



MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON
CHANNEL DRAINAGE DISTRICT
January 18, 2006
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

Mayor Marsala called the meeting to order at 7:04 p.m.

1. **PLEDGE OF ALLEGIANCE**

ROLL CALL

PRESENT: James R. Janz
 Alan B. Carlson
 Charles E. Marsala
 Kathy McKeithen

City Manager Jim Robinson and City Attorney Marc Hynes were also present.

Mayor Marsala spoke regarding former Mayor and Council Member Bill Conwell, who was well-known, loved, and respected throughout the County. Members of the County Board of Supervisors, Congresswoman Anna Eshoo, and the State all issued proclamations in his memory. His sons, Paul and John, accepted the proclamations.

3. **PRESENTATION**

Mayor Marsala switched the order of the presentations.

- B. **Jim Granucci – County Crime Lab – Award of Certificate to Officer Anthony Kockler – AFIS Hit**

From the San Mateo County Crime Lab, Retired San Carlos Chief of Police Jim Granucci recognized Officer Anthony Kockler for his excellent work in evidence collection to solve a residential burglary.

- A. **Stacey Wagner – BFI/Allied – Collection Day Changes Presentation**

Stacey Wagner, Community Relations Manager, BFI/Allied, explained the new collection day route changes for garbage/recyclables pickup. Changes would provide better customer service.

Jim Dobbie, Atherton, stated he did not believe the changes were really about customer service but rather to accommodate BFI.

City Manager Jim Robinson said he received many complaints regarding missed pickups. The change would enable having trucks in the area on any given day and would facilitate any missed pickups.

Virginia Ruggeiro, Atherton, raised a concern regarding Monday pickups.

4. COUNCIL REPORTS

- **Vice Mayor Carlson spoke regarding Council Member Conwell, noting that he continued his service to the Town while ill and dedicated the last days of his life to the community.**
- **Council Member Janz said the design to convert the Atherton train station to a “non-hold-out” station would be finished by the end of January. A request to the Joint Powers Board to begin the work would be made the beginning of February. An Association of Bay Area Governments (ABAG) meeting was scheduled for the next evening, which he was unable to attend. He attended the City/County Association of Governments meeting last week as the alternate. Bill Conwell had represented the Town as the primary representative and was very well thought of by people all over the Peninsula.**
- **Council Member McKeithen said she was on the Council because of Bill Conwell. She would miss his cowboy boots, his expressions, and hoped to fulfill his dreams for her accomplishments in his stead. The Transportation Committee met the previous day and the following five items were discussed: 1) The Lindenwood Homes Association requested a “hold” on the Acorn and Greenoaks intersection until enough funds were available, and staff was asked to pursue a bare-bones plan in the meantime. 2) The lighted crosswalk on Alejandra had not yet gone into place and staff would follow up. 3) A request from Menlo Park to install two signs on Almendral indicating a fire station was approved. 4) Installation of “Permit Only” signs in Victoria Manor was in progress. 5) The crosswalks and other traffic calming devices project on Watkins Avenue were almost completed. New items discussed included: 1) installation of a “School Zone” sign on Park Lane near Elena, to be added to the speed limit sign; 2) a recommendation to reduce the speed limit on Valparaiso from 35 to 30 MPH; and 3) red light violation cameras for three intersections.**
- **Mayor Marsala attended the funeral of Officer Richard May of East Palo Alto, who had family connections in Atherton. He was interviewed by CNN regarding three issues: emergency preparedness, parks funding, and Caltrain issues. He noted staff responded promptly to remove debris, etc., during the storm on December 31. Mayor Marsala called the mayor of Menlo Park to**

discuss scheduling a joint meeting regarding issues surrounding Menlo-Atherton High School, Caltrain, Valparaiso Avenue, etc. He and Council Member Janz attended the retirement dinner for Sergeant Steve Snider, who had 29 years of service. They also met with Mike Scanlon, CalTrans, to hear about plans for El Camino Real, etc. The Facilities Committee met and the Pavilion renovation would take place in March. Mayor Marsala said the Council would face many challenges in the next year and he wanted to schedule some Town meetings in the future.

5. PUBLIC COMMENTS

John Ruggeiro, Atherton, spoke regarding changing the venue for large City Council meetings.

Penny Dellaporta, Mandarin Way, spoke regarding new larger homes being built that caused drainage issues on her street and expressed concern regarding the large quantity of dirt being brought in on one site.

Mayor Marsala said he toured the area and took photographs.

Council Member McKeithen said a meeting would take place with the neighbors next week. When the framing was finished, a surveyor would verify that the structure was not more than 30 feet above the natural grade.

John Frenster, Stockbridge Avenue, spoke regarding increasing drainage problems in the channel. He urged the Atherton Channel Drainage Committee to schedule a meeting.

Council Member McKeithen said the property would be cleaned within the next week or so.

Jerry Carlson, Atherton, spoke on behalf of the ACIL and expressed sorrow at the passing of Bill Conwell who was a longtime supporter. The ACIL annual meeting was scheduled for Thursday, May 18, at the Holbrook-Palmer Park Pavilion. If the Council chose to hold a special election to fill the Council vacancy, the ACIL could host a candidates' forum. The ACIL was concerned about the elderly residents during an emergency/disaster and potential problems with looting. Additionally, he reported the construction pipe had not yet been picked up on Selby Lane, and a large pile of sand was still in front of Selby Lane School.

Stuart Awbrey, Atherton, read an email she sent to the Peninsula Corridor Joint Powers Board regarding a southbound train spewing noxious fumes into the Holbrook-Palmer Park and surrounding homes.

Jean Schaaf, Atherton, added to the plaudits for Bill Conwell and expressed appreciation for his help with the Arts Committee.

Donna Hopkins, Fair Oaks Lane, reported a drainage problem at the end of her cul-de-sac.

6. **STAFF REPORTS**

- City Manager Jim Robinson reminded the audience that the Emergency Preparedness meeting was scheduled for 9 a.m. to noon on Saturday, January 21. The purpose was to inform Council and the public what residents could do before, during, and after an emergency. Sergeant Eric Grimm, Atherton Police Department, would conduct the training. Additionally, a meeting was scheduled for 12:30 p.m. in the Council Chambers to interview candidates for the Council vacancy. The historic artifacts group met and an ordinance workshop would be held on Tuesday, February 21, at 6:00 p.m. in the Council Chambers. The *Athertonian* was mailed to residents the previous day.
- City Attorney Marc Hynes reported out of the Closed Session as follows:

A. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Initiation of litigation pursuant to Government Code Section 54956.9(c):

2 potential case

Direction was given to the City Attorney.

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

Agency Negotiators: James H. Robinson, City Manager; Craig Jory, Jory HR

Employee Organization: Atherton Police Officers Association (APOA)

Directions were given to the Agency Negotiators, James H. Robinson and Craig Jory.

7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT**

None

CONSENT CALENDAR (Items 8 - 13)

Council Member McKeithen requested that Item No. 11 be removed for the purposes of discussion.

Council Member Janz requested a minor change to the Special Meeting Minutes of December 14, 2005.

MOTION - to approve the Consent Calendar as presented with the exception of Item No. 11, which was removed from the Consent Calendar and placed at the end of the Regular Agenda for discussion and Item No. 8 as corrected.

M/S McKeithen/Janz

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

- 8. APPROVED MINUTES OF THE SPECIAL CLOSED SESSION AND SPECIAL MEETING OF DECEMBER 14, 2005**
- 9. APPROVED BILLS AND CLAIMS FOR DECEMBER 2005 IN THE AMOUNT OF \$ 880,447**
- 10. ACCEPTED MONTHLY FINANCIAL REPORT FOR DECEMBER 2005**
- ~~11. RENEWAL OF AGREEMENT WITH LIEBERT, CASSIDY, WHITMORE FOR LABOR RELATIONS LEGAL SERVICES~~**

~~Recommendation: Approve the agreement with Liebert, Cassidy, Whitmore, A Professional Law Corporation, for legal services and authorize the Mayor to sign the agreement (Removed and placed at the end of the Regular Agenda for discussion.)~~

- 12. TOWN OF ATHERTON FRAUD POLICY**

Approved the Town of Atherton Fraud Policy as modified pursuant to Council direction on December 14, 2005.

- 13. ADOPTION OF MEMORANDUM OF UNDERSTANDING BETWEEN THE FREIGHT CHECKERS, CLERICAL EMPLOYEES AND HELPERS, LOCAL UNION NO. 856 (TEAMSTERS REPRESENTING MISCELLANEOUS TOWN EMPLOYEES) AND THE TOWN OF ATHERTON FOR THE PERIOD OF JULY 1, 2005 THROUGH JUNE 30, 2008**

Adopted the attached Memorandum of Understanding between the Town of Atherton and the Teamsters Local No. 856, for the period of July 1, 2005 through June 30, 2008, and authorize the Mayor to execute the agreement on behalf of the Town.

PUBLIC HEARINGS NONE

REGULAR AGENDA (Items 14 - 19)

Mayor Marsala moved Item No. 15 forward to be heard before Item No. 14.

15. CONSIDERATION OF A PROPOSED AGREEMENT BETWEEN THE TOWN OF ATHERTON AND LAW AND ASSOCIATES TO DEVELOP A SENIOR HOUSING PROJECT WITHIN THE TOWN OF ATHERTON'S OFFICE FACILITIES SITE

Recommendation: Consider attached agreement related to possible senior housing project between Linda and James Law of Law & Associates and the Town of Atherton. (91 Ashfield Road)

Mayor Marsala said due to a family emergency, the Laws were not present.

A discussion ensued on whether Council should proceed with the item or continue it to the next meeting when the Laws could be present. A majority of the Council decided to hear the item that evening.

City Attorney Marc Hynes presented the staff report. At the November 16, 2005, City Council meeting, Linda and James Law proposed to fund a facilities assessment study to determine whether the Town had excess land and, if so, determine whether senior housing was an appropriate use for that site. The City Manager and City Attorney met with the Laws and their attorney and discussed a form of agreement that was before the Council. The Town would not be committing itself to any course of action, and approval did not constitute approval of the project or a disposition of property for sale or ground lease. The Town would choose a consultant who would undertake a long-range needs assessment and facilities study, as well as alternative land planning scenarios, the cost of which would be paid by the Laws not to exceed \$25,000. The Laws also agreed to pay for any attorney fees incurred by the Town that were considered a special projects cost. The agreement, if approved, provided that the Laws could apply to the Town for a low-to-medium-density senior housing project to be located on the Town's parking lot. If, and only if, the Town granted all necessary approvals, the Town would ground lease the lot to the Laws for a term of 75 years. The value of the lot would be determined by an appraisal, paid for by the Laws; ground rent would be paid on a monthly basis at a yet-to-be-negotiated interest rate of the appraised value of the 75-year term; a lease-back from the Laws to the Town of the amount of ground floor space as determined by the needs assessment and facilities study as required for Town use. In the event the Town approved the project, or any project on the site, but did not enter into a lease with the Laws, the Town would refund all of the costs borne by it.

Mayor Marsala said as a member of the Buildings and Facilities Committee, he recognized the need for the Town's offices to be in one building. The Police Department needed facilities to accommodate women, etc. Council needed to educate the residents on those needs. The proposal was presented as a means to generate a dialogue.

Vice Mayor Carlson acknowledged the need for a new Town facility. He was troubled by some elements in the proposed agreement, e.g., the 75- year ground lease and a finding that the community wanted and needed the project. He received/saw many letters that said residents did not want it; however, that did not alleviate the need.

When the trailers first went in, a promise was made to residents that they were temporary, not permanent. A commitment was made to residents around City Hall and he hoped that would be fulfilled in the future. He believed the proposal was not the right project.

Council Member McKeithen believed the community most affected by the project should be heard. The Laws had spoken to each council member separately and indicated that the elderly in Atherton were looking for a place to go. She had not found one older person in favor of the project. She discussed the Town's housing element and the fact that the Town had yet to be certified. The project would not help meet medium- or low-income housing. She believed the project was strictly a business proposition that would adversely affect the residents in the area. She believed the residents had spoken and the project should be voted down that evening.

The following Atherton residents spoke in opposition to the project:

Patricia Haines, Ashfield Road, Member of Central Atherton Resident Area (CARA)
Patricia Engasser, Ashfield Road, presented a petition.

Claire Ravi, Fair Oaks Lane

Grace Fernando, Maple Avenue, presented a petition.

Vice Mayor Carlson requested the petitions become an official part of the minutes.
(Exhibit A)

Annette Miller, Walnut Avenue

Betsy Kehoe, Walnut Avenue, presented a petition.

John Sisson, Belleau Avenue

Lou Paponis, MacBain Avenue

Miss Kehoe, Walnut Avenue

Council Member Janz believed the proposal would go a long way to get the housing element approved. State law required that every city/town/county had to take its fair share of additional housing without taking into consideration unique characteristics such as size, retail, commercial, residential, etc. California's population increased 600,000 people every year. Atherton failed to comply with State law. Regarding Caltrain, he believed if a transit-oriented development were built next to the train station, it would be a strong argument for keeping train service to Atherton. He said perhaps the proposal was not the right project, but the Town must address that issue. Additionally, he believed the Laws deserved an opportunity to present their ideas.

Mayor Marsala congratulated CARA on its formation and would gladly attend its meetings.

Vice Mayor Carlson said the housing element was important. Not much land was available, and he believed public land should be reserved for public uses.

MOTION – to reject the proposed agreement between the Town of Atherton and Law and Associates to develop a senior housing project within the Town of Atherton’s office facilities site

M/S McKeithen/Carlson Ayes: 3 Noes: 1 (Janz) Absent: 0 Abstain: 0

Mayor Marsala called for a recess at 8:48 p.m. The meeting reconvened at 8:52 p.m.

14. UPDATE ON APPOINTMENT PROCESS TO FILL COUNCIL VACANCY

City Manager Jim Robinson presented the staff report. At its Special meeting of January 9, 2006, Council directed staff to solicit letters of interest/statement of qualifications to fill the unexpired term of Bill Conwell. Eleven letters of interest/statement of qualifications were received by the 5:00 p.m. deadline that day and were provided to the Council. Council needed to consider the next steps in the process and set January 21, at 12:30 p.m. for that purpose.

Vice Mayor Carlson suggested starting at 12:30 p.m., proceeding in 10-minute increments for candidates to address the Council/ask questions, and then making a decision.

After a brief discussion, Council determined that the order of candidates to be interviewed should be randomly selected and scheduled in 10-minutes intervals.

Mayor Marsala suggested a ranking system whereby each Council Member would vote for their top three candidates: first place would receive 3 points, second place 2 points, and third place 1 point. The process could narrow the field or select a winner.

Vice Mayor Carlson agreed to a process to narrow the field; however, he believed a final vote should include seeking a nomination, a second, and a vote, similar to the selection of mayor and vice mayor.

John Rugeiro, Atherton, asked for the names of the candidates and suggested Council consider a special election.

City Manager Robinson read the names into the record as follows: Jerry Carlson, Joseph Comartin, John Davey, Malcolm Dudley, Bob Jenkins, Philip Lively, Jim Massey, Richard Moore, Carol Smith, Kristi Waldron, and Benjamin Weiss.

Jean Schaaf, Atherton, agreed with the previous speaker and felt disenfranchised by the process.

Loren Gruner, Walnut Avenue, supported the 5-minute presentation/5-minute question and answer process for interviewing candidates.

Bill Awbrey, Atherton, asked whether there was an alternative to waiting until June for a special election.

City Manager Robinson explained the Council needed to either appoint someone by January 24, 2006, or call a special election to be held on a regularly scheduled election date, which could not be called less than 114 days before the election.

Council Member Janz said the Council would grapple with the issue of whether a candidate was interested in filling out the term and/or interested in running for the seat in November. Appointment seemed the best alternative under the time constraints.

John Sisson, Atherton, noted that an incumbent had a huge advantage in an upcoming election. Council should put politics aside and choose the best person for the Town.

Mayor Marsala said Council Members were accountable to the Town, there were qualified candidates from which to choose, and he was confident the Council could select the candidate that was right for the Town.

Vice Mayor Carlson said he was elected by the residents of Atherton to exercise his best judgment. His intent was to choose the most qualified candidate whether he/she ran in November or not. He would vote his conscience and what he believed was best for the community.

Virginia Ruggiero, Atherton, suggested using the Pavilion as the interview site.

Bill Awbrey, Atherton, read a paragraph from an article appearing in the *Palo Alto Daily News* suggesting preference for a candidate who did not want to run for election in November.

Mayor Marsala stated the comment was taken out of context and was referring to what had occurred in the past.

Shirley Carlson, Atherton, said having 11 residents express interest in the position was very exciting, and she did not believe there was a need for a special election.

After a brief discussion, Vice Mayor Carlson made the following motion:

MOTION – to direct staff to schedule each candidate for a 10-minute interview; direct the city manager to notify each candidate of his/her interview time, to be randomly drawn; and specified the 10 minutes be used for questions, answers, and dialogue with the candidate.

Due to time constraints, Council indicated that anyone who was unable to attend an interview would still be considered for the appointment based upon the written materials he/she submitted.

M/S Carlson/McKeithen Ayes: 3 Noes: 1 (Marsala) Absent: 0 Abstain: 0

16. CONSIDERATION OF PARKING LIMITATIONS ALONG PARK LANE PURSUANT TO ATHERTON MUNICIPAL CODE TITLES 10 AND 15 AS REFERRED BY THE GENERAL PLAN COMMITTEE

Recommendation: Provide direction to staff.

Deputy Town Planner Lisa Costa Sanders presented the staff report. At the January 11, 2006, General Plan Committee meeting, the issue of construction parking along Park Lane was referred to the Council, the unusual circumstance being there were ten active construction sites on the street. A parcel map showing the sites was included in Council's packet, along with photographs. Staff confirmed eight out of the ten sites had a Construction Operation and Parking Plan (COP Plan). The Building Official had met at the site with each site manager to reinforce compliance with the COP Plan, and some improvement had been made since the meeting. Staff was seeking whether Council preferred staff to pursue the strict enforcement of the COP Plan or wanted to authorize "Resident Only" parking for the street, which could force parking problems to other unrestricted streets.

Council Member McKeithen said a large part of the problem was that the ordinance was not being enforced. Assessing whether or not parking plans worked was difficult when they had not really been enforced. She asked whether the Town was legally allowed to limit construction vehicles from parking in the public right-of-way from 8 a.m. to 5 p.m.

City Attorney Marc Hynes stated the eight properties that already had a COP, as long as they were parking in conformance with the COP Plan, would not be affected by any further parking restriction imposed by the Town. The Town had the authority to regulate parking on its streets.

Mayor Marsala was given a suggestion of using the Mormon Church parking lot during the week and Sacred Heart School for parking during the summer as possible alternatives. He asked the City Manager to schedule a meeting with developers to brainstorm other solutions.

Council Member McKeithen said the Police Department needed to be aware of who had a plan and who did not.

Police Chief Bob Brennan conferred with the Building Department when complaints were received. The Municipal Code did not give the police authority to cite under the current circumstances. Voluntary compliance was sought from the builder and the property owner through the Building Department. In order for the police to enforce the parking under the Vehicle Code, red and white regulatory signs with "NO PARKING", 8 a.m. to 5 p.m., Monday through Friday, would need to be installed.

City Attorney Hynes noted that the penalty for not complying with the COP Plan was a misdemeanor, subject to criminal action, which could include a fine of \$1,000 and a citation could be issued by the Building Official.

In response to Vice Mayor Carlson, Building Official Mike Hood said the eight sites were in compliance with the COP Plan; parking on site and directly in front of the property.

City Attorney Hynes clarified that those sites with COP Plans in place would not be affected by a new “No Parking” regulation.

Herman Christensen, Park Lane, said the residents of Park Lane and Camino al Lago strongly supported “Resident Only” Parking, 8 a. m. to 5 p.m., Monday through Friday. Many of the 28 homes were not lived in due to renovations, etc. Only the residents who actually lived there should be allowed guest passes and perhaps be limited to three. He submitted petitions supporting the proposal.

Hugh Martin, Somerset Lane, said two additional properties were under construction, 2 Somerset Lane and 202 Camino al Lago, which had additional construction vehicles. He believed the biggest violations of the COP Plan were flag lots with no real frontage for parking.

Tom Hutton, Santiago, was opposed to “Resident Only” parking on Park Lane because of the certain overflow parking moving to Santiago and Somerset.

Deputy Planner Costa Sanders clarified a mailed notice was sent to the residents of Park Lane. Property Owners of a construction site and their contractors were also notified.

Charles Gravelle, Park Lane, was concerned that in the case of a medical emergency, emergency vehicles could not get through in a timely manner.

Laura Foster, Prior Lane, had a home under construction on Park Lane. She believed she was in compliance with the COP Plan, and urged Council to consider the impact of “Resident Only” parking. Construction would not last forever.

Mayor Marsala suggested a meeting with the ten property owners whose homes were under construction.

Randy Lamb, Laburnum Road, had a home under construction on Park Lane and empathized with the neighbors. He thought the Council was logical and always followed a process. He urged Council to follow the COP Plan and pursue enforcement. He noted that during 2005, the Town received 16 calls regarding any parking which resulted in only 2 citations.

Paul Wythes, Park Lane, believed the COP Plans were not being enforced. He discussed the issue of the “18-inches-from-the-curb” rule and the inability to enforce it since there were few curbs in Town.

Vice Mayor Carlson was unconvinced that COP Plans were being rigorously enforced. He suggested continuing the item to the next meeting and directing the Police Department and Building Department staff to meet with contractors to notify them that COP Plans would be rigorously enforced and the problems would be alleviated. Restricting parking would just begin a movement for restricted parking from street to street.

Council Member Janz said the situation on Park Lane was not the normal situation. One out of every ten constructions sites in the Town was on Park Lane. The General Plan Committee wanted to do something specifically for Park Lane while other general problems were being reviewed. He agreed that the COP Plans needed to be enforced; however, if the problems were not alleviated, then “next steps” needed to be taken.

Kristy Waldron, former General Plan Committee member, said enforcement had always been the issue. She suggested a code enforcement officer might be the solution.

Council Member McKeithen said a code enforcement officer was a necessity. Meeting with the contractors to discuss what parking alternatives were was also a necessity. The Police Department should have COP Plans on file, more training should be given, enforcement should be made without complaints being made, and the police needed to be proactive. She requested a weekly list from the Police Department of what calls were received or where a violation occurred, what the address was, and what action was taken.

Mayor Marsala would meet with developers and contractors on Park Lane to inform them the COP Plans were going to be strictly enforced. Additionally, a follow-up was needed with the Mormon Church and Sacred Heart School to pursue alternative parking.

Vice Mayor Carlson said as a matter of routine, the COP Plans should go from the Building Department to the Police Department to the officer on the beat and become a routine part of patrol.

Police Chief Brennan said if a specific person were assigned to the area and routinely patrolled the area, he/she would be able to enforce the COP Plans and, in time, the problem would subside. It might be possible to utilize someone on an overtime basis.

Vice Mayor Carlson suggested that staff develop a plan that would achieve the desired results and return to Council.

City Manager Jim Robinson believed the best approach was enforcement. Meeting with the contractors was paramount because voluntary compliance was the most effective way to solve issues. When looking at a “Resident Only” Parking alternative, historically, the current Atherton locations were cul-de-sac streets. The more prudent approach was to look at the issue of enforcement, evaluate that, and return to the Council if additional resources were needed for enforcement. There was an increased

level of construction in the Town, and parking restrictions would not prevent traffic in the Town.

Council Member Janz said he was in favor of authorizing a part time code enforcement officer.

Direction to staff: Police Department and Building Department staff was directed to meet with contractors to notify them that COP Plans would be rigorously enforced. Staff would evaluate enforcement over the next month and return to the City Council meeting of February 15, 2006, with a plan that included any additional resources to achieve the desired results.

Mayor Marsala called for a recess at 10:30 p.m. The meeting reconvened at 10:36 p.m.

17. MID-YEAR BUDGET REVIEW FISCAL YEAR 2005-2006

Recommendation: Receive and file staff's mid-year budget review report and provide appropriate direction to staff.

Finance Director John Johns presented the staff report. Staff was projecting a favorable variance in the fund balance amounting to \$736,000 and consisting of three elements: 1) an additional carryover from the previous year of \$244,000; 2) current year revenues of approximately \$400,000; and 3) a favorable variance in expenses of about \$82,000. Areas in the current year revenue variances were in secured property taxes and in motor vehicle license fee revenues. Staff had identified significant expenditures that were required to improve the infrastructure, administrative, and cultural facilities that were not yet funded. Staff would present a budget that would draw less upon the parcel tax than had been planned. An opportunity to redirect parcel tax funds from current operations to the Capital Improvement Program (CIP) was available.

Council Member McKeithen thought using the \$700,000 for the CIP was a good idea; however, the chronic drainage problems in the Town needed to be addressed first.

Discussion continued on possible uses as well as what would occur in subsequent years. At the end of FY 2010, the Town would have approximately \$2 million in excess of minimum reserve requirements. City Manager Robinson thought 20% of the operating budget was a prudent reserve and that our current budget resolution required a General Fund balance of \$3.7 million. Council needed to determine what long-term capital projects it wanted or thought most critical.

Jerry Carlson, Atherton, queried whether Proposition 13 homes "turning over" might explain the rise in property tax revenues.

Finance Director Johns said the Town realized approximately \$370,000 from the real property transfer tax last year, or about \$720 million worth of property turning over. The current year was a more "normal" year, perhaps half of last year. A discussion

regarding Education Revenue Augmentation Funds (ERAF) and their effect on property tax revenues ensued.

MOTION – to accept the Mid-Year Budget Review Report. Further, to refer the item to the Finance Committee for review to determine the next steps.

M/S McKeithen/Carlson

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

18. REVIEW AND DISCUSS REQUEST FOR PROPOSALS FOR A CONSULTANT STUDY REGARDING TOWN OF ATHERTON DRAINAGE POLICY

Recommendation: Provide direction to staff regarding scope of work in RFP for Town-wide drainage study.

Building Official Mike Hood said the item was introduced at Council’s December meeting. Council’s comments had been incorporated into the Request for Proposals (RFP) and returned to Council for further comment.

A discussion took place regarding a drainage issue on Parker Lane and Stockbridge Avenue. The channel was not maintained by the Town. Staff needed to evaluate the problem and find a solution.

Building Official Hood said he was working with the Public Works Director regarding CIP projects in order to coordinate more specific drainage issues throughout the Town.

Council Member McKeithen asked to add a statement to the RFP requesting that if any professional responding to the RFP ascertained there was something overlooked, to please specify the task and determine the cost.

Building Official Hood said the request would be included as a final task.

Council Member Janz wanted Item 6c expanded to include the effect of the decrease in impervious surface, e.g., the rate of flow into the channel or influence on groundwater level.

MOTION – to accept the attached draft Request For Proposals For A Consultant Study Regarding Town Of Atherton Drainage Policy with the addition of a final task requesting if any professional responding to the RFP ascertained there was something overlooked, to please specify the task and determine the cost.

M/S McKeithen/Janz

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

19. APPROVAL OF MAYOR’S 2006 CITY COUNCIL COMMITTEE ASSIGNMENTS

Mayor Marsala stated when a new Council Member was chosen, some committees would be reassigned.

MOTION – to accept City Council Committee Assignments as presented

M/S Janz/McKeithen

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

11. RENEWAL OF AGREEMENT WITH LIEBERT, CASSIDY, WHITMORE FOR LABOR RELATIONS LEGAL SERVICES (Removed from the Consent Calendar)

Recommendation: Approve the agreement with Liebert, Cassidy, Whitmore, A Professional Law Corporation, for legal services and authorize the Mayor to sign the agreement

A discussion regarding the range of fees and the addition of a termination date was held.

MOTION – to approve the agreement with one change, the Term of the agreement will be effective for one year, expiring January 18, 2007.

M/S Janz/McKeithen

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

20. PUBLIC COMMENTS

There were no public comments.

21. ADJOURNMENT

Mayor Marsala adjourned the meeting at 11:11 p.m.

Respectfully submitted,

**Kathi Hamilton
Acting City Clerk**