



**AGENDA**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**  
**January 17, 2007**  
**6:00 P.M.**  
**Meeting Room**  
**Town Administrative Offices**  
91 Ashfield Road  
Atherton, California  
**Special Meeting**

**6:00 P.M.     ROLL CALL             Marsala, J. Carlson, Janz, A. Carlson McKeithen**

**6:02 P.M.     PUBLIC COMMENTS**

**6:05 P.M.     CLOSED SESSION**

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

**Town of Atherton vs. Sequoia Union High School District, et al.**

**B.     CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Significant exposure to litigation pursuant to subsection (b) subparagraph (1) of Government Code Section 54956.9:**

**One (1) potential case**

**C.     CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Initiation of litigation pursuant to subsection (c) of Government Code Section 54956.9:**

**Seven (7) potential cases**

**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](http://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)*



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**AGENDA**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**

**January 17, 2007**

**7:00 p.m.**

**TOWN COUNCIL CHAMBERS**

94 Ashfield Road  
Atherton, California

**REGULAR MEETING**

- 7:00 P.M.    1.    **PLEDGE OF ALLEGIANCE**
- 7:03 P.M.    2.    **ROLL CALL**      Janz, J. Carlson, Marsala, A. Carlson, McKeithen
- 7:05 P.M.    3.    **PRESENTATIONS**  
  
                  New Explorer Scouts
- 7:10 P.M.    4.    **COUNCIL REPORTS**
- 7:20 P.M.    5.    **PUBLIC COMMENTS** (only for items which are not on the agenda –  
                  limit of three minutes per person)
- 7:30 P.M.    6.    **STAFF REPORTS**
- 7:40 P.M.    7.    **COMMUNITY ORGANIZATION ROUNDTABLE REPORT** (Directed  
                  by Resolution No. 99-6)
- 7:40 P.M.    **CONSENT CALENDAR** (Items 8 – 11)
8.    **APPROVAL OF MINUTES OF THE SPECIAL CLOSED SESSION**  
                  **MEETING OF DECEMBER 11, 2006, AND THE SPECIAL CLOSED**  
                  **SESSION AND SPECIAL MEETINGS OF DECEMBER 13, 2006**
9.    **APPROVAL OF BILLS AND CLAIMS FOR DECEMBER 2006 IN**  
                  **THE AMOUNT OF \$ 1,402,996**
10. **ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR**  
                  **DECEMBER 2006**
11. **APPROVAL OF MAYOR’S 2007 CITY COUNCIL COMMITTEE**  
                  **ASSIGNMENTS**

**PUBLIC HEARINGS** (Items 12, 13)

- 7:45 P.M. 12. **APPEAL OF THE DECISION OF THE PLANNING COMMISSION REGARDING A MAJOR ALTERATION PERMIT AT 51 LABURNUM ROAD UNDER ORDINANCE NO. 567, THE ARTIFACT ORDINANCE**

**Recommendation:** City Council conduct the public hearing, make the following finding to deny the appeal, and approve the Major Alteration Permit for the relocation of two historical artifacts from 51 Laburnam Road to 224 Park Lane in Atherton. The relocation of the artifacts would not be contrary to the purpose and intent of the Atherton General Plan.

- 8:15 P.M. 13. **APPEAL OF THE DECISION OF THE BUILDING OFFICIAL REGARDING HOUSE CONSTRUCTION – 172 AUSTIN AVENUE (APN 059-293-060)**

**Recommendation:** City Council conduct the public hearing, deny the appeal, and uphold the decision of the Building Official for the reasons outlined in this Report.

**REGULAR AGENDA** (Items 14 -20)

- 8:35 P.M. 14. **AUTHORIZATION TO ENTER INTO NEGOTIATIONS WITH CRW SYSTEMS FOR DEVELOPMENT OF A PURCHASE AGREEMENT FOR SUBSEQUENT CONSIDERATION AND APPROVAL BY THE COUNCIL**

**Recommendation:** City Council authorize staff to enter into negotiations with CRW Systems for a Building Department Permit Tracking System and develop a purchase agreement for further consideration

- 8:55 P.M. 15. **REQUEST FOR PROPOSALS FOR CONSULTANT SERVICES TO REVIEW THE ZONING CODE IN TERMS OF CONTINUITY, AMBIGUITIES, EXISTING INTERPRETATIONS, AND INDUSTRY STANDARDS**

**Recommendation:** The City Council authorize the release of the attached Request For Proposal (RFP) for consultant services for a comprehensive update of the Town of Atherton Zoning Code (Title 17 of the Municipal Code) following a review by the City Council and incorporating any appropriate changes

- 9:25 P.M. 16. **REQUEST FOR PROPOSALS FOR CONTRACT ENGINEERING SERVICES FOR THE PURPOSE OF REVIEWING GRADING AND DRAINAGE PLANS**

**Recommendation:** Staff recommends that the City Council authorize the release of the attached Request For Proposals (RFP) for consultant Municipal Engineering Services to assist in the Town of Atherton review of plan check of development applications related to Grading, Drainage, and other possible engineering fields.

- 9:50 P.M. 17. DISCUSSION AND POSSIBLE DIRECTION TO STAFF REGARDING THE COMMITTEE/COMMISSION APPOINTMENT PROCESS**

**Recommendation:** Council to review existing policies regarding the Committee-Commission appointment process and possibly give direction to staff on any changes the Council wishes to make regarding the recruitment process, selection/appointment process, terms of office, duties, membership, etc.

- 10:15 P.M. 18. DISCUSSION AND POSSIBLE DIRECTION TO STAFF REGARDING COMMERCIAL ENVIRONMENTAL LANDSCAPE'S (CEL) LANDSCAPE MAINTENANCE AGREEMENT FOR TOWN HALL AREA AND DISCUSSION OF OPTIONS FOR RESTORING OR UPGRADING THESE LANDSCAPE AREAS**

**Recommendation:** Staff recommends that Commercial Environmental Landscape (CEL) be retained under their existing extended contract, based on their promises to elevate the level of maintenance within Town Center to restore the area and allow them to meet the specifications of the contract. Further, staff recommends that, based on Council direction, that a landscape architect be hired to develop a plan for the Lloyd Park entrance landscape area. The plan would be brought back to Council for approval and an estimate of cost included in the FY 2007-08 CIP budget.

- 10:35 P.M. 19. DISCUSSION AND POSSIBLE ACTION REGARDING THE ENVIRONMENTAL PROGRAMS COMMITTEE**

**Recommendation:** The City Council consider the composition and role of the Environmental Programs Committee and provide appropriate direction to the committee and staff.

- 10:55 P.M. 20. DISCUSSION AND POSSIBLE ACTION REGARDING THE SAN MATEO COUNTY CITY SELECTION COMMITTEE SELECTION OF REPRESENTATIVES**

**Recommendation:** Appoint a Town of Atherton City Council Member to attend the San Mateo County City Selection Committee meeting on January 26, 2007, if the Mayor is unable to attend, and authorize said

**Council Member to vote for city representatives to certain county commissions.**

**11:10 P.M. 21. PUBLIC COMMENTS**

**11:15 P.M. 22. ADJOURNMENT**

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**DRAFT MINUTES**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**  
**December 11, 2006**  
**6:00 P.M.**  
**Meeting Room**  
**Town Administrative Offices**  
91 Ashfield Road  
Atherton, California  
**Special Meeting**

**The meeting was called to order at 6:00 p.m.**

**ROLL CALL**

**PRESENT:** James R. Janz  
Alan B. Carlson  
Jerry Carlson  
Charles E. Marsala

**ABSENT** Kathy McKeithen (Excused)

**PUBLIC COMMENTS**

**There were no public comments.**

**CLOSED SESSION**

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

**Town of Atherton vs. Sequoia Union High School District, et al.**

**RECONVENE TO OPEN SESSION**

**Report of action taken.**

**City Attorney Marc Hynes reported during open session that no reportable action was taken on the above-referenced Closed Session.**

**ADJOURN**

**The Special Meeting adjourned at 8:20 p.m.**

**Respectfully submitted,**

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**Charles E. Marsala**  
**Mayor**

**Minutes Prepared by:**

**Kathi Hamilton**



**DRAFT MINUTES**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**  
**December 13, 2006**  
**5:30 P.M.**  
**Meeting Room**  
**Town Administrative Offices**  
91 Ashfield Road  
Atherton, California  
**Special Meeting**

The meeting was called to order at 5:45 p.m.

**ROLL CALL**

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

**PUBLIC COMMENTS**

There were no public comments.

**CLOSED SESSION**

**A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**  
Initiation of litigation pursuant to subsection (c) of Government Code Section  
54956.9:

Six (6) potential cases

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

Town of Atherton vs. Sequoia Union High School District, et al.

**C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**  
Significant exposure to litigation pursuant to subsection (b) of Government Code  
Section 54956.9:

One (1) potential case

**RECONVENE TO OPEN SESSION**

**Report of action taken.**

**City Attorney Marc Hynes reported during open session that no reportable action was taken on Items A and B. He reported that no action was taken on Item C.**

**ADJOURN**

**The Special Meeting adjourned at 6:55 p.m.**

**Respectfully submitted,**

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**Charles E. Marsala**  
**Mayor**

**Minutes Prepared by:**

**Kathi Hamilton**



**DRAFT MINUTES**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**  
**December 13, 2006**  
**7:00 p.m.**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California  
  
**SPECIAL MEETING**

Mayor Marsala called the meeting to order at 7:04 p.m.

1. **PLEDGE OF ALLEGIANCE**
2. **ROLL CALL**

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

City Manager Jim Robinson and City Attorney Marc Hynes were also present.

3. **INDUCTION / PRESENTATIONS / REORGANIZATION**

- A. **Induction of those Council Members Appointed In-Lieu of an Election – Council Members Alan Carlson, Jerry Carlson, and Charles Marsala – Oaths of Office**

Acting City Clerk Kathi Hamilton administered the Oaths of Office.

- B. **Presentation to Outgoing Mayor, Charles Marsala**

Vice Mayor Alan Carlson presented Outgoing Mayor Charles Marsala with a plaque and thanked him for his year of service.

Mayor Marsala thanked his colleagues, who brought a lot of expertise to the Council. Additionally, he thanked staff for their time, energy, and hard work. He thanked the residents of Atherton for volunteering to serve on Town committees and commissions and other organizations that supported the Town

and added to the reputation of leadership and philanthropy. He briefly described some of the accomplishments of the year.

**C. City Council Reorganization - Selection of Mayor and Vice Mayor**

Mayor Marsala opened nominations for Mayor. Council Member Janz nominated Vice Mayor Alan Carlson for Mayor, seconded by Council Member McKeithen. No other nominations were made, and the nominations were closed.

M/S Janz/McKeithen                      Ayes: 5   Noes: 0   Absent: 0   Abstain: 0

Mayor Marsala opened nominations for Vice Mayor. Council Member McKeithen nominated Council Member Janz for Vice Mayor, seconded by Council Member Jerry Carlson. No other nominations were made, and the nominations were closed.

M/S McKeithen/J.Carlson              Ayes: 5   Noes: 0   Absent: 0   Abstain: 0

**4. COUNCIL REPORTS**

- Council Member McKeithen attended the Finance Committee meeting on December 7 where the budget was discussed. An \$800,000 surplus was earmarked for Capital Improvement Program projects and road projects. Further discussions included recommendations for the Building Department’s selection of a permit tracking system, the possible purchase of laptop computers for each police car, and the possible acquisition of a street sweeper. She addressed the members of the audience who were interested in issues related to the proposed Menlo-Atherton High School Performing Arts Center (PAC). She was a longtime supporter of the high school and had been a dedicated volunteer over the years. She emphasized that the entire Council wanted to see a new PAC. The goal of the Council was to make sure that conditions such as drainage and traffic were not made worse, as well as to represent all members of the community.
- Council Member Marsala organized a “Cheryl Burke Day” at Menlo-Atherton High School, which was attended by 700 students. Ms. Burke graduated from M-A High School and recently won the competition, “Dancing with the Stars,” for the second time. He attended many meetings over the past month regarding the PAC to help resolve the issues. He had tried to get a facility like the PAC in Atherton for the Arts Committee in the past, and supported the PAC.
- Vice Mayor Janz announced the City/County Association of Governments (C/CAG) was not meeting until the next evening where the legislative program for the year would be discussed. The Atherton Rail Committee met and discussed the Dumbarton Rail Corridor Project, which would connect the East Bay to the West Bay as well as both north and south. Additionally, part of the project included adding a third track from Redwood City possibly as far as

Atherton. The Committee was trying to get representation on those committees that dealt with the project.

- Council Member Jerry Carlson attended the Police Department meeting held at St. Joseph's School and thanked Police Chief Bob Brennan for a good program. He noted that two members of the Grand Jury attended the Audit Committee meeting and would be issuing a report sometime in February. They were interested in improving efficiency of town government and would be reviewing the Building Department. The Finance Committee asked staff to go out to bid for street sweeping services in lieu of purchasing a sweeper at the present time. He attended the San Francisco Airport Roundtable where the Regional Airport Planning Committee was studying all three local airports and would perhaps make a recommendation for an institutional group to oversee all three to better manage future air traffic.
- Mayor Alan Carlson spoke regarding the Menlo-Atherton High School Performing Arts Center. He reiterated that the PAC would be built and that the City Council wanted it to be built. He believed there were many misunderstandings in the press and in various e-mails. The entire City Council supported local schools on a personal level as well as representatives of the Town. As usage of school facilities increased, the Council had been called upon to balance the interests of the school vs. those who lived in the neighborhood. The PAC represented an expansion of use. He clarified the nature of the lawsuit, which basically was a dispute over a difference of opinion as to whether the California Environmental Quality Act (CEQA) requirements applied to the Sequoia Union High School District, as well as the reasons Atherton ultimately filed the lawsuit. He believed the District should be asked the following questions: 1) Why did the District not involve Atherton earlier? 2) Why was it Atherton that had to initiate and propose three-party meetings between the District, Menlo Park, and Atherton? 3) Why were the legitimate concerns of both Menlo Park and Atherton not addressed earlier by the District? 4) Why did the District revoke the "tolling" agreement and force Atherton to file a lawsuit? 5) Where is the good news in all this? Three-party discussions had resumed, there was no delay because of the lawsuit, and all parties were anticipated to reach agreement resolving all concerns so as to not delay or interfere with the timeline. Atherton had no desire and was making no attempt to stop the construction of the PAC. He believed all concerns would be resolved in everyone's best interest.

Mayor Carlson announced that Item No. 18 was removed from the agenda.

## 5. PUBLIC COMMENTS

The following Atherton residents spoke in support of the Performing Arts Center:

Clint Ostrander, Rosewood Dr., past chairman of the Measure G bond campaign, and currently sat on the District's bond oversight committee, which monitored projects including the PAC

**Kathy Jackson, Manzanita Road, lived in the Lindenwood neighborhood, was a member of the Lindenwood Homes Association, and was a close neighbor of M-A High School**

**Susan Moore, Heather Drive, lived in Lindenwood;**

**Kim Young, Santiago, attended M-A High School and had a son currently attending the school**

**Margaret Winters, Robleda Drive, had a daughter and son attending M-A High School.**

**Nancy Sterling, Lupin Lane, had three teenagers who were either at M-A High School or had attended the school.**

**Karen Canty, Walnut Avenue, served on the Menlo Park School Board for 12 years;**

**Terri Watters, Emily Avenue.**

**John L. De Russy, Housing Investment Project (HIP) board member, distributed a calendar that was produced annually to get the word out regarding housing for seniors and for those who were caught in between the crises of life.**

**John Sisson, Belleau Avenue, spoke regarding appropriate procedures for public participation in Council meetings.**

**Shirley Carlson, Mt. Vernon Lane, said the Holbrook-Palmer Park Foundation and the Atherton Dames sponsored a children's event at Holbrook-Palmer Park that was very successful with over 150 attendees. All the children brought toys that were donated to the Police Department for distribution.**

**John Ruggeiro, Stockbridge Avenue, suggested that Council institute the use of speaker cards for those members of the public who wished to address the Council.**

## **6. STAFF REPORTS**

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

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

- Initiation of litigation pursuant to subsection (c) of Government Code Section 54956.9:**

- Six (6) potential cases**

- No reportable action was taken.**

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

**Town of Atherton vs. Sequoia Union High School District, et al.**

**No reportable action was taken.**

**C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

**Significant exposure to litigation pursuant to subsection (b) of Government Code Section 54956.9:**

**One (1) potential case**

**No action was taken.**

**Mayor Carlson called for a 5-minute recess at 8:12 p.m. The meeting was reconvened at 8:19 p.m.**

- **Assistant to the City Manager Wende Protzman said the Arts Committee held its 2<sup>nd</sup> Annual Artists' Reception that was very successful. The Committee would like to continue the Artists' Reception and add another event each year.**
- **Public Works Director Duncan Jones followed up on the Dumbarton Rail Corridor project. At the Dumbarton Development Team meeting the previous day, a recommendation was made that two Atherton residents could sit on the Citizens Advisory Panel. Vice Mayor Janz noted that the Citizens Advisory Panel was the third committee, along with the Technical Advisory Committee and the Policy Advisory Committee. Mayor Carlson suggested referring the item to the Atherton Rail Committee. Public Works Director Jones gave a brief update on Selby Lane and Valparaiso Avenue. In response to Council Member McKeithen, he said he responds to an e-mail group and the contractor alerts everyone through signs on the road. There was little left to be done that would affect the residents.**

**7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT**

**None**

**CONSENT CALENDAR (Items 8 – 13)**

**Bob Jenkins, Irving Avenue, requested that Item No. 11 be removed from the Consent Calendar for discussion. Mayor Carlson placed the item at the end of the Regular Agenda.**

**MOTION - to approve the Consent Calendar as presented**

**M/S McKeithen/J.Carlson**

**Ayes: 5 Noes: 0 Absent: 0 Abstain: 0**

8. APPROVED MINUTES OF THE SPECIAL CLOSED SESSION MEETING AND THE REGULAR COUNCIL MEETING OF NOVEMBER 15, 2006, AND THE SPECIAL CLOSED SESSION OF DECEMBER 1, 2006
9. APPROVED BILLS AND CLAIMS FOR NOVEMBER 2006 IN THE AMOUNT OF \$ 1,125,277
10. ACCEPTED MONTHLY FINANCIAL REPORT FOR NOVEMBER 2006
11. ~~MID-YEAR BUDGET REPORT~~

~~Recommendation: Approve the schedule of budgetary adjustments contained within the body of the mid-year budget report. (Removed from the Consent Calendar and placed at the end of the Regular Agenda for discussion.)~~

12. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF STREET PATCHING CONTRACT NO. 05-006

Accepted work, authorized recording the Notice of Completion, and approved payment of a retainer for a total contract amount of \$58,012.50.

13. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF PAVILION CARPETING PROJECT NO. 05-002

Accepted work, authorized recording the Notice of Completion, and approved contract change orders in the amount of 44,523.08.

#### PUBLIC HEARING

None

#### REGULAR AGENDA (Items 14 -18)

14. A DEFINED CODE ENFORCEMENT PROGRAM

City Manager Jim Robinson summarized the staff report. The Council requested that the complaint-based Code Enforcement Program be continued to the end of 2006. Additionally, staff was asked to return to the Council with a defined program. Through the assistance of Bob Cushing, CSG Consultants Inc., staff had provided an outline that was the basis for a defined Code Enforcement Program. Mr. Cushing also identified some policy issues that the Council needed to address. The report addressed a complaint-driven program, which was also a responsive program. Costs were identified for up to two days a week, which amounted to \$44,000. Staff provided alternatives for one day a week that would reduce the cost, as well as an alternative of providing code enforcement in-house. City Manager Robinson believed the Town

would be well served by having a person (contract employee or a staff person) specifically assigned to code enforcement. Priority issues for code enforcement were also identified. He recommended that the City Manager's office manage the program since the Assistant to the City Manager had experience dealing with code enforcement. His only concern was once the program was developed and became effective, it would be difficult to remove. Revenues were available through the contingency fund and could be used through the 2006-07 fiscal year. Some costs could be charged to the Building Department, others to other sources.

Staff responded to Council questions regarding the statistical chart, using clerical help for data input, utilizing a proactive approach for certain areas of code enforcement, such as with construction, as well as whether present staff could handle the program in the future. Staff suggested that prior to the end of the six-month trial, the program should be evaluated, with periodic reviews with the Council, and could include whether the program could be performed on a part-time basis by current staff, if Council so desired.

Council Member McKeithen heard many positive comments from residents regarding the program. She suggested that progress reports be made throughout the trial period and thereafter. She endorsed a complaint-based approach. However, those items identified in the report as priority issues, i.e., construction parking, accessory structures, permits, and health and safety issues, should be addressed proactively. The success of the program was dependent on someone from outside the Town being responsible for it.

John Ruggeiro, Stockbridge Avenue, commended Mr. Cushing for handling an ongoing barking dog issue in his neighborhood.

Herman Christensen, Park Lane, spoke regarding Town ordinances not being enforced. He supported the proposal before Council.

Gene Elsbree, Fletcher Drive, encouraged Council to approve the proposal and believed it had great merit.

Council Member Marsala believed the program was a benefit to residents and supported alternative No. 1 in the staff report, a one-day-a-week program.

Council Member Janz concurred. The program was working and he supported the six-month trial.

Council Member Jerry Carlson thought the idea of an active code enforcement program made sense. He asked everyone to keep an open mind about having current staff responsible for the program in the future. He was in favor of the six-month trial.

Mayor Alan Carlson was not convinced there was widespread support in the Town to spend \$44,000 on code enforcement. He was concerned that proactive code enforcement was not defined. As he reviewed the list of 60 complaints, 23 or 33% were

construction parking or construction hours. He queried why the Police Department could not handle those complaints. A part-time code enforcement officer could not address these types of “now” complaints.

Police Chief Bob Brennan compiled statistics from September 1, 2006 to December 11, 2006. There were 120 calls on Park Lane, 114 were checked “okay,” 2 warning citations were issued, 3 verbal warnings were settled at the scene, and 1 had no merit. Another 8 calls were received from that area resulting in 2 settled at the scene, 1 no merit, 1 quiet on arrival, 2 parking citations issued. He believed that the hours of construction and weekend construction should be functions of the Police Department. There was no law against parking on a public street, so the Police Department struggled for compliance.

Mayor Carlson said 16 out of the 60 complaints all related to Park Lane. He queried whether the Community Services Officer in the Police Department could be upgraded to include aspects of code enforcement.

Police Chief Brennan did not believe that was possible with the current workload.

Mayor Carlson was not sure he would vote in favor of the item. He hoped that a better-defined program would be developed and ultimately be an in-house function. Most of the complaints were police functions and the report did not define a program any better than previously defined.

Council Member McKeithen believed that the ongoing complaints on Park Lane were exactly why the Town needed a code enforcement officer. The residents were happy with Mr. Cushing’s results and believed the program was working.

**MOTION** – to continue the Code Enforcement Officer on a one-day-per-week basis using the same criteria outlined in the staff report that were utilized to address complaints, namely giving priority to construction issues, public nuisance health-safety issues, as well as zoning issues

**M/S McKeithen/J. Carlson**

**AMENDMENT** – during the six-month period, staff is to develop a policy on code enforcement for Council consideration that specifically addresses complaint basis vs. proactive, identifying the areas in which the Town would be proactive, with the goal of bringing the program in-house in the future

**A/S A. Carlson/J. Carlson**

Council Member Janz clarified that having an outside consultant who could specifically focus his/her attention on the duty was preferred to a staff person who had a myriad of other duties to perform.

In response to Council Member Janz, City Attorney Marc Hynes said the reason a stop work order was issued on a particular project was because a parking plan was never produced. Any projects coming under the current requirement of having to have a parking plan that was not adhered to would be a violation of the Building Code and a stop work order could be issued.

Police Chief Brennan understood that the Building Official could not shut down a job for not adhering to the parking plan. Staff was asked to come back at the next meeting to clarify the issue.

**MOTION AS AMENDED**

**Ayes: 5 Noes: 0 Absent: 0 Abstain: 0**

**15. A PRESENTATION AND ADOPTION OF A RESOLUTION TO APPROVE SBWMA'S OFFER TO MANAGE THE COMPETITIVE CONTRACTOR SELECTION PROCESS ON BEHALF OF THE TOWN OF ATHERTON**

Deputy Town Planner Lisa Costa Sanders introduced Mr. Robert Hilton, South Bayside Waste Management Authority's (SBWMA) business consultant for the contractor selection process, and Kevin McCarthy, recently appointed as SBWMA's first executive director.

Robert Hilton gave a presentation on the upcoming contract selection process for the Town's contract that would expire in 2010. One of the key needs of the member agencies of the SBWMA was to improve the diversion programs to achieve higher levels of recycling and diversion of materials from landfill disposal. The Ox Mountain landfill had limited capacity. The SBWMA was a joint powers authority and did not control the franchise agreement with the Town's collection company. For the past several months, work had been done through two committees, the Process and Contract Committee and the Programs and Facilities Committee. All meetings were public and noticed and public opinion surveys had been conducted. The next step, if the Town agreed to participate in the process, was to draft a Request for Proposal (RFP) and Franchise Agreement and to return with the agreement for approval. Proposals would be received around December 2007, and in 2008 presentations by proposers would be held. Proposals would be solicited on the basis of two collection areas, San Carlos south and Belmont north, with the idea of generating a competitive environment. The operation of the transfer station and the recyclery was a separate contract. Council was being asked to indicate its desire to participate in the process and to consider changes in programs such as all recyclables going into one container. Some customers might want side-yard or backyard service. SBWMA wanted to ensure that service was available; however, those customers who chose that higher level of service paid for that service. Likewise, those who took the containers to the curb might receive a reduction in rates. Optional programs were being considered that would allow people to properly dispose of household hazardous wastes, etc. Regarding the collection contract, an initial seven-year term was being sought with an option to extend if the Town was happy with the service. The rate-setting process would be similar, with Councils setting the rates for their communities.

**Discussion ensued on whether the Town could continue offering side-yard and backyard service. Rate setting was a decision of the Council; therefore, there were options for setting the base rate at: 1) backyard service and offer a discount for bringing to the curb; 2) curbside service, with a surcharge for backyard service; or 3) backyard service. Staff's recommendation was to have SBWMA bid backyard service for Atherton and to bid alternates for comparison sake.**

**Additional discussion centered on the RFP process. Each member agency would enter into individual agreements for a seven-year term with the option, unilaterally, to extend the agreement on the same terms and conditions for another three years. Atherton could have the RFP defined beyond the core level of services for an additional consultant service charge.**

**Council Member Janz was in favor of moving forward with the process and believed working through the SBWMA was better than trying to negotiate the process alone. He was concerned over some language in the resolution.**

**In response to Council Member Jerry Carlson, Mr. Hilton said Daly City, San Bruno, Portola Valley, and Woodside had separate contracts for service.**

**Deputy Town Planner Costa Sanders said as a member of the SBWMA, the Town was obligated to take the waste and recyclables through the transfer station, so comparing costs would be difficult. In the rate review process, cost comparable rates of the 70th percentile were looked at for the Bay Area. Staff would make that data available to the Council.**

**City Manager Jim Robinson said one advantage of participation in the SBWMA was it owned the transfer station and costs could be contained.**

**Council Member Carlson queried why some cities/towns opted out of the SBWMA.**

**Mayor Alan Carlson believed Atherton would fare better within the SBWMA because he was unsure the Town had the expertise to negotiate the type of contract. However, he was interested in knowing why Portola Valley and Woodside were not part of the SBWMA.**

**Robert Hilton said in the 1970s, Browning Ferris Industries (BFI) acquired San Mateo Scavenger Company that had franchise agreements with the 12 member agencies of the SBWMA. The landfill on Marsh Road was closing and BFI came to the cities/towns asking for a commitment to bring the waste to them and they would build a facility to transfer the waste, open the Ox Mountain landfill, and dispose of the waste there. All of the cities/towns agreed. More recently when SBWMA acquired the transfer station/recyclery, the cities/towns agreed to commit the materials to those facilities in order to make the bond payments. Possibly, the reason Woodside and Portola Valley did not become a part of the SBWMA was because they did not have a contract with the San Mateo Scavenger Company in the 1970s. Every year, as part of the rate package, information was provided to the SBWMA on rates in the Bay Area.**

The rates for the SBWMA service area were very competitive and he believed the rates were below Portola Valley and Woodside. Because of the commitment to take waste to the transfer station, it would be difficult to be more cost effective outside of the SBWMA.

Mayor Carlson was in favor of the proposal.

Council Member McKeithen supported the proposal. She viewed the proposal as a commitment to use SBWMA as a negotiating tool.

Council Member Marsala supported the proposal. The Town had worked for seven years on waste reduction and working with the other cities/towns helped Atherton be a leader in waste reduction.

Council Member McKeithen suggested language to amend Items 2 and 3 in the resolution. Item 2: “Commitment to future programs and contract terms and conditions *at this time*, the Town of Atherton believes that programs...” Item 3: “The Town of Atherton *commits* to the methods, schedule, and evaluation criteria for the contractor selection described in the staff report.

Council Member Carlson was bothered by the fact that the other towns were not involved in the program. He would have liked the answers before making a decision.

A brief discussion ensued regarding the transfer station agreement and the collection agreement. The transfer station was purchased and the member agencies were paying the bond by bringing their materials through the station. The collection company was charged for using the facilities, which covered the bond. If the Town were not part of the collection agreement, the Town would still have financial obligations under the bond issued for the transfer station.

**MOTION – to accept SBWMA’s proposal and adopt Resolution No. 06-22, “A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON FOR COMMITMENT TO THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY CONTRACTOR SELECTION PROCESS,” as amended, to manage the competitive contractor selection process on behalf of the Town of Atherton**

Council Member Janz added language to Item No. 2: “...meeting the future needs of the Town of Atherton with the addition of *the review and analysis of rear-yard collection, unlimited green waste collection, and universal waste collection.*”

M/S McKeithen/Marsala

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

**16. CONSIDERATION OF THE STATUS OF THE BUILDING DEPARTMENT AUDIT RECOMMENDATIONS AND BUILDING DEPARTMENT ASSESSMENT BY INTERIM BUILDING/ PLANNING ADMINISTRATOR AND CONSIDERATION**

## **OF STAFF RECOMMENDATIONS RELATING TO THE PROVISIONS OF BUILDING SERVICES**

**City Manager Jim Robinson presented the staff report. Within the Phase III Audit, there were four recommendations that staff had provided a response to as well as the status of each. Additionally, staff reviewed the list of recommendations prepared by the Interim Building and Planning Director, Gary Binger, for dealing with issues not only raised within the audit but also raised as an opportunity for him to evaluate the needs of the department. One of the issues discussed at the Audit Committee meeting was the development of a building permit tracking system. Staff would return in January with a more specific recommendation. Additionally, staff was producing a Policy, Procedures, and Interpretations (PPI) Manual that would address the daily activities of plan check procedures and permit issuance. The goal was to complete the majority of tasks within the first quarter of 2007. The recruitment for a Building Official was in process, with preliminary interviews scheduled that week. Staff was recommending that the Council authorize appropriating additional hours for the continuation of the Interim Building Official services provided through CSG Consultants, Inc., through January 2007. Additionally, staff was recommending that Council authorize staff to develop a Request for Proposals (RFP) for contract engineering services for grading and drainage review as well as for engineering calculations. With regard to the permit tracking system, staff reviewed a number of cities in San Mateo County that recently implemented a permit tracking system, i.e., Hillsborough, Belmont, Redwood City, and Saratoga, and discovered it would take approximately six months to implement the program. Regarding the PPI Manual, a number of areas were identified that needed interpretations. Staff had sent some interpretations to the City Attorney for his review that would ultimately come to the Council for its review. Council needed to provide direction to staff in the interim on whether to defer reviewing plans, or defer reviewing plans where there was a question of interpretation. Staff was recommending deferring appointment of a Permit Technician until a candidate was selected for the Building Official position. Additional forms were developed, as well as a Zoning Compliance Checklist and an automatic calculator for building fees to provide for proper accounting of the fees.**

**In response to Council Member Jerry Carlson, City Manager Robinson said candidates had been identified for the Building Official position that had the appropriate certificates. Additionally, he agreed with the Audit Committee's recommendation to separate the planning/building function. Several ways to accomplish that were being considered. He also recommended using an outside auditor on a periodic basis.**

**Council Member Carlson suggested engaging a professional outside auditor to set up an oversight mechanism and perform periodic audits. He suggested broadening the Audit Committee's role so the outside auditor of the Building Department reported findings to the Audit Committee much like the Finance Department. Additionally, one area that was not addressed was the personnel function where evaluations and management training, etc., had not taken place.**

**Mayor Alan Carlson asked staff to indicate to the Council any action that must be taken that evening and then return at the next City Council meeting with the other items clearly identified.**

**City Manager Robinson proceeded to provide Council with a summary of the findings and recommendations of the Phase III Audit, as well as the findings and recommendations of the Interim Planning and Building Official. The only items needing to be dealt with that evening were authorizing appropriation of additional hours for the Interim Building Official until a permanent Building Official was appointed and to authorize staff to develop an RFP for engineering services. Additionally, Council needed to provide direction to staff on interpretations relative to some issues in Mr. Binger's report.**

**Mayor Carlson also suggested that the zoning ordinances, in general, needed to be reviewed by an outside consultant; and as part of that process, the interpretations could be clarified.**

**Council Member McKeithen thought the PPI Manual should be finalized when a permanent Building Official was appointed. The Audit Committee recommended the zoning ordinance be reviewed in its entirety, not piecemeal. The Audit Committee was concerned about the timing of projects and asked for a prioritization and timing of the items returned to Council in January. She suggested that plan examiners not only be required to stamp and date and initial but rather to sign. She asked that the administrative requirements referred to in Item No. 1 on Page 2 be enumerated. She also requested that staff acknowledge that there were not any other issues with regard to ongoing and new projects. She supported a periodic review by an outside auditor. The Audit Committee recommended the separation of building and planning, a zoning review, as well as evaluating the present planning services by going out to bid for comparison and discussion. She wanted all interpretations to come to Council. She wanted to know what the estimated cost was for continuing the Interim Building Official through January. (City Manager Robinson responded the cost would be \$16,000. Additionally, he recommended when staff returned with the RFP for outside engineering services for drainage and grading review, that some oversight would be conducted by the Public Works Department.) With regarding to the drainage and grading review, Council Member McKeithen wanted an analysis of who would bare the cost and how the cost would be collected. She also wanted an analysis of what other jurisdictions did.**

**Council Member Marsala concurred with Council Member McKeithen. He said projects that were in progress and were subject to interpretations needed to be resolved quickly so residents could get on with their projects.**

**City Manager Robinson recognized there might be some inappropriate direction that was given in the past, but staff was ensuring that whatever plans came in reflected the zoning ordinances and building codes that were in place. An applicant had the right to appeal any decision to the Council.**

**Council Member Janz found the report difficult to follow and needed to be reorganized. He asked what an outside consultant should do with respect to reviewing the zoning ordinance.**

**City Manager Robinson said Mr. Binger recommended going through the zoning ordinance to correct inconsistencies or at least language that created differences in interpretations, e.g., building heights.**

**In response to Council Member Janz, Interim Building Official Mike Cully said the Town had always issued a Job Site Permit Card. An in-house paper copy had never been created in the past. Staff created a card/copy with a standard check-off list for the inspections that occurred and included a closure process for the building permit and the copy was kept on file.**

**Jeff Wise, Atherton, urged the City Manager to expedite the process of hiring a Building Official. The uncertainty in the Building Department was difficult for everyone. Interpretations needed to be resolved so plans could move through the process. He was puzzled by the need for an outside grading review and drainage review throughout the Town, especially in the flat areas.**

**MOTION - to authorize the continuance of the Interim Building Official services provided by CSG Consultants, Inc., in the amount of \$16,000 through January 2007**

**M/S Janz/J. Carlson**

**Ayes: 5 Noes: 0 Absent: 0 Abstain: 0**

**MOTION – to authorize staff to develop an RFP for contract engineering services for the purpose of reviewing grading and drainage plans to be returned to the City Council for its review and consideration**

**Council Member McKeithen wanted to know how it would be funded.**

**Council Member Janz noted the reason an outside engineer was not used in the past was because the former Building Official was a civil engineer and did the reviews himself.**

**City Manager Robinson said additionally in every building and planning department he had been involved with in California, an engineering review of grading and drainage plans took place regardless of whether it was flat or not. Because our engineering staff did not have available time, staff was recommending an outside consultant to perform the reviews.**

**M/S McKeithen/Janz**

**Ayes: 5 Noes: 0 Absent: 0 Abstain: 0**

**After a discussion regarding what should be included in the RFP for consultant services to review the Zoning Code, Council Member McKeithen made the following motion:**

**MOTION – to develop an RFP for consultant services to review the Zoning Code in terms of continuity, ambiguities, existing interpretations, and industry standards in accordance with the Town’s standards as exemplified in existing law (e.g., design review not to be included) in accordance with the General Plan, to be returned to the City Council meeting of January 17, 2007.**

**M/S McKeithen/Janz**

**Ayes: 5 Noes: 0 Absent: 0 Abstain: 0**

**Council Member McKeithen requested a timetable to be included in the RFP.**

**17. REFERRAL TO THE GENERAL PLAN COMMITTEE – A NONCONFORMING STRUCTURE ALLOWING CONTINUATION OF A NONCONFORMING SETBACK**

**Deputy Town Planner Lisa Costa Sanders noted there was no new information to add to the staff report.**

**Mayor Alan Carlson clarified that the current structure was 4 inches into the setback and the only option to continued use of the nonconforming setback was through a variance, which was very difficult to obtain. He did not believe the General Plan Committee would be able to solve the issue.**

**Deputy Town Planner Costa Sanders said many jurisdictions allowed continued use of a nonconforming setback. An existing house that encroached 4 inches or 2 feet into the setback, could be added on to so long as the degree of non-conformity was not increased. If the nonconforming wall was completely torn down, it could not be rebuilt under any scenario in those jurisdictions. The subject property owner wished to extend a bedroom back 6 to 8 feet which would encroach 4 inches into the required setback.**

**In response to Council Member McKeithen, City Attorney Marc Hynes stated a need could not be created to grant a variance, i.e., because the house had been built into the setback was not a reason to grant a variance. An amendment to the Zoning Code could allow for expanding a nonconforming use.**

**Council Member Janz recalled a similar situation several years ago where an ordinance was created that allowed a nonconforming area to be extended as long as a second story would not be added. He asked staff to research the issue.**

**David Lewis, property owner, said his home was built 50 years ago and the plans indicated conformance to the 48-1/2 foot setback; however, in actually did not. He would appreciate anything the Council could do resolve the issue.**

**Philip Lively, Hawthorne Avenue, believed the item should go directly to the Planning Commission where similar issues had been resolved without going to the General Plan Committee.**

**Mayor Carlson suggested that the General Plan Committee look at similar situations in other communities to find out how they were resolved. Additionally, he advised the**

homeowner to have someone review the existing Zoning Code to find out if an exception procedure existed.

Council Member McKeithen encouraged the homeowner to use the exception review process through the Planning Commission.

**MOTION - to refer the item to the General Plan Committee for consideration of allowing continuation of a nonconforming setback, with direction to research what other jurisdictions did to determine whether or not there was an exception, as well as to look at broadening the exception review process**

Council Member Janz had a concern of sending the item to the General Plan Committee since the Committee dealt with more global issues than one particular issue.

With the consent of the maker and the seconder of the motion, the motion was amended to refer the item to the Planning Commission.

M/S McKeithen/J.Carlson                      Ayes: 5   Noes: 0   Absent: 0   Abstain: 0

18. ~~CONSIDERATION OF A REQUEST FOR THE CITY COUNCIL TO REMAND THE DECISION OF THE PLANNING COMMISSION REGARDING THE RELOCATION OF TWO HISTORICAL ARTIFACTS FROM LABURNAM ROAD TO 224 PARK LANE IN ATHERTON~~ (Item removed from the agenda.)

11. MID-YEAR BUDGET REPORT (Removed from the Consent Calendar for discussion.)

Finance Director John Johns noted staff consulted with the Finance Committee, and the Finance Committee concurred with the recommendation.

**MOTION - to approve the schedule of budgetary adjustments contained within the body of the mid-year budget report.**

M/S J.Carlson/Janz                              Ayes: 5   Noes: 0   Absent: 0   Abstain: 0

19. PUBLIC COMMENTS

There were no public comments.

20. **ADJOURNMENT**

**Mayor Carlson adjourned the meeting at 11:53 p.m.**

**Respectfully submitted,**

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**Kathi Hamilton**  
**Acting City Clerk**

**TOWN OF ATHERTON**  
**CLAIMS LIST**  
**NOVEMBER 2006**

Payroll Checks	8932 - 9000	\$ 14,173
Electronic Transfers		330,507
A/P Checks	23173 – 23324	1,058,316
<b>TOTAL</b>		<b>\$1,402,996</b>

I, James H. Robinson, City Manager of the Town of Atherton, do hereby certify under penalty of perjury that the demands listed above, check numbers 8932 - 9000 (payroll) and 23173 – 23324 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$1,402,998; are true and correct, and that there are sufficient funds for payment.

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James H. Robinson  
City Manager

The above claims, check numbers 8932 - 9000 (payroll) and 23173 - 23324 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$1,402,998; are true and correct, and are authorized for payment.

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Alan Carlson  
Mayor, Town of Atherton

**SOURCE OF FUNDS**

<b>101</b>	General Fund	\$640,005
<b>105</b>	Tennis Fund	83
<b>201</b>	Special Parcel Tax	536,550
<b>202</b>	Transportation	-
<b>203</b>	Gas Tax Fund	-
<b>210</b>	Road Construction Impact Fees	213,933
<b>211</b>	Park Grants Fund	4,947
<b>213</b>	Library Special Revenue Fund	1,168
<b>401</b>	General Capital Projects	-
<b>402</b>	Storm Drainage	-
<b>403</b>	Atherton Channel District	1,470
<b>406</b>	Facilities Construction	-
<b>610</b>	Vehicle Replacement	-
<b>611</b>	Computer Maint. & Replacement	1,360
<b>612</b>	Administrative Services	3,180
<b>715</b>	Evans Estate	300
<b>740</b>	Tree Committee	
<b>TOTAL</b>		<b>\$1,402,996</b>



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
JAMES H. ROBINSON, CITY MANAGER**

**FROM: JOHN P. JOHNS, FINANCE DIRECTOR**

**DATE: FOR THE MEETING OF JANUARY 17, 2006**

**SUBJECT: MONTHLY FINANCIAL REPORT, DECEMBER 2006**

#### **RECOMMENDATION:**

Receive the Monthly Financial Report for December 2006.

#### **INTRODUCTION:**

The attached schedules show revenues, expenditures and fund balance for all funds as of December 2006.

#### **HIGHLIGHTS**

General Fund expenditures for the six months ended December 31, 2006, have amounted to \$4,483,326, or 47% of the \$9,480,065 budgeted for the fiscal year. For the six months ended December 31, 2006, General Fund revenues amounted to \$3,920,192, or 49% of the \$8,018,670 estimated for the year.

By comparison, General Fund expenditures amounted to 46% of appropriations for the six months ended December 31, 2005. Additionally, General Fund revenues amounted to 51% of estimated revenues for the six months ended December 31, 2005.

**FISCAL IMPACT:**

None

Prepared by:

Approved by:

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John P. Johns  
Finance Director

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James H. Robinson  
City Manager

**TOWN OF ATHERTON**  
**Revenue Summary**  
**For the Month ended December 31st, 2006**

<b>Fund</b>	<b>Revenue Source</b>	<b>2006-07 Estimate</b>	<b>Current Period Revenues</b>	<b>Year to Date Revenues</b>	<b>% Received</b>
	Property Tax	\$ 4,135,402	1,720,791	2,147,970	52%
	Sales and Use Tax	157,500	18,057	83,970	53%
	Other Taxes	1,111,546	360,495	502,037	45%
	Licenses & Permits	1,466,200	93,151	716,932	49%
	Fines & Forfeitures	35,000	4,761	28,512	81%
	Revenue from Other Agencies	395,215	10,085	100,509	25%
	Charges for Services	176,500	13,476	168,515	95%
	Investment & Rental Income	307,852	8,754	159,203	52%
	Other Revenues	229,000	2,760	12,544	5%
	<b>Total General Fund Revenues</b>	<b>8,014,215</b>	<b>2,232,330</b>	<b>3,920,192</b>	<b>49%</b>
	Interfund (Operating) Transfers In	4,455	-	-	0%
<b>101</b>	<b>General Fund Total</b>	<b>8,018,670</b>	<b>2,232,330</b>	<b>3,920,192</b>	<b>49%</b>
	<b>Special Revenue Funds:</b>				
105	Tennis	8,000	75	1,074	13%
201	Special Parcel Tax	1,858,000	931,832	942,461	51%
202	Transportation	265,000	24,300	140,122	53%
203	Street Improvement (Gas Tax)	150,000	6,253	98,378	66%
209	Law Enforcement	100,000		100,288	100%
210	Road Construction Impact Fees	1,100,000	38,865	(151,699)	-14%
211	State Park Grants Fund	313,910		-	0%
213	Library	200,000		50,179	25%
	<b>Total</b>	<b>3,994,910</b>	<b>1,001,325</b>	<b>1,180,803</b>	<b>30%</b>
	<b>Capital Project Funds:</b>				
401	Capital Improvement	-		2,745	
402	Storm Drainage	20,000		462	
403	Channel Drainage District	50,000	23,601	29,661	59%
406	Facilities Construction	-		707	
	<b>Total</b>	<b>70,000</b>	<b>23,601</b>	<b>33,575</b>	<b>48%</b>
	<b>Internal Service Funds:</b>				
610	Vehicle Replacement	120,919	60,460	62,877	52%
611	Information Technology	104,670	52,335	53,080	51%
612	Administrative Services	303,221	151,611	152,140	50%
614	Workers Compensation Insurance	-		-	
	<b>Total</b>	<b>528,810</b>	<b>264,405</b>	<b>268,096</b>	<b>51%</b>
	<b>Trust and Agency Funds:</b>				
715	Evans Creative Design	14,500	-	2,346	16%
740	Tree Committee	1,400	-	24,886	
	<b>Total</b>	<b>15,900</b>	<b>-</b>	<b>27,232</b>	<b>171%</b>
	<b>Total Revenues</b>	<b>12,628,290</b>	<b>3,521,661</b>	<b>5,429,898</b>	<b>43%</b>

**TOWN OF ATHERTON**  
**Expenditure Summary**  
**For the Month Ended December 31st, 2006**

<b>Fund</b>	<b>Description Department</b>	<b>2006-07 Budget</b>	<b>Current Period Expenditures</b>	<b>Year to Date Expenditures</b>	<b>% Spent</b>
101	General Fund				
	11 City Council	\$ 21,749	\$ 4,937	\$ 20,509	94%
	12 City Manager	504,360	46,477	257,462	51%
	16 City Attorney	188,337	20,527	142,559	76%
	18 Finance	448,576	39,067	233,500	52%
	25 Building	1,364,503	95,912	618,412	45%
	40 Police	4,696,248	428,987	2,190,770	47%
	50 Public Works	2,036,292	170,139	1,020,115	50%
	Disaster Preparedness	120,000	-	-	0%
	Contingency	100,000	-	-	0%
	Total General Fund Expenditures	<u>9,480,065</u>	<u>806,045</u>	<u>4,483,326</u>	<u>47%</u>
	Interfund (Operating) Transfers Out	-	-	-	0%
101	<b>General Fund Total</b>	<u><b>\$ 9,480,065</b></u>	<u><b>\$ 806,045</b></u>	<u><b>\$ 4,483,326</b></u>	<u><b>47%</b></u>
<b>Special Revenue Funds:</b>					
105	Tennis	5,522	83	2,804	
201	Special Parcel Tax	1,910,535	569,050	587,423	31%
202	Transportation	444,500	-	-	0%
203	Street Improvement (Gas Tax)	150,000	-	23,234	15%
209	Law Enforcement	100,000	11,638	80,174	80%
210	Road Impact Fees	1,470,000	240,515	1,523,736	104%
211	State Park Grants	277,040	-	48,678	18%
213	Library Fund	78,326	1,402	31,306	40%
	Total	<u>4,435,923</u>	<u>836,640</u>	<u>2,353,287</u>	<u>53%</u>
<b>Capital Project Funds:</b>					
401	Capital Improvement	-	-	-	
402	Storm Drainage	21,394	-	2,963	14%
403	Channel Drainage District	60,000	3,970	9,404	16%
	Total	<u>81,394</u>	<u>3,970</u>	<u>12,367</u>	<u>15%</u>
<b>Internal Service Funds:</b>					
610	Vehicle Replacement	76,000	-	45,688	60%
611	Information Technology	116,120	1,323	20,057	17%
612	Administrative Services	288,342	12,261	196,509	68%
614	Workers Compensation Insurance	-	-	-	
	Total	<u>480,462</u>	<u>13,584</u>	<u>262,254</u>	<u>55%</u>
<b>Trust and Agency Funds:</b>					
715	Evans Creative Design	11,500	300	1,175	10%
740	Tree Committee	-	-	2,159	
	Total	<u>11,500</u>	<u>300</u>	<u>3,334</u>	<u>29%</u>
	<b>Total Expenditures</b>	<u><b>14,489,344</b></u>	<u><b>1,660,539</b></u>	<u><b>7,114,568</b></u>	<u><b>49%</b></u>

**TOWN OF ATHERTON**  
**Budget Summary**  
**Fiscal Year 2006-07**  
**As of December 31st, 2006**

<b>Fund</b>	<b>Description</b>	<b>Beginning Fund Balance July 1, 2006</b>	<b>Revenues to Date</b>	<b>Transfers to Date</b>	<b>Expenditures To Date</b>	<b>Ending Fund Balance to Date</b>
101	<b>General Fund</b>	9,344,474	3,920,192	-	4,483,326	8,781,340
	<b>Special Revenue Funds:</b>					
105	Tennis	23,692	1,074		2,804	21,962
201	Special Municipal Tax	1,005,832	942,461		587,423	1,360,870
202	Transportation	527,577	140,122		-	667,699
203	Street Improvement (Gas Tax)	102,874	98,378		23,234	178,018
209	Law Enforcement	10,437	100,288		80,174	30,551
210	Road Construction Impact Fees	1,373,559	(151,699)		1,523,736	(301,876)
211	State Park Grants	-	-		48,678	(48,678)
213	Library Special Revenue Fund	1,947,286	50,179		31,306	1,966,159
	Sub Total	<u>4,991,256</u>	<u>1,180,803</u>	-	<u>2,353,287</u>	<u>3,818,772</u>
	<b>Capital Projects Funds:</b>					
401	Capital Improvement	258,424	2,745		-	261,169
402	Storm Drainage	43,455	-		2,963	40,492
403	Channel Drainage District	36,039	29,661		9,404	56,296
406	Facilities Construction	-	707		-	707
	Sub Total	<u>337,919</u>	<u>33,113</u>	-	<u>12,367</u>	<u>358,665</u>
	<b>Internal Service Fund</b>					
610	Vehicle Replacement	440,370	62,877		45,688	457,559
611	Information Technology	89,739	53,080		20,057	122,762
612	Administrative Services	198,175	152,140		196,509	153,806
614	Workers Compensation Insurance	10,871	-		-	10,871
	Sub Total	<u>739,155</u>	<u>268,096</u>	-	<u>262,254</u>	<u>744,997</u>
	<b>Trust and Agency Funds</b>					
715	Evans Creative Design	117,345	2,346		1,175	118,516
740	Tree Committee	24,558	-		2,159	22,399
	Sub Total	<u>141,903</u>	<u>2,346</u>	-	<u>3,334</u>	<u>140,915</u>
	<b>Grand Total</b>	<u>\$ 15,554,708</u>	<u>\$ 5,404,550</u>	<u>\$ -</u>	<u>\$ 7,114,568</u>	<u>\$ 13,844,690</u>



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
JAMES H. ROBINSON, CITY MANAGER**

**FROM: KATHI HAMILTON, ACTING CITY CLERK**

**DATE: FOR THE MEETING OF JANUARY 17, 2007**

**SUBJECT: ANNUAL CITY COUNCIL COMMITTEE ASSIGNMENTS**

#### **RECOMMENDATION:**

Approve the 2007 Council Committee assignments made by Mayor Alan Carlson.  
(attached).

#### **BACKGROUND/ANALYSIS:**

Section 9 of the City Council Rules of Procedure provides for the annual appointment by the Mayor of Council Members to various committees. There are currently 8 standing sub-committees, 1 ad hoc subcommittee (Atherton Rail Subcommittee), and 12 other governmental and quasi-governmental committees requiring council representatives. Earlier this month Council Members were provided with a survey to determine their choices for the committees and to assist the Mayor in making the assignments.

Prepared by:

Approved by:

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Kathi Hamilton  
Acting City Clerk

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James H. Robinson  
City Manager

Attachments: Committee Assignments List

# ATHERTON CITY COUNCIL COMMITTEE ASSIGNMENTS

## ATHERTON CHANNEL DRAINAGE DISTRICT COMMITTEE

A. Carlson  
McKeithen

## ATHERTON RAIL COMMITTEE

J. Carlson  
Janz

## BUILDINGS AND FACILITIES COMMITTEE

A. Carlson  
Marsala

## EMERGENCY PREP. COMMITTEE

Marsala  
McKeithen

## ENVIRONMENTAL PRGMS COMMITTEE

Janz  
Marsala

## FINANCE COMMITTEE

J. Carlson  
McKeithen

## GENERAL PLAN COMMITTEE

A. Carlson  
Janz

## SCREENING COMMITTEE

J. Carlson  
McKeithen

## TRANSPORTATION/TRAFFIC COMMITTEE

A. Carlson  
J. Carlson

## **OTHER GOVERNMENTAL COMMITTEE ASSIGNMENTS**

### **ASSOCIATION OF BAY AREA GOVERNMENTS (ABAG)**

J. Carlson  
Janz (Alt.)

### **CITY/COUNTY ASSOCIATION OF GOVERNMENTS – C/CAG**

Janz  
J. Carlson (Alt.)

### **DUMBARTON RAIL CORRIDOR POLICY ADVISOR COMMITTEE**

Janz  
A. Carlson (Alt.)

### **HOLBROOK-PALMER PARK FOUNDATION**

J. Carlson  
A. Carlson (Alt.)

### **LIBRARY JPA GOVERNING BOARD (SAN MATEO COUNTY)**

Marsala  
A. Carlson (Alt.)

### **PENINSULA TRAFFIC CONGESTION RELIEF ALLIANCE**

McKeithen  
J. Carlson (Alt.)

### **SAN FRANCISCO AIRPORT/COMMUNITY ROUNDTABLE**

A. Carlson  
McKeithen (Alt.)

### **SAN MATEO COUNTY EMERGENCY SERVICES COUNCIL**

McKeithen  
J. Carlson (Alt.)

### **SAN MATEO COUNTY SUB-REGIONAL HOUSING – POLICY ADVISORY COM.**

Janz  
Marsala (Alt.)

GRAND BLVD. TASK FORCE

Marsala  
Janz (Alt.)

PARKS FOR THE FUTURE

Marsala  
Janz (Alt.)

LEAGUE OF CALIFORNIA CITIES

Marsala  
J. Carlson (Alt.)



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
JAMES H. ROBINSON, CITY MANAGER**

**FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER**

**DATE: FOR THE CITY COUNCIL MEETING OF JANUARY 17, 2007**

**SUBJECT: APPEAL - 51 LABURNAM ROAD (APN 061-183-080)  
MAJOR ALTERATION PERMIT – HISTORICAL ARTIFACT**

### **RECOMMENDATION**

Staff recommends that the City Council conduct the public hearing, make the following finding to deny the appeal and approve the Major Alteration Permit for the relocation of two historical artifacts from 51 Laburnam Road to 224 Park Lane in Atherton for the reasons outlined in this Report.

1. The relocation of the artifacts would not be contrary to the purpose and intent of the Atherton General Plan.

### **INTRODUCTION**

The Planning Commission, at its December 6, 2006, meeting, voted 2-1 to approve the request for a Major Alteration Permit to allow the relocation of two historical urns from their current location at 51 Laburnam to 224 Park Lane. Commissioner Hau and Waldron voted in favor, Commissioner Dobbie opposed, and Commissioners Andrews and Oster recused themselves from the item.

On December 14, 2006, Mr. Phil Lively, individually and as President, on behalf of the Board of Directors of the Lindenwood Homes Association, submitted an appeal of the decision of the Planning Commission to grant the Major Alteration Permit. The appeal requests that the City Council overrule the Planning Commission's decision and deny the permit.

## **ANALYSIS**

The City Council recently adopted Ordinance 567 establishing preservation of historical artifacts within the Town of Atherton. The Ordinance protects artifacts and structures (not buildings) that were associated with the early development of the Town of Atherton before 1930 or associated with the Flood Estate (Linden Towers) prior to 1937. The Ordinance establishes maintenance activities on historical artifacts as exempt from Town review and requires a Minor Alteration Permit for minor changes to the artifact or relocating of an object within the same property. A Major Alteration Permit granted by the Planning Commission is required for changes to the height or width of a structure, painting unpainted surfaces, addition of new elements, relocation of a structure on the property, and relocation of an object or structure to another property within the Town. Finally a Demolition Permit is required for the complete removal of an artifact from the Town.

Two historical urns and a lamppost are currently located at 51 Laburnam Road. The property owner requested a Major Alteration permit to allow the relocation of two historical urns from the property located at 51 Laburnam Road to 224 Park Lane in Atherton. The lamppost will remain at the 51 Laburnam property. The applicant indicates that they restored the urns in 2000 and located them in the backyard at that time for safety reasons. The urns are believed to be from the original Flood Estate. Upon the subdivision of the estate in the early 1940s, many of the movable artifacts were sold at auction, with the remaining items distributed among the 76 new parcels.

The urns are currently situated on a base, located within the backyard, sitting on a small concrete pad within a landscaped garden area. With the relocation to the 224 Park Lane property, the urns will be similarly situated within a landscaped garden, placed on-top of the base on a small concrete pad within the rear portion of the side yard.

The Ordinance requires the Planning Commission to review a Major Alteration permit on the finding of consistency with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the California Historical Building Code. Staff consulted with Laura Jones, Historical Consultant, on the finding of consistency. Ms. Jones indicated that the applicant's proposal to relocate the artifacts within the Town is consistent with the Standards and with the Town's Ordinance. As stated above, the new location and siting is very similar to the current location and siting and the urns will not be altered. If the urns were altered or affixed on a new structure, Staff would need to review further to ensure consistency with the Secretary of the Interior's Standards. Ms. Jones has prepared a memo outlining her determination as attached to this report.

The additional materials submitted by Mr. Lively dated January 8, 2007, state the Council should overturn the Planning Commission and deny the permit based on the following:

1. Even if the permit were consistent with the Standards and the Code, which it is not, the Ordinance clearly and unequivocally give the Planning Commission the authority to deny the permit. Consistency is a necessary but not a sufficient condition for approval. Inconsistency however, requires denial.

2. The permit is not consistent with the Standards and Code. They recommend against moving historical artifacts out of the historic district with which they are associated.
3. The stated purpose of the Ordinance requires the Planning commission to consider the general welfare and balance the interests of the community with those of property owners. The planning Commission was not permitted to do this.

As indicated in Ms. Jones memo, she is able to find the relocation of the artifact consistent with the national and state standards. Ms. Jones states that the standards recommend preservation of landscape features and setting from the period of significance. It is her professional opinion that the urns have been moved from their original location and their relationship to the surviving features of the Linden Towers landscape is not available to be preserved. She states that the critical aspect of the urns is the association of the urns with Linden Towers and that this association can be preserved through inclusion on the Inventory and careful tracking of their location and condition within the Town.

As indicated above, there is no evidence that the urns are in their original location and have maintained integrity of setting. The purpose of the Ordinance is to “promote the general welfare by providing for the identification, protection, enhancement, perpetuation and use of artifacts that reflect special aspects of the Town’s historical, architectural, cultural or aesthetic heritage.” In preparing the Ordinance, the intent was to document and preserve the artifacts within the Town to ensure they are not removed from Town or demolished.

Staff recommends as a condition of approval that the Town’s Historical Consultant complete an inventory of the urns (prior to relocation) for the Town’s records to be retained with the 224 Park Lane Building Department address file. Staff also recommends the applicant be required to submit a photo of the installed condition for the address file. As noted above, the lamppost will remain at the 51 Laburnam Road site. As a part of this application, staff recommends a condition that the Town’s Historical Consultant also complete an inventory of the lamppost for the Town’s records with the 51 Laburnam address file.

Staff finds the request to relocate the urns to be consistent with the Ordinance as it ensures the preservation of the urns within the Town and consistent with the Secretary of the Interior’s Standards based on consultation with the Town’s Historical Consultant.

## **CONCLUSION**

It is Planning Staff’s professional opinion, and the professional opinion of the Town’s Historical Consultant, that the relocation of two historical urns within Atherton would not be contrary to the purpose and intent of the General Plan and is consistent with the intent of Ordinance 567, to preserve historical artifacts.

## **ALTERNATIVES**

- The Council could deny the appeal and approve relocation of the artifacts as recommended by staff.
- The Council could approve the appeal and thereby deny the request. In denying the request, the Council would need to make the finding that the relocation of the artifacts would be contrary to the purpose and intent of the General Plan and is inconsistent with the Secretary of the Interior Standards.
- The Council could request modification of the proposal.

**FISCAL IMPACT**

The City Council waived the application fees for property owner requests under the historical artifact ordinance to encourage participation and preservation. The cost of processing the appeal is paid for by the appellant.

**ENVIRONMENTAL IMPACT**

The proposal has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15331 (historical resource preservation).

Prepared by:

Approved by:

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Lisa Costa Sanders  
Deputy Town Planner

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James H. Robinson  
City Manager

Attachments:

1. Draft Major Alteration Permit
2. Memo from Laura Jones dated January 9, 2007
3. Letter of Appeal from Philip D. Lively, dated December 14, 2006
4. Additional materials from Philip Lively, dated January 8, 2007 (including Ordinance 567 and the Planning Commission staff report)
5. Draft Planning Commission minutes from the December 6, 2006 meeting
6. Letter of Request from Lamb Partners LLC dated November 3, 2006
7. Site Plan
8. Photos
9. Letter from Groom & Cave, LL
10. Excerpt from the September 20, 2006, City Council Minutes

*draft*

**TOWN OF ATHERTON  
CITY COUNCIL  
MAJOR ALTERATION PERMIT**

THIS IS TO CERTIFY THAT the Atherton City Council at a regular meeting thereof, held on Wednesday, January 17, 2007, did grant a Major Alteration Permit to Randy and Lisa Lamb pursuant to Atherton Municipal Code Section 8.14.090(B) to allow the relocation of two urns from the property located at 51 Laburnam Road (Assessor's Parcel Number 061-183-080) to the property located at 224 Park Lane (Assessor's Parcel Number ). The Permit was approved subject to the following conditions:

1. The Town's Historical Consultant shall complete an inventory sheet for the two urns prior to relocation. The inventory sheet shall be retained in the Town's building department files for the 224 Park Lane property.
2. The applicant shall submit a photo of the installed condition of the urns at the 224 Park Lane property. The photo shall be retained with the Town's building department files for the 224 Park Lane property.
3. The urns shall be located on the base at the 224 Park Lane property in substantially the same arrangement as depicted in the photos submitted to the Planning Commission. No other alterations of the urns are permitted with this permit.
4. The lamppost shall remain on the 51 Laburnam site. The Town's Historical Consultant shall complete an inventory sheet for the lamppost. The inventory sheet shall be retained in the Town's building department files for the 51 Laburnam property.

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Lisa Costa Sanders,  
Deputy Town Planner

Effective Date: \_\_\_\_\_  
Atherton, CA

January 10, 2007

TO: Lisa Costa Sanders  
FROM: Laura Jones, Preservation Consultant  
RE: Relocation of Urns

Consistency with the Ordinance (No. 567)

The ordinance allows moveable objects to be moved within the town, subject to conditions designed to safeguard their condition and maintain a historical record of their condition and location. The question of whether objects associated with the Linden Towers property should remain within Lindenwood was discussed at the ordinance workshops, by the General Plan Committee, and by the Council. On the one hand, some residents argued that they should be able to move or dispose of objects free from any restriction, while others argued for maintaining the Linden Towers objects within the Lindenwood neighborhood. A compromise position was adopted that insures that objects remain under the town's protection while offering some flexibility to their owners. The application currently under review is consistent with the intent of the ordinance.

Public Benefit

We developed conditions for the Major Alteration Permit that enhance and preserve the historical value of the objects and the town's historical record. These urns were not included in the Historical Inventory (participation in the survey was voluntary); their documentation and recordation as a result of the permitting process is an effective preservation strategy, and makes these objects accessible to the interested public while safeguarding the privacy and security of their owners. The conditions also require that the historical character and physical integrity of the urns be respected – this was our intent in requiring compliance with the Secretary of the Interior's Standards and Guidelines and the State Historical Building Code. The preservation of the urns within the town, and their inclusion in the permanent record of the Inventory, insures that the purposes of the ordinance are met.

Consistency with National and State Standards

The key question: Does moving an object from Lindenwood to another location in the town diminish its historical value, and/or the value of the collection of artifacts associated with Linden Towers? The appellants rely on the language regarding the need to preserve the setting of historic properties to argue that the historical setting of Linden Towers artifacts is the Lindenwood neighborhood as a historic district.

The Linden Towers artifacts may meet the definition of a historic district, but of a very special type: a discontinuous multiple property district. The National Register defines special character of these districts:

*“A district is usually a single geographic area of contiguous historic properties; however, a district can also be composed of two or more definable significant areas separated by nonsignificant areas. A discontinuous district is most appropriate where:*

- *Elements are spatially discrete;*
- *Space between the elements is not related to the significance of the district; and*
- *Visual continuity is not a factor in the significance.”*

The explanation goes on to state: *“It is not appropriate to use the discontinuous district format to include an isolated resource or small group of resources which were once connected to the district, but have since been separated either through demolition or new construction.”* (National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation).

In the Inventory, the period of historical significance for the artifacts associated with the Lindenwood Historic District ends with the demolition of Linden Towers and subdivision of the Flood Estate in 1937. The Secretary of the Interior’s Standards recommend preservation of landscape features and setting *from the period of significance*. What does this mean in Lindenwood? That the setting must maintain features from the Linden Towers estate. Here are some criteria that might suggest that the location of an object has maintained integrity of setting:

- Historical photographs or records showing that the artifact was in the same location prior to 1937.
- Visual continuity of a group of artifacts on or near their historical locations prior to 1937.
- Relationship of artifacts to the roads, drives and major heritage trees associated with Linden Towers.

In the case of the urns at 51 Laburnum Road, I believe these factors are not present and that the setting is not historic. They have been moved from their original location and their relationship to the surviving features of the Linden Towers landscape is not available to be preserved. The critical aspect of the urns is the *association* of the urns with Linden Towers – this association can be preserved through inclusion on the Inventory, and careful tracking of their location and condition within the town.

**DRAFT MINUTES  
PLANNING COMMISSION MEETING  
December 6, 2006  
6:00 p.m.**

**ATHERTON TOWN COUNCIL CHAMBERS  
94 Ashfield Road  
Atherton, California**

**REGULAR MEETING**

Chair Andrews called the meeting to order at 6:05 p.m.

**1. ROLL CALL:**

**PRESENT:**       **Bob Andrews  
Rose Hau  
Jim Dobbie  
Marion Oster  
Kristi Waldron**

City Attorney Marc Hynes, Deputy Town Planner Lisa Costa Sanders and Town Arborist Kathy Hughes Anderson were also present.

**2. APPROVAL OF MINUTES**

**MOTION approval of the October 25, 2006 meeting minutes as corrected.**

**M/S Oster/Dobbie       Ayes: 5   Noes: 0**

**3. PUBLIC COMMENTS - None**

**4. COMMISSIONER'S REPORTS - None.**

**5. GENERAL PLAN COMMITTEE REPORTS – The next meeting is scheduled for January 10, 2007.**

**6. STAFF REPORTS - None.**

**7. NEW BUSINESS - Set the Planning Commission Calendar for the year 2007.**

**MOTION adopt the Planning Commission Calendar for the year 2007.**

**M/S Oster/Waldron       Ayes: 5   Noes: 0**

**PUBLIC HEARINGS**

**8. Heritage Tree Removal Permit – 35 McCormick –** Heritage Tree Removal Permit request to allow the removal of one heritage tree. Atherton Municipal Code Section 8.10.

Lisa Costa Sanders presented the staff reported and indicated staff support for the removal of one Cedar tree at 35 McCormick to accommodate the construction of a new pool house.

Kathy Hughes Anderson responded to Commissioners questions.

OPEN PUBLIC HEARING

Steve Borlick, Architect, discussed the proposed siting of the accessory structure.

CLOSE PUBLIC HEARING

**MOTION to approve the Heritage Tree Removal Permit to allow the removal of one heritage tree at 35 McCormick Lane based on the following finding and subject to the conditions of the Heritage Tree Removal Permit;**

**M/S Oster/Waldron Ayes: 5      Noes: 0**

**Finding:**

1. The removal of the tree would not be contrary to the purpose and intent of the Atherton General Plan.

**9. Major Alteration Permit – 51 Laburnam –** Major Alteration Permit request to allow the relocation of two historical urns from the property at 51 Laburnam Road to 224 Park Lane in Atherton. Atherton Municipal Code Section 8.14.090(B).

Chair Andrews recused himself from consideration on the item due to his proximity with the subject site.

Commission Oster recused herself from consideration on the item.

Lisa Costa Sanders presented the staff reported and reviewed the key points of the Ordinance. She stated that the Ordinance allows property owners to request a Major Alteration Permit to allow relocation of artifacts within Town. Ms. Costa Sanders reviewed the recommended conditions of approval and noted that the lamppost will remain on site. She indicated staff support for the request as it is consistent with the purpose and intent of the Ordinance.

OPEN PUBLIC HEARING

Marion Oster, Flood Circle, expressed concern with moving the artifact as it would lose its historic reference. She stated that the artifact is a part of the Lindenwood history.

Bob Andrews, James, stated that the artifacts within Lindenwood define its history. He stated that removing the artifacts take them out of context and distracts from the purpose of the Ordinance. Mr. Andrews stated that the collection of artifacts add to the character of Lindenwood.

Betsy Colby, Linden, urged the Commission to keep artifacts in Lindenwood.

George Sheehan, Flood Circle, stated that Lindenwood was identified as a special historic place in the Ordinance. He stated that losing the collection or artifact or one artifact would be a great loss.

Ron Peyton, Flood Circle, stated that he has two artifacts on his property and is supportive of keeping artifacts on-site. He stated that the Commission should not allow artifacts to move to another property.

Melinda Tevis, Tallwood Court, stated that artifacts should remain in place to keep them in context.

Suzanne Legallet, Selby, stated that we need to keep our heritage and history in Atherton were is was located.

Pat Dobbie, James, stated that once an artifact is moved, it is gone. She stated that we should leave history in place and would like all artifacts in Lindenwood to stay in place.

Randy Lamb, applicant, stated that he values the artifacts and would like to continue to preserve them. He stated that his request to relocate in Town meets the objectives of the Ordinance as it was approved by the Council.

Frank Sebastian, Lilac, stated that artifacts should remain in place and the Ordinance should be strengthened.

Darlene Sheehan, Flood Circle, stated that the urns were previously quite visible from the street.

Barb Peyton, Flood Circle, stated that the urns were in good shape and restored in 1994 and that Lindenwood history should not be moved.

Alicia Seebold, James Avenue, stated that the Lindenwood Association supports keeping artifacts in place.

#### CLOSE PUBLIC COMMENT

Commissioner Waldron asked City Attorney Hynes if the Commission has any discretion. City Attorney Hynes replied that the Ordinance envisions allowing moving artifacts within the Town with emphasis on ensuring artifacts are protected and documented.

Commissioner Waldron stated that she feels artifacts should stay in place but does not feel that is what the Ordinance reflects.

Commissioner Dobbie stated that the very fact the item is before the Planning Commission provides discretion and that the purpose of the Ordinance is to preserve the history of Atherton with the Flood Estate in Lindenwood as a special place.

Commissioner Hau stated that the application before them is consistent with the Ordinance.

**MOTION to approve the Major Alteration Permit to allow the relocation of two historical artifacts from 51 Laburnam Road to 224 Park Lane in Atherton based on the following finding and subject to the conditions of the Major Alteration Permit;**

**M/S Hau/Waldron Ayes: 2 Noes: 1 (Dobbie)**

**Finding:**

1. The relocation of the artifacts would not be contrary to the purpose and intent of the Atherton General Plan.

**10. ADJOURN**

M/S Waldron/Hau to adjourn the meeting at 7:02 p.m. Motion passed.

**Respectfully submitted,**

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Lisa Costa Sanders, Deputy Town Planner

**EXCERPT FROM THE CITY COUNCIL MEETING MINUTES OF  
SEPTEMBER 20, 2006**

**18. INTRODUCTION OF AN ORDINANCE FOR THE PRESERVATION OF  
HISTORICAL ARTIFACTS**

Deputy Town Planner Lisa Costa Sanders presented the staff report. The Council adopted an urgency ordinance to protect historic artifacts and retained the services of Laura Jones, a historical consultant, to evaluate artifacts and to prepare a report. Two public meetings were held; the first to review findings of the inventory, and the second was a workshop to solicit community input. Staff drafted an ordinance that was reviewed at three separate meetings of the General Plan Committee. The Committee was unable to recommend the ordinance to the Council and voted to continue the item for further study. Committee members expressed concern that the ordinance was punitive and did not encourage preservation. Additionally, they expressed concern for property owners' rights and that the artifacts should be considered as personal property and not be regulated. The moratorium was due to expire next month and staff decided to bring the ordinance forward that evening for Council consideration.

Laura Jones, archeologist and historic preservation planner, believed an ordinance had been successfully crafted, with the help of a dedicated citizens group, that met Atherton's special needs. The purpose of the ordinance was to protect Atherton's heritage. The ordinance protected landscape artifacts such as gates, lampposts, urns, and fountains and did not affect houses or other buildings. The ordinance sought very creative ways to balance the rights of property owners with the common shared value of quality of life. The inventory was a 50-page document that discovered amazing treasures; no one said they were not worthy of preservation. The ordinance streamlined permitting. An owner who wished to move an artifact or make a major alteration needed to apply for a permit that was reviewed by the Planning Commission, with the right of appeal to the City Council. Participation in the survey was voluntary. Listing in the official inventory was also subject to owner's consent. Because of privacy rights, an owner could decide not to be on the official list; however, one could not decide to not be subject to the terms of the ordinance. Staff tried to allow as much flexibility as possible in order to preserve the objects for the Town and balance personal privacy rights.

Council Member McKeithen noted some corrections and clarifications that were needed in the ordinance and asked how the fees were determined.

Deputy Town Planner Costa Sanders said she consulted with the Finance Director. Fees were a major discussion at the General Plan Committee which queried whether all fees should be waived. In evaluating the fees, the Committee determined the review of artifacts mirrored a conditional use permit process and arrived at the \$750 fee.

Council Member McKeithen thought the fee was too high. She asked for clarification regarding the Penalty section, 14.082.c.

**Ms. Jones said the section was meant to cover someone who made a repair or alteration to an artifact unknowingly without a permit. If the artifact could be restored to its original appearance at the time of the inventory, the penalty could be waived.**

**Mayor Marsala asked what would happen if someone refurbished an artifact and then wanted to move it out of the Town.**

**Ms. Jones said property owners had the discretion to ask the Council to grant their request to move the artifact or they could pay the fine to the Town for the loss of its heritage. However, the ordinance was intended to prevent that from happening and was the most stringently regulated area.**

**Vice Mayor Alan Carlson asked whether waiving all fees for the owner of the artifact had been considered.**

**Deputy Town Planner Costa Sanders said she understood that Council policy was to obtain cost recovery.**

**Vice Mayor Carlson believed these fees should be an exception. He asked how many properties were affected.**

**Ms. Jones said the inventory currently included approximately 36 artifacts and approximately 20 owners who voluntarily participated. The total owners included in the emergency moratorium were between 40 and 45.**

**A discussion ensued regarding noticing procedures. Ms. Jones said she believed there were three owners who thought the ordinance should be voluntary. Those owners who participated in the inventory were in favor of the ordinance. Staff was bringing the item forward because the urgency ordinance expiring.**

**Council Member Jerry Carlson thought the work that was done in identifying the artifacts was a great step. He found the ordinance confusing to follow. He suggested a flow chart be added. He asked whether any other cities in San Mateo County had an ordinance.**

**Ms. Jones said the Town of Woodside had very active historic preservation ordinance and a special commission for review. Hillsborough, San Carlos, and San Bruno also had ordinances. Hillsborough's ordinance was totally voluntary and there was a beautification committee that raised funds.**

**Council Member Janz thanked Ms. Jones and staff for the terrific work not only in the inventory but also in trying to make the ordinance workable. He supported the ordinance. He asked for clarification regarding the criteria defined in Section 8.14.052.**

**Ms. Jones said the artifact needed to meet the criteria for Item 1 and one of the other listed criteria, Item No. 2, 3, or 4.**

**Council Member Janz clarified that under Item No. 4, an artifact needed to meet Item a or b and had to meet Item c. He shared concern about the fees. He believed if an owner was making the designation, he/she should not have to pay a fee.**

**Mayor Marsala opened the public hearing.**

**Neal Rasmussen, Lindenwood Ave, applauded Council for its dedication to the Town of Atherton as volunteers. He read a letter into the record that suggested a nonprofit foundation be formed by those Atherton citizens who supported historic preservation in order to purchase artifacts located on private property for the Town.**

**Lisa Carey-Lamb, Laburnum Road, owned three artifacts, two of which were in complete disrepair when the property was purchased seven years ago. She spent \$5,000 to refurbish two urns and believed they were personal property that she should be able to move out of the Town.**

**Marion Oster, president of the Atherton Heritage Association, said Atherton was a wonderful place to live. The early residents from the 1860s, the Athertons, the Selbys, the Floods, the four Stern brothers, the Watkins, and many others, built large estates and decorated their gardens. Unfortunately, little or almost nothing is left. The remaining artifacts were here because previous property owners valued, honored, and maintained the artifacts. As an artifact owner, she had a responsibility to preserve what had been on her property for 130 years. She urged Council to adopt the ordinance.**

**Judy Castiallac, Linden Avenue, said state and national historic standards were used while researching and evaluating the artifacts for the inventory. She believed in private property rights; however, the situation called for balancing private concerns and the common good. Many artifacts were lost, endangered, or moved. There were three artifacts that were currently endangered, i.e., the owners wanted to take them when they moved.**

**Randy Lamb, Labernum Road, member of the General Plan Committee, said the language in the ordinance was confusing and seemed negative and punitive rather than positive. He believed having a fee added to the punitive nature of the ordinance. He wanted to move two artifacts that he restored to a new home. He hoped the concerns of the General Plan Committee were heard: was it a positive thing, was it an incentive for residents, and was it something that could be done on a voluntary basis.**

**Phil Lively, Hawthorne, said the heritage artifact ordinance was a Town issue much like the heritage tree ordinance. He urged Council to pass the ordinance.**

**Mayor Marsala closed the public hearing.**

**City Attorney Marc Hynes said staff brought the item to Council because of the concern that the urgency ordinance was going to expire. Council could make changes that evening which would still be considered a first reading, have the second reading in November, and the ordinance would go into affect 30 days later. The ordinance could always go back to the General Plan Committee to consider other substantive changes**

**and amend the ordinance at a later time. No continuity would be lost in the protection of the artifacts.**

**Discussion took place regarding what was discussed at the General Plan Committee and how ordinances were administered in other communities.**

**Ms. Jones said three-fourths of the artifacts needed a crane to move. In historic preservation terms, structures and objects were different and these artifacts were designed to be displayed outside.**

**Vice Mayor Carlson said the moratorium would expire in October and was not renewable. If Council did not pass the ordinance for first reading that evening, there would be a window with no ordinance. He asked whether the removal of any fee chargeable to the property owner would cause the ordinance not be a legitimate first reading.**

**City Attorney Hynes said changes could be made that evening and the ordinance could be introduced.**

**Vice Mayor Carlson said the time had come to move forward, i.e., introduce the ordinance for first reading so protection of the artifacts would not be lost. He urged his colleagues to pass the ordinance that evening with the deletion of all fees to the property owners. The General Plan Committee could review the ordinance at a latter date.**

**Council Member Jerry Carlson believed in preservation and wanted to see the artifacts stay in Atherton; however he did want to make a hasty decision because of deadlines. He wanted the ordinance to be more readable and understandable.**

**City Attorney Hynes recommended striking the fee provisions, introducing the ordinance that evening, adopting the ordinance at the second reading, and then sending it back to the General Plan Committee for review.**

**Council Member Janz said Council should make the changes that were suggested that evening. He did not want penalty fees for violations to be eliminated. He moved for first reading the following:**

**MOTION – to introduce for first reading Ordinance No. 567, “AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ADDING CHAPTER 8.14 REQUIRING PRESERVATION OF HISTORICAL ARTIFACTS WITHIN THE TOWN OF ATHERTON,” with the following changes: 1) Eliminate Section 8.14.083, Fee Schedule, for actions taken by the property owners; 2) Clarify Section 8.14.052, Criteria, that artifacts must meet the criteria for Item No. 1 and at least one of the remaining criteria listed as Item Nos. 2, 3, and 4; and 3) Regarding Item No. 4, Local Significance, artifacts must meet the criteria of either subsection a or b and c. Further, direction was given to the General Plan Committee to pursue creating a public trust or foundation to solicit funds for the purpose of acquiring the artifacts for the Town. Additionally, staff was asked to prepare a flow chart to help clarify the ordinance.**

**Council Member Janz said the Town did not have a “building” historic preservation ordinance because there were not many buildings left that would qualify. Property owners had a public trust to deal properly with artifacts that provide aesthetic, artistic, and historic benefit to the Town and its future generations.**

**Council Member McKeithen supported no fees for the property owner. She thought Mr. Rasmussen’s suggestion of creating a public trust was a good one and suggested direction be given to the General Plan Committee to look into creating a public trust to determine whether any owners were willing to donate items to the Town. Staff was asked to prepare a flow chart at the beginning of the ordinance.**

**Mayor Marsala wanted to see how Hillsborough’s ordinance compared with Atherton’s and how it might be applied. He thought that a foundation to solicit funds and to acquire items was more appropriate with a voluntary ordinance.**

**M/S Janz/A.Carlson**

**Ayes: 5 Noes: 0 Absent: 0 Abstain: 0**

# GROOM & CAVE, LLP

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TIMOTHY H. HOPKINS

January 11, 2007

## Via E-mail

Mayor Alan B. Carlson  
Members of the Town Council  
Town of Atherton  
91 Ashfield Road  
Atherton, CA 94027

Re: Response to Notice of Appeal of Planning Commission Decision to Approve a Major Alteration Permit (the "Permit") for 51 Laburnum Road, Atherton, California

Dear Mayor Carlson and Council Members:

Our firm represents Mr. and Mrs. Randy Lamb, the owners of the real property located at 51 Laburnum Road, Atherton, California. Our clients have requested that we respond to the Notice of Appeal filed by Mr. Philip D. Lively individually, and on behalf of the Board of Directors of the Lindenwood Homes Association (the "Appellant"). We note that the Appellant filed some 58 pages of material with the Town on December 8, 2006. We did not receive this material until December 10, 2006, and therefore submit this reply now in hopes that the Town Council will have an opportunity to review it prior to the City Council meeting next week.

The Appellant incorrectly asserts that the Planning commission was denied the right to exercise its discretion and authority in deciding weather to grant or deny the Permit. The Appellant cites to a portion of the Staff Report submitted to the Planning Commission in support of the argument that the Planning Commission was not able to exercise its discretion. However, the Appellant fails to recognize that the Staff Report is merely a recommendation to the Planning Commission, not a mandate. The Planning Commission had the right to either follow the recommendation of Town Staff, or not follow the recommendation. This is the essence of the exercise of the Planning Commission's discretion.

Moreover, if you accept the Appellants argument, then all three of the Planning Commission members would have been required to vote in favor of the Permit. In fact, one Commission member voted against the Permit, and two Commission members voted to grant the Permit. Obviously, the Planning Commission members each exercised their discretion in voting in favor of, or against, granting the Permit. Thus, the record clearly shows that no error occurred as the Appellant suggests.

GROOM & CAVE LLP

Re: 51 Laburnum Road Appeal  
January 11, 2007  
Page 2

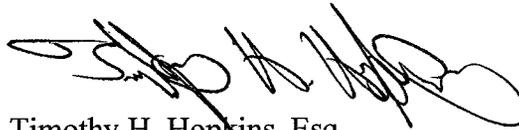
The Appellant also argues that Town Staff, not the Planning Commission, erred when it stated that the proposal to relocate the artifacts within the Town is consistent with the Secretary of the Interior's Standards (the "Standards"), and the Town's Ordinance. The Appellant's underlying premise in this argument, appears to be based upon the false assumption that the Lindenwood neighborhood is a designated Historical District within the Town, or that the property located at 51 Laburnum Road is a Historical Site. Unfortunately for the Appellant, neither of these underlying assumptions is true. The Appellant argues that the Permit is not consistent with such Standards, or the Historical Building Code, as they recommend against removal of historical artifacts out of the historic district in which they are associated. However, the Lindenwood neighborhood is not a designated Historical District. It is merely a neighborhood within the Town of Atherton. Thus, Appellant's entire argument with respect to the consistency of the Permit with the Standards and the Town Ordinance must fail.

In addition, the Appellant asserts that the Town's attorney placed limitations on the scope of the review by the Planning Commission. However, no such limitations appear in the record of the Planning Commission hearing. Also, the Town attorney denies this allegation, and we believe he will be prepared to address it at the Council meeting. Thus, the Appellant cannot rely upon this unsupported assertion to sustain this appeal.

In conclusion, the record before the Council is clear. The Planning Commission properly exercised its discretion and authority in granting the Permit. The Town Staff properly recommended that the Planning Commission grant the Permit based upon an analysis of the application to the Town's Historical Artifacts Ordinance, and based upon consultation with the Town's selected Historical Consultant. In light of the record before the Council, a decision to grant the Appeal and deny the Permit would be arbitrary and capricious. Despite the Appellant's attempts to cloud the issue, the facts and record in this matter cannot be ignored. The proper decision has already been reached by the Planning Commission, and it should be upheld.

Respectfully submitted,

GROOM & CAVE, LLP



Timothy H. Hopkins, Esq.

THH/ma

cc: clients, Town Attorney, Town Clerk (650) 688-6528

RECEIVED  
TOWN OF ATHERTON

2007 JAN -8 P 3

PHILIP D. LIVELY  
24 Hawthorn Drive  
Atherton, Ca. 94037

January 8, 2007

City Council,  
Town of Atherton  
91 Ashfield Road  
Atherton, Ca. 94027

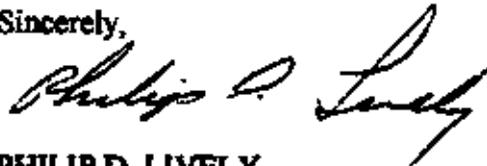
Appeal of Planning Commission  
Decision, Ordinance 567, on  
December 6, 2006

Mr. Mayor and Council Members,

Enclosed please find the folder containing the documentation which provides the substance for the Appeal filed on December 14, 2006. I am sure that, when you read the documents and the attached exhibits, you will come to the conclusion that *the Atherton City Council should uphold this appeal and deny the Major Alteration Permit to remove historical artifacts from the Lindenwood Historic District.*

I am aware of the format of the forthcoming appeal hearing and will limit my remarks to ten minutes. Members of the public may have three minutes each to speak on this matter.

Sincerely,



PHILIP D. LIVELY

Documentation Pages Total 58

**Appeal to the Town Council to Overrule the  
Planning Commission Decision of 12/6/06  
Approving a Major Alteration Permit for the  
Removal of Historical Artifacts from the  
Lindenwood Historic District**

January 8, 2006

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### ***Exhibits***

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## **Appeal to the Town Council to Overrule the Planning Commission Decision of 12/6/06 Approving a Major Alteration Permit for the Removal of Historical Artifacts from the Lindenwood Historic District**

### ***Introduction***

Ordinance No. 567, which adds Chapter 8.14 to the Municipal Code of the Town of Atherton "Requiring Preservation of Historical Artifacts within the Town of Atherton" ("Ordinance"), is a brand new ordinance. Consequently, like any new Ordinance, it needs to be tested in practice in order to make sure that the practice conforms to the intended purpose of the Ordinance. The initial interpretation of this Ordinance in practical circumstances is especially important because it will set the precedents for future applications.

On December 6, 2006, the Planning Commission approved a "Major Alteration Permit for the relocation of two historical artifacts from 51 Laburnum Road to 224 Park Lane in Atherton".

Staff erred when it advised the Planning Commission that:

"The Ordinance ***requires*** (emphasis added) the Planning Commission to grant a Major Alteration Permit if it finds the proposal consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the California Historical Building Code."

The Ordinance does no such thing.

Then, based on a phone conversation with a historical consultant - - a hearsay report, the details of which were not made available - - Staff reported that the "applicant's proposal to relocate the artifacts within the Town is consistent with the Standards and with the Town's Ordinance".

A correct reading of the Secretary of the Interior's Standards for the Treatment of Historic Properties ("Standards") and the California Historical Building Code ("Code") requires the conclusion that relocating the historical artifacts is not consistent with the Standards and Code.

Finally, the limitations placed by the Town's attorney on the scope of the permissible review by the Planning Commission had the effect of eliminating any consideration of the community's interests as balanced against those of the property owner. Because of this incorrect advice and limitation in scope of the review, the Planning Commission reluctantly approved the permit by a 2 to 1 vote.

The Town Council should overturn the Planning Commission and deny the permit because:

- Even if the permit were consistent with the Standards and the Code, which it is not (see next point); the Ordinance clearly and unequivocally gives the Planning Commission the authority to deny the permit. Consistency is a necessary, but not a sufficient condition for approval. Inconsistency, however, requires denial.
- The permit is not consistent with the Standards and Code. They recommend against moving historical artifacts out of the historic district with which they are associated.
- The stated Purpose of the Ordinance requires the Planning Commission to consider the general welfare and balance the interests of the community with those of property owners. The Planning Commission was not permitted to do this.

Eliminating Planning Commission decision authority from the Major Alteration permit process, approving a Major Alteration permit that is not consistent with the Standards and Code, and ignoring the overall purpose of the Ordinance: these are precedents detrimental to the community interest and the goal of preserving historical artifacts in the Town of Atherton.

### ***Planning Commission Authority***

In Section 8.14.040, Part A, p3 – “Review Authority”, the Ordinance (Exhibit I) says the Planning Commission shall “Grant or deny” (emphasis added) applications that pertain to demolition or major alteration of artifacts . . .” In Section 8.14.090, Part B, p8 – “Major Alterations” – it says that an “Application for a Major Alteration permit is approvable” (emphasis added) by the Planning Commission . . .” If a permit is approvable, then it’s also not approvable. In the next sentence, it says “In hearing applications for major alteration permits, the Planning Commission shall review” (emphasis added) the proposed alterations for consistency with the Standards and Code.” The only reasonable interpretation of this language is that the Ordinance gives to the Planning Commission the authority to reject a Major Alteration permit and that consistency with the Standards and Code is a necessary, but not a sufficient condition for approval; not being consistent with the Standards and Code requires denial. Yet, in its report to the Planning Commission (Exhibit 2, p 2) recommending approval of the Major Alteration Permit, Staff found that “The Ordinance requires (emphasis added) the Planning Commission to grant a Major Alteration permit if it finds the proposal consistent with the Standards and Code. That is not what the Ordinance says.

This incorrect interpretation was endorsed by the Town's Attorney in response to a question by one of the Commissioners on whether or not the Planning Commission had any discretion in this matter. He advised that Planning Commission discretion is limited in this matter in a way that is “somewhat akin” to the situation of tree removal from the buildable area of a property (Chapter 8.10 of the Municipal Code of the Town of Atherton). This is an incorrect analogy. The buildable area can be adjusted to save heritage trees, especially oaks. When that is not possible, new trees can be required to replace those removed. In time, albeit a long one, these trees will achieve heritage status. Once removed, historical artifacts cannot be replaced and their historical association is lost forever.

This incorrect interpretation by Staff and Counsel is clearly contrary to the language of the Ordinance and eliminates any decision authority for the Planning Commission. Were this incorrect interpretation to stand, an application for a Major Alteration permit could just as easily be dealt with on an over-the-counter basis in the Building Department without any need for a Planning Commission hearing. This is clearly not the purpose, intent, or language of the Ordinance. Were it not for this misinterpretation by Staff and Counsel, the Planning Commission would have rejected the application.

### ***Inconsistency with the Standards and Code***

Unfortunately all we know on this matter from the Staff Report is that Staff says they "consulted" with a historical consultant on the finding of consistency (Exhibit 2, p 2). We are not privy to what the consultant said; nor do we have a copy of her report if one was submitted. Consequently, the original text of the Standards and Code was reviewed to verify the finding of consistency.

The Standards and Code are not a set of hard and fast rules. Rather, they are (1) guidelines meant to be interpreted by (2) local authority to fit local circumstances. (3) Historic objects and structures that are part of historic districts and sites fall within the scope of these guidelines. (4) The Standards are written as a series of definitions, actions "recommended", and actions "not recommended" for the purpose of preserving historical buildings and artifacts. Removing historical artifacts from a historical site or district is "not recommended":

1. Guidelines meant to be interpreted:
  - Standards, introduction, p 1 (Exhibit 3): "The Standards are neither technical nor prescriptive, but are intended to promote responsible preservation practices . . ."
  - Code, Part 8, p iv (Exhibit 4): "These regulations are unique in that they are performance oriented , rather than prescriptive . . ."
2. Local authority to interpret the guidelines to fit local circumstances:
  - Code, Section 8-218 – Q, p 4 (Exhibit 5): A qualified historic building or property is "Any building, site, structure, object, district (emphasis added) or collection of structures, and their associated sites, deemed of importance to the history, architecture or culture of an area by an appropriate local (emphasis added), state or federal governmental jurisdiction."
3. Objects and structures that are part of historic districts and sites are governed by the guidelines:
  - Standards: (a) Historic Resource Types and Examples, p vi (Exhibit 6) refers to "Sites", "Structures", "Objects" and "Districts" as historic resource types worthy of preservation. (b) Historical Overview, p 13 (Exhibit 7), further elaborate that "A site may be significant in its own right . . ." and "The setting is the larger area or environment in which a historic property is located".
  - Code, Section 8-1002 – Site Relations, p 23 (Exhibit 8), says that "Insofar as regular regulations, standards and requirements may impact on sites . . . those areas and physical features come within

the purview of this code. A designated historic building or district may be considered to include the site . . ."

4. Removing artifacts from a historic district is "not recommended":
  - Standards: Building Site, p 51 (Exhibit 9) "Identifying, retaining and preserving . . . features of the site that are important in defining its overall historic character." is "Recommended". "Removing or relocating buildings or landscape features (emphasis added), thus destroying the historic relationship between buildings and the landscape" is "Not Recommended" (emphasis added).
  - Standards: Setting (District Neighborhood), p 54 (Exhibit 10) "Identifying, retaining and preserving . . . landscape features which are important in defining the historic character of the setting" is "Recommended". "Removing or relocating historic buildings or landscape features thus destroying their historic relationship within the setting" is "Not Recommended" (emphasis added).

That the original home on the Flood Estate, Linden Towers, no longer exists does not deny the setting of its landscape features. That is why the Ordinance recognizes the Lindenwood Historic District. At the very least, it would have been appropriate to make the above information available to the Planning Commission so they could find for themselves on the issue of consistency. Had this been done, the Planning Commission would have rejected the application.

### ***Purpose of the Ordinance***

In Section 18.14.010, p1 - Purpose, the purpose of the Ordinance is to "promote the general welfare" in order to, in Part E, "balance the concerns of property owners with the community's interests in preserving artifact's of the Town's past." Property owners' interests are protected by the provisions of the Ordinance that allow for Minor Alterations such as maintenance and repairs and the relocation of historical artifacts on their property. Community interests are protected by preserving historical artifacts in general and them in the historic district with which they are associated. The Ordinance, Section 18.14.060, Part C, p6 - Local Significance (in language unchanged from the earliest drafts of the ordinance), recognizes the "Lindenwood Historic District (emphasis added) which is composed of structures and objects constructed as part of the Flood Estate (Linden Towers) prior to 1937". Because of this association, these historical artifacts are part of a collection that is unique in comparison with any other historical artifacts in the Town. The community interest of the Town of Atherton is served by preserving this collection. Over time, the collection has been eroded by removal, neglect, and destruction. It is precisely this erosion that the Ordinance is intended to arrest.

Numerous letters and e-mails (Exhibit 11) that the Planning Commission received from Town residents, inside and outside Lindenwood, clearly spoke to the community interest in keeping the artifacts in the Lindenwood Historic District and preserving the collection. Some of these residents have paid to preserve and restore historical artifacts on their property. The Lindenwood Homes Association has paid to preserve and restore artifacts on Town property in the Lindenwood Historic District.

Members of the Planning Commission who were left to deliberate this issue indicated a desire to give the community's interest some weight, but the limitations on the scope of their review by Staff and Counsel prevented them from doing so. Had they been allowed to explicitly consider the Purpose of the Ordinance and balance the needs of the community against those of the property owner, the Planning Commission would have rejected the application.

***Conclusion***

For the past few years, Residents, Staff, and consultants have worked diligently through many public meetings to craft an Ordinance for the preservation of historical artifacts in the Town of Atherton. This Ordinance properly gives authority to the Planning Commission for interpreting and administering the Ordinance, endorses the application of the Standards and Code, and balances the needs of both the community and property owners.

In this first test case under the Ordinance, the above principles were ignored:

- The Ordinance gives the Planning Commission the responsibility and authority to review and approve or deny Major Alteration permits. To take this authority away from the Planning Commission is a violation of the Ordinance.
- To preserve the historical association of the artifacts, the Standards and Code recommend that historical artifacts not be removed from the Lindenwood Historic District. To remove them is not consistent with the Standards and Code and destroys their historical relationship.
- The Ordinance requires that the community interest be properly weighed in considering the removal of historical artifacts from the Lindenwood Historic District. Atherton's community interest is that the artifacts remain within the Lindenwood Historic District.

**Therefore, the Town Council should uphold this appeal and deny the Major Alteration permit to remove historical artifacts from the Lindenwood Historic District.**

January 8, 2007

**Exhibit 1**

**Ordinance No. 567, which adds Chapter 8.14 to the  
Municipal Code of the Town of Atherton "Requiring  
Preservation of Historical Artifacts within the Town of  
Atherton"**

**ORDINANCE NO. 567**  
**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON**  
**ADDING CHAPTER 8.14 REQUIRING PRESERVATION OF HISTORICAL**  
**ARTIFACTS WITHIN THE TOWN OF ATHERTON**

---

The City Council of the Town of Atherton does ordain as follows;

**SECTION 1:** Amendment of Code: Chapter 8.14 is hereby added to the Atherton Municipal Code to read as follows;

- "Historical Artifact" 8.14.010 Purpose
- 8.14.020 Enabling Authority
- 8.14.030 Definitions
- 8.14.040 Review Authority
- 8.14.050 Inventory of Historical Artifacts
- 8.14.060 Criteria
- 8.14.070 Procedures for Designation
- 8.14.080 Preventive Maintenance activities exempt from review
- 8.14.090 Activities Requiring an Alteration Permit
- 8.14.100 Demolition Permits
- 8.14.110 Protection during Construction
- 8.14.120 Consistency with CEQA and other Statutes
- 8.14.130 Cases of Economic Hardship
- 8.14.140 Accidental Damage
- 8.14.150 Alteration Demolition without a permit – Violation – Penalty
- 8.14.160 Fee Schedule

**8.14.010 Purpose**

The purpose of this article is to promote the general welfare by providing for the identification, protection, enhancement, perpetuation and use of artifacts that reflect special aspects of the Town's historical, architectural, cultural or aesthetic heritage for the following reasons:

- A. To encourage public knowledge, understanding, appreciation and use of the Town of Atherton's past;
- B. To foster civic pride in the beauty and character of the Town and the accomplishments of its past;
- C. To preserve the visual character of the Town by preserving artifacts that reflect its history;
- D. To protect property values within the Town;
- E. To balance the concerns of property owners with the community's interests in preserving artifact's of the Town's past.

**8.14.020 Enabling Authority**

California Government Code Section 37361(b)

**8.14.030 Definitions**

- A. "Accidental Damage" means unintentional damage by an individual or an act of Nature. This does not include accidental damage during the course of construction on the property where the artifact was not adequately protected.
- B. "Alteration" means any work changing the exterior appearance and visual quality of character-defining features of a historical artifact.
- C. "Alteration Permit" means a permit approving an alteration to a historic artifact, or a property determined eligible for historic artifact designation pursuant to the provisions of this Chapter.
- D. "Artifacts" for the purposes of this ordinance are structures as defined below and objects located on the grounds of single-family homes, landscaped areas of public, commercial, and multifamily housing properties, and adjacent to public roads and streets. Buildings designed for human occupation and objects housed in the interiors of buildings are not subject to the terms of the ordinance.
- E. "Character-defining features" means the elements embodying style, design, general arrangement and components of all of the exterior surfaces of any structure or object, including but not limited to, the type of building materials and type and style of elements related to such structure or object.
- F. "Demolition" means the act or process that destroys, completely or partially, any structure or object.
- G. "Historical Artifact" means a structure or object that meets the criteria for listing on the national, state or local level as described below.
- H. "Historic Integrity" means the authenticity of a resource's physical identity, evidenced by the survival of characteristics that existed during the resource's period of significance. Integrity is evaluated with regard to the retention of location, design, setting, materials, workmanship, feeling and association. It must also be judged with regard to the particular criteria under which a resource is proposed for eligibility.
- I. "Inventory of Historical Artifacts" is the official list of properties subject to the terms of this ordinance. In order to be listed on the Inventory, the artifact must be found to be an appropriate property type and meet the criteria for listing on the national, state or local level as described below. An artifact shall not be included in the Inventory if the owner opposes its listing.
- J. "Major Alteration" means permanent changes to the visual character of a Historical Artifact or its setting, including but not limited to, changes in size, surface treatment or location of historical artifacts as described below.
- K. "Minor Alteration" means changes to the color or minor details of a Historical Artifact, such as for example the replacement of missing or damaged elements. The relocation of a moveable object on the property is a minor alteration, and temporary removal of an artifact from the property during restoration or for its

- protection during construction shall be treated as a minor alteration under this ordinance.
- L. "National Register of Historic Places" means the official inventory of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology and culture which is maintained by the Secretary of the Interior under the authority of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq., 36 C.F.R. Sections 60, 63.).
  - M. "Object" (as applied in the context of this chapter) means a construction, such as a statue, monument or milepost that may be by nature of design moveable, yet related to a specific setting or environment.
  - N. "Owner" means the person(s) whose name appears as the owner of a property on the last tax assessment roll of San Mateo County.
  - O. "Preventative Maintenance" means any work to prevent deterioration or damage to the structural integrity or any exterior character-defining feature of a historic resource that does not involve a change in design, material or exterior appearance. Such work includes, but is not limited to, painting, grouting or repainting, foundation work or landscaping in the vicinity of a Historic Artifact.
  - P. "Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings" means the illustrated version of the Standards and Guidelines for Rehabilitation developed by the Technical Preservation Services Branch, Preservation Assistance Division of the National Park Service, as it may be amended.
  - Q. "Secretary of the Interior's Standards for the Treatment of Historic Properties" means principles developed by the National Park Service (36 CFR 68.3, as it may be amended from time to time) to help protect historic properties by promoting consistent preservation practices and providing guidance to historic building owners and building managers, preservation consultants, architects, contractors, and project reviewers on how to approach the treatment of historic properties. The Secretary of the Interior Standards for the Treatment of Historic Properties may also be referred to in this chapter as "Secretary of the Interior's Standards."
  - R. "State Historical Building Code" means California Code of Regulations, Part 8 of Title 24 (California Building Standards Code), as it may be amended.
  - S. "Structure" (as applied in the context of this chapter) means a functional, man-made construction, such as a fence, gate, bridge or tunnel, typically made for purposes other than creating shelter fixed to the property on which it is located.

#### 8.14.040 Review Authority

In addition to the responsibilities described elsewhere in the Municipal Code, the Planning Commission shall

- A. Grant or deny applications that pertain to demolition or major alteration of artifacts included in the Inventory of Historical Artifacts or determined to meet the criteria for inclusion in the Inventory;

- B. Consider and recommend to the City Council additions to (or removals from) the Inventory of Historical Artifacts;
- C. Negotiate with property owners to promote preservation of historical artifacts while respecting the use and enjoyment of the owners;
- D. Promote public awareness of the historical value of artifacts by steps it deems desirable, including but not limited to the issuance of certificates of recognition and the authorization of plaques;
- E. Place special emphasis on the need to inspect, repair, and restore artifacts in the public right-of-way or public parks;
- F. Consider methods other than those described above to enhance and preserve the quality and understanding of the Town's historical artifacts;
- G. Make appropriate recommendations on the general subject of preservation to the City Council, other public and private agencies and bodies, and the general public.

### **Procedures and Criteria for Designation of Historical Artifacts**

#### **8.14.050 Inventory of Historical Artifacts**

The Inventory of Historical Artifacts is the official list of properties subject to the terms of this ordinance. In order to be listed on the Inventory, the artifact must be found to be an appropriate property type and meet the criteria for listing on the national, state or local level as described below.

#### **8.14.060 Criteria**

**Property Types.** For the purposes of this ordinance artifacts are structures and objects located on the grounds of single-family homes, landscaped areas of public spaces and schools, and adjacent to public and private roads and streets. Buildings designed for human occupation and objects housed in the interiors of buildings are not subject to the terms of the ordinance. Artifacts shall meet one of the following criteria:

- A. **National Register of Historic Places**  
The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:
  - i. That are associated with events that have made a significant contribution to the broad patterns of the Town of Atherton's history; or
  - ii. That are associated with the lives of significant persons in the Town of Atherton's past; or
  - iii. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

- iv. That have yielded or may be likely to yield, information important in history or prehistory.

In order to meet the criteria for listing on the National Register, a property must maintain integrity, defined as "the ability of a property to convey its significance" (NRHP Bulletin 15). The National Register further specifies seven aspects of integrity: location, design, setting, materials, workmanship, feeling, and association. To retain integrity, a property should possess several of these aspects and preferably the majority of them.

Structures and objects located within the Town of Atherton that are listed on the National Register of Historic Places, or determined by a qualified professional to be eligible for listing on the National Register shall be placed on the Inventory of Historical Artifacts following the procedures described below and subject to the terms of this ordinance.

**B. California State Historical Landmarks, Points of Interest, and the California Register of Historical Resources**

- i. Associated with events that have made a significant contribution to the broad patterns of local or regional history or the cultural heritage of California or the United States.
- ii. Associated with the lives of persons important to local, California or national history.
- iii. Embodies the distinctive characteristics of a type, period, region or method of construction or represents the work of a master or possesses high artistic values.
- iv. Has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California or the nation.

The California Register of Historic Places requires that resources "retain enough of their historic character or appearance to be recognizable as historic resources and to convey the reasons for their significance," and allows for resources with a lower level of integrity than the National Register criteria.

Structures and objects located within the Town of Atherton that are listed as California State Historical Landmarks, Points of Interest, or on the California Register of Historical Resources, or determined by a qualified professional to be eligible for listing on the California Register shall be placed on the Inventory of Historical Artifacts following the procedures described below and subject to the terms of this ordinance.

- C. Local Significance.** To be deemed locally significant, an artifact must meet subsection (i) or (ii), and (iii);

- i. Association with the early development of the Town of Atherton, events occurring before 1930 or structures and objects constructed before that date.
- ii. Association with the Lindenwood Historic District which is composed of structures and objects constructed as part of the Flood Estate (Linden Towers) prior to 1937.
- iii. Retaining sufficient integrity of design, materials, and association to be recognizable as artifacts of the historical period of their significance.

#### 8.14.070 Procedures for Designation

Official listing on the Inventory of Historical Artifacts, or removal from listing, shall be approved by the Planning Commission. Artifacts that the Planning Commission or City Council accept for designation as Historical Artifacts are subject to the terms of the ordinance, even in those cases where the property owner objects to inclusion in the official Inventory. An inventory sheet shall be stored in the address file in the Building Division Offices of properties accepted for designation but not published in the official Inventory of Historical Artifacts.

Only those artifacts officially included in the Inventory of Historical Artifacts shall be eligible for grants of public funds, plaques purchased with public funds, or other incentives or benefits that may arise in support of preservation of the artifacts.

- A. **Initiation of listings on the Inventory of Historical Artifacts.**  
Designation may be initiated by the Planning Commission, by any resident of the Town, or by the owner of an artifact. Applications for designation must be accompanied by such historical and architectural documentation as may be required to evaluate the artifact's significance under the criteria described above. If the application is filed by a property owner or resident of the Town, the application shall be accompanied by a nonrefundable fee as described below.
- B. **Notice of the Public Hearing.**  
Upon receipt of a completed application, the secretary of the Planning Commission shall set a date for the public hearing which shall be held within forty days of the acceptance of the completed application. Written notice by first class mail shall be sent to property owners within 500 feet of the property containing the artifact and shall be posted on the official town bulletin boards within 10 days of the public hearing.
- C. **Planning Commission Action**  
The designation of historical artifacts shall be made by resolution of the Planning Commission and shall be communicated to the Building Official, the Director of Public Works, and the Atherton Heritage Association. After thirty (30) days from the Public Hearing, if no written objection is filed by the property owner, the Town shall forward a copy of the resolution to the recorder of the County of San Mateo and to the property owner.

**D. Owner Consent.**

Artifacts shall not be listed in the official Inventory of Historical Artifacts over the property owners' written objection, received by the Town within 30 days of the official designation by the City Council.

**E. Stop Work Order**

While the application for a designation as a Historical Artifact is pending, prior to the public hearing where the Planning Commission or City Council approves or denies the application, the Building Official may declare a stop work order.

During the term of the stop work order, work that would require an alteration permit if the artifact were already designated as a Historical Artifact shall not be carried out. The stop work order will be lifted upon the earlier of the Planning Commission or Council's decision on the proposed designation, the stop work order termination date as adopted by the Building Official, or 180 calendar days from the date of the commencement of the stop work order.

**Procedures and Criteria for Reviewable Actions**

**8.14.080 Preventive Maintenance activities exempt from review**

Preventive maintenance activities that maintain or restore the historical appearance of Historical Artifacts are exempt from review. These activities should be carried out in a fashion consistent with good preservation practice. Preventive maintenance activities include cleaning, repainting of stone and masonry, and repainting of previously painted surfaces in the same or similar color.

**8.14.090 Activities requiring an alteration permit**

**A. Minor alterations**

Minor alterations are changes to the color or minor details of a Historical Artifact, such as for example the replacement of missing or damaged elements. Minor alterations to Historical Artifacts that are moveable objects include the relocation of the object on the property. Temporary removal of an artifact from the property during restoration or for its protection during construction shall also be treated as a minor alteration; however, the temporary location of the artifact and a fixed date for the return of the artifact to its site must be provided.

The alteration permit application for a minor alteration is approvable by the Building Official, with appeal to the Planning Commission. An alteration permit for a minor alteration shall be granted within 10 days of a completed application. The Building Official may require such documentation as deemed necessary to make a decision. Copies of the permit application and supporting materials shall be filed with the Historical Artifact Inventory as a permanent record of the alteration.

**B. Major alterations**

Major alterations include permanent changes to the visual character of an artifact or its setting. Examples of major alteration include:

- Changes to the height or width of a structure such as a gate or wall;
- Painting or otherwise covering of previously unpainted surfaces, such as brick or stone;
- Addition of new elements attached to Historical Artifacts (including but not limited to lighting fixtures, replacement of bases of sculptures or other objects);
- Relocation of a structure on the property;
- Relocation of an object or structure to another property within the Town.

Application for a major alteration permit is approvable by the Planning Commission, with appeal to the City Council. In hearing applications for major alteration permits the Planning Commission shall review the proposed alterations for consistency with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the California Historical Building Code. The Building Official may require documentary materials, including an evaluation of the proposed alterations by a qualified historical preservation professional, to assist the Planning Commission in its determination.

Once an application for a major alteration permit is deemed complete by the Building Official, the Planning Commission shall conduct a public hearing on the application within 60 days. Appeals to the Planning Commission's decision must be filed within 10 days pursuant to section 17.64 to the City Council. Copies of the permit application and supporting materials shall be filed with the Historical Artifact Inventory as a permanent record of the alteration.

**§.14.100 Demolition permits**

For the purposes of this ordinance demolition includes the removal of all or part of a Historical Artifact either for disposal or otherwise its relocation from within the town boundaries.

Application for a demolition permit for a Historical Artifact is approvable by the Planning Commission, with appeal to the City Council. In approving applications for demolition permits, the Planning Commission shall make findings that an emergency exists that threatens the public health, welfare or safety; and that no feasible alternative can be found to ensure the preservation of the Historical Artifact within the Town. Where no threat to public health, welfare or safety can be identified, the Planning Commission shall consider whether the preservation of the Historical Artifact leaves the property with significantly diminished property value. A finding based on significantly diminished property value shall require documentation by independent experts and a finding that no feasible alternative can be found to ensure the preservation of the Historical Artifact within the Town.

Once an application for a demolition permit is deemed complete by the Building Official, the Planning Commission shall conduct a public hearing on the application within 60 days. Appeals to the Planning Commission's decision must be filed within 10 days in accordance with section 17.64 to the City Council. Copies of the permit application and supporting materials shall be filed with the Historical Artifact Inventory as a permanent record of the alteration.

#### 8.14.110 Protection during construction

Prior to issuance of a grading, demolition or building permit for a property that contains a Historical Artifact, the applicant shall present an Artifact Protection Plan if any activity associated with the permit has the potential to impact a Historical Artifact. The Artifact Protection Plan shall include barriers to prevent accidental damage to artifacts, protection against dirt and debris, and if necessary, temporary removal and storage of the Historical Artifact during the construction project.

#### 8.14.120 Consistency with CEQA and other statutes

If any action under this ordinance is subject to the provisions of the California Environmental Quality Act (CEQA), or other applicable local, state or federal regulations, the time in which such action is taken shall be extended in order to allow time to comply with the provisions of the applicable regulations provided, however, that such action is taken within the time limits imposed by the Permit Streamlining Act.

#### 8.14.130 Cases of Economic Hardship

In those cases where the property owner believes that the preservation of the Historical Artifact leaves a property with no reasonable financial value, the owner may apply for a permit to remove the artifact. Independent evidence of significantly diminished property value shall be required to make a finding of economic hardship.

The Town, in its discretion, may in its judgment waive any or all fees for alteration permits in cases where in its judgment the fee is an undue financial burden to the applicant.

#### **Enforcement and Fees**

#### 8.14.140 Accidental damage

In the event of accidental damage to a Historical Artifact, no fines or penalties shall be imposed. Repairs shall be subject to review as described above. In the event the damage to the artifact creates an unsafe situation, the property owner may mitigate the hazard and bring the artifact to a safe situation without the issuance of a permit. Such work must be reported to the Town within 72 hours. In the event the artifact is damaged by an act of nature, the property owner shall not be required to fully restore the artifact beyond

bringing the artifact to a safe condition. Failure to adequately protect the artifact from accidental damage does not relieve the property owner from the duty to restore the artifact.

**8.14.150 Alterations/Demolitions without a permit – Violation – Penalty**

- A. Any person causing the alteration of a Historical Artifact in a manner which exceeds Preventive Maintenance as defined above without an alteration permit shall submit a penalty in the amount of Five Thousand Dollars (\$5,000.00) to be deposited into a fund reserved for projects that preserve, restore or enhance Historical Artifacts on the official inventory of Historical Artifacts as a civil penalty in addition to the penalties as outlined in Chapter 1.20.
- B. Any person causing a Historical Artifact to be removed or demolished without a demolition permit shall submit a penalty in the amount of Ten Thousand Dollars (\$10,000.00) to be deposited into a fund reserved for projects that preserve, restore or enhance Historical Artifacts on the official inventory of Historical Artifacts as a civil penalty in addition to the penalties as outlined in Chapter 1.20.
- C. In the event the Historical Artifact can be restored to its appearance at the time of its designation or at the time of the most recent alteration permit or demolition permit, no civil penalty shall be imposed. Otherwise, as part of a civil action brought by the Town, a court may assess against any person who commits, allows, or maintains a violation of any provision of this Chapter, the civil penalties as described in Section A and B above.
- D. A civil action may be commenced to abate, enjoin, or otherwise compel the cessation of violation of any provision of this chapter. In a civil action brought pursuant to this chapter in which the Town prevails, the court may award to the Town all costs of investigation and preparation for trial, the costs of trial, reasonable expenses including overhead and administrative costs incurred in prosecuting the action and reasonable attorneys' fees.
- E. Upon any guilty plea of judgment or conviction, in any criminal proceeding brought for the violation of this chapter, where the defendant is entitled by law to probation, then the court may require the payment to the Town of the costs and expenses as described above as one of the conditions of such probation.

**8.14.160 Fee Schedule**

The following fees shall not apply to action taken by a property owner on his/her property.

Application for designation of a Historical Artifact.....\$750

Appeal of designation of a Historical Artifact.....\$750

*S-J*



/s/Charles E. Marsala  
Charles E. Marsala  
MAYOR, Town of Atherton

ATTEST:

/s/Kathi Hamilton  
Kathi Hamilton  
Acting City Clerk

APPROVED AS TO FORM:

/s/Marc G. Hynes  
Marc G. Hynes  
City Attorney

January 8, 2007

**Exhibit 2**

**Staff Report  
Planning Commission Meeting  
December 6, 2006**



**DATE:** PLANNING COMMISSION MEETING OF DECEMBER 6, 2006  
**TO:** THE PLANNING COMMISSION  
**FROM:** LISA COSTA SANDERS, DEPUTY TOWN PLANNER  
**SUBJECT:** 51 LABURNAM ROAD (APN 061-183-080)  
MAJOR ALTERATION PERMIT - HISTORICAL ARTIFACT

#### **RECOMMENDATION**

Staff recommends that the Planning Commission conduct the public hearing, make the following finding and approve the Major Alteration Permit for the relocation of two historical artifacts from 51 Laburnam Road to 224 Park Lane in Atherton for the reasons outlined in this Report.

1. The relocation of the artifacts would not be contrary to the purpose and intent of the Atherton General Plan.

#### **INTRODUCTION**

The subject site is approximately 37,500 square feet in area and is located at the corner of Laburnam Road and Magnolia Drive. The applicant is requesting a Major Alteration Permit to allow the relocation of two historical urns from the property located at 51 Laburnam Road to 224 Park Lane.

#### **ANALYSIS**

The City Council recently adopted Ordinance 567, establishing preservation of historical artifacts within the Town of Atherton. The Ordinance protects artifacts and structures (not buildings) that were associated with the early development of the Town of Atherton before 1930 or associated with the Flood Estate (Linden Towers) prior to 1937. The Ordinance establishes maintenance activities on historical artifacts as exempt from Town review and requires a Minor Alteration Permit for minor changes to the artifact or relocating within the same property. A Major Alteration Permit granted by the Planning Commission is required for; changes to the height or width of a structure; painting

unpainted surfaces; addition of new elements; relocation of a structure on the property and relocation of an object or structure to another property within the Town. Finally a Demolition Permit is required for the complete removal of an artifact from the Town.

The applicant is requesting a Major Alteration Permit to relocate two historical urns from 51 Laburnam Road to 224 Park Lane. The urns are believed to be from the original Flood Estate. Upon the subdivision of the estate in the early 1940s, many of the movable artifacts were sold at auction, with the remaining items distributed among the seventy-six new parcels. The property at 51 Laburnam contains two landscaped urns and one lamppost. The lamppost will remain at the 51 Laburnam property. The applicant indicates that they restored the urns in 2000 and located them in the backyard at that time for safety reasons.

As indicated above, the urns are currently situated on a base, located within the backyard, sitting on a small concrete pad within a landscaped garden area. With the relocation to the 224 Park Lane property, the urns will be similarly situated within a landscaped garden, placed on-top of the base on a small concrete pad within the rear portion of the side yard.

The Ordinance requires the Planning Commission to grant a Major Alteration permit if it finds the proposal consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the California Historical Building Code. Staff consulted with Laura Jones, Historical Consultant, on the finding of consistency. Ms. Jones indicated that the applicant's proposal to relocate the artifacts within the Town is consistent with the Standards and with the Town's Ordinance. As stated above, the new location and sitting is very similar to the current location and sitting and the urns will not be altered. If the urns were altered or affixed on a new structure, Staff would need to review further to ensure consistency with the Secretary of the Interior's Standards.

Staff recommends as a condition of approval that the Town's Historical Consultant complete an inventory of the urns (prior to relocation) for the Town's records to be retained with the 224 Park Lane building department address file. Staff also recommends the applicant be required to submit a photo of the installed condition for the address file. As noted above, the lamppost will remain at the 51 Laburnam Road site. As a part of this application, staff recommends a condition that the Town's Historical Consultant also complete an inventory of the lamppost for the Town's records with the 51 Laburnam address file.

Staff finds the request to relocate the urns to be consistent with the Ordinance as it ensures the preservation of the urns within the Town and consistent with the Secretary of the interior's Standards based on consultation with the Town's Historical Consultant.

### CONCLUSION

It is Planning Staff's professional opinion that the relocation of two historical urns within Atherton would not be contrary to the purpose and intent of the General Plan and is consistent with the intent of Ordinance 567, to preserve historical artifacts.

**ALTERNATIVES**

The Commission could approve relocation of the artifacts as recommended by staff, could deny the request or request modification of the proposal.

**FISCAL IMPACT**

The City Council waived the application fees for property owner requests under the historical artifact ordinance to encourage participation and preservation.

**ENVIRONMENTAL IMPACT**

The proposal has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15331 (historical resource preservation).

**FORMAL MOTION:**

I move that the Planning Commission find that the proposed relocation of two historical artifacts from 51 Laburnam Road to 224 Park Lane in Atherton would not be contrary to the purpose and intent of the General Plan, for the reasons outlined in the Staff Report, and that the Commission approve the relocation with the conditions stated in the Draft Major Alteration Permit.

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Lisa Costa Sanders, Deputy Town Planner

**Attachments:**

1. Draft Major Alteration Permit
2. Letter of Request from Lamb Partners LLC dated November 3, 2006
3. Site Plan
4. Photos
5. Ordinance 567; Preservation of Historical Artifacts

January 8, 2007

**Exhibit 3**

**Secretary of the Interior's Standards for the Treatment  
of Historic Properties**

**Introduction, p 1**

## Introduction

### Choosing an Appropriate Treatment for the Historic Building

The Standards are neither technical nor prescriptive, but are intended to promote responsible preservation practices that help protect our Nation's irreplaceable cultural resources. For example, they cannot, in and of themselves, be used to make essential decisions about which features of the historic building should be saved and which can be changed. But once a treatment is selected, the Standards provide philosophical consistency to the work.

Choosing the most appropriate treatment for a building requires careful decision-making about a building's historical significance, as well as taking into account a number of other considerations:

**Relative importance in history.** Is the building a nationally significant resource—a rare survivor or the work of a master architect or craftsman? Did an important event take place in it? National Historic Landmarks, designated for their "exceptional significance in American history," or many buildings individually listed in the National Register often warrant Preservation or Restoration. Buildings that contribute to the significance of a historic district but are not individually listed in the National Register more frequently undergo Rehabilitation for a compatible new use.

**Physical condition.** What is the existing condition—or degree of material integrity—of the building prior to work? Has the original form survived largely intact or has it been altered over time? Are the alterations an important part of the building's history?

Preservation may be appropriate if distinctive materials, features, and spaces are essentially intact and convey the building's historical significance. If the building requires more extensive repair and replacement, or if alterations or additions are necessary for a new use, then Rehabilitation is probably the most appropriate treatment. These key questions play major roles in determining what treatment is selected.

**Proposed use.** An essential, practical question to ask is: Will the building be used as it was historically or will it be given a new use? Many historic buildings can be adapted for new uses without seriously damaging their historic character; special-use properties such as grain silos, forts, ice houses, or windmills may be extremely difficult to adapt to new uses without major intervention and a resulting loss of historic character and even integrity.

**Mandated code requirements.** Regardless of the treatment, code requirements will need to be taken into consideration. But if hastily or poorly designed, a series of code-required actions may jeopardize a building's materials as well as its historic character. Thus, if a building needs to be seismically upgraded, modifications to the historic appearance should be minimal. Abatement of lead paint and asbestos within historic buildings requires particular care if important historic finishes are not to be adversely affected. Finally, alterations and new construction needed to meet accessibility requirements under the Americans with Disabilities Act of 1990 should be designed to minimize material loss and visual change to a historic building.

January 8, 2007

**Exhibit 4**

**California Historical Building Code**

**Part 8, p iv**

## Part 8 contains alternative regulations for qualified historical buildings.

The State Historical Building Code (SHBC) is unique among state regulations. The authoring of the original SHBC required state agencies promulgating regulations for building construction to work in harmony with representatives of other design and construction disciplines. The result was a totally new approach to building codes for historical structures, which maintains currently acceptable life-safety standards.

These regulations are also unique in that they are performance-oriented rather than prescriptive. The provisions of the SHBC are to be applied by the enforcing authority of every city, county, city and county, or state agency in permitting repairs, alterations and additions necessary for the preservation, rehabilitation, relocation, related construction, change of use or continued use of a qualified historical building.

The authority for use of the SHBC is vested in Sections 18950 through 18961 of the Health and Safety Code. Section 18954 states, "The building department of every city or county shall apply the provisions of alternative building standards and building regulations adopted by the SHBC Board pursuant to Section 18959.5 in permitting repairs, alterations and additions necessary for the preservation, restoration, rehabilitation, moving or continued use of an historical building or structure. A state agency shall apply the alternative building regulations adopted by the SHBC Board pursuant to Section 18959.5 in permitting repairs, alter-

ations, and additions necessary for the preservation, restoration, rehabilitation, moving, or continued use of an historical building or structure."

However, be aware that in order to use the SHBC, the structure under consideration must be qualified by being designated as an historical building or structure. Section 18955 states: "For the purposes of this part, a qualified historical building or structure is any structure or collection of structures, and their associated sites deemed of importance to the history, architecture, or culture of an area by an appropriate local or state governmental jurisdiction. This shall include structures on existing or future national, state or local historical registers or official inventories, such as the National Register of Historic Places, State Historical Landmarks, State Points of Historical Interest, and city or county registers or inventories of historical or architecturally significant sites, places, historic districts, or landmarks."

The regulations of the SHBC have the same authority as state law and are to be considered as such. Liability is the same as for prevailing law.

The intent of the SHBC is to save California's architectural heritage by recognizing the unique construction problems inherent in historical buildings and by providing a code to deal with these problems.

## Historical Preface

The background of the State Historical Building Code can be traced to December 1973, when the State Department of Parks and Recreation published the California History Plan, Volume I, in which Recommendation No. 11 was proposed by the then California Landmarks Advisory Committee (later to become The State Historical Resources Commission). This proposal expressed a need for a new building code to meet the intent of protecting the public health and safety but retaining "enough flexibility to allow restoration of a historic feature while still retaining its historic integrity." Finding No. 11 of this History Plan supported this need by stating that "... restoration ... is frequently made difficult by unnecessarily rigid interpretation of building ... codes."

In March of 1974, the Landmarks Committee by resolution recommended that the Director of the State Department of Parks and Recreation and the State Architect initiate a study to develop this needed code. These two officials accepted this concept and jointly called a statewide meeting in Sacramento on May 14th of that year. Attending were representatives from both the public and private sectors, such as members of the building industry, design professions, local and state building officials, and others interested in this problem.

Out of this open conference a steering committee was formed to explore in depth the ways and means of implementing the new historical building code concept. This ad hoc committee was chaired by a representative from the California Council, American Institute of Architects and composed of a comprehensive cross section of the professional organizations and government agencies concerned with design and code enforcement.

Meetings began late in 1974 and continued into early 1975. By April of that year, a legislative subcommittee of the ad hoc group drafted a sample bill for the proposed code and requested that it be

carried by Senator James R. Mills, President Pro Tempore of the Senate. After further development and refinement, the enacting legislation to create the authority for the code and an advisory board to prepare regulations to implement it (SB 927, Mills) was supported by both the legislature and the public. It was signed by the governor in September 1975, and became effective January 1, 1976.

The members of the advisory board, which were required by law to include local and state building officials, individuals from the building industry and design professions as well as representatives from city and county governments, were appointed and held their first session in Sacramento, February 24, 1976. This Board's duties included the preparation of code regulations and the review of specific historic building cases, when officially requested by governing bodies.

Several of the Board's members were a part of the original ad hoc steering committee and thus provided a continuity and smooth transition from the inception of the code's philosophy to its pragmatic implementation in these performance-oriented regulations.

The first comprehensive regulations were codified in August and October 1979, after years of careful deliberation. Those regulations allowed all jurisdictions to utilize them at their discretion in replacing or modifying details of prevailing prescriptive codes.

Changes made in law in 1984 and 1991, and to the code, make the application of the State Historical Building Code statutes and regulations applicable for all agencies and at the discretion of the owner for local jurisdictions when dealing with qualified historical buildings.

These current performance regulations were adopted by the Board on June 23, 1998, and approved by the California Building Standards Commission on September 26, 2001.

January 8, 2007

**Exhibit 5**

**California Historical Building Code**

**Section 8-218 - Q, p 4**

**SECTION 8-213 — L**

**LIFE-SAFETY EVALUATION.** An evaluation of the life-safety hazards of a building or structure based on procedures similar to those contained in *NFPA 909, Standard for the Protection of Cultural Resources, Appendix B, Fire Risk Assessment in Heritage Premises*.

**SECTION 8-214 — M**

No definitions.

**SECTION 8-215 — N**

No definitions.

**SECTION 8-216 — O**

**OBJECT.** Used to distinguish from buildings and structures those constructions or monuments that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment.

**SECTION 8-217 — P**

**PERIOD OF SIGNIFICANCE.** The length of time when a historic building, property or site was associated with important events, activities, or persons, or attained the characteristic which qualifies it for listing or registration.

**PRESERVATION.** The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property, building or structure. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-related work to make properties functional is appropriate within a preservation project.

**SECTION 8-218 — Q**

**QUALIFIED HISTORICAL BUILDING OR PROPERTY.** Any building, site, structure, object, district or collection of structures, and their associated sites, deemed of importance to the his-

tory, architecture or culture of an area by an appropriate local, state or federal governmental jurisdiction. This shall include designated buildings or properties on, or determined eligible for, official national, state or local historical registers or official inventories, such as the National Register of Historic Places, California Register of Historical Resources, State Historical Landmarks, State Points of Historical Interest, and officially adopted city or county registers, inventories, or surveys of historical or architecturally significant sites, places or landmarks.

**SECTION 8-219 — R**

**RECONSTRUCTION.** The act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure or object for the purpose of replicating its appearance at a specific period of time.

**REGULAR CODE.** The adopted regulations that govern the design and construction or alteration of nonhistorical buildings, structures and properties within the jurisdiction of the enforcing agency.

**REHABILITATION.** The act or process of making possible a compatible use for a property, building or structure through repair, alterations and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

**RELOCATION.** The act or process of moving any structure or a portion of a structure that may be moved to a new site, or a different location on the same site.

**REPAIR.** Renewal, reconstruction or renovation of any portion of an existing property, site or building for the purpose of its continued use.

**RESTORATION.** The act or process of accurately depicting the form, features and character of a property, building or structure as it appeared at a particular period of time by the means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

**SECTION 8-220 — S**

**STRUCTURE.** That which is built or constructed, an edifice or a building or any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

January 8, 2007

**Exhibit 6**

**Secretary of the Interior's Standards for the Treatment  
of Historic Properties**

**Historic Resource Types and Examples, p vi**

The Secretary of the Interior's Standards for the Treatment of Historic Properties may be applied to one historic resource type or a variety of historic resource types; for example, a project may include a complex of buildings such as a house, garage, and barn; the site, with a designed landscape, natural features, and archeological components; structures such as a system of roadways and paths or a bridge; and objects such as fountains and statuary.

#### Historic Resource Types & Examples

**Building:** houses, barns, stables, sheds, garages, court-houses, city halls, social halls, commercial buildings, libraries, factories, mills, train depots, hotels, theaters, stationary mobile homes, schools, stores, and churches.

**Site:** habitation sites, funerary sites, rock shelters, village sites, hunting and fishing sites, ceremonial sites, petroglyphs, rock carvings, ruins, gardens, grounds, battlefields, campsites, sites of treaty signings, trails, areas of land, shipwrecks, cemeteries, designed landscapes, and natural features, such as springs and rock formations, and land areas having cultural significance.



Zor Historic District, Ohio. Aerial view. Photo: National Park Service.



Elmendorf, Lexington, Kentucky. Photo: Charles A. Birnbaum.

**Structure:** bridges, tunnels, gold dredges, firetowers, canals, turbines, dams, power plants, corn-cribs, silos, roadways, shot towers, windmills, grain elevators, kilns, mounds, cairns, palisade fortifications, earthworks, railroad grades, systems of roadways and paths, boats and ships, railroad locomotives and cars, telescopes, carousels, bandstands, gazebos, and aircraft.

**Object:** sculpture, monuments, boundary markers, statuary, and fountains.

**District:** college campuses, central business districts, residential areas, commercial areas, large forts, industrial complexes, civic centers, rural villages, canal systems, collections of habitation and limited activity sites, irrigation systems, large farms, ranches, estates, or plantations, transportation networks, and large landscaped parks.

*(Sidebar adapted from National Register Property and Resource Types, p. 15, National Register Bulletin 16A, How to Complete the National Register Form, published by the National Register Branch, Interagency Resources Division, National Park Service, U.S. Department of the Interior, 1991.)*

**Exhibit 7**

**Secretary of the Interior's Standards for the Treatment  
of Historic Properties**

**Historical Overview, p 13**

### Building Site

The building site consists of a historic building or buildings, structures, and associated landscape features within a designed or legally defined parcel of land. A site may be significant in its own right, or because of its association with the historic building or buildings. The relationship between buildings and landscape features on a site should be an integral part of planning for every work project.

### Setting (District/Neighborhood)

The setting is the larger area or environment in which a historic property is located. It may be an urban, suburban, or rural neighborhood or a natural landscape in which buildings have been constructed. The relationship of buildings to each other, setbacks, fence patterns, views, driveways and walkways, and street trees together create the character of a district or neighborhood.



January 8, 2007

**Exhibit 8**

**California Historical Building Code**

**Section 8-1002, Site Relations, p 23**

## Chapter 8-10 HISTORIC DISTRICTS, SITES AND OPEN SPACES

### SECTION 8-1001 — PURPOSE, SCOPE AND APPLICABILITY

**8-1001.1 Purpose.** It is the purpose of this chapter to permit alternative regulations and criteria to govern the impact of development or redevelopment on sites, open space, accessway, artifacts and landscaped areas coinciding with the rehabilitation, preservation, restoration, relocation or reconstruction of designated qualified historical buildings or properties.

**8-1001.2 Scope.** The range of forms and physical features to which alternative design standards and regulations may be applied include, but are not limited to, natural open space, including earth, rock, water and vegetation; landscaping, gardens and plant materials; landscape features, including walls, fences, trellises, yard lights, pools, lawn and garden ornamentations and the like; patios, courts, malls, play areas, shelters and promenades; pedestrian and vehicular access, including paths, sidewalks, driveways, parking spaces, service delivery, trash and garbage disposal areas; grading, topography and erosion control; and public utilities.

**8-1001.3 Applicability.** Alternative regulations and criteria shall apply to all sites, open space, accessways, artifacts and land-

scape areas associated with qualified historic buildings or historic districts.

### SECTION 8-1002 — SITE RELATIONS

Insofar as regular regulations, standards and requirements may impact on sites, open space, accessway, artifacts and landscaped areas within historic districts or beyond the qualified historical property proper, those areas and physical features come within the purview of this code. A designated historic building or district may be considered to include the site, open space, accessway and landscaped areas beyond the immediate structure as these elements are an integral part of and significant to the historic structure or district. The relationship between a structure and its site is important and of special importance in historic districts. Districts consist of a series of buildings that form the urban character of the area and the ties to less-significant structures which support the district. Viewed as a whole, with the spaces between the structures (including streets, sidewalks, landscaping and street furniture) a total identity of place is created.

January 8, 2007

**Exhibit 9**

**Secretary of the Interior's Standards for the Treatment  
of Historic Properties**

**Building Site, p 51**

## Building Site

### *Recommended*

*Identifying, retaining, and preserving* buildings and their features as well as features of the site that are important in defining its overall historic character. Site features may include circulation systems such as walks, paths, roads, or parking; vegetation such as trees, shrubs, fields, or herbaceous plant material; landforms such as terracing, berms or grading; furnishings such as lights, fences, or benches; decorative elements such as sculpture, statuary or monuments; water features including fountains, streams, pools, or lakes; and subsurface archeological features which are important in defining the history of the site.

Retaining the historic relationship between buildings and the landscape.

*Stabilizing* deteriorated or damaged building and site features as a preliminary measure, when necessary, prior to undertaking appropriate preservation work.



### *Not Recommended*

Altering buildings and their features or site features which are important in defining the overall historic character of the property so that, as a result, the character is diminished.

Removing or relocating buildings or landscape features, thus destroying the historic relationship between buildings and the landscape.

Failing to stabilize a deteriorated or damaged building or site feature until additional work is undertaken, thus allowing further damage to occur to the building site.

*Drayton Hall, near Charleston, South Carolina, is an excellent example of an evolved 18th century plantation. Of particular note in this photograph are the landscape features added in the late 19th century—a reflecting pond and rose mound. With an overall Preservation treatment plan, these later features have been retained and protected. If a Restoration treatment had been selected, later features of the landscape as well as changes to the house would have been removed. Photo: Courtesy, National Trust for Historic Preservation.*

**Exhibit 10**

**Secretary of the Interior's Standards for the Treatment  
of Historic Properties**

**Setting (District/Neighborhood), p 54**

Setting (District/Neighborhood)

Recommended

Identifying retaining, and preserving building and landscape features which are important in defining the historic character of the setting. Such features can include roads and streets, furnishings such as lights or benches, vegetation, gardens and yards, adjacent open space such as fields, parks, commons or woodlands, and important views or visual relationships.

Retaining the historic relationship between buildings and landscape features of the setting. For example, preserving the relationship between a town common and its adjacent historic houses, municipal buildings, historic roads, and landscape features.

Stabilizing deteriorated or damaged building and landscape features of the setting as a preliminary measure, when necessary, prior to undertaking appropriate preservation work.

Protecting and maintaining historic building materials and plant features through appropriate cleaning, rust removal, limited paint removal, and reapplication of protective coating systems; and pruning and vegetation management.

Protecting building and landscape features against arson and vandalism before preservation work begins by erecting protective fencing and installing alarm systems that are keyed into local preservation agencies.

Evaluating the existing condition of the building and landscape features to determine whether more than protection and maintenance are required, that is, if repairs to features will be necessary.

Not Recommended

Altering those features of the setting which are important in defining the historic character.

Altering the relationship between the buildings and landscape features within the setting by widening existing streets, changing landscape materials, or constructing inappropriately located new streets or parking.

Removing or relocating historic buildings or landscape features, thus destroying their historic relationship within the setting.

Failing to stabilize a deteriorated or damaged building or landscape feature of the setting until additional work is undertaken, thus allowing further damage to the setting to occur.

Failing to provide adequate protection of materials on a cyclical basis which results in the deterioration of building and landscape features.

Permitting the building and setting to remain unprotected so that interior or exterior features are damaged.

Stripping or removing features from buildings or the setting such as wood siding, iron fencing, terra cotta balusters, or plant material.

Failing to undertake adequate measures to assure the protection of building and landscape features.

17

January 8, 2007

**Exhibit 11**

**Resident Letters and Email to the Planning Commission  
in Support of Denying the Permit to Remove Historical  
Artifacts from the Lindenwood Historic District**

Written and read by Marion Oster at the  
December 6, 2006 P. Commission  
meeting.

Not only is Lindenwood a community within the Town of Atherton but thanks to James Flood, it is also an Historic District with walls, gates, fountains, urns, statues and lamp posts. Some have been on their sites for 130 years while others for a shorter time. Most have had numerous owners who have maintained and restored them as stewards and caretakers for future generations. The LHA has been incorporated since 1949 and has restored and maintained the artifacts on Public Property. It has also worked with residents to restore their artifacts when requested.

In other parts of the world, countries are now working to get back their artifacts. The historic site and artifact is important to the heritage of the people they represent.

The Lambs who have lived on Laburnum for 6 years, want to move the urns out of Lindenwood. If that is allowed to happen, the urns lose their historic significance and just become lovely urns. What happens when the Lambs build their next home and move?

The present home site on Laburnum was previously owned by Mrs. Thompson who had the urns restored in 1994. I have dated pictures from the Heritage room. They were in the front yard and she would sit in her wheelchair in the window and look at them. They were there after her death and until the house was demolished and the urns were moved, stored and covered in the back yard. If there was extensive damage to the urns, it was during the move and storage. These artifacts are old and are often damaged when moved.

The Lambs have built and lived in a number of homes. Now they will be moving out of Lindenwood but, why should they take part of the history of Lindenwood. I have received many phone calls from residents and non residents of Lindenwood who cannot believe that someone would remove a part of history. Most of the residents of Lindenwood consider this a real community, not just a place to live and move on. It is a past estate with artifacts scattered around. It is not just one but rather a collection, unlike artifacts in other parts of Atherton. We want to keep the collection together.

The Artifact Preservation Ordinance is to do just that. I cannot vote for this removal. It would reduce the historic quality and make the urns just objects not a part of the history of Atherton and more specifically the Flood Estate - Lindenwood. Once an artifact is moved from its area, it is gone and seldom is replaced.

*Marcia E. Clute*  
*Planning Commission*  
*Dec. 6, 2006*

18-b

From: GinnyFred@aol.com [mailto:GinnyFred@aol.com]  
Sent: Saturday, December 02, 2006 7:09 PM  
To: Jim Robinson  
Subject: Artifacts in Lindenwood

Jim,

I am writing regarding the request to take an artifact out of the Lindenwood area — 2 urns to Park Lane. These artifacts have been part of the Lindenwood historical past and the Flood Estate. I do not think anything should leave our neighborhood but remain here as part of our history. I will try to go to Wednesday night's town meeting but if I am not able, I wanted to definitely voice my protest that nothing should of historical significance should leave Lindenwood. Please be sure that my view is considered at the meeting.

Sincerely,

Ginny Frederick.

(70Flood Circle)

18-C

**From:** MaryHPick@aol.com [mailto:MaryHPick@aol.com]  
**Sent:** Sunday, December 03, 2006 10:34 AM  
**To:** Jim Robinson  
**Subject:** Artifacts in Atherton

Dear Jim,

This is a letter in opposition to allowing the Flood Estate artifacts to be moved away from their historic places on Lindenwood property. We firmly believe that these artifacts should be kept permanently and safely in their historic places.

Our family has great appreciation and pride for the history, significance and location of these artifacts, especially because our daughter, Ann, who is now twenty-one and a senior at UC Berkeley, did a photo journal project on the artifacts when she was in sixth grade at Hillview Middle School. The urns, sculptures, fountain, wall remains and lamplights are all unique and each object helps to tell the story of the origins of the beautiful setting that has been our neighborhood and home for twenty-four years.

Please protect these artifacts from being moved away from their original Lindenwood setting.

Sincerely,  
Mary and Jeff Pickard and family  
80 Wisteria Way  
Atherton

18-d

-----Original Message-----

From: Barb Peyton [mailto:barb@peyton.org]

Sent: Tuesday, December 05, 2006 8:00 PM

To: Jim Robinson

Subject: Artifacts In Lindenwood

Dear Mr. Robinson and Planning Commission

My husband and I have been residents of Atherton and Lindenwood since 1981. In 1991 we chose to remain in Lindenwood and had the pleasure of moving to one of the early home in Lindenwood on Flood Circle. Lindenwood is a very special place to us and a unique area of Atherton. It is made up of wonderful people of all ages, beautiful trees and vegetation, lovely homes and many artifacts left from the old Flood Estate. James Flood when he built his 155 room mansion in the 1880's brought these artifacts to Lindenwood to adorn his property. This means that the remaining artifacts have been in Lindenwood more than 120 years.

It breaks our hearts to think that someone would want to move two of these artifacts to their new home in West Atherton. They belong here where they have always been. They need to be preserved! We worked hard to develop an ordinance to protect these artifacts and our Town Council wisely voted in favor of this ordinance (vote 5 - 0) in October of this year, and it went into effect as of November 17, 2006.

Please comply with the ordinance that Town Council passed and we, the residents of Lindenwood, strongly endorse. There is no basis for an exception. The artifacts are a very important heritage of Lindenwood and belong where they have been for the 100+ years.

Respectfully,

Mr. and Mrs. Ron Peyton  
82 Flood Circle

18-e

**From:** Douglas DeVivo [mailto:douglas.devivo@gmail.com]  
**Sent:** Tuesday, December 05, 2006 2:19 PM  
**To:** Jim Robinson  
**Subject:** Objection to moving Artifacts from Lindenwood

Dear Jim:

Neither my wife nor I, residents of 40 Laburnum Road in Lindenwood since 1989, can make the meeting on Wednesday Dec. 6. We urge you to reject the petition for the removal of artifacts from Lindenwood. Lindenwood has a wonderful history and the artifacts are an important part of this history. Stripping them out so they can decorate a property outside of Lindenwood would be a shame as it would also set a precedent that would be unfavorable to all residents of Atherton.

Sincerely,

Douglas and Irene DeVivo

40 Laburnum Road

Atherton, CA 94027

650-327-7051

18-f

-----Original Message-----

**From:** Frank Sebastian [mailto:fsebas@msn.com]

**Sent:** Friday, December 01, 2006 2:32 PM

**Subject:** Artifacts in Atherton

Dear Members of the Planning Commission

Thank you for your continuing good work in upholding the long standing high dwelling standards in our wonderful Town.

With regard to the request to remove two Um Lindenwood artifacts from 51 Laburnum we would request your support to not permit removal.

As anyone who has lived in Lindenwood is well aware, the Flood artifacts are as much a part of Lindendenwood ambiance as are the streets without sidewalks, the shrubbery up to the edge of the streets and the unique street name signs.

Sincerely,

Frank and Barbara Sebastian  
50 Lilac Drive since 1962

2/1/2006

18-9

**Jim Robinson**

**From:** Bob Huber [roberthuber@att.net]  
**Sent:** Friday, December 01, 2006 11:41 AM  
**To:** Jim Robinson

**Subject:** Artifacts in Atherton

There are a number of artifacts in Lindenwood that are priceless to the history of Lindenwood. The Lindenwood Homes Association has repaired and protected these artifacts over the years.

If the Town permits these artifacts to be removed off the property, it will result in many of these treasures being moved not only from Lindenwood, but from to other places in Atherton and perhaps to other cities.

Robert E. Huber

18-h

**Jim Robinson**

From: elcolby@aol.com  
Sent: Friday, December 01, 2006 1:01 PM  
To: Jim Robinson  
Subject: Lindenwood artifacts



Dear Mr Robinson,

I heard that there is a request by the Lamb family to remove some Lindenwood artifacts. I hope you will find a way to prevent this.

The Lindenwood area artifacts should be preserved. The historic character of the area is a very special part of it's charm and value. Without the artifacts Lindenwood would become just another housing development.

Communities need to respect and encourage their historic identity.

thank you for your help

regards, Betsy Colby  
45 Linden Ave, Atherton

Check out the new AOL. Most comprehensive set of free safety and security tools, free access to millions of high-quality videos from across the web, free AOL Mail and more.



18- in



From: George T. Shaheen [shaheeng@pacbell.net]  
Sent: Tuesday, December 05, 2006 8:27 PM  
To: jrobinson@ci.atherton.ca.us  
Subject: Atherton's Heritage Ordinance

Dear Mr. Robinson and Planning Commission,

My wife and I live at 86 Flood Circle in Lindenwood. We have lived in our home for over 20 years. Lindenwood is a special place in Atherton given its beautiful foliage and rural setting. We consider ourselves fortunate to have raised our family in this very special community. Of course the history and heritage of Lindenwood is well known by many and it's of particular pride for all the residents who build and maintain their homes and garden with loving pride.

I'm particularly concerned that there is a request to override the Atherton Heritage Ordinance in order to move two particular urns dating back to the Flood estate to another location outside of Lindenwood. I understand the Heritage Ordinance was passed unanimously to protect our historical artifacts and rightfully so. I applaud the Planning Commission and City Council for their wisdom in doing so. I urge your support and the support of the Planning Commission and City Council in denying this request. I must say, I find the request offensive as it goes against the direct intention, essence and spirit of the Heritage Ordinance. Please comply with the ordinance that Town Council passed and we, the residents of Lindenwood, strongly endorse. There is no basis for an exception. The wants of one particular family should not be allowed to damage the precious heritage of the entire Lindenwood community. Once this heritage is lost, it can never be recaptured. We should all support what's in the best interests of the community as a whole.

Your attention to this matter is appreciated.

With great sincerity,

George & Darlene Shaheen  
86 Flood Circle  
Atherton, CA 94027

18-1

-----Original Message-----

From: Gerda Ungerman [mailto:gerda@ungerman.com]

Sent: Saturday, December 02, 2006 10:03 AM

Subject: re: Lindenwood flood items

to Whom it may Concern In Atherton,

I am currently in Hawaii, but would love to give you comments regarding the Flood items.

Jerry and I live on Laburnum Road almost across from the urns ... We have lived there for over 30 years and remember Mrs. Thompson who built the original house on the said property. She gave respect to Flood by showing the large scale Urns of Mr. Flood in her front yard as well as the original street lamp, which embedded history in all that saw them.

She took great pride to have them on her property, as Mr. Flood would of intended in Lindenwood. It is my intent to speak on her behalf as she has been dead for years. Then the house was torn down and the urns were placed in the back yard...no longer enjoyed by the community. Nor seen .....

I feel that the Lindenwood community is a very strong and caring collection of people that show respect to the land and the history of Flood estate and our country.

We urge you to protect these wonderful examples of American history at its finest...leaving them on the ground where they would be enjoyed by all. Much better than a museum, much better than moving them with each owner to get lost and finally end up in auction. Please protect this for ever.

Kind regards,

Jerry and Gerda Ungerman

18-k

From: Maxine Bonnette [mailto:mommymax@sbcglobal.net]  
Sent: Sunday, December 03, 2006 8:59 AM  
To: Jim Robinson  
Subject: Town Council Meeting this Wednesday

Dear Jim,

I have never written to my councilmen or legislators before; however I find it necessary to do so in this case.

It has come to my attention that my neighbors, the Lambs on Laburnum are trying to remove some Flood Estate artifacts on their Laburnum property and move them to their new property on Park lane. I find this totally unacceptable and setting a very bad precedent. Our properties in Lindenwood were established long before we bought them with artifacts that provide history of this area. By removing the artifacts, the Lamb family has basically stripped the property and Lindenwood community of a part of its history. Everyone must make choices, if the Lambs choose to "move out" of Lindenwood then they also need to accept the choice of leaving the Flood Estate artifacts intact in Lindenwood. I urge you to vote against the exemption and not allow them to change history at their whim.

Thank you,  
Maxine and Dave Bonnette  
26 Magnolia Drive, Atherton

18-2

**The Lindenwood Homes Association  
Board of Directors**

July 6, 2006

To: Members of the Town Council, Planning Commission, General Plan Committee:

The Board of Directors of LHA supports the proposed Historic Artifact Ordinance.

Atherton is fortunate to have artifacts which still remain from the first founders and early settlers. In Lindenwood alone, many of the artifacts have been on the estate originally known as the "Linden Towers" property for more than 130 years.

Property owners beginning with James C. Flood (circa 1870's) to the present have served as caretakers and stewards of our precious antiquities. Lindenwood Homes Association has taken an active leadership role in helping to preserve our artifacts. For more than 61 years, LHA has restored and maintained the artifacts on public property within Lindenwood.

Part of our Atherton and Lindenwood history and culture revolves around the artifacts which have been:

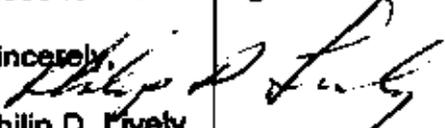
- cared for and repaired by generations of residents;
- visible on our streets, an active reminder of our unique cultural heritage;
- featured in real estate promotional material;
- enjoyed, appreciated and researched by residents and non-residents alike as they travel through Lindenwood.

The history and stories about the founding of our community are very important to our residents. In many areas of the world cultural objects have been removed from their original sites, thereby compromising the beauty, and value of the artifact. This is now widely understood to be regrettable and many leaders are asking the international community to return artifacts to their original homes. Atherton should stand with the world community to stop the unnecessary destruction of those reminders of our cultural heritage.

Accordingly, we believe that the historical artifacts of Lindenwood should remain in Lindenwood, just as the historical artifacts of other Atherton neighborhoods should stay in those neighborhoods.

We ask that Atherton stand with other forward-thinking communities and help to protect those few remaining items so that they may be enjoyed by future generations.

Sincerely,

  
Philip D. Evely  
President, Lindenwood Homes Association

18.000

**Jim Robinson**

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**From:** Carol Smith [Carol@oakgrove.com]  
**Sent:** Friday, December 01, 2006 11:31 AM  
**To:** Jim Robinson

**Subject:** Keep Artifacts in Lindenwood Atherton

Dear Jim,

I support Atherton's historical Artifact ordinance and believe that the value of our artifacts lies with their being located in their original placements.

Please do not grant any exemptions to residents who may seek to relocate our precious Lindenwood artifacts. Artifacts which are removed run a high risk of being destroyed or damaged in the moving process, or just being misplaced and forgotten over time.

Thanks for your support on this matter,

Carol & Bruce Smith  
322-1070

18-11

**From:** nitin [nitin@mehta.net]  
**Sent:** Tuesday, September 19, 2006 10:41 AM  
**To:** jrobinson@ci.atherton.ca.us  
**Cc:** meena@mehta.net  
**Subject:** Artifact Ordinance

Dear Jim,

I wanted to express our support for Artifact Ordinance whereby the artifacts from Lindenwood remain where they were originally established and thus remain in Lindenwood. We have been in Lindenwood for the last 14 years and have come to appreciate even more its charm and its historical legacy.  
Thanks.

Nitin T. Mehta  
58 Greenoaks Drive  
Atherton, CA 94027  
650-322-6345  
nitin@mehta.net

18-0



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
JAMES H. ROBINSON, CITY MANAGER**

**FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER**

**DATE: FOR THE CITY COUNCIL MEETING OF JANUARY 17, 2007**

**SUBJECT: APPEAL – 172 AUSTIN AVENUE (APN 059-293-060)**

### **RECOMMENDATION**

Staff recommends that the City Council conduct the public hearing, deny the appeal and uphold the decision of the Building Official for the reasons outlined in this Report.

### **INTRODUCTION**

The property owners of 172 Austin Avenue, Mr. and Mrs. Epstein, have filed an appeal of the decision of the Building Official regarding plans for a new residence at 172 Austin Avenue.

The appellants indicate that they met with former Building Official Mike Hood and their architect on several occasions. The appellants state that Mr. Hood informed them that the Town prefers reconstruction rather than have old, out-of-code walls left standing and reattached to new walls provided that the rebuilt house stayed within the envelope of the existing nonconforming portion of the house; total window area in the setback area also needed to be the same or less. Based on this information, the appellants instructed their architect to proceed with detail plans and engineering for the house.

The Epsteins submitted plans to the Building Department for the new residence. The proposed plans placed a new residence on the lot with the existing nonconforming side-yard setbacks. They were informed by Acting Building Official Michael Cully that the proposed plans are in violation with the Town's setback requirements.

On November 28, 2006, Mr. and Mrs. Epstein and their architect met with City Manager Jim Robinson, City Attorney Marc Hynes, and Deputy Town Planner Lisa Costa Sanders.

Staff concurred with the current Interim Building Official's interpretation and stated that the nonconforming structure cannot be rebuilt with nonconforming setbacks and provided the Epsteins with options to retain the nonconforming walls and construct an addition within the current setbacks or construct a new residence within the current setbacks. Staff also informed the Epsteins of their appeal rights.

### **ANALYSIS**

Atherton Municipal Code 17.44 regulates nonconforming uses and structures. Section 17.44.050 states, "no nonconforming structure shall be moved, altered, enlarged or reconstructed so as to increase the discrepancy between the existing conditions and the standards of lot coverage, front yard, side yard, rear yard, parking, height of structures or distances between structures prescribed in the regulations for the district in which the structure is located. This section is prohibitory only, and shall not be interpreted as authorizing any actions not specifically mentioned herein."

The code allows reconstruction of nonconforming structures which are damaged or destroyed by fire, explosion, earthquake or other accidental occurrence (section 17.50.050(B)).

The code allows minor repairs and maintenance and allows major repairs and alterations which will not increase the degree of nonconformity, provided that if they involve changes to external openings, a conditional use permit is required (section 17.44.050(D)(1) and (3))

The code does not allow voluntary demolition and reconstruction of nonconforming structures. Ordinary maintenance and minor repairs are permitted. As stated above, the code requires a conditional use permit for changes to external openings.

The subject site at 172 Austin Avenue is located within the R1-A zoning district and is approximately 37,875 square feet in area. The site is approximately 125' wide by 309' deep. The existing home is single story with 24' setback on the west side yard and 15' on the east side yard. The current setback requirement for the lot is 35' side-yard setbacks and 60' front and rear-yard setbacks. The applicant proposes to completely demolish the existing residence and construct a new residence with the current nonconforming side-yard setbacks of 24' on the west side and 15' on the east side. The new building is proposed to encompass the same building envelope within the nonconforming setback area as the existing residence. The residence is currently considered to be legally non-conforming as it encroaches into the current side yard setback requirement (legally constructed in accordance with the regulations in effect at that time, however, no longer in compliance due to changing regulations).

General Plan Policy 1.335(F) indicates that "proposals to replace existing homes shall be designed in accordance with the density, floor area ratio, height, bulk and other standards established by the Town." It is the Town's objective for conformity with current regulations rather than retaining long-term nonconforming situations.

The applicants have the option to retain the legally nonconforming portion of the structure and construct an addition within the current setback requirements. Once the nonconforming portion of the structure is removed, any new construction must meet current setback requirements. The applicant also has the option to remove the nonconforming structure entirely and construct a new residence within the current setback requirements.

**CONCLUSION**

It is Staff’s professional opinion that the request to utilize nonconforming setbacks for the construction of a new residence is not consistent with the Atherton Municipal Code and the Atherton General Plan.

**ALTERNATIVES**

The Council could deny the appeal and uphold the decision of the Building Official. If the Council determines the code interpretation of the Building Official is incorrect and that the applicant has the ability to demolish a nonconforming structure and build a new residence with the previous nonconforming setbacks, the Council should approve the appeal.

**FISCAL IMPACT**

The cost of the appeal process is paid for by the appellants.

**ENVIRONMENTAL IMPACT**

The proposal has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15303, Class 3(a) (construction of a new single family residence).

Prepared by:

Approved by:

---

Lisa Costa Sanders  
Deputy Town Planner

---

James H. Robinson  
City Manager

Attachments:

Letter of Appeal from Suzanne and Allan Epstein, dated December 14, 2006  
Letter from Michael Cully, Acting Building Official dated December 4, 2006  
Atherton Municipal Code section 17.44

RECEIVED Suzanne and Allan Epstein  
TOWN OF ATHERTON 828 Ravensbury Avenue  
Los Altos Hills, CA 94024  
DEC 14 P 4: 4: December 14, 2006

Atherton Town Council  
91 Ashfield Road  
Atherton, California 94027

RE: Appeal of Building Department's Ruling on House Construction at 172 Austin Avenue. Letter dated December 4, 2007, mailed December 7, 2006, and received on December 9, 2006.

Dear Council Members,

We purchased our 80 year old home at 172 Austin Avenue, Atherton, in 2002. We met with Mr. Michael Hood, Building and Zoning Official, to discuss the issues associated with remodeling/building on our narrow lot. We found Mr. Hood extremely helpful in the process and he provided specific guidance and recommendations as to what could and could not be done on the site, since our existing home is a legal non-conforming structure that partially sits in the current setbacks. Mr. Hood explained that the Building Department preferred to work with home owners to arrive at an approved layout prior to submitting a full drawing package to the Town, thereby preventing surprises, disappointment, delays, and unnecessary additional cost. We met with him several times over the past two years.

On May 19, 2006, we and our architect, Mr. Gary Kohlsaat, had our fourth meeting with Mr. Hood and reviewed in detail the final layout for the house which incorporated his prior guidance. The plan involved the demolition and reconstruction of some parts of the house that reside in the setback. Mr. Hood stated that it was the policy of the Town to prefer such reconstruction rather than have old, out of code, walls left standing and reattached to new walls, provided that the rebuilt house stayed within the envelope of the existing non-conforming portion of the house. Total window area in the setback area also needed to be the same or less. We specifically discussed and complimented this Town policy as it was in the best interest of both the Town and home owner. Based on his verbal approval, we instructed our architect to develop the detail plans and engineering for the house. On September 13, 2006, we submitted a complete set of plans and paid \$32,651.98 to the Town.

At the end of October, we called to find out the status and were told the plan review hadn't even started, but would begin shortly. In the middle of November, we stopped by the Building Department and were told it was being reviewed. A few days later, Mr. Cully, the Acting Building Official, called to inform us that the plans we submitted were in violation of the Town's building provisions. Needless to say, we were shocked. Based on Mr. Hood's advice, we had spent considerable time working with him so as to ensure

just such an event would not happen. After receiving Mr. Cully's call, I spoke with Mr. James Robinson, Town Manager and he arranged a meeting with himself, Mr. Mark Hynes, Town Attorney, Ms. Lisa Costa Sanders, Town Planning, our architect and ourselves. At their suggestion we are making this appeal.

Designing a home is a long and emotional process that involves considerable time. As you can imagine we have spent a substantial amount of money developing the plans for the project and in anticipation of construction have moved out of the house and have temporarily relocated to Los Altos Hills. We followed all instructions provided to us by the prior Town Official. The decision expressed by the Acting Building Official is poor policy and it ignores that our layout was already approved and was designed to specifically adhere to the guidelines provided to us by the Town's Building Official. This decision will result in considerable delay, hardship, and substantial additional cost to us as a direct result of this change in the Town's Building Official's approval. It will also result in an inferior house of partial old and partial new construction for the Town of Atherton. We look forward to discussing this matter with you at the January Council Meeting.

Sincerely,

A handwritten signature in cursive script, appearing to read "Suzanne Epstein", followed by a long horizontal line extending to the right.

Suzanne and Allan Epstein

CC. Mr. James Robinson  
Mr. Gary Kohlsaat



## Town of Atherton

Building Department

91 Ashfield Road  
Atherton, California 94027  
Phone: (650) 752-0523  
Fax: (650) 614-1212

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December 4, 2006

Mr. Allan Epstein  
Ms. Suzanne Epstein  
23828 Ravensbury Ave.  
Los Altos Hills, Ca. 94024

RE: 172 Austin

Mr. and Mrs. Epstein,

Construction drawings were submitted to the Town for a project you are proposing at 172 Austin, here in Atherton. At the time plans were submitted you indicated in your application that you would be demolishing an existing structure to re-build a new home in its place.

Mr. Tim Wulff, plans examiner, brought to my attention that the proposed home was being constructed in violation of the Town's Building Setback requirements. I performed a cursory review of the site plan that shows the location of the existing structure. This existing structure is shown as encroaching into the Building Setback lines. The current structure is what we refer to as a "legal non-conforming" structure, in that the structure was legally constructed in accordance with regulations in effect at that time of construction, however is no longer in compliance due to changing regulations. Its continued use is allowed to be maintained as long as there were no actions which would increase the non-conforming status. In addition, to make any alterations to the exterior of this structure you would be required to obtain a Use Permit, in addition to a Building Permit. Your current proposal is to remove this "legal non-conforming" structure in its entirety, and then to construct a new dwelling. This proposed structure would not have the right to maintain that same non-conforming status.

As I understand, you were under the impression that due to the previous *legal non-conforming* status of the existing house you would be allowed to construct a new building that too was non-conforming; or one that would be allowed to be constructed in violation of current requirements. Please be advised that any new structure to be constructed is required to be in the strictest conformance with the adopted codes and regulations of the Town.

As we discussed on the phone, all new construction shall comply with the current setback requirements. The areas of the existing structure, that encroach into the setbacks, could be allowed to remain -- if left intact. Meaning that the sections of the existing foundation, wall framing and exterior finish, where they encroach into the setbacks, remain, you could incorporate them into the new construction. However, the removal of any of those three components, even on a temporary basis, would negate their status of legal non-conforming and no new and/or replacement construction would be allowed to encroach across the setbacks.

I was informed by Lisa Costa Sanders that you had met with her as well as Marc Hynes, City Attorney. The above issues were discussed in detail. It was also discussed the proposed new attached garage would not be allowed to encroach into the required setbacks. The existing detached garage could remain, and as indicated on the plans be attached by a covered walkway. There are specific requirements for this walkway.

If you wish to modify your plan submittal to indicate that these specific existing walls will remain, you may do so - but be advised that the requirements would be that the existing foundation as well as the wall, including any windows and siding would be required to remain as they are, unaltered. In accordance with provisions of the Zoning Regulations any changes to these elements, such as any change or alteration of the exterior finish or window replacement requires that you apply for a Use Permit, and obtain Planning Commission approval. This is formal action could be further explained by Ms. Sanders, Town Planner.

If you wish to meet to discuss this issue further I am typically in the office Monday, Wednesday and Fridays. Please call to ensure my availability. Otherwise I anticipate your submittal of revised plans. Once received I make every attempt to have your plans reviewed in an expeditious manner.

If you have any further questions or concerns I may be reached at 650-752-0560

Respectfully,

*Michael Cully*

Michael Cully  
Acting Building Official

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## Chapter 17.44 NONCONFORMING USES

### Sections:

**17.44.010 Discontinuance of nonconforming use.**

**17.44.020 Preexisting nonconforming land use.**

**17.44.030 Expansion or alteration.**

**17.44.040 Cessation of lawful nonconforming use.**

**17.44.050 Nonconforming structures.**

### **17.44.010 Discontinuance of nonconforming use.**

The use of any land, structure or building which does not conform to the regulation specified for the district in which such use, structure or building is located shall be discontinued within six months of the adoption of the ordinance codified in this title, except as provided in this chapter. (Ord. 407 § 11-1(A), 1985)

### **17.44.020 Preexisting nonconforming land use.**

The lawful use of land, structures or buildings existing at the time of adoption of the ordinance codified in this title may be continued, although such use becomes nonconforming by adoption of the ordinance codified in this title. (Ord. 407 § 11-1 (B), 1985)

### **17.44.030 Expansion or alteration.**

A. Lawful nonconforming uses shall not be:

1. Enlarged or increased;
2. Changed to any other nonconforming use;
3. Extended to occupy greater land area;
4. Moved to another portion of the lot.

B. A building or structure housing a lawful nonconforming use shall not be enlarged, reconstructed or structurally altered. (Ord. 407 § 11-1(C), 1985)

### **17.44.040 Cessation of lawful nonconforming use.**

If any lawful nonconforming use ceases for any reason for a period of more than thirty days, any subsequent use of such land shall conform with the regulations of this title. (Ord. 407 § 11-1(D), 1985)

### **17.44.050 Nonconforming structures.**

A. No nonconforming structure shall be moved, altered, enlarged or reconstructed so as to increase the discrepancy between the existing conditions and the standards of lot coverage, front yard, side yard, rear yard, parking, height of structures or distances between structures prescribed in the regulations for the district in which the structure is located. This section is prohibitory only, and shall not be interpreted as authorizing any actions not specifically mentioned herein.

B. Any nonconforming primary dwelling structure which was conforming at the time of its construction, and which is damaged or destroyed by fire, explosion, earthquake, or other accidental occurrence, may be restored within the building envelope which existed immediately prior to the accidental occurrence; provided, that all such

reconstruction must meet current building codes. The burden of proving the extent of the building envelope existing immediately prior to the accidental occurrence shall be upon the party seeking to reconstruct the structure.

C. No nonconforming accessory structure which is damaged or destroyed by fire, explosion, earthquake, or other accidental occurrence, or which is voluntarily removed, may be reconstructed except in conformity with all current zoning and building regulations.

D. The following rules shall apply to all nonconforming structures:

1. Ordinary maintenance and minor repairs are permitted;
2. Alterations, structural or not, which will increase the degree of nonconformity are prohibited;
3. Major repairs and alterations which will not increase the degree of nonconformity are permitted; provided, that if they involve changes to external openings of the building, a conditional use permit therefor shall first have been obtained pursuant to the provisions of Chapter 17.52.

E. Additions to main buildings in the R1-B zoning district shall not be deemed as increasing the degree of nonconformity if meeting all of the following:

1. Shall not increase the degree of nonconformity of the existing side yard setback and any proposed new construction shall not be less than ten feet from the property line;
2. Shall not encroach into current front and rear setbacks;
3. Shall be limited to a single story with vertical sidewalls not exceeding twelve feet;
4. Shall have a roof height not exceeding eighteen feet. (Ord. 456 § 7, 1990; Ord. 420 § 1, 1986)

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## Town of Atherton

### CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL  
JAMES H. ROBINSON, CITY MANAGER**

**FROM: WENDÉ C. PROTZMAN, ASSISTANT TO THE CITY MANAGER**

**DATE: FOR THE MEETING OF JANUARY 17, 2007**

**SUBJECT: AUTHORIZATION TO ENTER INTO NEGOTIATIONS WITH CRW  
SYSTEMS FOR DEVELOPMENT OF A PURCHASE AGREEMENT FOR  
SUBSEQUENT CONSIDERATION AND APPROVAL BY THE COUNCIL**

### RECOMMENDATION

Staff recommends that the City Council authorize staff to enter into negotiations with CRW Systems and develop a purchase agreement for further consideration.

### BACKGROUND

In August and September of 2006, the Assistant to the City Manager and several staff members from the Building Department attended various demonstrations of permit tracking software in Redwood City, Belmont, Woodside, San Mateo, Hillsborough, and San Bruno. The presentations in Woodside and Hillsborough were provided by vendors; the reviews in the other cities consisted of permit tracking systems used on a daily basis by each of the respective Building Departments.

While reviewing permit tracking software, staff determined three primary requirements that the system and the vendor should provide.

1. The system would meet the immediate needs specified through the Building Department audits and the former acting Building Administrator's recommendations and would also have the capability to expand and grow services.
2. The system would be user friendly and easy to learn for present and future staff.
3. The vendor would be customer-service focused with a reputation for quick, responsive, solution-orientated service.

Other considerations staff looked at were the length of time the product had been in use, the vendor's track record, and cost, including fees for maintenance and updates.

Along with these demonstrations, staff spoke with colleagues in other agencies regarding the pros and cons of their software systems as well as previous systems with which they had experience. Throughout the review process one vendor consistently rose to the top of the list as the provider of the preferred permit tracking system.

## **ANALYSIS**

The system that was repeatedly reported as fitting the needs, budget, and service requirements of cities close to Atherton in size and character was CRW systems. Staff attended a vendor demonstration of the system in one city and visited three other cities that had used the system for varying periods of time. San Bruno was one of the initial agencies to purchase the system and has served as a test site for new development for over a decade.

Upon review of this system and two other comparative systems being used in the Bay Area (see attachment A), staff concluded that CRW most closely meets the requirements established at the start of this process, as well as the lesser, yet still valued considerations.

After questioning twenty cities that use CRW, the most common comments about the system and the vendor was how user friendly the system is, how good customer service support is, how easy it is to learn the system, that the vendor listens to the clients and produces free upgrades out of these discussions, how the product has successfully met their need, and how happy their staff is with the overall system. CRW also provides 288 reports within the system at no extra cost.

Cities belonging to the Association of Bay Area Governments that are using CRW include American Canyon, Antioch, Belmont, Burlingame, El Cerrito, Millbrae, Milpitas, Napa, Piedmont, Pinole, Redwood City, St. Helena, San Bruno, San Pablo, San Rafael, South San Francisco, Vallejo, and Windsor. The Town of Hillsborough recently purchased the system and the Town of Woodside is presently negotiating with CRW. Because there are so many cities with the system located on the Peninsula now, building departments are developing a users' consortium for exchanging expertise, trainings, and ideas on using CRW to its full potential.

Some of the limitations we found with other systems include:

- Inability to pull all processes and services together through the system
- Lack of response or slow response from vendor
- Limited growth potential, extra expense for all upgrades
- Lengthy and difficult training
- New users found the system hard to learn

## **FISCAL IMPACT**

Because negotiations have not begun with the vendor the cost can only be estimated. Recent quotes provided to other purchasers ranged between \$150,000 to \$240,000, depending on what was purchased. Price will be determined by how many of the modules the Town purchases, how many hours of training is required, whether any customization is requested, how many licenses are purchased, and to what extent the Town requests services, such as data conversion.

Staff anticipates purchasing the ProjectTRAK, PermitTRAK, LandTRAK, and CRM TRAK modules, as well as ten user licenses at an estimated cost of \$175,000. Funding for the system will be coming from the reserve for future building inspection fund. Funding for additional modules will be requested based upon the progress of implementation and the department's business requirements in FY 2007-08

**CONCLUSION**

In order to move forward with Council's request to purchase a permit tracking software system, Council should instruct staff to enter into negotiations with CRW Systems and develop a purchase agreement.

Prepared by:

Approved by:

\_\_\_\_\_  
Wendé C. Protzman  
Assistant to the City Manager

\_\_\_\_\_  
James H. Robinson  
City Manager

Attachment: A. Permit Tracking Software feedback matrix  
B. Description of modules offered by CRW Systems

## USER COMPARISON OF PERMIT TRACKING SOFTWARE SYSTEMS

	<b>CRW</b>	<b>City View</b>	<b>Accela</b>
<b>Overall Features</b>	5	5	5
<b>Ability to Grow/Expand</b>	4	3	2
<b>Training</b>	5	3	1
<b>User Friendly</b>	5	2	2
<b>Customer Service Support</b>	5+	2	2
<b>Cost</b>	Front end is a bit more but in the long run much cheaper than Accela and City View	This is one of the more expensive products	Up front cost are low but the monthly cost are more than CRW and any changes are very expensive
<b>TOTAL</b>	24	15	12

Each user was asked to rate these various attributes of the system on a scale of 1 – 5, 5 being the most satisfied.

## **MODULES AVAILABLE THROUGH CRW SYSTEMS**

### **1. ProjectTRAK - MANAGEMENT OF PLANNING APPLICATIONS & RELATED DEVELOPMENT ACTIVITIES**

ProjectTRAK manages the workflow for all types of projects throughout the project lifecycle, starting with the application through the review and approval process. All actions taken and conditions of approval can be recorded and tracked. By providing attachment capability, plans can be scanned and linked as part of the project's record history. Additional interfaces provide linking to word processing applications, spreadsheets, and GIS database maps. From ProjectTRAK, an Agency can create and track associated projects, permits, and cases.

ProjectTRAK includes a time clock function that automatically schedules critical points along the project's evolution. User-definable screens also allow administrators to easily create additional screen templates to track and record information unique to their agency. This data can be merged into reports, forms, and other documents.

#### **Key Features:**

- Chronology with time clock capabilities
- Professionally designed reports custom to your needs
- Links related permits and projects
- Electronically routes project information for department review
- Keeps a record of project status
- Contact management
- Assesses and tracks fees
- Related record linking
- Event scheduler
- Schedule inspections
- Schedule multiple reviews at once
- Insert standard review comments
- Print or email current review status
- Document and image attachment
- Custom data screens for each record type

## **2. PermitTRAK - PERMIT MANAGEMENT & INSPECTION COORDINATION**

PermitTRAK is the most widely used application providing a streamlined approach to the permitting process, by tracking workflow for all types of permits from application through finalization. Everything the user needs is right in front of them for easy access. Contact information, related permits, scheduling, financials, and links to further details are all visible from the main screen.

By incorporating input from professionals in a variety of Community Development departments, our software continues to provide a streamlined approach to the permitting process. Have the ability to create documents with information populated within to match what your agency wants on a form or permit.

### ***Inspections***

The inspection functions within TRAKiT allow users to quickly schedule inspections, enter inspection results, and manage inspector work schedules.

### **Key Features:**

- Links permits to address records, projects and other permits
- Creates single or multiple permits quickly
- Drop-down menus for quick data entry and increased accuracy
- Department specific numbering control
- Department customized types and subtypes
- User-definable search/scan formats including multi-field filters
- Create plan reviews
- Perform job valuations
- Instantly view reports with the information the user requests
- Related record linking
- Fee assessment/payment of permits
- Pay multiple permits at once
- Contact management
- Inspector calendar coordination
- Batch inspection scheduling
- Remotely input/query data with the use of either PDA or laptop computers
- Document and image attachment
- Automatic assessment of re-inspection fees
- Contractor license verification
- Sequencing of inspections to ensure proper progression
- Automated inspection report creation
- Create inspections for a business
- Inspection scheduling can be automated with dates based on the event requested

### **3. CodeTRAK - MANAGEMENT FOR CODE ENFORCEMENT & COMPLIANCE ACTIVITIES**

CodeTRAK provides incident and activity management while tracking the workflow for all types of code enforcement activities, from the time a complaint is received through compliance. When a complaint is entered in CodeTRAK on a property, CodeTRAK has the capability to lock down the parcel record and place a flag on all system records linked to that property. Besides being linked to a parcel in LandTRAK, case records may also be linked together or to a project record in ProjectTRAK.

User-definable screens also allow administrators to easily create additional screen templates to track and record information unique to their agency. This data can be merged into reports, forms, and other documents. With CodeTRAK the user can maintain all contact information for a specific issue as well as attach important images and documents.

#### **Key Features:**

- Records, stores, and retrieves investigative and follow-up information
- Links multiple cases together
- Allows user to enter multiple violations on a single case
- Coordinates and tracks inspection process
- Allows user to attach photos and documents
- Generates violation notices, petitions, and correspondence
- Allows user to send email or text messages directly to related contacts
- Multiple violation tracking
- Chronology allows Officers to view dates associated with a case
- Inspections are easily assigned from the code case
- Report writing
- Contact management
- Record locking
- Predefined code violation descriptions can be stored on the system
- Print violation reports easily to show current status
- Create custom data screens for each record type

#### **4. AEC TRAK - ARCHITECTS, ENGINEERS, & CONTRACTOR DATABASE**

AEC TRAK provides instant access to all information associated with architects, engineers, and contractors; including license, primary contact, and insurance information. The Agency can utilize this information throughout TRAKiT when applying a contractor to a permit, or an architect to a plan review. TRAKiT instantly cross-references AEC TRAK to ensure that license and insurance information is up to date by warning the user of any expired information associated with the professional.

##### **Key Features:**

- Update information on a contractor
- Discover expired licenses quickly
- Determine architect/engineer eligibility
- Easily add all contractor information to a permit with a single click
- View all plans associated with an architect

## **5. LandTRAK - PROPERTY DATA MANAGEMENT**

TRAKiT has its own comprehensive property record application from which one can look up current parcel activity and information. LandTRAK is at the heart of our system providing comprehensive land data obtained from the Assessor's office to ensure accuracy. Users can conduct a preliminary screening of a property and then create a project, permit, or code complaint case directly through LandTRAK.

Combined with Geographic Information Systems (GIS), users receive the power of database technology with digital maps and aerial photos to provide a graphical view of land records. Performing radius notifications also allows users to easily generate notification letters to owners identified by a radius search and merge the LandTRAK data into an existing Microsoft® Word document. Easily print labels, notices, and reports with just the click of a button.

### **Key Features:**

- Site display using GIS mapping
- Land use information
- Building data
- Development restrictions
- Radius notification tool
- Query capability integrated with all TRAKiT databases
- View all related records associated with the parcel
- Radius notification
- Parcel activity
- Multiple address capabilities
- Sitemap controls
- Record locking
- Connects all modules together
- Create temporary parcel numbers

### **GIS can illustrate:**

- Parcel mapping
- Street mapping
- Zoning boundaries
- Aerial photos
- Permit and inspection locations
- Code enforcement activity

## **6. LicenseTRAK - MANAGEMENT OF BUSINESS & OCCUPATIONAL LICENSING**

LicenseTrak is designed to issue and track a variety of business and occupational licenses. There are several fields that are custom tailored according to the agency's needs, including business types, classification codes, ownership types, and several more. At a glance, the viewer can quickly review all information pertinent to a specific business record.

### *Contact Information*

LicenseTrak will catalog owner details as well as other contacts related to the business.

### *Insurance Information*

Allows the agency to track workers compensation and liability insurance policy information.

### *Renewal Fees*

Allows the user to assess and collect fees associated with each license, as well as view penalty fees.

### **Key Features:**

- Owner and representative information
- Custom data screens
- Pick lists, dates, calculated fields and memos
- Chronology of activity
- View related departmental reviews
- Batch payment processing
- Insurance information maintenance
- Conditions of issuance
- Inspection tracking
- Fees are unique to each License
- Perform license reviews
- Activity management
- Parcel linking
- Activity management
- Attach documents and images associated with the business license
- Create inspections for a business
- Have multiple licenses associated with one business

## **7. CRM TRAK - CITIZEN RESPONSE MANAGEMENT**

CRM TRAK provides the tools to quickly capture and manage citizen issues as they are received. It helps to effectively monitor opened or closed issues, citizens & locations with recurring issues, and much more. CRM TRAK also enables agencies to rapidly capture issues raised by their citizens, process the issue, respond to the citizen, and provide management oversight to ensure that the problem is resolved.

Workflow activity tracking is designed with built-in processing and workflow features to help users resolve various issues presented by their citizens. Users can customize these features to work with the agencies' pre-existing processes.

### **Key Features:**

- Links related issues
- Maintains complaint and issue details
- Agency can configure the list of issue types to fit their community
- Letters and emails can be sent directly to citizens
- View sitemaps
- Issues can be automatically forwarded to the appropriate departments
- Integrated with email for automated correspondence
- Web-based entry form enables the public to submit issues 24/7 to their local government
- Issue search filtering
- Ensure staff accountability
- View complainant and issue details
- Processing and workflow
- Create reports for issues within a specified time frame
- Define your own workflow for each type of complaint
- Quickly view all actions taken regarding a specific issue

## **8. MobileTRAK - MOBILE TECHNOLOGY & LAPTOP SYNCHRONIZATION FOR FIELD ACCESS**

MobileTRAK enables inspectors to carry information about permits, code enforcement cases, and related inspections on their Palm (PDA) or Pocket PC mobile device. The inspector can then modify inspection status and record notes while in the field and either upload the data into the agency's TRAKiT database manually or through wireless capabilities. Inspectors can schedule inspections and enter inspection results while in the field.

### **Key Features:**

- Relevant data at your fingertips
- Easy user interface
- Enter inspection results from the field
- Print inspection tickets onsite
- Wireless and Offline Synchronization
- Identify all required inspections for a permit and inspection status remotely
- Quick access to all contact details for the owner, applicant, contractor or complainant
- Retrieve data by searching any parameter, including permit #, contractor, address, etc.
- All associated data can be viewed regarding each inspection
- New inspections may be entered from the field

## **9. eTRAKiT - WEB & ONLINE ACCESS**

The public and staff can use eTRAKiT to access permit, project, or land information using web-enabled screens and functions. We have developed a number of products that merge the versatility of the web with our existing TRAKiT software. Our permit tracking solution is available over the Internet for online public access through a user-friendly web interface. Allow the public to request the scheduling of inspections, file a complaint, obtain application status, or even pay fees online.

### *Public Access*

Our public access application integrates TRAKiT with a web interface. This system enables your customers to schedule an inspection, verify a permit has been issued, or contact your code enforcement division with complaints. Citizens have 24/7 access to their local government with eTRAKiT.

### *Private Access*

The private access version of eTRAKiT allows your building inspectors, code enforcement officers, contractors, or any staff member the ability to retrieve/enter permit data, inspections, and code violations, from the field via the Internet.

### *Security*

All of our web applications are designed with several layers of security to prevent unauthorized access or modification of your data. Additionally, you can implement data security and access controls that meet the security requirements specific to your agency. Your jurisdiction will also have control over the information displayed online.

### *Flexibility*

CRW offers further flexibility by giving your Agency the choice of hosting the site yourself, or having us host your site. CRW will work with your IT department to set up the web server and database connections if you choose to host the site. If CRW hosts your site, we will set up the links from your existing site and configure replication between your database and ours.

### **Key Features:**

- Easy to use web interface
- Greater citizen satisfaction through 24/7 access to information
- Allows department staff to focus on other areas through the reduction in inquiries
- Easily integrate into your agency's Website
- Online permitting capabilities
- Permit information queries
- Inspection requests/results
- Fee payment capabilities
- Citizen Response Management

### **IVR Solutions**

Through the use of a touch-tone phone, callers can inquire about the status of inspections, plan reviews, and other permit activities, as well as request inspections while using an Interactive Voice Response (IVR) system. These systems are available 24/7 to communicate with Trakit™ using our interface API.

## **ADDITIONAL FEATURES**

### **Fee Assessment & Payment**

TRAKiT provides a full-featured cashiering component for all modules. TRAKiT users can accurately assess and collect payment with customizable fee schedules and tables.

#### **Key Features:**

- Generates accounting reports
- Automatic fee calculation
- Produces custom designed receipts
- Records fee history for audit trail
- Apply credits or process refunds
- Interface with third-party finance systems

### **Report Writing**

TRAKiT includes a comprehensive set of over 280 standard reports to meet your agency's reporting needs. Crystal Reports can be used to create custom reports to present TRAKiT data in any way useful to the agency. Reports created within TRAKiT are all dynamic, allowing the user to specify the type, module, date/time, or any other pertinent information to be retrieved into a report or chart.

#### **Key Features:**

- Many built-in reports
- Customized reports for your agency
- Date range selection
- Categorized by function/application
- Charts and graphs
- Send to printer, display screen, or email
- Exporting capabilities
- Get information within seconds when putting together a report

### **Document & Image Management**

Images, letters, reports and other files can be directly attached to records within any TRAKiT module. Attachments are safely stored on the server and can be retrieved or viewed by anyone who accesses the TRAKiT record. All file types can be attached to any Project, Permit, or Code Case established within TRAKiT.

#### **Key Features:**

- Attach scanned documents into a project, permit, or code case
- Have the ability to link into any image source
- Share files amongst all departments

### **To-Do List**

Every time users log-in to TRAKiT, they can view their own unique to-do list for the day, week, month, or year as they specify. Then by clicking on the related link, users are automatically transported to the specific task they wish to work on.

### **Text Messaging & E-mailing**

Users can send notifications to a cell phone or pager using the text messaging (SMS) capabilities built into TRAKiT. TRAKiT also links into your local Microsoft Outlook® application, and can send updates or notices to addresses stored in your Address Book.



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: JAMES H. ROBINSON, CITY MANAGER**

**DATE: FOR THE MEETING OF JANUARY 17, 2007**

**SUBJECT: REQUEST FOR PROPOSALS FOR CONSULTANT SERVICES TO REVIEW THE ZONING CODE IN TERMS OF CONTINUITY, AMBIGUITIES, EXISTING INTERPRETATIONS, AND INDUSTRY STANDARDS**

#### **RECOMMENDATION:**

Staff recommends that the City Council authorize the release of the attached Request For Proposal (RFP) for consultant services for a comprehensive update of the Town of Atherton Zoning Code (Title 17 of the Municipal Code) following a review by the City Council and incorporating any appropriate changes.

#### **BACKGROUND:**

The City Council, at its meeting of December 13, 2006, approved the development of an RFP for consultant services to review the Zoning Code in terms of continuity, ambiguities, existing interpretations, and industry standards in accordance with the Town's standards as exemplified in existing law (design review not be included) in accordance with the Town of Atherton General Plan. The attached RFP is submitted for the City Council's consideration.



## Town of Atherton

Town Administrative Offices  
91 Ashfield Road  
Atherton, California 94027  
650-752-0500  
Fax 650-688-6528

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### **REQUEST FOR PROPOSALS ZONING ORDINANCE UPDATE**

The Town of Atherton is requesting proposals from qualified firms or individuals for the preparation of a comprehensive update of the zoning code (Title 17 of the Municipal Code). The project will reorganize the Town's zoning code while assuring that it is in compliance with applicable state laws, as well as local policies and regulations.

The last comprehensive review of the zoning code was performed in 1985. Since that time the code has been amended a number of times, resulting in a hard-to-read document with a number of internal inconsistencies. This lack of clarity has led to questions about appropriateness of staff determinations, the need to make interpretations of zoning intent on a case-by-case basis, and occasional internal differences on interpretations. The goal of this project is to: a) identify policy issues; b) reorganize the zoning code to improve its clarity to staff, applicants and the general public; c) eliminate internal inconsistencies and ambiguities; d) be in accordance with the Town's standards (e.g., design review is not to be included), and e) be in accordance with the General Plan.

The selected consultant will work under the general direction and coordination of the City Manager. The timeframe for completion of this project is expected to be no longer than four (4) months.

The Town's Municipal Code, including Title 17 (the zoning code), may be found at the Town's website at <http://www.ci.atherton.ca.us>.

#### **OBJECTIVES**

The Town of Atherton is seeking to embark on a comprehensive update of its Zoning Code. The update should meet the following objectives:

1. Organization. The zoning code should be organized in a logical manner that facilitates ease of use and clear interpretation.
2. General Plan. The zoning code should be consistent with the goals and policies of the General Plan.

3. State and Federal Laws. The zoning code should comply with all applicable state and federal laws.
4. Comprehensible. The zoning code should be clear, concise, and minimize ambiguities. It should use charts, graphs, and illustrations where necessary to improve readability.

## **SCOPE OF WORK AND WORK PRODUCTS**

Required tasks to be undertaken are as follows:

1. Review of Existing Code and General Plan. The consultant will need to become familiar with the policy directives included in the existing General Plan and the content of the Zoning Code.
2. Create a New Zoning Code Structure. The consultant will meet with staff to discuss the format and structure of the Zoning Code, as well as recent problems in interpretation. Based on this input, the consultant will establish a new format for the Zoning Code.
3. Update Development Standards and Definitions. The consultant will formulate revised code text to address the specific issues raised by staff in the staff/consultant meetings. In addition, the consultant will formulate revised code text to assure that the above-listed objectives are achieved.
4. Prepare Illustrations of Zoning Standards and Definitions. The consultant will prepare illustrations explaining definitions and development standards, as needed. The illustrations should be simple drawings that are incorporated into the code.
5. Staff/Consultant Meeting Attendance. The consultant will meet with staff on a monthly basis to discuss project issues and to provide updates on project status.
6. Prepare Administrative Review Draft. The consultant will prepare an administrative draft of the revised Zoning Code for staff review and comment.
7. Prepare Public Review Draft. Based on staff's review of the administrative draft, the consultant will prepare a public review draft for presentation to the Planning Commission and City Council.
8. Prepare CEQA Documentation. The consultant will prepare an initial environmental study and conduct the appropriate environmental analysis for the proposed Zoning Code update.
9. Attend Planning Commission and Town Council Meetings. The consultant will present the proposed Zoning Code at a public hearing of the Planning Commission and City Council.

10. Prepare Final Zoning Code. Upon adoption, the consultant shall submit a final Zoning Code reflecting any changes resulting from Planning Commission and City Council deliberations.

## **REQUIRED PROPOSAL CONTENT**

All responses to this RFP must contain the following information:

1. Cover Letter. This should present the consultant's understanding of the project and the methodology that will be used. It should include the name, address, email and phone number of the person(s) to contact about the proposal.
2. Work Plan. Describe the proposed approach and activities to be accomplished. The primary effort should be directed toward consolidation of information and presentation in a clearly understandable format.
3. Firm Qualifications. Describe the firm's experience in managing projects similar in nature to the proposed project. This should include a description of prior experience in working with public agencies, including working with city staff and policymakers, and preparing and presenting materials at public hearings.

The proposal shall include a list of other similar zoning ordinance projects. This shall include the following information:

- Project name and location
  - Brief description of project and firm's responsibilities
  - Preparation date
  - Contact name, address, and phone number for client
4. Project Team. Provide a detailed resume of the project manager, who shall be a full-time employee of the firm, including a description of experience relevant to the project. Also provide a list of key personnel who will be working on the project.
  5. References. Provide three business-related references for the firm, two of which are familiar with the project manager. This shall include the name, company, contact information, and business relationship to the firm.
  6. Sample. Provide a sample of a recently completed zoning ordinance update or related project.
  7. Schedule. Provide an estimated schedule to complete each of the tasks. This should include the amount of time required to complete each individual task, and the time to allow staff to review and respond to the submitted material.
  8. Cost. This should include payment expectations, hourly rates, and costs for meeting attendance, printing, and other miscellaneous costs as applicable. Also include a not-to-exceed amount for completing the entire project.

## **SUBMITTAL**

Proposals shall be submitted in a sealed envelope and identified as “Zoning Code Update Proposal.” All proposals must be received by **February 16, 2007**, postmarks will not be accepted. Hand deliver or send proposals to:

James Robinson  
City Manager  
91 Ashfield Road  
Atherton, CA 94027

Vender Selection Schedule:

- Proposals due: February 16, 2007
- Interview Consultants: Week of February 26, 2007
- Negotiate contract: Week of March 5, 2007
- City Council approval: March 21, 2007
- Begin Service: April 1, 2007

If addition information or clarification is needed on this RFP, please contact James Robinson, City Manager, at (650) 752-0504.

## **EVALUATION CRITERIA**

Proposals will be judged on the basis of the following:

- Professional qualifications and capabilities of the firm and its personnel
- Past experience of the project manager to successfully manage such a project
- Relevant experience of the firm with similar types of projects
- Results of reference checks
- Overall quality of the proposal, including clarity of content
- Demonstration of a clear understanding of the project
- Cost related to the level of work proposed, and time schedule for completion



## Town of Atherton

### CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL  
JAMES H. ROBINSON, CITY MANAGER**

**FROM: KATHI HAMILTON, ACTING CITY CLERK**

**DATE: FOR THE MEETING OF JANUARY 17, 2007**

**SUBJECT: DISCUSSION AND POSSIBLE DIRECTION TO STAFF REGARDING  
THE COMMITTEE-COMMISSION APPOINTMENT PROCESS**

#### **RECOMMENDATION:**

Council to review existing policies regarding the Committee-Commission appointment process and possibly give direction to staff on any changes the Council wishes to make regarding the recruitment process, selection/appointment process, terms of office, duties, membership, etc.

#### **BACKGROUND:**

At the City Council meeting of November 15, 2006, Council Member Jerry Carlson requested a discussion of the Committee/Commission appointment process be scheduled on a future City Council agenda.

Paragraph 9 of the City Council Rules of Procedure provides for appointment of Council Members to serve on various committees along with provisions for appointment of other individuals to those committees. At its October 19, 2005, meeting, Council revised Paragraph 9.2, Appointment of Voting Members to City Council Committees, which are identified in Paragraph 9.4, giving City Council Members on City Council-appointed committees authority to appoint one or more voting members to the committee. Appointed members serve a one-year term concurrent with the Council Members' term on the committee. (See attachment, Paragraph 9) If Council Members are unable to agree upon the appointment of any particular member, that issue will be brought before the entire City Council for final determination.

The Planning Commission is the subject of Chapter 3.26 of the Atherton Municipal Code; the General Plan Committee is the subject of Chapter 2.37 of the Municipal Code and the Parks and Recreation Commission is the subject of Chapter 2.40 of the Atherton Municipal Code. (see attachments) As such, the membership, terms of office, duties, etc., are outlined in the Municipal Code. Staggered terms all expire on April 30th of the year of expiration. The City Clerk solicits

applications for those terms expiring, and all applications are forwarded to the Steering Committee for review and to conduct interviews of prospective applicants. The Steering Committee then recommends appointment of members to the full Council at the April City Council meeting, and newly-appointed members begin new terms on May 1.

## **ANALYSIS**

With regard to City Council Members on City Council-appointed committees, Council Members have the authority to appoint one or more voting members to the committee for a one-year term with terms expiring in January. Staff asked existing members whether they would like to be reappointed to their respective committees (see attachment). Paragraph 9 does not “spell out” how Council Members are to reappoint/appoint members, e.g., at a Council meeting or at the respective committee meeting.

With respect to the Audit Committee, Council decided that the current members could serve out their three-year terms. Three of the current terms expire on April 30, 2007. If new members are appointed and begin terms in May, those terms would expire in January 2008. Once again, the question is whether appointments are made at the committee level or approved by the full Council.

There are no Council Members appointed to the Arts Committee and it is governed by Resolution No. 98-06 (see attached). Staff recruits for this committee on a regular basis as the membership is for up to 10 members for indefinite terms. Currently, there are only three members on the committee.

## **CONCLUSION:**

Having two recruitment processes has been challenging; however, if Council wishes to continue with the current system of concurrent terms with the Council Members appointed to the committees; staff needs clarification on the following:

- Recruitment process, e.g., ask current members if they want to continue their service, and/or recruit for new members. Recruiting for new members would need to begin in September/October.
- Reappointment/Appointment: at the committee level or with the full Council.
- Expiring terms on the Audit Committee: terms could be extended to January 2008 to coincide with the other committees.
- Arts Committee: Revisions to Paragraph 9 and Resolution No. 98-06 could be made relative to committee membership and terms, bylaws, and meetings.

Additionally, attached is a listing of all committees/commissions of the Town, along with the Local Appointment List (The Maddy Act) which was posted before December 31, 2006, as mandated by law. The list was posted in the Library (required), Town Hall Lobby, and Town Hall.

**FISCAL IMPACT:**

None

Prepared by:

Approved by:

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Kathi Hamilton  
Acting City Clerk

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James H. Robinson  
City Manager

Attachments: Paragraph 9, City Council Committees, City Council Rules of Procedure  
Atherton Municipal Code Sections 2.36, 2.37, and 2.40  
Resolution No. 98-06  
A list of Town Committees/Commissions and the Local Appointment List

## **9. City Council Committees**

9.1 Establishment. At the regular meeting in January, the Mayor shall appoint Council Members to serve on various standing and ad hoc committees for a one year term.

9.2 Appointment of Voting Members to City Council Committees. City Council Members on City Council-appointed committees shall have the authority to appoint one or more voting members to the committee. All appointed members shall be registered voters in the Town of Atherton. If Council Members are unable to agree upon the appointment of any particular member, that issue will be brought before the entire City Council for final determination. Appointed members serve a one year term concurrent with the Council Members' term on the committee.

9.3 Committees shall be created and members appointed thereto in accordance with these rules and regulations.

### 9.4 Committees of City Council.

a. Standing Committees: Any standing committee of the Council shall be subject to the same rules of procedure as the City Council. Each standing committee is comprised of two Council Members appointed by the Mayor, and is staffed by the appropriate staff members. The standing committees are:

1. Atherton Channel Drainage District Committee. Consisting of three members including two Council Members, and one resident of the Town. The committee meets on an as needed basis in the City Council Chambers.

2. Audit Committee. Consisting of seven members, including two Council Members of the Finance Committee, and five residents of the Town. The committee meets quarterly in the Conference Room of the Town Administrative Offices.

3. Budget and Finance Committee. Consisting of two 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.

4. Buildings and Facilities Committee. Consisting of two Council Members. The committee meets on an as needed basis in the Conference Room of the Town Administrative Offices.

5. Transportation Committee. Consisting of five members including two Council Members and three residents of the Town. The committee meets quarterly on the second Tuesday of the month at 6:00 p.m. in the City Council Chambers.

6. Screening Committee. Consisting of two Council Members. The committee meets on an as needed basis in the Conference Room of the Town Administrative Offices.

7. Waste Reduction and Recycling Committee. Consisting of five members including two Council Members and three residents of the Town. The committee also includes the City Manager, Town Arborist, a SBWMA representative, and a representative of the franchise waste hauler. 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.

b. Ad Hoc Committees. Any ad hoc committee of the Council shall be subject to the same rules of procedure as the City Council. Each ad hoc committee is comprised of two Council Members appointed by the Mayor, and is staffed by the appropriate staff members. The ad hoc committees are:

1. Cal Train Corridor Committee. Consisting of thirteen members including two Council Members and up to eleven residents of the Town. The committee meets on the first Tuesday of each month at 7:00 p.m. in the City Council Chambers.

9.5 City Council Review of City Council Committee Decisions. City Council Members on City Council-appointed 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.

**RESOLUTION 98-6**

**RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
ESTABLISHING AN ARTS COMMITTEE AND  
DESIGNATING ITS FUNCTIONS**

**WHEREAS**, the City Council desires to create an Arts Committee to assist in the formulation and implementation of Town arts policies and programs; and,

**WHEREAS**, the City Council desires to create such a committee in order to evaluate the performance and benefit accruing as a result of such a committee;

**NOW, THEREFORE, THE CITY COUNCIL OF THE TOWN OF ATHERTON RESOLVES AS FOLLOWS:**

**SECTION 1. CREATION OF COMMITTEE.** The City Council hereby creates the Arts Committee of the Town of Atherton. The Arts Committee shall continue in existence for an indefinite time.

**SECTION 2. COMMITTEE MEMBERSHIP.** The Arts Committee shall consist of up to, but not exceeding, ten (10) members appointed by the City Council. Every person appointed to the Arts Committee shall, at the time of his or her appointment, be a registered voter of the Town and shall maintain his or her principal place of residence within the Town. Should any person so appointed cease to be an elector of the Town or cease to maintain his or her principal place of residence within the Town, that person shall be ineligible to continue to serve as a member of the Committee.

The members of the Arts Committee shall have a demonstrated interest in the arts and in the art program in the Town. Strong consideration shall be given applications with a background in the arts.

**SECTION 3. TERMS; BY-LAWS; MEETINGS.** Each member of the Arts Committee shall serve at the pleasure of the City Council for an indefinite term. The Arts Committee shall prepare and recommend to the City Council, for adoption, by-laws for the conduct of business by the Committee. All meetings of the Committee shall be in accordance with the by-laws adopted by the Committee and with the Ralph M. Brown Act.

**SECTION 4. FUNCTIONS AND RESPONSIBILITIES.** The function and purpose of the Arts Committee is to assist the City Council and the Park and Recreation Department in matters that pertain to arts programs, classes, workshops, performances and other arts activities, as may be directed by the City Council. In order to carry out its function, the Arts Committee will do the following:

- A. Study, evaluate and recommend Town policies relating to arts activities such as, but not limited to:

1. Facilities Use Policy
  2. Guidelines for Co-sponsorship of Arts Groups
  3. Fees and Charges
  4. License Agreements
- B. Provide a forum for citizen comments on needs, current services, facilities, and then report said citizen comments and the Arts Committee recommendations to the Park and Recreation Commission and City Council.
- C. Review the annual budget of the Park and Recreation Department that relates to the arts, as submitted to the Council by the City Manager, and make recommendations concerning the budget to the Park and Recreation Commission.
- D. Review and report on other specific service areas as requested by the City Council or City Manager.
- E. Review those portions of Master Plans of park or facility development or expansion which relate to the arts, for adequacy, appearance and other appropriate criteria, in an attempt to ensure good design and then make recommendations to the Park and Recreation Commission.
- F. Attend appropriate meetings, workshops and conferences, and represent the Town when requested by the City Council and/or City Manager.
- G. Prepare an annual Arts Committee work program for Park and Recreation Commission and City Council review and approval.
- H. Review and make recommendations regarding co-sponsored and directly funded groups in the area of arts.
- I. Suggest and help secure outside funding sources for the arts.
- J. Study the Regional and State Arts Master Plans and make recommendations thereon to the Park and Recreation Commission and the City Council.
- K. Examine alternatives for the yearly art event.
- L. Study and make recommendations regarding the establishment of a Fund for the Arts.
- M. Make recommendations regarding a public/private partnership for the arts.

**NOW THEREFORE BE IT RESOLVED** that Resolution 96-2 is hereby repealed.

\* \* \* \* \*

*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 March 18, 1998 by the following roll call vote:*

<i>AYES:</i>	<i>5</i>	<i>COUNCILMEMBERS: Dudley, Chapman, Conwell, Fisher, Huber</i>
<i>NOES:</i>	<i>0</i>	<i>COUNCILMEMBERS: None</i>
<i>ABSENT:</i>	<i>0</i>	<i>COUNCILMEMBERS: None</i>
<i>ABSTAIN:</i>	<i>0</i>	<i>COUNCILMEMBERS: None</i>

\_\_\_\_\_  
Malcolm H. Dudley, MAYOR

ATTEST:

\_\_\_\_\_  
Susan P. Jankowski, City Clerk

## **Committee Member Responses**

Staff asked current members of committees whether they would like to be reappointed. The following responses were received from those committees that have terms expiring in January 2007:

Atherton Channel Drainage District Subcommittee  
Philip Lively – Yes

Atherton Rail Committee  
Mike McPherson – Yes  
Phil Mitchell – Job Relocation out of California – No  
Philip Lively – Yes  
Greg Conlon – Yes  
Arthur (Jack Ringham) – Yes  
Rosemary Maulbetsch – Yes  
Malcolm Dudley – Yes

Environmental Programs Committee  
Todd Beardsley – Yes  
Valerie Gardner – Yes  
Owen Hawkins – Yes  
Robert Jenkins – Yes

Transportation/Traffic Subcommittee  
Bob Huber – Yes  
Lou Paponis – Yes  
John Rugeiro – Yes



# TOWN OF ATHERTON

The following is a listing and description of current local boards and commissions whose members are appointed by and serve at the pleasure of the City Council. Also attached is a list of scheduled Board and Commission vacancies for calendar year 2007:

## **Arts Committee**

- Authority: Resolution No. 98-06
- Membership: Consists of up to ten residents who must be registered to vote within the Town of Atherton.
- Terms: Each member shall serve at the pleasure of the City Council for an indefinite term.
- Duties: The function and purpose of the Arts committee is to assist the City Council and the Park and Recreation Department in matters that pertain to arts programs, classes, workshops, performances and other arts activities, as may be directed by the City Council.
- Meetings: The committee meets on the fourth Tuesday of each month at 1:00 p.m., in the Town Administrative Offices Conference Room.

## **Atherton Channel Drainage District Committee**

- Authority: City Council Minute Action – January 16, 2002
- Membership: Consists of three members, including two Council Members and one resident of the Town.
- Terms: In January, members are appointed to a one-year term concurrent with the Council Members' term on the committee.
- Meetings: Meets on an as-needed basis.

## **Atherton Rail Committee**

- Authority: Created as an ad hoc subcommittee by the Atherton City Council at its November 19, 2003, regular meeting. On March 15, 2006, Council approved a name change (formerly the Caltrain Ad Hoc Subcommittee).
- Membership: Committee members are comprised of two Council Members and up to 11 Council-appointed residents of the Town.
- Terms: Members are appointed by the City Council Members assigned to the committee for a one-year term beginning in January 2007.
- Duties: The subcommittee, formed to act in an advisory capacity to the City Council, will research and address the specific impact that High -Speed Rail and other rail improvements may have on the Town of Atherton.
- Meetings: *The subcommittee routinely meets on the 1<sup>st</sup> Tuesday of the month at 6:00 p.m. in the Town Council Chambers, 94 Ashfield Road.*

## **Audit Committee**

- Authority: The City Council authorized the creation of the Audit Committee at its regular meeting on May 17, 2000.

- Membership:** Consists of eight members, including the two Council Members of the Finance Committee, and six residents of the Town. The Committee was extended to six members by Council action April 21, 2004, and April 20, 2005.
- Terms:** Members are appointed by the City Council Members assigned to the committee for a one-year term beginning in January 2007. **Current members may serve the remainder of their three-year terms.**
- Duties:** Provides oversight of the annual audit, makes recommendations to the City Council on matters related to the annual audit, and provides guidance to Town staff on financial controls throughout the year.
- Meetings:** Meetings are held quarterly in the Conference Room of the Town Administrative Offices.

### **Environmental Programs Committee**

- Authority:** The Atherton Civic Interest League (ACIL) began a “recycling task force” in 1994 which evolved into a Town committee in 1998, in conjunction with AB939 compliance (state recycling/diversion law).
- Membership:** Consists of two members of the Council, plus three resident members, along with staff: City Manager, Town Arborist, an SBWMA representative, and an Allied Waste (solid waste franchise) representative.
- Terms:** Members are appointed by the City Council Members assigned to the committee for a one-year term beginning in January 2007.
- Meetings:** Meets quarterly, the 1<sup>st</sup> Wednesday, at 10:00 a.m., Administrative Offices Conference Room, 91 Ashfield Road.

### **General Plan Committee**

- Authority:** Atherton Municipal Code Section 2.37.
- Membership:** Consists of two Council Members, two Planning Commissioners, and up to five residents (“public members”), who are not members of the City Council or Planning Commission.
- Terms:** Four-year term, maximum of one, full four-year term. Public members are appointed by the City Council. The Council and Planning Commission select their own representatives to the Committee.
- Duties:** The General Plan Committee advises the City Council and Planning Commission on planning matters, reviews the General Plan and makes recommendations to the City Council, Planning Commission, and Town staff regarding the operation of the ordinances and policies in the community.
- Meetings:** Regular meetings are scheduled quarterly, the first Wednesday of the month, at 6:00 p.m., Town Council Chambers, 94 Ashfield Road. A quorum shall consist of a majority of the members of the Committee.

### **Mid-Peninsula Community Media Center**

- Appointment:** Appointed by the City Council.
- Terms:** Three years.
- Duties:** Represents Atherton on the Midpeninsula Community Media Center Board.

### **Park and Recreation Commission**

- Authority: Atherton Municipal Code Section 2.40.
- Membership: Seven members, each a resident of the Town, appointed by and serving at the pleasure of the City Council.
- Terms: Four years; no more than two, full four-year consecutive terms, with the exception of the two representatives of the Atherton Dames and the Holbrook-Palmer Park Foundation, who will each serve two-year terms; no more than two full consecutive terms.
- Duties: The Park and Recreation Commission advises the City Council on matters regarding Park and Recreation programs, develops and revises the master plan for the Park, reviews the annual budget for the Park, and makes recommendations concerning long-term capital projects.
- Appointment: The members of the Commission are appointed by the City Council.
- Compensation: The members of the Commission receive no compensation.
- Meetings: Regular meetings are scheduled the first Wednesday of each month, at 6:30 p.m., Holbrook-Palmer Park, 150 Watkins Avenue.

### **Planning Commission**

- Authority: California Government Code Section 65100; Atherton Municipal Code Section 2.36.
- Membership: Five members, each a resident of the Town, appointed by and serving at the pleasure of the City Council.
- Terms: Four years; no more than two full consecutive terms.
- Duties: The Planning Commission of the Town of Atherton is authorized by the California Government Code. The powers and duties of the Planning Commission are as set forth in the Government Code. The Commission is the Town's administrative agency for zoning issues. Each Commissioner must file a public "Statement of Economic Interests" form annually.
- Appointment: The members of the Commission are appointed by the City Council.
- Compensation: The members of the Commission receive no compensation.
- Meetings: Regular meetings are scheduled every fourth Wednesday of each month, at 6:00 p.m., Town Council Chambers, 94 Ashfield Road.

### **Transportation/Traffic Subcommittee**

- Authority: Created by the City Council, date unknown.
- Membership: Consists of five members including two Council Members and three residents of the Town.
- Terms: In January, members are appointed to a one-year term concurrent with the Council Members' term on the committee.
- Meetings: Regular meetings are scheduled quarterly, the second Tuesday of the Month, at 6:00 p.m., Town Council Chambers, 94 Ashfield Road.



**Environmental Prorams Committee**

Bob Jenkins	First Appointed:	10/18/06
	Expires:	01/07
Owen Hawkins	First Appointed:	10/18/06
	Expires:	01/07
Todd Beardsley	First Appointed:	10/18/06
	Expires:	01/07
Valerie Gardner	First Appointed:	11/15/06
	Expires:	01/07

**General Plan Committee**

James Ransohoff	Appointed:	5/01/05
	Expires:	4/30/07
Barbara Shoor	Appointed:	5/01/05
	Expires:	4/30/07

**Park and Recreation Commission**

John P. Davey	Appointed:	5/01/03
	Expires:	4/30/07
Etta Mae Bauer <i>Dames Rep.</i>	Appointed:	7/16/03
	Expires:	4/30/07
Jim Massey <i>H-P Foundation Rep</i>	Appointed:	12/19/01
	Expires:	04/30/07
Mike McPherson	Appointed:	05/01/99
	Expires:	04/30/07
Paul Tonelli	Appointed:	5/01/99
	Expires:	4/30/07

**Planning Commission**

Robert Andrews	Appointed:	5/1/99
	Expires:	4/30/07
Rose Hau	Appointed:	5/1/99
	Expires:	4/30/07

**Transportation/Traffic Subcommittee**

John Ruggeiro	First Appointed:	01/19/05
	Expires:	01/07
Robert Huber	First Appointed:	01/19/05
	Expires:	01/07
Louis S. Paponis	Appointed:	01/19/05
	Expires:	01/07



## Town of Atherton

### CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL  
JAMES H. ROBINSON, CITY MANAGER**

**FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR**

**DATE: FOR THE MEETING OF JANUARY 17, 2007**

**SUBJECT: DISCUSSION AND POSSIBLE DIRECTION TO STAFF REGARDING  
CEL'S LANDSCAPE MAINTENANCE AGREEMENT FOR TOWN  
CENTER AREA AND DISCUSSION OF OPTIONS FOR RESTORING OR  
UPGRADING THESE LANDSCAPE AREAS**

#### **RECOMMENDATION:**

Staff also recommends that Commercial Environmental Landscape (CEL) be retained under their existing extended contract, based on their promises to elevate the level of maintenance within Town Center to restore the area and allow them to meet the specifications of the contract.

Staff recommends that, based on Council direction, that a landscape architect be hired to develop a plan for the Lloyd Park entrance landscape area. The plan would be brought back to Council for approval and an estimate of cost included in the FY 2007-08 CIP budget.

#### **BACKGROUND:**

The Lloyd Park entrance area of the Town Center was landscaped many years ago. Much of the original plant material is gone, and other plant material has been added either as volunteer plants or planted by residents. See attached memo from Kathy Hughes-Anderson to Councilmember McKeithen. The area needs to be revamped, either to restore the existing landscape plan, or to develop a new higher end landscape concept (similar to the Reading Park).

Additionally, the area had fallen into disrepair over the years prior to CEL being hired in 2002 to perform landscape maintenance for Town Center and other areas. After discussions with CEL, they have promised to upgrade the level of maintenance at the Lloyd Park entrance and other areas of Town Center to bring the area back to a condition where they will be able to meet the

specifications of the contract in the future. The Public Works Street Superintendent has been tasked with assuring that the schedule of maintenance provided by CEL (attached) is followed and performed up to the standards of the contract. This effort has already begun, and CEL has prepared a schedule of their maintenance activities, attached.

**FISCAL IMPACT:**

There will be no fiscal impact to the Town of Atherton for CEL to upgrade the level of maintenance within Town Center to restore the area sufficient for them to meet the specifications of their existing contract.

Preparation of landscape construction plans for the Lloyd Park entrance will require hiring a landscape architect, and a landscape contractor will be contracted by competitive bidding to implement the construction plans. These costs will be estimated and included in next year's budget.

Prepared by:

Approved by:

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

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James H. Robinson  
City Manager

Attachments: Memo to Councilmember McKeithen  
CEL Contract  
CEL Schedule



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: JAMES H. ROBINSON, CITY MANAGER**

**DATE: FOR THE MEETING OF JANUARY 17, 2007**

**SUBJECT: DISCUSSION AND POSSIBLE ACTION REGARDING THE ENVIRONMENTAL PROGRAMS COMMITTEE**

#### **RECOMMENDATION:**

Staff recommends that the City Council consider the composition and role of the Environmental Programs Committee and provide appropriate direction to the committee and staff.

#### **BACKGROUND:**

The Waste Reduction Committee (WRC) was formed in 1998 in response to the AB939 state diversion requirement of 50%. Council Members Chapman and Fisher were assigned to the Committee.

At that time, the stated purpose of the Committee was to:

- Develop a coordinated plan of action to achieve the state-mandated goal of 50% reduction in the waste going into our landfills by Dec 21, 2000;
- Develop a coordinated action plan for the administrative and other facilities owned by the Town with the goal of becoming a model for other institutions within the Town and, where appropriate, for the residents;
- Monitor our monthly progress towards achieving that goal and take appropriate action where warranted.

Various Town organizations were asked to appoint a member to serve on the Committee including the Tree Committee, the Atherton Dames, the Atherton Civil Interest League (ACIL), and the Holbrook-Palmer Park Foundation. Several sub-committees were formed including Green Waste, Construction Waste, and Town Facilities. The first major accomplishment was to start writing and then adopting the C&D Recycling Ordinance. The Town hired Joan Edwards, consultant, to set up and implement the C&D ordinance. Kathy

Hughes Anderson prepared the Town Administrative Procedures for Waste Prevention, Recycling, and Buy Recycled Procedures which should be revisited.

During this time, the Town of Atherton was put on a compliance order by the State of California. In addition, ESA was working with the SBWMA cities to establish new baseline year generation studies, and the SBWMA was purchasing the San Carlos transfer station. Over the next several years, the Town made good progress and started using ESA to prepare our annual reports using actual counted diversion. The Town then focused on getting some of our commercial accounts (Schools) to implement improved recycling programs

The Town of Atherton now has distinguished itself within the SBWMA as a result of our 65% diversion rate.

In October of 2005, the City Council set terms of office for the various Town Committees. As a result, letters were sent to the members serving on the WRC asking if they wanted to serve another term. The citizen members declined leaving the Committee with no resident members. Following that recruitment, Atherton resident Owen Hawkins was appointed. Council Members Charles Marsala and Jim Janz serve on the Committee.

Since that time the Committee has added three additional citizen members including Valerie Gardner, Bob Jenkins and Todd Beardsley, for a total of four citizen members.

At a meeting of the WRC in August of 2006, it was recommended that the Committee change its name from the Waste Reduction Committee to the Environmental Programs Committee. The Committee felt that the proposed name was more representative of the issues the Committee was currently dealing with and recognizing the need to consider other environmental issues beyond solid waste and recycling.

The Committee felt that these “other issues” should include but not limited to:

1. Global warming and CO2 emissions
2. Green Building
3. Earth Day events
4. ABAG/PG&E Energy Watch Partnership
5. E-Waste Collection Day
6. Mayors Agreement on Climatic Change
7. Energy Awards for Homeowners
8. Energy Consumption Reduction in Town and School Buildings.

Attachment: Environmental Programs Committee Roster Page



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCILMEMBERS**

**FROM: JIM ROBINSON, CITY MANAGER**

**DATE: FOR THE CITY COUNCIL MEETING OF JANUARY 17, 2007**

**SUBJECT: SAN MATEO COUNTY CITY SELECTION COMMITTEE  
SELECTION OF REPRESENTATIVES**

#### **RECOMMENDATION:**

Appoint a Town of Atherton City Council Member to attend the San Mateo County City Selection Committee meeting on January 26, 2007, if the Mayor is unable to attend, and authorize said Council Member to vote for city representatives to certain county commissions.

#### **BACKGROUND/ANALYSIS:**

Council Member Deborah Gordon, Chair of the San Mateo County City Selection Committee, has called a special meeting of the Committee on January 26, 2007. The purpose of the meeting is to elect city representatives to vacancies on various county commissions. The agenda, and a list of the council members requesting to be appointed, are attached. Also attached are letters from council members requesting the support of the Atherton City Council.

# **SAN MATEO COUNTY CITY SELECTION COMMITTEE**

*Deborah Gordon, Chair  
, Vice Chair*

*Ashnita Narayan, Secretary  
400 County Center  
Redwood City, 94063  
650-363-4125*

TO: MAYORS OF SAN MATEO COUNTY  
FROM: ASHNITA NARAYAN, SECRETARY  
SUBJECT: MEETING OF THE CITY SELECTION COMMITTEE  
DATE: December 18, 2006

Councilmember Deborah Gordon, Chair of the San Mateo County City Selection Committee, has called for a meeting of the Committee at 6:15 p.m. on January 26, 2007 at the El Rancho Inn, Terrace Café located at 1100 El Camino Real, Millbrae.

## **AGENDA**

- 1) Roll Call
- 2) Approval of Minutes of the December 15, 2006 meeting.
- 3) Selection of two Councilmembers (Central and Northern Judicial Districts) to serve on the San Mateo County Transit District (samTrans) Board of Directors for terms beginning immediately through December 31, 2010.

Councilmember Marc Hershman, Millbrae (Central District) is seeking reappointment.

Councilmember Michael Guingona, Daly City (Northern District) is seeking reappointment.

*(Note: Only members from the Central and Northern cities may be appointed.)*

- 4) Selection of two Councilmembers (Central and Southern Judicial Districts) to serve on the San Mateo County Transportation Authority Board of Directors for terms beginning immediately through December 31, 2008.

Councilmember Rosalie O'Mahoney, Burlingame is seeking reappointment. (Central District)

Councilmember Rosanne Foust, Redwood City is seeking reappointment. (Southern District)

*(Note: Only members from the Central and Southern cities may be appointed.)*

- 5) On behalf of the Council of Cities, selection of four councilmembers to serve on the Housing Endowment and Regional Trust Board of Directors:
  - A. One term beginning immediately through February 29, 2008.
  - B. Three terms beginning March 1, 2007 through February 28, 2010.

*(Note: Only cities that are members of HEART may be appointed)*
- 6) Selection of a member to serve on the Metropolitan Transportation Commission for a term beginning February 10, 2007 through February 9, 2011.

Sue Lempert, San Mateo is seeking reappointment.
- 7) Oral Communications

If you have any questions or require additional information, contact Ashnita Narayan at (650) 363-4125.

# **SAN MATEO COUNTY CITY SELECTION COMMITTEE**

*Nadia Holober, Chair  
Deborah Gordon, Vice-Chair*

*Ashnita Narayan, Secretary  
400 County Center  
Redwood City, 94063  
650-363-4125*

TO: MAYORS OF SAN MATEO COUNTY  
FROM: ASHNITA NARAYAN, SECRETARY  
SUBJECT: MEETING OF THE CITY SELECTION COMMITTEE  
MEETING DATE: December 15, 2006  
DATE: December 18, 2006

## **MINUTES**

- 1) Roll Call – The following cities were present: Atherton, Belmont, Burlingame, Colma, Daly City, Foster City, Half Moon Bay, Hillsborough, Menlo Park, Millbrae, Portola Valley, Redwood City, San Mateo, South San Francisco and Woodside.
- 2) Approval of Minutes of the November 17, 2006 meeting. **Hillsborough/San Mateo**
- 3) Approval of the City Selection Committee Bylaws.

**Ayes: Atherton, Belmont, Burlingame, Colma, Daly City, Foster City, Half Moon Bay, Hillsborough, Menlo Park, Millbrae, Portola Valley, Redwood City, San Mateo, South San Francisco and Woodside**

**Noes: None.**

- 4) Election of a Chairperson and a Vice-Chairperson of the City Selection Committee for 2007.  
(Note: Candidates must be a current Mayor or Councilmember.)  
**Councilmember Deborah Gordon for Chair – Hillsborough/Burlingame**  
**Councilmember Tom Kasten for Vice Chair – Menlo Park/San Mateo**

**The following item was added to the agenda:**

- 4a) On behalf of the Council of Cities, selection of a Secretary for the Council of Cities.  
**Bonnie McClung – Half Moon Bay/Burlingame**
- 5) Oral Communications – **None.**

If you have any questions or require additional information, contact Ashnita Narayan,  
(650) 363-4125.

## SAN MATEO COUNTY TRANSIT DISTRICT (SAMTRANS)

<u>CURRENT MEMBERSHIP</u>	<u>Date First Appointed</u>	<u>Current Term Expires</u>	<u>Category</u>
Jerry Hill	01/12/99	12/31/07	Board of Supervisors
Adrienne Tissier	01/04/05	12/31/08	Board of Supervisors
Jim Hartnett, Redwood City	01/01/03	12/31/08	Cities Southern
Rose Guilbault		????????	Public Member
Zoe Kersteen-Tucker		12/31/07	Public Member
Shirley Harris, Daly City	12/00/93	12/31/05	Public Member
Arthur Lloyd, Portola Valley	02/16/88	12/31/03	"Expert"

Authority: San Mateo County Transit District Act

Membership requirements: 9 members; 2 members of the Board of Supervisors, 1 transit "expert", 3 city councilmembers, 1 from each of the former Municipal Court Judicial Districts, 3 public members, 1 of whom shall be a resident of the coastal zone.

Term of office: 4 years, terms run January 1st to December 31st.

Duties: Sets policy in the operation the District.

Appointment: Supervisors and the "expert" are appointed by the Board of Supervisors. The three councilmembers are appointed by the City Selection Committee, The 3 public members are appointed by the first 6 members.

Compensation: \$100 meeting, not to exceed \$400 a month.

Meetings: 2nd Wednesday of the month, 2:00pm, at samTrans Administrative Headquarters, 1250 San Carlos Ave, San Carlos 94070.

Contact: Michael Scanlon, General Manager/CEO, samTrans, 1250 San Carlos Ave, San Carlos, 94070. 508-6224 FAX 508-6281

## SAN MATEO COUNTY TRANSPORTATION AUTHORITY (SAMTAC)

<u>CURRENT MEMBERSHIP</u>	<u>First Date Appointed</u>	<u>Current Term Expires</u>	<u>Representing</u>
Richard Gordon	01/12/99	12/31/07	Board of Supervisors
Mark Church	01/23/01	12/31/06	Board of Supervisors
John Lee, San Mateo	01/28/00	12/31/07	At-large
Joe Fernekes, South San Francisco	01/27/06	12/31/07	Northern
[REDACTED]			
Michael Guingona, Daly City	02/05/98	12/31/06	Transit District

**Authority:** Bay Area County Traffic and Transportation Funding Act, and San Mateo County Ordinance 3135.

**Membership Requirements:** Seven members; two Supervisors, one member of the SamTrans Board of Directors, who must be an elected official, and four representatives of the cities, one from each Judicial District, and one at large.

**Term of Office:** 2 years, Term begins January 1st and ends December 31st.

**Duties:** To implement Measure A as passed June 7th, 1988.

**Appointment:** Supervisors by the Board of Supervisors, SamTrans Director by the SamTrans Board of Directors, City representative by the City Selection Committee on behalf of the Council of Cities.

**Compensation:** \$100 per meeting, maximum \$400 per month.

**Meetings:** 1st Thursday of each month at 5:00 pm, at SamTrans Headquarters, 1250 San Carlos Ave, San Carlos, 94070.

**Contact:** Michael Scanlon, c/o SamTrans, 1250 San Carlos Ave, San Carlos 94070. 508-5219.

## HOUSING ENDOWMENT AND REGIONAL TRUST (HEART)

### CURRENT MEMBERSHIP

	<u>Date First Appointed</u>	<u>Current Term Expires</u>	<u>Representing</u>
Richard Gordon	06/24/03	02/28/09	San Mateo County
Rose Jacobs Gibson	06/24/03	02/28/09	San Mateo County
Linda Asbury	12/17/03	02/28/07	At-Large
Denise Aquila	12/17/03	02/28/07	At-Large
Bill Nack	12/17/03	02/29/08	At-Large
Karyl Eldridge	12/17/03	02/29/08	At-Large
Pat Gemma		02/28/08	At-Large
Michele Jackson	12/17/03	02/28/09	At-Large
John Conover		02/28/09	At-Large
Len Vetrone		02/29/09	At-Large

### City Selection Appointments

Gina Papan, Millbrae	01/27/06	02/28/09	Cities
Diane Howard, Redwood City	01/27/06	02/28/09	Cities
Carole Groom San Mateo	09/26/03	02/28/09	Cities
James Janz, Atherton	12/12/03	02/28/07	Cities
Larry Franzella, San Bruno	01/27/06	02/28/07	Cities
Tom Kasten, Hillsborough	09/26/03	02/28/07	Cities
David Wood, East Palo Alto	01/28/05	02/29/08	Cities
Sal Torres, Daly City	09/26/03	02/29/08	Cities

**Authority:** Resolution 65988 adopted May 31, 2003 approving the Joint Powers Agreement joining the Housing Endowment and Trust of San Mateo County

**Membership requirements:** Two Supervisors and nine City Councilmembers (only Member Agencies) 10 members At-Large.

**Term of office:** Supervisor serve at the pleasure of the Board of Supervisors, Cities and Member At-Large serve 1, 2 and 3 years, Beginning on March 1<sup>st</sup> and ending February 28<sup>th</sup>.

**Duties:** The member shall be responsible for the joint fundraising, planning, adoption, financing, administration, review, monitoring, enforcement, and reporting of certain workforce and affordable housing program activities in San Mateo County.

**Appointment:** Supervisors are appointed by the Board of Supervisors, City Councilmembers are appointed by the City Selection Committee and At-Large members are appointed by the HEAT Board of Directors.

**Compensation:** None.

**Meetings:** 4<sup>th</sup> Wednesday of the month, 3:00-4:30 pm, 262 Harbor Boulevard, Building A in the Hacienda and Veranda rooms, Belmont.

**Contact:** Sherri Stevenson, HEART (650) 872-.4444, [sherri@heartofsmc.org](mailto:sherri@heartofsmc.org)

## **METROPOLITAN TRANSPORTATION COMMISSION (MTC)**

<u>CURRENT MEMBERSHIP</u>	<u>Date First Appointed</u>	<u>Current Term Expires</u>	<u>Representing</u>
Adrienne Tissier		02/09/07	Board of Supervisors
Sue Lempert, San Mateo		12/18/98	02/09/07 Cities

**Authority:** Government Code Section 66500.

**Membership requirements:** 18 members, 16 voting and 2 non-voting; 2 representatives of the City and County of San Francisco, 2 representatives each from Alameda, Contra Costa, San Mateo and Santa Clara Counties, 1 representative from Marin, Napa, Solano and Sonoma Counties, a representative of the Association of Bay Area Governments, a representative of the San Francisco Bay Conservation and Development Commission, a representative of the Secretary of Business and Transportation, and a representative of the U.S. Department of Transportation and Federal Highway Administration. Members are selected based on their special familiarity with the problems and issues in the field of transportation.

**Term of office:** 4 years

**Duties:** Maintains a regional transportation plan for the Bay Area which includes interstate highways, California freeway and expressway system, transbay bridges, mass transit systems, bicycle and pedestrian facilities, seaports and airports. Commission reviews applications for state and federal transportation funds, paying particular attention to the interfacing of the various modes of transportation.

**Appointment:** For members from San Francisco, the Mayor appoints 1 member and the Board of Supervisors appoints 1 member; for members from Alameda, Contra Costa, San Mateo, and Santa Clara Counties, the City Selection Committee of each county shall appoint 1 member, and the Board of Supervisors shall appoint 1 member. The City Selection Committee's of Marin, Napa, Solano, and Sonoma Counties furnish to the Board of Supervisors the names of 3 nominees and the Board of Supervisors shall appoint 1 of the nominees to represent the county. The Association of Bay Area Governments and the SF Bay Conservation and Development Commission each appoint 1 member. The Secretary for Business and Transportation appoints 1 non-voting member and the U.S. Department of Transportation and Federal Highway Administration appoints 1 non-voting member.

**Compensation:** \$100/meeting, not to exceed \$500/month.

**Meetings:** 4th Wednesday of the month, 10:00am, Metro Center, 101 8<sup>th</sup> Street, Oakland.

**Contact:** Rosy Leyva, Commission Secretary, Metropolitan Transportation Commission, MetroCenter, 101 8th Street, Oakland 94607. 510-817-5775

**CITY SELECTION COMMITTEE MEETING**

**JANUARY 26, 2007**

- 1) Selection of two Councilmembers (Central and Northern Judicial Districts) to serve on the **San Mateo County Transit District (samTrans) Board of Directors** for terms beginning immediately through December 31, 2010.

Councilmember Marc Hershman, Millbrae (Central District) is seeking reappointment.

Councilmember Michael Guingona, Daly City (Northern District) is seeking reappointment.

*(Note: Only members from the Central and Northern cities may be appointed.)*

- 2) Selection of two Councilmembers (Central and Southern Judicial Districts) to serve on the **San Mateo County Transportation Authority Board of Directors** for terms beginning immediately through December 31, 2008.

Councilmember Rosalie O'Mahoney, Burlingame is seeking reappointment. (Central District)

Councilmember Rosanne Foust, Redwood City is seeking reappointment. (Southern District)

*(Note: Only members from the Central and Southern cities may be appointed.)*

- 3) On behalf of the Council of Cities, selection of four councilmembers to serve on the **Housing Endowment and Regional Trust Board of Directors**:

A) One term beginning immediately through February 29, 2008.

B) Three terms beginning March 1, 2007 through February 28, 2010.

*(Note: Only cities that are members of HEART may be appointed)*

- 4) Selection of a member to serve on the **Metropolitan Transportation Commission** for a term beginning February 10, 2007 through February 9, 2011.

Sue Lempert, San Mateo is seeking reappointment.

**SAN MATEO COUNTY  
CITY SELECTION  
COMMITTEE**

*Deborah Gordon, Chair  
Thomas Kasten, Vice-Chair*

*Ashnita Narayan, Secretary  
400 County Center  
Redwood City, 94063  
650-363-4125*

TO: Ashnita Narayan, Secretary  
City Selection Committee

SUBJECT: Alternate to the City Selection Committee

I \_\_\_\_\_, Mayor of the City/Town of \_\_\_\_\_,  
hereby appoint Councilmember \_\_\_\_\_, to  
serve as my alternate to the City Selection Committee meeting(s).

In the absence of my appointee, I then appoint: **(Please choose one)**

\_\_\_\_\_ Councilmember \_\_\_\_\_ to represent me.

\_\_\_\_\_ Vice-Mayor and each Councilmember in order of seniority.

**(You must check only one of the following options)**

My alternate is to serve for the:

\_\_\_\_\_ meeting only.  
Date

\_\_\_\_\_ duration of my term of office as Mayor.

\_\_\_\_\_ I do not choose to appoint an alternate.

\_\_\_\_\_  
Signature of Mayor

\_\_\_\_\_  
Date

Please return to:  
Ashnita Narayan, Secretary  
City Selection Committee  
Hall of Justice & Records  
400 County Center, 1<sup>st</sup> Floor  
Redwood City, CA 94063

Or Fax to 650 363-1916  
Or bring to the meeting

If you should have any questions, please do not hesitate to call me at, (650) 363-4125.

365 Virginia Ave.  
San Mateo, CA 94402  
October 5, 2006

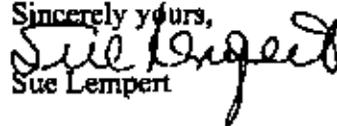
Ashnita Narayan  
County Manager's Office  
400 County Center, 1<sup>st</sup> Floor  
Redwood City, CA 94063

Dear Ashnita:

I wish to apply for reappointment to the Metropolitan Transportation Commission as the representative of the cities of San Mateo County. My current term ends in February 2007. You have received notification from MTC that I am eligible for reappointment. I have served on the Commission for two terms ( eight years) and would like to serve another term. I have worked hard to make sure our cities and county receive our fair share of transportation dollars and to encourage grants for special programs such as Transportation for Livable Communities ( our cities have done very well since this program started) and the Housing Incentive Program ( modeled on a program pioneered by C/CAG.) I also work closely with Mike Scanlon on issues concerning CalTrain, SamTrans and BART and with Richard Napier of C/CAG on transportation and funding. With MTC staff I have worked with CalTrans to receive funding for a variety of projects including auxiliary lanes on Highway 101 and improvements to Highway 92. And I work closely with the county's representative on MTC (currently Adrienne Tissier; formerly Mike Nevin.)

I represent the Commission on a number of agencies: the Joint Powers Board (CalTrain); the Joint Policy Committee (ABAG, MTC, and the Air District); San Mateo County's congestion management agency; and the Dumbarton Rail policy committee. I am currently Chair of the Operations Committee and vice-chair of the Legislation Committee for MTC.

Sincerely yours,

  
Sue Lempert

Email: [slempert@rcn.com](mailto:slempert@rcn.com)

Cc: Nadia Holober, Chair, City Selection Committee



*City of Millbrae*  
621 Magnolia Avenue, Millbrae, CA 94030

ROBERT G. GOTTSCHALK  
Mayor  
MARC HERSHMAN  
Vice Mayor  
NADIA V. HOLOBER  
Councilwoman  
LINDA T. LARSON  
Councilwoman  
GENA PAPAN  
Councilwoman  
MARY VELLA TRESLER  
Treasurer

October 20, 2006

Ms. Nadia Holober, Chair  
City Selection Committee  
400 County Center  
Redwood City, CA 94063

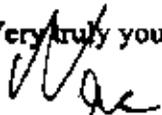
Attention: A. Narayan, Secretary

Dear Nadia:

This letter is to inform you that I wish to have my name placed in nomination for reappointment by the City Selection Committee to the Central County seat on the San Mateo County Transit District Board of Directors. My current term in that seat expires on December 31, 2006.

Thank you for your attention to this request.

Very truly yours,

  
Marc Hershman

City Council/City Manager  
(650) 259-2334

City Clerk  
(650) 259-2334

Public Works/Engineering  
(650) 259-2339

Recreation  
(650) 259-2360

Police Department  
(650) 259-2300

Personnel  
(650) 259-2334

Finance/Water  
(650) 259-2350

Community Development  
(650) 259-2341

Building Division  
(650) 259-2330

Fire Department  
(650) 259-2400

CITY COUNCIL

MICHAEL P. GUINGONA  
MAYOR

SAL TORRES  
VICE MAYOR

JUDITH A. CHRISTENSEN  
MAGGIE A. GOMEZ  
CAROL L. KLATT

PATRICIA E. MARTEL  
CITY MANAGER

MARIA E. CORTES  
CITY CLERK

ANTHONY ZIDICH  
CITY TREASURER

PHONE (850) 991-6125



OFFICE OF THE MAYOR

# CITY OF DALY CITY

333-90TH STREET  
DALY CITY, CA 94015-1895

November 8, 2006

Ms. Nadia Holober, Chair  
San Mateo County City Selection Committee  
Hall of Justice & Records  
400 County Center, 1<sup>st</sup> Floor  
Redwood City, CA 94063

Dear Ms. Holober:

It was a pleasure talking to you about the upcoming City Selection Committee meeting. As we discussed, I am definitely interested in retaining my position on the SamTrans Board of Directors for another term. Therefore, I kindly request that my reappointment be considered at the December 15, 2006 meeting.

Sincerely,

A handwritten signature in black ink, appearing to be "Michael P. Guingona", is written over a faint, larger version of the same signature. The signature is fluid and cursive.

Michael P. Guingona  
Mayor, City of Daly City  
North District Representative,  
SamTrans Board of Directors

MPG/ap

cc: Ashnita Narayan, City Selection Committee



## *The City of Burlingame*

CITY HALL - 801 PRIMROSE ROAD  
BURLINGAME, CALIFORNIA 94010-3997

TEL: (800) 558-7200  
FAX: (800) 342-8386  
[www.burlingame.org](http://www.burlingame.org)

Nadia Holober, Chair  
City Selection Committee  
400 County Center  
Redwood City, CA 94063

11/28/2006

Attn: Ashnita Narayan  
Re: Transportation Authority Seat

Dear Chair Holober :

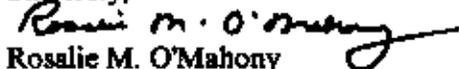
Please consider this letter to be my request to enter my name in nomination for the opening on the T.A. to represent Central County cities. I request that this letter be included as part of the agenda packet for the next City Selection Committee meeting.

This past year I have had the good fortune of serving on the T.A. Among significant actions of the board, I had the opportunity to vote for Measure A funding for The Third to Millbrae Ave. Auxiliary Lane project ; support funding for Hwy 92 - Half Moon Bay project to protect federal funds allocated for it; & support the Dunbarton Rail rehab design work, among many vital projects

Questions or suggestions are welcome. Please do not hesitate to call me at (650) 347-8481; or email to [rosalieomahony1@netzero.net](mailto:rosalieomahony1@netzero.net).

I shall truly appreciate your consideration and support for this position that addresses the infrastructure needs of every city in San Mateo County as well as the unincorporated areas. I believe that efficient transportation provision and management will continue to be the life-blood for a healthy business community in San Mateo County.

Sincerely,

  
Rosalie M. O'Mahony

Cc : Ashnita Narayan ✓  
Supervisor Jerry Hill

Mayor Barbara Pierce  
Vice Mayor Rosanne Foust

Council Members  
Alicia C. Aguirre  
Ian Bain  
Jim Hartnett  
Diane Howard  
Jeff Ira



1017 MIDDLEFIELD ROAD  
P.O. BOX 381  
Redwood City, California 94064-0381  
Telephone (650) 780-7220  
FAX (650) 261-8102  
www.redwoodcity.org

November 6, 2006

Ms. Ashnita Narayan  
Secretary  
City Selection Committee  
400 County Center  
Redwood City, CA 94063

Dear Nadia:

I hope all is well with you. I am writing because I would like to re-apply for the South County Seat I currently hold on the San Mateo County Transportation Authority and ask that my name be submitted at the appropriate upcoming meeting.

I am currently finishing my first two-year term and have thoroughly enjoyed and been an active participant on the TA. I have served on the sub-committee for the Strategic Plan and interview panel for the Citizens Advisory committee. Currently I am serving as the Vice Chair of the Transportation Authority and hope to continue in this capacity if re-appointed.

Please let me know if you require any additional information.

Best Regards,

A handwritten signature in black ink, appearing to read "R. S. Foust", is written over the typed name.

Rosanne Foust  
Vice Mayor  
City of Redwood City

cc: San Mateo Transportation Authority, Board of Directors  
Michael J. Scanlon, Executive Director, SMTA  
David Miller, Legal Counsel, SMTA



# TOWN OF HILLSBOROUGH

1600 FLORIBUNDA AVENUE

HILLSBOROUGH

CALIFORNIA

94010-6418

December 28, 2006

Deborah Gordon  
Chair, City Selection Committee  
c/o Ashnita Narayan  
400 County Center  
Redwood City, CA 94063

Re: HEART Board Seat

Dear Deborah:

I am submitting this request for nomination to the HEART Board. Please include this letter in the agenda packet for the next City Selection Committee meeting.

I have had the pleasure of serving on the HEART Board since its inception and currently serve as Vice Chair of the Legislative Committee and the Vice Chair of the Nominating Committee. I also served as Vice Chair of the Housing Element subcommittee of Hillsborough.

I am an advocate for housing, in general, and affordable housing, in particular, because I believe it is paramount to provide sufficient housing for all who wish to live in our county. It is to everyone's benefit to ensure that not only can our public servants, such as police officers, fire personnel, health workers, teachers and entry level workers, find suitable housing, but also that there is sufficient housing for our children as they grow up so they are not forced out of the area due to lack of affordable housing. Equally important is to ensure that middle-class owners and renters are not forced out due to lack of availability or high cost of housing.

The mission of HEART is to raise funds from public and private sources to meet critical housing needs. Our vision is housing attainable for all. HEART is one of the few trust funds structured as a public/private partnership and is dedicated to supporting the preservation and production of affordable housing and to increase access to decent housing. In its first full year of operation, HEART invested \$4 Million to build 398 new rental units for working families and seniors. HEART was able to leverage its investment to \$83 Million. In addition, HEART just announced a \$2.5 Million Quick Start revolving loan fund which will help to jump start additional new construction.

It would be a privilege to continue to serve on the HEART Board.

Thank you for your consideration and support. If you have any questions or comments, please feel free to contact me at (650) 347-7912 or at [netsakt@comcast.net](mailto:netsakt@comcast.net).

Sincerely,

Tom Kasten

TEL. 650.375.7400

FAX 650.375.7475



CITY COUNCIL 2006

RICHARD A. GARBARINO, MAYOR  
PEDRO GONZALEZ, VICE MAYOR  
MARK N. ADDIEGO, COUNCILMEMBER  
JOSEPH A. FERNEKES, COUNCILMEMBER  
KARYL MATSUMOTO, COUNCILMEMBER

BARRY M. NAGEL, CITY MANAGER

OFFICE OF THE CITY COUNCIL

20 December 2006

The Honorable Alan Carlson  
Town of Atherton  
91 Ashfield Road  
Atherton, CA 94027

Dear Mayor Carlson:

After careful consideration, I have decided to seek the North County seat for the San Mateo County Transit District (SamTrans) Board of Directors and I am writing to ask for your support.

I believe my background as a nine-year South San Francisco City Council member, as well as my current participation on the City/County Association of Governments, Congestion Management and Environmental Quality Committee and Bicycle/Pedestrian Advisory Committee coupled with my previous service on the Peninsula Congestion Relief Alliance and as Labor Compliance Officer for the San Mateo County Transit District, provide me with a solid understanding of local transportation needs.

The often timely issues brought before the aforementioned bodies are related to changing needs and dynamics of San Mateo County communities, and thus, the information and knowledge I have gained from serving on these agencies would enhance my decision-making skills as a member of the SamTrans Board. More importantly, I am familiar with the individual needs of the County's diverse cities and the numerous transportation projects on the Peninsula.

Many of my colleagues know me to be conscientious and that I will take my position as a board member seriously by regularly attending meetings, studying the information on the agenda, support open dialog and that I will ask relevant questions to reach equitable decisions and solutions.

I thank you for your consideration and once again, I would appreciate your support.

Very truly yours,

Karyl Matsumoto  
Council Member

01612  
115716

cc: City Council Members

Mayor Barbara Pierce  
Vice Mayor Rosanne Foust

Council Members  
Alicia C. Aguilera  
Ian Bain  
Jim Hartnett  
Diane Howard  
Jeff Ira



1017 MIDDLEFIELD ROAD  
P.O. BOX 391  
Redwood City, California 94064-0391  
Telephone (650) 790-7220  
FAX (650) 261-9102  
www.redwoodcity.org

December 20, 2006

The Honorable Alan B. Carlson  
Mayor  
Town of Atherton  
91 Ashfield Road  
Atherton, CA 94027

Dear Mayor Carlson:

I am writing to ask for your support for the re-appointment of Rosanne Foust, Vice Mayor of Redwood City to a second term representing the South County seat on the San Mateo County Transportation Authority (SMCTA).

Rosanne has been an active participant on the Transportation Authority, serving on the Strategic Plan sub-committee as well as on the interview panel for the Citizens Advisory committee of the SMCTA. In addition, Rosanne is currently the Vice Chair of the SMCTA and would like to continue serving in this capacity if re-appointed.

Having served on the City Council with Rosanne for the last three years I can attest to her dedication and commitment to the community both in Redwood City and San Mateo County. She does her homework, frequently doing additional research, strives to understand all the complex issues we all face in local government and makes her decisions in a fair and balanced manner. She brings exemplary skills to the Transportation Authority that serves both South County and the region in a very capable and professional manner.

I hope you will join me in supporting Rosanne Foust for the South County Seat on the SMCTA.

Best Regards,

A handwritten signature in cursive script that reads "Barbara Pierce".

Barbara Pierce  
Mayor  
City of Redwood City



701 LAUREL STREET, MENLO PARK, CA 94025-3483  
www.menlopark.org

January 2, 2007

Mayor Alan Carlson and Council Members  
Town of Atherton  
91 Ashfield Road  
Atherton, CA 94027-3897

Dear Mayor Carlson:

I am interested in serving as the southern San Mateo County representative to the San Mateo County Transit Authority (TA). This agency oversees how Measure A money is spent on transportation programs throughout our county.

As a civil engineer, I would bring a unique perspective to the board, as it grapples with allocation of taxpayer money to programs and projects. I have professional experience analyzing the success and failure of very large industrial projects, as well as with infrastructure asset management, and would bring this experience to bear during my service on the TA board.

The success of our county transportation programs goes hand-in-hand with land use decisions faced by cities up and down the Peninsula. We need strong communication between cities and the TA, to ensure that each city's voice is heard and that each city's special needs and programs are understood. As a Cities representative to the TA, I would take this liaison role very seriously.

As a Menlo Park council member, I have been active in transportation issues. Over the past year, I advocated before the VTA Board, its Policy Advisory Committee, as well as our Caltrain JPB for adequate Caltrain funding by all parties — funding that would ensure a high level of service, including local service, to support transit-oriented housing decisions facing small and medium-sized cities. Mobility of our county's diverse workforce is critical to our regional economic prosperity.

Other regional service includes my role as a Bay Area Water Supply and Conservation Agency (BAWSCA) board member, including service on its Policy Advisory Committee and Contract Initiation subcommittees, to ensure a reliable, high quality water supply at a fair price to 1.9 million people in three counties. I also serve on C/CAG.

With the passage of state Propositions 1A and 1B, there is an opportunity to capture state funds to benefit San Mateo County cities, and I would work to ensure that San Mateo County benefits to maximum extent possible from these funds.

I hope for your support at the City Selection Committee meeting on January 26.

Sincerely,

Kelily Fergusson, P.E., Ph.D.  
Mayor, Menlo Park

KELLY FERGUSSON  
MAYOR

ANDREW COHEN  
MAYOR PRO TEM

JOHN BOYLE  
COUNCIL MEMBER

RICHARD CLINE  
COUNCIL MEMBER

HEYWARD ROBINSON  
COUNCIL MEMBER

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**City Council**  
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**City Manager's Office**  
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**Police**  
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## **Information for Prospective Public Board Members**

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Mayor Barbara Pierce  
Vice Mayor Rosanne Foust  
Council Members  
Alicia Aguirre  
Jan Bain  
Jim Hartnett  
Diane Howard  
Jeff Ira



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January 12, 2007

Dear San Mateo County Mayors and Council Members:

I would greatly appreciate your vote for my re-appointment to the Board of the San Mateo County Transportation Authority. I was appointed in December 2004 and began my first two-year term in January 2005. The vote for re-appointment will take place at the Council of Cities meeting on January 26, 2007.

My time on the Board has been filled with activity. Supervisor Mark Church and I, as a sub-committee of the Board, and after review of all county wide transportation plans, prepared the first ever Transit Authority Strategic Plan, and the plan was unanimously adopted by the Board in early 2006.

As you know, we administer the Measure A sales tax funds and support projects throughout the county. In 2006, we supported a number of very significant projects, including, and for example:

- Approved agreements and funding allocations to proceed with the construction of auxiliary lanes on Highway 101 from Third Avenue to Millbrae, and allocated additional funds to continue toward completion of the auxiliary lanes from Marsh Road to Highway 92.
- Allocated \$7.5 million for major safety improvements at Caltrain pedestrian and vehicular crossings and approved \$2.5 million for improvement and replacement of aging rail bridges.
- Approved agreements so that planning may continue to move forward for the Dumbarton Rail project, and allocated funds to Menlo Park for development of a Dumbarton Rail Corridor Station Area Plan.
- Allocated funds for improvement in Half Moon Bay of the Highway 1/Highway 92 interchange.

I am also very proud and privileged that that my Transportation Authority Board colleagues unanimously elected me to Vice-Chair of the Board in early 2006.

It would be a privilege to continue to utilize my experience to work on the transportation needs critical to all of us. I would appreciate your support for my re-appointment and would be happy to answer any questions you may have.

Sincerely,

A handwritten signature in black ink that reads "Rosanne Foust".

Rosanne Foust  
Vice-Mayor, City of Redwood City



## FACT SHEET

### WHAT IS THE HOUSING ENDOWMENT AND REGIONAL TRUST?

The Housing Endowment and Regional Trust, the HEART of San Mateo County, envisions a county where housing is attainable for all. HEART's mission is to raise funds from public and private sources to meet critical housing needs.

### THE NEED FOR AFFORDABLE HOUSING

HEART will help solve the housing problem in San Mateo County by creating housing for people who cannot afford a home. These people include the teachers who educate our children, the fire fighters who come to our rescue and the elderly who have worked and contributed but have been priced out of San Mateo County – their community. This isn't just a nice thing to do; it's a necessary thing to do. Who benefits? We all do. Housing builds strong communities. The County of San Mateo estimates the need—based on population and job growth—at 15,000-24,000 new units over the next six years. Meanwhile, actual housing production lags far behind, with fewer than 7,000 units produced in the past five years.

### HEART'S ACCOMPLISHMENTS

HEART can help stabilize the housing market for all county residents by raising money for affordable housing construction and rehabilitation. HEART's goal is to raise substantial funds for housing from a combination of public and private sources. HEART has raised more than \$5 million; of that, \$3 million was provided by the County of San Mateo Board of Supervisors as seed money. That initial investment attracted a matching grant of \$2 million from the State of California through Proposition 46 housing bond funds for new housing trust funds. HEART was able to capture the *maximum* matching grant from the state—one of a handful of funds to do so.

To date, HEART has invested a total of \$4 million in three affordable housing developments: **Hillcrest Senior Housing**, Daly City; **The Village at The Crossing**, senior housing in San Bruno; and **Colma Transit Village**, family apartments next to the Colma BART station. These developments will result in \$83 million in economic activity, and HEART will leverage its funds at a rate of \$20 from other sources for every \$1 from HEART.

### GOVERNANCE AND GOALS

HEART is a collaborative, public/private venture. It is structured as a **joint powers authority (JPA)**. Currently, 15 cities plus San Mateo County are members. HEART's board of directors consists of 11 elected officials and 10 at-large members from the private sector. As a JPA, HEART is a public entity; its board meetings and deliberations are open to the public. Staffing is provided on an annual contract basis by the Housing Leadership Council of San Mateo County, a nonprofit organization, and the San Mateo County Department of Housing. Contracting reduces overhead and avoids creation of a new bureaucracy.

HEART's goal is eventually to have a dedicated source of public revenue to invest in affordable housing. Meanwhile, HEART is embarking on a **\$3 million campaign to challenge the private sector to match the County's investment in HEART**. And because HEART's member agencies pay dues annually to finance basic administrative costs, donations to HEART go to where they are most needed: **to build affordable housing**.



**HEART MEMBER AGENCIES**

Town of Atherton  
City of Brisbane  
City of Burlingame  
Town of Colma  
City of Daly City  
City of East Palo Alto  
City of Foster City  
City of Half Moon Bay  
Town of Hillsborough  
City of Menlo Park  
City of Millbrae  
Town of Portola Valley  
City of Redwood City  
City of San Bruno  
City of San Carlos  
City of San Mateo  
Town of Woodside  
County of San Mateo

**HEART BOARD MEMBERS**

Denise Aquila  
San Mateo County Association of Realtors  
Linda Asbury  
San Mateo Area Chamber of Commerce  
John Conover  
Borel Private Bank and Trust Co.  
Karyl Eldridge  
Peninsula Interfaith Action  
Larry Franzella  
City Council, City of San Bruno  
Pat Gemma  
Sequoia Union High School District  
Richard Gordon  
Board of Supervisors, County of San Mateo  
Carole Groom  
City Council, City of San Mateo  
Diane Howard  
City Council, City of Redwood City  
Michele Jackson  
Shelter Network  
Rose Jacobs Gibson  
Board of Supervisors, County of San Mateo  
James Janz  
Town Council, Town of Atherton  
Tom Kasten  
City Council, Town of Hillsborough  
Bill Nack  
S.M. Co. Building & Construction Trades Council  
Gina Papan  
City Council, City of Millbrae  
Paul Shepherd  
Cargill Salt  
Sal Torres  
City Council, City of Daly City  
Len Vetrone  
Nibbi Brothers Construction  
David Woods  
City Council, City of East Palo Alto



**Housing Endowment and Regional Trust**

**Public Director**

The Housing Endowment and Regional Trust (HEART) of San Mateo County is a joint powers authority governed by a public-private partnership. HEART's mission is to raise and distribute funds from public and private sources to meet critical housing needs in San Mateo County. Since its 2003 inception, HEART has raised \$6.5 million from government sources and \$1.2 million from private sources. Through its current campaign, called *Opening Doors in Our Community*, HEART's goal is to raise a total of \$3 million from the private sector to finance housing development. HEART will leverage every dollar of its funds with at least \$10 of funding from other sources.

HEART is structured as a Joint Powers Agreement (JPA) among the cities of San Mateo County and the County of San Mateo. Currently, 17 of the 20 cities in the county are members. A Board of Directors consisting of up to 21 voting directors governs the JPA.

Up to nine members of the Board of Directors may represent cities that are members of HEART. Only one city council member from a particular city may serve on the board at a time. The city representatives are chosen through election by the City Selection Committee of the Council of Cities. Two representatives from the County Board of Supervisors also serve on the Board of Directors. These 11 representatives are known as **Public Directors**.

Ten representatives from the private sector fill the balance of the seats on the board and are known as **At-Large Directors**. At-Large Directors represent the broad spectrum of stakeholders for affordable housing. Membership should reflect private-sector representation from the following categories: labor, nonprofit developers, real estate, business, foundations, housing advocacy organizations, financial sector, faith community, school districts, the impacted population, and membership at large.

The role of the Public Director as a member of the Board of Directors includes and is not limited to defining the budget and financing of HEART, which may involve entering into financial agreements, securing financial contributions from member agencies, and overseeing the fundraising efforts of the JPA. Administrative and programmatic concerns as well as project funding criteria and implementation, are also under the purview of the Board of Directors.

The Public Director term is three calendar years (March through February). Public Directors are expected to participate in all meetings of the Board of Directors and at least one committee. Currently, the Board of Directors meets ten times a year.



year, usually in the afternoon of the 4<sup>th</sup> Wednesday of the month. Committee meetings are held on various days of the week and at various times during the day, depending upon the committee.

The current standing committees include:

- **Member Agency Committee:** Under the provisions of the joint powers agreement, every public agency member of HEART is represented on this committee by a city council member, whether or not the has a representative on the Board of Directors. The Member Agency Committee must approve fiscal and program activities that have a fiscal impact on the members.
- **Program Committee:** Develops and monitors HEART's housing funding programs
- **Fund Development:** Develops and leads private-sector fundraising and marketing campaigns
- **Legislative Committee:** Develops and advances legislative proposals to facilitate the financing and development of workforce and affordable housing, including creation of dedicated sources of public revenue for housing.
- **Nominating:** Nominates officers; identifies and recommends candidates for at-large director positions.
- **Executive:** Meets as needed to review organizational issues.



## HEART BOARD PLEDGE

As a Board member of HEART, you are expected to pledge your participation of time, money and effort.

### Participation:

#### Board, Committee Meetings and Annual Retreat

\_\_\_\_\_ I commit to attending at least 70% of all committee meetings & the annual retreat. I will be periodically asked to review critical documents/plans, and I agree to provide feedback and oversight for moving the board and committees forward.

### Personal Financial Commitment:

\_\_\_\_\_ Financial Pledge: I understand that HEART needs to fundraise for the "Opening Doors to Our Community Campaign." Each Board member is asked to make a pledge commensurate with their personal financial circumstances, but at a minimum to consider making a **minimum personal pledge each year of \$100, and to seek matching funds when available. With 100% of our Board committed to HEART, we will leverage this support with potential donors.** Board members who are associated with businesses will also be asked to get support from their company.

\_\_\_\_\_ My target gift is \$ \_\_\_\_\_.

### Campaign Participation:

\_\_\_\_\_ I commit to helping HEART meet its annual goal for the campaign by actively soliciting 3-5 donors in the coming year (self-identified or identified by HEART staff). I am aware that HEART will provide staff support around this pledge and that all materials are available to me to make this a success.

All three of these commitments are desired minimum requirements to be a member of the HEART Board. It is only through our combined efforts that we will address the housing issues in San Mateo County.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



Here are names of potential donors I am willing to approach:

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I can also help with making or arranging a presentation to the following:

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**THANK YOU**



## OATH OF OFFICE

Housing Endowment And Regional Trust of San Mateo County

I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

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Signature