



MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
NOVEMBER 14, 2007

7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

SPECIAL MEETING

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

1. PLEDGE OF ALLEGIANCE
2. ROLL CALL

PRESENT: James R. Janz
Jerry Carlson
Charles E. Marsala (arrived at 9:07 p.m.)
Alan B. Carlson
Kathy McKeithen

Interim City Manager Wendé Protzman and City Attorney Marc Hynes were also present.

Mayor Alan Carlson announced that the evening's meeting would be his last as a City Council Member. He would be moving in the near future and would resign from the Council. He thanked the residents and his colleagues for allowing him to serve for the past nine years.

3. PRESENTATIONS

- A. Police Department Swearing In - Dispatcher Nicole Amore

Police Chief Bob Brennan introduced Dispatcher Nicole Amore and administered the Oath of Office.

- B. Annual Red Ribbon Week Presentation

Police Chief Bob Brennan and Lieutenant Glenn Nielsen presented awards to the Annual D.A.R.E. Red Ribbon Week poster contest, 1st and 2nd place winners, from Encinal and St. Joseph's schools.

PUBLIC COMMENTS

Lisa Lamb, Atherton, spoke regarding meeting notices and transparency in government. She said there was a need for better noticing when meetings were changed.

John Ruggeiro, Atherton, agreed with the previous speaker regarding better noticing of meetings.

Randy Lamb, General Plan Committee Member, spoke regarding the historic artifact ordinance, the resignation of Mayor Alan Carlson, the need for a special election to replace him, and former Finance Director John Johns.

5. STAFF REPORTS

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

A. 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.

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

Case # Civ 467582 in the Superior Court, State of California, County of San Mateo, entitled John P. Johns Petitioner, v. Town of Atherton et al Respondents

On a 3 to 1 vote of the City Council, with Council Member Marsala absent and Council Member McKeithen abstaining, the City Council approved retaining the firm of Stubbs and Leone to defend the action with Louis Leone acting as special counsel for the Town.

C. LIABILITY CLAIMS – pursuant to Government Code Section 54956.95

Claimant: John P. Johns

Agency Claimed Against: Town of Atherton

No reportable action was taken.

Claimant: Dr. Frank L. Altick

Agency Claimed Against: Town of Atherton

The claim was approved in the amount of \$6123.30.

- **Interim City Manager Wendé Protzman stated that the cancellation of the Regular City Council meeting and the scheduling of a Special meeting for that evening had been noticed in the *Almanac*. Additionally, she had spoken to members of the community to solicit ideas for better noticing. Additional information had been added to the website, as well as a new information bulletin board in the post office.**
- **Council Member McKeithen expressed concern for changing two meetings in succession especially since the Lindenwood homeowners were promised a letter regarding the historical artifacts ordinance.**

6. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

A. Park and Recreation Commission

John Davey, Chair of the Park and Recreation Commission (Commission), presented a background of the Commission and reported on the progress of improvements at Holbrook-Palmer Park.

B. Arts Committee

Jean Schaaf, Chair of the Arts Committee (AAC), read the Mission Statement of the AAC and reported on the activities of the AAC. She noted the AAC met in the Garden Room at Holbrook-Palmer Park and announced plans to remodel the area for an art museum.

CONSENT CALENDAR (Items 7-14)

MOTION – to approve the Consent Calendar as presented

M/S McKeithen/J.Carlson Ayes: 4 Noes: 0 Absent: 1 (Marsala) Abstain: 0

7. APPROVED MINUTES OF THE SPECIAL CITY COUNCIL CLOSED SESSION MEETING AND REGULAR MEETING OF OCTOBER 17, 2007

8. APPROVEDS BILLS AND CLAIMS FOR OCTOBER IN THE AMOUNT OF \$ 677,586

9. ACCEPTESD MONTHLY FINANCIAL REPORT FOR OCTOBER 2007

10. ACCEPTED THE QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDED SEPTEMBER 30, 2007

11. APPROVAL OF A CONDITIONAL USE PERMIT - HELICOPTER LANDING – 150 VALPARAISO (APN 070-390-010)

Approved the landing of a helicopter at 150 Valparaiso (Sacred Heart Schools) in Atherton and approved the Conditional Use Permit.

12. ADOPTION OF ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON AMENDING CHAPTER 8.54 OF THE ATHERTON MUNICIPAL CODE BY ADDING A NEW SECTION 8.54.050 ADOPTING DRAINAGE GUIDELINES

Adopted Ordinance 573, “AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON AMENDING CHAPTER 8.54 OF THE ATHERTON MUNICIPAL CODE BY ADDING A NEW SECTION 8.54.050 ADOPTING DRAINAGE CRITERIA.” The ordinance was introduced for a first reading at the regular City Council meeting on October 17, 2007, and is before the Council for second reading and adoption.

13. A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON UPHOLDING APPEAL OF THE PLANNING COMMISSION DECISION DENYING USE PERMIT FOR 94 TALLWOOD BY GRANTING A USE PERMIT AND FINAL CERTIFICATE OF OCCUPANCY

Adopted Resolution No. 07-29, “A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON UPHOLDING APPEAL OF THE PLANNING COMMISSION DECISION DENYING USE PERMIT FOR 94 TALLWOOD COURT BY GRANTING A USE PERMIT AND AUTHORIZING THE ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY.”

14. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS AND QUANTITY CHANGES IN THE AMOUNT OF \$237,053 FOR THE STREET RECONSTRUCTION PHASE 3 PROJECT NUMBER 05-005

Accepted work, authorized recording of a notice of completion, and approved contract change orders in the amount of \$237,053 for the Street Reconstruction Phase 3 Project, Project No. 05-005.

PUBLIC HEARINGS (Item 15)

15. APPEAL OF THE PLANNING COMMISSION’S DECISION DENYING APPLICATION FOR HERITAGE TREE REMOVAL AT 44 TUSCALOOSA
(Continued from the October 17, 2007, City Council meeting.)

Recommendation: Staff recommends that the City Council conduct the public hearing, deny the appeal and uphold the decision of the Planning Commission to deny the heritage tree removal permit for the reasons outlined in this report.

MOTION – to continue the item to the December City Council meeting, at the request of the appellant

M/S J.Carlson/Janz Ayes: 4 Noes: 0 Absent: 1 (Marsala) Abstain: 0

REGULAR AGENDA (Items 16-27)

Mayor Alan Carlson moved Item No. 21 forward to be heard before Item No. 16.

21. COMMITTEES AND COMMISSION MASTER SCHEDULE

- A. ADOPTION OF A GOVERNING RESOLUTION REGARDING COMMITTEES AND COMMISSIONS**
- B. ADOPTION OF A RESOLUTION AMENDING COUNCIL'S RULES OF PROCEDURE**
- C. INTRODUCTION OF AN ORDINANCE RESCINDING SECTIONS 2.37 AND 2.40 OF ATHERTON'S MUNICIPAL CODE**
- D. ADOPTION OF A RESOLUTION RESCINDING RESOLUTION NO. 98-06 ESTABLISHING AN ARTS COMMITTEE**

City Attorney Marc Hynes said the proposed resolution before the Council would combine the Town's committees/commission, with the exception of the Planning Commission, under one authority. Either "line through" for deletions or "bold" for additions showed changes from the last discussion. In Section 3, "unless otherwise set out below" was added in response to Council Member McKeithen's concern for the Screening Committee appointing everyone to every committee. Council Member Jerry Carlson suggested the Park and Recreation Commission provide input for setting park fees. City Attorney Hynes suggested in Section 11, Item c, the second sentence could contain a statement, "...includes recommendations regarding the setting of fees."

Council Member McKeithen suggested excluding the Atherton Channel Drainage District, the Atherton Rail Committee, the Crime Prevention Task Force, the Environmental Programs Committee, the Transportation Committee, and the Tree Committee from the Screening Committee process.

Council Member Jerry Carlson said an orientation regarding the Brown Act was needed for current and new committee members. If funding were required for any committee, a budget should be prepared during the regular budget process. He wanted some type of accountability or way in which committees reported to the Council. He suggested more community outreach was necessary regarding committees, as well as setting up a website for each committee. The process for reapplying to committees needed to be clarified. The process for those committees that did not go through the Screening Committee needed to be clarified. Regarding the Arts Committee, he thought there should be some type of term limit; he believed an important duty/responsibility was fulfilling the provisions of the Rita Corbett-Evans' will; and the duties should state the committee could make recommendations to the Council. He queried whether term limits would be assigned to the Atherton Channel District Committee and suggested adding the committee could make recommendations to the Council. He also queried whether it made sense for the committee to work with Town staff in prioritizing capital improvement projects and budget. He suggested combining the Building/Facilities Committee with the Budget/Finance Committee. He thought the Emergency Preparedness committee should be expanded to include a representative of CERT or the Menlo Park Fire Protection District to provide a link to the citizens'

committee, etc. He questioned why there were five-year terms suggested for the Environmental Programs Committee. Along with determining whether terms limits were appropriate, clarifying when someone could apply after being termed out was also necessary.

Vice Mayor Janz said if the intent was to extend the terms of the existing members, clarification was needed, i.e. members of the Atherton Rail Committee would commence a new 4-year term. He thought each committee needed to be considered as to whether it should be changed or not, e.g. the Crime Prevention Task Force. Meeting intervals for the General Plan Committee should be clarified to read meets quarterly, or as determined by the committee to meet more often from time to time.

Council Member McKeithen did not agree with Council Member Carlson's suggestion regarding the Atherton Channel Drainage District Committee. The committee had oversight of a very specific fund assessed on some Atherton residents, some unincorporated San Mateo County residents, some Woodside residents, and some Menlo Park residents and did not pertain to general drainage issues. She thought "upon request" should be removed throughout the document. She thought by formation of the committees themselves, direction was being given.

Mayor Alan Carlson said the committees act on behalf of the City Council, but they did not have independent authority. He thought they should act upon the request of the City Council. With the exception of the General Plan Committee, he did not favor term limits. Finding people to serve on committees was difficult, as well as losing good people because of being termed out. The Screening Committee should function to make appropriate recommendations and eliminate term limits.

Jean Schaaf, Atherton Arts Committee, queried the need to rescind Resolution No. 98-06, which regulated the Arts Committee. She did not see the need to make every committee a "cookie cutter" committee.

City Attorney Marc Hynes said the idea was to make things as uniform as possible, all under one umbrella. Once the information was set out in the new resolution, Resolution No. 98-06 would no longer be necessary.

Tom Croft, Atherton, said 15 percent of Americans did not have Internet access and indicated Atherton had a very poor website design.

Mayor Alan Carlson suggested having terms but not term limits and relying on the Screening Committee.

Vice Mayor Janz asked what happened to those committees that did not go through the Screening Committee.

Mayor Carlson and Council Member McKeithen both thought committees such as the Atherton Rail Committee, Tree Committee, etc. could take care of themselves. The

City Attorney needed to clarify which committees would be exempt from the Screening Committee process.

Direction was given to staff to incorporate the suggestions/comments of the Council and return the item to the December 19, 2007, meeting for consideration.

16. CONSIDERATION OF EXECUTION OF SETTLEMENT AGREEMENT-TOWN OF ATHERTON V. SEQUOIA UNION HIGH SCHOOL DISTRICT

City Attorney Marc Hynes said before the Council that evening was a Settlement Agreement (the Agreement) resulting from negotiations that accompanied a lawsuit by the Town against the Sequoia Union High School District (SUHSD), brought under the California Environmental Quality Act (CEQA), challenging actions of the SUHSD trying to take advantage of an exemption. The Town retained the firm of Colantuano and Levin to represent it in the matter, with Holly Whately as the principal attorney for the case. She would take City Attorney Hynes' seat on the dais for the remainder of the item. City Attorney Hynes recommended the Town enter into the Agreement, which had been signed by the SUHSD Board.

Attorney Holly Whatley said SUHSD determined the Performing Arts Center (PAC) was categorically exempt from CEQA under a Class 14 exemption under the guidelines and did not need to do any environmental mitigation measures or environmental evaluation of the impacts of the project. The Town filed an action challenging the Notice of Exemption as legally void on a number of reasons, arguing that the Class 14 exemption did not apply. If an agency claims that a project was exempt, it did not need to go through any analysis to analyze such things as traffic, noise, etc. The lawsuit dealt solely with CEQA. She explained that the Civic Center Act mandated that schools permit public use of its property, although the district had discretion to place restrictions on use.

Bruce Smith, Atherton, had an immediate concern with traffic on Oak Grove at the beginning of the school year. The process put in place to deal with SUHSD and to pursue a lawsuit for CEQA only was flawed from the beginning. The Council Members assigned to negotiate and Ms. Whatley did not have applicable experience with CEQA or the Civic Center Act. Additionally, he thought the Mayor should recuse himself from the discussion since he was resigning from the Council. Those impacted residents were poorly served. He urged the Council to renegotiate the Agreement.

Larry Crouch, Atherton, was no longer a neighbor of Menlo-Atherton (M-A) High School. He wanted to see more concrete guidelines in the Agreement that were consistent with the Town's zoning ordinances and CEQA.

Marina, 228 Oak Grove, was concerned there was no communication with neighbors of the PAC from the SUHSD. Specialists were needed to look at the traffic and noise issues. Too many unknowns made people uneasy. Laws that were not well established ahead of time created worse problems later.

Gene Rauen, Atherton, lived very near the school and spoke regarding traffic issues related to M-A High School. He queried whether a traffic study had been conducted.

Mayor Carlson understood several traffic studies were being done including the entire corridor of Middlefield Road and one of the PAC in particular.

Corinne Zaro, Atherton, urged Council not to sign a very weak Agreement that did not protect her rights. She supported the PAC; however, she did not feel represented by the Council in the process. The Agreement did not have enough concrete language and too much best effort language.

Carol Smith, Atherton, represented the Lindenwood Homes' Board, and noted the Board engaged a CEQA attorney, a former Superior Court Judge, and a Town attorney to review the Agreement. She distributed a slightly modified version of the Agreement with suggested revised language.

Rick Skerca, Toyon Road, said "best efforts" by the SUHSD resulted in two letters in 35 years.

Jim Dobbie, Atherton, said the reason for the present state of affairs resulted from having no strategy, nonexistent public relations, as well as nonexistent publicity to improve negotiations. He urged Council to delay any settlement date and rewrite a Town agreement.

Tom Hill, Atherton, said many concerns of the residents related to unknowns: the traffic study and the parking plan. He queried why the Town would enter into an Agreement in advance of the important studies being done.

Bob Plashkey, Atherton, was supportive of the PAC. His concern was that M-A High School had never shown good faith efforts to accommodate residents' concerns. He supported the Lindenwood Homes' Association recommendations.

Duker Ringwood, said the Town was under attack from many sources. He expressed concern with the inability to deal with M-A High School when engaged in "educational activities." The only way to affect the school was through non-school events.

Greg Beatty, Atherton, spoke regarding the Special Events ordinance. He believed the ordinance with respect to outside uses was arbitrary and very restrictive. He supported children who needed the facilities.

Council Member McKeithen said the PAC was being built and was 70 feet tall. There would be generations of students and non-students who would get great pleasure from the PAC. The real issue concerned the adverse effects on the neighborhood. She noted the traffic study was not completed, the parking plan was not satisfactory, "best efforts and reasonably feasible" with regard to noise was not sufficient, and drainage could not be mandated. She said the Town owed it to the community to go back to SUHSD and present Carol's suggestions as a minimum.

Mayor Alan Carlson was not sure there was a better deal. The SUHSD could exempt itself from the Town's zoning ordinances. The Menlo Park Elementary District did that; however, it worked cooperatively with the Town. Private schools were subject to the Town's ordinances. Neighbors could get something worse. The SUHSD legacy was telling the Council, with respect to the Special Events Ordinance, that it would not work with the Town. If the neighbors want to take the risk of a better deal, he would vote against adopting the Agreement.

Council Member Jerry Carlson was concerned that the SUHSD made a glaring mistake not involving the Town in the planning process. The residents were stakeholders in the project because the PAC was within Town boundaries. The Town was forced to act to protect the interests of residents. The Agreement did not spell out the regional nature of the traffic issue and was a piecemeal approach in solving a regional problem. He was concerned with the parking plan, with the Police Department's role in recovering costs, and with protection of Town ordinances. He thanked the Lindenwood Homes' Association for its ideas. He queried whether the legal counsel could craft an umbrella agreement listing concerns about particular areas and work in conjunction with other parties to take care of traffic with a qualified traffic engineer, the parking by qualified professional engineer, etc. Address the details of the issues in separate agreements.

Ms. Whatley said SUHSD could be approached with the idea. She was concerned it was not any more definite than what was before the Council. There was a deadline of December 4 to tell the court to put the matter back on the active calendar and set a hearing date for the motion for the Writ. CEQA actions, by law, were required to be processed more quickly and took priority. The presiding judge wanted to see it happen, most likely 45 days out.

Vice Mayor Janz said everyone was in favor of the PAC. Problems centered with the school's history in not seeking Town participation. He did not have a problem with how the Agreement was structured with respect to "best efforts or reasonable standards" language. He liked Lindenwood Homes' Association suggestions and changes. He thought the biggest issue would be the cutoff number for non-school events. He was also concerned about police costs. He asked what happened at the present time when an event required police services.

Police Chief Bob Brennan said if people had a special event requesting police services, they were billed. The Town had a contract agreement with M-A High School for a Resource Officer, which included language for certain events outside the scope to be billed. He suggested a non-school event held at the PAC could have a surcharge added to ticket sales to defray cost of police services.

Council Member Marsala said he and Mayor Carlson met for months with SUHSD regarding the PAC. They sought input from residents before attending negotiation meetings. Having spent a lot of energy in the past year, some issues were not as serious as they might seem. He did not believe police costs would be exorbitant. He thought

the Town should have reevaluated the Special Event Guidelines. Two hundred attendees was a good cutoff number because it was hard to predict exactly how many people might attend. The design, the drainage, and the parking were already designed to handle 2000 people on campus every day. He did not see that 400 people attending an event would be a huge problem. He believed the issues should be worked out without lawsuits and be a good example.

Mayor Carlson said there were at least three votes not to approve the Agreement. Since the matter was in litigation, discussion in open session was not appropriate. He made the following motion:

MOTION – that the Agreement not be approved, the matter be returned to the City Council in Closed Session to give appropriate direction to legal counsel

M/S A.Carlson/McKeithen Ayes: 4 Noes: 1 (Marsala) Absent: 0 Abstain: 0

17. QUARTERLY CONSULTATION WITH THE MENLO PARK FIRE PROTECTION DISTRICT – (Oral Report)

Interim City Manager Wendé Protzman said she met with Menlo Park Fire Protection District (MPFPD) Chief, Harold Schapelhouman, MPFPD Board Member Peter Carpenter, and Building Official Mike Wasmann in a quarterly meeting where priorities were discussed.

Peter Carpenter, MPFPD Board Member, said the direction the Town and MPFPD were going was a wonderful example of cooperation between two separate entities. The last few months were spent communicating and putting in place the groundwork for the MPFPD and the Town to work cooperatively to better serve the citizens. He reported on an statewide event that took place that day, Golden Guardian. The MPFPD ran an exercise in parallel called Golden Shadow, which actually connected with neighborhoods. Lloyd Park and Sacred Heart School participated in real time with information going between the EOC and the neighborhood. The MPFPD and the Town agreed to meet on a quarterly basis to address/focus on those things discussed in the previous quarterly report that were not clearly the responsibility of the MPFPD or the Town but needed to be addressed, e.g., evacuation planning, especially west Atherton; water supply; and public service agencies dependent on cellular phones. Both staffs would work together on a regular basis.

Fire Chief Harold Schapelhouman appreciated the invitation to attend Town staff meetings. He presented statistical data regarding services to the Town. Medical calls were the vast majority of calls, with year-to-date calls totally 201. He noted the MPFPD had purchased a new fire truck that was on display in front of Town Hall.

A discussion ensued regarding radio equipment, cellular phones, and communications during emergencies. Cell phones had become an important form of communication, especially text messaging. Cell phone coverage throughout Town was needed. In an emergency, one or more types of communication might not work.

18. INTRODUCTION OF AN ORDINANCE AMENDING TITLE 15 OF THE ATHERTON MUNICIPAL CODE, REPEALING ORDINANCE 537, AND ALL OTHER ORDINANCES IN CONFLICT WITH THIS ORDINANCE, AND ADOPTING CURRENT BUILDING, ELECTRICAL, PLUMBING, MECHANICAL, ENERGY, HISTORICAL BUILDING CODE, HOUSING CODE, AND SEISMIC HAZARDS CODES, RETAINING EXISTING ABATEMENT OF DANGEROUS BUILDINGS CODE, AND RATIFYING FIRE CODE

Building Official Mike Wasmann said building codes were required by the State Legislature to be adopted every three years in conjunction with the most current codes being published by the model codes, i.e. the 2006 International Building Code was the model code for the California Building Code. The model codes were adopted into the California Building Standards Commission for the development of Title 24 Code of Regulations. The amending of certain portions of the Atherton Municipal Code was necessary to maintain consistency between the new building codes procedures and terminology of existing regulations. Included in Council’s packet were the proposed codes for adoption.

Fire Inspector Bob Blach, Menlo Park Fire Protection District (MPFPD), said the MPFPD was going through the same process to keep the codes current as everyone across the state. The updates were also included in Council’s packet.

Mayor Alan Carlson noted the Town was required to adopt the codes and the action that evening was technically a formality.

Tom Croft, Atherton, spoke regarding the system of communication used by truckers and suggested the system could supplement communications during an emergency. Ham radios should be used as a last resort.

MOTION – to introduce the ordinance for first reading, “AN ORDINANCE AMENDING TITLE 15 OF THE ATHERTON MUNICIPAL CODE, REPEALING ORDINANCE 537, AND ALL OTHER ORDINANCES IN CONFLICT WITH THIS ORDINANCE, AND ADOPTING CURRENT BUILDING, ELECTRICAL, PLUMBING, MECHANICAL, ENERGY, HISTORICAL BUILDING CODE, HOUSING CODE, AND SEISMIC HAZARDS CODES, RETAINING EXISTING ABATEMENT OF DANGEROUS BUILDINGS CODE, AND RATIFYING FIRE CODE”

M/S McKeithen/Janz

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

19. CONSIDERATION AND POSSIBLE APPROVAL OF LETTER TO RESIDENTS PERTAINING TO ACCESS AND FIRE/SUPPRESSION WATER SUPPLY PREPARED BY MENLO PARK FIRE PROTECTION DISTRICT

City Attorney Marc Hynes said a proposed draft of a letter to residents concerning issues of access and fire flow was before the Council. He had one last concern regarding the final paragraph that concluded with contacting either the Town’s

Building Department or the Menlo Park Fire Protection District (MPFPD). He thought the MPFPD should be the agency to be contacted; however, MPFPD wanted the letter to be a joint letter and suggested the language indicate contacting the Town's Building Department for building code questions and the MPFPD for fire code questions.

Bob Blach, MPFPD, explained, per Council's direction, the letter was drafted as a joint effort after he and the Building Official reviewed the 200+ outstanding building permits. A drive-by visit was conducted on the 21 homes where issues were found.

Council Member McKeithen suggested creating a checklist of the potential issue(s) after the first sentence that informed the residents what issue(s) affected their home.

Mayor Alan Carlson did not have a problem with both the Town and MPFPD signing off on the letter.

Council Member Jerry Carlson said he thought the first sentence should eliminate reference to the Town since the Town did not participate in the drive-by visit. He suggested adding a telephone number and/or contact information.

Vice Mayor Janz suggested modifying the first sentence of the letter to indicate the criteria that determined which homes were inspected, i.e., recently constructed. Additionally, he queried what type of result was expected once a resident was notified.

Bob Blach said MPFPD could do a follow-up inspection, modify the preplan, and give them the information. There was no obligation to the homeowner to correct anything. The properties were considered existing nonconforming.

Vice Mayor Janz suggested expanding the sentence in bold face that indicated the letter was not a citation or notice of fines to include "...there was no requirement for taking corrective action."

MOTION – to approve the letter with 1) modification of the first sentence to include criteria that determined which homes were inspected, i.e., recently constructed; 2) addition of a checklist of issues; 3 addition of contact information; and 4) expanding the sentence in bold face that indicated the letter was not a citation or notice of fines to include there was no requirement for taking corrective action

M/S McKeithen/Janz

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

20. REQUEST TO RECONSIDER THE EXTENSION OF TENTATIVE PARCEL MAP AT 64 MOULTON DRIVE (APN0 61-350-020)

Mayor Alan Carlson clarified the issue was whether the Council would vote to reconsider the item but would not actually reconsider it that evening.

that the City Council, on the request of a resident(s), on recommendation from the Transportation Subcommittee, or on their own motion, may direct staff to address a traffic issue, with an initial neighborhood survey; a traffic study if the survey shows a majority of neighbors in favor; a public meeting to receive public input; Transportation Subcommittee review; and City Council approval of proposed traffic management measures and funding. The traffic study will address the problem with solutions designed to address the problem.

MOTION – to adopt Alternative No. 4 and utilize Alternative No. 6 as a methodology as a potential for implementing any changes

Council Member Jerry Carlson was concerned about unintended consequences with the addition of Alternative No. 6.

Mayor Alan Carlson said the reality of the situation was people came in and asked for the alternatives all the time. More of a burden was put on the Transportation Subcommittee and ultimately the Council.

M/S McKeithen/Marsala

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

23. STUDY OF TRAFFIC DATA 1996 V. 2006

Police Chief Bob Brennan said staff did a data comparison between the number of tickets issued and the number of accidents occurring ten years later resulted in 8000 less traffic stops produced 9 more accidents. He was not a believer in writing tickets for the sake of writing tickets. His job was to facilitate the free and safe flow of traffic through Town.

Council Member McKeithen said with a 50 percent increase in traffic officers in Fiscal Year 1996/97 as compared to Fiscal Year 2006/07, there were 75 percent less tickets being issued. Collisions should not be the marker for whether tickets were issued. There were more traffic issues that people were concerned about, e.g., speeding, parking, and unsafe actions.

Mayor Alan Carlson noted that 1996 was the year the Council chastised the former Police Chief who then issued instructions to write more tickets. He believed the data was skewed. There was a graph indicating a surge for a three-month period.

Council Member Marsala said other types of calls for service had also increased.

Council Member Jerry Carlson said the Chief indicated that part of the change was due to a change in enforcement policies, e.g., there was a tech officer. The Council had the prerogative to change how officers spent their time.

Report accepted; no action required.

24. TRAFFIC ON HOLBROOK LANE

Public Works Director Duncan Jones said there was an additional handout on traffic numbers. The listed alternatives listed in the staff report could be combined.

Vice Mayor Janz said there was an increased traffic flow on Middlefield Road turning left onto Marsh Road.

Council Member McKeithen recommended Alternative No. 1: Direct staff to take no further action. This acknowledges that the signal changes have improved traffic flow on Marsh Road and reduced traffic flow on Holbrook Lane, except during the ½-hour morning school peak, and that during that ½ hour there is little that can be done locally because traffic is backed up on Middlefield Road. This acknowledges that signal retiming and other Middlefield Road improvements may improve the situation further; No. 3: Direct staff to wait until the signal retiming is implemented and Encinal School completes their traffic study and start time change, recount at that time and return to the Transportation Subcommittee for further direction at that time; and No. 8: Direct staff to study extending the right turn lane on Marsh Road. This would allow right turning vehicles to bypass the left turn queue, resulting in less diversion to Holbrook Lane. This could also be accomplished by extending the Atherton Channel box culvert and widening the intersection to the south, avoiding impacts to heritage Oak trees on the north side of the road. It would also repair the channel wall for the distance of the box culvert extension. Return to either the Transportation Subcommittee or Council with traffic study and a project concept, including estimated costs.

Mayor Alan Carlson agreed with Alternatives 1 and 3; however 8 assumed there was a significant problem on Holbrook Lane. He observed the traffic during the ½-hour school peak and did not believe that was the case.

Vice Mayor Janz was interested in a light at Encinal. Alternative No. 5 said to work with Menlo Park School District and the City of Menlo Park to install traffic signals. He clarified the study was in process and no action should be taken until the results were concluded.

Zolik Fichtenholz, Atherton, asked for Council to adopt Alternative No. 6. He submitted data indicating that the change in traffic light duration had not changed anything. Traffic had increased over the past two years and he could not get out of his driveway, which was unacceptable for a residential street without sidewalks and was a safety issue for children who could not get out of the house. The simplest solution was to install a sign that prohibited no through traffic. If there were unintended consequences, the sign could be taken down.

Vice Mayor Janz wanted to know what the results of the Encinal School study were. He was concerned about the increased backup on southbound Middlefield Road at Marsh Road.

Council Member Marsala supported Mr. idea. He suggested installing the sign with the caveat that sign would be taken down if it caused other issues.

Council Member McKeithen repeated her support for Alternatives Nos. 1, 3 and 8 as a Council. The other alternatives were either being pursued or would be pursued. She suggested that each Council Member go out and look for themselves whether there was an issue.

Mayor Alan Carlson supported Alternatives Nos. 1, 3, and 8, as well as Council Member McKeithen's suggestion.

After further discussion of the pros and cons of adding signage, Council Member McKeithen made the following motion:

MOTION – to adopt Alternatives No. 1, 3 and 8; direct staff to survey residents on Holbrook Lane to determine the desirability of posting a “No Through Traffic” sign and/or a “No Left-Hand Turn sign between certain hours onto Middlefield Road; further each Council member should observe traffic on Holbrook Lane between the hours of 7 a.m. and 8:30 a.m.

M/S McKeithen/J.Carlson

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

25. LANDSCAPING FOR 12 SELBY LANE

City Attorney Marc Hynes noted 12 Selby Lane was the property where, in the process of constructing a wall, the roots of four pine trees were cut and a walnut tree was damaged, which was later removed. A settlement was reached with the property owner who paid \$20,000 and agreed to some mitigation planting. At least one neighbor was not impressed with the mitigation landscaping. Mr. Kielty, a Certified Arborist, was hired by the Town to review the issue and make recommendations for further mitigation.

Kevin Kielty, Certified Arborist, received responses from five residents, one of whom was not aware of the situation. The new landscaping was not professionally done. The trees were very small, over-staked, with no theme. The neighbors wanted the wall and house screened. If a wall of Redwood trees were used, the southwest exposure would shade the property. He recommended a deciduous tree, a Red Oak, which grew to 40 feet and was low maintenance.

City Attorney Hynes clarified that by the settlement agreement, the property owners obligated themselves to provide minimal landscaping. If there was a desire by the Council to improve that effort, the landscaping would be planted at the Town's expense and maintained by the Town.

Mayor Alan Carlson said the only issue before the Council was whether to spend up to \$20,000 in the Town right-of-way that the Town would need to maintain.

John Thomas, Atherton, said all the neighbors wanted tall evergreens planted. A deciduous tree would create a mess. Coast Redwoods were the fastest growing in trees in California and grew 8 to 10 feet a year. There was enough room to plant 12 trees.

Building Official Mike Wasmann said the Town was originally under the 1997 Uniform Building Code, Table 1A. For \$1 million and above, the factor was \$3.65 for each additional \$1 thousand or fraction thereof. When the Town began to calculate the fees electronically, the Acting Building Official used the Table 1A from the California Building Code, which used a \$3.15 factor. The system was corrected to collect the fees according to the adopted 1997 fees. The undercharged fees amounted to \$28,330.63. The total amount permit plan check revenue for the time period was \$1,860,969.45, which was an error of 2.61%.

In response to Council Member McKeithen, City Attorney Marc Hynes said the Building License Tax was a separate issue, which might result in an offset.

Council Member McKeithen believed if the Town owed money, it should be paid; and if money was owed to the Town, it should be paid.

City Attorney Hynes believed the amounts would be relatively small. A letter could be sent requesting the amount. If the money was not collected, the matter could be referred to Small Claims Court.

Mayor Alan Carlson suggested the information be included in a report to the Council.

Vice Mayor Janz clarified that there were instances where the Town was owed building fees and instances where the Town owed building license fees and one might offset the other.

Both issues would be returned to Council at its January 16, 2008, meeting.

28. DISCUSSION AND POSSIBLE ACTION TO CANCEL THE REGULAR CITY COUNCIL MEETING OF DECEMBER 19, 2007, AND SCHEDULE A SPECIAL CITY COUNCIL MEETING FOR DECEMBER 12, 2007

Based on comments received at the meeting, Council did not take any action to cancel and/or change the date of the Regular City Council meeting of December 19, 2007.

29. COUNCIL REPORTS

Council Member Marsala said the Environmental Programs Committee would begin to address air issues.

Vice Mayor Janz said C/CAG awarded \$85,000 to the Town for a project to update detection systems in connection with traffic signals at Oak Grove and Marsh Road.

30. PUBLIC COMMENTS

31. ADJOURNMENT

Mayor Alan Carlson adjourned the meeting at 12:20 a.m.

Respectfully submitted,

**Kathi Hamilton
Acting City Clerk**