



MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
December 17, 2008
5:00 P.M.
Meeting Room
Town Administrative Offices
91 Ashfield Road
Atherton, California
Special Meeting

The meeting was called to order by Mayor Janz at 5:20 p.m.

ROLL CALL

PRESENT: Jerry Carlson
Jim Dobbie
Charles E. Marsala
James R. Janz
Kathy McKeithen

PUBLIC COMMENTS

There were no public comments.

CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – Significant exposure to litigation pursuant to subsection (b) of Government Code Section 54956.9:**

Four (4) potential cases

- B. CONFERENCE WITH LABOR NEGOTIATOR – Labor negotiations pursuant to Government Code Section 54957.6**

**Agency Negotiators: Jerry Gruber, City Manager; Glenn Berkheimer, I.E.D.A.
Employee Organization: Miscellaneous - Teamsters Local Union 856**

**Agency Negotiators: Jerry Gruber, City Manager; Glenn Berkheimer, I.E.D.A.
Employee Organization: Atherton Police Officers Association (APOA)**

Agency Negotiators: Jerry Gruber, City Manager; Glenn Berkheimer, I.E.D.A.
Employee Organization: Management Employees

C. **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

RECONVENE TO OPEN SESSION

Report of action taken.

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

Regarding Item A, there was action taken on one of the four potential cases as follows:

The Atherton Municipal Code authorizes the collection of a Business License Tax up to the amount of \$250 each year per general contractor and \$150 each year per subcontractor. The Town was collecting only one time, at the issuance of a building permit, business license taxes based on a percentage formula which, in some cases, increased the amount of tax paid by some contractors; this requires a refund. Under the Town's claim ordinance, refunds are to be made for a period of one year back from the time a claim is made. The City Council would be able to seek under-collected or underpaid taxes for as far back as three years. However, the City Council decided to authorize claims for refunds for payments of the business license tax from December 2006 through December 2008, and the City Council will not be going back for the three-year period of under-collection which would otherwise be available. The Town has retained the firm of MuniServices that will work with the Building Department to determine the amount of refunds. The Building Department will collect fees in accordance with the Atherton Municipal Code described above (\$250 for general contractors and \$150 for subcontractors each year) as soon as possible. Refunds will be offset by the annual amounts of \$250 per general contractor and \$150 per subcontractor and those subcontractors must be identified by the claimant. The claimant must also be the same person as paid the business license tax. A Form 1099 will be issued to the claimant at the time of payment of any refund.

There was no reportable action taken on three other potential cases.

Regarding Items B and C, there was no reportable action taken on either item.

ADJOURN

The meeting was adjourned by Mayor Janz at 6:55 p.m.

Respectfully submitted,

James R. Janz
Mayor

Minutes Prepared by:
Kathi Hamilton