



**MINUTES**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON**  
**CHANNEL DRAINAGE DISTRICT**  
**December 14, 2005**  
**7:00 p.m.**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California

**SPECIAL MEETING**

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

1. **PLEDGE OF ALLEGIANCE**

**ROLL CALL**

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

**ABSENT:** William R. Conwell (Excused)

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

3. **PRESENTATIONS**

Presentation to Outgoing Mayor William R. Conwell

Mayor Conwell was not present at the meeting. A presentation would be made at a future meeting.

4. **CITY COUNCIL REORGANIZATION**

Selection of Mayor and Vice Mayor

Nominations for the Office of Mayor and Vice Mayor were conducted by Acting City Clerk Linda Kelly.

Council Member McKeithen nominated Vice Mayor Marsala for the office of Mayor. Council Member Carlson seconded the nomination.



**6. PUBLIC COMMENTS**

Jerry Carlson, Atherton, spoke regarding the following issues: 1) the status of the Police Department independent survey; 2) the presence of concrete pipe and a sand pile on Selby Lane in front of the school; 3) the bike and walking path on the north side of Selby Lane; 4) offered that the ACIL would help with the disaster preparedness training in January; 5) the related issue of looting in an emergency situation; and 6) the plan for the reserves from last year. On behalf of the Selby Education Foundation Board/ACIL Board, he offered best wishes to Linda Kelly in her new position and thanked her for all her hard work.

**7. STAFF REPORTS**

- **City Manager Jim Robinson said the Town would advertise the January disaster preparedness training session and extend an invitation to the Menlo Park Fire Protection District, as well as to committees/commissions, residents of the Town, and neighborhood associations. Council Member McKeithen requested a copy of the list of CERT-trained residents in next week’s Council mail packets. The Council would be receiving a list of committee assignments to enable the mayor to appoint Council Members to those committees. The mid-year budget review would take place at the January meeting. A proclamation was prepared in recognition of Linda Kelly. City Manager Robinson thanked Ms. Kelly for her hard work and dedication to the staff and residents of the Town.**
- **Mayor Marsala presented the proclamation to Linda Kelly.**
- **Linda Kelly thanked the Mayor, Council, City Manager, and community for their support and that she enjoyed her work in the Town, which would serve her well in the Town of Fairfax.**
- **City Attorney Marc Hynes reported out of the Closed Session as follows:**

**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 Negotiator.**

**Agency Negotiator: James H. Robinson, City Manager; Craig Jory, Jory HR  
Employee Organization: Teamsters Local Union 856  
Non-management Miscellaneous Employees**

**Directions were given to the Agency Negotiator.**



**14. AGREEMENT FOR ARTWORK DISPLAY IN TOWN OFFICES AND LIBRARY**

Approved the art exhibition agreement with Pacific Scribes for a display of calligraphy art in the Town Offices and Atherton Library for the period of February 1, 2006 through February 28, 2006.

**PUBLIC HEARINGS NONE**

**REGULAR AGENDA (Items 15 - 20)**

**15. DISCUSSION AND POSSIBLE DIRECTION TO STAFF RELATED TO MENLO COLLEGE FIELD USE ISSUES (Continued from the City Council Meeting of November 16, 2005)**

**Recommendation:** Continue to the City Council Meeting of January 18, 2006.

**MOTION** – to not continue the item to the January 18, 2006, Council meeting and to request the item be placed on a future agenda when all parties were available to meet

**M/S McKeithen/Carlson                      Ayes: 4    Noes: 0    Absent: 1 (Conwell)    Abstain: 0**

**16. PROPOSAL FOR WELL WATER IN HOLBROOK-PALMER PARK**

**Recommendation:** Provide staff direction regarding emergency water supply in Holbrook-Palmer Park.

**Public Works Director Duncan Jones presented the staff report. At Council's direction, staff looked into filtration systems and emergency electricity to make the irrigation well at Holbrook-Palmer Park operational during an emergency for drinking water. The electricity element was quite expensive and required a 50 KW generator. Staff proposed two low-cost alternatives: 1) install water storage tanks in the corporation yard that would hold 5,000 to 10,000 gallons of water and provide a number of days of emergency water supply; or 2) install an additional well with a small-capacity pump with a filtration system which would give an unlimited supply of water. The advantage of installing storage tanks was they would be an additional irrigation source for the park. However, a serious limitation would be when the tanks went dry, there would be no water. Staff believed the second alternative was the better of the lower-cost alternatives.**

**Council Member McKeithen believed the \$80,000 expenditure to supply an unlimited amount of water in case of an emergency, along with the ability to use the buildings as a command center, did not seem too high a price.**

**Discussion centered on the merits of drilling a new well with a 50 KW pump vs. the advantages of having a 100 KW generator which could supply electricity to other buildings in case of an emergency.**



**19. ADOPTION OF AN AMENDED RESOLUTION ESTABLISHING A PERMIT PARKING AREA IN THE VICTORIA MANOR NEIGHBORHOOD**

**Recommendation:** Approve an amended resolution establishing a permit parking area in the Victoria Manor neighborhood for installation of four signs at the entrance to the neighborhood, Douglass Way, Leon Way, and the north end of Victoria Drive at the fire gate.

Police Chief Bob Brennan presented the staff report. He had worked with the residents of Victoria Manor over the past several months to find a solution to the parking problem, which included college and event parking. The residents indicated they preferred the residential permit parking alternative which was consistent with other areas surrounding the campus.

**MOTION – to adopt Resolution No. 05-50, “A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON AMENDING RESOLUTION NO. 00-30 GOVERNING TRAFFIC AND PARKING PURSUANT TO ATHERTON MUNICIPAL CODE, SECTION 10.04.010,”** establishing a permit parking area in the Victoria Manor neighborhood and authorizing the installation of four signs at the entrance to the neighborhood, Douglass Way, Leon Way, and the north end of Victoria Drive at the fire gate.

M/S McKeithen/Janz

Ayes: 4 Noes: 0 Absent: 1 (Conwell) Abstain: 0

**20. CONSIDERATION AND ADOPTION OF TOWN OF ATHERTON FRAUD POLICY**

**Recommendation:** Approve the attached policy pertaining to fraud as recommended by Town auditor and Atherton Audit Committee.

Finance Director John Johns presented the staff report. A Fraud Policy was recommended by the auditors as part of their Management Letter recommendations. Nothing had changed with the Town’s internal control structure to prompt the recommendation but represented an increased expectation on the part of the auditors to perform their due diligence. Auditing standards had evolved as a result of audit failures in recent years. The Fraud Policy did specify what behaviors/actions by employees were prohibited or constituted a violation, but it did not represent a change in expectations for employees since these behaviors/actions had always been prohibited. Staff worked with the Audit Committee and the City Attorney to ensure that the Fraud Policy met the needs of the Town not only in providing a degree of transparency in the investigation and reporting of fraudulent activity, but also in providing some protections to the employees who were the subject of or were reporting alleged fraudulent activity.

Council Member Carlson suggested adding a provision to Section III Procedures, Item C, Employees Responsibilities, that if an employee believed the city manager was engaged in fraud, that the complaint be directed to the City Attorney.

Council Member Janz suggested in Section III Procedures, Item B, Management Responsibilities, that No. 8 be placed after No. 3 and become No. 4 since that was the order of progression for notification. No. 10 should be clarified to include the words “provide to the internal auditor” full and unrestricted access to all records and personnel... Section D, Internal Auditor Responsibilities, No. 6, needed to include reporting the results of the investigation to the City Council even when the allegations were unfounded.

Council Member McKeithen asked that the word “incorrect” be deleted from “incorrect accusations” in No. 11a.

Jerry Carlson, Atherton, wanted assurance that the internal auditor was qualified to handle an investigation.

City Manager Jim Robinson said depending upon the type of fraudulent activity, the Finance Director or the Town’s auditor could conduct an investigation or evaluate a situation for the purpose of obtaining an outside auditor. He would confer with the City Council in obtaining an outside auditor.

**MOTION – to continue the item to the City Council Meeting of January 18, 2006, to allow staff to redraft the Fraud Policy consistent with the comments articulated by the City Council and to be placed on the Consent Calendar**

M/S Carlson/McKeithen Ayes: 4 Noes: 0 Absent: 1 (Conwell) Abstain: 0

Mayor Marsala called for a recess at 8:19 p.m. The meeting was reconvened at 8:29 p.m.

**17. DISCUSSION AND DIRECTION TO STAFF REGARDING REQUEST FOR PROPOSALS FOR A CONSULTANT REGARDING TOWN OF ATHERTON DRAINAGE POLICY**

**Recommendation:** Staff recommends that the City Council give direction to staff regarding scope of work in RFP for Town-wide drainage study.

Building Official Mike Hood presented the staff report. A draft Request for Proposals (RFP) to review the Town Drainage Policy was before the Council. The current policy was to require new construction to take the storm waters that were generated onsite and keep them onsite for a while to reduce peak flows that go to the Atherton Channel or to the Redwood Creek Channel. The draft RFP was prepared as a guide document for the Council to review and suggest modifications. The RFP contained an evaluation of the drainage channels through Town, percolation tests, and an evaluation of the current policy based upon doing groundwater tests to see if there were any measurable trends.

Discussion took place on the timing of the RFP, receiving responses, making a decision on a consultant, and whether the process would be returned to the Council.

**Council Member Janz was concerned with key point No. 10, Collect construction standards for incorporation into the Town's Storm Drainage Design Criteria, because it seemed more like a solution and went further than the study was expected to go. Additionally, he suggested adding an item to quantify the impact of the addition of impervious surfaces to a parcel.**

**Council Member McKeithen said with regard to key point No. 6, Inventory detention facilities and evaluate their effectiveness, she suggested an inventory of who was pumping water into the Atherton Channel and the pros and cons of doing that. She also requested recommendations of optimum solutions for the drainage issues, a map of the land affected by rising groundwater west of the Alameda, and what the cause was. She requested if a resident came forward with a question/problem, that it be brought to the Council's attention outside of a regular meeting for consideration and possible inclusion in the proposal.**

**Mayor Marsala, with regard to Task 3, asked to add the possible effect of groundwater on vegetation (oak trees) and adjoining properties. On Task 6a, the County Health Department said the Town was unable to clear its dry wells. He suggested taking into account the long-term effects if the wells were totally closed, including the Water Quality Resources Board's view. On Task 11, he suggested adding an item to take into consideration the possible impact of the runoff from the County's land above the Town, e.g., Sharon Heights Golf Course.**

**Council Member Carlson's understanding was that the Town currently had a town-wide drainage requirement for houses being built that did not vary from locale to locale. Conditions greatly varied across the Town so that what was effective in one part of Town might not be effective in another. He asked whether the study would provide the necessary information, such as west of the Alameda conditions were "x," and what the solution was to meet the fundamental Town policy.**

**Building Official Hood suggested the need for some rational basis for departing from the current policy. If water was going to be delivered to the right-of-way, i.e., pumping water west of the Alameda, the study would provide the empirical data to show what conditions would allow for that so as to not exacerbate the situation.**

**Casey McClure, Atherton, lived west of the Alameda, did not want the study limited to the type of soil. Houses were being built larger, with huge basements, and used a great deal of the soil originally intended for onsite detention.**

**Council Member Carlson suggested that staff include real life cases including what caused the change. Three properties came to mind: Ms. McClure's, Mr. Johnson's, and 397 Stevick Drive.**

**City Manager Robinson said staff would take Council's comments and send them to Mr. Bocacci to modify the RFP and, if Council so directed, return the RFP to Council for final approval.**

Council gave direction to staff to make changes to the Request for Proposals (RFP) as follows: 1) additional impact on impervious surfaces; 2) impact of runoff from County land uphill; 3) effect of large basements and reduction of water containment area; 4) prepare a localized drainage plan west of the Alameda; 5) provide case studies documenting what caused the change; 6) recommend optimum solutions for drainage issues; and 7) replace key point No. 10 with an inventory of who is pumping water into the Atherton Channel and the pros and cons of doing that. Return the RFP to the Council at its January 18, 2006, meeting.

**18. DISCUSSION AND DIRECTION TO STAFF REGARDING DRAINAGE ISSUES ON STEVICK DRIVE AND MANDARIN WAY (Oral Report)**

**Recommendation:** Staff recommends that the Council hear and consider issues related to drainage on Stevick Drive and Mandarin Way.

Building Official Mike Hood said a concern was raised regarding the current drainage policy on Stevick Drive and Mandarin Way, hillside properties. The issue was the downhill property owner was negatively affected by the runoff. Council was asked to consider a short-term solution to pump the water into a detention trench and then slowly pump the storm water into the right-of-way (street) which would flow to the Alameda and then flow to Redwood City.

Council Member Carlson suggested a possible solution would be to simply enact an emergency ordinance that said if lot is higher than “x” feet above an adjoining property, a site-specific plan should be developed that addressed the issue to be brought before the Planning Commission.

Council Member McKeithen proposed creating a drainage bond to hire an outside expert to assess the problem and provide a solution.

Council Member Janz suggested developing criteria based on elevation/slope for an emergency ordinance; and if the property fell under the criteria, a study by a hydrologist would be required that pertains to the particular situation and evaluates the impact on adjacent properties, subject to review by the Building Official and paid for by the applicant.

City Attorney Marc Hynes said rather than an emergency ordinance, a drainage policy could be developed specifically for anything over an “x” elevation.

Council Member Carlson agreed. He favored doing something on a short-term basis while waiting for the long-term solution.

Council Member McKeithen said there were three issues: 1) the long-term study; 2) the interim situations; and 3) the immediate problems (those already permitted). At the January meeting, she requested staff to come back with a recommendation to establish criteria for new projects.

**Council gave direction to staff to return to Council at the January 18, 2006, meeting with a recommendation on how to deal with steep slope issues with future permits. Additionally, staff was directed to meet with the neighbors and property owner of 397 Stevick Drive to perhaps work out a solution outside of the Town policy and report to Council on any progress.**

**21. PUBLIC COMMENTS**

**There were no public comments.**

**ADJOURNMENT**

**Mayor Marsala adjourned the meeting at 9:38 p.m.**

**Respectfully submitted,**

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**Kathi Hamilton  
Acting City Clerk**