



**MINUTES**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON**  
**CHANNEL DRAINAGE DISTRICT**  
**June 21, 2006**  
**7:00 p.m.**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California

**REGULAR MEETING**

Mayor Marsala called the meeting to order at 7:00 p.m.

1. **PLEDGE OF ALLEGIANCE**

2. **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**

None

4. **COUNCIL REPORTS**

- Vice Mayor Alan Carlson said he, Mayor Marsala, and representatives of the City of Menlo Park attended a meeting regarding the Performing Arts Center at Menlo-Atherton High School. Usage guidelines were developed with future meetings planned for discussions. The Buildings and Facilities Committee met and was moving ahead with a space study with respect to future facilities needs.
- Council Member Jerry Carlson attended a San Mateo County seminar on pandemic influenza, which highlighted the need for disaster preparedness-type activities at the family level. The 25<sup>th</sup> Anniversary celebration of the San Francisco Airport Roundtable was held and several comments were made regarding the contributions of Bill Conwell. Fifty-seven students and 52 volunteers from Selby Lane School participated in "YES" Reading

**Recognition.** The program would be extended to include reading comprehension next year, needed more volunteers, and \$25,000. The Selby Lane School Foundation committed \$15,000 and help in fundraising. Council Member Carlson commended the Atherton Civic Interest League on its May 18th meeting on emergency preparedness.

- **Council Member Janz and a number of individuals from six different cities met with Supervisor Jerry Hill and Director Mike Scanlon regarding Caltrain issues. At the Joint Powers Board meeting, Mike Scanlon apparently made a statement about working toward restoring local service in the future. The next meeting of the cities' group was June 29. The Waste Reduction Committee met on June 7<sup>th</sup> and approved a survey to go to Atherton residents regarding trash service. He attended a June 16<sup>th</sup> half-day Progress Seminar at Oracle, which was a follow-up to the conference in Monterey. A presentation by the Director of the Bay Area Economic Forum disclosed that last year (2005) was the first time an upturn in employment had occurred in the Bay Area since the "bust." In Silicon Valley, an increase only occurred within the last few months.**
- **Council Member McKeithen said her work centered on emergency preparedness where she attended meetings of the citizens' group and with the Police Department and City Manager to divide of the Town into Citizen Emergency Districts. The citizens' committee was meeting on Saturday, at 9 a.m., in the Council Chambers to finalize the map. She met extensively with the Woodside Fire Protection District, which together with the towns of Portola Valley and Woodside had an extensive citizen emergency preparedness plan since 1998. They offered to lend the Town most of their materials. She noted that Council had voted to set aside \$100,000 for emergency operations.**
- **Mayor Marsala said the Town hosted the San Mateo County Council of Cities dinner on May 19th at Menlo School. He met with the Arts Committee and there was a potential of merging Atherton's summer festival with Menlo College's festival in the future. He referred a request for a pedestrian crosswalk on Atherton Avenue and Selby Lane to the Transportation Committee. Mayor Marsala announced that he was hosting the Peninsula League of California Cities' bar-be-cue on July 9th.**

## **5. PUBLIC COMMENTS**

**John Rugeiro, Stockbridge Avenue, spoke regarding a rumor of a possible investigation regarding discrepancies within the Town. He asked whether there was anything to report.**

**City Manager Jim Robinson indicated he could not comment on any issue that might involve an investigation, particularly related to a personnel issue.**

**City Attorney Steve Baird said if the issue involved a personnel matter, the results would be given to Council and Council would report out based on the Brown Act. If there were any other issue involved, the investigating agency would prepare a report, which might or might not be a public record.**



9. **APPROVED BILLS AND CLAIMS FOR MAY 2006 IN THE AMOUNT OF \$759,492**
10. **ACCEPTED MONTHLY FINANCIAL REPORT FOR MAY 2006**
11. **SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING CHAPTER 2.37 OF THE ATHERTON MUNICIPAL CODE BY REVISING SECTION 2.37.020 TO INCREASE THE TERM OF OFFICE FOR CERTAIN MEMBERS OF THE GENERAL PLAN COMMITTEE**  
  
**Adopted Ordinance No. 562.**
12. **SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING ATHERTON MUNICIPAL CODE SECTION 17.36.195 REGULATING RETAINING WALLS**  
  
**Adopted Ordinance No. 563.**
13. **SECOND READING AND ADOPTION OF AN ORDINANCE ADDING ATHERTON MUNICIPAL CODE SECTION 15.40.157 REGARDING CONSTRUCTION SITE SCREENING**  
  
**Adopted Ordinance No. 564.**
14. **AMENDMENT TO HERITAGE TREE ORDINANCE – MODIFY PENALTY PROVISIONS – SECOND READING**  
  
**Adopted Ordinance No. 565.**
15. **APPROVAL TO RENEW AGREEMENT WITH NEAL MARTIN AND ASSOCIATES**  
  
**Approved agreement for professional services for Fiscal Year 2006-07 for Neal Martin and Associates and authorize an increase in certain hourly rates.**
16. **APPROVAL OF RENEWAL OF INDEPENDENT CONTRACTOR AGREEMENT BETWEEN THE TOWN OF ATHERTON AND TIM WULFF FOR PLAN CHECKING SERVICES FOR FISCAL YEAR 2006-07**  
  
**Approved the renewal of Independent Contractor Agreement between the Town of Atherton and Tim Wulff for Plan Checking Services for Fiscal Year 2006-07.**
17. **ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$1,310 FOR THE UPPER ATHERTON CHANNEL REPAIR PROJECT, PHASE 1, PROJECT NO. 04-007**

Accepted the work, authorized recording of a Notice of Completion and approved contract change orders in the amount of \$1,310 for the Upper Atherton Channel Repair Project, Phase 1, Project No. 04-007.

18. **ADOPTION OF A RESOLUTION AUTHORIZING APPLICATION FOR FEDERAL SURFACE TRANSPORTATION PROGRAM FUNDING FOR THE VALPARAISO AVENUE OVERLAY PROJECT AND COMMITTING THE NECESSARY NON-FEDERAL MATCH FOR THE PROJECT AND STATING THE ASSURANCE OF THE TOWN OF ATHERTON TO COMPLETE THE PROJECT**

Adopted Resolution No. 06-08, authorizing staff to submit an application for Surface Transportation Program (STP) grant funds to overlay Valparaiso Avenue, committing the required local match and stating the assurance of the Town to complete the project.

19. **ADOPTION OF A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS WITH CALTRANS FOR FEDERAL SURFACE TRANSPORTATION PROGRAM FUNDING FOR THE VALPARAISO AVENUE REHABILITATION PROJECT**

Adopted Resolution No. 06-09, authorizing the City Manager to execute agreements with Caltrans for federal Surface Transportation Program (STP) funding for the Valparaiso Avenue Rehabilitation project.

20. **REJECT ALL BIDS AND AUTHORIZE RE-ADVERTISEMENT OF THE - 2006 PAVEMENT PATCHING PROJECT, PROJECT NO. 05-006**

Rejected all bids and approved re-advertising the 2006 Pavement Patching Project, Project No. 05-006.

**PUBLIC HEARINGS** (Item No. 21)

21. **INTRODUCTION OF AN ORDINANCE FOR FIRST READING AMENDING ATHERTON MUNICIPAL CODE SECTION 17.36.190 REGULATING BASEMENTS**

Deputy Town Planner Lisa Costa Sanders presented the staff report. The issue of basements was raised at a citizens' meeting regarding construction-related issues. The General Plan Committee took up the issue of Floor Area Ratio (FAR) for homes, FAR as it related to basements, garages, and light wells. The Committee was unable to come to consensus on the issue of limiting garages in basements and was seeking direction from the City Council. At a previous meeting of the Council, Council indicated a desire to prohibit underground garages in basements and asked for the item to be referred to the Planning Commission. Three members of the Planning Commission reviewed the item and recommended approving a ban on underground garages with the exception of properties located within the Public Facilities and Schools Zoning District.

**Any structure built on a school facility required a Conditional Use Permit. Staff prepared an ordinance that would prohibit below-grade garages. Another option was to use the Conditional Use Permit process to mitigate certain conditions such as setbacks or screening.**

**Vice Mayor Alan Carlson said a vigorous discussion took place at the General Plan Committee meeting from general concern that basements made construction go on longer, that longer driveways led to removal of more heritage trees, to aesthetics, etc. Yet, others believed the Town should not interfere with what people did on their own property. His concern with underground garages was that the square footage was not counted in the FAR, which allowed more square footage in the main structure.**

**Council Member Janz said the biggest concern raised at the meeting was the visual impact of the sweeping driveways and the retaining wall. An alternative was not allowing the entrances to be at the side of the house or to require a greater setback for the retaining wall.**

**Deputy Town Planner Costa Sanders explained that below-grade garages on steep hillsides could be allowed and were counted in the FAR because more than two feet were above grade.**

**Council Member McKeithen's concern was that a three-story house would be created like a home on Tallwood. There were a number of variables to be considered: finish grade vs. natural grade, lowering the property, raising the property, what happened if it was considered part of the average floor space, etc.**

**Mayor Marsala had looked at the home on Mandarin Way and Stevick. There were parts of the Town where the slope and grade were so steep that the natural grade variance made the home appear to be three stories.**

**Council Member McKeithen believed you had to measure it to really be sure how high a home was from the natural grade.**

**Mayor Marsala opened the public hearing.**

**Todd Beardsley, General Plan Committee, spoke against an ordinance to ban underground garages. He believed the real issue concerned the aesthetics of the retaining walls and sweeping driveways, not the garages per se, and the Town did not regulate aesthetics.**

**Herman Christensen, Atherton, spoke in favor of an ordinance to ban underground garages. He believed underground garages were a concern to the residents because they changed the nature of the community and created a much more urbanized feeling to the Town.**

**Tim Draper, Atherton, spoke against an ordinance to ban underground garages. He was planning to build his dream house and believed an underground garage allowed for more open pasture above ground.**

**Jim Dobbie, Planning Commission, spoke in favor of an ordinance to ban underground garages. He thought the visual impact of underground garages was negative. If they were allowed, the square footage should be counted in the FAR.**

**Paul Reyff, Atherton Avenue, spoke against an ordinance to ban underground garages. He believed an underground garage was more aesthetically appealing than a surface garage. Additionally, many residents were unaware of the discussion and he urged a better notification process. He submitted a petition to the Council opposed to a ban.**

**Wendy Hudden, Atherton, spoke in favor of the ordinance. Long-term impacts such as drainage, environmental issues, and trees were of concern.**

**Randy Lamb, General Plan Committee, spoke against the ordinance. He was an advocate for personal property rights and believed adequate rules were already in place.**

**Christina Isenberg, Atherton Tree Committee, spoke in favor of the ordinance. Atherton was a tree city, which made it distinct from other wealthy suburbs. Allowing underground garages that required sweeping driveways indicated indifference to the health of its tree canopy.**

**Mayor Marsala closed the public hearing.**

**Mayor Marsala said the Town needed to do a better job of getting the word out and soliciting public input on significant issues. He believed increasing setbacks and requiring better screening and additional trees would mitigate the issue.**

**Council Member Janz needed more discussion and thought. The Town was changing and needed to come to terms with increased development. Perhaps alternatives were needed to make underground garages more aesthetically pleasing. He recommended referring the item back to the General Plan Committee.**

**Council Member Jerry Carlson was still undecided as to whether underground garages adversely impacted the quality of life of the Town and neighbors. He believed that many of the issues people had raised were already mitigated by Road Impact Fees, setting time limits for construction, defining height and spacing of retaining walls, enhancing the Heritage Tree Ordinance, etc. Yet, he might feel differently if someone wanted to build an underground garage with a large home on his street. He queried whether an outright ban might be a step toward design review. He was not ready to vote.**

Vice Mayor Carlson said basement garages were a more recent phenomenon and were a general trend in construction within the Town that upset certain segments of the community. He recognized that people should enjoy their property and do what they wanted within reason. He also believed that basement garages had an adverse effect on the FAR above ground and allowed a more massive main building; therefore, basement garages should be counted in the total FAR. However, he could not support an outright ban since there were examples of both good and bad basement garages within the Town. He suggested requiring a Conditional Use Permit, with standards such as additional heritage tree protection, screening or landscaping to hide the driveway, consideration for allowing basement garages for houses on lots that were less than half an acre, and addressing drainage concerns for driveways that might channel water down into subterranean areas. Because there was no consensus among the Council, he thought the item should be returned to the General Plan Committee to further develop the issues.

Council Member McKeithen agreed the item should go back to the General Plan Committee; however, she did not agree with requiring a Conditional Use Permit. She would rather look at the issues and determine what was good, what was bad, what was successful, and what had failed and address them through existing statutes and rules. She wanted the General Plan Committee to look at increasing the setback including some, if not all, of the basement garage in the FAR and increasing the vegetation and screening. Additionally, there was a need to look more closely at what had been successful and what had not been successful, determine the reason, and come to a compromise.

Mayor Marsala asked whether the full Council could attend a meeting if the item was sent back to the General Plan Committee.

City Attorney Steve Baird said Council could attend the meeting to observe but not participate.

Mayor Marsala believed there were two separate issues: 1) clarifying whether underground garages would be allowed, and 2) whether to include the square footage in the FAR. The Town was changing and the Town needed to look at what Atherton was becoming: a place, a melting pot of great intellect, combining to discuss ideas that were affecting the world. He thought the item should be returned to the General Plan Committee.

Vice Mayor Carlson disagreed that the FAR was a separate issue. Additionally, he believed direction should be given to the General Plan Committee including consideration of FAR and consideration of a Conditional Use Permit and what elements should be used in the approval or denial process.

Council Member Janz wanted to add consideration of setbacks for driveways and additional landscape screening requirements.

**Council Member Jerry Carlson said the General Plan Committee needed to look at what worked and what had not worked.**

**MOTION – to refer the item to the General Plan Committee to consider the following issues regarding basement garages: 1) increase the setback, 2) increase/change screening of driveways, 3) consider the possibility of a Conditional Use Permit process which included standards for approval, 4) review issues in the existing ordinance, 5) and consider including all or part of the square footage in the total FAR. Further, review successes and failures.**

**M/S A. Carlson/McKeithen Ayes: 5 Noes: 0 Absent: 0 Abstain: 0**

**REGULAR AGENDA (Items 22 - 26)**

**22. CONSIDERATION AND DIRECTION TO STAFF REGARDING RESIDENT AWARENESS AND EMERGENCY PREPAREDNESS (Continued from the meeting of April 19, 2006)**

**Vice Mayor Alan Carlson said the City Council needed to define its own role in an emergency and needed better knowledge as to staff's role. The Town had a reaction plan, not a preparation plan. He believed the best vehicle to realize the goal was to create a two-member subcommittee to be the coordinating body to develop an overall preparedness plan for the Town.**

**Mayor Marsala noted that the citizens' emergency preparedness group began as a result of Council's meeting in January. The Council approved \$120,000 for next year for emergency preparedness. He agreed the next step would be a subcommittee to review and recommend actions to achieve the goals.**

**Council Member McKeithen agreed and volunteered to chair the committee since she was involved with CERP and the OES. She would be receiving Portola Valley's operations plan. She proposed reviewing it, along with the old one from Atherton.**

**The rest of Council concurred and a discussion ensued on the process to create a subcommittee and its composition: 1) a representative from the ACIL Emergency Preparedness Committee, 2) individuals from various areas of the Town, and perhaps 3) team captains.**

**City Manager Jim Robinson suggested that Vice Mayor Alan Carlson and Council Member McKeithen meet to develop the role and scope of the subcommittee as well as whom to include in the membership. The Town's plan that was adopted in 1999 was currently under review and was scheduled to be completed in July.**

Direction to staff to schedule an item for the City Council Meeting of July 19, 2006, to create a two-member subcommittee of the Council on emergency preparedness. In the interim, Vice Mayor Alan Carlson and Council Member McKeithen will meet to develop the role and scope of the committee.

**23. SECOND READING AND ADOPTION OF AN ORDINANCE REGARDING TIME LIMITS FOR COMPLETION OF CONSTRUCTION**

**MOTION – to adopt Ordinance No. 566, “AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ESTABLISHING TIME LIMITS FOR COMPLETION OF CONSTRUCTION AND AMENDING CIVIL PENALTY PROVISIONS AND RENUMBERING CODE SECTION PERTAINING TO VIOLATIONS OF CHAPTER 15.40 PERTAINING TO CONSTRUCTION REGULATIONS”**

**M/S McKeithen/J.Carlson                      Ayes: 5    Noes: 0    Absent: 0    Abstain: 0**

**24. FIVE YEAR EXTENSION OF KNOX PLAYSCHOOLS LEASE**

City Manager Jim Robinson presented the staff report. A request to extend the lease for one five-year period was before the Council. The lease agreement was adopted in 2001 and the request was a year late. However, a letter dated May 29, 2006, was received requesting to exercise the five-year option. Eighty to ninety students from the Town were enrolled in the playschool. Council could approve or deny the request. The extension included an increase in the rent and identified the property to be leased from the Town. Staff did not object to the extension.

Council Member McKeithen said the property should be transferred to the Town before the lease extension took affect on July 1, 2006. The insurance should be increased to \$2,000,000. Additionally, she had heard many good things about the school.

Council Member Janz suggested the security deposit be increased to \$6,000, equaled to one month’s rent. Regarding the modular building, he was not sure the Town would want the modular building in another five years and suggested an option be added, the landlord option, to require the tenant to remove the property at the end of the lease.

**MOTION – to approve an amendment to the Knox Playschool’s lease authorizing an extension of the lease’s term for a period of five (5) years, commencing July 1, 2006, through June 30, 2011. Further, that the security deposit be increased to \$6,000, that a “landlord” option be added requiring the tenant to remove the property at the end of the lease, and that the transfer documents be completed by June 30, 2006.**

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

**25. ADOPTION OF RESOLUTIONS PERTAINING TO THE NOVEMBER 2006 GENERAL MUNICIPAL ELECTION**

Acting City Clerk Kathi Hamilton presented the staff report. Three terms of the Atherton City Council would expire in November and the process to hold a General Municipal Election was beginning. The nomination period opened on Monday, July 17 and closed on Friday, August 11, 2006. A resolution calling for the election and requesting the services of the County was included for Council's approval. Additionally, a second resolution was included that established a deposit requirement of \$400 for candidates wishing to file a Statement of Qualifications for publication in the ballot and set the length of the statement at 200 words. Council had the option of changing the length of the statement to 400 words. The estimated cost of the election was \$10,000, which was included in the 2006/2007 Adopted Budget.

Council Member McKeithen suggested adding language that the nomination period would be extended for five days to August 16, 2006, if an incumbent did not file.

**MOTION – to adopt Resolution No. 06-10 calling for a General Municipal Election to be held on November 7, 2006, for the purpose of electing three (3) members of the Atherton City Council and requesting consolidation with the County Elections Office; and to adopt Resolution No. 06-11 requiring candidates to pay the prorated cost of publication and distribution of the Statement of Qualifications and specifying the length of the Statement at 200 words.**

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

**26. POSSIBLE CANCELLATION OF AUGUST CITY COUNCIL MEETING**

After a brief discussion, Council concurred to cancel the meeting.

**MOTION—to cancel the regularly scheduled City Council Meeting of August 16, 2006**

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

**27. PUBLIC COMMENTS**

There were no public comments.

**28. ADJOURNMENT**

**Mayor Marsala adjourned the meeting at 9:20 p.m.**

**Respectfully submitted,**

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**Kathi Hamilton  
Acting City Clerk**