



**Town of Atherton  
CITY COUNCIL  
ATHERTON CHANNEL DRAINAGE DISTRICT  
JUNE 17, 2009  
7:00 p.m.  
TOWN COUNCIL CHAMBERS  
94 Ashfield Road  
Atherton, California  
REGULAR MEETING**

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

1. **PLEDGE OF ALLEGIANCE**
2. **ROLL CALL** Lewis, Dobbie, Marsala, McKeithen, J. Carlson
3. **PRESENTATIONS**

**Tree Committee Presentation – Tree Awards**

Kathy Hughes Anderson gave a presentation on the Tree awards and handed out certificates to:

- Wajih and Nayla Sleiman
  - Paul and Lorna Marsili
  - Tom and Terri Bailard
  - Phil and Margaret Winters
4. **PUBLIC COMMENTS** -None
  5. **REPORT OUT OF CLOSED SESSION**

City Attorney Wynne Furth reported that there was no reportable action from closed session

6. **CITY MANAGER'S REPORT**

City Manager Jerry Gruber informed Council that a special meeting will be held on June 23<sup>rd</sup> to discuss possible consideration of a parcel tax from the residential telephone interviews conducted by GODBE. Gruber added that a special meeting will be held on June 25<sup>th</sup> to discuss and review the draft master fee schedule provided by NBS.

City Manager Gruber reported that an Eagle Scout took all the old benches from the Park and restored them. A presentation will be given at the July meeting.

City Manager Gruber stated that the Holbrook Palmer Park fountain is completed and the pedestrian walk bridge on Watkins is in the process of being completed.

City Manager Gruber thanked Council and staff for the time spent on the fiscal year 2009/2010 budget preparation.

Mayor Jerry Carlson asked for an update on the Encinal traffic light. Gruber deferred to Public Works Director Duncan Jones. Jones said the MOU has been sent to the City of Menlo Park and he is awaiting comment.

Mayor Carlson asked about the siren installation on West Atherton Avenue. City Manager Gruber said staff is moving forward with it and the tower is anticipated to be delivered within a week.

7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT** - None

(Directed by Resolution No. 99-6)

**CONSENT CALENDAR** (Items 8-19)

Mayor Carlson removed Item 19 from the Agenda. Council had no objections.

Council Member Marsala stated that Item 13 should be removed and that he will recuse himself because he lives within 500 feet of the property.

Council removed items 11, 13, 14 and 16 to vote on individually.

8. **APPROVAL OF SPECIAL CITY COUNCIL MINUTES OF MAY 20, JUNE 1 AND JUNE 10**

**Recommendation:** Approve May 20<sup>th</sup> special minutes, May 20<sup>th</sup> regular minutes, June 1<sup>st</sup> special minutes and June 10<sup>th</sup> special minutes

Council Member James Dobbie stated that there is a typographical error in the May 20<sup>th</sup> Council meeting minutes. The error was noted and changed.

9. **APPROVAL OF BILLS AND CLAIMS FOR MAY 2009 IN THE AMOUNT OF \$1,267,993**

**Recommendation:** Approve Bills and Claims in the amount of \$1,267,933

10. **ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR THE MONTH ENDED MAY 31, 2009**

**Recommendation:** Accept Monthly Financial Report

12. **APPROVAL OF PLANS AND SPECIFICATIONS AND AUTHORIZATION TO ADVERTISE THE WATER TOWER LAWN PROJECT NUMBER 08-026**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Approve the plans and specifications and authorize advertisement for bids for the Water Tower Lawn Project No. 08-026

15. **AWARD OF CONTRACT FOR THE MAIN HOUSE AND PLAYSCHOOL ROOFS PROJECT NUMBER 08-023 TO SHELTON ROOFING CO. IN AN AMOUNT NOT TO EXCEED \$51,080 PLUS A TEN PERCENT CONSTRUCTION CONTINGENCY, FOR A TOTAL AUTHORIZATION OF \$56,188**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Approve the award of a contract to Shelton Roofing Co. for re-roofing the Main House and Playschool at Holbrook-Palmer Park at a cost not to exceed \$51,080 with a 10% contingency bringing the total to \$56,188

Vice Mayor Kathy McKeithen asked if the playschool contract has been reviewed to see if there is any potential for reimbursement. Public Works Director Jones said he will look into it.

**17. REQUEST FOR INCREASE IN LEGAL SERVICES BUDGET FOR FISCAL YEAR 2008-2009**

**Report:** City Manager Jerry Gruber, City Attorney Wynne Furth

**Recommendation:** Accept legal transaction ad-hoc Committees recommendation to fund legal services for the remainder of fiscal year 2008/2009 for the sum of \$120,000

**18. ACCEPTANCE OF DONATION FROM PRIVATE DONOR OF \$14,286.25 TO OFFSET COST OF NEW POLICE DOG**

**Report:** Chief of Police Glenn Nielsen

**Recommendation:** Approve the acceptance of a private donation of \$14,286.25 to offset the FY 2009/2010 cost of replacing a retiring police dog and authorize the Town to provide a charitable cost letter to the donor

**19. RESOLUTION REJECTING CLAIM OF JONATHAN B. BUCKHEIT**

**Report:** City Attorney Wynne Furth

**Recommendation:** Adopt Resolution 09-20 rejecting claim of Jonathan B. Buckheit

**MOTION by Dobbie, second by McKeithen to approve the Consent Calendar except for Items 11, 13 and 14 and 16 and with the edits made to the May 20<sup>th</sup> minutes in Item 8. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**PUBLIC HEARINGS**

None.

**REGULAR AGENDA (Items 20-26)**

**11. UPDATE OF THE TOWN'S CONFLICT OF INTEREST CODE AND ADOPTION OF RESOLUTION APPROVING APPENDIX "A" DESIGNATING POSITIONS IN THE CONFLICT OF INTEREST CODE**

**Report:** City Manager Jerry Gruber

**Recommendation:** Adopt the attached Resolution No. 09-18 approving Appendix "A" dated June 2009 designating positions and describing disclosure categories in the Conflict of Interest Code

Vice Mayor McKeithen gave edits to the Resolution. Staff took note and the change will be made.

City Attorney Wynne Furth stated that State requires review of the Conflict of Interest Code every two years to update positions with authority.

**MOTION by McKeithen, second by Dobbie to approve Resolution No. 09-18 approving Appendix “A” dated June 2009 designating positions and describing disclosure categories in the Conflict of Interest Code.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**13. APPROVAL OF FINAL PARCEL MAP FOR 50 VALPARAISO AND 1000 EL CAMINO REAL (MENLO SCHOOL AND MENLO COLLEGE)**

**Report:** Deputy Planner Lisa Costa Sanders

**Recommendation:** Determine that the Parcel Map is in conformity with the approved Tentative Parcel Map, the requirements of Title 16 (Subdivisions) of the Atherton Municipal Code and the California Subdivision Map Act and approve the Parcel Map

Council Member Marsala stated that he lives within 500 feet of the property and recused himself.

**MOTION by McKeithen, second by Lewis to approve determination that the Parcel Map is in conformity with the approved Tentative Parcel Map, the requirements of Title 16 (Subdivisions) of the Atherton Municipal Code and the California Subdivision Map Act and approve the Parcel Map. The motion passed.**

Ayes: 4      Nays: 0      Abstain: 0      Absent: 1 (Marsala)

**16. APPROVE SECOND AMENDMENT FOR SERVICES OF USPTA TEACHING TENNIS PROFESSIONAL ALAN MARGOT**

**Report:** City Manager Jerry Gruber

**Recommendation:** Approve second amendment to contract for services of Tennis Professional Alan Margot

Vice Mayor McKeithen stated that the second amendment has the wrong dates. Staff took note and changes will be made.

Council Member Elizabeth Lewis said that she has received comments from residents who have tried to buy tennis keys and haven't been able to reach Alan Margot over the weekend. Lewis suggested including office hours and a fee schedule on the office window with instructions on how to contact Margot if he isn't in his office. Council agreed that language should be added to the contract.

Mayor Carlson said that there is a list of provisions in the contract that are not being followed and should be reviewed by staff.

**MOTION by Carlson, second by Lewis to table Item 16 to the July Council meeting. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**14. APPROVAL OF PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR TRAFFIC ENGINEERING**

**SERVICES FOR THE VALPARAISO CROSSWALK AT HOOVER OR VICTORIA TRAFFIC STUDY IN AN AMOUNT NOT TO EXCEED \$11,770 PLUS A TEN PERCENT CONTINGENCY FOR A TOTAL AUTHORIZATION OF \$12,947**

**Report:** City Manager Jerry Gruber, Public Works Director Duncan Jones

**Recommendation:** Accept the proposal and authorize the City Manager to sign a Professional Services Agreement with Kimley-Horn and Associates, Inc to provide traffic engineering services for the Valparaiso Crosswalk at Hoover or Victoria Traffic Study in an amount not exceed \$11,770, plus a 10% contingency of \$1,177, for a total authorization of \$12,947

Vice Mayor McKeithen suggested foregoing the study and utilizing the money that would have been spent on the study to get the work done. McKeithen added that she contacted Andrea Luskin, an Atherton resident, to confirm where they wanted the crosswalk and Luskin said at Hoover and not at Victoria.

Mayor Carlson asked City Attorney Furth if there are any legal considerations. Furth stated that when public improvements are made on streets you need assurance from your Engineers that they are properly designed for safety.

Public Works Director Duncan Jones said he talked with the City of Menlo Park and they are not certain that this is the safer alternative and they want to see a study to make sure it is.

Council Member Marsala said that having something that justifies the Towns decision protects the Town from any legal consequences.

Laura Boat, Atherton resident, stated that the issue is not the safety of crossing El Camino, its actually getting to El Camino. Boat said there is no safe way to get to El Camino. Boat added that there are shrubs in the way and you have to walk in a single file line. Boat concluded that she uses Hoover and feels that would be the safest place for a crosswalk.

Council Member Marsala asked if it would make more sense to install a walking path at El Camino for people who walk to the Menlo Park train station. Boat said wherever the residents need to go in Menlo Park they use Hoover.

Council Member Lewis asked if anybody has contacted the homeowner who owns the house on the corner of Valparaiso and El Camino to see if they would cut back their shrubs on the corner. Public Works Director said that the homeowner is very adamant about not letting anyone touch their property.

Andrea Luskin, Atherton resident, stated that she had presented a petition to the Council and said that the issues are how to get to El Camino and how to cross four lanes of traffic to get from one side of Valparaiso to the other.

Council Member Marsala asked if there are any laws for distance between crosswalks. Public Works Director Jones said there are no restrictions and that the study would determine whether it would be too close and if it would cause a queue of traffic.

Council Member Dobbie asked if written permission is required by Menlo Park. Jones said yes. Council Member Dobbie suggested getting the written permission before beginning the study.

City Attorney Furth said that crosswalks are very controversial and it is very important to have professional advice so the Town could rely on the study and have “design immunity,” and a legal backing.

Andrea Luskin said that she spoke to the Menlo Park Transportation Committee and they do not require traffic studies if more than 50% of the neighborhood agree to the crosswalk.

Jan MacKenzie, Atherton resident, said she is disappointed to see that the Town wants to spend money on a study. MacKenzie said the residents have put in every effort to present this to the Transportation Committee and Council. MacKenzie concluded that she doesn't feel an accurate study can not be done because residents are avoiding it and driving instead.

Vice Mayor McKeithen suggested directing staff to work with the Victoria Manor residents to approach Menlo Park for a lighted crosswalk at the intersection of Valparaiso and Hoover.

Marsala said he is in favor of going ahead with a study because it would protect the Town.

Council Member Lewis asked how long the study would take and would it delay the process and is it in the budget. Lewis concluded that she agrees with the residents on where to install the crosswalk but thinks it is appropriate to follow the City Attorneys advice that a study would protect the Town.

Public Works Director Jones said the study would take about 60 days and it is in the FY2009/10 budget. Jones concluded that if we go to Menlo Park without the study the process may take longer.

Vice Mayor McKeithen disagreed because Menlo Park Transportation Committee does not require traffic studies. Jones said he spoke to Menlo Park Senior Traffic Engineer earlier that day who stated that a traffic study will be required for this item.

Lewis amended the motion to revise the scope of work to include El Camino with a focus on Hoover.

Vice mayor McKeithen said that the exhibit does not include that scope. Public Works Director said it is the understanding of Kimley Horn they will be including Hoover in the focus.

Council reviewed the proposal and exhibits. Public Works Director Jones suggested removing Victoria Manor from consideration since the residents are looking at El Camino and Hoover.

Andrea Luskin suggested looking at just Hoover and not El Camino since the residents feel that there is nothing that can be done to make it safe.

Public Works Director Jones clarified that Menlo Park Traffic Engineer wants a comparison of the Hoover crosswalk with the El Camino crosswalk to make sure that the Hoover crosswalk is the safer solution.

David Macado, Director of Operations at Menlo School, stated that Menlo School is out for the summer and if a study is done during this time that the traffic and pedestrian numbers might be skewed.

Council Member Marsala stated that he is in favor of a crosswalk at Hoover but feels the study should be done to protect the Town.

Mayor Carlson asked staff if they can negotiate a lower price for the study. Public Works Director Jones said if Victoria Lane is removed from the scope of work the price will drop.

Vice Mayor McKeithen stated that she is in favor of going to Menlo Park for permission before conducting a study.

**MOTION by Marsala, second by Lewis to approve acceptance of the proposal and authorize the City Manager to sign a Professional Services Agreement with Kimley-Horn and Associates, Inc to provide traffic engineering services for the Valparaiso Crosswalk at Hoover or Victoria Traffic Study in an amount not exceed \$11,770, plus a 10% contingency of \$1,177, for a total authorization of \$12,947 with the amendment to the scope of work to include El Camino with a focus on Hoover. The motion failed.**

Ayes: 2      Nays: 3 (Carlson, McKeithen, Dobbie)      Abstain: 0      Absent: 0

**MOTION by Marsala, second by Lewis to approve acceptance of the proposal and authorize the City Manager to sign a Professional Services Agreement with Kimley-Horn and Associates, Inc to provide traffic engineering services for the Valparaiso Crosswalk at Hoover or Victoria Traffic Study in an amount not exceed \$11,770, plus a 10% contingency of \$1,177, for a total authorization of \$12,947. The motion failed.**

Ayes: 2      Nays: 3 (Carlson, McKeithen, Dobbie)      Abstain: 0      Absent: 0

**MOTION by McKeithen, second by Dobbie to direct staff to get a new estimate from Kimley Horn based upon the confines of the new traffic study with the comparison of Hoover and its relative safety as compared to El Camino and not utilizing El Camino as a viable alternative and eliminate the counts in the scope. In the interim work with Victoria Manor residents, Menlo School and Menlo College to make contact with Menlo Park to see if they agree with a study. If Menlo Park agrees to move forward then no study will be conducted. The motion passed.**

Ayes: 3      Nays: 2 (Lewis, Marsala)      Abstain: 0      Absent: 0

Mayor Carlson clarified that if Menlo Park agrees to move forward without a study then staff will move forward.

**20.                    CONSIDERATION AND POSSIBLE ADOPTION OF A RESOLUTION  
ADOPTING THE FY 2009-10 OPERATING AND CAPITAL BUDGET  
Report: City Manager Jerry Gruber, Finance Director Louise Ho**

**Recommendation:** Presentation of proposed budget from City Manager and Finance Director, open public hearing, receive testimony, and close public hearing. After consideration and appropriate direction to staff, Council may adopt Resolution 09-21 adopting Fiscal Year 2009-10 Operating and Capital Budget

Vice Mayor McKeithen and Council Member Lewis gave typographical edits to the Resolution along with clarification errors to exhibit A. Staff took note and will make the changes.

Finance Director Louise Ho stated that this is the proposed final public hearing for the draft FY2009/10 budget. Ho informed Council that revised pages to the budget have been handed out.

Ho reviewed the changes made to the budget since the study session that was conducted on June 1<sup>st</sup>. Ho said the only changes made to the budget were to reduce the City Council's conference budget and to defer one of the lowest priority drainage projects in the Public Works Department in order to fund the traffic studies.

Ho said the final change to the draft budget is the supplemental request for the purchase of a dump truck for Public Works and two Police patrol vehicles which has been added to the equipment replacement fund.

Council Member Marsala stated that Council talked about the future building inspection fund not being in the general fund. Marsala asked if it should be set aside until it is challenged.

Finance Director Ho said that is at the Council's discretion to set up a new fund or close a fund. Marsala said that the money should be validated.

Council Member Marsala said that section 54954.6 of the Brown Act requires that the Town give at least 45 days notice when imposing to enact a general tax or assessment. Marsala concluded that the budget reflects the road impact fee study which Council has not even reviewed yet.

City Attorney said that there is no reason to believe that the road impact fee is not a legal tax and it should not affect adoption of the budget.

Council Member Lewis concurred with Council Member Marsala and wanted to make sure that the fees that are charged by the Town are charged in a legal way so that the Town avoids any reason for refunds in the future.

Mayor Carlson felt that the goals of the City Manager should include an indication of how to measure his goals.

Denise Kuppelman, Atherton resident stated that she has seen a significant improvement of the budget from past years. Kuppelman suggested that the Police Department goals include enforcement of existing codes. Kuppelman questioned how two employees look over 22 acres of Park.

John Rugeiro, Atherton resident, stated that Bob Cushing, Town Code Enforcement, does a great job for the Town and feels that enough money should always be kept in the budget for him.

Mayor Carlson asked if there is any way to solicit volunteers to come help out in the Park for a volunteer day. Public Works Director Jones said it has happened in the past and hasn't been very successful but he certainly can try again.

Vice Mayor McKeithen asked how often the weed service at the Park comes. Public Works Director Jones said they come on an "as-needed" basis. McKeithen stated that she has seen quite a few overgrown weeds and feels that the contractor should be doing a better job.

City Manager Gruber said he is working with the City Attorney to revise the ordinance as it relates to code enforcement and see if fines can be implemented. Gruber added that this would be a self-funding mechanism where the funds would be turned around and put into a code enforcement fund.

Council Member Marsala thanked staff for their time and work on the budget.

**MOTION by McKeithen, second by Marsala to approve adoption of Resolution 09-21 adopting Fiscal Year 2009-10 Operating and Capital Budget with the edits made to the resolution. The motion passed.**

Ayes: 4      Nays: 1 (Marsala)      Abstain: 0      Absent: 0

**21.                    CONSIDERATION AND POSSIBLE ADOPTION OF A RESOLUTION APPROVING THE FISCAL YEAR 2009-10 APPROPRIATIONS LIMIT AND CALCULATIONS**

**Report:** City Manager Jerry Gruber, Finance Director Louise Ho

**Recommendation:** Adopt Resolution 09-22 approving the Fiscal Year 2009-2010 Appropriations Limit and Calculations

**MOTION by Lewis, second by Marsala to table Item 21 to a future Agenda. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**22.                    CONSIDERATION AND POSSIBLE ADOPTION OF A RESOLUTION ASSESSING A SPECIAL TAX FOR MUNICIPAL SERVICES FOR THE FISCAL YEAR 2009-2010**

**Report:** City Manager Jerry Gruber, Finance Director Louise Ho

**Recommendation:** Open public hearing, receive testimony, and close public hearing. After consideration, adopt Resolution 09-23 assessing a Special Tax for Municipal Services for the Fiscal Year 2009-2010 as set forth in Ordinance No. 555

Mayor Carlson stated that this is a resolution the Town must approve yearly to implement using the parcel tax that has been in place as set forth by Ordinance number 555.

**MOTION by Lewis, second by McKeithen to approve adoption of Resolution 09-23 assessing a Special Tax for Municipal Services for the Fiscal Year 2009-2010 as set forth in Ordinance No. 555. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**23. TOWN OF ATHERTON FUND BALANCE POLICY FOR THE GENERAL FUND**

**Report:** Finance Director Louise Ho

**Recommendation:** Approve Resolution 09-24 authorizing the establishment of a Fund Balance Policy for the General Fund

Finance Director Louise Ho said that a draft preliminary general fund reserve policy was presented to the Council in April. Ho added that this policy would be beneficial especially during the economic downturn since it would provide clear guidelines on the amount of reserve to be maintained and when the reserve can be used.

Mayor Carlson said he likes the concept, but the 25% figure is a bit high for the budget stabilization fund and the term “economic uncertainty” and determining when to implement using the reserve is a bit nebulous. Carlson added that with the State threatening to borrow money from cities that Council should think about reopening the entire budget and reviewing expenses rather than taking from reserves.

Council Member Lewis said that she is concerned with the GASB 45 liability and compensated absences that the Town has as ongoing and future liabilities. Lewis said that since there is 25% for the budget stabilization reserve, couldn't it be reduced to 20% or 15% and spread it out between GASB 45 and compensated absences. Finance Director Ho said yes.

Council Member Dobbie said he felt that the 2.7% of unreserved and undesignated is too low and said it should be at a minimum of 5%.

Vice Mayor McKeithen gave edits to the draft policy. Staff took note and will make the changes.

Council Member Marsala said he does not feel that future building expenses should be in the policy and felt that something should be addressed in the policy on how to handle additional legal service funds in the future.

Denise Kuppelman, Atherton resident, said that disasters and unforeseen issues can be very expensive and thinks that the draft condition stating that “under no circumstances should the Town’s annual operating reserves for the general fund fall below 15 %,” is too low of a percentage.

Mayor Carlson reiterated that he likes the concept but he is not comfortable with the terminology and percentages and felt it needed more review.

City Manager Jerry Gruber stated that the Finance Committee could convene to review this. Council agreed.

**MOTION by McKeithen, second by Dobbie to direct the Finance Committee to convene and review the draft fund balance policy and bring it back to the July Council meeting. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**24. DESIGNATE TWO CITY COUNCIL REPRESENTATIVES AND ONE ALTERNATE STAFF MEMBER TO THE PENINSULA CITIES**

**CONSORTIUM FOR HIGH SPEED RAIL AND ADOPT RECOMMENDED GUIDING PRINCIPLES**

**Report:** City Manager Jerry Gruber

**Recommendation:** Designate two Council Members and one alternate staff member to the Peninsula Cities Consortium (PCC) for High-Speed Rail and Adopt Resolution 09-19 establishing recommended guiding principles

Mayor Carlson stated that five Peninsula Cities have signed an MOU which would help in providing information and input for the purpose of working collaboratively with the California High-Speed Rail Authority. Carlson recommended having himself and Vice Mayor McKeithen as the designees since both are on the Rail Committee and are familiar with the situation.

City Manager Gruber recommended Public Works Director Duncan Jones as the alternate staff member.

MOTION by Lewis, second by Marsala to appoint Mayor Jerry Carlson and Vice Mayor Kathy McKeithen as designees and Public Works Director Duncan Jones as the alternate to the Peninsula Cities Consortium for High Speed Rail.

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**25.                    ADOPTION OF MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN OF ATHERTON AND THE ATHERTON POLICE OFFICERS' ASSOCIATION FOR THE PERIOD OF JULY 1, 2008, THROUGH SEPTEMBER 30, 2013**

Report: City Manager Jerry Gruber, Assistant

City Manager Jerry Gruber said that the MOU includes the proposed agreements which have been reached between the negotiators on behalf of the Town and the Union. Gruber added that if adopted, the MOU would be effective July 1, 2008 until September 30, 2013.

Council Member Marsala said the Town has a great Police Department and they represent the Town very well. Marsala felt that the reopener criteria that states "if the Town is unsuccessful in its attempt to secure a long-term funding mechanism through the election process," should be reviewed because the Town may find themselves securing funding but it will not be enough money.

Council Member Lewis said the Police Department does a very good job and they should know that the Council appreciates them.

Mayor Carlson said a grand jury report was recently issued by San Mateo County which addressed compensations issues such as the 70<sup>th</sup> percentile and retiree costs and would like to review the recommendations at a future Council meeting.

Mayor Carlson asked City Attorney Furth under what circumstances can Council reopen negotiations. Furth said that there is a reopener provision that if you find yourself in a position where the only way you can balance your budget is layoffs then Union bargaining can take place.

**MOTION by McKeithen, second by Lewis to approve the adoption of Memorandum of Understanding between the Town of Atherton and the Atherton Police Officers' Association for the period of July 1, 2008 through September 30, 2013. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**26.            AMEND COUNCIL RULES OF PROCEDURE SECTION 5.2 THAT ALLOWS TWO COUNCIL MEMBERS TO PLACE AN ITEM ON A FUTURE CITY COUNCIL AGENDA TO REQUIRE APPROVAL BY COUNCIL PRIOR TO PLACEMENT ON THE AGENDA**

**Recommendation:** Amend Council Rules of Procedure Section 5.2 that allows two Council Members to place an item on future City Council Agenda to require approval by Council under the Future Agenda Items section prior to placement on the Agenda

Council Member Dobbie said that Agenda items can be very dangerous if not approved by the Council and can be very divisive in the Town. Dobbie felt that Agenda items should only be added if a majority of Council approves.

Council Member Marsala said there are items that may make Council Members uncomfortable but feels that it does provide transparency and a colleagues' memo gives the Council and the public something to read and be prepared to speak on. Council Member Marsala concluded that he is in favor of keeping the Council Rules of Procedure Section 5.2 to allow two Council Members to place an item on a Council Agenda.

Council Member Dobbie said that if an item is brought up during Future Agenda Items during a Council meeting and it is a legitimate item then the Council would probably approve it.

Vice Mayor McKeithen said that the Blue Ribbon Task Force had no idea that certain items were being brought to the Council at their last Council meeting and feels that should not happen again. McKeithen said that to improve greater efficiency these things should be brought to the Council and approved on a majority basis.

Council Member Lewis said that at the January Council meeting Council talked about managing the Agendas and how to implement getting items onto the Agenda. Lewis stated that Council approved allowing two Council Members to add an item to the Agenda at their March meeting and now it is recommended to remove that section. Council Member Lewis concluded that she was confused as to why anyone would want to remove that section of the Council rules of procedures because she feels it provides transparency. Council Member Lewis said she was in favor of denying this request.

MOTION by Lewis, second by Marsala to deny the request to Amend Council Rules of Procedure Section 5.2 that allows two Council Members to place an item on future City Council Agenda to require approval by Council under the Future Agenda Items section prior to placement on the Agenda. The motion failed.

Council Member Marsala said that this allows Council Members from a Committee to bring an item to the Agenda and feels like it should be that way to get it out to the Public and address it instead of putting it off for a month.

Ayes: 2      Nays: 3 (Carlson, McKeithen, Dobbie)      Abstain: 0      Absent: 0

Mayor Carlson asked for clarification on the request.

City Attorney Furth said that currently Council has a rule that allows two Council Members to go to the City Manager and ask for an item to be placed on the Agenda, the City Manager will place it on an Agenda and Council is free to discuss it and vote on it. Furth said this new proposal, if approved, would allow two Council Members to ask the City Manager to add an item to the Future Agenda Items section of the Agenda to allow the Council to vote whether or not to add it as a regular agenda item to the next Council meeting Agenda.

MOTION by McKeithen, second by Dobbie to Amend Council Rules of Procedure Section 5.2 that allows two Council Members to place an item on future City Council Agenda to require approval by Council under the Future Agenda Items section prior to placement on the Agenda. The motion passed.

Ayes: 3      Nays: 2 (Lewis, Marsala)      Abstain: 0      Absent: 0

Council Members Lewis and Marsala expressed their feeling that this new procedure is censorship and does not promote transparency.

## **27.                    COUNCIL REPORTS**

Council Member Dobbie said that he is reviewing the draft Blue Ribbon Task Force report.

Council Member Lewis said she attended a League of California Cities dinner, NBS Study Session, City Manager’s evaluation meeting, GODBE meetings, and an SFO airport roundtable.

Vice Mayor McKeithen said she attended an Audit meeting, Ad-Hoc legal committee meeting where invoices and funding were reviewed and a San Mateo County Library JPA meeting where they discussed donor city funds. McKeithen said “we brought forth what happened at the last meeting with regards to donor city funds. The rescinded the motion they had made in February with regard to donor city funds based upon our action (at the May Council meeting).”

Council Member Marsala said he attended an Atherton Lions Club meeting and a muscular dystrophy fundraising event and the San Mateo County Library JPA meeting. Marsala reported that at the June Library JPA meeting there was no mention by Council Member McKeithen at the meeting (May Atherton Council) that Council voted 3-2 in favor of going ahead and getting legal advice on the JPA Agreement. Marsala added that “Vice Mayor McKeithen should have informed the Council that she was going to make a motion to rescind my motion (passed in February).” Marsala concluded that the next Blue Ribbon Task Force meeting is postponed to late July or early August.

Mayor Carlson stated he attended a Transportation meeting in Pleasanton where they discussed High Speed Rail. He added that he sent a letter to Mike Scanlon about the horrible condition of the Fair Oak crossing rail crossing. Carlson added that Redwood City just lost a parcel tax vote. Carlson concluded that he received a letter from the Governor about how the State will do everything they can to not borrow from Cities.

28. **FUTURE AGENDA ITEMS** - None

29. **PUBLIC COMMENTS** - None

30. **ADJOURN**

**MOTION by Dobbie, second by Carlson to adjourn the meeting. The motion passed unanimously.**

Mayor Carlson adjourned the meeting at 10:43 p.m.

**Respectfully submitted,**

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**Theresa DellaSanta  
Deputy City Clerk**