



DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON
CHANNEL DRAINAGE DISTRICT
February 15, 2006
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

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

1. **PLEDGE OF ALLEGIANCE**

ROLL CALL

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

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

3. **PRESENTATION**

Parks for the Future

Julia Bott, Executive Director of San Mateo County Parks Foundation, gave a PowerPoint presentation describing the effort to secure dedicated tax-based revenues to support the parks- and recreation-related activities of San Mateo County, the cities located within the County, the Ladera and Highlands Recreation Districts and Midpeninsula Regional Open Space District through a future ballot measure to increase sales tax by 1/8th cent.

4. **COUNCIL REPORTS**

- Vice Mayor Alan Carlson attended the February 8th General Plan Committee where the length of construction projects and Floor Area Ratio (FAR) were discussed. Currently, the square footage of underground garages was not included in the total FAR for a home which enabled 600 to 900 square feet to be added to the mass of the house. He proposed an item be placed on the next Council agenda to discuss enacting an emergency ordinance or to begin the

process of a regular ordinance that would include the square footage of underground garages when calculating the FAR of a house. He would attend the Peninsula Traffic Congestion Relief Alliance the next day.

- Council Member Jerry Carlson thanked Public Works Director Duncan Jones for removing a pile of sand and pipe from Selby Lane. He attended the Menlo-Atherton High School information meeting regarding the new Performing Arts Center (PAC). The City of Menlo Park was considering a contribution of \$2.6 million for 20% usage of the new PAC. Many citizens attended to voice concerns regarding noise, traffic, etc. Menlo Park has asked for an exemption from Atherton's Special Events ordinance. He believed more information was needed.
- Council Member Janz said there was nothing new to report regarding Caltrain. The Caltrain Corridor Subcommittee met and reorganized its members into three action sections to be more efficient/effective. He attended the City/County Association of Governments (C/CAG) meeting last week where nominations for Chair and Vice Chair were being considered. At that meeting, a presentation by Association of Bay Area Governments (ABAG) regarding Bay Area Vision was a follow-up to having smart growth concepts implemented within the Bay Area. ABAG was developing a program, Focusing the Bay Area's Vision. The Housing Endowment and Regional Trust (HEART) subcommittee was looking at ways to find dedicated sources of funding for the County.
- Council Member McKeithen met with residents regarding drainage issues around Town. Three issues were on that evening's agenda. The community group which emanated from the emergency preparedness training session met on Saturday, February 11. Six volunteers looked at such things as runners, Boy Scout activities, how to conserve/store water, what types of supplies were needed, consulting with home owner groups, and making sure all citizens and especially those with special needs had someone to rely on in an emergency.
- Mayor Marsala attended the Holbrook-Palmer Park Foundation meeting. The Easter Egg hunt was being canceled for lack of a chairperson. He noted the General Plan Committee should look at grading issues. He attended a Parks for the Future meeting and noted funding should be used as supplemental income to the park budget as opposed to replacing any of the park budget. At the League of Cities meeting, discussion centered on the AT&T/Comcast issue. The County Library system was working on improvements to the Fair Oaks Library which could ultimately help improve test scores at Selby Lane School. He attended the community group meeting regarding emergency preparedness. In order to get information to people in case of power outages, area captains were needed. Several trainings were available: Citizens Emergency Response Team (CERT), Business Emergency Response Team (BERT), and School Emergency Response Team (SERT). Coordination with the business and school community was essential. He attended a Menlo Park Fire District event, sponsored by the County, regarding its work on Hurricane Katrina.

5. **PUBLIC COMMENTS**

John Frenster, Atherton, submitted a proposal to the Atherton Channel Drainage District Committee and/or the Council regarding the open storm-drainage ditch that runs from Polhemus Avenue north to Stockbridge Avenue.

Shirley Carlson, Atherton, spoke regarding a proposal by the Atherton Dames to place a plaque on the walking bridge at Holbrook-Palmer Park to honor former Mayor and Council Member Bill Conwell.

James Law, Atherton, spoke regarding Council's decision to reject an agreement between Law and Associates and the Town of Atherton for a senior housing project.

6. **STAFF REPORTS**

- City Manager Jim Robinson noted a supplemental staff report was placed before the Council regarding Item No. 17 on the evening's regular agenda, the Holbrook-Palmer Park Pavilion improvements. Bids were opened the previous day.
- City Attorney Marc Hynes reported out of Closed Session as follows:

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

Significant exposure to litigation pursuant to Government Code Section 54956.9(b1):

1 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)

Direction was given to the city manager.

- Police Chief Bob Brennan reported a third suspect was identified in the Lindenwood burglaries and an arrest warrant was issued.
- Duncan Jones reported landscaping would be completed by the end of the month for the Upper Atherton Channel project. Regarding the Park bridge, Laura Jones was hired to do a brief archeological survey and H.T. Harvey was hired to do a biological survey. The surveys were required by the grant funds and would cost approximately \$2500.

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

Gail Ortega, Menlo College, gave a brief presentation regarding the Service Educational Resources for Volunteers (SERV) project which began five years ago. Any student receiving a Menlo College-based scholarship was required to perform 30 hours of community service per year. Over the next few months, he wanted to explore opportunities within Atherton to get students involved in community service.

Council Member Jerry Carlson volunteered to work with Menlo College to identify projects.

CONSENT CALENDAR (Items 8 - 14)

Staff clarified Council questions regarding Item Nos. 11, 12, and 13.

MOTION - to approve the Consent Calendar as presented

M/S McKeithen/Janz Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

8. APPROVED MINUTES OF THE SPECIAL AND REGULAR MEETINGS OF JANUARY 18, 2006, AND THE SPECIAL MEETING OF JANUARY 21, 2006

9. APPROVED BILLS AND CLAIMS FOR JANUARY 2006 IN THE AMOUNT OF \$ 358,350

10. ACCEPTED MONTHLY FINANCIAL REPORT FOR JANUARY 2006

11. ACCEPTED QUARTERLY INVESTMENT REPORT

12. ADOPTION OF A RESOLUTION TO APPROVE PERS "AIR TIME" PURCHASES

Adopted Resolution No. 06-01 to enable Atherton employees to make installment payments for additional service retirement (ARS) purchases from CALPERS on a pre-tax basis.

13. ACCEPTED RESPONSE TO GRAND JURY REGARDING ANALOG TO DIGITAL CONVERSION OF POLICE RADIO SYSTEMS

14. ADOPTION OF MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN OF ATHERTON AND THE ATHERTON POLICE OFFICERS' ASSOCIATION FOR THE PERIOD OF JULY 1, 2005 THROUGH JUNE 30, 2008

Adopted the Memorandum of Understanding between the Town of Atherton and the Atherton Police Officers' Association 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 15 - 21)

- 15. CONSIDERATION OF PARKING LIMITATIONS ALONG PARK LANE PURSUANT TO ATHERTON MUNICIPAL CODE TITLES 10 AND 15 AS REFERRED BY THE GENERAL PLAN COMMITTEE AND POSSIBLE DIRECTION TO STAFF REGARDING ANY AMENDMENTS TO ORDINANCE NO. 546 RELATING TO CONSTRUCTION PARKING REGULATIONS (Continued from the Council meeting of January 18, 2006)**

Recommendation: Review report from the Chief of Police and provide direction to staff.

Police Chief Bob Brennan presented the staff report. He developed a plan for enforcing Construction, Operation and Parking Plans (COP Plans) based upon a community policing problem-solving model and assigned one officer, Tony Dennis, to handle the Park Lane area. Officer Dennis contacted all of the construction projects, as well as the residents to solicit their comments. He issued warning notices to both construction workers and residents. At the March 15, 2006, Council meeting, Officer Dennis would address each of the nine areas of the plan, specifically why the tickets were issued, what the responses were, and how many people were educated, etc. There was a favorable response from the residents. Chief Brennan thought concentrating on the area for two months would solve most of the issues.

Discussion took place regarding criteria for a verbal vs. written warning and providing feedback on why the parking and moving violations were issued. Chief Brennan responded that parking citations were issued for blocking driveways or fire hydrants. The 18-inch-from-the-curb requirement was unenforceable on Park Lane because there were no curbs. Officer Dennis was working the area Monday through Friday, and his presence would hopefully prevent property damage from occurring.

In response to Council Member McKeithen, City Manager Jim Robinson said currently, half of a Police Officer position was charged to the Building Department and Officer Dennis' overtime could be charged for that use. Additionally, he noted that presently, the position of Code Enforcement Officer did not exist. If Council so desired, direction should be given to staff to identify what the alternatives/options were, i.e., costs, which department, part-time vs. full time. One issue was whether the position should be a compliance officer or a code enforcement officer.

Council Member McKeithen asked that the item be scheduled for the March agenda for discussion.

Vice Mayor Alan Carlson noted authorization from the Council was needed before a position could be added and some on the Council were concerned about reducing staff as opposed to increasing staff.

Council Member Janz raised a concern regarding a response by a dispatch officer to a citizen complaint.

Police Chief Brennan said educating staff to give consistent answers was part of the nine-step plan.

Discussion continued regarding various issues such as “A” frame signs and security tape for existing driveways to prevent parking in front of neighboring homes.

In response to Council Member Janz, City Attorney Marc Hynes said catering truck regulations had disappeared from cities. He was unsure of any community that had litter regulations or whether the Town could consider them. Catering trucks were required to have a business license and would have to comply with parking regulations.

In response to Council Member Jerry Carlson, Police Chief Brennan said one of the ways the department was sensitive to community concerns was to assign a specific officer who took ownership of the particular issue.

Mayor Marsala suggested posting the parking plan at the construction site. Additionally, he wanted to handle the COP plan enforcement with current staff, if possible, rather than incurring additional salary and benefit costs.

Council Member McKeithen wanted staff to consider some of the suggestions received by the Council, e.g., site parking should be given priority instead of in front of a residence, etc.

Herman Christensen, Park Lane, said the last month had been positive and Officer Dennis was doing a good job. Clarification that Municipal Code Section 15.40.040 applied to all construction sites also helped. Improvement in the Guidelines for Construction, Operations and Parking plans were needed. He suggested 1) parking on site should be a priority; 2) onsite parking should be utilized before parking in front; and 3) parking in front should be delineated to be sure there was adequate parking and perhaps limited to three.

Wendy Hutton, Santiago, said most of the security tape around her property was for safety issues. Officer Dennis made a huge difference, was friendly, tried to solve problems and reinforced the need for a specific code/compliance officer.

Mayor Marsala received two letters from residents on Park Lane with homes under construction. He visited one site and would forward suggestions from the homeowner to staff regarding compliance. One suggestion was to notify residents when they could expect construction to be completed.

Council Member Janz agreed the guideline needed revisions and asked staff to return to Council with recommendations as suggested by Mr. Christensen. He recommended encouraging perpendicular parking when parking in front of the site, as well as adding construction screening.

City Attorney Marc Hynes responded that a screening requirement could be imposed after the fact because construction would not be obstructed or stopped. If there were

non-compliance, the Nuisance Ordinance provided the Town with the ability to do the activity and levy it against the property.

Council Member Jerry Carlson submitted suggested revisions to the Guidelines for Construction for staff to contemplate.

Council Member McKeithen said the requirements that driveways should be rocked needed to be enforced.

A discussion took place regarding the impacts of stalled construction projects due to litigation.

Vice Mayor Alan Carlson said the Police Department needed to do its job and dispatchers needed to be trained. He did not believe a code enforcement officer was needed. The Town had the resources and the laws on the books for enforcement. Officers should be checking construction sites every weekend as part of patrol. Staff needed to be trained in the elements of Community Policing.

Direction to staff to return to Council at its March 15, 2006, meeting with recommended revisions to the Guidelines for Construction, Operations and Parking Plans as suggested that evening.

16. DISCUSSION AND DIRECTION TO STAFF REGARDING FENCE HEIGHT, HEIGHT OF GRADING, AND AMOUNT OF GRADING.

Building Official Mike Hood presented the staff report. Regulations existed regarding fence height and height and total amount of grading on a property. Few problems had arisen in the past. Fences were limited to 6 feet in height, anywhere on the property. Fences on busy roads could be 8 feet in height. There was no limit on the amount of grading or depth of cut and fill on the property. If Council desired, staff could modify and further delineate some of the issues.

Council Member McKeithen recommended that fence height should not be any higher than 6 feet off the natural grade. The issue at 397 Stevick was dirt was taken from one side of the property and placed on another side making it 5 feet higher and creating a new retaining wall. The retaining wall could be extended by 2 feet; however, if a fence was moved back a foot, another 6 foot fence could be installed.

City Attorney Marc Hynes clarified under existing regulations a retaining wall could be built on top of fill; however, the Municipal Code Section 17.36.150 limited fence height to 6 feet from the natural grade anywhere on the property. Section 17.26.195 was not specific regarding retaining walls.

Mayor Marsala recommended that retaining walls should be measured from natural grade as well.

Discussion continued on whether or not a fence or retaining wall could be built at a level other than 6 feet above the natural grade and whether there would be any adverse effects by limiting the height.

Vice Mayor Alan Carlson was not against limiting fence and retaining wall heights to 6 feet from the natural grade. He cautioned against legislating everything. He suggested including the ability to apply for a Conditional Use Permit when a legitimate need existed.

Council Member McKeithen discussed drainage issues and new construction and recommended that the builder be required to install a drainage ditch prior to building a structure.

Vice Mayor Alan Carlson believed regulations already existed to control drainage during construction. Additionally, the real grading occurred after construction.

Building Official Hood said two requirements existed: 1) final retention/detention of storm water on the site; or 2) erosion and sedimentation controls, i.e., that rainwater leaving the site was not too laden with silt. Some sites installed the final retention facility as the first step. Sites needed to handle what water they were generating. Waters that were delivered to the site were passed through the site and followed the historic flow paths.

Discussion took place regarding a specific site and issues that occurred during the recent storm that rendered the performance of the filter/fabric drain on the site inadequate.

Direction to staff to add language to Atherton Municipal Code Section 17.36.195 to restrict the height of retaining walls to no more than 6 feet above the natural grade and to require a Conditional Use Permit for exceptions, to be returned to the City Council Meeting of March 15, 2006.

Council Member McKeithen reported that grading on one property contained 2,000 cubic yards of dirt, the equivalent of 8 feet wide, 8 feet deep, and 100 feet long. Another property removed a significant amount of dirt from the side of a property, along with some trees, which created mud to flow down the hill. Discussion ensued regarding whether the Town should regulate how much soil, what type of soil was used, etc. No further direction was given.

17. AWARD OF CONTRACT FOR HOLBROOK-PALMER PARK PAVILION DOOR AND WINDOW REPLACEMENT PROJECT NUMBER 05-001

Recommendation: Award the contract for the Holbrook-Palmer Pavilion Project, Project Number 05-001, to the low bidder on the February 14, 2006 bids, and to authorize the Mayor to sign the contract on behalf of the Town.

Vice Mayor Carlson had a concern that there would not be enough funds to complete the remainder of the project.

Recommendation: Approve the purchase of an Allianz 3000 3-wheeled street sweeper from Nixon-Egli Equipment Company for \$114, 968 plus tax and delivery.

Public Works Director Duncan Jones presented the staff report. Staff began research to purchase a street sweeper because of poor service and poor response from Allied Waste. Additional compliance requirements were imposed by the Regional Water Quality Control Board for the National Pollution Discharge Elimination System (NPDES) permit such as providing more street sweeping, keeping the corporation yards cleaner, and better policing of the housing contractors who get mud and debris on the streets. Staff also believed a street sweeper would help efficiency with storm cleanup, litter, truck spills, etc. Additionally, there was a possibility of taking over Caltrans sweeping of El Camino Real. There would be a \$10,000 per year savings from the Allied Waste contract and half of the AB 1546 funds could be used for storm water cleanup. No additional staff would be required. Staff was recommending the Allianz 3000.

Discussion took place regarding funding sources, length of useful life, training, warranty, repair issues, noise issues, etc.

Council Member McKeithen believed once you divided the length of useful life into all the expenses, i.e., gas, staff time, etc., it became an expensive proposition.

Finance Director John Johns said the street sweeper would add operating costs of \$25,000 to \$30,000 a year including depreciation expense of the vehicle. Staff believed funding was available from a number of sources that would offset the incremental operating costs. There were accumulated excess cash reserves in the Vehicle Replacement Fund and use of these funds would not prevent replacing patrol cars.

Public Works Director Jones said staff was looking into other uses for the sweeper that would make staff more efficient. There would be increased services to the residents who had not previously had sweeping.

City Manager Robinson said the issue was what the priority was for the Town for sweeping the streets and keeping them clean and allocating funds to do so. Storm debris was still visible from the recent storm.

John Sisson, Atherton, believed there was no real need in the Town for a street sweeper.

Council Member Jerry Carlson thought the discussion should be tabled and discussed as part of the capital budget process. Items needed to be prioritized and funds needed to be used judiciously.

Council Member Janz wanted more time to think about it and agreed with deferring the item until the budget process.

Vice Mayor Alan Carlson was not convinced of the need. He wanted a better stream of income, i.e., find out how much would be received from Caltrans. He preferred deferring the item until the budget process.

MOTION – to defer consideration of the purchase of a street sweeper to the upcoming capital budget process

M/S A.Carlson/J.Carlson

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

20. CONSIDERATION OF A TOWN FORUM TO DISCUSS VARIOUS TOWN FACILITIES

Recommendation: Consider a Town Forum to discuss various Town facilities and options available for possible improvements and modifications and solicit public input.

Mayor Marsala thought there was a need to schedule a Town forum to inform residents and receive input regarding the need to improve Town facilities.

A brief discussion concluded that more tangible alternatives were needed before scheduling a Town Forum. A suggestion was to hold a Community Organization Roundtable meeting as part of the process and perhaps changing the setup to allow more audience participation/interaction. Additionally, Council thought the Buildings and Facilities Committee would be the best place to begin the process to develop a plan.

John Sisson, Atherton, did not believe a Community Organization Roundtable meeting would be effective. Council needed to create a specific agenda that would entice community participation.

No action taken.

21. CONSIDERATION OF A JOINT MEETING WITH THE CITY OF MENLO PARK CITY COUNCIL

Recommendation: Consideration of a joint meeting with the City of Menlo Park City Council.

Mayor Marsala said there was not an immediate need to hold a joint meeting with the City of Menlo Park. As issues developed between the two jurisdictions, e.g., Valparaiso Avenue, Caltrain, Menlo-Atherton High School, a joint meeting could be scheduled.

No Action Taken.

22. PUBLIC COMMENTS

23. ADJOURNMENT

Mayor Marsala adjourned the meeting at 10:45 p.m.

Respectfully submitted,

Kathi Hamilton
Acting City Clerk