



MINUTES
Town of Atherton
CITY COUNCIL
ATHERTON CHANNEL DRAINAGE DISTRICT
JULY 15, 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**

OATH OF POLICE OFFICER KRYSTAL PRONSKE

Chief Nielsen stated that Pronske was hired with the Atherton Police Department in January of 2009 while she was attending the Police Academy at Evergreen Valley College. Officer Pronske was President of her class and graduated on June 24, 2009. The oath of office was administered and Officer Pronske's badge was pinned by her mother.

RECOGNITION OF ETHAN BANICH - EAGLE SCOUT PROJECT

Public Works Superintendent Steve Tyler introduced Ethan Banich and gave a brief background on the history of Banich's Eagle Scout project.

Banich gave a PowerPoint presentation of his project renovating six park benches located in the Library Park garden.

Council thanked Banich for his work and said he did a fantastic job.

4. **PUBLIC COMMENTS**

Jack Whitman, Atherton resident, informed Council that he is forming a Selby Lane neighborhood organization to keep the neighborhood apprised of any issues in Atherton. Whitman concluded that he hopes to include residents from Selby Lane to Stockbridge Avenue and all streets in between.

Colleen Anderson, Atherton resident, said that on Parker Avenue residents are putting rocks at the street line and building out to the street limiting street parking. There is no safety shoulder. Anderson questioned how this parking issue can be fixed.

Tom Campbell, Atherton resident, stated that he lives on Fenwood Drive and the street was named one of the worst streets in Atherton. Campbell questioned whether Fenwood Drive will be reconstructed this year.

Melinda Trevis, Atherton resident, informed Council that the last two Athertonians do not have Atherton Department contacts and phone numbers.

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 reported that Officer Tim Marks has completed a two week P.O.S.T. motorcycle certification and is now on motorcycle patrol.

Gruber added that Police Chief Glenn Nielsen used personal vacation leave to go to Los Angeles to represent Atherton at the Police Olympics. Nielsen won a silver medal in the men's doubles in Tennis.

Gruber reported that he plans to make sure that all Departments are fiscally responsible and prudent in spending the tax payer's dollars.

Gruber reported that the West Atherton siren has been installed, residents will be informed of testing procedures, and a series of protocols will be followed during testing of the siren. Gruber added that the quad gates and replacement of the roadway at the Fair Oaks railroad crossing will be completed in late August. Gruber thanked Mayor Jerry Carlson and Public Works Director Duncan Jones for their help in getting this done.

Gruber said the Park Bridge on Watkins Avenue is a very nice protected environment where people can enter the park without having to walk all the way down to the main entrances. Gruber asked Jones to comment on the Park Bridge, Valparaiso crosswalk and the Encinal Street light status update. Jones stated that the Park Bridge is designed to be coordinated with a Caltran improvement of the gates at the Watkins crossing where there will be pedestrian gates to help keep the pedestrians off the roadway.

Jones said that he spoke with Menlo Park Public Works Director who believes there should not be any real problem going directly to the Menlo Park City Council to ask for approval of a street light at Encinal. Jones added that he will write an official request for the Menlo Park September City Council meeting. Jones concluded that the Encinal street light Memorandum Of Understanding will also be taken up at the Menlo Park September City Council meeting.

Gruber reported that he has been working with Council Member Elizabeth Lewis and Atherton resident Dick Moore on the possibility of a volunteer work day at Holbrook-Palmer Park to help beautify the Park and possibly hold a BBQ for the residents who attend.

Council Member Lewis said she feels it is a great opportunity for team building and for creating interest in the Park.

7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT** None

CONSENT CALENDAR (Items 8-23)

Mayor Carlson pulled Item 12 from the Agenda.

Council Member Lewis requested pulling items 12, 13, 14, 15, 16, 17 and 22.

Gruber said he met with Alan Margot, Tennis Professional earlier that afternoon. Gruber requested postponing item 17 until August. Council agreed.

Council Member James Dobbie gave edits to item 8 and asked for clarification on items 11 and 19.

Vice Mayor Kathy McKeithen said she gave City Clerk Theresa DellaSanta some grammatical changes to various staff reports in the Agenda packet. A list of those changes was handed out to Council. Vice Mayor McKeithen requested pulling item 22.

Council Member Charles Marsala gave a typed statement of two clauses he wanted added to the June 17th minutes. Staff took note and the changes will be made.

8. **APPROVAL OF MAY 28TH SPECIAL MEETING MINUTES, JUNE 17TH REGULAR MEETING MINUTES, JUNE 23RD SPECIAL MEETING MINUTES AND JUNE 25TH SPECIAL MEETING MINUTES.**

Recommendation: Approve May 28th Special Minutes, June 17th Regular Minutes, June 23rd Special Minutes and June 25th Special Minutes

Council Member Dobbie gave edits to the June 17th meeting minutes. Staff took note and will make the changes.

9. **APPROVAL OF BILLS AND CLAIMS FOR JUNE 2009 IN THE AMOUNT OF \$839,912**

Recommendation: Approve Bills and Claims in the amount of \$839,912

10. **ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR THE MONTH ENDED JUNE 30, 2009**

Recommendation: Accept Monthly Financial Report

11. **AGREEMENT FOR INFORMATION TECHNOLOGY SUPPORT WITH CITY OF REDWOOD CITY FOR FY2009-10**

Report: Finance Director Louise Ho

Recommendation: Approve the agreement for information technology support between the City of Redwood City and the Town of Atherton and authorize the City Manager to execute the agreement

Council Member Dobbie asked why there is a minimum amount that must be paid to the IT consultants. Finance Director Louise Ho stated that if the Town uses over 200 hours they will

received a bill at the end of the fiscal year for excess charges, and if the Town uses under 200 hours then they can choose to have a refund or carry it over. Dobbie asked staff to revise the contract language to reflect that.

- 12. ADOPTION OF A STREET ADDRESS ASSIGNMENT POLICY**
Report: Deputy Planner Lisa Costa Sanders
Recommendation: Adopt Street Address Assignment Policy
- 17. APPROVE SECOND AMENDMENT FOR SERVICES OF USPTA TEACHING TENNIS PROFESSIONAL ALAN MARGOT**
Report: Public Works Director Duncan Jones
Recommendation: Approve second amendment to contract for services of Tennis Professional Alan Margot
- 18. RESOLUTION REJECTING CLAIM OF JONATHAN B. BUCKHEIT**
Report: City Attorney Wynne Furth
Recommendation: Adopt Resolution 09-20 rejecting claim of Jonathan B. Buckheit
- 19. ABAG EMPLOYEE PRACTICES LIABILITY INSURANCE**
Report: Assistant City Manager Eileen Wilkerson
Recommendation: Authorize the City Manager to enter into an agreement with Steadfast Insurance Company (Zurich) to provide Employee Practices Liability Coverage effective July 17, 2009 through June 30, 2010 in an amount not to exceed \$36,000

Council Member Dobbie questioned how many employee exemptions there are to this agreement. Assistant City Manager Eileen Wilkerson said there are 3 exemptions which are all existing situations. Dobbie congratulated Wilkerson for getting this agreement in place. Wilkerson thanked Council for approving the harassment and violence in the workplace policies that were important in acquiring the savings.

- 20. APPOINTMENT OF PAUL SKEEN JONES TO THE ATHERTON RAIL COMMITTEE**
Report: City Manager Jerome D. Gruber
Recommendation: Appoint Paul Skeen Jones to the Atherton Rail Committee for term commencing immediately and expire on April 30, 2011
- 21. REAPPOINTMENT OF DIANE CRITTENDON AND APPOINTMENT OF RICHARD MOORE TO THE ATHERTON PARKS AND RECREATION COMMITTEE AS THE HOLBROOK PALMER PARK FOUNDATION REPRESENTATIVE**
Report: City Manager Jerome D. Gruber
Recommendation: Reappoint Diane Crittendon and Appoint Richard Moore to the Atherton Parks and Recreation Committee as the Holbrook Palmer Park Foundation Representative commencing immediately and expiring on April 30, 2013

22. STATUS UPDATE ON ROAD IMPACT FEE STUDY

Report: Public Works Director Duncan Jones

Recommendation: Accept Status Report from Staff and provide possible direction

23. FAMILY DAY PROCLAMATION – A DAY TO EAT DINNER WITH YOUR FAMILY

Report: City Manager Jerry Gruber

Recommendation: Approve Proclamation for Family Day

MOTION by McKeithen, second by Lewis to approve Items 8, 9, 10, 11, 18, 19, 20, 21 and 23. The motion passed.

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

PUBLIC HEARINGS (24)

7:50 P.M. 24. AN ORDINANCE OF THE TOWN OF ATHERTON CALLING AN ELECTION TO SUBMIT TO THE VOTERS TWO ORDINANCES PROVIDING FOR (1) RENEWAL OF THE PARCEL TAX FOR AN ADDITIONAL FOUR YEARS AND (2) INCREASING THE APPROPRIATION LIMIT TO PERMIT SPENDING THE PROCEEDS OF THE PARCEL TAX FOR THE SAME PERIOD

Report: City Manager Jerry Gruber

Recommendation: Hold a Public Hearing and adopt the following ordinance: An Ordinance of the Town of Atherton calling an election to submit to the voters (1) an ordinance authorizing the renewal of the parcel tax for and additional four years and (2) an Ordinance increasing the Appropriations Limit for the Same Period

City Attorney Wynne Furth reported that the proposed ordinance would allow the Town to submit an ordinance to the voters of Atherton asking to extend the existing parcel tax for four years. Furth said when you propose a parcel tax you must also approve a modification of the Gann limit (the Towns revenue and expenditures limit). Furth said in the past the ordinance and Gann limit modification has been consolidated into one ordinance but is now presented as two separate measures to make it clearer to the residents.

Furth reported that the Ordinance calls an election and consolidates it with the County of San Mateo election and asks the voters to adopt the two ordinances pertaining to the renewal of the tax and the increasing the appropriations limit.

Furth stated that the language of the parcel tax renewal has been modified to the following:

“To continue providing funding to maintain neighborhood police patrols and the Town’s ability to respond to emergencies, repair~~ing~~ and maintain~~ing~~ streets, and repair~~ing~~ and construct~~ing~~ storm drains, shall an ordinance be adopted to continue the existing Town of Atherton Special Parcel Tax for four years?”

Furth stated that if Council agrees the above language will be changed through the resolutions (presented in Item 26) relating to parcel tax renewal.

Council Member Marsala said he is in favor of a language amendment to include infrastructure to allow more flexibility of the funds.

Vice Mayor McKeithen was in favor of keeping the language as is since it was recommended by GODBE and City Manager Gruber.

Council Member Lewis stated her support that the parcel tax should go for Police, safety, roads and streets.

Council Member Dobbie said he would not want the Town to run into any legal issues with the language and said he is in favor of leaving it the way it is.

Furth informed Council that they can choose to adopt an ordinance to set the GANN limit at 1.5 times the parcel tax or set the limit to equal proceeds of the special parcel tax. Finance Director Ho said that in the past the Town has set the limit at 1.5 times.

Mayor Carlson said he is in favor of keeping the limit at 1.5 times. Vice Mayor McKeithen concurred and added that there needs to be public education so it does not look as if the Town is overreaching. The education may include how the language is developed in the measure. McKeithen concurred that an amendment is needed to include “this is in accordance with past practice in the Town.”

Council agreed to amend the language on the GANN limit measure to the following:

“To permit the Town to spend the proceeds of a special parcel tax approved by Atherton voters, **in accordance with past practices** shall an ordinance be adopted increasing the appropriations limit for four years?”

MOTION by Lewis, second by McKeithen adopt the following ordinance: An Ordinance of the Town of Atherton calling an election to submit to the voters (1) an ordinance authorizing the renewal of the parcel tax for and additional four years and (2) an Ordinance increasing the Appropriations Limit for the Same Period with the amendments stated.

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

MOTION by Marsala to amend the motion to change the language to include Public Works infrastructures. The motion failed due to lack of second.

REGULAR AGENDA (Items 25-31)

- 25. ADOPTION OF THE APPROPRIATIONS LIMITS FOR FY 2009-10 AND REVISING THE GANN APPROPRIATIONS LIMIT FOR FY 2002-03, 2003-04, 2004-05, 2005-06, 2006-07, 2007-08, AND 2008-09**
Report: City Manager Jerry Gruber, Finance Director Louise Ho

Recommendation: Adopt Resolution 09-22 approving the Appropriations Limit for Fiscal Year 2009-2010 and for revising the GANN Appropriations Limit for FY 2002-03, 2003-04, 2004-05, 2005-06, 2006-07, 2007-08

Finance Director Ho stated that the GANN limit places restrictions on the amount of tax revenue that can be appropriated by local governments and the limits have to be calculated every year as required by law. Ho added that in addition to calculating the limit for FY2009-10, staff also recalculated previous years from FY2002-03 through FY2008-09 to correct an error in the limit calculation.

Mayor Carlson thanked Finance Director Ho for all of her work on fixing past mistakes.

MOTION by Lewis, second by McKeithen to Adopt Resolution 09-22 approving the Appropriations Limit for Fiscal Year 2009-2010 and for revising the GANN Appropriations Limit for FY 2002-03, 2003-04, 2004-05, 2005-06, 2006-07, 2007-08.

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

26. (1) RESOLUTION SETTING PRIORITIES FOR FILING WRITTEN PRIMARY ARGUMENT(S) REGARDING THE MEASURES AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS TO BE PRINTED IN THE SAMPLE BALLOT AND (2) RESOLUTION PROVIDING FOR THE FILING OF REBUTTAL ARGUMENT(S)

Report: City Manager Jerry Gruber

Recommendation: (1) Adopt a resolution setting priorities for filing written primary argument(s) regarding the measure and directing the City Attorney to prepare an impartial analysis to be printed in the sample ballot; and (2) Adopt a resolution providing for the filing of rebuttal arguments

City Attorney Furth stated that these procedures need to be followed once an election is called. Furth informed Council that they need to establish who will write the primary arguments. Furth concluded that the resolutions will conform to the action Council taken on item 24.

Vice Mayor McKeithen requested that the actual due date for the rebuttal arguments be added to the resolution. Staff took note and will make the change.

McKeithen and Council Member Dobbie volunteered to write the primary arguments.

Furth informed Council that a special meeting is needed during the first week of August to review and approve the draft primary arguments.

MOTION by Lewis, second by McKeithen to (1) Adopt a resolution setting priorities for filing written primary argument(s) and for designating Vice Mayor Kathy McKeithen and Council Member James Dobbie to draft the primary argument regarding the measure and directing the City Attorney to prepare an impartial analysis to be printed in the sample ballot; and (2) Adopt a resolution providing for the filing of rebuttal arguments.

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

27. POLICY DIRECTION ON THE 2007-14 HOUSING ELEMENT UPDATE

Report: Deputy Planner Lisa Costa Sanders

Recommendation: To Be Determined

Deputy Planner Lisa Costa Sanders informed Council that a Town-wide meeting was held last year where policy options and the use of guest houses as second dwelling units as full time habitation were specifically discussed. Costa Sanders said from that meeting staff was able to create a draft document that was reviewed by the General Plan Committee at two different meetings. The General Plan Committee recommended forwarding the draft document to the Planning Commission. General Plan Committee added language for new second units to the document which stated, “with adequate separation from adjacent main building areas.”

Costa Sanders reported that the Planning Commission recommended that staff change the draft update to (1) Expand the Town’s Second Dwelling Unit Program by increasing the allowable size up to 1,200 square feet and to continue allowing the Second Dwelling Unit to be attached to the main dwelling or, if detached, to be located within the main building area, (2) Allow full kitchens in internal living quarters in the main dwelling and increase the projected internal living quarters and second unit construction numbers and occupancy by an amount necessary to meet the remaining basic and carry-over allocation, (3) Include a statement in the “Internal Living Quarters” and “Second Unit” Programs in the draft Update that the Town will conduct a major “community outreach” to increase the number of internal living quarters and second units constructed in the 2007-14 planning period, to justify the increased construction and occupancy, and (4) Reduce the added site capacity projections to near 150 units, rather than providing a surplus over the RHNA numbers.

Costa Sanders concluded that the Town has hired Barbara Kautz as legal representation and for preparation of the document. Kautz and her staff have reviewed the draft document and have some concern that the document will not be approved by the State because it does not have a basis for the number of units shown in the document.

Mayor Carlson asked what the main issue is between the General Plan Committee and the Planning Commission. Costa Sanders said the difference of agreement is whether or not you can use an accessory structure for full-time habitation and the number of internal living spaces.

Vice Mayor McKeithen stated that the directive tonight as a Council is to fulfill the requirement of the state mandated requirements of the housing element and to keep the Town as close to the quality of life that our residents have appointed us to do. McKeithen suggested that the Town could increase the buildable area by 600 square feet to the extent it becomes a second dwelling unit or to the extent the second dwelling unit is on a smaller than one acre lot proportional to the size of the original lot. McKeithen suggested that the Town could offer an incentive such as waiving the building permit. She questioned whether that change would meet the requirements of the State.

Costa Sanders said that as long as we show the State that we have good production then the State will rely on that production. She added that there are a lot of accessory structures being built and even if they are not being rented out the State still considers them as a net new legal dwelling unit.

Council member Dobbie said that if we cannot limit the number of people who live in the second unit dwellings then it could change the atmosphere of Atherton. Dobbie said if the buildable area can be increased to 1200 square feet he would support it.

Council Member Marsala asked what Atherton's lot setbacks are. Costa Sanders said that on a standard acre lot it is 60-foot rear and 50-foot sides.

Herman Christensen, Atherton resident and Vice Chair of Planning Commission, stated that the main issue is to maintain quality of life in view of the State mandated requirements. Christensen said that the location of the dwelling has been discussed at length. Christensen concluded that the Planning Commission feels that the Town can reach the state mandated requirements by encouraging the use of second dwelling units in the main building area.

Phil Lively, Atherton resident, stated that he is in favor of second units within the main house area and allowing more kitchens in the main house. Lively read a list of possible incentives to offer.

Carol Smith, Atherton resident and Vice Chair of the General Plan, stated her support of the General Plan Committee and Planning Commission reviewing the document further.

Barbara Kautz, Town Attorney for housing element advice, stated that Housing and Community Development (HCD) has the authority to determine whether or not to allow second units to fulfill the State requirements and the HCD's determinations are based on past production.

Marsala felt that increasing the setbacks would be problematic and asked Kautz her opinion. Kautz said the General Plan Committee supported allowing second units to be used for housing as long as they had adequate distance from adjacent main building areas. Kautz said this still needs to be defined.

Council Member Lewis stated that she felt that since Barbara Kautz was hired by the Town to advise them on the Housing Element that the Town should follow her advice. Lewis concluded that the Town has passed the deadline for submitting the housing element.

Mayor Carlson felt that a discussion meeting between the General Plan Committee, Planning Commission, and City Council would help finalize the document.

Lewis felt that the document should be given to the General Plan Committee with further direction from Council following the recommendation of the Town's paid consultant who felt the General Plan Committees approach was more favorable.

McKeithen suggested sending the document back to the Planning Commission for more information on setbacks in surrounding jurisdictions.

MOTION by Dobbie, second by McKeithen to send the housing element update document to the Planning Commission with specific direction to (1) look at setbacks and the data that supports the reason for the number of units based upon setbacks or incentives used and any other viable information in the four surrounding jurisdictions that the General Plan recommended and, in addition, look at Monte Sereno, and (2) use at least three elements, namely, the potential waving of permit fees on second units, 10 to 20 percent or more on

encroachments on the non-buildable area, and look at adding square footage to the FAR based upon looking at data from the five jurisdictions.

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

28. ENVIRONMENTAL PROGRAMS COMMITTEE RECOMMENDS APPROVAL OF RECOLOGY (FORMERLY NORCAL WASTE INC.) AS THE COLLECTION CONTRACTOR

Report: City Manager Jerry Gruber

Recommendation: Consider the Environmental Programs Committee recommendation to approve Recology (Formerly Norcal Waste Inc.) as the Collection Contractor for the Town of Atherton

City Manager Gruber gave a brief background report on the item.

Council Member Marsala stated that a number of agencies have approved this and felt that this should be approved soon in order to meet the deadline to order trucks.

Mayor Carlson expressed his reservation in approving this contractor until responses to the recent Grand Jury report regarding South Bay Waste Management Authority (SBWMA) are received. Carlson would like to wait and see if any agencies are reconsidering. Council concurred.

Kevin McCarthy, Executive Director SBWMA, stated that the Board will vote on a response to the Grand Jury on July 23rd and he has not heard that any agencies plan to reconsider.

John Zirelli, Recology, suggested that Council allow their staff to move forward with discussions on operations in order to meet the October 1st deadline to order trucks.

Vice Mayor McKeithen said she would support the City Manager moving forward with informal discussions on operations with Recology but no formal approval will be given until the next Council meeting. Council concurred.

Mayor Carlson suggested that the Environmental Programs Committee discuss tipping fees at the next meeting.

No action taken.

29. ENVIRONMENTAL PROGRAMS COMMITTEE RECOMMENDS APPROVAL OF AN APPROPRIATE SURVEY TO GAUGE RESIDENT PREFERENCES FOR SERVICE LEVELS AS THE COLLECTION CONTRACT IS NEGOTIATED

Report: City Manager Jerry Gruber

Recommendation: Consider the Environmental Programs Committees recommendation for approving an appropriate survey to gauge resident preferences for service levels as the collection contract is negotiated

Council Member Marsala stated that a survey is not needed at this time and that the Environmental Programs Committee will bring a recommendation to the Council if it is needed in the future.

No action taken.

30. ENVIRONMENTAL PROGRAMS COMMITTEE RECOMMENDS CITY COUNCIL RECONSIDER THEIR VOTE AND APPROVE BOND FINANCING FOR THE SHOREWAY FACILITY IN VIEW OF BETTER COST NUMBERS THAT ADDRESS COUNCIL'S CONCERNS

Report: City Manager Jerry Gruber

Recommendation: Consider the Environmental Programs Committee recommendation to reconsider City Council vote and approve bond financing for the Shoreway Facility

City Manager Gruber gave Council a brief background report on this item.

Mayor Carlson wanted staff to review potential risks in view of these tough economic times. Gruber said that the obligations for each member agency would not be greater than their portion.

Council Member Dobbie suggested waiting until the Board responds to the Grand Jury report. Dobbie said that he was under the assumption that if one member agency defaults the other member agencies are liable to pay for it.

Vice Mayor McKeithen asked why Hillsborough approved the bond financing and then backed out. Kevin McCarthy said the Town of Hillsborough wanted the approved plan of finance to include the use of variable rate debt. The Town also had some other ideas regarding the use of private placement financing to supplement variable rate debt. McCarthy concluded that Hillsborough backed out solely because their finance plan was different than SBWMA.

Kevin Ufret, SBWMA financial advisor, gave Council background on the type of bonds used for financing the Shoreway facility.

MOTION by Marsala, second by Lewis to approve bond financing for the Shoreway Facility as presented in the staff report with a CAP of 6.75%. The motion passed.

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

Mayor Carlson asked Council if they would like to proceed past 10:30 p.m. Council came to a consensus that they would continue past 10:30 p.m.

15. APPROVE A CONTRACT CHANGE ORDER FOR INDEPENDENT CONSTRUCTION CO. FOR THE STREET RECONSTRUCTION PHASE 5 PROJECT NUMBER 08-023 IN THE AMOUNT OF \$48,798.58

Report: Public Works Director Duncan Jones

Recommendation: Approve a Contract Change Order for Independent Construction Co. for Street Reconstruction Phase 5 Project, project number 08-023 in the amount of \$48,798.58

Council Member Lewis asked if the change order was due to a possible error on the contractor's advice. Public Works Director Duncan Jones said the remedy that created the change order was for

the specific problem that was discovered and staff chose not to go as far as the geotechnical work suggested.

MOTION by McKeithen, second by Lewis to approve a Contract Change Order for Independent Construction Co. for Street Reconstruction Phase 5 Project, project number 08-023 in the amount of \$48,798.58. The motion passed.

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

16. APPROVAL OF AGREEMENT WITH CSG CONSULTANTS FOR CODE ENFORCEMENT IN AN AMOUNT NOT TO EXCEED \$45,188

Report: Building Official Mike Wasmann

Recommendation: Approve a Professional Services Agreement with CSG Consultants, Inc. to provide Code Enforcement Services to the Town of Atherton in the amount of \$45,188.00, with a 20% contingency for a total of \$54,250.00 for the fiscal year 2009-010

Council Member Lewis asked how the requests of code enforcement are prioritized. Building Official Mike Wasmann said that the requests are prioritized in regards to life and safety issues such as swimming pools, enclosures, and mosquito abatements.

MOTION by McKeithen, second by Dobbie to Approve a Professional Services Agreement with CSG Consultants, Inc. to provide Code Enforcement Services to the Town of Atherton in the amount of \$45,188.00, with a 20% contingency for a total of \$54,250.00 for the fiscal year 2009-010. The motion passed.

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

31. REQUEST TO ISSUE A REQUEST FOR PROPOSALS (RFP) FOR PROFESSIONAL PUBLIC INFORMATION CONSULTING SERVICES

Report: City Manager Jerry Gruber

Recommendation: Authorize the City Manager to solicit Requests for Proposals (RFP) from qualified consultants, firms, and consulting teams to provide professional public information consulting services related to public education of services, policy, and programs provided by the Town

Vice Mayor McKeithen asked what the request for proposal is intended for. Assistant City Manager Eileen Wilkerson said it is to provide the public with information on the effects of the upcoming parcel measure using past and present facts, avoiding rhetoric and actions that urge a particular result.

MOTION by Lewis, second by McKeithen to Authorize the City Manager to solicit Requests for Proposals (RFP) from qualified consultants, firms, and consulting teams to provide professional public information consulting services related to public education of services, policy, and programs provided by the Town. The motion passed.

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

13. AWARD OF WATER TOWER LAWN PROJECT AT HOLBROOK PALMER PARK FOUNDATION

Report: Public Works Director Duncan Jones

Recommendation: Award the contract for the Water Tower Lawn Project, project number 08-026 to the low bidder to be determined by the July 14th bids, for an amount to be determined by City Council at its meeting, based on the bid results and to authorize the City Manager to execute the contract on behalf of the Town

Public Works Director Jones informed Council that a new staff report has been distributed to reflect the lowest bidders at the bid opening which took place the day before.

Council Member Lewis expressed her concern that there are severe water shortages and increases in water rates over then next few years. She added that with the budget cuts we have had to cut landscape maintenance and wondered if there are any other options then installing this lawn. Jones stated that water would come from the Town well.

Council Member Dobbie said that the Atherton Dames raised approximately \$75,000 for this lawn and it will enhance the park.

Council Member Marsala said that staff should look at a policy which would let agencies and foundations know that the Town can not incur the overhead costs for everything that is funded by the agency or foundation.

MOTION by McKeithen, second by Dobbie to award two contracts for the Water Tower Lawn Project, project number 08-026 to SCAPES, INC. (PHASE 1) and J.J. NGUYEN (PHASE 2) the low bidders on the July 14, 2009 bids, for \$28, 775.90 (PHASE 1) and \$48,044.40 (PHASE 2) with a 10% construction contingency of \$7,682.03, for a total authorization of \$84,502.33; and to authorize the City Manager to sign the contracts on behalf of the Town. The motion passed.

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

14. AWARD OF CONTRACT TO G. BORTOLOTTO & COMPANY, INC. FOR THE STREET RECONSTRUCTION PHASE 6 PROJECT NUMBER 08-025 IN AN AMOUNT NOT TO EXCEED \$390,264.65 PLUS A TEN PERCENT CONSTRUCTION CONTINGENCY, FOR A TOTAL AUTHORIZATION OF \$429,291.11

Report: Public Works Director Duncan Jones

Recommendation: Award the contract for Street Reconstruction Phase 6 Project, project number 08-025 to G. Bortolotto & Company, the low bidder on the July 9, 2009 bids, for \$390,264.65, with a 10% construction contingency of \$39,026.46, for a total authorization of \$429,291.11 and to authorize the City Manager to sign the contract on behalf of the Town

MOTION by Lewis, second by McKeithen to Award the contract for Street Reconstruction Phase 6 Project, project number 08-025 to G. Bortolotto & Company, the low bidder on the July 9, 2009 bids, for \$390,264.65, with a 10% construction contingency of \$39,026.46, for a total authorization of \$429,291.11 and to authorize the City Manager to sign the contract on behalf of the Town. The motion passed.

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

32. COUNCIL REPORTS

Council Member Marsala reported that he attended an Environmental Programs Committee meeting earlier that day.

Council Member Dobbie reported that he attended a Holbrook-Palmer Park Foundation meeting and thanked Denise Kuppelman for using her house for the meeting.

33. FUTURE AGENDA ITEMS

Council Member Marsala requested that an item be added to the August Agenda for discussion and action by Council to add a subcommittee or other mechanism to deal with Town facilities outside of the Town Center.

MOTION by Marsala, second by Lewis to add discussion and action by Council to add a subcommittee or other mechanism to deal with Town facilities outside of the Town Center. The motion passed.

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

34. PUBLIC COMMENTS - None

35. ADJOURN

MOTION by Carlson, second by Marsala to adjourn the meeting. The motion passed.

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

Mayor Carlson adjourned the meeting at 11:00 p.m.

Respectfully submitted,

**Theresa DellaSanta
Deputy City Clerk**