



**Minutes**  
**Town of Atherton**  
**CITY COUNCIL**  
**ATHERTON CHANNEL DRAINAGE DISTRICT**  
**November 17, 2010**  
**7:00 p.m.**  
**JENNINGS PAVILION**  
150 Watkins Avenue  
Atherton, California  
**REGULAR MEETING**

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

**1. PLEDGE OF ALLEGIANCE**

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

All present.

**3 PRESENTATIONS**

**Red Ribbon Awards – Bruce Potts**

On behalf of the Atherton Police Department, Reserve Officer Bruce Potts presented the following individuals with awards:

**ST. JOSEPHS WINNERS:**

**1<sup>st</sup> Grade:**

1<sup>st</sup> place      Isabella Summe  
2<sup>nd</sup> place      Claire Duchesne

**2<sup>nd</sup> grade:**

1<sup>st</sup> place      Jacqueline Colby  
2<sup>nd</sup> place      Andrew Plaschke

**3<sup>rd</sup> grade:**

1<sup>st</sup> place      Anna Suarez  
2<sup>nd</sup> place      Annika Wanger

**4<sup>th</sup> grade:**

1<sup>st</sup> place      Toby Mustarde  
2<sup>nd</sup> place      Max Cluss

**5<sup>th</sup> grade:**

1<sup>st</sup> place      Jensen Puckett  
2<sup>nd</sup> place      Claire Kerrigan

**ENCINAL WINNERS:**

**2<sup>nd</sup> grade:**

1<sup>st</sup> place      Jackson Gosler  
2<sup>nd</sup> place      Melanie Voss

**3<sup>rd</sup> grade:**

1<sup>st</sup> place      Katrina Drury  
2<sup>nd</sup> place      Hailey Allen

**4<sup>th</sup> grade:**

1<sup>st</sup> place      Lucas Olson  
2<sup>nd</sup> place      Aliza Shiah

**5<sup>th</sup> grade:**

1<sup>st</sup> place      Nikito Manin  
2<sup>nd</sup> place      Isabelle Sapountzi

Vice Mayor Dobbie thanked Bruce Potts and his wife for doing such a great job every year with the D.A.R.E awards.

**Proclamations presented to:**

**Bill Awbrey, Parks & Recreation Commission Service**

**Maeve Visser-Knoth**, Atherton Library Youth Services Librarian who was selected to the Newberry Selection Committee

Mayor McKeithen read the proclamation for Bill Awbrey and for Maeve Visser-Knoth for the record.

#### **4. PUBLIC COMMENTS**

William Grindley, Atherton resident, said the Feds suggested that the first segment of the High Speed Rail be opened in the Central Valley, but the State is still spending funds on studies which include the Peninsula. If the study is certified homes will get notification that they could be impacted.

Melinda Tevis, Atherton resident, said she spent this same day last year helping fellow resident Jon Buckheit in court. Tevis said she believes it is hard to get help in the Town. Tevis suggested that Furth spend her last few months protecting residents from dysfunction.

Michael Stogner, San Mateo County, thanked Kathy McKeithen for stepping forward and taking action as a concerned citizen during an elder abuse case in Atherton.

Helene Wickett, Atherton resident, extended her gratitude and respect to Kathy McKeithen who helped rescue her mother from a heinous elder abuse scandal.

Jon Buckheit, Atherton resident, said the definition of a hero is someone who helps others at personal costs and risks. Buckheit said Kathy McKeithen is a hero and was the only person who intervened in the elder abuse scandal that does not get paid. Buckheit concluded that McKeithen is the best Mayor the Town has had.

Colleen Anderson, Atherton resident thanked all that were involved in the elder abuse case.

John Rugeiro, Atherton resident, questioned why Atherton sent officers to Oakland during the riots after the Mehserle verdict.

Vice Mayor Dobbie said it is part of a mutual aid agreement and every city has a quota that they must meet.

#### **5. REPORT OUT OF CLOSED SESSION**

Mayor McKeithen called the meeting to order at 5:34 p.m.

All Council Members were present. No public comment was received.

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

Agency Negotiators: Nadine Levin, Interim City Manager; Glenn Berkheimer, I.E.D.A.  
Employee Organization: Miscellaneous - Teamsters Local Union 856

Agency Negotiators: Nadine Levin, Interim City Manager; Glenn Berkheimer, I.E.D.A.  
Employee Organization: Management Employees

Agency Negotiators: Nadine Levin, Interim City Manager; Glenn Berkheimer, I.E.D.A.  
Employee Organization: APOA

**B. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION  
(Subsection (b) of Government Code Section 54956.9):**

1. *Pacific Peninsula Group v. Town of Atherton, and Does 1 through 50*, San Mateo Superior Court, Case No. CIV 497841

2. *Kimberly Sweidy & Raimie Stata v. The Town of Atherton, Michael C. Wasmann, Michael A. Hood, Michael J. Cully, CSG Consultants, Inc.*, Superior Court of California, County of San Mateo, Case No. CIV 499893

**C. PUBLIC EMPLOYEE APPOINTMENT: INTERIM CITY MANAGER  
(Subsection (b)(1) of Government Code Section 54957)**

City Attorney Furth reported that under section B(2) Council unanimously approved directing that the lawsuit be defended by the Association of Bay Area Government (ABAG), the Town Insurance carrier.

Furth said there was no further reportable action for Items A, B or C.

**6. CITY MANAGER’S REPORT**

Mayor McKeithen introduced Nadine Levin who currently holds the “bridge” interim city manager position.

Interim City Manager Levin said she spoke with San Mateo County Library Director Anne-Marie Despain about the San Mateo County Library’s policies in regard to the individual who was using the computers at the Atherton library to view pornographic materials. Levin said San Mateo County Library has a policy not to use filters on their system nor do they monitor use however staff can ask someone to leave if they believe an individual is using the system inappropriately.

Council Member Lewis questioned the public works update of the report. Lewis asked if the El Camino and Alejandra Ave crosswalk will be looked at as part of the review process with Caltrans. Jones said all five crosswalks on El Camino within Atherton are in review and the maintenance crews for Caltrans consider this a top priority. Lewis suggested the idea of removing the crosswalk at Alejandra making people walk to the lighted crosswalk at Encinal Avenue.

**7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT**

None.

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

Vice Mayor Dobbie said he went through the bills and claims under item 9 and is concerned that Council needs to pay attention to the large ticket items in payables.

Council Member Lewis had questions on item 10.

Mayor McKeithen had a question on item 11 and typographical changes to item 17.

**8. APPROVAL OF OCTOBER 16, SPECIAL MEETING, OCTOBER 18, SPECIAL MEETING & OCTOBER 20, 2010 REGULAR MEETING**

**Recommendation:** Approve October 16 special meeting, October 18 special meeting and October 20, 2010 regular meeting minutes

**9. APPROVAL OF BILLS AND CLAIMS FOR NOVEMBER 2010 IN THE AMOUNT OF \$1,268,699**

**Recommendation:** Approve Bills and Claims in the amount of \$1,268,699

**10. AMEND THE FY 2010-11 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Amend the FY 2010-2011 Capital Improvement Program budget

Council Member Lewis questioned whether it is absolutely necessary for some of the projects listed in the report which included street signing and striping and park topographic study.

Jones said the signing and striping is for several projects that have already been approved. Jones added that the park topographic survey may need to be done depending on what occurs with the library in the park and the potential little league improvements.

**11. AWARD OF CONTRACT FOR THE SOUTH MEADOW IRRIGATION AND TURF REHABILITATION PROJECT NUMBER 56019**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Award the contract for the South Meadow Irrigation and Rehabilitation Project, project number 56019 to Jensen Landscape, the low bidder on the November 10, 2010 bids, for \$64,222.00, with a 10% construction contingency of \$6,422.00, for a total authorization of \$70,644.00; and to authorize the City Manager to sign the contract on behalf of the Town

Vice Mayor Dobbie said that in light of how long the well project in the park took he suggested that staff make sure there is a schedule that the contractor must abide by for the irrigation and turf project.

Mayor McKeithen asked if this project could potentially be impacted in any way by a library in the park. Jones said he does not believe it would affect the project.

**12. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE**

**AMOUNT OF \$3,440 FOR THE 2010 STREET PATCHING PROJECT, PROJECT NUMBER 56047**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Approve acceptance of work, authorizing recording of a notice of completion and approving contract change orders in the amount of \$3,440 for the 2010 Street Patching Project, Project Number 56047

**13. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$360.04 FOR THE PROJECT NUMBER 56046**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Approve acceptance of work, authorizing recording of a notice of completion and approving contract change orders in the amount of \$360.04 for the Holbrook-Palmer Park Bridge Landscaping Project Number 56046

**14. TOWN CENTER TASK FORCE STATUS UPDATE**

**Report:** Interim City Manager Nadine Levin

**Recommendation:** Receive Town Center Task Force Update Report

**15. AMEND THE LIBRARY FUND BUDGET TO INCLUDE \$50,000 FOR INITIAL COSTS FOR THE FUTURE BUILDING PROJECT**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Amend the Library Fund budget to include \$50,000 for initial costs for the future building project

Vice Mayor Dobbie said hiring an outside counsel to analyze the Holbrook-Palmer Park Will opinion for \$15,000 is too much money. Mayor McKeithen said those funds come from the Library Fund.

Council Member Carlson noted that the Town of Woodside is getting about \$100,000 more than Atherton per year for maintenance and suggested that staff look into this. Mayor McKeithen said she will check with the JPA.

**16. ADOPTION OF RESOLUTION ACCEPTING THE 2010/11 SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND (SLESF) CITIZEN'S OPTION FOR PUBLIC SAFETY (COPS) GRANT**

**Report:** Police Chief Mike Guerra

**Recommendation:** Adopt Resolution 10-65 accepting the recommended expenditures of the remaining balance of FY 2010-11 Supplemental Law Enforcement Services Fund (SLESF), Citizen's Option for Public Safety (COPS) Grant in the amount of \$100,000.00 in accordance with state requirements. The funds must be expended by June 30, 2011.

**17. RESOLUTION AUTHORIZING AN ADJUSTMENT IN PARKING FINES DUE TO SENATE BILL 857**

**Report:** Police Chief Mike Guerra

**Recommendation:** Approve Resolution 10-66 authorizing an adjustment in parking fines due to Senate Bill 857

**18. REQUEST FROM ATHERTON LIBRARY STEERING COMMITTEE TO APPROVE THE ADDITION OF TWO ALTERNATE VOTING MEMBERS TO THE ALBSC TO VOTE IN THE ABSENCE OF REGULAR MEMBERS IN ORDER TO PROVIDE A QUORUM**

**Report:** Deputy City Clerk Theresa DellaSanta

**Recommendation:** Amend Resolution No. 10-13 to approve the addition of two alternate voting members to the Atherton Library Building Steering committee with the first alternate being Ginny Nile and the second alternate being Earl Douglass

**19. AWARD A CONTRACT TO CSG CONSULTANTS TO EXTEND CODE ENFORCEMENT SERVICES UNTIL THE TOWN FINISHES THE RFP PROCESS FOR CODE ENFORCEMENT SELECTION**

**Report:** Interim City Manager Nadine Levin

**Recommendation:** Approve Consultant Services Agreement with CSG Consultants, Inc. to provide Code Enforcement Services to the Town of Atherton in and amount not to exceed \$17,000.00 retroactive to the date the Town exceeded the City Managers spending authority and not to extend past January 15, 2011

**MOTION by Lewis, second by Dobbie to approve all items on the consent agenda. The motion passed.**

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

**PUBLIC HEARINGS (20-23)**

**20. SECOND READING AND ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON REPEALING AND REPLACING CHAPTER 15.48 OF THE ATHERTON MUNICIPAL CODE ESTABLISHING WATER-EFFICIENT LANDSCAPING STANDARDS**

**Report:** Town Arborist Kathy Hughes-Anderson

**Recommendation:** Waive further reading and Adopt Ordinance No. repealing and replacing Chapter 15.48, Establishing Water Efficient Landscaping Guidelines, to the Atherton Municipal Code.

**MOTION by Lewis, second by Dobbie to Waive further reading and Adopt Ordinance No. repealing and replacing Chapter 15.48, Establishing Water Efficient Landscaping Guidelines, to the Atherton Municipal Code. The motion passed.**

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

**21. INTRODUCTION OF AN ORDINANCE AMENDING TITLE 15 OF THE ATHERTON MUNICIPAL CODE, REPEALING ORDINANCE 574, AND ALL OTHER ORDINANCES IN CONFLICT WITH THIS ORDINANCE, AND ADOPTING CURRENT BUILDING, FIRE, ELECTRICAL, PLUMBING, MECHANICAL, ENERGY, HISTORICAL BUILDING CODE, SEISMIC HAZARDS CODES, GREEN BUILDING, RESIDENTIAL CODE AND RETAINING EXISTING ABATEMENT OF DANGEROUS BUILDINGS CODE**

**Report:** Interim Building Official Dennis Lockard

**Recommendation:** Introduce an ordinance amending Title 15 of the Atherton Municipal Code to adopt by reference the 2010 California Building Standard Codes, and ratify the Uniform Fire as adopted by the Menlo Park Fire Protection District. Three votes are required to introduce the ordinance. A second vote, scheduled at least ten days from the date of this meeting, is required to adopt the ordinance.

Interim Building Official Dennis Lockard gave a brief a background on the new ordinance. Lockard said the local adoption of Building Codes, specified in California Code of Regulations Title 24, is mandated by the State of California. Local agencies may modify the uniform codes when they determine that local climatic, geological, or topographical conditions make this necessary. A new chapter has been added to Title 15 of the Atherton Municipal Code titled “Administrative Code” which adopts and amends Chapter 1, Division II of the California Building Code. Lockard said the other codes that make up the Building Standards Code include the Building, Fire, Electrical, Plumbing, Mechanical, Energy, Historical Building, Seismic Hazards, and Residential Codes. Lockard concluded that there are no changes to the Housing and Dangerous Buildings Codes.

Council Member Lewis asked if the Town is adding a new energy, green building and historical code to the municipal code. Lockard said the Town is adopting all codes that the State has adopted including the green building code which is brand new and a historical code.

**MOTION by Lewis, second by Carlson to introduce an ordinance amending Title 15 of the Atherton Municipal Code to adopt by reference the 2010 California Building Standard Codes, and ratify the Uniform Fire as adopted by the Menlo Park Fire Protection District. Three votes are required to introduce the ordinance. The motion passed.**

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

**Furth said the Agenda title for the Ordinance is incorrect. Mayor McKeithen read the correct version from the Ordinance draft as follows:**

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ADDING CHAPTERS 15.02 AND 15.19 AND AMENDING CHAPTERS 15.04, 15.08, 15.12, 15.16, 15.18, 15.20, 15.22 AND 15.44 IN ORDER TO ADOPT BY REFERENCE THE 2010 CALIFORNIA BUILDING STANDARDS CODE, INCLUDING THE RESIDENTIAL, FIRE (BY RATIFICATION), ELECTRICAL, PLUMBING, MECHANICAL, ENERGY, HISTORICAL BUILDING, GREEN AND EXISTING BUILDING CODES AND CHAPTER 1 DIVISION II OF THE 2010 EDITION OF THE CALIFORNIA BUILDING CODE AS THE ATHERTON ADMINISTRATIVE CODE.**

**22. ORDINANCE ADDING CHAPTER 17.37 TO THE ATHERTON MUNICIPAL CODE TO CREATE THE PARKER AVENUE OVERLAY DISTRICT (P) AND ORDINANCE AMENDING THE ZONING MAP TO TITLE 17 OF THE ATHERTON MUNICIPAL CODE TO REZONE TWENTY-TWO LEGAL LOTS ON PARKER AVENUE FROM R1-A TO R1-A (P)**

**Report:** Deputy Town Planner Lisa Costa Sanders

**Recommendation:** Introduce the Ordinance adding chapter 17.37 to the Atherton Municipal code to create the Parker Avenue overlay district and introduce the Ordinance amending the

zoning map to Title 17 of the Atherton Municipal Code to rezone Parker Avenue from R1-A to R1-A (P) based on the findings. Three votes are required to introduce the ordinance. A second vote, scheduled at least ten days from the date of this meeting, is required to adopt the ordinance

Deputy Town Planner Lisa Costa Sanders gave Council a brief background on the item. Sanders said the Planning Commission reviewed all options given to them by City Council. The Planning Commission, unanimously voted to recommend the City Council create the Parker Avenue overlay zone and have it apply to properties along Parker Avenue.

Council Member Marsala asked what the deviation from the original Council compromise made in September and if the 22' for sidewalls allows for a basement. Sanders said the Planning Commission received a compromise petition from residents which they believe helps retain the setback that are on the street now which is a characteristic of Parker Avenue. Sanders said you are able to fit a larger floor area while maintain the existing setbacks. Sanders concluded that it is difficult to have 18' sidewall when you are doing a modern home design.

Council Member Lewis asked if the 22' sidewalls include the second story. Sanders confirmed yes and said it was somewhat limiting but it is consistent with what is in R1-B.

Council Member Lewis said in the past City Council has voted not to touch the rear setbacks but felt the front setbacks needed an adjustment because the right-of-way is so broad and it gives room for a smaller front setback. The idea was to put your garage in the front and keep your rear setback larger and away from your neighbors which would mitigate neighbor concerns about encroaching into their property line.

Sanders said some Commissioners were concerned about having large two-story garages in front but it was noted that it wouldn't be limited to just a garage and you could do a full two-story all the way out to the new setback which would be 23'3" if it were reduced. Sanders said an idea was proposed that you have the reduced setback of 23'3" for the first floor and keep the current setback of 39' for the second story.

Council Member Marsala asked what would be needed for a roof height if you did a garage setback of 23'3". Sanders said it would be consistent with the accessory structure which has a maximum of 15 feet.

Council Member Carlson said the Planning Commission digressed from the height and the setback that were given to them for review by Council. He requested rationale for the deviation. Sanders said the increased floor area would give the ability to build a larger second story and the Commission had concerns about how that would impact neighbors so they opted to stay consistent with the R1B standards and keep the 18' sidewall height limit.

Council Member Carlson asked why the front setback was not considered.

Herm Christensen, Planning Commissioner, said they were concerned about making any changes at all. Christensen said they spent a lot of time going to the neighborhood and looking at plans. Christensen concluded that they went with what a majority of the neighborhood wanted.

William Grindley, Planning Commissioner, said the compromise was the best of all possible worlds for such a complicated issue.

Jon Buckheit, Atherton resident, said fairness should be measured by how the entire Atherton community is treated and not by one single street.

Linda Grossman, Parker Avenue, said she surveyed the street and of the 17 responses at least 10 are in favor of the Planning Commission overlay.

Andrew Carlson, Parker Avenue, urged Council to accept the Planning Commission recommendation.

Art Martin, Designer, requested that Council approve their September compromise sent to the Planning Commission for review.

Ann Anderson, Parker Avenue, supported the Planning Commission recommendation.

Margaret Johnston said she has no intention of making changes to her home. Johnston supported the Planning Commission recommendation.

Debbie Miritz, Parker Avenue, said she see's no need for zoning changes but for fairness she would support the Planning Commission compromise.

Colleen Anderson, Parker Avenue, supported Councils original compromise plan from September. Anderson said this compromise is a unified system for the Town as a whole.

Michael Bennett, Parker Avenue, thanked Council for their time and requested the setback be smaller then what is currently in the R1-B zoning.

John Tang, Parker Avenue, supported the original compromise proposal from Council in September because it allows the residents to optimize the utility of their property by allowing expansion.

George Eshoo, representing 72 Parker Avenue, said 23'3' is a reasonable compromise compared to the 70' right-of-way. Eshoo supported the September Council proposal.

Mayor McKeithen said she believes this is not a majority versus minority issue and felt it was a zoning and land use issue which is how it should have been looked at. McKeithen said she has always voted based upon what she believes is best for the Town. McKeithen reiterated that this is a land use issue that will affect posterity. She said every street changes with every new building and she believes that if the change in the front setback is made not everyone will make the change all at once. McKeithen concluded that the compromise suggested at the September 2010 Council meeting is fair and she will support the front setbacks at 23'3", rear setbacks at 39 feet, side setbacks at 14 feet, the total floor area at 2787 square feet, the second floor area to have an additional 547 square feet for a total of 1132, the main building height reduced from 30 to 28 feet, the main building sidewall to 20 feet (rather then the 22-foot proposed by Council) and the accessory structure to remain the same.

Vice Mayor Dobbie said the Planning Commission is made up of highly qualified people who devote their time to the Town and know the issue. Dobbie said he supports the Planning Commission compromise because a majority of the Parker Avenue residents support it.

Council Member Marsala said he is in favor of the Council compromise from September. Marsala said he has a lot of respect for the Planning Commission and their compromise but he favors the Council compromise. He added that if the Town does do 23'3" front setbacks then the roof height should be limited to 15 feet. Marsala concluded that he is open to support 18 or 20-foot sidewalls.

Council Member Lewis said 18-foot sidewalls coincide with the rear setbacks of 23 feet because it is a part of the R1-B restrictions and it is one of the reasons that if you build close to the rear of the property you need shorter sidewalls. Lewis said these properties are dealing with very restrictive zoning regulations and it doesn't seem fair. Lewis said at a previous meeting she explained through diagrams which showed that if you kept the rear setbacks at 39 feet with the ability to do an accessory structure with a short side-wall and maximum height of 15 feet then the rear neighbors would not be impacted at all. Lewis said she supports the compromise brought forth by City Council in September because it is reasonable and fair for both sides. Lewis concluded that she is in support of 22-foot sidewalls.

Council Member Carlson said he believes the Planning Commission is made up of highly qualified individuals and he had expected them to consider more of what Council had proposed and recommend modifications if needed. Carlson said he is in favor of the Council proposal from September 2010 with 20-foot sidewalls.

MOTION by McKeithen, second by Lewis to direct staff to draft an ordinance a front setback of 23'3" and a 15-foot roof height on the first story and a 39' setback on the second story, side setbacks of 14', total floor area of 2,787 square feet, with an additional 547 square feet on the second floor, main building height reduced to 28 feet, main building sidewalls reduced to 20 feet and accessory structures to remain the same. The motion passed 4 to 1 with Dobbie opposed.

City Attorney Furth said she will draft the new ordinance with Lisa Costa Sanders and bring it back before adjournment for a first reading.

### **23. INTRODUCE ZONING ORDINANCE AMENDMENT FOR HOUSING ELEMENT IMPLEMENTATION**

**Report:** Deputy Town Planner Lisa Costa Sanders

**Recommendation:** Introduce Ordinance amending the Town of Atherton Municipal Code Title 17 and waive further reading. The proposed amendments would implement the recently adopted 2007-2014 Housing Element Update. Three votes are required to introduce the ordinance. A second vote, scheduled at least ten days from the date of this meeting, is required to adopt the ordinance

Deputy Town Planner Lisa Costa Sanders said on July 21, 2010 the City Council adopted the 2007-2014 Housing Element Update. The update included several programs that require additions or amendments to the Atherton Zoning Ordinance which include:

- For Second Dwelling Units:
  - Changes in side and rear yard setbacks to allow limited encroachment into required setbacks.

- Elimination of minimum lot size restrictions
- Exemption from certain floor area limitations
- To allow multiple family residential uses that could accommodate housing for very low- and low-income households as permitted uses on private school sites
- To allow emergency shelters in at least one location in the PFS Zoning District
- To establish objective and predictable standards for the operation of emergency shelters
- To allow residential care facilities, defined as a facility serving six or fewer persons, as permitted uses in the R-1A and R-1B Zoning Districts

**MOTION by Carlson, second by Dobbie to introduce the Ordinance amending the Town of Atherton Municipal Code Title 17 and waive further reading. The motion passed.**

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

**REGULAR AGENDA (Items 24-27)**

**24. ADOPTION OF RESOLUTION APPROVING MEMORANDUM OF UNDERSTANDING BETWEEN TEAMSTERS LOCAL NO 856 (REPRESENTING MISCELLANEOUS TOWN EMPLOYEES) AND THE TOWN OF ATHERTON FOR THE PERIOD OF JULY 1, 2009 THROUGH JUNE 30, 2011**

**Report:** Interim City Manager Nadine Levin

**Recommendation:** Adopt Resolution No. 10-67 approving the attached Memorandum of Understanding between the Town of Atherton and the Teamsters Local No. 856, for the period of July 1, 2009 through June 30, 2011, and authorize the Mayor to execute the agreement on behalf of the Town

Jon Buckheit asked for a summary of the item.

Interim City Manager Nadine Levin said the terms of the MOU are for the period of July 1, 2009 through June 30, 2010 with no salary increase and for the period of July 1, 2010 through June 30, 2011 the average salary increase is 2.4%. Levin said progress was made to reduce costs with the health care coverage and retiree health costs. Levin added that the fiscal impact if all positions were filled is \$52,000 however all positions are not filled and beginning on July 1, 2011 new hires will pay a greater share of their retiree health and the vesting will take longer than a current employee.

**MOTION by Dobbie, second by Lewis to adopt Resolution No. 10-67 approving the attached Memorandum of Understanding between the Town of Atherton and the Teamsters Local No. 856, for the period of July 1, 2009 through June 30, 2011, and authorize the Mayor to execute the agreement on behalf of the Town. The motion passed.**

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

**25. ADOPTION OF RESOLUTION SETTING FORTH THE SALARY AND BENEFITS FOR MANAGEMENT EMPLOYEES FOR FISCAL YEAR 2009-10 AND 2010-11**

**Report:** Interim City Manager Nadine Levin

**Recommendation:** Adopt Resolution 10-68 setting the salary and benefits for the Town's Management Employees

Jon Buckheit asked for a summary of the item.

Interim City Manager Nadine Levin said this resolution covers the period from July 1, 2009 through June 30, 2010 with no salary increase and for the period of July 1, 2010 the average salary increase is 5.4%. Levin added that the fiscal impact represents a total dollar cost of \$72,000 annually assuming all the positions are filled for the full fiscal year. Levin concluded that there will be undetermined long term cost savings to the Town for the change in retiree medical benefits for employees hired after the adoption of the resolution.

Jon Buckheit noted that he looked up the current salary of former City Manager Jerry Gruber and it is significantly less than what he was making when he was employed by the Town. Buckheit suggested the Town stop compensating at the 70<sup>th</sup> percentile because it is unsustainable.

**MOTION by Dobbie, second by Lewis to adopt Resolution 10-68 setting the salary and benefits for the Town's Management Employees. The motion passed.**

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

**26. APPROVAL TO PUBLISH REQUEST FOR PROPOSAL FOR CITY ATTORNEY SERVICES FOR THE TOWN OF ATHERTON AND ESTABLISH A DEADLINE DATE FOR PROPOSALS**

**Report:** Interim City Manager Nadine Levin

**Recommendation:** Approve publishing a request for proposal for City Attorney services for the Town of Atherton and establish a date for proposal deadline

City Attorney Wynne Furth recused herself since she is the current Attorney for the Town.

Vice Mayor Dobbie suggested, under section I, to remove the restriction that requests three references. Dobbie believed each firm should provide however many references they have.

Council agreed to remove the word "three."

Council Member Lewis said that staff will be contacting the committee applicants to let them know that interviews will be held sometime in the following month.

A discussion ensued that the entire Council will interview the six applicants. Council directed staff to survey applicants for a date.

Council Member Marsala suggested that Council wait until after Bill Widmer is installed to hold a meeting for interviews.

Mayor McKeithen said she believes the ad-hoc committee was only established to develop the RFP and that the entire Council is supposed to review the attorney proposals. McKeithen said it is fair for Council to see the proposals before the resident members of the committee.

Council Member Lewis said she believes that the experienced and qualified residents would help assess and make recommendations to Council in regard to the proposals.

Council Member Carlson stated that the process should be discussed at the next Council meeting.

Council agreed to publish the RFP with a deadline date of Tuesday, January 18<sup>th</sup>.

**MOTION by Lewis, second by Dobbie to approve publishing a request for proposal for City Attorney services for the Town of Atherton with a deadline date of January 18, 2011.**

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

**22. ORDINANCE ADDING CHAPTER 17.37 TO THE ATHERTON MUNICIPAL CODE TO CREATE THE PARKER AVENUE OVERLAY DISTRICT (P) AND ORDINANCE AMENDING THE ZONING MAP TO TITLE 17 OF THE ATHERTON MUNICIPAL CODE TO REZONE TWENTY-TWO LEGAL LOTS ON PARKER AVENUE FROM R1-A TO R1-A (P)**

Council introduced Chapter 17.37 of the Atherton Municipal Code to create the Parker Avenue Overlay district with the following provisions;

- o Height: Maximum building height shall be 28' and sidewalls and columns may not exceed 20'. End walls shall be perpendicular to lot depth.
- o Floor Area: shall equal lot size times .165 plus 1,500 square feet (which results in 2,787 square feet for Parker Avenue properties). Second floor area limited to 1,132 square feet.
- o Setback: For single story portion of the main building that does not exceed 15' in height, the front yard setback shall be 23'-3".

All other R1-A zoning provisions will apply to the Parker Avenue properties. Specifically, the rear yard setback requirement of 39' will remain as currently required.

**MOTION by Lewis, second by Carlson to introduce the Ordinance adding chapter 17.37 to the Atherton Municipal code to create the Parker Avenue overlay district and introduce the Ordinance amending the zoning map to Title 17 of the Atherton Municipal Code to rezone Parker Avenue from R1-A to R1-A (P) based on the findings. The motion passed.**

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

**27. APPOINTMENT OF INTERIM CITY MANAGER (This item is on the Agenda as a tentative item in case action needs to be taken based on the November 15, 2010 meeting)**

**Report:** Oral

**Recommendation:** Consideration of Adoption of Resolution 10-69 appointing transitional Interim City Manager and approve agreement

This item was not discussed.

**28. COUNCIL REPORTS**

Nothing further to add to written reports.

**29. FUTURE AGENDA ITEMS**

None.

**30. PUBLIC COMMENTS**

Jon Buckheit suggested allowing all six applicants to sit on the legal counsel selection committee. Buckheit added that Council Member Marsala deserves plenty of accolades for his service to the Town.

**31. ADJOURN**

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

Mayor McKeithen adjourned the meeting at 9:44 p.m.

**Respectfully submitted,**

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**Theresa DellaSanta  
Deputy City Clerk**