



**MINUTES**  
**Town of Atherton**  
**CITY COUNCIL**  
**ATHERTON CHANNEL DRAINAGE DISTRICT**  
**APRIL 21, 2010**  
**7:00 p.m.**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California  
**REGULAR MEETING**

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

1. **PLEDGE OF ALLEGIANCE**

2. **ROLL CALL** Lewis, Dobbie, Marsala, McKeithen, J. Carlson

3 **PRESENTATIONS**

None

4. **PUBLIC COMMENTS**

Don Horsley, retired Sheriff for County of San Mateo, informed Council that he is running for Supervisor of District 3 in San Mateo County. Horsley briefly indicated his background and reacquainted himself with Council. Horsley concluded that his priorities as Supervisor are public safety, access to good, quality healthcare and quality education.

Morris Brown, Menlo Park, said he is a plaintiff in a lawsuit directed at California High Speed Rail and Caltrain. Brown said the suit seeks to have them adhere to the restrictions that are in place in the Proposition 1A bond measure. Brown suggested Atherton join him in the suit.

Mya Perkins, Aide to San Mateo County Supervisor Rose Jacobs Gibson, read a letter from Supervisor Jacobs Gibson for the record. The letter was addressed to Mayor McKeithen and outlined the efforts San Mateo County is taking to ensure High Speed Rail Authority address concerns and serve the interest of San Mateo County residents.

Mike McPherson, Atherton resident, said refunding road impact fees that are passed the statute of limitations is outrageous. McPherson said Council should reconsider refunding the fee.

Jon Buckheit, Atherton resident, said he took it personally in the special meeting held earlier in the evening when Council Members prevented him from being appointed to the Finance Committee. Buckheit said he would be willing to pay for a polygraph test for all Council Members.

Richard Moore, Atherton resident, said beautification day in the Park was held last weekend and it turned out to be a wonderful event. Moore said he will come back to Council and request holding another event.

Vice Mayor Dobbie thanked Moore on behalf of Council and staff.

Shirley Carlson, Atherton resident, said approximately 900 people attended the Easter egg hunt in the Park. Carlson thanked everyone who was involved in helping put together the successful event.

Melinda Tevis, Atherton resident, asked for an answer on why City Attorney Furth wrote three separate memos regarding the loan allegations of Council Member Marsala. Tevis said Los Altos Hills still charges a road impact fee and asked why Atherton rescinded the fee. Tevis concluded that she is appalled that Council would only fill two seats on the Finance Committee.

John Ruggeiro, Atherton resident, said Don Horsley is running for Atherton's District as a Board of Supervisor and the election is on June 8<sup>th</sup>. Ruggeiro said he will vote for Mr. Horsley.

**MOTION by Dobbie, second by Carlson to continue this meeting to after the special meeting. The motion passed unanimously.**

Council took up the April 21, 7:00 p.m. Special City Council meeting.

**Council resumed the regular meeting at 7:45 p.m.**

**5. REPORT OUT OF CLOSED SESSION**

**B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION  
(Subsection (a) of Government Code Section 54956):**

*John P. Johns v. the Town of Atherton, San Mateo County Superior Court  
Case No. CIV 479972*

**C. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION  
(Subsection (b) of Government Code Section 54956.9):  
One (1) potential case:**

*Jonathan B. Buckheit v. Tony Dennis, Dean DeVlugt, The Town of Atherton,  
The County of San Mateo, and Does 1-500, inclusive - U.S. District Court for  
the Northern District of California, San Francisco Division, Case No. CV 09-  
5000*

**D. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED  
LITIGATION (Subsection (B) of Government Code Section 54956.9):  
One potential case:**

*California Tort Claim by Silvester M. Rabic, as Domestic Trustee on Behalf  
of the J.B.B Trust*

Assistant City Attorney Ben Winig Council only met regarding Item C and there is no reportable action.

Assistant City Attorney Winig reported that at a March 29, 2010 Special City Council meeting Council voted in closed session 3-2, with Marsala and Lewis opposed, to approve a settlement agreement with former finance director John Johns. Winig said the settlement was signed on April 9, 2010 but did not become finalized until April 19 for a variety of legal reasons. Winig concluded that the agreement includes a payment of \$225,000 to Johns for a release of all claims against the Town, its current and former employees, Council Members and contractors.

**6. CITY MANAGER'S REPORT**

City Manager Gruber said he is working to solicit input from the community by keeping his office hours open between 2:00 p.m. and 5:00 p.m. on the fourth Thursday of every month in order to improve communications with Town residents. Gruber said Chief Guerra will also hold his own series of meetings on the same day between 9:00 a.m. and 10:00 a.m. and 6:00 p.m. and 7:00 p.m.

Vice Mayor Dobbie asked if the addition of a southbound left turn lane from Middlefield to Marsh Road in the Menlo Gateway project would lead to two left turn lanes. Gruber said that is what is being currently proposed but nothing has been finalized.

**7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT - None  
CONSENT CALENDAR (Items 8-19)**

Council Member Lewis removed Item 14 and had questions on items 15, 16 and 19. Lewis said she will not vote on the March 26 minutes under Item 8 because she was not at the meeting.

Council Member Carlson said he can not vote on the March 26 minutes and has comments on item 13.

Council Member Marsala said he can not vote on the March 26 minutes since he was not present.

Mayor McKeithen said she has comments on item 9. McKeithen said item 14 will be removed and discussed after item 20 and before item 31.

**8. APPROVAL OF MARCH 17, 2010 REGULAR MEETING, MARCH 26 AND APRIL 7 SPECIAL MEETING MINUTES**

**Recommendation:** Approve March 17, 2010 regular, March 26 and April 7 special meeting minutes

**9. APPROVAL OF BILLS AND CLAIMS FOR MARCH 2010 IN THE AMOUNT OF \$1,104,156**

**Recommendation:** Approve Bills and Claims in the amount of \$1,104,156

Mayor McKeithen said the Town is not dealing with a balanced budget and suggested residents start looking through the bills and claims and make suggestions as to where cuts should be made. McKeithen asked Town residents to become more involved in the budget process and attend the workshop on April 26<sup>th</sup>.

10. **ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR THE MONTH ENDED MARCH 31, 2010**  
**Recommendation:** Accept Monthly Financial Report
  
11. **RETURN UNTIMELY CLAIM OF KIMBERLY R. SWEIDY & RAYMOND P. STATA RECEIVED ON MARCH 3, 2010**  
**Report:** Assistant City Manager Eileen Wilkerson  
**Recommendation:** Instruct Staff to return the claim of Kimberly R. Sweidy & Raymond P. Stata without action as it is untimely
  
12. **PROCLAMATION DECLARING WEST NILE VIRUS AND MOSQUITO AND VECTOR CONTROL AWARENESS WEEK**  
**Recommendation:** Approve Proclamation Declaring West Nile Virus and Mosquito and vector Control Awareness Week
  
13. **APPROVE A LETTER TO THE CALIFORNIA HIGH SPEED RAIL AUTHORITY PROVIDING COMMENTS ON BAY AREA TO CENTRAL VALLEY HIGH-SPEED TRAIN REVISED DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT MATERIAL**  
**Report:** Public Works Director Duncan Jones  
**Recommendation:** Approve a letter to the California High Speed Rail Authority (CHSRA) providing comments on Bay Area to Central Valley High-Speed Train Revised Draft Program Environmental Impact Report (EIR) Material.

Council Member Carlson thanked Public Works Director Duncan Jones for the excellent letter he created.

15. **ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$3,131.31 FOR THE PROJECT NUMBER 08-026**  
**Report:** Public Works Director Duncan Jones  
**Recommendation:** Accept work and authorize recording of a notice of completion and approving contract change orders in the amount of \$3,131.31 for the Holbrook Palmer Park Water Tower Lawn (Phase 1) Project Number 08-026

Council Member Lewis said every time a notice of completion is brought to Council it comes with a change order. Lewis said she would like to know before the notice of completion comes whether or no the change orders are absolutely critical. Lewis concluded that the contingency shouldn't be used up just because it is factored in.

16. **ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$6,951.52 AND INCREASED QUANTITY COSTS IN THE AMOUNT OF \$11,230 FOR THE POLHEMUS AVENUE STORM DRAIN IMPROVEMENT PROJECT NUMBER 08-011**  
**Report:** Public Works Director Duncan Jones  
**Recommendation:** Accept work and authorize recording of a notice of completion and approving contract change orders in the amount of \$6,951.52 and increased quantity cost in

the amount of \$11,230 for the Polhemus Avenue Storm Drain Improvement Project Number 08-011

**17. AWARD OF CONTRACT TO METHOD CONSTRUCTION FOR THE GARDEN ROOM RENOVATION PROJECT NUMBER 09-025 IN AN AMOUNT NOT TO EXCEED \$65,000 PLUS A TEN PERCENT CONSTRUCTION CONTINGENCY, FOR A TOTAL AUTHORIZATION OF \$71,500**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Award the contract for Garden Room Renovation Project, project number 09-025 to Method Construction, the low bidder on the April 15, 2010 bids, for \$65,000, with a 10% construction contingency of \$6,500, for a total authorization of \$71,500; and to authorize the City Manager to sign the contract on behalf of the Town

**18. APPROVE RESOLUTION 10-22 OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ELIMINATING THE BLUE RIBBON TASK FORCE**

**Report:** City Manager Jerry Gruber

**Recommendation:** Adopt Resolution 10-22 Disbanding and Eliminating the Blue Ribbon Task Force from the Town Committee Roster

**19. 2009 ANNUAL REPORT TO THE CITY COUNCIL ON THE ATHERTON GENERAL PLAN IMPLEMENTATION**

**Report:** Planner Neal Martin

**Recommendation:** Accept the Annual Report and authorize its transmittal to the California Governor's Office of Planning and Research and the California Department of Housing and Community Development pursuant to Section 65400 of the California Government Code (CGC)

Council Member Lewis asked if this has anything to do with the housing element report. Deputy Town Planner Lisa Costa Sanders said this is only an annual report.

**MOTION by Dobbie, second by Lewis to approve the Consent Calendar excluding the March 26 special meeting minutes in item 8, and item 14. The motion passed.**

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

**MOTION by Dobbie, second by McKeithen to approve the March 26 special meeting minutes. The motion failed.**

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

**REGULAR AGENDA (Items 20-30)**

Council took up item 21 before item 20.

**21. REVIEW AND DISCUSS THE CARGILL/DMB DEVELOPMENT PLAN IN REDWOOD CITY**

**Recommendation:** To Be Determined

*(Continued from March 17, 2010)*

Vice Mayor Dobbie said he is in full support of the draft resolution brought to Council.

Council Member Carlson said because of the size and scope of this project he considers it a regional project that will have impact beyond the Redwood City borders.

Mayor McKeithen opened for public comment.

John Bruno, DMB Development, said the Saltworks project is a 50/50 balance plan and is a result of having worked with Redwood City for the last four years and bringing forth a proposal that addresses community needs. The redevelopment proposal includes open space, parks, housing, recreational activities and create the largest privately funded bay restoration project in the San Francisco Bay. Bruno said the review process is lengthy and hoped Atherton would reserve their right to judge the project, as Woodside did, until the environmental review is completed.

Council Member Carlson asked what the benefits would be for Atherton. Bruno said they are still in the process of reviewing that, but during a “pre-CEQA” review a comment was made that this project provides a once in a generation opportunity for private funding to enhance public transportation improvements.

Tim Frank, Berkeley, sustainability consultant for the Saltworks project, there is an opportunity to both contribute to the expansion of the bay with fully restored wetlands and to create a transit oriented development which would occupy the gap between the ferry terminal and the downtown Caltrains station. Frank said an important way to reduce regional emissions and improve the quality of life we must provide homes in a walk able, transit oriented community and this allows us to do that. Frank concluded that the environmental review process will provide a rigorous analysis.

Council Member Carlson said he has heard there would be a potential of 8,000 cars per hour. Frank said the cars will mainly be commuting through the community of Atherton towards the job site in Redwood City which congests the freeways and is not environmentally safe. Frank said to help reduce these impacts we can create a transit oriented community.

Vice Mayor Dobbie said saying there will be no affect on the environment by filling in 1400 acres of restorable salt ponds and there will be no traffic impacts is close to ludicrous.

Council Member Marsala said traffic is already congested and this would make it more. Marsala said the Town has a General Plan and would be concerned with the impacts of traffic on El Camino Real and Marsh Road. Frank asked for the opportunity to allow the environmental review process in order to address these issues.

Mayor McKeithen opened for public comment.

A group of Sequoia Union High School District students asked Council to support the process that Redwood City has adhered to.

Kelly Bronsnan, asked Council to consider Atherton resident priorities. She added that the Developers will build and be gone having made quite a profit at the expense of the quality of life for Atherton residents.

Denise Kupperman, Atherton resident, said the environmental review process is important and suggested Council have an open mind until the facts are received.

Several Redwood City residents spoke during public comment and requested that Council allow the environmental review process to be completed before they make any decisions.

Jon Buckheit, Atherton resident, said Council should support the residents they represent.

Stephen Knight, Political Director for Save the Bay, stated that if Council opposes the development it will not stop the environmental process. Knight encouraged Council to “be a good neighbor” and send a message to Redwood City letting them know how the Town feels.

Sally Faulkenhagen, Atherton resident, said it has been fifty years since we decided not to build on salt ponds and since this is sea level it will require levies which are expensive to maintain.

Foster Kenny, Redwood City resident, urged Council to look at the environmental review once it is completed.

Jim Janz, Atherton resident and Former Atherton Mayor, said the Bay belongs to everyone and this project will affect the Bay.

Dale Sakai, Atherton resident, pointed out that Redwood City residents have already left the meeting before a decision has been made by Council.

L.K. Mueller, Woodside, opposed the project and said it would destroy the Bay and quality of life.

Mayor McKeithen closed public comment.

Council Member Lewis said she agrees that everything should be done to restore the bay lands to its original environmental condition and reduce traffic and pollution. Lewis said that although she is not in favor of the project she would like to respect Redwood City Council Members and their review process. Lewis concluded she would like to stay apprised of the process.

Council Member Carlson stated that no matter what Atherton Council decides tonight it will not thwart the process and does not give any veto power to Council. Carlson concluded that his responsibility is to Atherton residents and their concerns.

Vice Mayor Dobbie said he believes in simplicity and since he was elected to represent Atherton he will take a position to oppose the project.

Council Member Marsala said the Town has worked with Redwood City on many issues in the past and will in the future on taxation, revenue, pensions, drainage issues and more and would be ok with respecting Redwood City Council but making sure they know Atherton concerns.

**MOTION by Dobbie to approve the statement be it resolved by the Council of the Town of Atherton that it opposes the proposed Cargill development and supports full restoration of the Cargill salt ponds and the inclusion of the salt ponds in the Don Edwards National Wildlife Refuge.**

**Council Member Lewis amended the motion to include a cover letter, as recommended by Council Member Carlson, acknowledging Redwood City’s process and requesting to stay involved in the review.**

Ayes: 1      Nays: 4 (McKeithen, Marsala, Lewis, Carlson)      Abstain: 0      Absent: 0

MOTION by Marsala adopt a Resolution conveying to the City of Redwood City the Town Council serious concerns about the proposed DMB/Saltworks project, indicating its intention to monitor the pending environmental review, and include all of the WHEREAS phrases from the draft Resolution 10-21, and include a cover letter that includes Atherton’s desires to work with Redwood City on concerns for air quality, traffic, transportation and wildlife to the best of the region.

Assistant City Attorney Winig clarified that Marsala made a motion which creates a new resolution that has the title from the Town of Woodside’s resolution (included in the Agenda packet) and includes all of the WHEREAS clauses from the draft resolution 10-21 and will include the NOW, THEREFORE language from the Town of Woodside resolution, and lastly, will include a cover letter with specific concerns from Atherton.

Council Member Marsala withdrew his motion to allow Mayor McKeithen to clarify the motion.

MOTION by McKeithen, second by Carlson to approve a resolution and add a cover letter stating that we understand Redwood City will move forward with the environmental review process and since Atherton has serious concern we would like to stay involved throughout the process and be considered as part of the decision making process.

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

**20.      AWARD OF CONTRACT TO GALLAGHER & BURK FOR THE FLETCHER/RIDGEVIEW DRAINAGE AND STREET PROJECT NUMBER 08-010 IN AN AMOUNT NOT TO EXCEED \$922,055.00 PLUS A TEN PERCENT CONSTRUCTION CONTINGENCY, FOR A TOTAL AUTHORIZATION OF \$1,014,260.50**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Award the contract for Fletcher/Ridgeview Drainage and Street Project, project number 08-010 to Gallagher & Burk, the low bidder on the April 8, 2010 bids, for \$922,055.00, with a 10% construction contingency of \$92,205.50, for a total authorization of \$1,014,260.50; and to authorize the City Manager to sign the contract on behalf of the Town

Public Works Director Jones said this project has been high on the important list for a long time and the project includes rehabilitation of the street.

Mayor McKeithen said this has been a long term project and the most substantial project she can remember aside from the channel. McKeithen said the Town lost a valuable resident who had a river running through his property because of the flooding and drainage issues.

Council Member Lewis asked if there has been any work done on the project over the last few years. Jones said only design work has been done. Lewis asked if there is any life threatening issues

with not completing the project. Jones said property damage issues only, primarily affecting six properties.

Finance Director Ho said the purpose of the Gann limit is to make sure the Town is not taking in more tax revenue than is allowed. It is adjusted every year based on the preceding year calculations. Ho said that because we did not have anything in place that increases the appropriations limit in order to permit spending the tax revenue for fiscal year 2010 we have to use qualified capital expenditure to qualify our Gann limit to bring our tax proceed under the limit. Ho said she estimates approximately 1.9 million in capital outlay to do this. Ho concluded that the Auditors will be in Town the next week and that will give her an opportunity to run the calculations for this year and the projections for next year with them. Ho suggested tabling this item until next month in order to do that.

Mayor McKeithen suggested approving it conditionally based upon it being consistent with the Gann limit and if it is not to bring it back to Council. Ho confirmed yes.

Paul Madera, Atherton resident from Ridgeview, said the flooding problems have been a disaster and it is a very serious issue which has been put off for a number of years. Madera urged Council to take it serious.

**MOTION by Lewis Award the contract for Fletcher/Ridgeview Drainage and Street Project, project number 08-010 to Gallagher & Burk, the low bidder on the April 8, 2010 bids, for \$922,055.00, with a 10% construction contingency of \$92,205.50, for a total authorization of \$1,014,260.50; and to authorize the City Manager to sign the contract on behalf of the Town, subject to the Finance Director and Town Auditors determination that the Town will be within the Gann limit appropriation spending criteria.**

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

**Council took up Item 14 next.**

**14. APPROVE A CONSULTANT SERVICES AGREEMENT WITH WILSEY-HAM FOR CONSTRUCTION SERVICES FOR THE FLETCHER-RIDGEVIEW PROJECT, IN AN AMOUNT NOT TO EXCEED \$17,948 PLUS A TEN PERCENT CONTINGENCY, FOR A TOTAL AUTHORIZATION OF \$19,742.80**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Accept the proposal and authorize the City Manager to sign a Professional Services Agreement with Wilsey Ham to provide Construction Services for the Fletcher Ridgeview Project in an amount not exceed \$17,948, plus a 10% contingency, for a total authorization of \$19,742.80

**MOTION by Dobbie, second by Carlson Accept the proposal and authorize the City Manager to sign a Professional Services Agreement with Wilsey Ham to provide Construction Services for the Fletcher Ridgeview Project in an amount not exceed \$17,948, plus a 10% contingency, for a total authorization of \$19,742.80. The motion passed.**

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

**22. APPROVE RESOLUTION 10-20 RESCINDING RESOLUTION 09-26 AND APPROVING A MODIFICATION TO THE ESTABLISHMENT OF THE GENERAL FUND RESERVE POLICY**

**Report:** Finance Director Louise Ho

**Recommendation:** Adopt Resolution 10-20 Rescinding Resolution 09-26 and Approving a Modification to the Establishment of the General Fund Reserve Policy

Jeff Wise, Atherton resident and member of the Citizens Proposal group for Road Impact Fee refunds requested that Council table Items 22, 23, 24, and 25 until the group can come up with a new proposal. Wise said the group has met with the Finance Director to reexamine the Towns budget situation and would like to continue studying the misallocations.

Council concurred to table items 22, 23, 24 and 25.

Finance Director Ho requested that Council take up the 18,000 transfer from the Police Department to the Finance Department budget amendment under Item 23.

Council took up that section under item 23.

**23. APPROVE RESOLUTION 10-21 APPROVING BUDGET AMENDMENT FOR FY 2009-10**

**Report:** Finance Director Louise Ho

**Recommendation:** Adopt Resolution 10-21 approving the budget amendment for FY 2009-10 for the General Fund and Road Construction Impact Fee Fund  
*(Continued from March 17, 2010)*

Council Member Carlson said before he can even support a property tax transfer to cover health care costs or overhead costs he would like to defer it to the Finance Committee for their review.

**MOTION by Carlson, second by Dobbie to approve a budget amendment of a transfer in the amount of \$18,000 from the Police Department to the Finance Department. The motion passed.**

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

Mayor McKeithen said that if and when the road impact fee refunds are approved there needs to be a plan because the exhibit to the draft resolution says any recommendation shall be accompanied by a plan for the replenishment of reserves to the City Council.

**24. RESOLUTION 10-19 IMPLEMENTING REFUND PROGRAM FOR ROAD IMPACT FEES PAID FROM JULY 1, 2006 THROUGH SEPTEMBER 17, 2009**

**Report:** City Manager Jerry Gruber

**Recommendation:** Adopt Resolution 10-19 authorizing additional refunding of road impact fees  
*(Continued from March 17, 2010)*

**Item 24 was tabled to the May Council meeting.**

**25. APPROVAL OF CONSULTANT SERVICES AGREEMENT BETWEEN MUNISERVICES, LLC AND THE TOWN OF ATHERTON FOR ROAD IMPACT FEE REFUND PROCESSING**

**Report:** Finance Director Louise Ho

**Recommendation:** Approve the consultant services agreement with MuniServices LLC and authorize the City Manager to execute the agreement

*(Continued from March 17, 2010)*

**Item 25 was tabled to the May Council meeting.**

**26. COMMITTEE APPOINTMENTS**

**Report:** City Manager Jerome D. Gruber

**Recommendation:** Appoint Members to Arts, Audit, Finance, General Plan and Rail Committees based on recommendations made at the April 21, 2010 Special City Council meeting held at 6:00 p.m.

**MOTION by Dobbie, second by Lewis to appoint Sandy Crittenden and Isabella Pieslak to the Arts Committee, Bill Widmer to the Audit Committee, Jeff Wise and Greg Conlon to the Finance Committee, Elizabeth Hammack, Jeff Wise, and David Henig to the General Plan Committee and William Grindley to the Rail Committee. The motion passed.**

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

**27. APPROVAL OF THE CONSULTANT SERVICES AGREEMENT BETWEEN MUNISERVICES, LLC AND THE TOWN OF ATHERTON FOR PROPERTY TAX MISALLOCATION AUDIT**

**Report:** Finance Director Louise Ho

**Recommendation:** Approve the consultant services agreement with MuniServices LLC; and authorize the City Manager to execute the agreement

*(Continued from March 17, 2010)*

Finance Director Ho said this agreement is like a sales tax audit in which a consultant would look at the work being done by the State Equalization on how sales tax is divided among Cities and the County pool. Since the passage of Proposition 13 voters approved a property tax assessment at no more than 1% and subsequent to passage of proposition 13 if any appreciation within that jurisdiction would be allocated using a different formula which makes property tax allocation from the County a very complex process. Ho concluded that MuniServices would look into this to make sure the County is dividing the property tax and the Town is receiving its proper share.

Council Member Carlson suggested deferring the item to the Finance Committee for their review.

Council Member Lewis wondered why MuniServices would want to do this on a contingency basis and felt this could cause potential misunderstandings.

Vice Mayor Dobbie said the 25% contingency fee should be a net contingency in case the Town ends up owing.

Mayor McKeithen said MuniServices has said they have looked into some entities that did end up owing property tax but it was a very small percentage.

Council Member Lewis said the allocation from the County and how they divide up the pool of property tax money they collect is what will be audited, and the County will not go back to the resident and tell them they owe the money. Lewis concluded it is an audit and analysis of the County Assessors office of how they actually divvy up Atherton's pool of property tax that they receive.

Jeff Wise, Atherton resident, asked if MuniServices has given an average of what they find when they conduct this study. Ho said she will look into this.

**MOTION by Carlson, second by Marsala to defer the item to the Finance Committee. The motion passed.**

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

**28. REVIEW SCOPE OF SERVICE FROM MUNISERVICES FOR BUSINESS LICENSE ORDINANCE MEASURE**

**Report:** Finance Director Louise Ho

**Recommendation:** To Be Determined

Finance Director Ho said this is a basic proposal from MuniServices to see if the Town would like to move forward with revisiting our Business License Ordinance and modify the existing Ordinance which would have to go before voters.

Council Member Carlson questioned how this fits into a plan in terms of addressing cost structure and looking at alternative revenues. Carlson felt it was key to have the Finance Committee define this before Council pushes ahead without a plan.

Mayor McKeithen said the Finance Committee did discuss alternative revenues and the business tax and it was decided that the business license tax would be the most expeditious way given the Town's current financial situation.

City Manager Gruber said this idea was also derived from the January strategic Council meeting where staff was directed to research alternative revenue ideas.

Council Member Marsala felt there should be a lot more to substantiate a \$40,000 contract because it is obvious that a business license tax would create more revenue for the Town.

Vice Mayor Dobbie said before the Town spends \$40,000 to collect two to three examples that could bring in substantial sources of revenues with the business license tax that are not currently paying their fair share.

Mayor McKeithen suggested at least approving the first phase of the scope of work Council Member Lewis said the scope of work is boiler plate language and does not specifically address Atherton needs.

Council Member Marsala suggested discussing with the public if this is something they want to do.

Jeff Wise, Atherton resident, said looking into a business license tax makes sense, but he is disappointed in the Consultants proposal.

MOTION by Marsala, second by Lewis to add a future agenda item to discuss the philosophical approach to increasing the business license tax.

Mayor McKeithen felt that was premature and the public should be able to weigh in on the approach Council should take.

Council Member Marsala said it would provide the public with a better description of the project.

Council concurred to defer the proposal and its elements to the Finance Committee.

**29. INTRODUCTION OF AN ORDINANCE APPROVING ADMINISTRATIVE CITATION PROGRAM**

**Report:** City Manager Jerry Gruber

**Recommendation:** Introduce Ordinance adding Chapter 1.21 to the Atherton Municipal Code establishing Administrative Citations for Violations of the Atherton Municipal Code, Related State Codes and Conditions on Entitlements

City Manager Gruber said this item was failed during its second reading in February with a 2-2 vote with Vice Mayor Dobbie absent from the meeting.

Gruber added that the Town already has a nuisance abatement ordinance, but its procedures are complex; an Administrative Citation Ordinance would provide a more streamlined process while still preserving and protecting residents' due process rights.

Gruber stated that the proposed Administrative Citation Ordinance is comprehensive and intended to address violations of the Town's municipal code, other Town ordinances, applicable state codes, conditions on entitlements, and land use approvals without a criminal prosecution and arrest.

Winig added that this is just another tool that would allow your Code Enforcement Department another mechanism to make people comply with Atherton's Municipal Code.

Gruber added that the Town will focus on the violations with the highest priority and that create the most disturbances to other residents.

Council Member Carlson asked if it will reduce legal costs. Winig said it would be a significant amount of savings to the Town.

Council Member Lewis said she does not support the idea because of public perception and if it is approved the residents should be notified.

Winig concluded that this is not meant to be overly punitive and it is just to help with voluntary compliance.

**MOTION by Dobbie, second by McKeithen to Introduce Ordinance adding Chapter 1.21 to the Atherton Municipal Code establishing Administrative Citations for Violations of the**

**Atherton Municipal Code, Related State Codes and Conditions on Entitlements. The motion passed.**

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

**30.      CONSIDERATION OF ADDING A SECOND MEETING DATE PER MONTH FOR CITY COUNCIL MEETINGS IN LIEU OF SPECIAL MEETINGS**

**Recommendation:** To Be Determined

*(Continued from March 17, 2010)*

**MOTION by Carlson, second by Lewis to table Item 30 the next meeting. The motion passed.**

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

**31.      COUNCIL REPORTS**

Mayor McKeithen requested more detailed council reports.

**32.      FUTURE AGENDA ITEMS**

- A.      **COLLEAGUES' MEMO TO ADD ALLOWING COUNCIL MEMBERS WHO WERE INADVERTENTLY LEFT OUT OF THE SLECTION PROCESS FOR TOWN CENTER TASK FORCE MEMBERS TO CHOOSE FIVE MEMBERS FROM THE SEVENTEEN APPLICANTS**

**Report:** Mayor McKeithen and Vice Mayor Dobbie

Mayor McKeithen felt the entire Council did not have a chance to review the applicants for the Town Center Task Force and felt the Council Members who were not involved in the process should be given a chance.

Council Member Carlson said an update item was on the February Council Agenda alerting Council that the Town Center Task Force will review applications and make recommendations. Carlson added that all of the applications were provided to Council subsequent to the March meeting and the applicants were approved by unanimous vote on the consent Agenda.

Mayor McKeithen said she can not remember giving any direction to allow the applicants to be appointed in this manner.

Assistant City Attorney Winig said some Council Members were confused about the process and things happened which some members were not aware of. Winig suggested making a motion to revisit the item or direct him to review the minutes and provide a legal analysis.

Council Member Lewis did not want to spend money on legal bills. Lewis said if Council Members feel left out of the process she would suggest bringing back all 17 applicants along with the criteria that was set by the Blue Ribbon Task Force and the Ad-Hoc Town Center Task Force Committee to evaluate the potential members of the Committee to the next Council meeting for a decision.

**MOTION by Lewis, second by Dobbie to bring 17 applicants along with the criteria for appointment to evaluate at the next meeting. No vote was called for and Council Member Lewis withdrew her motion.**

**MOTION by McKeithen, second by Dobbie to review the issue at the next Council meeting. The motion failed.**

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

**MOTION by Carlson, second by Lewis to consider one vacancy on the Town Center Task Force from the applications which have already been received. The motion passed.**

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

**33. PUBLIC COMMENTS**

None.

**34. ADJOURN**

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

Mayor McKeithen adjourned the meeting at 11:34 p.m.

**Respectfully submitted,**

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**Theresa DellaSanta  
Deputy City Clerk**