



**MINUTES**  
**Town of Atherton**  
**CITY COUNCIL**  
**ATHERTON CHANNEL DRAINAGE DISTRICT**  
**NOVEMBER 19, 2008**

**7:00 p.m.**

**Pavilion**

**Holbrook-Palmer Park, 150 Watkins Avenue**  
**Atherton, California**

**REGULAR MEETING**

**Mayor Janz called the meeting to order at 7:10 p.m.**

**1. PLEDGE OF ALLEGIANCE**

**2. ROLL CALL**

**PRESENT**    **Jim Dobbie**  
                 **Jerry Carlson**  
                 **Charles E. Marsala**  
                 **James R. Janz**

**ABSENT:**    **Kathy McKeithen (Excused)**

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

**3. PRESENTATIONS**

**Annual Red Ribbon Week Presentations**

**Police Chief Glenn Nielsen presented awards to poster contest winners for the D.A.R.E. program from St. Joseph's and Encinal Schools. The theme for the Red Ribbon Week contest was, "I have better things to do than drugs." First place recipients received a D.A.R.E. ball of their choice and \$50 in gold coins. Second place recipients received a D.A.R.E. ball of their choice.**

**4. PUBLIC COMMENTS**

**There were no public comments.**

**5. REPORT OUT OF CLOSED SESSION**

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

At the beginning of the Closed Session, pursuant to the City Attorney, two items were added under the topic, CONFERENCE WITH LEGAL COUNSEL – Existing Litigation pursuant to Subsection (a) of Government Code Section 54956.9

**Town of Atherton vs. P.G.&E CIV 471234 Superior Court of California, County of San Mateo**

No reportable action was taken.

**Town of Atherton vs. California High-Speed Rail Association Superior Court of California, County of Sacramento**

No reportable action was taken.

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – Anticipated Litigation, Initiation of Litigation pursuant to Subsection (c) of Government Code Section 54956.9**

Four (4) potential cases

No reportable action was 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

No reportable action was taken.

- C. LIABILITY CLAIMS – pursuant to Government Code Section 54956.9  
Claimant: Pilar Ortiz-Buckley  
Agency Claimed Against: Town of Atherton**

On a unanimous vote of those present, (4-1, McKeithen absent) the Council denied the claim.

**6. CITY MANAGER’S REPORT**

City Manager Jerry Gruber did not have a report that evening. Council Member Marsala noted regarding the Non-School Event Guidelines review, the subcommittee should consider: 1) whether the Civic Center Act needed to be reviewed for any impact on the guidelines; 2) whether the Town could enact ordinances regulating what Menlo School or the City of Menlo Park could or could not do. He also raised questions regarding the curfew.

7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT**

There was no report scheduled.

8. **CONSENT CALENDAR** (Items 8-22)

Vice Mayor Carlson removed Item Nos. 11 and 16.

Council Member Dobbie removed Item No. 15.

Mayor Janz noted that Item No. 8, the Special City Council Meeting Minutes of September 24, 2008, should indicate he was “recused” not “absent.” Mayor Janz asked for clarification on Item Nos. 13 and 14. Assistant City Manager Eileen Wilkerson noted the responses she received were positive.

**MOTION – to approve the Consent Calendar as presented with the exception of Item Nos. 11, 15, and 16, which were removed and placed on the Regular Agenda for discussion**

M/S Carlson/Dobbie            Ayes: 4    Noes: 0    Absent: 1 (McKeithen)    Abstain: 0

8. **APPROVED MINUTES OF THE SPECIAL CITY COUNCIL MEETING OF SEPTEMBER 24, 2008; THE SPECIAL CLOSED SESSION MEETING AND REGULAR CITY COUNCIL MEETING OF OCTOBER 15, 2008; THE SPECIAL CITY COUNCIL MEETING AND CLOSED SESSION MEETING OF NOVEMBER 1, 2008**

9. **APPROVED BILLS AND CLAIMS FOR OCTOBER IN THE AMOUNT OF \$1,297,791**

10. **ACCEPTANCE OF FINANCIAL REPORT FOR THE FOUR MONTHS ENDED OCTOBER 2008**

Received the General Fund Financial Report for the four months ended October 31, 2008.

~~11. **ADOPTION OF A RESOLUTION APPROVING A BUDGET ADJUSTMENT FOR LEGAL SERVICES**~~

~~**Recommendation: Staff recommends that the City Attorney budget be increased by adding the amount of \$25,000.00 to Account #3103 – Attorney – Other Legal, and \$50,000.00 to Account #3105 – Litigation Services. Further, the City Council adopts a resolution approving a budget adjustment. (Removed and placed on the Regular agenda for discussion.)**~~

**12. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$20,097.18 FOR THE PROJECT, PROJECT NO. 07-012**

Accepted the work, authorized recording of a notice of completion and approved contract change orders in the amount of \$20,097.18 for the Alameda Cape Seal Project, Project No. 07-012.

**13. ADOPTION OF A RESOLUTION APPROVING A NEW POLICY – POLICY 1.2, TYPES OF EMPLOYMENT AND ELIGIBILITY FOR BENEFITS**

Adopt Resolution No. 08-49, “A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON TO APPROVE TOWN POLICY – 1.2 TYPES OF EMPLOYMENT AND ELIGIBILITY FOR BENEFITS”

**14. ADOPTION OF A RESOLUTION APPROVING A NEW POLICY –POLICY 1.3, EQUAL EMPLOYMENT OPPORTUNITY**

Adopted Resolution No. 08-50, “A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON TO APPROVE TOWN POLICY – 1.3 EQUAL EMPLOYMENT OPPORTUNITY”

~~**15. AFFIRM PAYMENT TO OFFICES OF MICHELE S. LANE IN THE AMOUNT OF \$15,936.36 FOR INVESTIGATION OF PERSONNEL ISSUES**~~

~~Recommendation: Affirm payment to the law offices of Michele A. Lane in the amount of \$ 15,936.36.00 for investigation of personnel issues.~~

~~**16. APPROVE THE ACCEPTANCE OF A PRIVATE DONATION**~~

~~Recommendation: Staff recommends that Council authorizes the acceptance of a private donation of no more than \$14,000 to offset the 2008/2009 FY approved purchase, training and accessories of a new police K-9. Further, Staff recommends allowing the private donor to directly pay the associated vendors, and in turn, the Town would provide a charitable cost letter to the donor. Further, Staff recommends the \$14,000 budgeted this FY for the new K9 be reallocated to another line item.~~

**17. AWARD OF CONTRACT TO PROFESSIONAL TREE CARE COMPANY FOR THE TREE MAINTENANCE PROJECT, PROJECT NO. 08-009, IN AN AMOUNT NOT TO EXCEED \$60,000**

Awarded a contract for the 2009 Tree Maintenance Project, Project No. 08-009, to PROFESSIONAL TREE CARE COMPANY, the low bidder on the November 12, 2008, bids, for \$60,000 and to authorize the Mayor to sign the contract on behalf of the Town.

**18. APPROVE A 2-YEAR CONTRACT AGREEMENT WITH CONTRACT SWEEPING SERVICES FOR TOWN OF ATHERTON SWEEPING SERVICES**

**Accepted the proposal and authorized the City Manager to sign a 2-year sweeping contract with a 2-year extension option to Contract Sweeping Services to provide Town sweeping services in an amount not exceed \$23,824.80 (\$11,912.40 annually or \$992.70 per month) plus a 10% contingency, for a total authorization of \$26,207.28.**

**19. APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR TRAFFIC ENGINEERING SERVICES FOR THE FAIR OAKS LANE TRAFFIC STUDY**

**Accepted the proposal and authorized the City Manager to sign a Professional Services Agreement with Kimley-Horn and Associates, Inc to provide traffic engineering services for the Fair Oaks Lane Traffic Study in an amount not exceed \$16,400, plus a 10% contingency of \$1,640, for a total authorization of \$18,040; further Adopted Resolution No. 08-51, "A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ADJUSTING THE BUDGET FOR THE FAIR OAKS TRAFFIC STUDY"**

**20. AWARD OF CONTRACT FOR THE PLAYSCHOOL ROOF PROJECT, PROJECT NO. 08-022, IN AN AMOUNT NOT TO EXCEED \$23,731 PLUS A TEN PERCENT CONSTRUCTION CONTINGENCY FOR A TOTAL AUTHORIZATION OF \$26,104**

**Approved the award of a contract to the lowest bidder for re-roofing the old playschool building at Holbrook-Palmer Park at a cost not to exceed \$23,731 with a 10% contingency, bringing the total to \$26,104.00.**

**21. AWARD OF CONTRACT FOR THE MAIN HOUSE ROOF PROJECT, PROJECT NO. 08-023, IN AN AMOUNT NOT TO EXCEED \$28,365.00 PLUS A TEN PERCENT CONSTRUCTION CONTINGENCY FOR A TOTAL AUTHORIZATION OF \$31,201.50**

**Approved the award of a contract to the lowest bidder for re-roofing the Main House at Holbrook-Palmer Park at a cost not to exceed \$28,365.00 with a 10% contingency, bringing the total to \$31,201.50.**

**22. APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH MARK THOMAS & COMPANY, INC. FOR SURVEYING SERVICES FOR THE STREET RECONSTRUCTION PHASE 5 PROJECT**

**Accepted the proposal and authorized the City Manager to sign a Professional Services Agreement with Mark Thomas & Associates, Inc. to provide Surveying services for the Street Reconstruction Phase 5 Project in an amount not exceed \$28,600, plus a 10% contingency, for a total authorization of \$31,460.**

## PUBLIC HEARINGS

None

## REGULAR AGENDA (Item 23-24)

11. **ADOPTION OF A RESOLUTION APPROVING A BUDGET ADJUSTMENT FOR LEGAL SERVICES** *(Removed from the Consent Calendar and placed on the Regular Agenda for discussion.)*

Vice Mayor Carlson said the time to approve the budget adjustment would be at the mid-year budget review. He suggested waiting until that time to make any needed adjustments to the budget.

City Manager Jerry Gruber said he spoke with the Finance Director who indicated waiting for the mid-year budget review would not be a problem.

Council Member Marsala presented information regarding previous legal costs as a result of the Phase I and Phase II Audits of the Building Department and thought some of those costs could have been avoided if a consultant reviewed the audits.

No action taken.

16. **APPROVE THE ACCEPTANCE OF A PRIVATE DONATION** *(Removed from the Consent Calendar and placed on the Regular Agenda for discussion.)*

Vice Mayor Carlson was in favor of approving the acceptance of the donation; however, he thought the request for a budget adjustment should be made at the mid-year budget review. Additionally, the City Manager had authority to move monies between line-items in the budget up to \$15,000 and to authorize purchases up to \$15,000.

Council Member Dobbie was in favor of approving the item; however, he thought the name of donor should be made public.

Police Chief Glenn Nielsen said the donor had not asked to remain anonymous. He noted the donor was Ann Ramsey, a longtime Atherton resident who was very supportive of the Police Department and the K-9 program.

**MOTION – to accept the donation and to thank the donor on behalf of the City Council**

M/S Carlson/Dobbie            Ayes: 4    Noes: 0    Absent: 1 (McKeithen)    Abstain: 0

15. **AFFIRM PAYMENT TO OFFICES OF MICHELE S. LANE IN THE AMOUNT OF \$15,936.36 FOR INVESTIGATION OF PERSONNEL ISSUES** *(Removed from the Consent Calendar and placed on the Regular Agenda for discussion.)*

Council Member Dobbie was concerned bills were not being scrutinized thoroughly. He believed substantial deductions could be realized by thoroughly scrutinizing invoices. He recommended that legal bills be reviewed more closely.

**MOTION – to affirm payment in the amount of \$15,936.36 to Michele S. Lane**

**M/S Dobbie/Carlson            Ayes: 4    Noes: 0    Absent: 1 (McKeithen)    Abstain: 0**

23. **UPDATE ON THE BLUE RIBBON TASK FORCE MEETING OF NOVEMBER 6, 2008; UPDATE ON THE UPCOMING TOWN MEETINGS AND PRESENTATIONS OF NOVEMBER 20, 2008, AND DECEMBER 9, 2008**

Council Member Marsala updated Council on recent activities of the Blue Ribbon Task Force. Only six surveys were received from the facilities tours. William Grindley, Police Chief Glenn Nielsen, and Council Member Dobbie had toured police facilities in Colma and Redwood City. Council Member Marsala, William Grindley and City Manager Jerry Gruber toured the facility in Orinda. He reviewed the presentation that would take place the next evening.

Council Member Dobbie said a great deal of good work was being done by the BRTF. He received calls from residents who expressed a concern that the decision had already been made as to what would be done. The fact was the only thing the BRTF was trying to do at the current time was to convince everyone the Town needed more space. There was a great deal more work to do on how it would be done. He was hoping for a big turnout the next evening.

Vice Mayor Carlson also acknowledged the amount of work that had been done. He agreed with Council Member Dobbie; however, feared the turnout would be small. He thought High-Speed Rail would have an impact on the plans. The economic situation might really impact the donation side of the equation. The project might need to be a multi-phased project, i.e., not trying to do the whole thing at once.

Mayor Janz concurred with his colleagues and the need to get Town buy-in; however, the condition of the existing facilities was atrocious. If people actually saw the facilities, they would concur. Additional, outreach would probably be necessary. He thanked William Grindley and Council Members Marsala and Dobbie for all their work.

Council Member Marsala said people on the BRTF who toured the facilities said it was a real eye-opener. An effort to get more people to take the tour was necessary. As the economic outlook weakened, stretching every dollar would be necessary.

**In response to Mayor Janz, William Grindley said an Emergency Operations Center (EOC) was needed in the Town. He allocated 700-800 square feet in the dispatch center, which had to be constructed at a specific Building Code requirement with an onsite inspector during construction.**

**Police Chief Glenn Nielsen clarified that Atherton always had an EOC. Recently, the EOC was moved to the Public Works Department because Town Hall was not structurally sound. Typically, every Police Department in the County had its own EOC.**

**City Manager Jerry Gruber clarified the Town's space in the Menlo Park Fire Protection District EOC was in case of a regional emergency. There was a need for a computer and phone that interfaced with the Town's EOC in order to report regional matters as they related to the Town. He recommended budgeting for a representative in the EOC because he/she would be a lifeline to FEMA, Menlo Park Fire Protection District**

**Council Member Jerry Carlson suggested putting the pictures of the Town facilities in the *Athertonian*, as well as doing presentations to civic organizations.**

**Elizabeth Lewis, Atherton, said the BRTF was an excellent committee. She agreed with Council Member Dobbie that incredible marketing was needed. The slide show was well done, and she suggested a web-based e-mail presentation might be effective. Additionally, she suggested contacting key residents who had experience with the type of construction. She mentioned High-Speed Rail and the need for it to be underground.**

**24. DISCUSSION AND POSSIBLE ACTION ON ESTABLISHING A DONOR ACCOUNT WITH A NONPROFIT TO HOLD DONATED FUNDS**

**City Manager Jerry Gruber said the item before the Council was to authorize the BRTF to move forward in finding a nonprofit organization to hold donated funds.**

**Council Member Marsala said both Los Altos Hills and Portola Valley constructed their new facilities with donations. Finding a nonprofit to accept funds would ensure to residents that the funds were restricted for space needs and would provide accountability. Council needed to resolve the issue with the 406 fund and to evaluate the need for a bond measure early in 2009.**

**Council Member Dobbie thought the BRTF should be kept out of it all together. He was not in favor of any discussion regarding a bond measure. The number one goal was to solicit enough money from residents and use no public money to fund the project.**

**Vice Mayor Carlson was in favor of authorizing staff to contact an agency to set up an account for donations. He was not in favor of a bond discussion. The Town needed to put together a long-range financial plan to address the parcel tax, etc.**



mandate to build more housing and scarcity of water. The State would need to find other means of providing water. The Delta water is oversubscribed by contracts 8.4 times what was available from the Delta. Safe Routes to School was progressing. The High-Speed Rail measure was narrowly defeated in Atherton's local vote despite the Council speaking out against it. Selby Lane School won a competitive P.G.&E. grant for solar installation.

- Mayor Janz congratulated Elizabeth Lewis and commended David Henig and others who ran. He could not participate in Town actions regarding High-Speed Rail; however, as a private citizen he could. There was an informal ad-hoc group long opposed to High-Speed Rail that would be meeting the following evening and a follow-up meeting the next week. He was able to participate as a private citizen and would generate interest on how High-Speed Rail would work for Atherton.

26 **PUBLIC COMMENTS**

There were no public comments,

27. **ADJOURN**

Mayor Janz adjourned the meeting at 8:45 p.m.

Respectfully submitted,

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**Kathi Hamilton**  
**Acting City Clerk**