



MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL DRAINAGE
DISTRICT
September 20, 2010
8:00 A.M.
Town Council Chambers
94 Ashfield Road
Atherton, California
Special Meeting

Mayor McKeithen called the meeting to order at 8:18 a.m.

ROLL CALL **Lewis, Carlson, Marsala, Dobbie, McKeithen – All Present**

PUBLIC COMMENTS

Peter Carpenter – handout given.

Walter Sleeth- handout given.

Bob McLane

REGULAR

**1. CONSIDERATION OF LITIGATION OPTIONS REGARDING
RECERTIFICATION OF PROGRAM EIR FOR CALIFORNIA HIGH SPEED
RAIL AUTHORITY (CHSRA)**

Report: City Manager Jerry Gruber

Recommendation: To Be Determined

Stuart Flashmann, Town High Speed Rail Attorney gave a brief background on high speed rail.

-How does high speed rail go from SF to Valley?

-If Pacheco pass is used the high speed rail would move up and down Peninsula.

-Court ordered to go back and revise EIR revision in his understanding is inadequate;

-Court said that high speed rail authority had not explained land use sufficiently;

-Alternatives have been discussed but impacts not thought out. More rails, significant local impact and refusal to look at options.

-Town should challenge adequacy of EIR – court has issued a writ of mandate – Town should file objections and tell them to go back and do it right. Town has option of opening new litigation and broadening scope.

-If pursue both options – file objectives and participate in new challenge of EIR.

- The cities of Palo Alto, Burlingame and Menlo Park meeting to consider whether to join in litigation. San Mateo and Gilroy may also be on board against high speed rail.

-If you combine litigation with non-profits – they are the prior client and we would need outside litigation. Hope that conflict would not arise where Flashmann can still assist.

Council Comments –

Council Member Carlson –

Has attended prior meetings with Flashmann and appreciate his arguments.

First option is objecting to the return.

Has heard that Sacramento may not be on board with cities objecting.

Stuart Flashmann –

Issues will all depend on how the court looks at the return on the writ. Both objections would be non-compliance. Risk that court would look at narrowly and if you fixed those areas then they will accept writ.

Some issues of widening of Caltrain route would be able to be added in a new lawsuit

Flashmann recommends doing both options.

Public comments –

William Grindley

Julie Quinlan

Morris Brown

Jack Ringham

Greg Conlon

Carol Smith

Mayor McKeithen –

At a minimum cost risks are too great and this broadens basis for appeal, such as ridership. A second lawsuit is very relevant and it doesn't matter if a new judge presides over the new litigation. It is necessary to file both and join with other cities. We need to move forward for strategic and legal necessity.

Vice Mayor Dobbie –

Agreed with McKeithen. No other choice but to move forward and file.

Council member Carlson-

“This could have potential impact on the Town forever” – we must move forward.

Council member Lewis –

“File both lawsuits vigorously – we cannot not move forward” – if we have to obtain private funds to defray costs we will work on that. Thank you to William Grindley, Julie and the Rail Committee to take such an active role.

Mayor McKeithen –

Thank you to the entire Rail Committee.

Council member Marsala –

Thank those who have been effective – League of Cities and efforts combined – many focus on land that would be taken – with continued pressure, “I am in favor of moving forward.”

Motion – by Carlson, second by Lewis to appeal the writ and file a new action. The motion passed unanimously.

- 2. CONSIDERATION OF A RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON INITIATING A ZONING CODE AMENDMENT TO CREATE A NEW OVERLAY ZONE FOR APPLICATION TO THE PARKER AVENUE NEIGHBORHOOD AND REQUESTING THE PLANNING COMMISSION TO CONSIDER THE PROPOSED AMENDMENT**
Report: Deputy Town Planner Lisa Costa Sanders
Recommendation: Adopt Resolution No. 10-53 of Intention of Town to initiate a zoning code amendment to create a new overlay zone for application to the Parker Avenue neighborhood and request Planning Commission to consider proposed amendment

Clarification of resolution

Section 2 – Initiation of Zoning Code Amendment:

Bullet point 3:

Reduction of the front yard setback to 18% of the lot depth with a minimum 20 foot front yard setback, equivalent to 23’3”.

Bullet point 4:

Increase the allowable floor area to 16.5% of lot size plus 1500 square feet – addition of up to 547 square feet to first or second story.

Additional bullet point:

At five feet to front setback.

Section 3 – Direction to Planning Commission:

Report its findings back to the City Council no later than the November 17, 2010 City Council meeting.

Motion by Lewis, second by Carlson to adopt said resolution with changes noted to item 2 and the changes articulated by the Mayor. The motion passed unanimously.

MOTION to adjourn to closed session at 9:21 a.m. The motion passed unanimously.

CLOSED SESSION

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

Atherton et al v. High-Speed Rail Authority Case No. 34-2008-80000022

- 4. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION (Subsection (c) of Government Code Section 54956.9)**

Town of Atherton City Council Amended Agenda, Special Meeting Minutes September 20, 2010

RECONVENE TO OPEN SESSION

ADJOURN

Respectfully submitted,

Theresa N. DellaSanta
Deputy City Clerk

Minutes Prepared by:
Jennifer Frew
Administrative Assistant to Police Department