



AGENDA
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT

May 21, 2008

5:00 P.M.

Meeting Room

Town Administrative Offices

91 Ashfield Road
Atherton, California

Special Meeting

5:00 P.M. ROLL CALL J. Carlson, Marsala, Janz, McKeithen

5:02 P.M. PUBLIC COMMENTS

5:05 P.M. CLOSED SESSION

**A. CONFERENCE WITH LEGAL COUNSEL – Existing Litigation
pursuant to Subsection (a) of Government Code Section 54956.9**

Lamb vs. Town of Atherton, et al.

Superior Court of California, San Mateo County, CIV 461630

**B. CONFERENCE WITH LEGAL COUNSEL – Anticipated Litigation,
Initiation of Litigation pursuant to Subsection (c) of Government
Code Section 54956.9**

Three (3) potential cases

**C. LIABILITY CLAIMS – pursuant to Government Code Section
54956.95**

Claimant: Joseph and Mele Genaro

Agency Claimed Against: Town of Atherton

RECONVENE TO OPEN SESSION

Report of action taken.

ADJOURN

Agendas and staff reports may be accessed on the Town website at: www.ci.atherton.ca.us

☞ Please contact the City Clerk's Office at 650.752.0500 with any questions. Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the City Clerk at (650) 752-0500. Notification of 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting. (29 CRF 35.104 ADA Title II)

Town of Atherton City Council Agenda, Special Meeting May 21, 2008

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Date posted: 051608



AGENDA
Town of Atherton
CITY COUNCIL STUDY SESSION
May 21, 2008
6:00 P.M.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California
Special Meeting

- 6:00 P.M.** 1. **ROLL CALL** J. Carlson, Marsala, Janz, McKeithen
- 6:02 P.M.** 2. **PUBLIC COMMENT**
- STUDY SESSION**
- 6:05 P.M.** 3. **BROWN ACT/POLITICAL REFORM ACT ORIENTATION**
- 7:00 P.M.** 4. **ADJOURNMENT**

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AGENDA
Town of Atherton
CITY COUNCIL
ATHERTON CHANNEL DRAINAGE DISTRICT
MAY 21, 2008

7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

PLEASE NOTE: *Times listed on the Agenda are an approximation and not a time certain. The Council may take up items out of order. Please arrive well in advance of the time listed for any item in which you are interested.*

- 7:00 P.M. 1. **PLEDGE OF ALLEGIANCE**
- 7:03 P.M. 2. **ROLL CALL** J. Carlson, Marsala, Janz, McKeithen
- 7:05 P.M. 3. **PRESENTATIONS**
- A. Proclamation Declaring May 18-24, 2008, National Public Works Week
- B. Recognition of Outgoing Committee/Commission Members
- C. GreenSTART Awards
- 7:25 P.M. 4. **PUBLIC COMMENTS** (only for items which are not on the agenda – limit of three minutes per person)
- 7:35 P.M. 5. **REPORT OUT OF CLOSED SESSION**
- 7:40 P.M. 6. **CITY MANAGER'S REPORT**
- 7:50 P.M. 7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT** (Directed by Resolution No. 99-6)
- Atherton Tree Committee
- 8:00 P.M. **CONSENT CALENDAR** (Items 8-16)

(Consent Calendar items are routine in nature and are generally considered in one motion and adopted by a single vote of the City Council. If discussion regarding a Consent Calendar item is desired, the member(s) of the City Council, public, and/or staff wishing to pull the item should so indicate at the time the Mayor calls for consideration of the Consent Calendar.)

8. **APPROVAL OF MINUTES OF THE SPECIAL CITY COUNCIL CLOSED SESSION MEETING OF APRIL 10, 2008; THE SPECIAL CITY COUNCIL CLOSED SESSION AND REGULAR CITY COUNCIL MEETINGS OF APRIL 16, 2008**
9. **APPROVAL OF BILLS AND CLAIMS FOR APRIL IN THE AMOUNT OF \$ 980,868**
10. **ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR APRIL 2008**
11. **ACCEPTANCE OF QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDING MARCH 31, 2008**
12. **APPROVAL OF AN AMENDMENT TO THE TOWN'S E-MAIL POLICY** *(Continued from the City Council meeting of April 16, 2008.)*

Recommendation: Approve by motion, an amendment to the Town's E-Mail, Internet, and On-Line Service Use Policy pertaining to the retention and deletion of e-mail.

13. **ADOPTION OF A RESOLUTION MODIFYING SOCIAL EVENT FEES AT HOLBROOK-PALMER PARK**

Recommendation: Adopt a resolution modifying rental fees for social events at Holbrook-Palmer Park.

14. **APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$109,269.64 FOR THE VALPARAISO AVENUE OVERLAY PROJECT NUMBER 06-001**

Recommendation: By motion, approve contract change orders in the amount of \$109,269.64 for the Valparaiso Avenue Overlay Project Number 06-001.

15. **APPROVAL OF LETTER TO STATE SENATOR JOE SIMITIAN SUPPORTING C/CAG-SPONSORED SENATE BILL (SB) 348**

Recommendation: Staff recommends that the City Council authorize the Mayor to sign the letter to State Senator Joe Simitian supporting C/CAG-Sponsored Senate Bill (SB) 348

16. **REPORT FROM THE CITY MANAGER REGARDING HIS FIRST 100 DAYS**

Recommendation: Accept report.

16A. ACCEPT AND APPROVE THE RECOMMENDATION OF THE CITY COUNCIL SCREENING COMMITTEE FOR AN APPOINTMENT TO THE TRANSPORTATION/TRAFFIC SUBCOMITTEE

Recommendation: Accept the recommendation of the City Council Screening Committee to appoint A. Erwin Erickson to the Transportation/Traffic Subcommittee.

PUBLIC HEARINGS

NONE

REGULAR AGENDA (Items 17-19)

8:05 P.M. 17. ANNUAL FINANCIAL REPORT FOR FISCAL YEAR 2006/2007

Recommendation: The Audit Committee recommends that the Council accepts and approves the basic financial statements and independent auditors report for the year ended June 30, 2007

8:20 P.M. 18. DISCUSSION AND POSSIBLE APPOINTMENT OF A BLUE RIBBON TASK FORCE TO SOLICIT INPUT AND EVALUATE THE FEASIBILITY OF A NEW TOWN CENTER; DISCUSSION AND POSSIBLE CREATION OF A COMMITTEE TO EVALUATE THE FEASIBILITY OF FUNDRAISING OPTIONS FOR A NEW TOWN CENTER

Recommendation: Appoint a Blue Ribbon Task Force to solicit input and evaluate the feasibility of a new Town Center. Appoint a Committee to evaluate the feasibility of fundraising options for a new Town Center.

8:50 P.M. 19. ADOPTION OF A MASTER RESOLUTION GOVERNING COMMITTEES/COMMISSIONS

Recommendation: Review resolution which is designed to govern all Town committees and commissions with the exception of the Planning Commission. If approved, adopt Resolution amending City Council Rules of Procedure and Resolution rescinding Arts Committee. Introduce Ordinance amending the Atherton Municipal Code to delete Chapters 2.37 and 2.40. A majority vote of the Council will be required for these actions.

9:10 P.M. 20. COUNCIL REPORTS

9:20 P.M. 21. PUBLIC COMMENTS

9:30 P.M. 22. ADJOURNMENT

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DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
April 10, 2008
6:30 P.M.
Meeting Room
Town Administrative Offices
91 Ashfield Road
Atherton, California
Special Meeting

The meeting was called to order by Mayor Janz at 6:30 p.m.

ROLL CALL

PRESENT: Jerry Carlson
Charles E. Marsala
James R. Janz (Participated via Telephone)
Kathy McKeithen

PUBLIC COMMENTS

There were no public comments.

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

**Agency Negotiator: Glenn Berkheimer, I.E.D.A.
Current and Upcoming Labor Negotiations**

RECONVENE TO OPEN SESSION

Report of action taken.

There was no reportable action taken.

ADJOURN

The meeting was adjourned by Mayor Janz at 8:12 p.m.

Respectfully submitted,

James R. Janz
Mayor

Minutes Prepared by:
Kathi Hamilton



DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
April 16, 2008
6:00 P.M.
Meeting Room
Town Administrative Offices
91 Ashfield Road
Atherton, California
Special Meeting

The meeting was called to order by Mayor Janz at 6:05 p.m.

ROLL CALL

PRESENT: Jerry Carlson
Charles E. Marsala
James R. Janz
Kathy McKeithen

PUBLIC COMMENTS

There were no public comments.

CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL – Existing Litigation pursuant to Subsection (a) of Government Code Section 54956.9**

Lamb vs. Town of Atherton, et al.
Superior Court of California, San Mateo County, CIV 461630

Town of Atherton vs. P.G. & E.
Superior Court of California, San Mateo County, CIV 471234

Town of Atherton vs. Mia Meir
Superior Court of California, San Mateo County, CIV 466596

- B. CONFERENCE WITH LEGAL COUNSEL – Anticipated Litigation, Significant Exposure to Litigation pursuant to Subsection (b) of Government Code Section 54956.9**

Two (2) potential case

C. LIABILITY CLAIMS – pursuant to Government Code Section 54956.95

Claimant: Michael Sheena

Agency Claimed Against: Town of Atherton

Claimant: Mercury Insurance Group (Mavel Guitron)

Agency Claimed Against: Town of Atherton

RECONVENE TO OPEN SESSION

Report of action taken.

City Attorney Marc Hynes reported out of Closed Session as follows:

With regard to Item A, CONFERENCE WITH LEGAL COUNSEL – Existing Litigation, all three cases were discussed; not reportable action was taken.

With regard to Item B, CONFERENCE WITH LEGAL COUNSEL – Anticipated Litigation, Significant Exposure to Litigation, two potential cases were discussed; no reportable action was taken.

With regarding to Item C, LIABILITY CLAIMS, by unanimous vote of the Council, the claim filed by Michael Sheena was denied. There was no reportable action taken regarding the claim filed by Mercury Insurance Group (Mavel Guitron).

ADJOURN

The meeting was adjourned by Mayor Janz at 6:50 p.m.

Respectfully submitted,

James R. Janz
Mayor

Minutes Prepared by:
Kathi Hamilton



DRAFT MINUTES
Town of Atherton
CITY COUNCIL
ATHERTON CHANNEL DRAINAGE DISTRICT
APRIL 16, 2008

7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

Mayor Janz called the meeting to order at 7:06 p.m.

1. PLEDGE OF ALLEGIANCE

2. ROLL CALL

PRESENT Jerry Carlson
Charles E. Marsala
James R. Janz
Kathy McKeithen

City Manager Jerry Gruber and City Attorney Marc Hynes were also present.

3. PRESENTATIONS

A. Mosquito and Vector Control Awareness Week Proclamation

Mayor Janz presented the proclamation to Chindi Peavey, Biologist, San Mateo County Mosquito Abatement and Vector Control District

B. Carolyn Williams, Principal, Selby Lane School

Principal Carolyn Williams was unable to attend the meeting.

C. Menlo Park Fire Protection District – Quarterly Update

City Manager Jerry Gruber introduced Director Peter Carpenter and Chief Harold Schapelhouman from the Menlo Park Fire Protection District (MPFPD). Director Carpenter said there were three projects that the MPFPD and Town were working on jointly: 1) Development of an evacuation program for West Atherton; 2) Water supply issues; and 3) cellular phone coverage. Chief Schapelhouman updated Council on the three areas. Progress had been made regarding water supply issues. Cal Water was working on its 20- year Master Plan, and the draft would be ready in May. The City Manager would be

very helpful given his background. Meetings had taken place regarding the West Atherton evacuation project which also involved the City of Menlo Park. Cellular phone coverage was an important issue for MPFPD. Currently, the training tower was undergoing modifications and MPFPD was in discussion with cell phone providers to install a separate communication tower. Discussion ensued regarding the CERT program and the citizens' disaster preparedness group.

4. PUBLIC COMMENTS

Ross Konningstein, Atherton, said the Environmental Programs Committee organized a party to be held Monday, April 21, at his "green" home which featured efficient insulation, efficient heating, and solar heating and electric systems.

Jim Dobbie, Chairman, General Plan Committee, attended the third and last public meeting on the Zoning Code Update on April 9, attended by approximately 50 people. The main changes related to building height, floor area measurements, allowances for light wells, and retaining walls. The next steps would be the General Plan Committee meeting scheduled for June 4, the Planning Commission, and the Council. All meetings were public.

Elizabeth Lewis, Member, General Plan Committee, attended the Zoning Code Update meeting on April 9. Out of the 50 people in attendance, 83% were residents, which was more than the other two workshops. An e-mail list was set up by Valerie Gardner and helped get the word out. Due to technical difficulties at the meeting, some information was not collected. Some questions and outstanding issues still needed to be worked out.

Valerie Gardner, Atherton, said the "Athertonian" was an e-mail list that enabled the user to receive information on a timely basis regarding events, happenings, and issues in Atherton. The website was yahoo.com/groups/Athertonian.

5. STAFF REPORTS

- City Attorney Marc Hynes reported out of Closed Session as follows:

A. **CONFERENCE WITH LEGAL COUNSEL – Existing Litigation pursuant to Subsection (a) of Government Code Section 54956.9**

Lamb vs. Town of Atherton, et al.

Superior Court of California, San Mateo County, CIV 461630

Town of Atherton vs. P.G. & E.

Superior Court of California, San Mateo County, CIV 471234

Town of Atherton vs. Mia Meir

Superior Court of California, San Mateo County, CIV 466596

Three cases were discussed and no reportable action was taken.

B. CONFERENCE WITH LEGAL COUNSEL – Anticipated Litigation, Significant Exposure to Litigation pursuant to Subsection (b) of Government Code Section 54956.9

Two (2) potential cases

Two potential cases were discussed and no reportable action was taken.

C. LIABILITY CLAIMS – pursuant to Government Code Section 54956.95

Claimant: Michael Sheena

Agency Claimed Against: Town of Atherton

By unanimous vote of the Council, the claim was denied.

Claimant: Mercury Insurance Group (Mavel Guitron)

Agency Claimed Against: Town of Atherton

No reportable action was taken.

- **City Manager Jerry Gruber said staff was moving forward with the Fiscal Year 2008/09 Budget and thanked staff. The audit would be finalized in the next couple of days. Interim Finance Director Yeomans was coordinating a meeting with the Audit Committee. The Police Chief recruitment had generated a lot of interest on the part of the citizens who were responding to a survey. The *Athertonian* was mailed and was the first issue of a new format. A Study Session was scheduled for May 2 for senior staff and Council at the Main House in Holbrook-Palmer Park. The RFP was being circulated by SBWMA regarding the Town's waste provider. He would keep everyone informed. He toured the Urban Search and Rescue facility, one of 27 in the United States. The Town had a backup EOC there and would be seeking funding in the next fiscal year.**
- **Interim Finance Director Bill Yeomans said the final audit was finished and he would schedule a meeting with the Audit Committee.**

6. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

Victoria Manor Homeowners' Association

Laura Boat, Board Member, Victoria Manor Homeowners' Association, said there were 29 houses in the Association which was formed in 1995 to deal with issues related to Menlo School and Menlo College. The Association's recent focus was on emergency preparedness. A new website would be unveiled at the May 4 annual meeting and she invited Council to attend. She noted that the neighborhood was transitioning to younger families.

CONSENT CALENDAR (Items 7-20)

Vice Mayor Jerry Carlson asked that Item Nos. 11 and 14 be removed and placed on the Regular Agenda for discussion. Mayor Janz placed Item No. 14 first on the Regular Agenda and Item No. 11 at the end of the Regular Agenda.

Regarding Item No. 16, Council Member Marsala was in favor of appointing the Ad Hoc Committee and had the following questions/comments: 1) whether the Committee should be added to the Council's regular committee list; 2) whether guest houses could be used for caretakers; 3) how one would know if a caretaker or renter was the occupant; 4) whether a guest house could be used for more than 30 days; 5) that large estates over 2 acres were different and might need caretaker; 6) whether more than one bathroom could be allowed in an accessory structure.

Item No. 19 was removed for discussion by a citizen. Mayor Janz placed it first on the Regular Agenda after Item 21 and before Item No. 14.

MOTION – to approve the Consent Calendar as presented with the exception of Item Nos. 11, 14, and 19 which were removed and placed on the Regular Agenda for discussion.

M/S McKeithen/J.Carlson

Ayes: 4 Noes: 0 Absent: 0 Abstain: 0

7. **APPROVED MINUTES OF THE SPECIAL CITY COUNCIL CLOSED SESSION MEETING MARCH 5, 2008; THE SPECIAL CITY COUNCIL CLOSED SESSION AND REGULAR CITY COUNCIL MEETINGS OF MARCH 19, 2008**
8. **APPROVED BILLS AND CLAIMS FOR MARCH IN THE AMOUNT OF \$ 1,014,676**
9. **ACCEPTED MONTHLY FINANCIAL REPORT FOR MARCH 2008**
10. **ADOPTION OF A RESOLUTION REGARDING AB 2544 ANNUITANT MEDICAL INSURANCE – MANAGEMENT GROUP**

Adopted Resolution No. 08-13, “A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ELECTING TO BE SUBJECT TO PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT ONLY WITH RESPECT TO MEMBERS OF A SPECIFIC EMPLOYEE ORGANIZATION AND FIXING THE EMPLOYER'S CONTRIBUTION FOR EMPLOYEES AND THE EMPLOYER'S CONTRIBUTION FOR ANNUITANTS AT DIFFERENT AMOUNTS,” and rescinding Resolution 08-07.

~~11. APPROVAL OF AN AMENDMENT TO THE TOWN'S E-MAIL POLICY~~

~~Approve by motion an amendment to the Town's E-E-Mail, Internet, and On-Line Service Use Policy pertaining to the retention and deletion of e-mail. (Removed and placed at the end of the Regular Agenda for discussion.)~~

12. APPROVAL OF JOB CLASSIFICATION FOR THE POSITION OF ASSISTANT CITY MANAGER / APPROVAL OF SALARY RANGE FOR ASSISTANT CITY MANAGER

Approved job classification for the position of Assistant City Manager and approve the annual salary range for Assistant City Manager of \$129,924- \$ 152,844.

13. APPROVAL OF LETTER TO C/CAG REQUESTING GRANT FUNDING IN THE AMOUNT OF \$13,000 FOR A GOVERNMENT OPERATIONS EMISSIONS INVENTORY

Authorized the Mayor to sign the letter to C/CAG requesting grant funding in the amount of \$13,000 for the Town's government operation greenhouse gas emissions baseline inventory.

~~**14. RECOMMENDATION FROM ENVIRONMENTAL PROGRAMS COMMITTEE FOR THE CITY COUNCIL TO REFER TO THE GENERAL PLAN COMMITTEE CONSIDERATION OF GREEN BUILDING REGULATIONS AND CHANGES TO ZONING CODE FOR SOLAR INSTALLATIONS**~~

~~**Recommendation:** The Environmental Programs Committee is recommending that the City Council direct the General Plan Committee to begin the process of reviewing making changes in the zoning code to make solar installations easier and implementing green building regulations. (Removed and placed on the Regular Agenda for discussion.)~~

15. AWARD OF TWO CONTRACTS FOR THE HOLBROOK-PALMER PARK TOWN HOME PROJECT, PROJECT NO. 07-011

Awarded two contracts for the Holbrook-Palmer Park Town Home Project, Project No. 07-011, for up to \$82,000, with a construction contingency of \$14,200, for a total authorization of \$96,200; to authorize the use of informal bidding; and to authorize the Mayor to sign the contracts on behalf of the Town.

16. APPOINTMENT OF AD HOC COUNCIL SUB-COMMITTEE REGARDING THE 2007-14 HOUSING ELEMENT UPDATE

Appointed Mayor Janz and Vice Mayor Carlson as the Ad Hoc City Council Sub-committee to provide guidance and oversight to Staff and consultants during the 2007-14 Housing Element Update process.

17. APPROVAL TO PARTICIPATE IN REQUEST FOR PROPOSAL FOR JOINT PROCUREMENT OF STREET SWEEPING SERVICES

Approved participation in a request for proposal for joint procurement of street sweeping services.

18. APPROVAL OF PLANS AND SPECIFICATIONS AND AUTHORIZATION TO ADVERTISE THE STEVICK DRIVE STREET RECONSTRUCTION PROJECT, PROJECT NO. 06-002

Approved the plans and specifications and authorize advertisement for bids for the Stevick Drive Street Reconstruction Project, Project No. 06-002.

~~**19. RATIFY CITY MANAGER AUTHORITY RE SPECIAL EVENTS ORDINANCE ATHERTON MUNICIPAL CODE CHAPTER 17.38**~~

~~**Recommendation: Confirm that Section 17.38.060A of the Atherton Municipal Code is the controlling authority for issuance of special event permits. This action may be taken by motion. It is intended to avoid misinterpretation of actions by the City Council at the regular City Council meeting on May 17, 2006. (Removed and placed on the Regular Agenda for discussion.)**~~

20. APPROVE AN AMENDMENT TO THE CITY OF REDWOOD CITY VEHICLE MAINTENANCE SERVICES

Authorized the Mayor to execute Amendment No. 4 to the agreement for vehicle maintenance services with the City of Redwood City.

PUBLIC HEARINGS (Item 21)

21. RECONSIDERATION OF COUNCIL'S DECISION REGARDING THE APPEAL OF THE PROPERTY OWNERS AT 137 STOCKBRIDGE AVENUE FROM A DETERMINATION BY THE BUILDING OFFICIAL AND DEPUTY TOWN PLANNER (CHAPTER 17.44 OF THE ATHERTON MUNICIPAL CODE)

Deputy Town Planner Lisa Costa Sanders was available to answer questions.

Mayor Janz opened the public hearing.

Larry Lowry, appellant, recapped the eight main elements of the issue: 1) Fully Complete – Our Plans were fully completed and stamped for submission before the new ordinance was even voted on and well before it became effective; 2) Explicitly approved – Our plans were reviewed in detail and explicitly approved by the former head of the Atherton Building Department, which prompted this subsequent extensive investment in detailing; 3) Substantial Upgrade – Our plans resulted in a very substantial upgrade of the main residence and already substantial landscaping to the benefit of our neighbors and the Town overall; 4. Within the Footprint – Our plans, with the exception of pushing out one wall so we can incorporate the garage within the main residence and thereby eliminate a detached garage that otherwise would be 10 feet from the property line, contained the main residence virtually within the footprint of the current main residence; 5) Remove Two Accessory Structures – More importantly, our plans removed from the property two old accessory structures which were in poor condition and 10 feet from the property line, and preclude for ever the addition of any new accessory structures, to the benefit of our neighbors and the Town overall; 6) Better than the Alternative –Our plans are better for all concerned than the legally

permitted alternative of tearing down the two legal nonconforming rooms and rebuilding them 10 feet closer to the property line; 7) Extensive Landscaping – Due to the very extensive investment that we have made in landscaping, the two legal nonconforming rooms cannot even be seen from anywhere outside our property, and definitely not from any neighbor’s property, which would no longer be the case if we tore them down and rebuilt them 10 feet closer to the property line, which would be permitted under current zoning codes; and 8) Support from 15 Neighbors – Fifteen of our neighbors, including the Stewarts with whom we share a property line, and the Nohmuras, our neighbors directly across the street, have submitted letters and emails strongly supporting our project and urging the Council to Grant our appeal.

Dr. David Burton, Atherton, was the next door neighbor and was opposed to granting the appeal. He believed the nonconforming structures that would remain would be part of a brand new house with a brand new foundation. There was a one-year time gap between the last contact with the Town and submission of the plans 35 days late. Council voted for the regulations which were in existence when the plans were submitted and the appeal should be denied.

Bob Raymer, Atherton, received written notice of the hearing. He queried when the Town would be rid of nonconforming uses. He believed when new construction took place would be the occasion to end nonconforming use. His objective was not to do any damage to Mr. Lowry but to apply the law to get rid of nonconforming structures. He urged Council to deny the appeal.

Murray Simpson, Atherton, a neighbor, agreed with the previous two speakers. He urged Council to deny the appeal.

Mayor Janz closed the public hearing.

Council Member McKeithen talked about precedents. She believed in sticking by the rules; however, she believed two precedents were set by Council: 172 Austin and 84 Walnut. Zoning violations had occurred in both cases. She thought the appeal should be approved. She looked at several facts and did not see much of a difference between the other two properties and 137 Stockbridge. She, too, wanted to see an end to nonconforming structures. She thought the Lowry’s should be allowed to go forward with their plans.

Council Member Marsala voted in favor of granting the appeal previously because of incrementally implementing new ordinances over the last few years. He also believed residents had not been properly notified. He suggested that perhaps ordinances adopted in the first half of the year should become operative the following January, and ordinances adopted during the second half of the year should become effective the following July. Projects in Atherton sometimes spanned years to plan and took longer to design.

Vice Mayor Carlson disclosed he was invited to both Dr. Burton’s house and to Mr. Lowry’s house and he visited and made a visual inspection of both prosperities. Regarding the two prior situations, he vote in favor of the first and voted against the

second. The properties were well screened, and the resulting structure was a major improvement to the area. He was very aware of setting precedents and unintentional consequences. He leaned toward granting the appeal.

Mayor Janz said clearly, the applicant made a mistake in filing the plans 35 days late even though they were ready two months earlier. He voted against the appeal originally, but he did not feel good about it. He had served 10 years on the Planning Commission and almost 8 years on the City Council and never saw anyone miss an ordinance change by so little. He believed the situation was not likely to happen in the future and he did not agree it was a precedent-setting situation. The one thing it came down to was the axiom of equity in the law. He was in favor of approving the appeal.

City Attorney Marc Hynes suggested if Council chose to grant the appeal, it would be appropriate to consider the eight key points made by Mr. Lowry as an exhibit to the resolution.

Mayor Janz noted Item E in the resolution had an incorrect statement regarding the June date.

MOTION – to approve the appeal based on the eight items outlined by Mr. Lowry and attached to the resolution as Exhibit A and adopt Resolution No. 08-14, “A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON GRANTING APPEAL OF BUILDING OFFICIAL DETERMINATION FOR 137 STOCKBRIDGE AVENUE, ATHERTON”

M/S McKeithen/J.Carlson

Ayes: 4 Noes: 0 Absent: 0 Abstain: 0

REGULAR AGENDA (Items 22-24)

**19. RATIFY CITY MANAGER AUTHORITY RE SPECIAL EVENTS ORDINANCE
ATHERTON MUNICIPAL CODE CHAPTER 17.38**

City Attorney Marc Hynes presented the staff report. Actions taken at the City Council meeting of May 17, 2006, had the potential for confusion. He said the Special Event Permit could be granted by the City Manager or designee and could be appealed by any interested person. He clarified the ordinance, as written and applied, gave the City Manager authority to grant Special Event Permits. Additionally, the City Manager could send the Special Event Permit application to the Planning Commission if additional information or discussion was needed.

Council Member Marsala believed the ordinance was overbearing and wanted Council to revisit it. He believed the ordinance was difficult to enforce. There were several ambiguities related to whether some activities needed a permit or an exemption, e.g., Pop Warner Football. Additionally, the guidelines needed to be modified to correct parts that were too restrictive, such as requiring a permit for events after 9:00 p.m. no matter what size they were. He believed a permit should only be required for large events over 300 people. With regard to field use, he believed “sunset” should replace 7:00 p.m.

Mayor Janz clarified that the Special Events Ordinance was not on the agenda for discussion that evening. The purpose was to address the anomaly of what appeared to be a direction on the record to the City Manager.

MOTION – to review/reconsider the Non-School Event Guidelines at a subsequent meeting

The motion died for lack of a second.

Vice Mayor Carlson believed clarifying the City Manager’s role was essential, timely, and more efficient in order that he could negotiate conditions with parties requesting a permit, etc.

Greg Baty, Atherton, expressed disappointment with Council. He said people were promised and assured over a year ago that the issue would be heard. He thought the ordinance and guidelines should be repealed. Pop Warner had asked for an exemption last year. Youth sports were not special events; they were part of life and part of buying a house next to a school. Fields were needed and the time had come to address the real issue and what was right for the community. He had over 50 signatures from Lindenwood residents who supported using the fields.

Natalie Diller, Lindenwood resident, lived in close proximity to the schools which was part of the appeal of the location. The Lindenwood Homes’ Association was a small group of vocal residents but did not represent the majority. The area desperately needed a place for kids to play. There was a 40% increase in school enrollment.

Lyle Hennigan, Atherton, moved to Town two years ago from out of state. He believed the sports programs here were tremendous. Listening to the ambiguities that seemed to exist in the guidelines he urged the Mayor and Council to revisit the guidelines and ordinance so that clear, well thought out rules could be enacted.

Clint Ostrander, Lindenwood, former Chairman of the Measure G Campaign, said one of the major tasks during the campaign was to convince the voters that school sites would be developed with proper facilities. When the voters realized the fields could be used by the general community, the response was overwhelmingly in support. Approximately, \$2.4 million was spent on the football and track facility at M-A High School. The various sports teams should be allowed to play on the field since their parents helped pay for it.

Philip Lively, Lindenwood, said the Special Events Permit process worked well without problems. He believed Pop Warner Football was clearly in the non-school event category. The Lindenwood Homes’ Association (LHA) tried to work out a Special Event Permit with Pop Warner for over 3 years, most recently in July 2007 without a response. He submitted a letter of from LHA supporting Pop Warner Football and outlined permit requirements, along with a check covering the fee.

Tom Hill, Atherton, clarified the controversy was about hours of play and amplified noise not whether sports would be played.

should be able to think through and decide what approach made sense for the Town. He supported the green building direction and believed Council needed to set some goals; however, he thought it was premature for the Council to direct the General Plan Committee to make certain findings.

Deputy Town Planner Lisa Costa Sanders clarified that Council had already directed the topic of green building to the General Plan Committee. The General Plan Committee and Environmental Programs Committee held several joint meetings which were productive, although things were not moving forward. The General Plan Committee requested that the City Council refer the green building guidelines to the General Plan Committee as the lead committee with resulting recommendations going through the Environmental Programs Committee before going back to Council. After the higher priority of the Zoning Code Update, the green building guidelines would be taken up by the General Plan Committee. The solar element was specifically referred to PMC to incorporate with the Zoning Code Update.

Council Member McKeithen suggested the General Plan Committee needed to conduct as thorough an examination as possible along with balancing what the public wanted and what the legislative history of the ordinance was, e.g., setbacks for heritage trees, etc. The committee needed to look at the reasons the restrictions were there in the first place.

Council Member Marsala distributed pictures of Ross Konningstein's "green" house. He received letters from residents with concerns regarding the inability to install solar because of height and/or setback requirements. He thought the item needed to be addressed sooner rather than later since construction was being held up in some instances. Additionally, the green building guidelines needed to be implemented.

Jim Dobbie, Atherton, attended the joint meetings and said the subject of green building was a very big subject. There was a large discussion but no where near any agreement. He suggested referring specific items rather than the large subject matter of green building.

Ross Konningstein, Atherton, agreed keeping things simple was the right approach. He had been willing to take more risks with his project to encourage other owners and contractors to try things that were different. He focused on the motions for solar because his requests for solar were denied. He recommended a simple change for solar water to allow clearance height greater than 3 feet, perhaps 6 feet 6 inches including mountings. He quoted State statutes and noted there was tension between the law at the State level and the Town level. He encouraged Council to allow solar systems to be installed more easily.

Elizabeth Lewis, Atherton, attended the previous evening's joint meeting of Atherton's Environmental Programs Committee and Menlo Park entitled, "Winds of Change." Cities/Towns were in a critical time of structural change in the environment, and there was a window of opportunity to make adaptations and changes to the General Plan to make communities sustainable. She urged Council to challenge the General Plan Committee to think boldly and to look at implementing standards Town-wide.

Jeff Wise, Atherton, supported the idea that builders should apply green-building practices and incorporate solar installations and incentives; however, some did not make economic sense in our area. He urged Council not to make “knee-jerk” reactions.

Deputy Town Planner Costa Sanders indicated the General Plan Committee wanted to begin with a voluntary program; whereas, the programs under discussion were mandatory and required meeting certain thresholds. Additional staff time and expense would result with implementation.

Building Official Mike Wasmann said San Mateo County’s ordinance which included the intent of expediting the permit process for residential would increase staff time; inspections within two days would increase staff time. Normally, inspections were done in two days except during the busy summer season. He believed the General Plan Committee would work off of the two model ordinances. Additionally, implementation of such an ordinance had not been included in the upcoming budget. Solar was more of a height issue and was being addressed through PMC.

MOTION – to direct the General Plan Committee to consider implementing changes to the zoning code in order to facilitate solar implementation with consideration in particular, but not limited to, the four items identified in the City Council staff report dated April 16, 2008; additionally, direction was given to work off of the Green Building Guidelines incorporated in San Mateo County’s and Los Altos’ Green Building Regulations and using those as model ordinances for green building within the Town of Atherton

City Manager Jerry Gruber supported green building; however, he expressed concern regarding the costs associated with the item.

Mayor Janz suggested the estimated hours be analyzed, revised, and incorporated into the budget, with particular attention paid to the cost of public outreach.

M/S McKeithen/Marsala

Ayes: 4 Noes: 0 Absent: 0 Abstain: 0

22. ADOPTION OF A MASTER RESOLUTION GOVERNING COMMITTEES/COMMISSIONS

Mayor Janz noted the item was considered in a Study Session earlier that evening. A number of revisions were made to the draft resolution. The City Attorney would revise the resolution and Council would consider it at a future meeting.

Bob Jenkins, Atherton, attended the Study Session. The resolution spoke to the composition and terms, the number of years someone could serve, the need to provide minutes, etc; however, there was no request for an annual progress report of accomplishments. Additionally, he suggested performance appraisals for committees/commissions.

Mayor Janz thought requiring an annual report was a good idea.

Direction was given to the City Manager to schedule the next meeting.

23. ACCEPT AND APPROVE THE RECOMMENDATIONS OF THE CITY COUNCIL SCREENING COMMITTEE FOR ANNUAL APPOINTMENTS TO COMMITTEES/COMMISSIONS

Council Member Marsala said the Screening Committee recommended reappointing Michael DiBattista to the Mid-Peninsula Media Center who also worked in the industry. The Mid-Peninsula Media Center was a nonprofit organization where residents and corporations could make videos. Four highly qualified candidates applied for the San Mateo County Mosquito Abatement and Vector Control District. The Screening Committee recommended Dr. Samuel Lerner, a veterinarian. Council Member Marsala said other appointments to committees/commissions would take place at a later date.

Karen Williams, Clerk of the Board, San Mateo County Mosquito Abatement and Vector Control District, thanked Council for making the appointment. Additionally, she recognized Doris Kellett for her 16+ years of service on the Board.

MOTION – to accept the recommendation of the Screening Committee to reappoint Michael DiBattista to the Mid-Peninsula Media Center and to appoint Dr. Samuel Lerner, a veterinarian, to the Mosquito Abatement and Vector Control District

M/S J.Carlson/McKeithen

Ayes: 4 Noes: 0 Absent: 0 Abstain: 0

24. DISCUSSION AND POSSIBLE CREATION OF A BLUE RIBBON TASK FORCE TO SOLICIT INPUT AND EVALUATE THE FEASIBILITY OF A NEW TOWN CENTER; DISCUSSION AND POSSIBLE CREATION OF A BLUE RIBBON TASK FORCE TO EVALUATE THE FEASIBILITY OF FUNDRAISING OPTIONS FOR A NEW TOWN CENTER

Council Member Marsala gave a PowerPoint Presentation on the background and history of Town facilities. He highlighted nearby towns where fundraising raised most of the funds to build a new Town Center. In a 1999 study, 60 percent of the people were in support of a tax increase to build a new facility. In 2006, Council authorized a needs study for Town facilities. Going forward, the Facilities Committee wanted to create two Blue Ribbon Task Forces to study the feasibility of what the facility would look like and the feasibility of raising funds through donations.

Bob Jenkins, Atherton, thought the Disney Symphony Hall in Los Angeles was a recent and good example of how accomplish it. All the money was raised by residents.

Valerie Gardner, Atherton, thought new facilities would be wonderful for Atherton and a way to improve staff morale and provide a place for residents to gather. She also wanted to take into account how create a vibrant, green urban community to meet the

needs of the community. Atherton had an aging population and the Town needed to update studies to address the needs of today.

Patricia Engasser, Atherton, had serious concerns of commercializing a second floor. She did not want a musical center for the Peninsula with weekend traffic, etc. The facility should serve Atherton residents' needs.

Mayor Janz suggested adding a component to solicit input from Town residents to see whether there was support for a new facility and to gather ideas/concerns regarding what would or would not be appropriate.

Vice Mayor Carlson wanted to get a fair representation of the people in Town to see if the project was viable. He envisioned time in the process to help educate residents. He commended Council Member Marsala for his effort. The project was a big undertaking. He also suggested a timeline, e.g., six months, to report to Council on the findings.

Council Member McKeithen needed more detail: how the members would be selected; how many members would be on the committees; would an outside consultant be needed; what was the time table; what were the fundraising options, etc. She thought those questions needed to be answered and brought back to Council for consideration.

Mayor Janz thought the Facilities Committee would brainstorm the who and the how many and return to Council for approval before forming the committees. The Facilities Committee would also develop a timeline.

Council Member Marsala said he had learned that everything needed to be open with community input, community input, community input. Some residents had volunteered to run charettes, others wanted to help with fundraising. The purpose of the evening was to obtain Council's support.

Council Member McKeithen emphasized gathering input on the feasibility which included desirability. Some people wanted a new facility; however, others did not. More evaluation was needed.

Mayor Janz envisioned that the Blue Ribbon Task Forces would sort out all the issues as part of its charge rather than the City Council. The committees would be representative of the community and would solicit widespread input. He was in favor of the Council approving the Facilities Committee to go forward with the next steps.

MOTION – to direct the Facilities Committee to brainstorm the composition and duties of two Blue Ribbon Task Forces, develop a timeline, and return to Council for approval

Council Member Marsala said there would always be naysayers when dealing with public opinion. There was a lot of information he would use as a basis.

M/S Janz/Marsala

Ayes: 4 Noes: 0 Absent: 0 Abstain: 0

11. APPROVAL OF AN AMENDMENT TO THE TOWN'S E-MAIL POLICY

Mayor Janz continued the item to the City Council meeting of May 21, 2008.

25. COUNCIL REPORTS

- **Council Member McKeithen said the Office of Emergency Services met and discussed a new website. At the San Francisco Airport Community Roundtable, discussion continued on the Woodside Corridor to try to determine why no progress had been made to limit the flights flying below 9,000 ft.**
- **Vice Mayor Carlson commented on Item No. 11. He had questions regarding personal e-mail accounts on personal computers. He asked the City Attorney for clarification and answers. The Transportation Subcommittee was recommending meeting every other month since a lot of issues were on the horizon. An Ad Hoc Committee, put together by Supervisor Richard Gordon, would look at safe routes to schools including Laurel, Encinal, and M-A High School, as well as other projects.**
- **Public Works Director Duncan Jones said several traffic studies were in different stages of the process: Holbrook, Alejandra, Laurel, Fair Oaks, and the intersection of Watkins and El Camino.**
- **Council Member Marsala attended the Facilities Committee meeting and the Environmental Programs Committee meeting. A story in the paper indicated some cities were not properly reporting their diversion. The Town did a good job and staff deserved credit. He announced the GreenStart School Fair on May 4. He represented the County on the League of Cities Employee Relations Committee where Funding Pensions and Retiree Health Care for Public Employees was discussed and the need for more transparency.**
- **Mayor Janz said the Rail Committee discussed the train station noting the repairs from the fire had been made; however, the station still did not look good. Caltrain promised to restore the entire facility. The City Manager received an e-mail from Mark Simon listing all the things Caltrain planned to do, so the station should be looking better soon. He and the Vice Mayor would attend the ABAG meeting later in the month.**

26. PUBLIC COMMENTS

There were no public comments.

27. ADJOURNMENT

Mayor Janz adjourned the meeting was at 11:30 p.m.

Respectfully submitted,

**Kathi Hamilton
Acting City Clerk**

TOWN OF ATHERTON
CLAIMS LIST
April 2008

Payroll Checks	11281 – 11401	\$ 6,689
Electronic Transfers		339,227
A/P Checks	25955 – 26193	634,952
TOTAL		\$ 980,868

I, Jerome Gruber, City Manager of the Town of Atherton, do hereby certify under penalty of perjury that the demands listed above, check numbers 11281 - 11401 (payroll) and 25955 - 26193 (accounts payable), and electronic transfers for employees direct deposits, federal payroll taxes and fees, inclusive, amount to \$980,868; are true and correct, and that there are sufficient funds for payment.

Jerome Gruber
City Manager

The above claims, check numbers 11281 – 11401 (payroll) and 25955 - 26193 (accounts payable), and electronic transfers for employees direct deposits, federal payroll taxes and fees, inclusive, amount to \$980,868; are true and correct, and are authorized for payment.

James R. Janz
Mayor, Town of Atherton

SOURCE OF FUNDS

101	General Fund	\$533,694
105	Tennis	
201	Special Parcel Tax	40,136
202	Transportation	-
203	Gas Tax	-
210	Road Construction Impact Fees	19,773
211	Park Grants	-
213	Library	1,844
401	General Capital Projects	250
403	Atherton Channel District	1,786
411	Park Well	4,384
610	Vehicle Replacement	-
611	Computer Maint. & Replacement	6,321
612	Administrative Services	26,312
715	Evans Estate	-
740	Tree Committee	-
TOTAL		\$634,952



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: BILL YEOMANS, INTERIM FINANCE OFFICER

DATE: FOR THE MEETING OF MAY 21, 2008

SUBJECT: MONTHLY FINANCIAL REPORT, APRIL 2008

RECOMMENDATION:

Receive the Monthly Financial Report for April 2008.

INTRODUCTION:

The attached schedules show revenues and expenditures for all funds as of March 31, 2008.

HIGHLIGHTS:

Revenues in the General Fund are at 98% of the Budget Estimate after ten months (83%). This month (April) the Town received Property Taxes and Franchises.

Expenditures in the General Fund are at 82% of the revised Budget and are within expected levels except in the following areas:

1. The City Attorney Department at 104% of budget
2. City Council is at 96% of budget.
3. Finance costs are running high (87%) as a result of a litigation-related cost of \$18,490 for an investigation.

Internal Service Funds are at 70% of Budget.

FISCAL IMPACT:

Informational only.

Prepared by:

William Yeomans
Interim Finance Officer

Approved by:

Jerome Gruber
City Manager

TOWN OF ATHERTON
Revenue Summary
for the Month Ended April 30, 2008

Fund	Revenue source	2007-08 Estimate	Current Period Revenue	Year to date Revenues	% received
	Property Tax	4,286,303	1,270,241	3,994,596	93%
	Sales & Use Tax	147,756	31,780	204,698	139%
	Other Taxes	1,162,774	544,366	1,294,088	111%
	Licenses & Permits	2,128,188	137,924	1,526,308	72%
	Fines & Forfeitures	35,000	2,107	32,929	94%
	Revenue from Other Agencies	414,500	4,757	681,562	164%
	Charges for Services	293,808	66,297	545,698	186%
	Investment & Rental Income	489,478	121,368	425,859	87%
	Other Revenues	5,000	3,916	48,512	970%
	Total General Fund Revenues	8,962,807	2,182,756	8,754,250	98%
	Interfund (Operating Transfers) In	250,000		250,000	
101	General Fund Total	9,212,807	2,182,756	9,004,250	98%
	Special Revenue Funds				
105	Tennis	8,000	319	4,848	61%
201	Special Parcel Tax	1,858,000	494,213	1,689,729	91%
202	Transportation	265,000	19,524	234,432	88%
203	Street Improvement (Gas Tax)	150,000	12,599	113,141	75%
208	Police on the Street Grant		47	151	
209	State COPS Grant	100,000	101,721	101,997	102%
210	Road Construction Impact Fees	1,132,102	80,064	845,399	75%
211	Grants Fund	104,800	147	1,074	1%
213	Library	284,000	26,763	86,289	30%
	Total	3,901,902	735,397	3,077,060	79%
	Capital Project Funds:				
401	Capital Improvement	2,000	2,592	8,801	440%
402	Storm Drainage	1,000	414	1,376	138%
403	Channel Drainage District	46,000	18,580	61,795	134%
406	Facilities Construction		728	2,341	
411	Park Well	4,834			
	Total	53,834	22,314	74,313	237%
	Internal Service Funds:				
610	Vehicle Replacement	104,049	3,162	62,503	60%
611	Information Technology	109,637	867	80,258	73%
612	Administrative Services	312,599	1,621	159,708	51%
614	Workers Compensation Insurance				
	Total	526,285	5,650	302,469	61%
	Trust and Agency Funds:				
715	Evans Creative Design	14,500	1,254	5,448	38%
740	Tree Committee	1,400	432	2,390	171%
	Total	15,900	1,686	7,838	38%
	Total Revenues	13,710,728	2,947,803	12,465,930	91%

TOWN OF ATHERTON
Expenditure Summary
for the Month Ended April 30, 2008

Fund	Description	2007-08 Estimate	Current Period Expenditures	Year to date Expenditures	% spent
101	General Fund				
	11 City Council	35,122	738	33,725	96%
	12 City Manager	650,706	59,764	480,947	74%
	16 City Attorney	482,728	24,514	503,736	104%
	18 Finance	445,758	20,450	407,083	91%
	25 Building	1,682,674	160,863	1,412,651	84%
	40 Police	4,905,087	320,690	3,983,954	81%
	50 Public Works	2,316,014	162,286	1,847,040	80%
	Contingency	48,866	0	0	0%
	Total General Fund Expenditures	10,566,955	749,305	8,669,136	82%
	Interfund (Operating Transfers) out	4,834			
101	General Fund Total	10,571,789	749,305	8,669,136	
	Special Revenue Funds				
	105 Tennis	5,521	644	2,157	39%
	201 Special Parcel Tax	1,506,535	32,369	340,113	23%
	202 Transportation	229,500	0	15,000	7%
	203 Street Improvement (Gas Tax)	145,000	0	28,765	20%
	209 Law Enforcement (State COPS)	100,000	26,331	89,699	90%
	210 Road Construction Impact Fees	1,000,000	0	647,222	65%
	211 Grants	306,710	0	114,026	37%
	213 Library	78,326	1,844	18,087	23%
	Total	3,371,592	61,188	1,255,069	37%
	Capital Project Funds:				
	401 Capital Improvement	167,755	60,031	94,279	56%
	402 Storm Drainage	21,394	0	2,963	14%
	403 Channel Drainage District	55,000	0	22,823	41%
	411 Park Well	4,834	4,834	13,639	282%
	Total	248,983	64,865	133,704	54%
	Internal Service Funds:				
	610 Vehicle Replacement	64,060	0	48,637	76%
	611 Information Technology	108,304	6,321	74,184	68%
	612 Administrative Services	351,532	25,273	245,348	70%
	Total	523,896	31,594	368,169	70%
	Trust and Agency Funds:				
	715 Evans Creative Design	11,500	0	3,753	33%
	740 Tree Committee	2,200	0	1,139	52%
	Total	13,700	0	4,892	36%
	Total Expenditures	14,729,960	906,952	10,430,970	71%

FUND BALANCES
03/31/08

Fund	Start Balance 7/1/2007	Revenues YTD	Expenditures YTD	End Balance 1/31/2008
101 General	9,853,933	9,004,250	8,669,136	10,189,047
105 Tennis	29,450	4,848	2,157	32,141
201 Special Tax	60,712	1,689,729	340,113	1,410,328
202 Transportation	42,470	234,432	15,000	261,902
203 Gas Tax	130,709	113,141	28,765	215,085
208 Police on the Street	4,455	151		4,606
209 COPS(Law Enf.)	11,807	101,997	89,699	24,105
210 Road Const Impact Fee	34,408	845,399	647,222	232,585
211 Grants	39,486	1,074	114,026	(73,466)
213 Library	2,564,923	86,289	18,087	2,633,125
401 GF Projects (Cap. Impr.)	270,200	8,801	94,279	184,722
402 Storm Drainage	42,381	1,376	2,963	40,794
403 Atherton Channel District	78,578	61,795	22,823	117,550
406 Facilities Construction	69,447	2,341	0	71,788
411 Park Well	-	-	13,639	(13,639)
610 Equipment Operations	304,332	62,503	48,637	318,198
611 Computer Services	80,400	80,258	74,184	86,474
612 Administrative Services	185,742	159,708	245,348	100,102
715 Evans Estate (AAC)	121,919	5,448	3,753	123,614
725 Lindenwood Gate Trust	250			250
727 Colley Trust Fund	-			-
730 Park Improvement	5,851			5,851
731 MA Little League	-			-
740 Tree Committee	41,520	2,390	1,139	42,771
TOTALS	13,973,108	12,465,930	10,430,970	16,008,068



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JEROME GRUBER, CITY MANAGER**

FROM: BILL YEOMANS, TEMPORARY FINANCE OFFICER

DATE: FOR THE MEETING OF MAY 21, 2008

SUBJECT: QUARTERLY INVESTMENT REPORT, MARCH 2008

RECOMMENDATION:

Note, receipt, and file.

INTRODUCTION:

This is the quarterly status report of the Town's investments in the Local Agency Investment Fund (LAIF) and the San Mateo County Investment Pool (SMCIP) for the quarter ending March 31, 2008.

DISCUSSION

As of March 31, 2008, the Town had a total investment of \$14,870,796. The total interest earnings for the quarter ending March 2008 amounted to \$159,189. The funds are invested in the Local Agency Investment Fund (LAIF) and the San Mateo County Investment Pool (SMCIP).

During the first quarter of 2008, the SMCIP reported a gross pool earnings rate of 4.52% percent. The LAIF reported an average interest rate of 4.18%.

The interest income and effective yields reported by the San Mateo County Treasurer and by the State of California Treasurer include interest payments on fixed income securities held by these entities as well as any gains or losses realized on securities sold during the reporting interval. Calculations of interest income earned or reported yields do not reflect

any changes in the market value of the fixed income securities held by either the San Mateo County Pool or the State of California Local Agency Investment Fund.

Investment at SMCIP: The San Mateo County Investment Pool was created and is managed by the County Treasurer.

As of March 31, 2008, the County's investment pool carried investment with a total value of \$2.8 billion. The Town's investment with the San Mateo County Investment Pool as of March 31, 2008, amounted to \$9,671,873 or 65% of the Town's total investment holdings.

Attachment 1 to this staff report provides a summary of the investment earnings and investment holdings for the San Mateo County Investment Pool as of March 31, 2008.

Investment at LAIF: The Local Agency Investment Fund (LAIF) was created and is managed by the California State Treasurer in conjunction with the Pooled Money Investment Account (PMIA).

As of March 31, 2008, PMIA had total assets of \$66 billion. The Town's investment with LAIF as of March 31, 2008, amounted to \$5,198,923, or 35% of the total funds invested.

Attachment 2 to this report provides a summary of the composition of the LAIF and PMIA according to the investment fund.

FISCAL IMPACT:

Informational only.

Prepared by:

Approved by:

Bill Yeomans
Temporary Finance Officer

Jerome Gruber
City Manager

Quarterly Investment Report
Town of Atherton, CA
March 31, 2008

Cash and Investment Portfolio at Quarter End

Investments	Value	Percent	Interest	Return
Local Agency Investment Fund	\$ 5,198,923.17	35%	\$ 53,898.40	4.18%
San Mateo County Investment Pool	9,671,872.62	65%	105,290.60	4.52%
Other				
TOTALS	<u>\$ 14,870,795.79</u>		<u>\$ 159,189.00</u>	

Verification

William Yeomans
Finance Officer



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: FOR THE CITY COUNCIL MEETING OF MAY 21, 2008

SUBJECT: E-MAIL RETENTION POLICY

RECOMMENDATION:

Approve by motion, an amendment to the Town's E-Mail, Internet and On-Line Service Use Policy pertaining to the retention and deletion of e-mail.

BACKGROUND:

The Town has previously adopted an E-Mail, Internet and On-Line Service Use Policy. It is appropriate to amend this policy to clarify that retention and deletion of e-mails conform with requirements regarding retention/destruction of public records.

Attached as Exhibit "A" is the present e-mail policy. The section entitled "User Responsibilities" portion of the policy should be revised to amend the subsection "Mail Use" appearing on page 2 by adding provisions regarding electronic-mail retention and deletion. The amended "Mail Use" subsection is set out in **bold** and/or ~~strike-out~~ in Exhibit B attached.

Concerns have been expressed regarding expectations of privacy by constituents who may contact individual Council Members in the face of the requirement that electronic communications related to public business are public records.

As you know, the Town maintains e-mail accounts for each Council Member. Messages coming into those accounts or being delivered from those accounts are considered public records. As such, they must be maintained for a minimum period of at least two years unless a hard copy is made and, itself, retained for a period of at least two years. Actions affecting title to real property, and personnel matters require indefinite retention.

Because of the relative ease with which electronic mail accounts now allow archiving, a bit of user discipline should provide for compliance with retention requirements. I will be working with the City Clerk to develop a Town-wide records retention policy which will provide

guidance as to the time periods during which various classes of public records must be retained. It is my plan to bring something like this to the City Council within the coming year.

For e-mail communications between members of the public and an individual Council Member, as opposed to the entire City Council, where the sender expects that the matter is a private communication, it is my position that these may be treated as the equivalent of a private mail or telephonic communication between the constituent and individual City Council Member so long as it is either marked as a private communication (i.e. confidential, personal) or is sent to a Council Member's private (as opposed to the Town) e-mail address. Where it appears that a majority of the City Council has been contacted and/or other City Staff members, such as the City Manager, City Attorney, etc., the document is a public record with attendant requirements for retention and disclosure in the event of a request for public records under the provisions of Government Code section 6500 and following.

If Council Members use their Town e-mail addresses for all communications with members of the public regarding Town business, everything should be retained as a public record in compliance with state law and eventually adopted local regulations unless specifically marked confidential. All of this information would be subject to disclosure in the event of a request for public records unless applicable exemptions of state law applied or the message itself is marked as a private communication as described above.

The most pertinent exemptions are:

- intra-agency memoranda not retained in the ordinary course of business if the public interest in withholding these records clearly outweighs the public interest in disclosure;
- pending litigation until final adjudication or settlement;
- personnel files; and
- complaints to or investigations conducted by the Police Department.

Government Code section 6255 provides a "catch-all" exemption which allows a public agency to withhold a record if the interest in keeping the record private outweighs the interest in making it public. However, the burden of proof to establish this is on the public agency in the event a request is made for the record and the agency does not wish to disclose it. Exemptions from disclosure are disfavored under the Public Records Act and court interpretations of it.

FISCAL IMPACT:

None

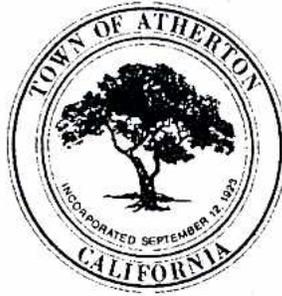
Prepared By:

Approved By:

/s/ Marc Hynes
Marc G. Hynes
City Attorney

Jerry Gruber
City Manager

Attachments, Exhibits A and B



TOWN OF ATHERTON

E-MAIL, INTERNET AND ON-LINE SERVICE USE POLICY

PURPOSE

The Town of Atherton provides e-mail, on-line and Internet access system to certain Town employees to assist in carrying out Town business. This policy sets forth the Town of Atherton's policies with regard to access to, use of, and the disclosure of, on-line, e-mail and Internet services.

SCOPE

This policy covers all employees who have access to the Town of Atherton's electronic mail system, the Internet and on-line services. Town on-line accounts are Town property that is provided to be used only for general business purposes to increase production and employee effectiveness. To ensure the use of Town e-mail, Internet and on-line systems in a productive manner, a list of guidelines has been established. All employees are required to abide by the guidelines. Improper use of Town e-mail, Internet and on-line systems are not acceptable and is subject to the applicable disciplinary procedure.

USER RESPONSIBILITIES

Consultants

Use of the Town's e-mail system by non-Town employees under contract for services within Town departments may be authorized by the department. The department head will sponsor the contract employee, and request, in writing, that the person be given access to the e-mail system. A completed "Non-Town Employee Participation Request Form" must be signed by the department head, City Manager, and participating contract employee. Termination of the contract will also serve as termination of access.

Policy Document

It is the user's responsibility to:

- Read and adhere to the adopted E-Mail, Internet and On-Line Service Use Policy
- Sign the E-Mail, Internet and On-line Use Policy Employee Agreement Form
- Return the completed form to the Personnel Department to be filed in the employee's personnel file

Mail Use

The dual nature of electronic mail - immediate and informal like a telephone call, irrevocable like a memorandum - along with the possibility of anyone monitoring and managing staff members' messages for them, requires that you yourself explicitly recognize your responsibility for the content and dissemination of your messages.

Your outgoing messages are to be:

- Accurate
- Courteous
- Sent to selected staff with a need to know

Your incoming messages are to be:

- Filed and disposed of appropriately (Discard messages that do not need to be stored and retain messages that may need to be used for future reference.)
- Responded to on a timely basis, as identified in the original message.

Note: You are responsible for protecting the confidentiality rights of others. Be sure to ensure that your password is secure and change it when appropriate. If you allow other staff members to send or receive messages on your e-mail account, you are responsible for their content.

ON-LINE SYSTEMS POLICIES

Monitoring Usage

The Town reserves the right to monitor usage patterns of its on-line communications. The reasons for monitoring are to insure on-line productivity as well as for better planning and management of network resources.

Blocking of Internet Access

The Town reserves the absolute right to block access to certain Internet sites.

OWNERSHIP OF ELECTRONIC COMMUNICATIONS

All communications over Town e-mail, Internet and on-line services are property of the Town. All messages created, sent, or retrieved over the Town e-mail, Internet and on-line services are the property of the Town. Employees should not assume electronic communications are totally private. The Town reserves the absolute right to access and monitor all messages and files on the Town e-mail, Internet and on-line services.

MAINTAINING A HOSPITABLE ENVIRONMENT

To ensure Town e-mail, Internet and on-line services remain a productive and stable environment, the transmittal, intentional retrieval or any subsequent or retrieved storage of information that is discriminatory, harassing, obscene, pornographic or X-rated is not permitted. The use of Town e-mail, Internet and on-line services for personal gain or any other purpose which is illegal or against Town policy or contrary to the Town's best interest is not permitted.

AFTER HOURS USAGE

Town e-mail, internal and on line services may be used for personal purposes during non standard hours or off duty time, as long as the use is consistent with this policy.

NON-DISCRIMINATION

The transmittal of messages with derogatory or inflammatory remarks about a person's race, color, sex, age, disability, religion, national origin, physical attributes and sexual preference is not permitted.

CONFIDENTIALITY

Communication of messages disclosing trade secrets is prohibited. You should recognize that your position with the Town requires considerable responsibility and trust. No messages disclosing sensitive, confidential, restricted, non-public, or private information can be transmitted over the Town e-mail, Internet or on-line services unless it is in the course of conducting legitimate business and the receiving party has a right or need to know.

MAINTAINING SYSTEM SECURITY

Keeping the E-Mail, Internet and On-Line Services Secure From Computer Viruses
No unauthorized downloading/uploading of software or files is allowed. All software downloaded must be authorized by the Town and then registered to the Town.

TOWN PUBLIC IMAGE

Employees' Conduct in Public

The Town e-mail, Internet and on-line services is a public place for business communications. Communications over the Town e-mail, Internet and on-line services reflect Town image. Therefore, all employees are responsible to maintain and enhance the Town's public image. As stated previously, abusive, discriminatory, harassing, inflammatory, profane, pornographic or offensive language or other materials are not to be transmitted through the Town e-mail, Internet and on-line services.

Employee Identity

No message can be transmitted without the employee's identity. Transmittal of messages with anonymous or fictitious names is prohibited.

COPYRIGHT

Copyright Infringement

No copying, downloading, or distributing of any of the copyrighted materials including, but not limited to, messages, e-mail, text files, program files, image files, database files, sound files and music files through the Town e-mail, Internet and on-line services is allowed.

VIOLATIONS

Failure To Comply

Failure to comply with this policy may result in disciplinary action up to and including termination.



TOWN OF ATHERTON

E-MAIL, INTERNET AND ON-LINE SERVICE USE POLICY

EMPLOYEE AGREEMENT

I have received a copy of the Town of Atherton's E-mail, Internet and On-line Service Use Policy on e-mail/Internet acceptable use. I recognize and understand that the Town's e-mail, Internet and on-line services are to be used for conducting the Town's business only. I understand that use of this equipment for private purposes is strictly prohibited.

As part of the Town's organization and use of the Town's gateway to the e-mail, Internet and on-line services, I understand that this e-mail and Internet policy applies to me.

I have read the policy and agree to follow all policies and procedures that are set forth therein. I further agree to abide by the standards set in the document for the duration of my employment with the Town.

I am aware that violations of this policy on e-mail and Internet acceptable use may subject me to disciplinary action, up to and including termination from employment.

I further understand that my communications on the Internet and e-mail reflect the Town of Atherton, worldwide to our customers, constituents, and suppliers.

Employee's Signature

Date

Employee's Name Printed

Date

INTERNET ACCESS REQUEST/APPROVAL:

Department Head's Signature

Date

City Manager's Signature

Please return this form to the Personnel Department

Date

E-MAIL, INTERNET AND ON-LINE SERVICE USE POLICY

Page 2

Mail Use

The dual nature of electronic mail – immediate and informal like a telephone call, irrevocable like a memorandum – along with the possibility of anyone monitoring and managing staff members' message for them, requires that you yourself explicitly recognize your responsibility for the content and dissemination of your messages.

Your outgoing messages are to be:

- Accurate
- Courteous
- Sent to selected staff with a need to know

Your incoming messages are to be:

- Filed and disposed of appropriately (~~Discard messages that do not need to be stored and retain messages that may need to be used for future reference.~~) **(Retain public records for at least two (2) years.)**
- Responded to on a timely basis, as identified in the original message.

Electronic Mail Retention

- E-mail messages are often public records and should be treated as such.
- Because e-mail is not an optimal archival or retention system, if the retention of a message is important, as a sender and/or receiver you should print a hard copy of the message and file it appropriately.
- If you intend to retain a message in the e-mail system for more than a short period of time, you should store that message in an appropriate e-mail file, **where it will be retained for at least two (2) years.** Proper maintenance of e-mail messages is essential to an effective public records system.
- You should regularly (i.e., at least monthly) review your unfiled e-mails, including those in the "Sent Items" and "Deleted Items" files and insure that a back-up is retained on the network server for at least two (2) years.
- At least annually, you should delete all e-mail messages over two (2) years old which have not been stored electronically or printed as a hard copy.

Note: You are responsible for protecting the confidentiality rights of others. Be sure to ensure that your password is secure and change it when appropriate. If you allow other staff members to send or receive messages on your e-mail account, you are responsible for their content.

EXHIBIT B TO STAFF REPORT



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER

FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF MAY 21, 2008

SUBJECT: PROPOSED MODIFICATION TO SOCIAL EVENT FEES
AT HOLBROOK-PALMER PARK

RECOMMENDATION:

Adopt a resolution modifying rental fees for social events at Holbrook-Palmer Park

INTRODUCTION:

The Jennings Pavilion in Holbrook-Palmer Park has been rehabilitated such that it can compete with similar facilities that charge a higher rental fee for social events. The Park and Recreation Commission at its April 2, 2008, meeting reviewed the proposed changes to the event fee schedule and recommended that the fees be modified such that resident rates increase by \$500, non-residents pay \$500 more than residents, and large events (101 to 200 guests) pay \$500 more than smaller events (1 to 100 guests).

ANALYSIS:

The following table illustrates the proposed change in the wedding and social event fee schedule:

<u>Classification</u>	<u>Current Rates</u>	<u>Proposed Rates</u>	<u>Increase</u>
Resident			
(1-100 guests)	\$2,500	\$3,000	\$500
(101-200 guests)	\$3,000	\$3,500	\$500

Non-Resident			
(1-100 guests)	\$3,000	\$3,500	\$500
(101-200 guests)	\$3,500	\$4,000	\$500

FISCAL IMPACT:

Increasing event fees is expected to generate approximately \$40,000 additional revenue, annually, based on an estimated 80 events normally booked. The improved condition of the Pavilion is expected to hold, or even increase, this number of events despite the increased fees.

Prepared By:

Approved by:

Duncan L. Jones, P.E.
Public Works Director

/s/ Jerry Gruber
Jerry Gruber
City Manager

Attachment: Resolution

RESOLUTION 08-__

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
MODIFYING FEES FOR SOCIAL EVENTS AT HOLBROOK-PALMER PARK**

WHEREAS, the Jennings Pavilion in Holbrook-Palmer Park has been upgraded to a more competitive facility; and

WHEREAS, the Parks Program Manager has conducted a survey of fees for social events to be held in various localities which are comparable to Holbrook Palmer Park; and

WHEREAS, the Parks and Recreation Commission has reviewed and recommended approval of the new fee schedule for social events,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the Town of Atherton that the fees for social events in Holbrook-Palmer Park will be as follows:

<i>Classification</i>	<i>Proposed Rates</i>
Resident 1 – 100 Guests	\$3,000
Resident 101 – 200 Guests	\$3,500
Non-resident 1 – 100 Guests	\$3,500
Non-resident 101 – 200 Guests	\$4,000

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on this 21st day of May, 2008, by the following vote:

AYES: Council Members:
NOES: Council Members:
ABSENT: Council Members:
ABSTAIN: Council Members:

ATTEST:

James R. Janz, MAYOR
TOWN OF ATHERTON

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF MAY 21, 2008

**SUBJECT: APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF
\$109,269.64 FOR THE VALPARAISO AVENUE OVERLAY PROJECT
NUMBER 06-001**

RECOMMENDATION

By motion, approve contract change orders in the amount of \$109,269.64 for the Valparaiso Avenue Overlay Project Number 06-001.

INTRODUCTION

The Council awarded a contract in June 2007 to Granite Construction Company for \$590,615.50, with a \$59,061.55 construction contingency, for a total authorized amount of \$649,677.05. Work under the contract has been completed.

ANALYSIS

The original contract price was for \$590,615.50. There were multiple field directive change orders and quantity changes totaling \$109,269.64 bringing the total contract to \$699,885.14. The contract changes were as follows:

- | | |
|---|--------------|
| 1. Original Contract | \$590,615.50 |
| 2. Change Order No. 1 - Change from open graded to dense graded asphalt (approved within contingency) | \$40,285.00 |
| 3. Change Order No. 2 - grinding and asphalt quantity adjustments and delay costs due to unanticipated petro-mat fabric in grinding area (to be approved) | \$86,411.49 |

4. Quantity Changes -\$17,426.85

TOTAL	\$699,885.14
STP Grant	<u>\$470,000.00</u>
Balance	\$229,885.14
Menlo Park (60%)	<u>\$137,931.08</u>
Atherton (40%)	<u>\$91,954.06</u>

Of the total project cost of \$699,885.14, \$470,000 will be funded by a Federal STP grant, and 60% of the remainder, or \$137,931.08, is to be reimbursed by the City of Menlo Park.

FISCAL IMPACT

Funding for this project in the amount of \$180,000 is included in the FY 06/07 budget. The final Atherton cost of this segment of work is \$91,954.06, less than the budget estimate.

Respectfully submitted:

Approved by:

Duncan L. Jones, P.E.
Public Works Director

/s/ Jerry Gruber

Jerry Gruber
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JERRY GRUBER, CITY MANAGER

DATE: FOR THE REGULAR MEETING OF MAY 21, 2008

**SUBJECT: APPROVAL OF LETTER TO STATE SENATOR JOE SIMITIAN
SUPPORTING C/CAG-SPONSORED SENATE BILL (SB) 348**

RECOMMENDATION:

Staff recommends that the City Council authorize the Mayor to sign the letter to State Senator Joe Simitian supporting C/CAG-Sponsored Senate Bill (SB) 348

BACKGROUND:

Assembly Bill (AB) 1546 was sponsored by C/CAG in 2003 and was approved by the Governor in 2005. The bill has a sunset date of January 1, 2009. C/CAG is asking cities/towns for their support to reauthorize the bill to extend the sunset date to January 1, 2013.

ANALYSIS

This legislation authorizes the C/CAG Board to levy an assessment of up to \$4.00 on the motor vehicle fee to support two types of programs that address the impact of automobiles. This will provide 45.5 million direct to the Cities and County over the next four years.

1. The first program deals with traffic congestion. The funding has been used for a wide-range of transportation services throughout the County.
 - Twenty-five percent of the total funds collected are distributed directly to the 21 jurisdictions to congestion-related programs and projects such as signal-timing, resurfacing, and swales.

- Another 25% of the total fund is reserved for countywide project such as hydrogen stations, and other countywide traffic management systems currently under consideration by the C/CAG technical committees.
2. The second program is to address the stormwater pollution that is directly the result of automobiles. The copper residue from brake pads and the condensation of mercury from vehicle exhaust are major sources of pollution in our storm drains and ultimately in the Bay, the ocean, and our streams and creeks.
- Twenty-five percent of the total funds collected are distributed directly to the 21 jurisdictions to stormwater-related projects such as inlet cleaning and streetsweeping.
 - Another 25% of the total fund is reserve for countrywide projects such as countywide stormwater pollution master plan

Attachments:

1. Letter to State Senator Joe Simitian



Town of Atherton
Office of the Mayor

91 Ashfield Road
Atherton, California 94027
Phone: (650) 752-0500
Fax: (650) 614-1212

April 25, 2008

The Honorable Joseph S. Simitian
State Capitol – Room 2080
Sacramento, CA 95814

RE: SUPPORT OF C/CAG SPONSORED SENATE BIL (SB) 348

Dear Senator Simitian:

The Town supports the C/CAG-sponsored Bill SB 348 that would continue to authorize C/CAG to assess up to \$4 in motor vehicle fees. The purpose of the fee is to continue a successful program that funds congestion management activities to reduce congestion to the benefit of the driving motorist. It also provides funding for motor vehicle-related programs of the state mandated (unfunded) Countywide Stormwater Pollution Prevention Program.

The first objective of SB 348 is to maximize the capacity of the current transportation infrastructure through transportation system measures. These measures include but are not limited to ramp metering, employer and local shuttles, Intelligent Transportation Systems, Real Time Information Systems, freeways, park and ride lots, and advanced accident removal systems with automatic rerouting of traffic. Our Town has received funds from this program to address resurfacing, signal timing, and upgrade signal hardware. We have a member on C/CAG's Technical Advisory Committee working on countywide programs associated with the broader impacts of congestion in our county.

The second objective is to address the stormwater pollution that flows to San Francisco Bay as a result of the debris from motor vehicles and its infrastructure. The stormwater program is an unfunded State mandate. Some of the programs it will support include but are not limited to Countywide public education, grants to local jurisdictions, Countywide monitoring and studies, and training for City and County staffs to meet permit requirements. This will provide an ongoing source of funding for capital and operating expenses for the Stormwater Pollution Prevention Programs that are mandated under the Clean Water Act but not funded by the State. Our Town has received funds from this program to address street sweeping, storm inlet inspection and cleaning, and installing rock swales.

SB 348 will be a financial benefit to all the cities and the County. Your carrying this bill is appreciated, and we look forward to working with you to gain passage of this piece of legislation. Please feel free to contact our Mayor, James Janz, at (415) 392-1960, if you have any questions.

Sincerely,

James Janz
Mayor

cc: Richard Napier



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: CITY MANAGER JERRY GRUBER

DATE: FOR THE MEETING OF MAY 21, 2008

SUBJECT: FIRST ONE HUNDRED DAYS AS CITY MANAGER.

RECOMMENDATION:

Accept staff report.

INTRODUCTION:

It is customary for the new City Manager to brief the City Council on accomplishments during the course of the first one hundred days by the City Manager. The results of these accomplishments have been a spirit of willingness and cooperation by the City Council, staff, and our residents. I would like to thank the City Council, the staff and the residents for their support in making my first one hundred days successful.

DISCUSSION:

Accomplishments:

- 1. Streamlined Council Agendas which has lead to shorter Council meetings.**
- 2. Improved the *Athertonian*.**
- 3. Improved City Manager Weekly Report to include information from all Department Heads.**
- 4. Improved Town website.**
- 5. Improved Fiscal Year 08/09 budget format. Added additional line items and transparency to the 08/09 budget.**

6. **Conducted two Council Workshops; one conducted with the Senior Management Team.**
7. **Resolved numerous conflicts with employees throughout the Town.**
8. **Facilitated meetings with local stakeholders to discuss Atherton-related matters.**
9. **Worked with Caltrains to improve Atherton Train Depot.**
10. **Worked with Regional Agencies on behalf of the Town of Atherton.**
11. **Improved working environment for staff at Town Hall by organizing work stations and creating a more relaxed atmosphere for employees.**
12. **Established positive working relationship with Council, staff, and residents.**
13. **Improved organizational efficiency by replacing numerous computers.**
14. **Organized Human Resources Department, secured office and personnel files.**
15. **Completed yearly financial statement (audit) and establish a positive relationship with the Audit Committee.**
16. **Recruited and hired qualified Human Resources Specialist from (RGS) Regional Government Services.**
17. **Initiated internal controls with regard to Department Expenditures.**
18. **Filled Office Assistant position which supports the City Manager's office.**
19. **Facilitated meeting with Park staff, Park and Recreation Commission, Atherton Dames, and Arts Committee. This meeting resulted in the Garden Room being made available for the Arts Committee and increased storage that resulted in improved efficiency for caterers at the Pavilion.**
20. **Involved Department Heads, Committees and Commissions in the budget process for Fiscal year 08/09.**
21. **Retained Chief Negotiator for Labor Negotiations by hiring I.E.D.A.**
22. **Retained Peckham & McKenney for the recruitments of Police Chief, Assistant City Manager, and Finance Director.**
23. **Reclassified job classification and salary range from Assistant to the City Manager to Assistant City Manager.**
24. **Utilized existing Post Office Town Staff for support of Administrative Services and the City Manager's office.**
25. **Resolved resident's conflict with Town that would have resulted in litigation.**
26. **Improved Atherton's relationship with Menlo Park Fire Protection District with regard to CERTS and Disaster Preparedness. Moving forward with a Memorandum of understanding between the Town of Atherton and the MPFPD.**

FISCAL IMPACT:

No fiscal impact



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: KATHI HAMILTON, ACTING CITY CLERK

DATE: FOR THE CITY COUNCIL MEETING OF MAY 21, 2008

**SUBJECT: ACCEPT AND APPROVE THE RECOMMENDATION OF THE CITY
COUNCIL SCREENING COMMITTEE FOR AN APPOINTMENT TO
THE TRANSPORTATION/TRAFFIC SUBCOMITTEE**

RECOMMENDATION:

Accept the recommendation of the City Council Screening Committee to appoint A. Erwin Erickson to the Transportation/Traffic Subcommittee.

BACKGROUND:

In March 2008, Robert Huber resigned his position on the Transportation/Traffic Subcommittee thereby creating a vacancy. The vacancy was advertised in the Almanac and on the Town's website. One application was received.

The Screening Committee interviewed Mr. A. Erwin Erickson and is recommending his appointment. At the present time, terms are for one-year; however, if Council approves the new Master Resolution Governing Committees/Commissions scheduled for May 21, 2008, the term of office will be for four years.

Prepared by:

Kathi Hamilton
Acting City Clerk

Approved by:

/s/ Jerry Gruber
Jerry Gruber
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JEROME GRUBER, CITY MANAGER**

FROM: BILL YEOMANS, INTERIM FINANCE OFFICER

DATE: FOR THE CITY COUNCIL MEETING OF MAY 21, 2008

SUBJECT: FY 2006-2007 AUDITED FINANCIAL STATEMENTS

RECOMMENDATION:

The Audit Committee recommends that the Council accepts and approves the basic financial statements and independent auditors report for the year ended June 30, 2007

DISCUSSION:

Annual Financial Report

Transmitted herewith is the Town of Atherton's Basic Financial Statements and Independent Auditors' Report for the year ended June 30, 2007. This Annual Financial Report and related documents were discussed by the Audit Committee at its meeting of May 6, 2008. Sam Goodman, Audit Committee Chair, and Brian Kelly, Manager of the Town audit for the firm of Caporicci & Larson, have indicated that they will be at the meeting.

As is consistent with previous years, the auditors have expressed an opinion that the Town has reported the results of its activities for the year ended June 30, 2007, and its financial position as of June 30, 2007, fairly and in conformity with generally accepted governmental accounting principles in all material respects.

The financial results become the starting point for fiscal year 2007-08 and will be discussed as part of the meetings presenting the Recommended Budget for FY 2008-09.

Report to Town Council and Management (Draft)

The auditors have drafted a management letter recommending improvements in internal control as follows:

1. Set up a separate agency fund for employee flexible spending accounts.
2. Provide report supporting Park and Recreation Deposits detail balances.
3. More petty cash audits.
4. Clear old outstanding checks by paying or escheating to the State.
5. Improve review and posting of year-end closing journal entries.

In response to the recommendations of the auditors, the Finance Department is preparing a formal response to improve these procedures. These procedures will be presented to the next Audit Committee meeting.

The auditor also lists significant deficiencies that interrupted the management of the Finance Department and led to the delays in the release of the financial statements. New management believes that they have addressed these issues and the audit will proceed smoothly for 2008.

The Audit Committee and the City Attorney discussed the role of the Audit Committee as proposed in a draft resolution governing Town committees. The Audit Committee also discussed the audit process for 2007 and 2008 and recommended continuing the contract with Caporicci & Larson for one more year.

FISCAL IMPACT

None

Prepared by:

Approved by:

Bill Yeomans
Interim Finance Officer

Jerry Gruber
City Manager

Attachments:

Basic Financial Statements and Independent Auditors' Report for the year ended June 30, 2007

Report to Town Council and Management for the year ended June 30th, 2007

DRAFT
For Discussion
Purpose Only
4-24-07
BK

Town of Atherton

Atherton, California

Report to Town Council and Management

For the year ended June 30, 2007

February 20, 2008

To the Honorable Mayor and Members of Town Council
of the Town of Atherton
Atherton, California

In planning and performing our audit of the financial statements of the Town of Atherton (the City) as of and for the year ended June 30, 2007, in accordance with auditing standards generally accepted in the United States of America, we considered the Town's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the Town's internal control. Accordingly, we do not express an opinion on the effectiveness of the Town's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. However, as discussed below, we identified certain deficiencies in internal control that we consider to be control deficiencies.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. Control deficiencies in internal control identified in the audit are discussed on pages 1 to 3 of this report.

A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control. Significant deficiencies in internal control identified in the audit are discussed on page 4 of this report.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control.

We did not identify any deficiencies in internal control that we consider to be material weaknesses as identified above.

To the Honorable Mayor and Members of Town Council
of the Town of Atherton
Atherton, California
Page 2

The Town's written response to the control deficiencies identified in our audit has not been subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

This communication is intended solely for the information and use of the Town Council, management, and others within the organization, and is not intended to be and should not be used by anyone other than these specified parties

Caporicci & Larson
Oakland, California

**Town of Atherton
Report to Management
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Finance Department.....	4
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Town of Atherton
Report to Management
For the year ended June 30, 2007

CONTROL DEFICIENCIES

1. Payroll - Flexible Spending Payroll Deduction Liability

Observation

The Town makes a deduction from employee payroll checks for a flexible spending account. These amounts are tracked and identified per employee and are available to employees to draw upon for reimbursement of specific types of medical expenditures. During an examination of the account it was noted the flexible spending account balance was recorded as part of payroll liabilities in the General Fund. This type of fiduciary activity should be accounted for in a separate agency fund and reconciled on a routine basis.

Recommendation

We recommend the Town establish a separate agency fund in their financial system to account for the flexible spending account transactions.

Management Response

2. Liabilities - Deposits Payable

Observation

While performing testing on Deposits Payable it was observed that the Park and Recreation deposits were not accounted for in a manner which would easily facilitate testing or review of the outstanding balance. There is a summary report that specifically details the composition of the Deposits Payable balance. Instead the Town has to track deposit refunds through the cash receipt system and verify if the amount on deposit is still retained by the Town.

Recommendation

We recommend the Town establish a financial report that would be generated from the financial system, which would support the Deposit Payable balance by detailing the deposits payable balances and to whom the amounts are owed.

Management Response

Town of Atherton
Report to Management
For the year ended June 30, 2007

CONTROL DEFICIENCIES, Continued

3. Cash - Cash Handling

Observation

A surprise cash count was performed on the front cashier to verify the amount on hand. During the count of the cash drawer it was determined the amount on hand did not reconcile to the amount indicated in the general ledger. A difference of \$60 was noted between the cash drawer and the general ledger.

Recommendation

The Town should follow up with additional surprise cash counts as part of monitoring cash handling procedures. The town should also determine if the difference noted is a permanent difference that should be corrected or if it was a timing difference.

Management Response

4. Cash - Outstanding Checks

Observation

An examination of the outstanding check log noted there were 44 checks that have been outstanding for over a year.

Recommendation

The Town should investigate the checks and determine if the liability should be reestablished or if the amount should be forwarded to the State as escheated funds.

Management Response

Town of Atherton
Report to Management
For the year ended June 30, 2007

CONTROL DEFICIENCIES, Continued

5. Year End Closing Journal Entries

Observation

During the course of our audit we found the Town did not 1) record the current year activity for compensated absences, 2) properly record revenue accruals, and 3) did not accrue various expenditures. This appears to be from a lack of review being performed on the year end balances and not performing preliminary analytical examinations on various account balances.

Recommendation

We recommend the Town perform a review of the year end accruals and perform a preliminary analytical analysis on various account balances, prior to the arrival of the outside auditors. This will further assure the Town has performed all necessary year end closing entries and has adequate support for balances prior to the arrival of the auditors.

Management Response

Town of Atherton
Report to Management
For the year ended June 30, 2007

SIGNIFICANT DEFICIENCIES

1. Financial Department

Observation

During the course of the Town's 2007 financial audit a series of events took place that greatly affected the stability of the Finance Department and hampered its ability to perform day to day operations and provide necessary audit support:

- There was a departure from the Town of key personnel that resulted in a lack of available assistance to assure the continuity of the financial operations. The Town Manager departed in July 2007 and was shortly followed with the departure of the Finance Director in August 2007.
- During the audit year end phase of field work, which started in August 2007, the town started personnel investigations which hampered the availability of staff to provide answers to various inquiries made by the audit team.
- The Police Department sealed off the Finance Director's office preventing Finance Staff from easily accessing necessary information during the time of the audit; with the departure of the Finance Director, certain year end closing entries were not prepared.
- Certain public figures made comments to the press pertaining to suspected fraudulent activity which resulted in a further delay in the release of the audited financial statements pending inquiries with Town management about the accusations made in the press.

The combination of these events created undue stress on Town staff and delays in the release of the audited financial statements.

Recommendation

The Town should establish accounting policies and procedures that clearly outline the job duties and responsibilities of the Finance Department, which would permit a temporary filling of positions with minimal interruptions to department operations. The Town should reexamine the organizational structure of the department to address review and approval procedures and how to allocate job duties when vacancies occur.

Management Response



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF MAY 21, 2008

**SUBJECT: DISCUSSION AND POSSIBLE APPOINTMENT OF A BLUE
RIBBON TASK FORCE TO SOLICIT INPUT AND
EVALUATE THE FEASIBILITY OF A NEW TOWN
CENTER; DISCUSSION AND POSSIBLE CREATION OF A
COMMITTEE TO EVALUATE THE FEASIBILITY OF
FUNDRAISING OPTIONS FOR A NEW TOWN CENTER**

RECOMMENDATION:

Appoint a Blue Ribbon Task Force to solicit input and evaluate the feasibility of a new Town Center. Appoint a Committee to evaluate the feasibility of fundraising options for a new Town Center.

INTRODUCTION:

The Facilities Committee met on March 28, 2008, and discussed the process to undertake the development of a new Town Center facility. Based on the recent experiences of other cities, the Facilities Committee recommended that two committees be formed. One would undertake to raise funds for the new facility, primarily from Atherton residents. The other would undertake to develop the design of the facility by conducting design charettes to obtain input from residents.

The City Council met on April 16, 2008, to consider appointing the two Task Forces. The Council directed that the Facilities Committee determine the composition and duties of each Task Force. The Facilities Committee met again on May 7, 2008, and developed the following recommendation regarding composition and duties of the Task Force. In

particular, the Facilities Committee felt there should be a single Blue Ribbon Task Force for the New Town Center and that the Task Force would have two supporting Committees: a Design Committee to conduct design charettes to solicit public input into the design of the facility; and a Fundraising Committee to evaluate funding options and solicit funds

ANALYSIS:

Blue Ribbon Task Force for Town Center Feasibility

Composition of Task Force:

1. Council Members from Facilities Committee
2. Staff who would occupy the facility - Police, Administration, Building, Public Works, Planning, Information Technology (IT)
3. Others who would use the facility - Heritage Committee, Friends of the Library, Arts Committee, Library staff
4. Other interested parties - ACIL, Central Atherton Resident's Association (CARA), Audit Committee (for Finance Oversight)
5. Representative from Fundraising Task Force
6. Two Representatives from Design Committee - one architect and one landscape architect

Representatives to the Task Force to be selected by the entity represented. It is recommended that a primary and alternate representative be identified for each position.

Duties of Task Force:

Review previous studies to build on what has already been done:

1. 1995 Space Needs and Cost Estimate
2. 1999 Godbe Town Opinion Survey
3. 2006 Space Needs Study
4. 2006 Palo Alto Blue Ribbon Task Force for Public Safety Building
5. Materials from other cities efforts, i.e., Portola Valley, Los Altos Hills

Develop a 2008 Feasibility Report for Town Center which would determine:

1. New or Renovated building
2. Size
3. Site orientation
4. Cost
5. Financing
6. Impact on community
7. Public support
8. How ties in with other existing or potential facilities

9. Issue of commercial space as potential expansion space

Design Committee - comprised of volunteer architects, landscape architects and other interested professionals under the direction of Task Force.

Duties of the Design Committee:

1. Organize and conduct design charettes to solicit input to the design of the facility

Fundraising Committee - comprised of volunteer Atherton citizens experienced with fundraising activities, under the direction of the Facilities Committee.

Duties of the Fundraising Committee:

1. Evaluate feasible fundraising options, including meeting with other cities fundraisers
2. Evaluate feasible donation fund accounting, including a Capital Donation Account with the Community Foundation of Silicon Valley (fee for this service) and a Capital Donation Fund with the Town (no fee for this fund).
3. Evaluate options for donor recognition
4. Develop suggested fundraising process for approval by City Council
5. Outreach to the community to solicit funding

FISCAL IMPACT:

There is no fiscal impact of establishing the Blue Ribbon Task Force and Fundraising Committee other than staff time to participate and administer the meetings. The tasks they undertake, such as mailings for fundraising and meeting announcements, will have a cost that will be determined at the time.

Prepared By:

Approved by:

Duncan L. Jones, P.E.
Public Works Director

/s/ Jerry Gruber
Jerry Gruber
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: CITY COUNCIL MEETING OF MAY 21, 2008

SUBJECT: RESOLUTION GOVERNING COMMITTEES AND COMMISSIONS

RECOMMENDATION:

Review resolution which is designed to govern all Town committees and commissions with the exception of the Planning Commission. If approved, adopt Resolution amending City Council Rules of Procedure and Resolution rescinding Arts Committee. Introduce Ordinance amending the Atherton Municipal Code to delete Chapters 2.37 and 2.40. A majority vote of the Council will be required for these actions.

BACKGROUND:

Nine committees and one commission are described in this resolution. Their purpose is to assist the City Council in connection with matters affecting the Town. The committees and commissions are described alphabetically in the attached resolution.

The Crime Prevention Committee, Heritage Committee, Emergency Preparedness Committee, and Tree Committee are not included in the resolution. The Atherton Channel Drainage District Committee will be terminated. At a subsequent meeting, the City Council will consider issues involving the Tree Committee and its recommendations for use of funds from civil penalties derived from prosecutions of the Heritage Tree Ordinance. Issues regarding the Emergency Preparedness Committee, including funding and the acquisition of equipment, will be addressed in a separate agreement being developed by the Town and the Menlo Park Fire Protection District.

The Arts Committee was created by Resolution No. 98-06. The General Plan Committee and Parks and Recreation Commission were created by ordinances codified in the Atherton Municipal Code Chapters 2.37 and 2.40, respectively. The Planning Commission is established and described in Chapter 2.36 of the Atherton Municipal Code. Because state planning law, Government Code section 65100 and following, requires that the Planning Commission must be established by ordinance, it is not included in this resolution. There is no similar requirement for

establishment of the Park and Recreation Commission or the General Plan Committee. Accordingly, these two may be removed from the Atherton Municipal Code and placed in the resolution.

If the City Council approves the resolution, paragraph 9 of the City Council Rules of Procedure will be amended to provide that Town committees are described as governed by this master resolution. Resolution No. 98-06 regarding the Arts Committee will be rescinded, and the Atherton Municipal Code will be amended to delete Chapters 2.37 and 2.40.

Following the City Council meeting on April 16, 2008, a further draft of the resolution was prepared reflecting comments made by the City Council at the study session preceding the meeting. These are shown in the draft Resolution with deletions in strike-out and added language in bold. Please note the last bullet in Section 2 regarding reports. An alternative way to address the issue of reports of activities may be handled as it is for the Parks and Recreation Commission in Section 5(7)(b). An annual report was required from the Parks and Recreation Commission by Ordinance. That requirement has been carried into the Resolution. If the Council is satisfied with the language in Section 2 which would govern all committees and commissions requiring an annual report only upon request, then the Council could either delete the requirement in subsection (b) of paragraph 7 of section 5 or, alternatively this could simply stand as the ongoing request of the Council for a report.

The Audit Committee discussed the powers and duties of the Audit Committee at its meeting on Tuesday, May 6, 2008. It was recommended that the duties be amended to provide that the Audit Committee, in providing its oversight of the annual audit, present and explain the audit to the City Council with the committee's recommendation as to acceptance. There was also discussion regarding a role for the Audit Committee in consulting with the City Manager on goals and objectives relative to the Town's financial management. I advised that this was not the type of power the Audit Committee should have, but rather is a matter between the City Council and the City Manager. Should the City Council wish to add provisions regarding presentation and explanation of the annual audit, then I would recommend that Section 5 (Powers and Duties), paragraph 3 (regarding the Audit committee) be revised as follows:

Section 5. 3.b. "Provide oversight of the annual audit **and present and explain the audit to the City Council with recommendations as to acceptance.**"

FISCAL IMPACT.

Staffing of committees and commission to meet requirements imposed by the resolution (see Sections 2 and 4 of the resolution) will require expenditures to be considered when adopting the budget.

Prepared By:

Approved By:

/s/ Marc G. Hynes

Marc Hynes
City Attorney

Jerome Gruber
City Manager

Attachments

RESOLUTION NO. 08-___

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
GOVERNING TOWN COMMITTEES AND COMMISSIONS**

WHEREAS, the City Council of the Town of Atherton desires that the most qualified residents of the Town serve on Town committees and commissions consistent with obtaining the broadest representation of the community;

Now, therefore, the City Council of the Town of Atherton hereby resolves as follows:

Section 1. Establishment of Committees. The following committees and commissions are established for the Town of Atherton:

1. Arts Committee
2. Atherton Rail Committee
3. Audit Committee
4. Environmental Programs Committee
5. Finance Committee
6. General Plan Committee
7. Park and Recreation Commission
8. Screening Committee
9. Town Center Committee
10. Transportation Committee

Section 2. Rules of Procedure – Staffing – Minutes - Reports.

- All committees and commissions shall follow the Rules of Procedure as adopted by and as amended by the City Council, and the provisions of the California Open Public Meeting Law (Brown Act).
- ~~The Mayor shall have the authority to appoint~~ **In the event a committee or commission is unable to appoint a Chair, the Mayor shall have the authority to appoint the Chair** of such committee and commission.
- The City Manager shall have the authority to appoint any Town staff member(s) to serve Town committees and commissions.
- All committees and commissions shall prepare action minutes for the City Council. Draft minutes, that is unapproved minutes, shall be presented to the City Council as soon as possible following the meeting they report.
- Members of committees and commissions are encouraged to advocate to the City Council their position on matters **under the purview of** ~~before~~ their committee or commission. Otherwise, no committee or commission or any of its members shall represent itself or themselves as speaking on behalf of the Town, City Council, and/or committee or commission without prior approval of the City Council. Statements of **previously approved City Council** ~~existing~~ policy may be made without ~~prior~~ **additional** City Council approval.

- Committees and commissions may provide educational materials to the public regarding the functions and actions of the committee or commission, but shall not engage in advocating to the public any particular position which is contrary to ~~Town~~ **City Council** policy.
- **Upon request, an annual report shall be provided to the City Council of committee and commission activities for the preceding year.**

Section 3: Appointment of Voting Members to Committees and Commissions.

Members other than City Council Members shall be appointed following recommendation of the ~~City Council~~ Screening Committee and approval by the City Council. All appointed members shall be registered voters in the Town. ~~Unless otherwise provided in Section 5 below, the City Council desires that committees and commissions be composed of members representing the broadest segment of the Town.~~ **Each City Councilmember shall serve *such??* a term on the Screening Committee on a rotational basis.** Members shall serve at the pleasure of the City Council, or until the expiration of their terms set out below. Vacancies in any committee or commission arising from any reason, including expiration of term, shall be filled by appointment of the City Council based upon recommendations of the ~~City Council~~ Screening Committee.

Section 4. Composition – Terms.

The composition and terms of the Town's committees and commissions shall be as described below:

- City Council representatives on committees are selected by the City Council to serve a one (1) year term.
- Appointed members shall serve no more than two full consecutive terms on the committee or commission to which they are appointed. ~~Subsequent appointments of the member~~ **A member may be reappointed to the committee or commission to that committee or commission may be made following a minimum two (2) year period hiatus. consistent with this provision.**
- An annual report shall be provided to the City Council of attendance at committee and commission meetings.
- Unexcused absences of members, other than City Councilmembers, from two or more consecutively scheduled meetings shall result in the automatic vacation of the member's office.
- In the event funding for the committees or commissions is desired, a budget shall be prepared and presented to the City Council for review and approval as part of the Town's regular budget process.
- Any requests by a committee or commission for staff work, information, or assistance from Town Staff shall be made to the City Manager.

1. Arts Committee. Consists of up to ten (10) appointed members. The term of office shall be as follows: Five (5) of the members shall be appointed to a four (4) year term commencing 2008 and ending on April 30, 2012. The remaining members' terms shall be three (3) years commencing 2008 and ending on April 30, 2011. Thereafter, each term of office shall be four (4) years. The Committee meets on the 4th Tuesday of each month at 1:00 p.m. in the

Holbrook-Palmer Park Garden Room unless a special meeting in compliance with the provisions of the Brown Act is called by the committee chair.

2. Atherton Rail Committee. Consists of up to twelve (12) members including two (2) Council Members and up to ten (10) appointed members. The term of office for appointed members shall be a four (4) year term commencing 2007 and ending on April 30, 2011. Thereafter, each term of office shall be four (4) years. The committee meets on the first Tuesday of every other month at 6:00 p.m. in the City Council Chambers unless a special meeting in compliance with the provisions of the Brown Act is called by the committee chair. **In addition to other members, persons appointed to the Atherton Rail Committee may be appointed to represent and further the interests of Atherton homeowners and particularly those with properties on and along the Caltrain right-of-way. This declaration is made with specific recognition of the provisions of 2 California Code of Regulations Section 18707.4.**

3. Audit Committee. Consists of five (5) members, including two (2) Council Members of the Finance Committee, and three (3) appointed members. The term of office for all appointed members shall end on April 30, 2008. Thereafter, one term shall be for two (2) years ending in April, 2010. The remaining terms shall be for four (4) years ending in April, 2012. Thereafter, the term of office shall be four (4) years. The committee meets as needed in the Conference Room of the Town Administrative Offices.

4. Environmental Programs Committee. Consists of up to twelve (12) members including two (2) Council Members and ten (10) residents of the Town. The term of office shall be as follows: Five (5) of the appointed members shall be appointed to a two-year term commencing 2007 and ending April 30, 2009. The remaining members' terms shall be four (4) years commencing 2007 and ending April 30, 2011. Thereafter, each term of office shall be four (4) years. The committee meets quarterly on the first Wednesday of the month at 10:00 a.m. in the Conference Room of the Town Administrative Offices unless a special meeting in compliance with the provisions of the Brown Act is called by the committee chair.

5. Finance Committee. Consists of two (2) Council Members. The Members also serve on the Audit Committee. The committee meets on an as needed basis in the Conference Room of the Town Administrative Offices.

6. General Plan Committee. Consists of two (2) Council Members, two (2) Planning Commissioners and up to five (5) appointed members. The term of office shall be four (4) years. Planning Commission representatives are selected by the Planning Commission to serve for a term of one (1) year. The committee meets quarterly or more frequently if required on the first Wednesday of the month at 6:00 p.m. in the Town Council Chambers unless a special meeting in compliance with the provisions of the Brown Act is called by the committee chair.

7. Park and Recreation Commission. Consists of seven (7) appointed members. One member shall be a representative of the Holbrook-Palmer Park Foundation. One member shall be a representative of the Atherton Dames. Each of the foregoing representatives shall serve a term of two (2) years. The term of office for the two (2) members ending April 30, 2008 shall be four (4) years. The term of office for the remaining members shall be four (4) years.

Thereafter, each term of office shall be four (4) years. The Park and Recreation Commission meets on the first Wednesday of each month at 6:30 p.m. in Holbrook-Palmer Park unless a special meeting in compliance with the provisions of the Brown Act is called by the committee chair.

8. Screening Committee. Consists of two (2) Council Members **appointed on a rotational basis so that each member shall serve on the committee.** The committee meets on an as needed basis in the Conference Room of the Town Administrative Offices.

9. The Town Center Committee. Consists of two (2) Council Members. The committee meets on an as needed basis in the Conference Room of the Town Administrative Offices.

10. Transportation Committee. Consists of five (5) members including two (2) Council Members and three appointed members. The term of office shall be four (4) years. The committee meets on the second Tuesday of every other month at 6:00 p.m. in the City Council Chambers unless a special meeting in compliance with the provisions of the Brown Act is called by the committee chair.

This Resolution shall be effective immediately upon adoption. The operative date of this resolution for the General Plan Committee and the Park and Recreation Commission shall be thirty (30) days from and after the date of adoption of the Ordinance rescinding Chapters 2.37 and 2.40 of the Atherton Municipal Code. Resolution 98-06 is hereby rescinded.

Section 5. Powers and Duties.

1. The Arts Committee shall have the following powers and duties:
 - a. Act in an advisory capacity and make recommendations to the City Council upon request in matters regarding art awareness including, without limitation, the following goals and objectives:
 - i. Fulfill the requirements of the Rita Corbett-Evans estate;
 - ii. Develop a unique arts program specific to the needs of Atherton and the surrounding community;
 - iii. Provide a base and focal point for arts programs in Atherton;
 - iv. Include a multi-disciplinary range of artistic endeavors including fine, performing, and literary arts as well as crafts.
2. The Atherton Rail Committee shall have the following powers and duties:
 - a. Act in an advisory capacity to the City Council upon request in all matters pertaining to rail service in and through the Town;
 - b. Research and address the specific impacts that high-speed rail and other rail improvements may have on the Town.
3. The Audit Committee shall have the following powers and duties:
 - a. Act in an advisory capacity and make recommendations to the City

- Council upon request in all matters pertaining to the Town's annual audit;
- b. Provide oversight of the annual audit;
 - c. Advise City Council regarding appointment of outside auditors for annual audit;
 - d. Review proposed audit scope with outside auditors prior to commencement of annual audit.
4. The Environmental Programs Committee shall have the following powers and duties:
- a. ~~Recommend to the City Council any~~
Act in an advisory capacity and make recommendations to the City Council upon request in all matters pertaining to the Town environment, including without limitation, advising the City Council on matters such as :
 - i. Actions required by federal, state or county environmental legislation; ~~and such other matters as directed by the City Council;~~
 - b. ~~Provide information to Town residents on matters concerning the environment that fall within the Council's environmental goals on such matters as:~~
 - ii. Global warming and CO2 Emissions
 - iii. Green Buildings
 - iv. Earth Day events
 - v. ABAG/PG&E Energy Watch Partnership
 - vi. E-Waste Collection Day
 - vii. Mayors Agreement on Climatic Change
 - viii. Energy Awards for Homeowners
 - ix. Energy Consumption Reduction in public facilities.
 - x. Conservation programs in the Town and schools.
5. The Finance Committee shall have the following powers and duties:
- a. Act in an advisory capacity and make recommendations to the City Council upon request in all matters pertaining to Town finances;
 - b. Consult with the City Manager on matters pertaining to the budget, capital spending plan and the long range financial plan for the Town;
 - c. ~~Perform such tasks as assigned by the City Council.~~
6. The General Plan Committee shall have the following powers and duties:
- a. Act in an advisory capacity and make recommendations to the City Council upon request in all matters pertaining to Town planning;
 - b. Review the General Plan and make recommendations to the City Council, Planning Commission and Town staff regarding the operation of the ordinances and policies on the subject of Town planning.

7. The Park and Recreation Commission shall have the following powers and duties:
 - a. Act in an advisory capacity and make recommendations to the City Council upon request in all matters pertaining to parks and public recreation and to cooperate with other governmental agencies and public and private groups in the advancement of park and recreation planning and programming;
 - b. Develop and maintain a master plan for parks ~~development for each park facility~~ within the Town and, annually, in the month of April, present a report to the City Council. ~~detailing the changes to the plan enacted by the Council during the previous year and proposed study or change of the future year;~~
 - c. Review the annual budget for parks and recreation during the process of its preparation and make recommendations with respect thereto to the City Council. This includes recommendations regarding the setting of fees. The budget should contain estimates and recommendations for such long-term capital outlay projects as may be necessary to provide for orderly development of park and recreation areas, buildings and facilities;
 - d. Study and make recommendations on the acquisition and development of recreation areas, activities and facilities such as playgrounds, buildings, parks, open space and other centers of recreation;
 - e. Assist Town staff in the planning of recreation programs for the community, and promote and stimulate public interest therein. ~~, and to that end, solicit public and private agencies, interested therein.~~

8. The Screening Committee shall have the following powers and duties:
 - a. Interview all applicants for the Planning Commission and committees and commissions as described in Section 1 of this Resolution and make recommendations for appointment(s) to the City Council.

9. The Town Center Committee, an ad hoc committee, shall have the following powers and duties:
 - a. Assist the City Council in developing a vision and goals for the Town Center which includes facilities for **City Council chambers**, Police, Administration, Building, Public Works, Planning and Library functions;
 - b. Upon approval of the City Council, the committee may engage Town residents and outside professional services to aid in the visioning process;
 - c. Upon approval of the City Council assist in ~~the implementation of approved plans~~ **obtaining funds** for Town Center improvements.

- 10. The Transportation Committee shall have the following powers and duties:
 - a. Act in an advisory capacity and make recommendations to the City Council upon request in all matters pertaining to transportation **within the Town.**

~~Section 4: Appointment of Voting Members to Committees and Commissions. Members other than City Council Members shall be appointed following recommendation of the City Council Screening Committee and approval by the City Council. All appointed members shall be registered voters in the Town. Unless otherwise provided in Section 5 below, the City Council desires that committees and commissions be composed of members representing the broadest segment of the Town. Members shall serve at the pleasure of the City Council, or until the expiration of their terms set out below. Vacancies in any committee or commission arising from any reason, including expiration of term, shall be filled by appointment of the City Council based upon recommendations of the City Council Screening Committee.~~

This Resolution shall be effective immediately upon adoption. The operative date of this resolution for the General Plan Committee and the Park and Recreation Commission shall be thirty (30) days from and after the date of adoption of the Ordinance rescinding Chapters 2.37 and 2.40 of the Atherton Municipal Code. Resolution 98-06 is hereby rescinded.

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the _____ day of _____, 2008, by the following vote.

<i>AYES:</i>	<i>Council Members:</i>
<i>NOES:</i>	<i>Council Members:</i>
<i>ABSENT:</i>	<i>Council Members:</i>
<i>ABSTAIN:</i>	<i>Council Members:</i>

James R. Janz, Mayor, Town of Atherton

ATTEST:

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
REPEALING CHAPTERS 2.37 AND 2.40 OF THE ATHERTON MUNICIPAL CODE
PERTAINING TO THE GENERAL PLAN COMMITTEE AND THE PARK AND
RECREATION COMMISSION**

WHEREAS, the City Council has provided for the creation, maintenance and description of powers and duties of Town committees and commissions by resolution;

NOW, THEREFORE, the City Council of the Town of Atherton does hereby ordain as follows

SECTION 1: Chapters 2.37 and 2.40 of the Atherton Municipal Code are hereby repealed.

SECTION 2: Upon the effective date of this Ordinance repealing Chapters 2.37 and 2.40, the terms and provisions of Resolution No. _____ governing Town committees and commissions adopted by the City Council on _____, 2008, shall become operative.

SECTION 3: The City Council hereby declares that it would have passed this Ordinance word by word, sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions of this Ordinance are severable and, if for any reason any sentence, paragraph or section of this Ordinance shall be held invalid, such decision shall not affect the validity of the remaining parts of this Ordinance.

SECTION 4: This Ordinance shall be posted in at least three public places according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

Introduced this _____ day of _____, 2008.

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the _____ day of _____, 2008, by the following vote:

AYES: Council Members
NOES: Council Members
ABSTAIN: Council Members
ABSENT: Council Members

James R. Janz, MAYOR
Town of Atherton

ATTEST:

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney

RESOLUTION NO. 08-

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON RESCINDING
RESOLUTION NO. 98-06 PERTAINING TO THE ATHERTON ARTS COMMITTEE

WHEREAS, the City Council has adopted Resolution No. _____ pertaining to all of the
Town's committees and commissions; and

WHEREAS, the foregoing action supersedes the provisions of Resolution No. 98-06
pertaining to the Atherton Arts Committee;

NOW, THEREFORE, the City Council of the Town of Atherton does hereby resolve as
follows:

Section 1. Resolution No. 98-06 pertaining to the Atherton Arts Committee is hereby
superseded and rescinded.

This Resolution shall be effective immediately upon adoption.

*I hereby certify that the foregoing Resolution was duly and regularly passed and adopted
by the City Council of the Town of Atherton at a regular meeting thereof held on the
_____ day of _____, by the following vote:*

<i>AYES:</i>	<i>Council Members:</i>
<i>NOES:</i>	<i>Council Members:</i>
<i>ABSENT:</i>	<i>Council Members:</i>
<i>ABSTAIN:</i>	<i>Council Members:</i>

James R. Janz, MAYOR
Town of Atherton

ATTEST:

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney

RESOLUTION NO. 08-

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
AMENDING CITY COUNCIL RULES AND REGULATIONS BY REVISING
PARAGRAPH 9 RELATING TO COMMITTEES OF THE TOWN**

The City Council of the Town of Atherton hereby resolves as follows:

Section 1. Section 9 "City Council Committees" is hereby amended to read as follows:

9. Town Committees

9.1 Establishment. Committees shall be created and members appointed thereto in accordance with rules and regulations set out by the City Council by Resolution No. _____ and as amended. At the regular meeting in January, the Mayor shall appoint Council members to serve on various committees for a one year term.

9.2 Appointment of Voting Members to City Council Committees. Appointment of voting members to City Council Committees shall proceed as provided by the terms and provisions of Resolution No. ____ - _____ and as amended.

9.3 City Council Review of Town Committee Decisions. City Council Members on Town committees may bring any decision of the committee to the full City Council for final determination. Pending such action by the full City Council, any such decision shall be suspended.

This Resolution shall be effective immediately upon adoption.

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the _____ th day of _____, 2008, by the following vote:

*AYES: Council Members:
NOES: Council Members:
ABSENT: Council Members:
ABSTAIN: Council Members:*

James R. Janz, MAYOR
Town of Atherton

ATTEST:

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney