericks commented that the Facebook funds can be leveraged for the project.

Mayor Widmer answered that the money from Facebook is earmarked for consulting on bike paths.

Public Works Director Mike Kashiwagi commented that he has emailed the representative from Facebook and will get an answer regarding the funds.

OPEN PUBLIC COMMENT

Greg Conlon suggested that the consultants who come in and take on the bike lane project have experience working with a town that has no curbs or sidewalks. He thinks this is an important detail in choosing a consultant.

Denise Kupperman, Atherton Avenue, commended the Council for looking at the bike and pedestrian safety

issue. She also clarified that the RFP is to glean qualified firms to work with the Town. It is an important first step in the process.

CLOSE PUBLIC COMMENT

MOTION Dobbie, second Lewis to approve the release of a Request for Proposal for preparation for the Town of Atherton Bicycle Pedestrian Master Plan. The motion passed.

Ayes: 5 Nays: 0 Abstain: 0

16. COMPLETE STREETS RESOLUTION

Report: Public Works Director Mike Kashiwagi

Recommendation: Adopt resolution expressing support of complete streets

Councilmember McKeithen feels that the Council is not being honest if we agree to consider some of the things in the resolution, i.e. sidewalks, shoulders, street furniture. These things go against the General Plan. Councilmember McKeithen heard that MTC doesn't really follow up and check on compliance but it seems if the Town agrees to it, the Town should implement it.

Mayor Widmer has many of the same concerns. He has concerns about words in the resolution like "requires." Mayor Widmer feels that if we approve a resolution to do something, it should be done. He is not in support of this.

Councilmember Dobbie asked what the negatives are if the Town does not pass the resolution.

Public Works Director Mike Kashiwagi answered that they would not be eligible for state or federal transportation funding now or in the future.

The item was continued to a later date so that staff can rewrite the resolution using less binding language.

17. AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON CREATING A NEW ARTICLE III OF CHAPTER 2.56 ESTABLISHING A PROCEDURE FOR APPEALS FROM DISCIPLINARY ACTION

Report: City Attorney Bill Connors

Recommendation: Make a finding that the facts outlined in Section 1 exist and constitute an urgency exists relating to preservation of the public peace, health, or safety such that the ordinance needs to be adopted as an urgency matter, and Adopt the ordinance.

Councilmember McKeithen pointed out several instances where the wording was, in her opinion, questionable. City Attorney Connors answered that the content of the resolution was taken from Human Resources manuals and was carefully worded and the preferred way to proceed. The document cannot take every situation into account so it must be worded in a way to encompass most situations.

MOTION Widmer, second Dobbie to approve an urgency ordinance of the City Council of the Town of Atherton creating a new Article III of Chapter 2.56 establishing a procedure for appeals from disciplinary action with the findings that the fax outlined in Section 1 exist and constitute an urgency relating to preservation to the public peace, health, or safety. The motion passed.

Ayes: 5 Nays: 0 Abstain: 0

23. COUNCIL REPORTS/COMMENTS – Vice Mayor Lewis submitted a Council Report.

24. FUTURE AGENDA ITEMS - none

25. PUBLIC COMMENTS

Lou Paponis, MacBain Avenue, thanked City Clerk Theresa DellaSanta for implementing the changes to assist the hearing impaired in having better accessibility to Town Meetings.

26. ADJOURN

MOTION Dobbie, second Lewis to adjourn the meeting of October 17, 2012. The motion passed.

Ayes: 5 Nays: 0 Abstain: 0

Respectfully submitted

**Theresa DellaSanta
City Clerk**