



**MINUTES**  
**Town of Atherton**  
**CITY COUNCIL**  
**ATHERTON CHANNEL DRAINAGE DISTRICT**  
**MARCH 19, 2008**  
**7:00 p.m.**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California

**REGULAR MEETING**

Mayor Janz called the meeting to order at 7:05 p.m.

**1. PLEDGE OF ALLEGIANCE**

**2. ROLL CALL**

**PRESENT** Jerry Carlson  
Charles E. Marsala  
James R. Janz  
Kathy McKeithen

City Manager Jerry Gruber and City Attorney Marc Hynes were also present.

**3. PRESENTATIONS**

**A. Arbor Day Proclamation**

Mayor Janz read the Proclamation declaring April 19, 2008, Arbor Day.

**B. Rain Gauge Project – Cynthia D’Agosta**

The presentation was canceled.

**C. Menlo Park Fire Protection District – Quarterly Update**

The item was continued to the City Council meeting of April 16, 2008, at the request of Menlo Park Fire Protection District.

**4. PUBLIC COMMENTS**

Wu Lu, Union City, Volunteer for Global Torch Relay Rally, to be held April 5, 2008, in San Francisco Union Square. The rally would draw attention to the increasing human rights violations in China and would occur just a few days prior to the Beijing

**Olympic Torch's arrival in San Francisco. Crimes against humanity could not coexist with the Olympics. He urged those in attendance to attend the rally.**

**Lin Liu , San Mateo, invited Council Members to be speakers at the Saturday April 5, 2008, rally. She expressed her concern for the human rights violations. She believed the Chinese Communist Party used the Olympic games as an excuse to escalate the suppression of the Chinese people.**

**Ming Hu, Foster City, a Falun Gong practitioner, supported the Global Torch Relay Rally. She urged Council to adopt a resolution to support the human rights rally. Falun Gong was a peaceful form of meditation/exercise that the Chinese government banned in 1999 due to the popularity of the practice and the policy of not tolerating a spiritual group no matter how beneficial.**

**Hongyn Sun, Belmont, said the Communist regime did not respect human rights and ignored the value of human life; not only its own Chinese people but also the rest of the world. She urged support for the rally that was a good opportunity to express concern for China to keep its promises.**

**Jim Dobbie, Atherton, Chairman, General Plan Committee, said two workshops to review Zoning Code Update had been held. There was a good turnout of builders, architects, and developers; however, there was a poor turnout of residents resulting in a tendency among those present to want to relax regulations rather than strengthen them. He encouraged everyone to attend the next workshop. He attended the recent Facilities meeting and was encouraged that the Town of Portola Valley had received \$18.5 million in contributions to build its new Town Hall. He believed Atherton could raise funds as well. While recently in Japan, he noted a very large number of people walking with masks because of pollution presumably from China.**

**John Sisson, Atherton, thanked Council for making money available for disaster preparedness. He indicated that both Lindenwood and Lloyd Park had made purchases related to disaster preparedness and would seek reimbursement. Additionally, he believed Council needed to provide some type of symbol of authority for those who were authorized to act in an emergency.**

**Jim Massey, Atherton, expressed concern as a taxpayer and resident regarding the lack of oversight for the former Finance Director in the performance of his duties. He queried how the Council planned to correct the problem and why the issue had not come to light except through public information requests and the newspaper.**

**Randy Lamb, Atherton, Member of the General Plan Committee, spoke regarding the dangerous Watkins Avenue and El Camino Real intersection. With respect to public participation, he thought the Town relied too heavily on its posting locations and that the postcard notifications were somewhat ineffective. He congratulated the Town in dropping the lawsuit with the Sequoia Union High School District and noted that former Finance Director John Johns dropped his lawsuit.**

**Mayor Janz noted the Sequoia Union High School District lawsuit was settled, not dropped.**

Austin Koenig, Atherton, current student at Sacred Heart Prep, said San Mateo County was adopting new building standards for sustainable building and that Atherton did not have any and did not plan to install mandates that would enforce the standards. He urged Council to address the issue. The Town was a wealthy town and had the ability to improve and fix what was wrong and to set an example.

Mayor Janz said the Environmental Programs Committee was looking into the issue, and no decision had been made as to “green” regulations.

Elizabeth Lewis, Member of the General Plan Committee, noted the next Zoning Code Update workshop would be held on April 9, 2008. She emphasized the need to use all the technology at the Town’s disposal to generate public participation. A Town-wide email system was needed.

## 5. STAFF REPORTS

- City Attorney Marc Hynes reported out of Closed Session as follows:

A. **CONFERENCE WITH LEGAL COUNSEL – Existing Litigation pursuant to Subsection (a) of Government Code Section 54956.9**

**Lamb vs. Town of Atherton, et al.**

**Superior Court of California, San Mateo County, CIV 461630**

**John P. Johns Petitioner vs. Town of Atherton et. al. Respondent**

**Superior Court of California, San Mateo County, CIV 465782**

**There was no reportable action taken.**

B. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – Significant Exposure to Litigation pursuant to Subsection (b) of Government Code Section 54956.9**

**One (1) potential case**

**There was no reportable action taken.**

C. **LIABILITY CLAIMS – pursuant to Government Code Section 54956.95**

**Claimant: Stanford University Hospital/Medical Center**

**Agency Claimed Against: Town of Atherton**

**By unanimous vote of the City Council, the claim was denied.**

- City Manager Jerry Gruber reported on numerous meetings he attended since the last City Council meeting.
- Public Works Director Duncan Jones announced the Town received two “Safe Routes to School” grants totaling \$137,000. One was for sidewalks and crosswalk connections at Las Lomas Elementary School, and one was for a

traffic signal at Sacred Heart Academy. The schools would make the necessary matches to the grants. The Watkins/El Camino intersection was scheduled for discussion at the Transportation Committee meeting in April. A neighborhood drainage meeting was held regarding the Fletcher/Ridgeview project and was well attended. Caltrain agreed to install four quadrant gates at both Town crossings. Encinal School would be working on the modifications to its drop-off and pickup area during the summer.

- Interim Finance Director Bill Yeomans reported on the progress of the 2006/2007 Audit.

**6. COMMUNITY ORGANIZATION ROUNDTABLE REPORT**

None.

**CONSENT CALENDAR (Items 7-21)**

Mayor Janz removed Item No. 21 and placed it at the end of the Regular Agenda for discussion. Regarding Item No. 13, Vice Mayor Carlson asked about the items designated as out of compliance. Deputy Town Planner Lisa Costa Sanders said the items would be addressed during the Housing Element Update. Vice Mayor Carlson removed Item No. 12, which was placed first on the Regular Agenda for discussion.

Denise Kupperman, Atherton, asked that Item Nos. 8 and 19 be removed for discussion.

**MOTION – to approve the Consent Calendar as presented with the exception of Item Nos. 8, 12, 19, and 21 which were removed and placed on the Regular Agenda for discussion.**

M/S McKeithen/J.Carlson

**Ayes: 4 Noes: 0 Absent: 0 Abstain: 0**

**7. APPROVED MINUTES OF THE SPECIAL CITY COUNCIL CLOSED SESSION MEETING FEBRUARY 7, 2008; THE SPECIAL CITY COUNCIL CLOSED SESSION AND REGULAR CITY COUNCIL MEETINGS OF FEBRUARY 20, 2008**

~~**8. APPROVAL OF BILLS AND CLAIMS FOR FEBRUARY IN THE AMOUNT OF \$ 785,293; APPROVAL OF ADDITIONAL CLAIMS LIST IN THE AMOUNT OF \$1,428,172**~~

**9. ACCEPTED MONTHLY FINANCIAL REPORT FOR FEBRUARY 2008**

**10. SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING SECTION 13.10.070 OF THE ATHERTON MUNICIPAL CODE FOR PUBLIC, EDUCATIONAL AND ACCESS SUPPORT FEES FROM VIDEO SERVICE PROVIDERS**

**Adopted Ordinance 575, “AN ORDINANCE OF THE COUNCIL OF THE TOWN OF ATHERTON AMENDING SECTION 13.10.070 OF THE ATHERTON MUNICIPAL**

**CODE REGARDING PUBLIC EDUCATIONAL AND GOVERNMENTAL (PEG) ACCESS SUPPORT FEES”**

**11. ADOPTION OF A RESOLUTION CONSENTING TO COUNTY HEALTH OFFICER ENFORCEMENT OF STATE AND LOCAL HEALTH REGULATIONS**

**Adopted Resolution No. 08-09, “A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON CONSENTING TO SAN MATEO COUNTY HEALTH OFFICER ENFORCEMENT WITHIN THE TOWN OF ATHERTON OF HEALTH OFFICER ORDERS PROMULGATED PURSUANT TO STATUTE AND REGULATION”**

~~**12. RESOLUTION ADOPTING FINDINGS ON APPEAL OF THE PROPERTY OWNERS AT 137 STOCKBRIDGE AVENUE FROM A DETERMINATION BY THE BUILDING OFFICIAL AND DEPUTY TOWN PLANNER (CHAPTER 17.44 OF THE ATHERTON MUNICIPAL CODE)–(Removed and placed on the Regular Agenda for discussion.)**~~

**13. 2007 ANNUAL REPORT TO THE CITY COUNCIL ON THE ATHERTON GENERAL PLAN IMPLEMENTATION**

**Accepted the Annual Report and authorized 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).**

**14. APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT WITH REGIONAL GOVERNMENT SERVICES AUTHORITY (RGS) FOR A HUMAN RESOURCES CONSULTANT**

**Approved an agreement with Regional Government Services Authority ( RGS) For a Human Resources Specialist.**

**15. PROFESSIONAL RECRUITMENT FOR THE POSITIONS OF ASSISTANT TO THE CITY MANAGER, DIRECTOR OF FINANCE AND CHIEF OF POLICE**

**Awarded recruitment contract for Assistant to the City Manager, Director of Finance and Chief of Police to Peckham and McKenney Executive Search and Consulting, not-to-exceed \$46,000.**

**16. ADOPTION OF A RESOLUTION FROM THE CITY COUNCIL OF THE TOWN OF ATHERTON ENDORSING THE PARKS FOR THE FUTURE CONCEPT**

**Adopted Resolution No. 08-10, “A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ENDORSING THE PARKS FOR THE FUTURE CONCEPT”**

17. **ADOPTION OF A RESOLUTION AUTHORIZING THE INSTALLATION OF AN ADDITIONAL 80-FOOT NO PARKING ZONE ON EL CAMINO REAL, SOUTH OF SPRUCE AVENUE AT 1850 EL CAMINO REAL**

**Adopted Resolution No. 08-11, “A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON AUTHORIZING THE INSTALLATION OF AN ADDITIONAL 80-FOOT NO PARKING ZONE ON EL CAMINO REAL, SOUTH OF SPRUCE AVENUE AT 1850 EL CAMINO REAL”**

18. **ACCEPTANCE OF WORK AND AUTHORIZATION TO RECORD NOTICE OF COMPLETION FOR THE VALPARAISO AVENUE OVERLAY PROJECT, PROJECT NO. 06-001**

**Accepted the work and authorized recording of a Notice of Completion for the Valparaiso Avenue Project, Project No. 06-001.**

- ~~19. **AWARD OF CONTRACT TO JOHN DEERE LANDSCAPES, GREENTECH DIVISION, FOR THE EL CAMINO REAL IRRIGATION REPAIR AND UPGRADE PROJECT (Removed and placed on the Regular Agenda for discussion.)**~~

20. **APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH MACLEOD AND ASSOCIATES, INC. FOR TOPOGRAPHIC SURVEY SERVICES FOR THE TOWN CENTER LANDSCAPING PROJECT**

**Accepted the proposal and authorized the City Manager to sign a Professional Services Agreement with MacLeod and Associates, Inc., to provide topographic survey services for the Town Center Landscape Project in an amount not to exceed \$21,000, plus a 10% contingency, for a total authorization of \$23,100.**

- ~~21. **APPROVAL OF MAYOR’S 2008 CITY COUNCIL COMMITTEE ASSIGNMENTS (Removed and placed on the Regular Agenda for discussion.)**~~

**REGULAR AGENDA (Items 22, 23)**

12. **RESOLUTION ADOPTING FINDINGS ON APPEAL OF THE PROPERTY OWNERS AT 137 STOCKBRIDGE AVENUE FROM A DETERMINATION BY THE BUILDING OFFICIAL AND DEPUTY TOWN PLANNER (CHAPTER 17.44 OF THE ATHERTON MUNICIPAL CODE)**

**Vice Mayor Carlson believed the item needed more consideration.**

**Larry Lowry, Atherton, submitted a letter requesting the denial of the appeal be reconsidered. He asked Council to consider Option 2 in the staff report: “The Council could direct staff to apply the former nonconforming regulation, as the applicants had invested significant resources into the preparation of the plans and the plans were completed and ready for submission prior to the effective date.” The option was not presented or discussed at the last meeting. His request for reconsideration was based on the following: 1) The plans were fully completed before the ordinance was adopted; 2) The plans were developed in consultation with the Town; 3) The plans resulted in a**

substantial upgrade to the property; and 4) Unique circumstances existed. He urged the Council to consider what the right outcome was and how to get there. No one would be damaged if the appeal were granted.

**MOTION – to reconsider the appeal at the City Council meeting of April 16, 2008**

**M/S J.Carlson/McKeithen**

**Ayes: 4 Noes: 0 Absent: 0 Abstain: 0**

**22. REPORT FROM KEVIN KIELTY, CONTRACT ARBORIST, REGARDING LANDSCAPING AT 12 SELBY LANE (Continued from the City Council meeting of February 20, 2008.)**

City Attorney Marc Hynes said he had spoken to resident John Thomas and to Rachel Croft, President, Atherton Tree Committee, and the two agreed that the Compromise Plan on Page 3 of the staff report was acceptable: “The plan would utilize aspects of the neighbor’s plan and the committee’s plan. Plant 5 - 48” boxed coast redwoods, spaced far enough apart that corridors of undiffused light will penetrate to the property. Alternating between the redwoods, 6 – 24” boxed ginkgos will be planted to provide fall color and will not cause shading in light corridors.” The total cost was \$17,500.

William Grindley, Atherton, noted the ginkgos should be male.

**MOTION – to approve the Compromise Plan as outlined on Page 3 of the staff report, noting the ginkgos should be male**

**M/S McKeithen/J.Carlson**

**Ayes: 4 Noes: 0 Absent: 0 Abstain: 0**

**23. ADOPTION OF A RESOLUTION APPROVING THE MID-YEAR BUDGET ADJUSTMENT (Continued from the City Council meeting of February 20, 2008.)**

Interim Finance Director Bill Yeomans noted the Finance Committee had met and recommended some changes that were detailed in the staff report. The Finance Committee also discussed the budget process for Fiscal Year 2008-09.

Council Member Marsala noted that a prior Council had authorized that \$200,000 a year be set-aside in Account 406, for a total of \$800,000, for the Building Department’s share of new Town facilities. Through research, he discovered not all of the funds had been put into the account, and some funds had been used for other purposes. He queried how the funds could be redirected to the proper account.

Interim Finance Director Yeomans said two transfers had been made totaling \$440,000; however, the \$800,000 authorized for the account had not been met. He suggested the issue be addressed during the upcoming budget process.

Council Member Marsala pointed out that the funds were collected from building permit fees and legally needed to be spent for the Building Department. He said \$55,000 had been spent on the Corporation Yard, \$92,000 on the Police storage building, \$17,000 on Administration, and \$8,000 on Engineering.

**City Manager Jerry Gruber suggested the issue be revisited during the upcoming budget cycle to clarify the resolution setting up the 406 Fund.**

**Council Member Marsala reiterated the law indicated the funds secured from permitting fees could only be used for the Building Department.**

**Mayor Janz said Council Member Marsala was correct. The money that was set aside was supposed to be used for the Building Department's share of new Town facilities. He explained how permit fees were calculated and how they could be used. He said if the amount set aside was used in the calculation of what could be charged for building permits, the money needed to be set-aside in the fund if it had not been.**

**Vice Mayor Carlson thanked his colleagues for the postponement of the item and appreciated the extra time to delve into the issues. He recommended recruiting for a Finance Director as soon as possible. A new Finance Director needed to be involved in the Long-Range Financial Plan and the budgeting process. There was a need for a better understanding of the details, e.g., the revenue area, where the sales tax revenue came from, etc. There was a need for more controls and oversight. The disaster preparedness items and the possible future MOU between the Town and Menlo Park Fire Protection District (MPFPD) needed to be thought through for future purchasing. If the MPFPD was in a supervisory role, perhaps a signoff on what was needed should be put in place. He hoped Committee/Commission budgets would be incorporated into the next budget. Regarding mid-year budget adjustments, litigation costs needed to be curtailed. Originally, a sum of \$100,000 had been allocated for repairs to the Town Home. He discovered, after touring the home, additional items were needed.**

**A discussion ensued regarding the needs and costs to finish the Town Home remodeling by July.**

**Vice Mayor Carlson supported an additional \$100,000 should be approved. We also suggested the need for a policy for how contingency funds were used.**

**Council Member McKeithen clarified with regard to the disaster preparedness purchases that the MOU with MPFPD would clearly specify how the money was being spent, whether or not MPFPD approved, and that there would be strict oversight of expenditures of disaster preparedness funds.**

**Jim Dobbie, Atherton, he believed two things were essential: 1) crystal clear delegation of authority to managers; and 2) commitment registers, i.e., showing what commitments were made even though the funds had not been expended.**

**John Sisson, Atherton, asked for clarification on the method for requesting reimbursement of the disaster funds approved in the amount of \$4,600 per district.**

**City Manager Jerry Gruber said Council originally authorized \$23,000 with specific guidelines for how it was to be used. He believed reimbursing for what had been spent would be easy if the items were within the guidelines.**

**Marylue Timpson, Atherton, Member of the Park and Recreation Commission, said she toured the Town Home. She asked for clarification as to whether \$14,000 was spent on an estimate.**

**Public Works Director Duncan Jones said \$250 was spent for the estimate that would be credited if the contractor received the job.**

**Randy Lamb, Atherton, believed a general contractor should have been used for the Town Home project. If the Town were to manage the project properly, a third party should have been hired.**

**Public Works Director Jones indicated Park Program Manager Jean Cardona had experience with home renovations and was assisting in the process.**

**MOTION – to adopt Resolution No. 08-12, A RESOLUTION OF ATHERTON OF THE CITY COUNCIL OF THE TOWN OF ATHERTON APPROVING THE MID-YEAR BUDGET REVISIONS,” and to raise the Town Home remodeling budget to \$100,000**

**M/S J.Carlson/McKeithen**

**Ayes: 4 Noes: 0 Absent: 0 Abstain: 0**

- 8. APPROVAL OF BILLS AND CLAIMS FOR FEBRUARY IN THE AMOUNT OF \$ 785,293; APPROVAL OF ADDITIONAL CLAIMS LIST IN THE AMOUNT OF \$1,428,172**

**Denise Kupperman, Atherton, asked for clarification on the additional Claims List.**

**Interim Finance Director Bill Yeomans explained that some transactions had not been put on the Claims List in previous months and were included to get proper approvals.**

**MOTION – to approve the Bills and Claims for February in the amount of \$785,293, as well as the additional Claims List in the amount of \$1,428,172.**

**M/S J.Carlson/McKeithen**

**Ayes: 4 Noes: 0 Absent: 0 Abstain: 0**

- 19. AWARD OF CONTRACT TO JOHN DEERE LANDSCAPES, GREENTECH DIVISION, FOR THE EL CAMINO REAL IRRIGATION REPAIR AND UPGRADE PROJECT**

**Denise Kupperman, Atherton, said the Tree Committee had applied for grants for new plantings on El Camino and she queried why significant funds were being utilized to upgrade the irrigation system.**

**Public Works Director Duncan Jones said the power source had been lost for the signal controllers. Essentially, the funds would replace the PG&E power controller with a solar power controller. The irrigation system itself was not being changed.**

**MOTION – to award the contract to John Deere Landscapes, Greentech Division, for the El Camino Real Irrigation Repair and Upgrade**

M/S McKeithen/J.Carlson

Ayes: 4 Noes: 0 Absent: 0 Abstain: 0

**21. APPROVAL OF MAYOR'S 2008 CITY COUNCIL COMMITTEE ASSIGNMENTS**

**Mayor Janz made one change to the City Council Committee assignments. He assigned Council Member McKeithen to the Finance Committee and removed himself.**

**MOTION – to approve the City Council Committee Assignments with the change to appoint Council Member McKeithen to the Finance Committee in place of Mayor Janz.**

M/S J.Carlson/Janz

Ayes: 4 Noes: 0 Absent: 0 Abstain: 0

**COUNCIL REPORTS**

- **Council Member McKeithen noted she attended the Airport Roundtable meeting. The committee would be looking into the Woodside corridor and doing a comparative analysis to lower the number of low-flying planes through the corridor. The Finance Committee would be looking in to ways to reduce costs, and to maintain greater visibility of costs, as well as clarification of items in the budget, e.g., the postal contract.**
- **Council Member Marsala said he had several meetings with City Manager Jerry Gruber discussing facilities. A meeting was held and attended by area mayors who indicated community involvement from the beginning was necessary for success. The Town was poised to move forward.**
- **Vice Mayor Carlson wanted to move ahead on the next City Council workshop regarding goals and objectives. He attended the Peninsula Traffic Congestion Relief Alliance meeting, one of 36 agencies involved in transportation in the area. He believed there were too many agencies which then diluted Council's effort to do what was best for the Town. He attended the League of Cities dinner. C/CAG was requesting a letter of support from each city regarding AB 348 that would provide \$15 million for Safe programs, the Sexual Assault Felony Enforcement program, etc. Mayor Janz asked the City Manager to follow up. He complimented the Mayor and Public Works Director Duncan Jones regarding the Rail Committee for their time and effort.**
- **Mayor Janz thanked City Manager Gruber for attending a tour and discussion on his behalf with the mayor of Menlo Park, the mayor of Portola Valley, and the vice mayor of East Palo Alto regarding social service facilities of mutual interest and concerns. He attended the Mayors for Meals program, a national event where over 2,000 mayors across nation delivered meals to seniors. He read a letter from a Nativity School student asking Council to consider replacing the old concrete street signs with modern street signs. Council did not support the idea. He received a copy of an application for an alcohol use permit for a winery on Valley Road in Woodside and he asked the Police Chief to follow up on with the Town of Woodside.**

**25. PUBLIC COMMENTS**

**John Ruggeiro, Atherton, spoke to the drainage issue. Flooding was an ongoing issue that needed to be addressed.**

**Rachel Croft, President of the Tree Committee, announced the Tree Arbor Day celebration at Selby Lane School on April 19. A Charret for Trees for El Camino would be held on May 15, at 6:30 p.m. in the Main House.**

**WILLIAM Grindley, Atherton, asked about the status of the Historical Artifact Preservation Ordinance process.**

**Deputy Town Planner Lisa Costa Sanders said the agreement had been received, and a workshop schedule would be forthcoming.**

**26. ADJOURNMENT**

**Mayor Janz adjourned the meeting was at 9:17 p.m.**

**Respectfully submitted,**

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**Kathi Hamilton  
Acting City Clerk**