



**MINUTES**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON**  
**CHANNEL DRAINAGE DISTRICT**  
**November 16, 2005**  
**7:00 p.m.**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California

**REGULAR MEETING**

Mayor Conwell called the meeting to order at 7:02 p.m.

**1. PLEDGE OF ALLEGIANCE**

**ROLL CALL**

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

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

**3. PRESENTATIONS**

**a.     Annual Red Ribbon Week Presentation**

**Police Chief Bob Brennan and Reserve Police Sergeant Bruce Potts presented awards to the Annual D.A.R.E. Red Ribbon Week poster contest winners from local elementary schools.**

**b.     Annual Tree Awards – Atherton Tree Committee**

**Town Arborist Kathy Hughes Anderson and Tree Committee President Denise Kupperman presented the Annual Tree Awards to Marts and Sue Beekley, Susan and Steve Bird, Kate and David Burton, Owen and Connie Hawkins, Bob and Bobbi Huber, Debra and Jim McLean, and Paul Marsili.**

**c.     America Recycles Day Proclamation**

Mayor Conwell presented the Proclamation declaring November 15, 2005, America Recycles Day.

4. **COUNCIL REPORTS**

- Council Member Janz said representatives of the Atherton Caltrain Corridor Subcommittee attended the Caltrain Joint Powers Board (JPB) meeting and the Transportation Authority (TA) meeting. The design work for the Atherton Train Station was 85% completed. Caltrain ridership was up, and the TA was not looking to restore local train service. A Regional Rail Plan, spearheaded by the Metropolitan Transportation Commission and involving Caltrain, BART, all rail transit agencies, and ABAG, was to be developed for the entire Bay Area. The study was just under way, and a workshop was scheduled for November 30, 2005, at 6 p.m., in San Jose.
- Vice Mayor Marsala said a March remodel was scheduled for the Holbrook-Palmer Park Pavilion. Building Official Mike Hood and he made a presentation to the Palo Alto Realtors Board. At the League of California Cities Conference, the Helen Putnum Award was given to the City of Belmont for its D.A.R.E. program and to Manhattan Beach for its Home Alarm Program, two of the same programs that the Town of Atherton provided. Police Chief Brennan was listed in the Library newsletter regarding his chess playing with kids.
- Council Member Carlson attended the General Plan Committee meeting which was well attended and concerned various construction issues. The General Plan Committee decided to break the issues into segments and meet once a month. The next meeting was scheduled for Thursday, December 1, 2005, at 6 p.m., with an emphasis on construction hours and length of construction projects.
- Council Member McKeithen attended the Audit Committee meeting on November 2, and discussed the draft financial statements. The auditors recommended instituting a fraud policy, and the committee was preparing one. City Manager Jim Robinson and she toured the emergency supply depot in Menlo Park. Supplies were stored by categories related to health, emergency, electrical, etc. Individuals needed to be self-sufficient. State-of-the-art drums that held 55 gallons of water were available for \$73, had a four-day capacity for a family of four, and stayed good for five years. Peter Carpenter, Menlo Park Fire Protection District, was scheduling a meeting for local jurisdictions to discuss how to work together in a disaster.
- Mayor Conwell attended the last Criminal Justice meeting that afternoon. In mid 2006, metering lights would be installed at the entryways to Hwy. 101. Airport noise was improving over the West Coast. He attended a presentation on emergency services at the Exposition Center in San Mateo.

5. **PUBLIC COMMENTS**

Jerry Carlson, Atherton, spoke regarding the scheduling of the independent Police Department survey. He congratulated the Town on its unqualified audit and made several comments related to the audit. Additionally, he commented on Administrative

Leave for the City Manager, cleanup work around Selby Lane School, and the report by the School Resource Officer at Menlo-Atherton High School.

City Manager Jim Robinson noted the Selby Lane Road project was deferred to next spring because of weather, other projects, and a re-bidding process. Staff would repair any pot holes areas until the project began in the spring.

**6. STAFF REPORTS**

- **City Attorney Marc Hynes reported out of the 7:30 a.m. Closed Session as follows:**

**A. 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)**

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

**Employee Organization: Teamsters Local Union 856**

**Non-management Miscellaneous Employees**

**Agency Negotiator: James H. Robinson, City Manager**

**Employee Organization: Management Employees**

**Direction was given to the Agency Negotiator, James H. Robinson.**

- **City Attorney Marc Hynes reported out of the 6:00 p.m. Closed Session as follows:**

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

**Agency Negotiator: James H. Robinson, City Manager**

**Employee Organization: Management Employees**

**Direction was given to the Agency Negotiator, James H. Robinson.**

**B. PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Pursuant to Government Code Section 54957.6 (f)**

**City Attorney**

**Evaluation was conducted and direction was given to the City Attorney for the December City Council agenda.**

- C. **CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION**  
Pending litigation pursuant to Government Code Sections 54956.9(a):  
San Mateo County Superior Court Cast No. CIV440523 – Town of  
Atherton v. Vivek Ranadive

Direction was given to the City Attorney.

- D. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**  
Initiation of litigation pursuant to Government Code Section 54956.9(c):

1 potential case

The City Attorney gave a report to the City Council, and no action was taken.

- Building Official Mike Hood said building permit application turnaround time was approximately four weeks. A new Building Inspector was hired and would begin work the first week of December.

7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT**

The Community Organization Roundtable Report of the Holbrook-Palmer Park Foundation and Atherton Dames was postponed.

**CONSENT CALENDAR** (Items 8 - 23)

Council Member Carlson requested Item Nos. 16 and 20 be removed from the Consent Calendar and placed on the Regular Agenda for discussion.

Council Member McKeithen had the following corrections: Item No. 8, “*Mr. Upp*” was misspelled; Item No. 12, the “Now Therefore” clause in the Resolution should read “...*Joint Exercise of Powers*”; No. 13, Police Chief Brennan clarified budget information was known well in advance of the deadline; Item No. 14, City Manager Robinson said prepaid dues in the amount of \$450 would be returned to Atherton’s General Fund; Item No. 21, in the Resolution, 2<sup>nd</sup> line, delete the words “*the support of,*” and the 2<sup>nd</sup> Whereas should read “approve potential *local* funding”; Item No. 22, in the Resolution heading, “Employment” was misspelled.

**MOTION** - to approve the Consent Calendar as presented with the exception of Item Nos. 16 and 20 that were removed and placed on the Regular Agenda for discussion.

M/S Carlson/Janz

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

8. **APPROVED MINUTES OF REGULAR AND SPECIAL MEETINGS OF OCTOBER 19, 2005**

9. **APPROVED BILLS AND CLAIMS FOR OCTOBER 2005 IN THE AMOUNT OF \$ 1,536,988**
10. **ACCEPTED MONTHLY FINANCIAL REPORT FOR OCTOBER 2005**
11. **ACCEPTED ANNUAL FINANCIAL STATEMENTS AND AUDIT REPORT FOR THE YEAR ENDED JUNE 30, 2005**
12. **ADOPTED RESOLUTION APPROVING THE FIRST AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT FOR THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY (SBWMA)**

**Adopted Resolution No. 05-45 approving the First Amended and Restated Joint Exercise of Powers Agreement for the South Bayside Waste Management Authority.**

13. **AMENDMENT TO NARCOTICS TASK FORCE AGREEMENT**

**Authorized the Mayor to sign the updated Joint Powers Agreement in order to continue participation in the San Mateo County Narcotics Task Force.**

14. **ADOPTED RESOLUTION AND AMENDMENT TO JOINT POWERS AGREEMENT PROVIDING FOR THE TERMINATION OF THE CRIMINAL JUSTICE COUNCIL OF SAN MATEO COUNTY**

**Adopted Resolution No. 05-46 authorizing the execution of an amendment to the Joint Powers Agreement Establishing the Criminal Justice Council of San Mateo County, which amendment would disband the Criminal Justice Council.**

15. **ACCEPTED WORK, AUTHORIZED TO RECORD NOTICE OF COMPLETION AND APPROVED CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$12,267.00 FOR THE 2004 STREET RECONSTRUCTION - PHASE 1, PROJECT NO. 03-011**

**Accepted the work, authorized the recording of a Notice of Completion and approved contract change orders in the amount of \$12,267.00 for the 2004 Street Reconstruction - Phase 1, Project No. 03-011.**

- ~~16. **DECLARATION OF SURPLUS PROPERTY (Removed)**~~

~~**Recommendation: Declared specific Town property as surplus and authorize the City Manager, or his designee, to dispose of identified property.**~~

17. **ACCEPTED QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDED SEPTEMBER 30, 2005**

**18. SECOND READING AND ADOPTION OF ANIMAL CONTROL ORDINANCE REVISION, ORDINANCE NO. 561**

**Held second reading and adopted revisions to Chapter 6.04 of the Atherton Municipal Code (Section 6.04.010 and following) to conform with recent amendments to the San Mateo County Animal Control Ordinance.**

**19. APPOINTMENT OF REPRESENTATIVE TO THE SAN MATEO COUNTY MOSQUITO ABATMENT DISTRICT BOARD OF TRUSTEES**

**Accepted Screening Committee recommendation to reappoint Doris Kellett to the San Mateo County Mosquito Abatement District Board of Trustees, for a term of four years.**

**~~20. ADOPTION OF A RESOLUTION ADOPTING SALARIES AND BENEFITS FOR MANAGEMENT STAFF FOR FISCAL YEARS 2005-06 THROUGH 2007-08~~**

**~~Recommendation: Adopt Resolution No. 05-47 adopting salaries and benefits for Management Staff for Fiscal Years 2005-06 through 2007-08.~~**

**21. ADOPTED A RESOLUTION IN SUPPORT OF INSTALLATION OF FOUR QUADRANT GATES AT CALTRAIN RAILROAD CROSSINGS AS RECOMMENDED BY THE CALTRAIN CORRIDOR COMMITTEE**

**Adopted Resolution No. 05-48 in support of four-quadrant gates at both Caltrain railroad crossings, Fair Oaks Lane and Watkins Avenue.**

**22. ADOPTED A RESOLUTION APPROVING AN AMENDMENT TO THE CITY MANAGER EMPLOYMENT AGREEMENT**

**Adopted Resolution No. 05-49 approving the Third Amendment to the City Manager Employment Agreement**

**23. SCHOOL RESOURCE OFFICER AGREEMENT WITH THE SEQUOIA UNION HIGH SCHOOL DISTRICT**

**Authorized the Mayor to sign the updated agreement with the Sequoia Union High School District to continue the School Resource Officer Program at Menlo-Atherton High School.**

**PUBLIC HEARINGS NONE**

**REGULAR AGENDA** (Items 24 - 29)

**16. DECLARATION OF SURPLUS PROPERTY**

**Recommendation:** Declare specific Town property as surplus and authorize the City Manager, or his designee, to dispose of identified property.

Council Member Carlson had a philosophical problem with selling gas masks, paint ball guns, and paint ball protective masks to the general public.

Police Chief Bob Brennan said part of the reason was to experiment with selling on EBay as other public agencies had tried.

After discussion, a decision was made to destroy/dispose of the surplus items and not sell any of the items on EBay.

**MOTION – to destroy/dispose of surplus property as listed in Exhibit A**

M/S McKeithen/Carlson

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

**20. ADOPTION OF A RESOLUTION ADOPTING SALARIES AND BENEFITS FOR MANAGEMENT STAFF FOR FISCAL YEARS 2005-06 THROUGH 2007-08**

**Recommendation:** Adopt a Resolution adopting salaries and benefits for Management Staff for Fiscal Years 2005-06 through 2007-08.

Council Member Carlson stated during the Closed Session, an amendment was made to the Resolution, Section 7, adding language that Administrative Leave would be accrued at the rate of 1.53 hours per pay period.

Council Member McKeithen asked whether the Town did a comparison with other jurisdictions pertaining to benefits that were equivalent to money, e.g., medical leave, car allowance, etc.

City Manager Jim Robinson said generally speaking the 70<sup>th</sup> percentile comparison related to salary. Differences in other management benefits were very diverse, and Atherton generally provided less than other agencies. Although the Town compared itself to ten cities, the reality was when hiring, the Town competed with every city in the Bay Area.

**MOTION – to adopt Resolution No. 05-47 with the following addition to Section 7. Administrative Leave: “Administrative Leave shall accrue at the rate of 1.53 hours per pay period. Managers employed by the Town as of the adoption of this Resolution shall be credited with a pro-rata share of Administrative Leave hours applicable from July 1, 2005, to the present time.”**

M/S McKeithen/Carlson

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

Mayor Conwell acknowledged and thanked Doris Kellett who was reappointed to the Mosquito Abatement Board for her many years of service.

Doris Kellett expressed her appreciation to the Council for reappointing her. The West Nile Virus was a serious threat in California; however, few mosquitoes were found in Atherton.

**24. DISCUSSION AND POSSIBLE DIRECTION TO STAFF RELATED TO MENLO COLLEGE FIELD USE ISSUES (Continued from the City Council Meeting of October 19, 2005)**

**Recommendation:** Continue the discussion to the City Council Meeting of December 14, 2005.

**MOTION -- to continue the discussion to the City Council Meeting of December 14, 2005.**

M/S Carlson/Janz

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

**25. REPORT ON POTABILITY OF WELL WATER IN HOLBROOK-PALMER PARK**

Building Official Mike Hood presented the staff report. A report from Catalyst Environmental, Inc. indicated the well water was of very high quality. However, there were high levels of mercury present. The standards for California drinking water for continuous use set the limit to two parts per billion of mercury. The Holbrook-Palmer Park well water tested at 2.7 parts per billion. In order to make the water drinkable during an emergency, a granulated activated charcoal filtering system could be accessed and would cost a few thousand dollars.

Council Member McKeithen requested staff to provide information at the next City Council meeting on a potential generator hookup, what the cost of a granulated activated charcoal filtering system would be, and whether there were any alternatives. She proposed the well water be tested twice a year.

In response to Council questions, Building Official Hood said U.S. Filter would make recommendations for the type of filtering system needed and would depend on the quantity of water being pumped. The well was a high-volume well and was flow tested at 125 gallons per minute. In an emergency, water would probably be distributed in gallon containers. Realistically, one might use up to 25 to 50 gallons a day for total needs; however, for cooking and drinking, only a gallon per person would be used.

Mr. Craig Johnson, Atherton, spoke from the audience, regarding the use of swimming pool water as a potential drinking water source during an emergency.

Direction was given to staff to return to the Special City Council Meeting of December 14, 2005, with information on a potential generator hookup, what the cost of a charcoal filtering system would be, and whether there were any alternatives.

**26. REPORT AND DIRECTION TO STAFF REGARDING TOWN OF ATHERTON DRAINAGE POLICY**

Building Official Mike Hood presented the staff report. In response to Council's questions from the previous meeting, there were two instances of pumping groundwater to aid construction, one on Greenoaks Drive and one on Catalpa. He was considering entering into a contract with Ed Boscacci who held a Masters Degree in Hydrology and would exam the Town's Drainage Policy, i.e., high ground areas, areas of steep slope, and analysis of current Drainage Policy. He and City Manager Jim Robinson met with Mr. Craig Johnson's attorney. They reviewed options and were awaiting a response.

Council Member McKeithen was disappointed by the report and thought certain items requested from the previous meeting had not been addressed. She said Mr. Upp had volunteered his services to help prepare the Request for Proposal (RFP) and asked whether the RFP was going out for bid.

Building Official Hood said three hydrology firms had been researched; and based on his preliminary review, he was focusing on Ed Boscacci. The cost appeared to be less than \$15,000 and could be handled at the staff level unless Council directed otherwise. Most issues from the previous meeting would be addressed in the hydrologist's analysis. The USGS map was the result of an extensive study and showed the level of the groundwater throughout the Town.

Council Member Carlson was interested in seeing the RFP so Council would be satisfied with what was included.

Council Member McKeithen concurred and wanted to know what the different aspects would cost.

Discussion regarding groundwater pumping into the Atherton Channel from 222 Greenoaks and a possible violation/citation by the Regional Water Quality Control District ensued. The Town had a countywide permit to act in behest of the Regional Water Quality Control Board. Certain things were categorically exempt, i.e., rainwater. The next level of exemption was the pumping of uncontaminated groundwater. The Town tested the water, met the requirements, and a permit was not required but required notification. Additionally, possible alternatives to pumping into the Channel were discussed such as reinjecting the water into another area or limiting the digging of basements below ground level. A problem with reinjecting into the aquifer was the issue of water quality; however, a reinjection well was possible.

In response to Vice Mayor Marsala, City Attorney Marc Hynes said the first step in changing the Town's ordinance to limit digging basements was to complete the study to

find out where the water table was and what the recommendations were and then craft the ordinance.

Council Member Carlson said the proposal should come back to the Council so all the questions could be included in the study.

Craig Johnson, Atherton, spoke from the audience and asked what the chances were that the vacuum caused by the pumping of water would be filled with salt water.

Council Member Carlson thought it an excellent question to include in the RFP.

Council Member McKeithen clarified that because the Town took on the obligation and the cost of testing the water from Greenoaks Drive, an order to stop pumping was not issued and a \$10,000 per day fine was not assessed.

By consensus of the Council direction to staff was given to continue to develop the Request for Proposals (RFP) for a consultant, to return the proposed RFP to the Special City Council Meeting of December 14, 2005, for Council review and discussion, and to include a statement of costs.

Mayor Conwell called for a recess at 8:50 p.m. The meeting was reconvened at 9:00 p.m.

**27. APPROVAL OF A “NO PARKING” SIGN ON VICTORIA DRIVE NEAR MENLO COLLEGE (Oral Report)**

Police Chief Bob Brennan presented the staff report. Three temporary “No Parking” signs were posted on November 1, 2005, on the northwestern portion of Victoria Lane. A few days later, the signs had been torn down and cars were once again parking in the area. Staff wanted to wait another month before recommending one of three options for a permanent solution: 1) Install “No Parking” signs every 50 feet on Victoria Lane, Leon, and Douglass Way; 2) install three “Resident Parking Only” signs at the beginning of each street; or 3) install a padlock on the gate and give access to residents.

Laura Boat, Douglas Way, spoke on behalf of the Victoria Manor homeowners. The results of a survey showed most residents favored some type of parking restrictions rather than locking the gate.

A discussion ensued on the pros and cons of the various alternatives.

Staff will continue to monitor and assess the effectiveness of the temporary “No Parking” signs and return to the Special City Council Meeting of December 14, 2005, with a recommendation for a permanent solution. No action was taken.

**28. DISCUSSION AND CONSIDERATION OF PROPOSAL TO DEVELOP SENIOR HOUSING WITHIN THE TOWN OF ATHERTON (Oral Presentation)**

**Skip and Linda Law, Atherton, presented a proposal to develop senior housing on Town property. The Laws specialized in public/private real estate partnerships with a non-for-profit implication. When residents want to downsize, they need to leave Atherton. Putting senior housing on top of public facilities, paid for by Law and Associates, would benefit the Town. The first step was for Law and Associates to fund a facilities assessment study to determine the Town's long-term facility needs. If the Town's parking lot were in fact excess land, would it make sense to build senior housing? The outcome would be a long-range facility plan at no cost to the Town, increased annual revenues by leasing the land, new Town facilities with no capital expenditures or rent, retention of residents, and meet the state housing mandate. The Laws had met with the Finance Committee and City Manager Jim Robinson. The Laws were requesting that the Council direct the City Manager and City Attorney to develop an agreement to further analyze a senior housing proposal without making any future commitment to the proposer.**

**In response to Council questions, Mrs. Law said they would need to work with the Town to determine the appropriate number of units, probably 30 to 40 units at most. Senior housing had restrictions for age but could not be limited to Atherton residents. A shuttle service could be offered and a provision for limited parking stalls to control traffic. The study would take a couple of months. In order to build the senior housing, a General Plan amendment and rezoning would be necessary. The Laws were working with Rob Steinberg, President of Steinberg Architects, the premier architect for senior housing in the country.**

**Discussion continued on the pros and cons, alternate properties, noise issues, helping with the restoration of Caltrain service, etc. Mrs. Law said the study would focus on the strategic plan for the Town for the next decade and how the six acres worked.**

**Mayor Conwell was concerned the project would be a tremendous change and open avenues commercially. He personally did not think the project fit within the profile of Atherton.**

**Duane Bay, former Mayor and Council Member from East Palo Alto and current Director of Housing for San Mateo County, encouraged Council to look at the project and spoke in support of the Laws.**

**Elizabeth Lewis, Atherton, spoke in support of the proposal.**

**Council Member Janz said the state mandated that cities/town have an approved Housing Element that required providing a fair share of additional housing as the state's population grew. The Town had not been able to get its Housing Element approved thus far. Perhaps a project like the proposed one would help to have Atherton's General Plan approved by the state.**

Vice Mayor Marsala believed the proposal was a “no-lose” for the Town.

Council Member Carlson said discussions regarding inadequate/temporary Town facilities had taken place over the years and public funds were not available; therefore, he believed the Town should at least go through the process to see what was possible.

Council Member McKeithen’s primary concern was for the community. She believed there was a lot to gain; however, she thought community meetings needed to take place sooner rather than later to learn the community’s concerns and feelings. She wanted to learn about other communities who have implemented the model and what changes occurred because of it.

**MOTION - to direct the City Manager and City Attorney to develop an agreement between the Town of Atherton and Laws and Associates to further analyze a senior housing proposal without making any future commitment to the proposer and to be returned to the Special City Council meeting of December 14, 2005, or the Regular City Council meeting of January 18, 2006.**

M/S Marsala/Janz

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

City Manager Jim Robinson asked what specific expectations were to be returned in December or January.

The Council wanted the entire Town property to be looked at and incorporated into a conceptual Master Plan that eliminated temporary buildings and included total facility needs, i.e., a Police Department, Administrative Offices, and Permit Center into one facility.

**29. SET DATE FOR TOWN MEETING ON EMERGENCY PREPAREDNESS**

**Recommendation: Discuss and consider setting a date for a Town-wide emergency preparedness-training event.**

City Manager Jim Robinson said Council requested at its last meeting that staff schedule a Town-wide emergency preparedness-training event. Three dates were available for the Holbrook-Palmer Park Pavilion. Staff was recommending either January 21 or 28 in order to advertise in *The Athertonian*.

By consensus, direction was given to staff to schedule January 21, 2006, as the date for a Town-wide emergency preparedness-training event from 9 a.m. to Noon, at the Holbrook-Palmer Park Pavilion.

**30. PUBLIC COMMENTS**

There were no public comments.

**31. ADJOURNMENT**

**Mayor Conwell adjourned the meeting at 9:52 p.m.**

**Respectfully submitted:**

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**Linda Kelly, Acting City Clerk**

**Minutes Prepared by:  
Kathi Hamilton**