



AGENDA
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
JULY 18, 2007
5:00 P.M.
Meeting Room
Town Administrative Offices
91 Ashfield Road
Atherton, California
Special Meeting

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

5:02 P.M. PUBLIC COMMENTS

5:05 P.M. CLOSED SESSION

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

Lamb vs. Town of Atherton, et al.

Superior Court of California, San Mateo County, CIV 461630

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

Superior Court of California, San Mateo County, CIV 458899

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

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

One (1) potential case

**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

D. LIABILITY CLAIMS – pursuant to Government Code Section 54956.95

**Claimant: Mavel Guitron
Agency Claimed Against: Town of Atherton**

E. PUBLIC EMPLOYMENT/PUBLIC PERFORMANCE EVALUATION – pursuant to Government Code Section 54957(b)(1)

Title: City Manager

PUBLIC EMPLOYEE PERFORMANCE EVALUATION – pursuant to Government Code Section 54957(b)(1)

Title: City Attorney

RECONVENE TO OPEN SESSION

Report of action taken.

ADJOURN

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

☛ Please contact the City Clerk's Office at 650.752.0500 with any questions.

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



AGENDA
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
WEDNESDAY, JULY 18, 2007

6:00 P.M.

Meeting Room
Town Administrative Offices
91 Ashfield Road
Atherton, California

SPECIAL MEETING

6:00 P.M. 1. ROLL CALL Janz, J. Carlson, Marsala, A. Carlson, McKeithen

REGULAR AGENDA

6:02 P.M. 2. INTERVIEW WITH BILL AVERY OF THE CONSULTING FIRM OF WILLIAM AVERY AND ASSOCIATES TO ASSIST IN THE RECRUITMENT OF A CITY MANAGER

6:55 P.M. 4. PUBLIC COMMENTS

7:00 P.M. 5. ADJOURNMENT

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AGENDA
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
JULY 18, 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**
- A. Certificates of Appreciation for Outgoing Members of the
 General Plan Committee
- B. Citizens for Clean Air in Atherton
- C. Annual Tree Awards – Atherton Tree Committee
- 7:30 P.M. 4. **PUBLIC COMMENTS** (only for items which are not on the agenda –
 limit of three minutes per person)
- 7:40 P.M. 5. **STAFF REPORTS**
- 7:50 P.M. 6. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT** (Directed
 by Resolution No. 99-6)
- MID-PENINSULA COMMUNITY MEDIA CENTER**
- 8:00 P.M. **CONSENT CALENDAR** (Items 7–21)
7. **APPROVAL OF MINUTES OF THE SPECIAL CITY COUNCIL
 CLOSED SESSION OF JUNE 18, 2007; THE SPECIAL CITY
 COUNCIL MEETING OF JUNE 18, 2007; THE SPECIAL CITY
 COUNCIL CLOSED SESSION OF JUNE 20, 2007, AND THE
 REGULAR CITY COUNCIL MEETING OF JUNE 20, 2007**
8. **APPROVAL OF BILLS AND CLAIMS FOR JUNE 2007 IN THE
 AMOUNT OF \$ 939,950**

9. **ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR JUNE 2007**
10. **PERFORMANCE REPORT OF TOWN LANDSCAPING CONTRACT WITH COMMERCIAL ENVIRONMENTAL LANDSCAPE**

Recommendation: Staff recommends that Commercial Environmental Landscape (CEL) is retained to continue performing landscaping duties in various locations in the Town of Atherton.

11. **APPROVAL OF PLANS AND SPECIFICATIONS AND AUTHORIZATION TO ADVERTISE THE HOLBROOK PALMER PARK WALKING PATH PROJECT, PROJECT NO. 07-001**

Recommendation: Approve the plans and specifications and authorize advertisement for bids for the Holbrook Palmer Park Walking Path Project, Project No. 07-001.

12. **APPROVAL OF AN AMENDMENT TO THE AGREEMENT WITH NEAL MARTIN AND ASSOCIATES FOR PLANNING SERVICES**

Recommendation: Consider request for increase in rates for professional Planning services. If the City Council desires to approve the proposed increase, the existing contract will be amended by replacing existing Exhibit B with new Exhibit B containing the revised rates providing a 5% increase.

13. **SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING CHAPTER 17 OF THE ATHERTON MUNICIPAL CODE REGULATING BASEMENTS**

Recommendation: Staff recommends that the City Council adopt the attached Ordinance.

14. **ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION, AND APPROVAL OF SPRING MICRO-SURFACING PROJECT, PROJECT NO. 06-003**

Recommendation: Accept work, authorize recording of a Notice of Completion, and authorize payment of retainer for a total contract amount of \$68,863.30.

15. **APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE TOWN OF ATHERTON AND CSG CONSULTANTS, INC., FOR CODE ENFORCEMENT SERVICES**

Recommendation: Staff recommends that City Council approve the attached Agreement for Professional Services with CSG Consultants, Inc., to provide Code Enforcement Services to the Town of Atherton.

- 16. ACCEPT AND APPROVE THE RECOMMENDATION OF THE CITY COUNCIL SCREENING COMMITTEE FOR APPOINTMENTS TO THE AUDIT COMMITTEE, THE PARK AND RECREATION COMMISSION, AND THE ENVIRONMENTAL PROGRAMS COMMITTEE**

Recommendation: Accept and approve the recommendation of the City Council Screening Committee to appoint members to Town commissions and committees

- 17. POLICE DEPARTMENT PURCHASE OF POLICE VEHICLES FOR FY 2007-08**

Recommendation: Council authorize the Town to “piggy back” on the City and County of San Francisco’s bid in order to purchase two police vehicles (one marked, one unmarked) for the fiscal 2007-2008 budget cycle for a total cost not to exceed \$45,568.00.

- 18. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$173,663.50 FOR THE PROJECT NUMBER 05-003**

Recommendation: Accept the work, authorize recording of a Notice of Completion and approve contract change orders in the amount of \$173,663.50 for the Valparaiso Avenue Street Reconstruction Project, Project No.05-003.

PUBLIC HEARINGS (Items 19-21)

- 8:10 P.M. 19. APPEAL REGARDING 55 BELBROOK WAY (Continued from June 20, 2007)**

Recommendation: At the request of the appellant, this item will be continued to the City Council meeting of September 19, 2007.

- 8:11 P.M. 20. APPEAL REGARDING 94 TALLWOOD (Continued from June 20 2007)**

Recommendation: Continue the item pending the outcome of the Planning Commission meeting of July 25, 2007.

- 8:12 P.M. 21. **INTRODUCTION OF AN ORDINANCE RATIFYING ORDINANCE NO. 29 OF THE MENLO PARK FIRE PROTECTION DISTRICT AMENDING DISTRICT FIRE PREVENTION CODE PERTAINING TO AUTOMATIC FIRE SPRINKLER SYSTEM REQUIREMENTS IN THE TOWN OF ATHERTON AND ACTION REGARDING MENLO PARK FIRE PROTECTION DISTRICT REVIEW AND APPROVAL OF ACCESS AND WATER SUPPLY**

Recommendation: Introduce for first reading, an ordinance ratifying amendments to the Menlo Park Fire Protection District Code pertaining to fire sprinklers. Establish requirements for fire sprinklers in basements of any size newly constructed in the Town of Atherton. Confirm by letter that the Chief of the Menlo Park Fire Protection District will administer provisions in Article 9 of the California Building Standards Code relating to fire apparatus access, access roads, fire hydrant systems, and required water supply fire flow requirements and fire hydrant location and distribution in the Town.

REGULAR AGENDA (Item 22-27)

- 8:30 P.M. 22. **DISCUSSION REGARDING A REQUEST FROM MENLO-ATHERTON LITTLE LEAGUE TO RECONSIDER A PROVISION IN THEIR AGREEMENT TO LEAVE THE BACKSTOP IN PLACE FOR THE FORESEEABLE FUTURE AT HOLBROOK-PALMER PARK**

Recommendation: The City Council consider a request from the Menlo-Atherton Little League to maintain the Baseball Back Stop at Holbrook-Palmer Park on a year-round basis

- 8:50 P.M. 23. **REPORT REGARDING THE REVIEW OF OPEN BUILDING PERMITS BY MENLO PARK FIRE PROTECTION DISTRICT AND THE TOWN OF ATHERTON BUILDING DEPARTMENT**

Recommendation: Staff recommends that the City Council review the findings of open permits by Menlo Park Fire Protection District.

- 9:10 P.M. 24. **CONSIDERATION OF TOWN PARTICIPATION IN AN AMOUNT UP TO \$100,000 IN THE COST OF INSTALLING A TRAFFIC SIGNAL ON MIDDLEFIELD ROAD AT ENCINAL AVENUE**

Recommendation: Staff recommends that the City Council consider whether or not to participate up to \$100,000 in the cost of installing a traffic signal on Middlefield Road at Encinal Avenue, provided that the Menlo Park School District and the City of Menlo Park agree to proportionate shares.

- 9:30 P.M. 25. **CONSIDERATION AND POSSIBLE ACTION TO ALLOW AN ENTRANCE TO MIDDLEFIELD ROAD FROM THE NEW TEACHERS' PARKING LOT AT ENCINAL SCHOOL**

Recommendation: Staff recommends that the City Council decide whether to allow an entrance to Middlefield Road from the new Encinal School teacher's parking lot and give appropriate direction to staff for reconsideration by the Transportation Subcommittee.

- 9:45 P.M. 26. **CONSIDERATION AND POSSIBLE ACTION REGARDING ESTABLISHING A BUDGET FOR THE ENVIRONMENTAL PROGRAMS COMMITTEE**

Recommendation: Staff recommends that the City Council consider the request from the Environmental Programs Committee for its annual budget and provide appropriate direction to staff.

- 10:00 P.M. 27. **SELECTION OF A CONSULTING FIRM TO ASSIST IN THE RECRUITMENT OF A CITY MANAGER**

Recommendation: Staff recommends that the City Council discuss the interviews conducted for a consulting firm in assisting in the recruitment of a new City Manager and choose the recruiting firm that best meets the needs of the Town.

- 10:10 P.M. 28. **COUNCIL REPORTS**

- 10:20 P.M. 29. **PUBLIC COMMENTS**

- 10:30 P.M. 30. **ADJOURNMENT**

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DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
JUNE 18, 2007
5:00 P.M.
Meeting Room
Town Administrative Offices
91 Ashfield Road
Atherton, California
Special Meeting

The meeting was called to order by Mayor Alan Carlson at 5:00 p.m.

ROLL CALL

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

PUBLIC COMMENTS

There were no public comments.

CLOSED SESSION

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

Town of Atherton vs. Sequoia Union High School District, et al.
Superior Court of California, San Mateo County, CIV 458899

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

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

Two (2) potential cases

C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

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

One (1) potential case

RECONVENE TO OPEN SESSION

Report of action taken.

Mayor Alan Carlson adjourned the Closed Session at 7:25 p.m. At the end of the Regular Meeting, Council Member McKeithen requested that Council return to Closed Session to reconsider an item. The Continued Closed Session reconvened at 9:35 p.m.

With respect to Item A, Town of Atherton vs. Sequoia Union High School District, there was no reportable action taken.

With respect to Item B, Significant Exposure to Litigation, there was no reportable action taken on one potential case, and the following action took place on the other potential case:

In the best interests of the town, and with the understanding that for all other future projects, section 17.08.128 of the Atherton Municipal Code will be interpreted in a manner which will include floor area ratio calculations situations like that at 70 Barry Lane, the Building Official is directed to rescind the abatement order for 70 Barry Lane, Atherton.

With respect to Item C, Initiation of Litigation, no reportable action was taken.

ADJOURN

Mayor Alan Carlson adjourned the Continued Closed Session at 10:00 p.m.

Respectfully submitted,

Alan B. Carlson
Mayor

Minutes Prepared by:
Kathi Hamilton



DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
JUNE 18, 2007
7:00 P.M.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

Special Meeting

Mayor Alan Carlson called the meeting to order at 7:27 p.m.

ROLL CALL

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

PUBLIC COMMENTS

There were no public comments.

PUBLIC HEARINGS (Items 1-4)

1. ADOPTION OF A RESOLUTION MODIFYING FEES FOR SERVICES RELATED TO PLANNING AND BUILDING

Finance Director John Johns explained that the item was scheduled that evening because staff was recommending a significant investment in the Building Department which would require an increase in building fees to recover those costs. Additionally, a corrected copy of the fee resolution was placed before Council indicating the recommended Grading and Drainage fee was actually \$2,000 and not \$750.

Council Member McKeithen, as a member of the Finance Committee, reviewed the recommended fee increases along with Building Official Mike Wasmann and Finance Director John Johns. Finance Director Johns was directed to review other jurisdictions to see whether fees were either too high or too low. The Finance Committee asked staff to solicit input from developers and from the public arena in order to encompass everyone's thoughts and concerns regarding the fee schedule over the years. Council Member McKeithen assured the public that the recommended

increases were not a substitute for the excavation fee or to recover monies lost. The fees were to recover new and continuing expenses incurred by the Building Department. The Finance Committee reviewed the fees to judge them for fairness and ongoing software support to ensure a better Building Department to serve the people who do business in the Town.

Council Member Marsala believed the item should be heard at a regular meeting of the City Council where more members of the public would be present.

Finance Director Johns said the matter was not ready for discussion previously in order for staff to collect information regarding the current cost for building and for information from an independent cost estimator. Staff commissioned a study to review 12 projects that were recently permitted to determine what the permitted value was in comparison to the actual cost of building the projects. Four projects were returned representing approximately 30,000 square feet of residential construction. Staff learned that the average cost per square foot was \$467 as compared to the current fee of \$250. He clarified that the recommended fee increases were not to provide monies to acquire the Permit Tracking System. The cost of the system would be amortized over 7 years. The increased fees would provide the Building Department the resources it needed to do its job. The Building Department had an operational loss of approximately \$200,000 the past fiscal year and that amount would be drawn from the reserve for future building inspections. Staff wanted to reverse the trend as expeditiously as possible.

Council Member Marsala would be more comfortable seeing the numbers in a future meeting before approving the new fee schedule.

City Manager Jim Robinson said holding a special meeting to consider the budget was a widespread practice. The current meeting had been properly noticed, notices were published in the *Almanac*, and notices were sent to those organizations that requested notification.

Mayor Alan Carlson opened the public hearing. No one came forward to speak, and Mayor Carlson closed the public hearing.

Council Member McKeithen said the Finance Committee met numerous times regarding the issue and was pleased people within the industry had been notified. She also wished more public was present to discuss the item; however, there was no guarantee that more people would attend the regular meeting on Wednesday.

Mayor Carlson found the resolution to be consistent with past practices and the philosophy of the Town, which was to have the governmental costs associated with plan checking and building services the Town provided be borne by those who received them.

In response to Council Member Marsala, Finance Director Johns clarified the budget for 2006-07 for Building Permit fees was \$1,000,000. As of that day, Building Permit Fee revenues collected were \$1,063,000. He believed the projected \$1,100,000 revenue for 2007-08 was a good estimate. When you took into consideration the Building Department's direct operating cost at an operational loss of \$160,000 and the unallocated indirect costs of approximately 14% of the department's expenses (\$140,000), the result was an approximate loss of \$300,000. There was a very clear trend that the Building Department was not recovering its costs with the current fee structure. The new permit fee would be a 30 to 35% increase, i.e. from \$250 a square foot to \$350 a square foot for habitable space. All other activities were the same, i.e. uninhabitable space remained at \$250 a square foot.

Council Member Jerry Carlson commended Building Official Mike Wasmann and Finance Director Johns for their work in researching the issue and was satisfied with the resulting fee structure.

In response to Vice Mayor Janz, Finance Director Johns said the 1% factor was derived from the Uniform Building Code which prescribed that 65% of the fees be applied toward building inspections and the remaining 35% be applied to plan check.

Vice Mayor Janz clarified that the 1% factor was required. In essence, the cost of the service was based upon the anticipated volume and what was charged had to result in sufficient revenue to cover costs. It was a mathematical computation that did not relate to the real cost of construction. He inquired about the solar fee and wanted to know how many installations were done per year that required the \$250 fee.

Building Official Wasmann believed there were 10 to 12 permits per year; however, if solar was part of new construction, there was no separate solar fee.

Vice Mayor Janz said the Environmental Programs Committee and the General Plan Committee both recommended the solar fee be eliminated. He was proposing to set the fee to zero (0). The amount of revenue lost would be insignificant. He believed it would send a statement that the Town of Atherton was firmly behind efforts to go "green," to reduce global warming, energy use, and impacts on the environment.

Mayor Carlson believed government was a two-way street. The law required that the Town give adequate notice to ensure people would attend meetings. The fact that there was not a full audience did not affect his decision-making.

MOTION – to adopt Resolution No. 07-17, “A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON MODIFYING FEES FOR SERVICES RELATED TO BUILDING AND PLANNING”

M/S McKeithen/J.Carlson

Vice Mayor Janz proposed the motion be amended to include reducing the solar fee to zero.

Council Member McKeithen strongly supported installing solar but believed everyone should pay the fee that incurred a labor cost. There were other ways to support solar.

Council Member Jerry Carlson did not support the amendment.

The maker and seconder of the motion did not support the amendment.

Mayor Carlson explained if there was a desire to change the motion, the original motion would need to be defeated and another motion made. He would understand that if anyone voted against the motion, it was because the motion was not amended to include the solar fee, and not because he/she was against the fee resolution.

ORIGINAL MOTION Ayes 3 Noes 2 (Marsala/Janz) Absent 0 Abstain 0

2. ADOPTION OF A RESOLUTION ADOPTING THE FY 2007-08 OPERATING AND CAPITAL BUDGET

Finance Director John Johns said the budget was straight forward, although a lot of work was done to identify the needs of the Building Department. Within the transmittal letter, any significant variances in revenues and expenses were identified. He believed the Town was on a solid financial footing and expected to remain so in the immediate future.

Vice Mayor Janz said his biggest concern was the 4-year trend regarding the Parcel Tax. The ending fund balance decreased year by year. However, there was a \$3,000,000 excess over the required minimum reserve. He asked how the Finance Director felt about running down the fund balance over time.

Finance Director Johns said there were two competing schools of thought. One was that the Town was not in the banking business and should only have funds that could justify the working capital requirements, and anything above that should be returned to the residents by spending the fund down. He believed the philosophy was not to plan on carrying funds that were in excess of long-range requirements. Council was consistent over the years in establishing minimum reserve requirements that represented between 25 to 50% of ongoing operating expenses. At \$4.3 million, that constituted about five months of financial reserves. He did not see the reduction in the intermediate range fund balance to be alarming. Staff had been conservative in estimating revenues over the past years and achieved or exceeded revenue targets.

Council Member Jerry Carlson said a priority in future years would be how to provide financing to maintain the level of services the Town provided. He would like a separate breakout of benefits from the salary numbers to see the rate of increase over the last three years. A discussion ensued regarding estimated department expenses. The Finance Director had a high level of confidence in the estimates and believed the projections would be close to the actual numbers at yearend. Staff clarified Council Member Carlson's questions regarding contract services, employee automobile

allowances, the Town's Post Office, Building Department contract services, Police Department contract services, Holbrook-Palmer Park revenues and expenditures, as well as the Arts Committee's budget and Library fund.

Council Member Marsala asked whether funds had been budgeted for the CO2 emissions study to determine a baseline for the Town.

City Manager Jim Robinson indicated funds had not been allocated in the budget for the Environmental Programs Committee (EPC). Staff received a request for approximately \$11,000 in funding for the EPC after the Finance Committee had met. The Council would need to review the request for funds if funds were to be included in the budget.

Council Member Marsala indicated there was a State Bill, AB32, mandating a reduction in CO2 emissions. He encouraged the Finance Committee and Council to notify the EPC of any deficiencies in its plan in order to come into compliance with AB32. The Town needed to develop a plan to meet the conditions of AB32. Additionally, he asked whether any funds were allocated for the refurbishing the tennis courts.

Public Works Director Duncan Jones said staff was seeking a grant to pay for half of the tennis court work, which would give leverage to seek additional funds for the other half.

Mayor Carlson asked what the sufficiency of the present Parcel Tax would be if spending continued at the same rate.

Finance Director Johns said the Parcel Tax, at its current rate, would not be sufficient with the current split between the General Fund/Capital Improvements. One choice would be to increase the portion of the Parcel Tax that went to the General Fund to finance operations. Another choice would be to leave the current split as it was and increase the Parcel Tax levy the next time.

Mayor Carlson queried whether as part of the budget process, staff asked departments how they could cut costs.

Finance Director Johns said the approach was for the departments to indicate their requirements, how the upcoming year's needs varied from the current year. One thing staff was acutely aware of was that 75% of General Fund monies went to salaries and employee benefits. One approach had been to take a very hard look at vacancies to see whether the position needed to be filled or whether restructuring was possible in order to save money.

Council Member McKeithen said a major benefit of being on the Finance Committee was that her questions had been answered. She clarified the litigation expense was high but was not just related to historical elements and Building Department issues but

also the Menlo-Atherton High School Performing Arts Center issue and some issues regarding Menlo schools. She indicated the Finance Committee would like to review the EPC request regarding funding for the CO2 emissions baseline; however, information was needed regarding an accounting of the \$6,000 allocated to Earth Day events. Town Arborist Kathy Hughes-Anderson's time also needed to be taken into consideration as she spent a lot of time with the EPC, which needed to be included in the EPC budget. Perhaps an increase in the SBWMA contribution would be possible. She clarified that the Public Works' increase in contract services was related to the Atherton Oaks emergency light issue. She noted that one of the detectives in the Police Department was in the San Mateo County Gang Task Force and the Town did not receive reimbursement. The Finance Committee was concerned about the \$300,000 subsidy for Holbrook-Palmer Park. The Committee asked for reports regarding the fee structure, how many events were held and at what times, when the last fee increase occurred, and expenditures/revenues. The Committee also considered updating a previous study to possibly make recommendations to the Council for further review. The Finance Committee requested information, on a weekly basis, regarding how the Police Department used its time and resources in order for the Committee to understand how the officers were being used. She asked for further clarification regarding rents and leases within the Police Department.

Mayor Carlson opened the public hearing, No one came forward to speak, and Mayor Carlson closed the public hearing.

Council Member Jerry Carlson said the Town was doing an excellent job on the roads. He asked that the City Manager's house be evaluated to see whether improvements were needed.

City Manager Robinson said, at the request of the Park & Recreation Commission, the house was evaluated and improvements were identified. Funding was included within the Capital Improvement budget for that purpose. Some improvements had been completed.

Council Member Jerry Carlson said the home was an important element in looking for a new city manager and suggested a plan needed to be developed to address those issues.

Public Works Director Jones indicated a plan was in place to carry out improvements.

Council Member Marsala said he would provide the Finance Committee with a previous study done in 2000 regarding possible improvements to the Pavilion, as well as qualifying issues regarding the EPC. He suggested putting an item for funding AB32 on a future agenda.

Mayor Carlson noted a great deal of work went into developing the budget. He thanked the Finance Committee, Finance Director Johns and all staff who developed the budget.

City Manager Jim Robinson handed out a summary of goals and objectives identified by Council, which had been ranked according to Council's prioritization.

Mayor Alan Carlson suggested that two more columns be added to the chart: 1) what staff member was responsible; and 2) what Council subcommittee, if any, was responsible for each goal.

Council Member McKeithen suggested a status column be added, i.e. including dates and timetable, accomplishments, progress.

Discussion ensued and Council suggested after the format was adjusted and the status enlarged, the document should be reviewed on a regular basis. Other items needed clarification such as grants, housing element, and those goals that continually moved.

City Manager Robinson suggested that Council direct staff on what Council's expectations were for each goal and what it wanted to accomplish.

Council Member McKeithen wanted more information regarding grants, what the status was regarding the housing element, etc.

Vice Mayor Janz asked Finance Director Johns to ensure Council received a finalized copy of the budget.

Council Member McKeithen requested that Council return to Closed Session to reconsider an item.

6. ADJOURN

Mayor Carlson adjourned the meeting at 9:34 p.m. to a *Continued* Closed Session.

Mayor Carlson adjourned the *Continued* Closed Session at 10:00 p.m.

Respectfully submitted,

**Kathi Hamilton
Acting City Clerk**



DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
JUNE 20, 2007
6:00 P.M.
Meeting Room
Town Administrative Offices
91 Ashfield Road
Atherton, California
Special Meeting

The meeting was called to order by Mayor Alan Carlson at 6:10 p.m.

ROLL CALL

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

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**

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

RECONVENE TO OPEN SESSION

Report of action taken.

There was no reportable action taken regarding Lamb vs. Town of Atherton, et al.

ADJOURN

The meeting was adjourned by Mayor Alan Carlson at 6:28 p.m.

Respectfully submitted,

Alan B. Carlson
Mayor

Minutes Prepared by:
Kathi Hamilton



DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
JUNE 20, 2007
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

Mayor Alan Carlson called the meeting to order at 7:07 p.m.

1. PLEDGE OF ALLEGIANCE
2. ROLL CALL

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

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

3. PRESENTATIONS

- A. Proclamation Recognizing Public Works Supervisor Troy Henderson for his 30 years of service to the Town

Mayor Alan Carlson said there were institutions and landmarks within the Town such as the water tower in Holbrook-Palmer Park and the Council Chambers and then there was Troy Henderson, another landmark in the Town. Everyone called on Troy, and he was known as truly a nice man who had given 30 years of service to the community.

Public Works Superintendent Steve Tyler said Troy started his service with the Town on June 1, 1977, rose through the ranks from part-time to full-time to Public Works Supervisor. He commended him for his 30 years of service.

Melinda Tevis, Tallwood Court, thanked Troy for all his smiles and waves throughout the years. She always knew she was home whenever she saw Troy.

Council Members Charles Marsala, Janz, Jerry Carlson, McKeithen, and City Manager Jim Robinson added their comments and commendations.

Public Works Supervisor Troy Henderson said the Town had always been home to him. He attended Menlo-Atherton High School, traveled around the country, and returned to begin work for the Town. He appreciated all the kind words and derived great pleasure from his 30 years of service.

B. BKF Drainage Study

Ed Boscacci, BKF Engineers, gave a PowerPoint presentation regarding the Drainage Criteria for New Development. A workshop for Town residents had been conducted in May. The purpose of the study was to develop drainage criteria for on-lot development. The ability to control drainage issues was during the permit process. He reviewed the findings and responded to Council questions.

Public Works Director Duncan Jones said one of the next steps was to blend what CSG Consultants, Inc., was doing as part of its grading and drainage contract with what BKF was doing as far as the drainage criteria, review Atherton's Municipal Code for any changes that needed to be made, and implement regulations that could be changed by resolution. The item would most likely be returned to Council in September.

C. Darin Duncan from California Water Service

Darin Duncan, District Manager of California Water Service, gave a PowerPoint presentation regarding fire flows from fire hydrants, Fire Code requirements, water quality balance, what Cal Water had accomplished, and short- and long-term solutions to the fire flow issue. Most systems in Atherton were designed to handle 1,000 GPM, which was normal. There were other areas that were oversized with slightly better flows. Maximum flows occurred on major transmission lines. Dead-end streets were a problem because of lower flow. Ninety percent of the Town met the 1500-2000 GPM. Fire flows were based on house size. The average house size in Atherton was 11,000 to 23,000 sq. feet and required between 3000 and 4000 gallons of flow, with fire sprinklers, 1500 to 2000 GPM. He described the issues surrounding the dead-end lines and water quality. Cal Water had made major improvements such as rebuilding Pumping Station 5, installed new pipelines, and scheduled more improvements for the coming year. Mr. Duncan responded to Council questions.

4. PUBLIC COMMENTS

Mayor Alan Carlson said a member of the Planning Commission received an anonymous letter regarding the building of his home in the Year 2000. There was a letter from a surveyor in the Building Department files regarding his residence that indicated that the roof peak, for an 8-foot length, exceeded the height limit by 7 inches.

He instructed the City Manager to make no attempt to find the identity of the person who obtained the information but believed he should disclose the information. Additionally, the City Attorney clarified that he need not recuse himself from discussions before the Council that dealt with height limitations.

5. STAFF REPORTS

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

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

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

There was not reportable action taken.

- Council Member Marsala asked the City Manager for the correct process regarding the Environmental Program Committee's budget request. City Manager Jim Robinson stated that the Finance Committee had the ability to review any financial issue. The Finance Committee could meet and review a draft budget and make recommendation.
- Council Member Marsala asked Finance Director John Johns whether any cases of overcharging were discovered in the Building Department audits. Finance Director Johns said he would review the working papers and report back.
- City Attorney Marc Hynes clarified the best way to avoid a problem of a possible quorum of Council Members being present at a committee meeting was to notice the meeting with the statement that a quorum of Council Members might be present. As long as the public was made aware, the requirements of the Brown Act would be met.

6. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

None

CONSENT CALENDAR (Items 7–21)

Mayor Alan Carlson asked that Item No. 13 be removed from the Consent Calendar to be taken up immediately after the Consent Calendar, as his law firm had a relationship with Granite Construction Company. Additionally, he asked that Item No. 20 be removed from the Consent Calendar and placed at the end of the Regular Agenda.

Council Member McKeithen asked for clarification regarding Item No. 11. Assistant to the City Manager Wendé Protzman said the services were almost identical to those provided by the City of Palo Alto, with Redwood City possibly be able to provide more services. The base costs were approximately \$10,000 less than Palo Alto, and overall would probably be less.

In response to Council Member Jerry Carlson, Assistant to the City Manager Protzman clarified that all of the modules were included and the Code Enforcement Officer had been identified as an end user, 10 licenses would be required and were included in the price, and data conversion would be assessed in the future. Finance Director John Johns said the financial issues would be worked out with CRW and absorbed within the Finance Department's operating budget.

In response to Council Member Jerry Carlson regarding Item No. 17, City Manager Jim Robinson clarified annual performance evaluations had not been completed on a yearly basis; however, Tennis Pro Alan Margot attended a Park and Recreation Commission meeting to review his program. Finance Director Johns said a review of remittances provided by Mr. Margot had been completed; however, substantive testing of the records had not been done.

MOTION – to approve the Consent Calendar as presented with the exception of Item No. 13, which was removed and placed at the end of the Consent Calendar for a separate vote; and Item No. 20, which was removed and placed at the end of the Regular Agenda for discussion.

M/S McKeithen/J.Carlson

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

7. APPROVED MINUTES OF THE SPECIAL CITY COUNCIL CLOSES SESSION OF MAY 7, 2007; THE SPECIAL CITY COUNCIL CLOSED SESSION AND REGULAR MEETINGS OF MAY 16, 2007; AND THE SPECIAL JOINT MEETING OF THE CITY COUNCIL AND THE MENLO PARK FIRE PROTECTION DISTRICT BOARD OF MAY 21, 2007

8. APPROVED BILLS AND CLAIMS FOR MAY 2007 IN THE AMOUNT OF \$ 1,113,305

9. ACCEPTED MONTHLY FINANCIAL REPORT FOR MAY 2007

10. AUTHORIZATION TO PURCHASE THE CRW PERMIT TRACKING SOFTWARE SYSTEM

Authorized staff to enter into an agreement and purchase the CRW Permit Tracking Software System.

11. APPROVAL OF PROFESSIONAL SERVICES AGREEMENT WITH REDWOOD CITY TO PROVIDE INFORMATION TECHNOLOGY SERVICES

Authorized the Mayor to execute an agreement with Redwood City for Information Technology Services.

12. APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT WITH URS, CORPORATION, FOR GEOTECHNICAL ENGINEERING SERVICES FOR THE MARSH ROAD CHANNEL WALL PROJECT

Accepted the proposal and authorized the Mayor to sign a Professional Services Agreement with URS Corporation to provide Geotechnical Engineering services for the Marsh Road Channel Wall Project in an amount not exceed \$39,644.20, plus a 10% contingency, for a total authorization of \$43,608.62.

~~13. AWARD OF CONTRACT FOR THE VALPARAISO AVENUE OVERLAY PROJECT, PROJECT NO. 06-001~~

~~Recommendation: Award the contract for the Valparaiso Avenue Overlay Project, Project No. 06-001, to Granite Construction Company, the low bidder on the June 14, 2007, bids, for \$590,615.50, with a 10% construction contingency of \$59,061.55, for a total authorization of \$649,677.05; and authorize the Mayor to sign the contract on behalf of the Town. (Removed from the Consent Calendar and placed at the end of the Consent Calendar for a separate vote.)~~

14. APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT WITH ANTONIA BAVA LANDSCAPE ARCHITECTS FOR LANDSCAPE DESIGN SERVICES FOR THE TOWN CENTER LANDSCAPE PROJECT

Accepted the proposal and authorized the Mayor to sign a Professional Services Agreement with Antonia Bava Landscape Architects to provide landscape design services for the Town Center Landscape Project in an amount not to exceed \$18,005.00, plus a 10% contingency, for a total authorization of \$19,805.50.

15. AWARD OF CONTRACT FOR THE EOC GENERATOR AND APPROVAL OF INFORMAL BIDDING PROCEDURES

Awarded the contract for the EOC Generator to Intermountain Electric Company, the low bidder on informal bids, for \$67,250, with a 10% construction contingency of \$6,725, for a total authorization of \$73,975; to authorize the use of informal bidding procedures; and authorized the Mayor to sign the contract on behalf of the Town.

16. APPROVAL OF AN AMENDMENT TO THE AGREEMENT BETWEEN THE TOWN OF ATHERTON AND TIM WULFF FOR PLAN CHECKING SERVICES FOR FISCAL YEAR 2007-08

Approved the amendments proposed herein between the Town of Atherton and Mr. Tim Wulff for contract plan check services.

17. RENEWAL OF THE PROFESSIONAL SERVICES AGREEMENT FOR TENNIS PRO ALAN MARGOT

Approved the amended agreement to show an effective date of March 1, 2007, with the expiration date of June 30, 2009.

18. APPROVE AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH CSG CONSULTANTS, INC. FOR MUNICIPAL CIVIL ENGINEERING SERVICES FOR THE REVIEW OF DEVELOPMENT PROJECTS

Approved an Amendment to the Professional Services Agreement with CSG Consultants, Inc. for Municipal Civil Engineering services for the review of development projects, in an amount not to exceed \$50,000 for Fiscal Year 2007-08.

19. AMENDMENT TO AGREEMENT BETWEEN SAN MATEO COUNTY AND TOWN OF ATHERTON FOR ANIMAL CONTROL SERVICES

Approved and authorized the Mayor to execute the agreement.

~~**20. APPROVE THE RECOMMENDATION OF THE CITY COUNCIL SCREENING COMMITTEE TO INCREASE THE RESIDENT MEMBERS OF THE GENERAL PLAN COMMITTEE FROM FIVE MEMBERS TO SIX MEMBERS; ACCEPT THE RECOMMENDATION FOR APPOINTMENTS TO THE GENERAL PLAN COMMITTEE**~~ *(Removed from the Consent Calendar and placed at the end of the Regular Agenda for discussion.)*

~~**Recommendation: Approve the recommendation of the City Council Screening Committee to increase the resident members of the General Plan Committee from five members to six members; accept the recommendation of the Steering Committee for appointments to the General Plan Committee**~~

21. THERE WAS NO ITEM NO. 21.

13. AWARD OF CONTRACT FOR THE VALPARAISO AVENUE OVERLAY PROJECT, PROJECT NO. 06-001 (Removed for a separate vote.)

Awarded the contract for the Valparaiso Avenue Overlay Project, Project No. 06-001, to Granite Construction Company, the low bidder on the June 14, 2007, bids, for \$590,615.50, with a 10% construction contingency of \$59,061.55, for a total authorization of \$649,677.05; and authorized the Mayor to sign the contract on behalf of the Town.

M/S McKeithen/Janz

Ayes: 4 Noes: 0 Absent: 0 Abstain: 1

PUBLIC HEARINGS (Items 22-29)

22. APPEAL REGARDING 94 TALLWOOD (Continued from May 16, 2007)

Mayor Carlson noted, at the request of the appellant, the item was continued to the City Council meeting of July 18, 2007.

23. APPEAL REGARDING 55 BELBROOK WAY (Continued from May 16, 2007)

Mayor Carlson noted, at the request of the appellant, the item was continued to the City Council meeting of July 18, 2007.

24. **APPEAL REGARDING 70 BARRY LANE** (Continued from May 16, 2007)

Recommendation: Conduct the public hearing, affirm the Notice of Abatement, and deny the appeal. Direct staff to prepare written findings for consideration and adoption at a subsequent meeting.

25. **INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 17 OF THE ATHERTON MUNICIPAL CODE REGULATING BASEMENTS** (Continued from the City Council Meeting of May 16, 2007. **PUBLIC HEARING CLOSED**)

Deputy Town Planner Lisa Costa Sanders presented the staff report. Council continued the item at its May 16, 2007, meeting and provided specific comments to staff regarding acquiring information from the drainage study, requiring sprinklers in all basements and basement remodels, adding a requirement for landscape screening for light wells, and adding a criteria for Planning Commission consideration of Conditional Use Permits (CUP). The ordinance before Council incorporated the items that Council requested. Section 17.36.190A1 included the requirement that the Planning Commission would need to make the finding that the basement would not impact heritage trees and there was sufficient room for landscape screening and related to the need for a CUP in order to go up to 120% of the first floor for the basement area. Under section B, floor area calculations, Item 3, added a finding for the CUP for the exception of hillside properties and the finding that there be sufficient landscape screening and that the basement would not impact heritage trees. Design requirements, section C1, “and shall be screened with landscaping to minimize the view from adjacent properties,” was added to the last line and applied to light wells. A memo from Ed Boscacci, BKF, was included in Council’s packet. Regarding hillside properties, there were not many applications; however, the percentage could be lowered if Council desired. Mr. Boscacci and Deputy Town Planner Costa Sanders responded to Council questions.

Council Member Marsala provided a history regarding the development of basement regulations. He questioned the need for the Planning Commission to review basements under accessory structures because he believed the previous intent of the Council did not allow for basements under accessory structures anywhere within 10 feet. He wanted to eliminate the Planning Commission review of a CUP.

Deputy Town Planner Costa Sanders stated both the Planning Commission and the General Plan Committee recommended that both a basement under an accessory structure and a basement larger than the first floor of the main residence be required to obtain a CUP. There was potential for an impact on an adjacent neighbor. As an option, Council could develop objective criteria in the ordinance.

Council Member McKeithen suggested the need to set a reference in the ordinance that indicated that any basement built needed to meet the drainage criteria either as set

forth in the Municipal Code or as established by the Building Department drainage consultant on a case-by-case basis.

City Attorney Marc Hynes stated the ideal way would be to put a footnote in the Municipal Code indicating other requirements were contained in the Building title, Title 12, which also would give flexibility when amendments were needed.

Council Member McKeithen was concerned about finalizing the basement ordinance before drainage criteria were developed; although, she also did not want to impede the operations of the developers and development of basements. She noted the ordinance needed clarification regarding the 120% of the floor area and whether the extra 40% that was beyond the main dwelling could be placed anywhere or only under the fill-in area of a U-shaped house.

In response to Mayor Carlson, City Attorney Hynes clarified that the ordinance could be adopted with the usual effective date 30 days after the second reading, with an operative date when the drainage regulations were completed.

Mayor Carlson noted the public hearing was closed at the May 16, 2007, City Council meeting. He allowed comments on the item limited to 3 minutes. The Council received several letters from residents as well.

Charles King, Tallwood, said his residence was directly impacted by the definitions, restrictions, and limitations set forth in the ordinance. He believed the restrictions became illogical and created undo restriction when applied to a flag lot on a hillside like his. On page 2 of the staff report regarding modification for hillside properties, he believed the slope percentage could be lowered to perhaps 15% and still preserve the overall intent of the zoning ordinance. He suggested adding a subsection to section 17.36.190C stating, "Exemptions to the requirement for hillside properties where the average slope is greater than 15% as determined under section 16.24.050, or as may be evaluated at the discretion of the Town Planner, may be permitted upon issuance of a Conditional Use Permit."

Steve Ackley, Belbrook Way, commented on the drainage report by BKF regarding the 100-year overland flow and suggested a definition and how it was calculated be included. He supported the ordinance and urged Council to pass it.

Steve Dostart, Patricia Drive, spoke in support of the ordinance. He believed basements were simple and did not affect neighbors.

Carol Flaherty, Camino Por Los Arboles, spoke in favor of the ordinance. She agreed the 120% worked for most houses; however, it did not work for a 6,000 sq. ft. house that was basically the same size above and below and was "L" shaped. At a 130%, almost everything could be accommodated. She did not believe a CUP was needed if there was a good set of guidelines in place. She asked that clear guidelines for the soils engineer and architects be developed in advance.

Jeff Wise, Linden Avenue, supported the idea of clear guidelines in the ordinance that would remove the need for a CUP. He believed the drainage study needed more discussion before adopting the recommendations.

Mary Ann Ackley, Belbrook Way, spoke in support of basements under accessory structures. Preserving heritage trees, considering neighbors, and taking a balanced approach from a cost benefit was necessary. Taking years to study the situation would not provide for every situation.

Scott Mitchell, Greenoaks, strongly supported the ordinance. Building basements in Atherton were technically easy to build.

Mayor Carlson noted that drainage issues would not be addressed that evening. In actuality, the Council was considering easing restrictions regarding basements. He believed, in some circumstances, a CUP was necessary for basements under accessory structures and did not believe a CUP necessarily delayed the project. He did not have a strong feeling whether the percentage should be 120% or 130%.

Council Member Jerry Carlson concurred with the Mayor's comments. There was reason to go to the Planning Commission for a CUP for basements under accessory structures because it gave neighbors an opportunity to see the plans and eliminated surprises. He believed the 120% was a result of compromises; however, he did not have a strong feeling one way or the other.

Vice Mayor Janz concurred with the Mayor as well. He believed if someone had two buildings, the main building and an accessory structure, within the main buildable area and wanted a full basement under the footprint of both, it should be allowed. As the ordinance was currently written, a basement was allowed under 80% of the main building and an underground structure could be built equaled to 20% of the main building footprint anywhere on the property. To clarify a comment by Council Member Marsala, he believed the change was to allow basements under accessory structures outside the main buildable area subject to CUP approval. Regarding the floor area calculation related to hillside properties, he suggested adding the following language for light well consideration: "The Planning Commission may impose reasonable conditions including but not limited to increased setbacks and limitations on size of light wells," to section B3 with respect to basements on hillside properties. He was concerned with the possibility of an appearance of a three-story building.

Council Member Marsala said Ordinance 523 adopted in 2001 allowed basements under accessory structures outside of the main building area. The General Plan Committee and Planning Commission added criteria a year later that basements had to be built under the footprint of the buildings. He did not believe anyone built an accessory structure that close to the main building. Pools were allowed within 10 feet of the fence, and accessory structures dug 10 feet down were allowed within 10 feet of the fence. Twenty-five people spoke in favor of the ordinance, with no one speaking in opposition. He could compromise on the CUP issue; however, he did not think it was needed. He was in favor of reducing the slope to 15% in section C.

Council Member McKeithen agreed that the 100-year flood guidelines in the drainage criteria needed to be clear. She believed a CUP was necessary and would not delay projects. She did not have an objection to raising the percentage to 130% as long as it met the drainage criteria and went before the Planning Commission with regard to landscape screening and impact on heritage trees, with a footnote added that drainage criteria was satisfied with a CUP based on careful analysis in terms of cost benefit as well as specificity and provisions related to slope.

Mayor Carlson summarized Council's deliberations as follows: 1) a consensus to raise 120% to 130%; 2) retain CUP requirement under accessory structures outside the main buildable area and those utilizing the 130%; 3) add language regarding light wells on slopes; 4) no consensus to add language to section B3 to change 20% to 15% for hillside slopes; staff was directed to address the issue in the zoning code review; and 5) to allow basements under the main building and an accessory structure within the main buildable area.

MOTION – to direct staff to make the following changes to the ordinance and return the item for a second reading: 1) In Section 4A1, increase the basement area percentage from 120 to 130% of the floor area of the first floor of the main dwelling...; 2) In Section 4A2, retain the requirement for a CUP for basements under accessory structures outside the main building area; 3) In Section 4B3, add language regarding hillside properties that states, "The Planning Commission may impose reasonable conditions including, but not limited to, increased setbacks and limitation in size of light wells; 4) In Section 4A1, change the language in the second sentence to , "A basement under the main dwelling in the main building area shall not exceed the floor area of the first floor of the main dwelling unless a CUP is obtained; and 5) In Section 7, add a clause that reads, "...but shall not be operative until drainage criteria for basements is adopted by ordinance," with direction to Code Publishing to cross reference the drainage criteria

M/S McKeithen/ J.Carlson

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

26. **ADOPTION OF A RESOLUTION MODIFYING FEES FOR SERVICES RELATED TO PLANNING AND BUILDING** *(If action is taken on June 18, 2007, this item will not be heard.)*

Mayor Carlson noted action was taken on June 18, 2007; therefore, the item was not heard.

27. **ADOPTION OF A RESOLUTION APPROVING THE FY 2007-08 OPERATING AND CAPITAL BUDGET** *(If action is taken on June 18, 2007, this item will not be heard.)*

Mayor Carlson noted action was taken on June 18, 2007; therefore, the item was not heard.

28. **ADOPTION OF A RESOLUTION APPROVING THE FISCAL YEAR 2007-08 APPROPRIATIONS LIMIT AND CALCULATIONS** *(If action is taken on June 18, 2007, this item will not be heard.)*

Mayor Carlson noted action was taken on June 18, 2007; therefore, the item was not heard.

29. **ADOPTION OF A RESOLUTION ESTABLISHING A SPECIAL TAX FOR MUNICIPAL SERVICES FOR THE FISCAL YEAR 2007-2008** *(If action is taken on June 18, 2007, this item will not be heard.)*

Mayor Carlson noted action was taken on June 18, 2007; therefore, the item was not heard.

REGULAR AGENDA (Items 30-36)

30. **DISCUSSION AND POSSIBLE ACTION REGARDING THE FIRE SPRINKLER ORDINANCE AND A REQUEST FROM THE MENLO PARK FIRE PROTECTION DISTRICT THAT THE TOWN OF ATHERTON FORMALLY AUTHORIZE THE RESPONSIBILITY FOR “FIRE DEPARTMENT ACCESS AND WATER SUPPLY” PER ARTICLE 9 TO THE MPFPD**

City Manager Jim Robinson said the item was addressed in the Joint meeting of the Town Council and Menlo Park Fire Protection District Board (MPFPD) and was continued to the current meeting. The proposed language was contained in the staff report and the draft ordinance presented by MPFPD. A request to eliminate certain sections that related to exemptions was included. Staff would return at a later meeting with a draft ordinance.

MPFPD Chief Harold Shapelhouman said there were two issues: 1) Article 9 issues; and 2) the sprinkler ordinance. In 2004, the Town of Atherton adopted a section of the MPFPD sprinkler ordinance that dealt with new construction of residential structures, any structure over 1,000 square feet would require sprinklers. The Town did not adopt sections pertaining to alterations or additions to any building greater than 2,500 square feet or larger when the alteration or addition exceeded 50% of the existing floor space of the building, and any existing occupancy intended to provide a basement greater than 250 square feet. MPFPD asked Council to reconsider the two sections and adopt them in the Town's ordinance.

Vice Mayor Janz clarified that Section 1.2b(ii)(1)A and 1.2b(ii)3 from the MPFPD Ordinance 29 needed to be added to the Town's ordinance. Section 1A stated when alterations or additions to any building with floor space greater than 2,500 square feet, when the alteration or addition exceeded (50%) of the existing floor space of the building, sprinklers were required in the entire structure. He agreed with Section b(ii)3 that any existing occupancy intending to provide a basement greater than 250 square feet should require sprinklers. He was in favor of the changes and believed a basement of 250 feet or less was obviously not intended for occupancy.

Council Member McKeithen thought basements of 250 square feet or less might be intended for occupancy and should be sprinklered.

Mayor Carlson agreed and believed all basements should be required to have sprinklers regardless of size.

MOTION – to accept changes to the Town’s ordinance that would require sprinklers in the entire structure when alterations or additions to any building with floor space of 2,500 square feet or larger, when the alteration or addition exceeded (50%) of the existing floor space of the building, further sprinklers were required in all basements regardless of size

M/S McKeithen/Janz

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

Mayor Carlson said, historically, the Town had not been in the business of enforcing Article 9 requirements of fire apparatus access or fire hydrant flow. The MPFPD and the Town did not have a formalized division of authority for responsibility. He believed the responsibility should be delegated to the MPFPD.

In response to Council Member McKeithen, City Attorney Marc Hynes said the key distinction was because Atherton was a single-family, residential community. Single-family residences were always exempted from the standard authority given to fire marshals; therefore, all the authority resides with the Building Official. As a practical matter, the Building Official routinely deferred to the MPFPD when it came to fire flow and access. The issue before Council was to formalize the delegation.

Chief Harold Shapelhouman said although the MPFPD and Atherton were two separate entities, in actuality he worked for the Town as its Fire Chief. If policy was not set and formalized, issues could reoccur, at the whim of individuals, to deal or not deal with the MPFPD. A partnership was critical.

Brad Smith, Pacific Peninsula Group, echoed the Chief’s comments. He described what was the “new home, low flow lottery.” If you were the property owner doing a remodel and lived on one of the dead-end cul-de-sacs, you could be stuck paying the price to upgrade the entire system. He said another approach was to look at the 10 to 15% of those affected and make low flow areas a priority by having MPFPD, Cal Water, and the Town adopt a policy to correct the deficiencies.

Council Member McKeithen concurred with Mr. Smith’s comments. If there were other roads to defer in order to look at the areas where the 10 to 15% was applicable, the Town needed to do that.

Mayor Carlson said there were two issues: 1) with inadequate supply for existing homes, priority should be given in identifying those areas; and 2) with a street where water flow was adequate for the homes but someone decided to change the circumstances, the question was should that homeowner bare the burden.

MOTION – to direct the City Attorney to draft an appropriate resolution authorizing and assigning to the MPFPD and Fire Chief responsibility for Article 9 issues regarding Fire Department access and water supply, as well as the sections enumerated in the June 12, 2007, letter from the Fire Chief

M/S McKeithen/J. Carlson

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

31. DISCUSSION AND POSSIBLE ACTION REGARDING THE REVIEW OF OPEN BUILDING PERMITS BY MENLO PARK FIRE PROTECTION DISTRICT

Building Official Mike Wasmann made introductory comments and referred to the staff report before the Council.

Menlo Park Fire Protection District (MPFPD) Chief Harold Shapelhouman believed it was in the best interest of the public for the MPFPD and the Building Department to work together to review open building permits, reduce the numbers, disclose the issues, and solve any problems. Disclosure would be in the best interest of the residents in terms of life safety and fire safety.

Mayor Alan Carlson clarified life safety issues related to Article 9, only issues with respect to fire apparatus access and fire hydrant water flow.

A discussion ensued regarding which projects would be reviewed and which projects had already been reviewed and what “Pandora’s Box” might be uncovered. The MPFPD was willing to send its Fire Inspector to help in the review and was not looking for reimbursement. Flag lots were of the most concern for access issues. Entrance gates with the minimum of 14 feet and the required box for MPFPD access had been enforced for numerous years. The inside-the-lot turnaround had not been enforced because the MPFPD had not communicated to the Town that it was something in which they were particularly interested. Additionally, the Town had never been involved in water flow issues. There were many issues and the problem came down to, at the level of the two governing bodies, policy decisions were not made to recognize which agency had authority.

City Attorney Hynes clarified the MPFPD would not have any authority for at least 90 days before an ordinance could be effective. Until the delegation occurred, the Building Official had the authority. He suggested reviewing the files to determine whether there really were multiple problems. He was not concerned about indemnification because the Town had statutory immunity in the issuance of permits.

Vice Mayor Janz wanted a better reading on the number of projects but was loathe to opening a “Pandora’s Box” on situations that the MPFPD did not like; however, the building had already been built.

Council Member Marsala was in favor of having the review conducted. He believed once the non-issues were discarded, i.e. gazebos, etc., perhaps one or two problems might be uncovered. He believed it would prove that the Building Department had done its work.

Council Member McKeithen suggested using the same language as the sprinkler ordinance, i.e., new residences, basements of any size, remodels greater than 2,500 square feet where more than 50% of the home was remodeled. The number of projects to review would be reduced. She also suggested removing any projects that had been closed and constructed during the tenure of any prior Building Official. Any issue uncovered within Article 9, needed to be advisory within the determination of the Building Official until authority had been delegated to MPFPD.

Nicolas Jellins, represented Pacific Peninsula Group, spoke regarding inadequate fire hydrant flow for a resident. He wanted to bring to Council's attention the unique confluence of issues regarding delegation of authority to MPFPD which might include upgrading the water system in a particular area and imposing the cost on a single homeowner, which he believed to be unfair.

After further Council discussion, the following motion was made by Mayor Carlson:

MOTION – to direct staff to meet with the MPFPD staff to review those projects identified on the spreadsheet as having no access plans, with the 32 new residences to be reviewed in the next 30 days, and the remainder within the next 90 days.

After further discussion, Mayor Carlson withdrew the motion.

MOTION – to direct staff, in cooperation with the MPFPD, to review the 32 new active permits for new residences within the next 30 days with a report to Council regarding access issues; further, in the following 60 days, review all permits for any new basement, as well as all projects that had not been reviewed for access that were new or alterations/additions to any building with floor space greater than 2,500 square feet when the alteration or addition exceeded (50%) of the existing floor space

M/S McKeithen/Marsala

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

Mayor Carlson called for a recess at 11:30 p.m. The meeting was reconvened at 11:40 p.m.

32. DISCUSSION AND REVIEW OF SPECIAL EVENTS ORDINANCE AND GUIDELINES FOR NON-SCHOOL SPONSORED EVENTS

Mayor Alan Carlson suggested limiting action that evening to taking input and discussion from the public. He noted the issue was involved in some form of litigation and not subject to discussion.

Council Member Marsala reviewed the minutes and determined the main issue related to noise on Saturday and Sunday mornings for sports events. He expressed concern regarding the restrictions on indoor activities and noted there had been no request for permits and violations had occurred. Numerous requests to extend the 9:00 p.m. rule made sense since noise did not seem to be a factor.

Greg Baty, Atherton, Coach and Board Member of Pop Warner, submitted 50, signed letters from Lindenwood residents and 89 letters from other residents in support of expanding the Special Events Ordinance Guidelines for non-school use. Pop Warner would continue to work with the neighbors and improve the situation wherever possible.

Ruben Avilar, East Palo Alto, parent volunteer with the M-A Vikings, said his primary role was recruitment. The most positive outcome of the program was the camaraderie and friendships that crossed city borders.

Marshall Moore, Heather Drive, noted his sons played football in high school, enjoyed hearing kids having a good time and was supportive of Pop Warner. Pop Warner provided life lessons for kids and was a wonderful experience.

Todd Beardsley, Atherton, said the Menlo-Atherton High School field was a tremendous community asset, and spoke in support. Further, he thought folks should wait to see whether the Performing Arts Center was really an issue.

Lyle Hunigan, Ashfield Road, was new to the area but had watched Pop Warner operate and believed it did a great job. He asked Council to take a longer look at the guidelines.

Brad Smith, Menlo Park, owned partial interest in homes in Atherton, all but one of which was within earshot of schools. The schools were there when the homes were bought, and he also enjoyed listening to the kids. He spoke in support of Pop Warner, the AYSO, and softball and baseball programs.

Bob Plaschke, Toyon, coached in several organizations, supported all programs. However, he suggested not revisiting the entire ordinance but allow an exception for Pop Warner.

No action taken. Mayor Carlson stated the Council would take all comments under consideration and review the Special Events Ordinance at a future meeting.

33. DISCUSSION AND POSSIBLE ACTION REGARDING CODE ENFORCEMENT SERVICE ALTERNATIVES

Council Member McKeithen said a great deal of constructive work had been completed with regard to code enforcement. The current system was working and she was no longer getting complaints. The Code Enforcement Officer was doing a great job. The only consideration in going forward should be cost. She did not believe the alternative of using Police Department staff for code enforcement was appropriate because of the potential to become confrontational and cost effectiveness. She proposed that the monies should be appropriately allocated in the budget, i.e. taken out of the Police Department budget; and, in the future, perhaps look at a part-time position.

Mayor Alan Carlson was opposed to increasing the committee membership. He noted the committee had been increased in the past and subsequently reduced.

Council Member McKeithen recommended the increase because there was a great deal of work ahead for the committee such as the General Plan Update, the Housing Element, the greening ordinance, etc. Current members of the committee were unhappy that the committee was meeting more often than the quarterly meetings. There were three good candidates all willing to do the work.

Council Member Marsala read a letter from former Planning Commissioner Rose Hau, who was not in favor of increasing the membership. More importantly than increasing the membership was to make sure the resident members represented diversity. Council Member Marsala was not in favor of increasing the membership.

Council Member Jerry Carlson agreed with Council Member McKeithen noting major issues needed to be addressed. He suggested a subcommittee approach would facilitate moving issues along. He was in favor of increasing the membership.

Vice Mayor Janz believed the more people that were on the committee, the more time it would take to get things done. He thought perhaps the reason for recommending the increase had more to do with wanting all three candidates appointed.

Phil Lively, Hawthorne, spoke of the early General Plan Committees. The General Plan took a lot of work. Having six resident members could result in a stalemate. Members needed to know that oftentimes the committee met on a monthly basis. He suggested using an alternate as a way of utilizing an additional person.

Further Council discussion ensued regarding the merits of using a subcommittee process on the General Plan Committee and how beneficial it would be to add an additional member. One Council Member believed that the motivation for adding a member was not being driven by needing additional members, but rather by wanting these particular three candidates.

MOTION – to accept the recommendation of the Screening Committee to enlarge the General Plan Committee by one resident member and accept appoint three new members

**M/S McKeithen/J.Carlson Ayes: 2 Noes: 3 (Janz, Marsala, A.Carlson) Absent: 0
Abstain: 0**

A discussion ensued regarding the three recommended candidates, Jim Massey, Carol Smith, and Betsy Plaschke, as well as other candidates who applied.

Mayor Carlson proposed Betsy Plaschke and Carol Smith be appointed to the General Plan Committee.

MOTION – to appoint Betsy Plaschke and Carol Smith to the General Plan Committee

M/S J.Carlson/A.Carlson Ayes: 4 Noes: 0 Absent: 0 Abstain: 1 (McKeithen)

37. COUNCIL REPORTS

Vice Mayor Janz noted he was the only one who responded to Sgt. Grimm regarding additional disaster preparedness training. He believed the issue was important; however, the entire Council needed to be involved. The San Mateo County Sub-Regional Housing Needs Allocation group came to the conclusion the easiest method was to draft an initial allocation among the jurisdictions based on ABAG’s criteria. Although March 31, 2008, was the date ABAG needed to finalize the allocations for the entire region, the sub-region needed to finalize by August. Additionally, low income allocations could not be traded.

38. PUBLIC COMMENTS

There were no public comments.

39. ADJOURNMENT

Mayor Alan Carlson adjourned the meeting at 1:23.a.m.

Respectfully submitted,

**Kathi Hamilton
Acting City Clerk**

TOWN OF ATHERTON
CLAIMS LIST
 June, 2007

Payroll Checks	9775 - 9849	\$ 14,447
Electronic Transfers		345,328
A/P Checks	24165 - 24345	939,950
TOTAL		\$1,299,725

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 9775 - 9849 (payroll) and 24165 - 24345 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$1,299,725; are true and correct, and that there are sufficient funds for payment.

James H. Robinson
City Manager

The above claims, check numbers 9775 - 9849 (payroll) and 24165 - 24345 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$1,299,725; are true and correct, and are authorized for payment.

Alan Carlson
Mayor, Town of Atherton

SOURCE OF FUNDS

101	General Fund	\$751,021
105	Tennis Fund	-
201	Special Parcel Tax	536,285
202	Transportation	-
203	Gas Tax Fund	-
210	Road Construction Impact Fees	815
211	Park Grants Fund	-
213	Library Special Revenue Fund	1,349
401	General Capital Projects	-
402	Storm Drainage	-
403	Atherton Channel District	2,579
406	Facilities Construction	-
610	Vehicle Replacement	468
611	Computer Maint. & Replacement	2,264
612	Administrative Services	4,944
715	Evans Estate	-
740	Tree Committee	-
TOTAL		\$1,299,725



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 JULY 18, 2007

SUBJECT: MONTHLY FINANCIAL REPORT, JUNE 2007

RECOMMENDATION:

Receive the Monthly Financial Report for June 2007.

INTRODUCTION:

The attached schedules show revenues, expenditures and fund balance for all funds as of June 30, 2007.

HIGHLIGHTS

General Fund expenditures for the twelve months ended June 30, 2007, have amounted to \$9,173,050, or 97% of the \$9,480,065 budgeted for the fiscal year. For the twelve months ended June 30, 2007, General Fund revenues amounted to \$8,978,780, or 112% of the \$8,018,670 estimated for the year.

By comparison, General Fund expenditures amounted to 92% of appropriations for the twelve months ended June 30, 2006. Additionally, General Fund revenues amounted to 111% of estimated revenues for the twelve months ending June 30, 2006.

It should be noted that the revenue expense figures provided within this monthly financial report do not include the effect of yearend adjusting entries and accruals that normally occur as part of the yearend closing process. However the Finance Department believes that such revenue and expense totals represent a close approximation of the totals that will appear within the yearend financial statements.

FISCAL IMPACT:

None

Prepared by:

Approved by:

John P. Johns
Finance Director

James H. Robinson
City Manager

TOWN OF ATHERTON
Revenue Summary
For the Month ended June 30th, 2007

Fund	Revenue Source	2006-07 Estimate	Current Period Revenues	Year to Date Revenues	% Received
	Property Tax	\$ 4,135,402	165,963	4,275,614	103%
	Sales and Use Tax	157,500	19,904	213,938	136%
	Other Taxes	1,111,546	29,038	1,288,807	116%
	Licenses & Permits	1,466,200	271,637	1,698,307	116%
	Fines & Forfeitures	35,000	3,672	52,616	150%
	Revenue from Other Agencies	176,500	15,181	190,896	108%
	Charges for Services	307,852	41,517	313,114	102%
	Investment & Rental Income	395,215	-	414,660	105%
	Other Revenues	229,000	405	530,828	232%
	Total General Fund Revenues	8,014,215	547,317	8,978,780	112%
	Interfund (Operating) Transfers In	4,455	-	-	0%
101	General Fund Total	8,018,670	547,317	8,978,780	112%
	Special Revenue Funds:				
105	Tennis	8,000	705	9,096	114%
201	Special Parcel Tax	1,858,000	48,705	1,777,454	96%
202	Transportation	265,000	27,460	285,292	108%
203	Street Improvement (Gas Tax)	150,000	11,120	182,355	122%
209	Law Enforcement	100,000	-	100,796	101%
210	Road Construction Impact Fees	1,100,000	129,161	299,940	27%
211	State Park Grants Fund	313,910	121,867	121,867	0%
213	Library	200,000	540,000	633,914	317%
	Total	3,994,910	879,018	3,410,714	85%
	Capital Project Funds:				
401	Capital Improvement	-	-	8,556	
402	Storm Drainage	20,000	-	1,384	7%
403	Channel Drainage District	50,000	2,263	62,398	125%
406	Facilities Construction	-	-	2,090	
	Total	70,000	2,263	74,428	106%
	Internal Service Funds:				
610	Vehicle Replacement	120,919	72,274	127,880	106%
611	Information Technology	104,670	53,905	110,491	106%
612	Administrative Services	303,221	156,159	314,862	104%
614	Workers Compensation Insurance	-	-	-	
	Total	528,810	282,338	553,233	105%
	Trust and Agency Funds:				
715	Evans Creative Design	14,500	-	5,489	38%
740	Tree Committee	1,400	425	34,411	2458%
	Total	15,900	425	39,900	251%
	Total Revenues	12,628,290	1,711,361	13,057,055	103%

TOWN OF ATHERTON
Expenditure Summary
For the Month Ended June 30th, 2007

Fund	Description Department	2006-07 Budget	Current Period Expenditures	Year to Date Expenditures	% Spent
101	General Fund				
	11 City Council	\$ 21,749	\$ -	\$ 20,967	96%
	12 City Manager	504,360	51,834	483,876	96%
	16 City Attorney	188,337	35,234	411,743	219%
	18 Finance	448,576	49,753	443,114	99%
	25 Building	1,364,503	148,202	1,230,326	90%
	40 Police	4,696,248	427,603	4,557,055	97%
	50 Public Works	2,036,292	180,749	2,025,969	99%
	Disaster Preparedness	120,000	-	-	0%
	Contingency	100,000	-	-	0%
	Total General Fund Expenditures	<u>9,480,065</u>	<u>893,375</u>	<u>9,173,050</u>	<u>97%</u>
	Interfund (Operating) Transfers Out	-	-	-	0%
101	General Fund Total	<u>\$ 9,480,065</u>	<u>\$ 893,375</u>	<u>\$ 9,173,050</u>	<u>97%</u>
Special Revenue Funds:					
105	Tennis	5,522	-	3,670	66%
201	Special Parcel Tax	1,910,535	568,785	3,419,190	179%
202	Transportation	444,500	15,000	30,000	7%
203	Street Improvement (Gas Tax)	150,000	-	23,234	15%
209	Law Enforcement	100,000	-	106,130	106%
210	Road Impact Fees	1,470,000	30,000	1,553,736	106%
211	State Park Grants	277,040	-	82,167	30%
213	Library Fund	78,326	1,349	40,907	52%
	Total	<u>4,435,923</u>	<u>615,134</u>	<u>5,259,034</u>	<u>119%</u>
Capital Project Funds:					
401	Capital Improvement	-	-	-	
402	Storm Drainage	21,394	-	2,963	14%
403	Channel Drainage District	60,000	5,079	17,635	29%
	Total	<u>81,394</u>	<u>5,079</u>	<u>20,598</u>	<u>25%</u>
Internal Service Funds:					
610	Vehicle Replacement	76,000	468	45,812	60%
611	Information Technology	116,120	2,264	110,427	95%
612	Administrative Services	288,342	14,690	291,294	101%
614	Workers Compensation Insurance	-	-	-	
	Total	<u>480,462</u>	<u>17,422</u>	<u>447,533</u>	<u>93%</u>
Trust and Agency Funds:					
715	Evans Creative Design	11,500	-	915	8%
740	Tree Committee	-	-	2,159	
	Total	<u>11,500</u>	<u>-</u>	<u>3,074</u>	<u>27%</u>
	Total Expenditures	<u>14,489,344</u>	<u>1,531,010</u>	<u>14,903,289</u>	<u>103%</u>

TOWN OF ATHERTON
Budget Summary
Fiscal Year 2006-07
As of June 30th, 2007

Fund	Description	Beginning Fund Balance July 1, 2006	Revenues to Date	Transfers to Date	Expenditures To Date	Ending Fund Balance to Date
101	General Fund	9,344,474	8,978,780	-	9,173,050	9,150,204
	Special Revenue Funds:					
105	Tennis	23,692	9,096		3,670	29,118
201	Special Municipal Tax	1,005,832	1,777,454		3,419,190	(635,904)
202	Transportation	527,577	285,292		30,000	782,869
203	Street Improvement (Gas Tax)	102,874	182,355		23,234	261,995
209	Law Enforcement	10,437	100,796		106,130	5,103
210	Road Construction Impact Fees	1,373,559	299,940		1,553,736	119,763
211	State Park Grants	-	121,867		82,167	39,700
213	Library Special Revenue Fund	1,947,286	633,914		40,907	2,540,293
	Sub Total	<u>4,991,256</u>	<u>3,410,714</u>	-	<u>5,259,034</u>	<u>3,142,936</u>
	Capital Projects Funds:					
401	Capital Improvement	258,424	8,556		-	266,980
402	Storm Drainage	43,455	-		2,963	40,492
403	Channel Drainage District	36,039	62,398		17,635	80,802
406	Facilities Construction	-	2,090		-	2,090
	Sub Total	<u>337,919</u>	<u>73,044</u>	-	<u>20,598</u>	<u>390,365</u>
	Internal Service Fund					
610	Vehicle Replacement	440,370	127,880		45,812	522,438
611	Information Technology	89,739	110,491		110,427	89,803
612	Administrative Services	198,175	314,862		291,294	221,743
614	Workers Compensation Insurance	10,871	-		-	10,871
	Sub Total	<u>739,155</u>	<u>553,233</u>	-	<u>447,533</u>	<u>844,855</u>
	Trust and Agency Funds					
715	Evans Creative Design	117,345	5,489		915	121,919
740	Tree Committee	24,558	425		2,159	22,824
	Sub Total	<u>141,903</u>	<u>5,914</u>	-	<u>3,074</u>	<u>144,743</u>
	Grand Total	<u>\$ 15,554,708</u>	<u>\$ 13,021,685</u>	<u>\$ -</u>	<u>\$ 14,903,289</u>	<u>\$ 13,673,104</u>



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 JULY 18, 2007

**SUBJECT: PERFORMANCE REPORT OF TOWN LANDSCAPING CONTRACT
WITH COMMERCIAL ENVIRONMENTAL LANDSCAPE**

RECOMMENDATION:

Staff recommends that Commercial Environmental Landscape (CEL) is retained to continue performing landscaping duties in various locations in the Town of Atherton.

BACKGROUND:

CEL was hired as the lowest bidding contractor in August 2002, to perform Landscaping duties in/around 23 different locations in Atherton. In 2006, it was brought into question as to whether the company was successfully performing the duties as required by contract. The Town's Public Works Superintendent was asked to closely monitor its contracted agreement of spot performance and to report on those findings.

ANALYSIS:

After discussions by the Superintendent with senior CEL representatives, CEL adequately performed up to its scheduled maintenance patterns during the timeframe of December 5, 2006 to April 5, 2007. During this secondary report covering the timeframe from April 5, 2007 to July 11, 2007, CEL landscaping has adequately performed up to its duties as required by our current contract.

It has become necessary to adjust some of their weekly performance duties to gain a foothold on some of the inherent landscape problems that have occurred that are not necessarily due to lack

of performance by CEL. An example of this would be the acute dieback that has been taking place of some of the native landscaping around the Town Center and El Camino Real. Most of this has occurred to Manzanita, Cistus and Ceanothus varieties of landscape planted in our planting strips. This die-back appears to have been caused by natural causes not associated with landscape practices, although water patterns were reduced amongst first sightings of dieback. This material needed to be culled out of our plantings, and this delayed some weekly duties along Middlefield Road and in island plantings in West Atherton and near the Circus Club.

During this timeframe, the Town received only one complaint regarding maintenance issues in town landscaped area. That area was along Middlefield Road and had to do with weeds. It was by chance that on the day the call was received, CEL crews were already out removing weeds in that area.

FISCAL IMPACT:

CEL is performing the duties for the same price in July 2007 as won them low-bidder in August 2002. That price is \$30,686.22 annually or \$2,555.85 per month for the care and maintenance of approximately 12.27 acres of landscaped area.

Prepared by:

Approved by:

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

James H. Robinson
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF JULY 18, 2007

**SUBJECT: APPROVAL OF PLANS AND SPECIFICATIONS AND
AUTHORIZATION TO ADVERTISE THE HOLBROOK-PALMER PARK
WALKING PATH PROJECT NUMBER 07-001**

RECOMMENDATION:

Approve the plans and specifications and authorize advertisement for bids for the Holbrook Palmer Park Walking Path Project, Project No. 07-001.

INTRODUCTION:

The FY 2007-08 adopted Capital Improvement Program includes funds for constructing the extension of the walking path at Holbrook-Palmer Park behind the Playschool, Carriage House and Corporation Yard. The need for this project resulted from path users currently walking onto the roadway in front of these buildings to walk completely around the park.

ANALYSIS:

The Landscape Master Plan for Holbrook-Palmer Park included an element to complete the walking path behind the Playschool, Carriage House and Corporation Yard so that path users will not need to walk in the roadway in front of these buildings to walk completely around the park. The final plan includes an open connection from the path to the roadway between the Carriage House and the Corporation Yard for security, as envisioned by the Landscape Master Plan. Fence modifications to open this corridor and enclose the Corporation Yard are included in the final plan.

The Town received notice in July of 2001 that a grant under the Roberti-Z' Berg-Harris Urban Open Space and Recreation Grant Program of the Safe Neighborhoods, Clean Water, Clean Air and Coastal Protection Bond Act of 2000 had been set aside for the Town. A contract for the funds was executed with the state in July of 2002. The Town has until June of 2009 to perform a

contract to use the grant funds. The grant funds require a 30% match, of which one-third must be from private donations.

The plan includes the installation of a new six (6) foot wide walking path that consists of a pavement section of 2" AC with 4" base rock for 475 feet in length on the southeast side of Holbrook-Palmer Park. This will connect to and complete an existing walking path network located within the park. Also, installation of new redwood fences adjacent to the corporation yard and removal of two small trees will be required.

The Holbrook-Palmer Park Walking Path project is budgeted for construction in FY 2007-08. Staff has prepared the design for the project. The Holbrook-Palmer Park Walking Path Project plans and specifications are ready to be advertised for construction.

FISCAL IMPACT:

Funding from two block grants will be used for the Holbrook-Palmer Park Walking Path Project: The remaining balance of the 2002 Bond Act RZH Block Grant amount of \$2,980.00 will be used and no additional match is required for this block grant. The 2000 Bond Act RZH Block grant amount of \$21,910 requires a 30% match of \$9,390, which will be funded from Parcel Tax Funds and private donations.

One-third of the match funds must be from private donations. Based upon the 2000 Bond Act grant amount, a private match amount of \$3,130 will be needed from private donations. These donations have been secured from the Holbrook-Palmer Park Foundation and the Atherton Dames.

The Engineer's Estimate for the Holbrook-Palmer Park Walking Path Project is \$31,873. In addition, a 10% construction contingency of \$3,187 would bring the total estimate to \$35,060. The total of both grants and the private donations is \$28,020. The remaining amounts necessary above the grant and donations (which includes the match amount) to complete the project is \$7,040. Parcel Tax Funds in the amount of \$9,960 are budgeted in the 2007-08 budget for this project.

The project is scheduled to receive bids in early September and award the contract at the September 19, 2007. City Council meeting.

Prepared By:

Approved:

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

James H. Robinson
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: WENDÉ PROTZMAN, ACTING CITY MANAGER

DATE: FOR THE CITY COUNCIL MEETING OF JULY 18, 2007

**SUBJECT: AMENDMENT TO CONTRACT FOR SERVICES WITH NEAL MARTIN &
ASSOCIATES**

RECOMMENDATION

Consider request for increase in rates for professional Planning services. If the City Council desires to approve the proposed increase, the existing contract will be amended by replacing existing Exhibit B with new Exhibit B containing the revised rates.

BACKGROUND

The Town contracts with Neal Martin & Associates for planning services. An overall 5% increase in rates for professional services is proposed as described in a letter to the City Manager dated July 10, 2007. The City Council last approved a 5% rate increase at its June 21, 2006 meeting

FISCAL IMPACT

The FY 07/08 Budget assumed an overall 5% increase in rates as well as the previously approved addition of a part-time Assistant Planner.

Prepared by:

Approved by:

Wendé Protzman
Assistant to the City Manager

James H. Robinson
City Manager

Attachment:

1. Letter of Request from Neal Martin & Associates with Exhibit B

**Neal Martin & Associates
751 Laurel Street, Suite 622
San Carlos, CA 94070
650-333-0248**

July 10, 2007

James Robinson
City Manager
Town of Atherton
91 Ashfield Road
Atherton, CA 94027

Dear Jim,

Please find attached the proposed Agreement for Professional Services for FY 07/08. We are requesting a 5% overall rate increase. The rates were last increased 5% effective July, 2006.

We propose to continue all other contract provisions. Please let me know if you need any additional information.

Sincerely,

Lisa Costa Sanders
Chief Financial Officer, NM&A

NEAL MARTIN & ASSOCIATES

	<u>Approved July, 2006</u>	<u>Proposed</u>
Principal Planner	\$143.25	\$150.50
Deputy Town Planner	\$93.75	\$98.50
Senior Planner	\$82.00	\$89.25
Associate Planner	\$71.50	\$75.00
Assistant Planner	\$55.00	\$57.75
Drafter	\$42.00	remove
Administrative Assistant	\$40.75	\$42.75
Mileage	Town rate	Town rate



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 MEETING OF JULY 18, 2007

**SUBJECT: ADOPTION OF AN ORDINANCE AMENDING CHAPTER 17 OF THE
ATHEROTN MUNICIPAL CODE REGULATING BASEMENTS**

RECOMMENDATION

Staff recommends that the City Council adopt the attached Ordinance.

BACKGROUND

The City Council, at its June 20, 2007, meeting, reviewed the attached ordinance with information provided by Ed Boscacci, BKF, regarding drainage criteria for basements. At that meeting, the Council introduced the Ordinance and requested staff incorporate changes for adoption. As directed by the Council, this Ordinance will not be effective until such time as the drainage criteria for basements is adopted by the Council (anticipated for the September 2007 Council meeting).

ANALYSIS

Staff has incorporated the following changes to the Ordinance;

- 1) In Section 4A1, increase the basement area percentage from 120 to 130% of the floor area of the first floor of the main dwelling...;
- 2) In Section 4A2, retain the requirement for a CUP for basements under accessory structures outside the main building area;
- 3) In Section 4B3, add language regarding hillside properties that states, "The Planning Commission may impose reasonable conditions including, but not limited to, increased setbacks and limitation in size of light wells;
- 4) In Section 4A1, change the language in the second sentence to, "A basement under the main dwelling in the main building area shall not exceed the floor area of the first floor of

the main dwelling unless a CUP is obtained; and

5) In Section 7, add a clause that reads, "...but shall not be operative until drainage criteria for basements is adopted by ordinance;" with direction to Code Publishing to cross reference the drainage criteria

CONCLUSION:

It is Planning Staff's professional opinion that the proposed Ordinance Amendment is consistent with the General Plan and will allow some continued use of nonconforming structures and upon major alteration of a structure, require conformance to current code requirements.

FORMAL MOTION:

I move that the City Council adopt the Ordinance amending Atherton Municipal Code section 17.44.

Prepared by:

Approved by:

/s/Lisa Costa Sanders
Lisa Costa Sanders
Deputy Town Planner

James H. Robinson
City Manager

Attachment:

1. Ordinance

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
ADDING SECTION 17.08.032 and AMENDING SECTIONS 17.08.0020, 17.08.54 and
17.36.190 OF THE ATHERTON MUNICIPAL CODE PLACING LIMITS ON
BASEMENTS WITHIN THE TOWN OF ATHERTON**

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

SECTION 1: Section 17.08.020 of the Atherton Municipal Code is hereby amended to read as follows:

“17.08.020 Accessory structure. “Accessory structure” means a subordinate building including pools and the housing for incidental equipment thereto, the use of which is incidental to that of the main residential dwelling **and includes accessory buildings.**”

SECTION 2: Section 17.08.180 of the Atherton Municipal Code is hereby amended to read as follows:

“**17.08.032 Accessory building. “Accessory building” means a subordinate building including garage, pool house, cabana, the use of which is incidental to that of the main residential dwelling. An accessory building is a structure having a roof supported by columns or walls. Accessory buildings shall be subject to all the regulations for Accessory Structures.**”

SECTION 3: Section 17.08.054 of the Atherton Municipal Code is hereby amended to read as follows:

“17.08.054 Basement. ~~For the purposes of this chapter, “Basement”, means that story below the finished floor of the first story of a building, that is at no point in excess of two feet in height above the surrounding average natural grade. Basements are subject to the requirements of Section 17.36.190. Any portion of the story below the finished floor of the first story of a building that is in excess of two feet in height above the surrounding average natural grade shall be included in the calculation of floor area under Sections 17.20.040 and 17.24.040 of this code.~~

SECTION 4: Section 17.36.190 of the Atherton Municipal Code is replaced in its entirety read as follows:

“17.36.190 Basements

A. Locations for basements;

1. Basements are permitted under buildings located within the main building area. A basement under the main dwelling in the main

building area shall not exceed the floor area of the first floor of the main dwelling unless a Conditional Use Permit is obtained from the Planning Commission for a basement area of up to 130% of the floor area of the first floor of the main dwelling on the finding that the basement will not impact heritage trees and there is sufficient room for landscape screening. At least 80% of the basement area shall be located under the footprint of the main dwelling. Basements shall not extend beyond the main building area except as defined below.

2. Basements may be located under the footprint of accessory buildings outside of the main building area with a Conditional Use Permit from the Planning Commission on the finding that the basement will not impact heritage trees, there is sufficient room for landscape screening and with light wells located on the interior side of the yard. The Planning Commission may impose reasonable conditions including, but not limited to increased setbacks and limitation on size of light wells.
3. Garages in basements may be located under buildings located within the main building area.

B. Floor Area Calculations

1. Basements less than two feet in height above the surrounding average natural grade (measured to the elevation of the finished floor of the first story) are exempt from floor area.
2. Basements in excess of two feet in height above the surrounding average natural grade (measured to the elevation of the finished floor of the first story) shall be included in the calculation of floor area under sections 17.20.040 and 17.24.040.
3. Exceptions to the requirement of this section for hillside properties (where the average cross-slope is greater than twenty percent as determined under Section 16.24.050) may be permitted upon issuance of a conditional use permit from the Planning Commission on the finding that; there is sufficient landscape screening, and the basement will not impact heritage trees. The Planning Commission may impose reasonable conditions including, but not limited to, increased setbacks and limitation on size of light wells.

C. Design Requirements

1. Areas for stairways and light wells for basements in the main building area may extend beyond the footprint of buildings, but shall be limited to the main building area and shall be screened with landscaping to minimize the view from adjacent properties.
2. Driveway approach for garages in basements shall be screened from the public right-of-way by design, landscaping or a solid wall and gate. The driveway approach shall not negatively impact heritage trees.

SECTION 5: CEQA Exemption. This ordinance is categorically exempt from the provisions of Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code (California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines Section 15305, minor alterations and land use limitations of the CEQA Guidelines as an action that assures the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. The City Council further finds that adoption of this ordinance does not require review under the California Environmental Quality Act (CEQA) because it is not a project (CEQA guidelines section 15378), and there is not possibility that the ordinance may have a significant effect on the environment (CEQA guidelines section 15.61.b).

SECTION 6: That the City Council hereby declares that it would have passed this Ordinance sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions on this Ordinance are severable and, if for any reason any sentence, paragraph or section of this Ordinance shall be held invalid, such decision shall not effect the validity of the remaining parts of this Ordinance.

SECTION 7: This Ordinance shall be posted in at least three public places according to law and shall take effect and be in force from and after 30 days after its passage and adoption, but shall not be operative until drainage criteria for basements is adopted by ordinance.

Introduced this 20th day of June, 2007

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the ___ day of _____, 2007, by the following vote

AYES: COUNCIL MEMBERS
NOES: COUNCIL MEMBERS
ABSTAIN: COUNCIL MEMBERS
ABSENT: COUNCIL MEMBERS

Alan Carlson
MAYOR, Town of Atherton

ATTEST

Kathi Hamilton
Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes
City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF JULY 18, 2007

**SUBJECT: ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE
OF COMPLETION, AND APPROVAL OF SPRING MICRO-SURFACING
PROJECT, PROJECT NO. 06-003**

RECOMMENDATION

Accept work, authorize recording of a Notice of Completion and payment of retainer for a total contract amount of \$68,863.30.

INTRODUCTION

The Council awarded a contract in April 2007 to Valley Slurry Seal for street surfacing. The authorized contract amount was \$68,863.30. There have been zero (0) authorized contract change orders totaling \$0.00 bringing the total to \$68,863.30. Work under the contract has been completed.

ANALYSIS

The original contract price was for \$68,863.30, with a \$0.00 construction contingency, for a total authorized amount of \$68,863.30. There were zero (0) field directive change orders totaling \$0.00.

FISCAL IMPACT

Funding for this project in the amount of \$150,000 is included in the FY 2006/07 budget. The final cost of this segment of work is \$68,863.30.

Staff Report
July 18, 2007
Page 2 of 2

CONCLUSION:

It is appropriate for the Council to accept the work and authorize recording a Notice of Completion at this time.

Prepared by:

Approved by:

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

James H. Robinson
City Manager

Attachment: Notice of Completion
Certificate of Completion

CERTIFICATE OF COMPLETION

TOWN OF ATHERTON

PROJECT NAME: 2007 Spring Micro-surface
PROJECT NUMBER: 06-003
LOCATION: VARIOUS LOCATIONS

NOTICE IS HEREBY GIVEN:

1. That on June 21, 2007, the Public Works project known as Spring Microsurfacing was completed in accordance with the plans and specifications as required by the Town of Atherton.

2. That the name and address of the party filling this notice is:

Town of Atherton
91 Ashfield Road
Atherton, California 94027.

3. That the name and address of the Contractor responsible for the construction of the project is:

Valley Slurry Seal
P.O. Box 981330
West Sacramento, Ca. 95799

4. That the name and address of the Contractor's surety is:

Western Surety Company
P.A. Grouker, Attorney in Fact
2998 Douglas Blvd. #140
Roseville, Ca. 95661

5. Spring Micro-surface, as more particularly described in the plans and specification approved by the City Council of the Town of Atherton pursuant to Motion, adopted the 18th day of April, 2007.

BY:

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

Date

ATTEST:

Kathi Hamilton
Acting City Clerk

Date



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF JULY 18, 2007

**SUBJECT: APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE TOWN OF ATHERTON AND CSG CONSULTANTS,
INC., FOR CODE ENFORCEMENT SERVICES**

RECOMMENDATION

Staff recommends that City Council approve the attached Agreement for Professional Services with CSG Consultants, Inc., to provide Code Enforcement Services to the Town of Atherton.

BACKGROUND

The Town of Atherton currently employs a part-time Code Enforcement Officer from CSG Consultants, Inc., to enforce the municipal code on a complaint basis. The Council, in its regular meeting of June 20, 2007, accepted the Code Enforcement Status Report and directed that the Code Enforcement Program be continued for Fiscal Year 2007-08. The Council further directed staff to return to Council to approve a contract for said services.

The Code Enforcement Officer will continue to work in response to service requests from residents on a regularly scheduled day to provide the best access for the public with the ability to increase or decrease the schedule or to vary the schedule for a maximum of ten hours per week.

FISCAL IMPACT

The agreement provides a cap of \$50,000 for Code Enforcement services. Sufficient funds to provide these services are incorporated within the existing adopted budget.

Attachment

AGREEMENT FOR PROFESSIONAL SERVICES
by and between the
TOWN OF ATHERTON (Town)
and
CSG CONSULTANTS, INC. (Consultant)

PREAMBLE

This agreement for the performance of professional services ("Agreement") is made and entered into on this _____ day of _____, 2007 ("Effective Date"), by and between CSG CONSULTANTS, INC., a California corporation, with its principal place of business located at 1700 S. Amphlett Blvd., 3rd Floor, San Mateo, CA 94402 ("Consultant") and the TOWN OF ATHERTON, California, a California municipal corporation, with its principal place of business located at 91 Ashfield Road, Atherton, CA 94027 ("Town"). Town and Consultant may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

- A.** Town desires to secure professional services as described in Exhibit A, entitled "Scope of Services"; for Code Enforcement.
- B.** Consultant represents that it possesses the professional qualifications and expertise to provide such services and
- C.** The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

The Parties agree as follows:

AGREEMENT PROVISIONS

1. SCOPE OF SERVICES

Except as specified in this Agreement, Consultant shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise (collectively referred to as "Services") to satisfactorily complete the work required by Town at its own risk and expense. Services to be provided to Town are more fully described in Exhibit A, entitled "Scope of Services." include Code Enforcement assessment and Code Enforcement. All of the exhibits referenced in this Agreement are attached and incorporated by this reference.

2. TERM OF AGREEMENT

- A.** Consultant shall provide the services under the requirements of this Agreement commencing upon the date of execution of this Agreement by the parties. Consultant shall complete services within the time limits set forth in Scope of Services or as mutually determined in writing by Parties.

- B. Unless extended by mutual written agreement of Parties, or terminated earlier in accordance with this Agreement, Consultant's obligation to perform services to be provided under the terms of this Agreement shall continue in full force and effect until June 30, 2008.

3. RESPONSIBILITY OF CONSULTANT

Consultant shall be responsible for the quality, technical accuracy, and coordination of services furnished by it under this Agreement as outlined in Exhibit A. Consultant will endeavor to provide services in a manner consistent with the level of care and skill ordinarily exercised by other professionals providing the same service in the same locale. Consultant shall be solely responsible to Town for the performance of Consultant, and any of his or her employees, agents, subcontractors, or suppliers, under these Agreement Documents.

4. RESPONSIBILITY OF TOWN

- A. Town has established a budget for professional services including all costs as outlined in Exhibits A and B. The City Manager, or designee, shall be Town's authorized representative and will ensure all required budget, purchase orders, service orders and any other internal documentation necessary to comply with the terms of this Agreement are properly and timely prepared in order to enable Consultant to commence and continue services according to terms of the Agreement.
- B. On behalf of Town, the City Manager, or designee, shall be Town's authorized representative in the interpretation and enforcement of all work performed in connection with this Agreement. The City Manager, or designee, shall render decisions in a timely manner pertaining to documents submitted by Consultant in order to avoid unreasonable delay in the orderly and sequential progress of Consultant's services. Consultant shall promptly comply with instructions from City Manager or designee. The City Manager will ensure all required budget, purchase orders, service orders and any other internal documentation necessary to comply with the terms of this agreement are properly and timely prepared in order to enable Consultant to continue services according to the terms of this Agreement.

5. PAYMENT OF COMPENSATION

- A. In consideration for Consultant's performance of services, Town shall pay Consultant for all services rendered by Consultant pursuant to Consultant's Standard Rate Schedule, the current version of which is outlined in Exhibit B, "Services Fee Schedule." Payments made by Town under this Agreement shall be the amounts charged for Services provided and billed by Consultant, subject to verification by Town, pursuant to the standard rates set forth in the "Services Fee Schedule" attached as Exhibit B. Consultant may begin services prior to the effective date of this agreement at its own risk, with the understanding that, upon Town

approval, Town may choose to compensate consultant for services performed prior to Council authorization, with the limits of the City Manager's authority.

B. Consultant shall bill Town on a monthly basis for services provided by Consultant during the preceding month, subject to verification by Town. Payment to Consultant for services will be made within thirty (30) days of date of Consultant invoice. Amounts unpaid 60 days after invoice date shall bear interest at the rate of 1% per month.

C. Compensation for the services hereunder shall be capped at \$50,000.00 unless changed in writing by Town.

6. RIGHT TO TERMINATION

Both parties reserve the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days written notice to the other party. As of the date of termination, Consultant shall immediately cease all services hereunder, except such as may be specifically approved by both Consultant and Town's authorized representative. Consultant shall be entitled to compensation for all services rendered prior to termination and for any services authorized by the authorized representative thereafter.

7. NO ASSIGNMENT OF AGREEMENT/SUCCESSORS IN INTEREST

This Agreement is a contract for professional services. Town and Consultant bind themselves, their partners, successors, assigns, executors and administrators to all covenants of this Agreement. Except as otherwise set forth in this Agreement, no interest in this Agreement shall be assigned or transferred, either voluntarily or by operation of law, without the prior written approval of both parties.

8. NO AGENCY

Consultant shall not have authority, expressed or implied, to act on behalf of Town as an agent, or to bind Town to any obligations whatsoever, unless specifically authorized in writing by the City Manager or authorized representative.

9. NO THIRD PARTY BENEFICIARY

This Agreement shall not be construed to be an Agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

10. CONSULTANT IS AN INDEPENDENT CONSULTANT

It is agreed that in performing the work required under this Agreement, Consultant and any person employed by or contracted with Consultant to furnish labor and/or materials under this Agreement is not an agent nor employee of

Town. Consultant has full rights to manage its employees subject to the requirements of the law.

11. CONFIDENTIALITY OF MATERIAL

All memoranda, specifications, plans, data, drawings, descriptions, documents, discussions or other information received by or for Consultant and all other written information submitted to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant and shall not, without the prior written consent of Town, be used for any purposes other than the performance of the services nor be disclosed to an entity not connected with performance of the services. Nothing furnished to Consultant, which is otherwise known to Consultant or becomes generally known to the public or is of public record, shall be deemed confidential.

12. RIGHT OF TOWN TO INSPECT RECORDS OF CONSULTANT

Town, through its authorized employees, representatives or agents shall have the right during the term of this Agreement and for three (3) years from the date of final payment for goods or services provided under this Agreement, to audit the books and records of Consultant for the purpose of verifying any and all charges made by Consultant in connection with Consultant's compensation under this Agreement, including termination of Consultant. Consultant agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish the correctness of all charges submitted to Town. Town shall disallow any expenses not so recorded.

Consultant shall submit to Town any and all reports concerning its performance under this Agreement that may be requested by Town in writing. Consultant agrees to assist Town in meeting Town's reporting requirements to the State and other agencies with respect to Consultant's services hereunder.

13. CORRECTION OF SERVICES

Consultant will be given the opportunity and agrees to correct any incomplete, inaccurate or defective services at no further cost to Town, when such defects are due to the negligence, errors or omissions of Consultant.

14. FORCE MAJEURE

The time for performance of services to be rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of Consultant, including, but not restricted to, acts of God or of any public enemy, acts of the government, fires, earthquakes, floods, epidemic, quarantine restrictions, riots, strikes, freight embargoes and unusually severe weather if Consultant shall, within ten (10) days

of the commencement of such condition, notify the City Manager who shall thereupon ascertain the facts and extent of any necessary delay, and extend the time for performing services for period of enforced delay when and if the City Manager's determination shall be final and conclusive upon the parties to this Agreement.

15. FAIR EMPLOYMENT

Consultant shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, condition of physical handicap, religion, ethnic background, or marital status, in violation of state or federal law.

16. HOLD HARMLESS/INDEMNIFICATION

Consultant agrees, to the fullest extent permitted by law, to indemnify and hold Town harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by Consultant's negligent acts, errors or omissions in the performance of professional services under this Agreement and those of his or her sub-consultants or anyone for whom Consultant is legally liable.

Town agrees, to the fullest extent permitted by law, to indemnify and hold Consultant harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by Town's negligent acts, errors or omissions and those of his or her contractors, sub-contractors or consultants or anyone for whom Town is legally liable, and arising from the project that is the subject of this Agreement. Town further agrees to defend Consultant by providing legal counsel for the services that Consultant performs to the same degree and level as if the consultant were a Town employee, excepting Consultant gross negligence or willful misconduct.

Consultant is not obligated to indemnify Town in any manner whatsoever for Town's own negligence.

17. INSURANCE REQUIREMENTS

A. Without limiting Contractor's indemnification of Town, and prior to commencing any Services required under this Agreement, Consultant shall purchase and maintain in full force and effect, at its sole cost and expense, the following insurance policies with at least the indicated coverages, provisions and endorsements:

1. Commercial General Liability Policy (bodily injury and property damage): Policy limits are subject to review, but shall in no event be less than, the following:

\$1,000,000 Each Occurrence
\$1,000,000 General Aggregate
\$1,000,000 Products/Completed Operations Aggregate
\$1,000,000 Personal Injury

2. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars (\$1,000,000) policy limit Bodily Injury by disease, one million dollars (\$1,000,000) each accident/Bodily Injury and one million dollars (\$1,000,000) each employee Bodily Injury by disease.
3. Comprehensive Business Automobile Liability Insurance Policy with policy limits at minimum limit of not less than one million dollars (\$1,000,000) each accident using. Liability coverage shall apply to all owned, non-owned and hired autos.
4. Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of Consultant. Coverage shall be in an amount of not less than two million dollars (\$2,000,000) per claim/aggregate.

B. EVIDENCE OF COVERAGE

Prior to commencement of any services under this Agreement, Consultant, shall, at its sole cost and expense, purchase and maintain not less than the minimum insurance coverage with endorsements and deductibles indicated in this Agreement. Consultant shall file with Town all certificates for required insurance policies for Town's approval as to adequacy of insurance protection.

18. AMENDMENTS

It is mutually understood and agreed that no alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the Parties and incorporated into this Agreement. Such changes, which are mutually agreed upon by Town and Consultant, shall be incorporated in amendments to this Agreement.

19. WAIVER

No term or provision hereof shall be deemed waived and no default or breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented to such breach. The consent by any party to, or waiver of, a breach or default by the other, shall not constitute a consent to, waiver of, or excuse for, any other different or subsequent breach or default.

The failure of either party to insist upon or enforce strict conformance by the other party of any provision of this Agreement or to exercise any right under this

Agreement shall not be construed as a waiver or relinquishment of such party's right unless made in writing and shall not constitute any subsequent waiver or relinquishment.

20. INTEGRATED DOCUMENT - TOTALITY OF AGREEMENT

This Agreement embodies the Agreement between Town and Consultant and its terms and conditions. No other understanding, agreements, conversations or otherwise, with any officer, agent or employee of Town prior to execution of this Agreement shall affect or modify any of the terms or obligations contained in any documents comprising this Agreement. Any such verbal agreement shall be considered as unofficial information and in no way binding upon Town.

Agreement Documents comprise the entire Agreement between Town and Consultant concerning the work to be performed for this project. Agreement Documents are complementary; what is called for in one of the Agreement Documents is binding as if called for by all of them.

21. SEVERABILITY CLAUSE

In the event any one or more of the provisions contained herein shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions, which shall remain in full force and effect.

If any part of this agreement is for any reason held to be excessively broad as to time, duration, geographical scope, activity or subject, it will be construed, by limiting or reducing it, so as to be enforceable to the extent reasonably necessary for the protection of the parties.

22. NOTICES

All notices to the Parties shall, unless otherwise requested in writing, be sent to Town addressed as follows:

City Manager
Town of Atherton
91 Ashfield Road
Atherton, CA 94027

And to Consultant addressed as follows:

Name: CSG CONSULTANTS, INC.
Address: 1700 S. Amphlett Blvd., 3rd floor
San Mateo, CA 94402

23. STATUTES AND LAW GOVERNING CONTRACT

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California.

24. WAIVER OF CONSEQUENTIAL DAMAGES

Town and Consultant mutually agree to waive all claims of consequential damages arising from disputes, claims, or other matters relating to this Agreement.

25. DISPUTE RESOLUTION

- A. Unless otherwise mutually agreed to by the Parties, any controversies between Consultant and Town regarding the construction or application of this Agreement, and claims arising out of this agreement or its breach, shall be submitted to mediation within thirty (30) days of the written request of one Party after the service of that request on the other Party.
- B. The Parties may agree on one mediator. If they cannot agree on one mediator, the Party demanding mediation shall request that the Superior Court, State of California, County of San Mateo appoint a mediator. The mediation meeting shall not exceed one day or eight (8) hours. The Parties may agree to extend the time allowed for mediation under this Agreement.
- C. The costs of mediation shall be borne by the Parties equally.
- D. Mediation under this section is a condition precedent to filing an action in any court. In the event any legal action or proceeding is commenced to interpret or enforce the terms of, or obligations arising out of this Agreement, or to recover damages for the breach thereof, the Party prevailing in any such action or proceeding shall be entitled to recover from the non-prevailing Party all reasonable attorneys' fees, costs and expenses incurred by the prevailing Party.

26. VENUE

In the event that suit shall be brought by either Party, the Parties agree that the venue shall be exclusively vested in the state courts of the County of San Mateo or where otherwise appropriate, exclusively in the United States District Court, Northern District of California, San Francisco.

27. SIGNATURES

The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Consultant and Town.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Agreement shall become operative on the Effective Date.

TOWN OF ATHERTON, CALIFORNIA,
a California Municipal Corporation

Approved as to form:

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

Alan B. Carlson
Mayor

Attest:

Kathi Hamilton
Acting City Clerk

“Town of Atherton”

CSG CONSULTANTS, INC.
a California Corporation

Richard Mao, P.E.
President
1700 S. Amphlett Blvd., 3rd floor,
San Mateo, CA 94402
Telephone: (650)522-2500
Fax: (650)522-2599

“Consultant”

EXHIBIT A

Scope of Work

Code enforcement services will include assessment, field investigation, follow-up, correspondence, logging and tracking of complaints and cases, public information and related duties as assigned by the City Manager or designee.

CSG will schedule and conduct subsequent inspections until violations are in compliance with Town requirements.

EXHIBIT B
Services Fee Schedule

<u>Position</u>	<u>Hourly Fee</u>
Code Enforcement Consultant	\$99.

Mileage reimbursement will be invoiced at IRS rate plus 15%

Calls for service will be billed for a minimum of four hours



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: LT. GLENN NIELSEN

DATE: FOR THE MEETING OF JULY 18, 2007

**SUBJECT: POLICE DEPARTMENT PURCHASE OF POLICE VEHICLES
FOR FY 2007-08**

RECOMMENDATION:

Staff recommends that Council authorize the Town to “piggy back” on the City and County of San Francisco’s bid in order to purchase two police vehicles (one marked, one unmarked) for the fiscal 2007-2008 budget cycle for a total cost not to exceed \$45,568.00.

INTRODUCTION:

The history of replacing vehicles in the Police Department has been to rotate out the patrol car(s) with the highest mileage or maintenance cost. The mileage mark of replacing vehicles has been at approximately 75,000 miles. During the last six years, the Police Department has reduced the number of vehicles in the fleet by five. The current rotation and mileage requirements have reduced the need of replacement from the historic three cars per year to only two cars per year.

ANALYSIS:

1 Marked Police Vehicle

Our current #5 patrol car has more than 74,000 miles on it. Additionally, this vehicle is experiencing significant electrical problems that the Redwood City Corp Yard has been unsuccessful in rectifying (most likely caused the electrical draw from all the on-board electrical equipment). Officers must jump start that vehicle on a daily basis.

Additionally, a couple of months ago a patrol car was “totaled” in a traffic collision. Fortunately, no one was injured. The result of that collision is that our only spare patrol car (with over 73,000 miles on it) was put into regular patrol service. The purchase of one Ford Crown Victoria Police Interceptor will supplement our fleet of marked patrol cars.

1 Unmarked Police Vehicle

We currently have two sworn employees who do not have vehicles assigned to them: the School Resource Officer and one of our Detectives. The spare patrol car that was shared by them has now been placed back into regular patrol service. Rather than purchasing a civilian Ford Crown Victoria as we have in the past, this time we have selected the smaller, cheaper and more economical Ford Taurus.

The purchase of these two vehicles will replace an aged and problem-plagued patrol car (#5) and add two support vehicles to our fleet (the new unmarked car and the “old” #5 car after the majority of the electrical equipment has been removed).

FISCAL IMPACT:

The cost to the Town of Atherton for these two police vehicles including tax and tire fees will not exceed \$45,568.00. We will transfer the patrol-specific equipment (in-car camera, moving radar, mobile radio, etc) from the old #5 car to the new #5 car. There is no requirement to augment the current budget.

Prepared by:

Approved by:

Glenn Nielsen
Lieutenant

James H. Robinson
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF JULY 18, 2007

**SUBJECT: ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF
COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN
THE AMOUNT OF \$173,663.50 FOR THE PROJECT, PROJECT NO. 05-003**

RECOMMENDATION

Accept the work, authorize recording of a Notice of Completion and approve contract change orders in the amount of \$173,663.50 for the Valparaiso Avenue Street Reconstruction Project, Project No.05-003.

INTRODUCTION

The Council awarded a contract in July 2006 to Interstate Grading & Paving, Inc. for \$1,673,424.50 (\$311,187.00 Federal and \$1,362,237.50 Local), with a \$167,342.45 construction contingency, for a total authorized amount of \$1,840,766.95. Work under the contract has been completed.

ANALYSIS

The original contract price was for \$1,673,424.50. There were four (4) field directive change orders totaling \$31,079.03, as well as an AC Price Adjustment (that reduced the project cost). During construction, unforeseen conditions were experienced with the subgrade, which needed to be corrected to provide stability below the pavement section. Additional improvements to driveways, side streets and drainage were incorporated in the project which increased the area of AC replacement and milling. These conditions increased the quantities of several pay items. The contract changes were as follows:

1. Original Contract	\$1,673,424.50
2. Change Order No. 1 – Additional 2” AC for final grade of side streets, increase length of valley gutters	\$29,213.44
3. Change Order No. 2 – Modified driveway conforms and additional traffic signs for Stage 1	\$6,924.61
4. Change Order No. 3 - Modified driveway conforms and additional traffic signs for Stage 2	\$4,914.62
5. Change Order No. 4 – Modified driveway conforms and reset existing signs	\$8,797.03
6. Final Change Order - Quantity increases for AC pavement, subgrade stabilization, milling	\$142,584.47
7. AC Price Adjustment	(\$18,770.67)
TOTAL	\$1,847,088.00

FISCAL IMPACT

Funding for this project in the amount of \$1,350,000 (\$558,000 from the Parcel Tax Funds, \$370,000 from Measure A funds, \$350,000 in Road Impact funds, and a \$72,000 Surface Transportation Program (STP) grant) was included in the FY 06/07 budget. An additional \$490,767 was approved in the July 19, 2006, Council meeting for authorization above the budgeted amount, funded by Road Impact Fees, bringing the total authorization to \$1,840,767.

The final cost of this segment of work is \$1,847,088.00, \$6,321.05 (0.34%) more than the budget estimate.

CONCLUSION:

It is appropriate for the Council to accept the work and authorize recording a Notice of Completion at this time.

Prepared by:

Approved by:

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

James H. Robinson
City Manager

Attachment: Notice of Completion
Certificate of Completion

RECORD REQUESTED BY:

TOWN OF ATHERTON
AND WHEN RECORDED MAIL TO:

CITY CLERK, TOWN OF ATHERTON

91 ASHFIELD ROAD
(Street Address)
ATHERTON, CALIFORNIA 94027
(City, State and Zip Code)

No fee pursuant to Government Code Section 6103

SPACE ABOVE THIS LINE FOR RECORDER'S USE

TOWN OF ATHERTON
NOTICE OF COMPLETION

VALPARAISO AVENUE RECONSTRUCTION
PROJECT NO. 05-003
ATHERTON, CALIFORNIA

NOTICE IS HEREBY GIVEN THAT Duncan L. Jones, Engineer of Work for the Town of Atherton, County of San Mateo, California, on the 18 day of July 2007, did file with the City Clerk of said Town a Certificate of Completion for the work described in the construction contract awarded to Interstate Grading & Paving, Inc. on the 19 day of July, 2006, said contract being executed on the 16 day of August 2006.

That said work and improvements were accepted as completed on the 17th day of April, 2007, and that acceptance for completion of said work was ordered by Motion of the City Council of said Town, adopted on the 18th day of July, 2007, and that the name of the surety on the Contractor's bond for performance, labor and materials on said project is Safeco Insurance Company of America, 400 Taylor Blvd., Pleasant Hill, CA.

That said work and improvements consisted of layout of work, removal and replacement of asphalt concrete pavement on Valparaiso Avenue and side streets between Atherton Oaks and El Camino Real, placement of concrete valley gutters, installation of AC berms, rock swales and permanent striping as described in the plans a specification approved by the City Council of the Town of Atherton pursuant to motion, adopted the 18th day of July, 2006.

That I, Duncan L. Jones, City Engineer of the Town of Atherton, am authorized by said Motion to execute and file this notice with the County Recorder of the County of San Mateo.

BY: _____
City Engineer

Date

ATTEST: _____
Acting City Clerk

Date

'I declare under penalty of perjury that the foregoing is true and correct.'

(Date and Place) (Signature)

CERTIFICATE OF COMPLETION

TOWN OF ATHERTON

PROJECT NAME: Valparaiso Avenue Reconstruction
PROJECT NUMBER: 05-003
LOCATION: Valparaiso Avenue, Atherton

NOTICE IS HEREBY GIVEN:

1. That on July 18, 2007, the Public Works project known as Valparaiso Avenue Reconstruction was completed in accordance with the plans and specifications as required by the Town of Atherton.

2. That the name and address of the party filling this notice is:

Town of Atherton
91 Ashfield Road
Atherton, California 94027.

3. That the name and address of the Contractor responsible for the construction of the project is:

Interstate Grading and Paving, Inc.
128 South Maple Avenue
South San Francisco, CA 94080

4. That the name and address of the Contractor's surety is:

Safeco Insurance Company of America
400 Taylor Blvd.
Pleasant Hill, CA 94523

5. Layout of work, removal and replacement of asphalt concrete pavement on Valparaiso Avenue and side streets between Atherton Oaks and El Camino Real, placement of concrete valley gutters, installation of AC berms, rock swales and permanent striping as more particularly described in the plans and specification approved by the City Council of the Town of Atherton pursuant to Motion, adopted the 19 day of July, 2006.

BY:

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

Date

ATTEST:

Kathi Hamilton
Acting City Clerk

Date

ITEM 19

APPEAL REGARDING 55 BELBROOK WAY

THE APPELLANT HAS REQUESTED THE ITEM BE CONTINUED TO THE CITY COUNCIL MEETING OF SEPTEMBER 19, 2007.

ITEM 20

APPEAL REGARDING 94 TALLWOOD

The item will be continued pending the outcome of the Planning Commission meeting of July 25, 2007.



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCILMEMBERS

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: CITY COUNCIL MEETING OF JULY 18, 2007

**SUBJECT: INTRODUCTION OF AN ORDINANCE PERTAINING TO FIRE
SPRINKLERS AND ACTION REGARDING MENLO PARK FIRE
PROTECTION DISTRICT REVIEW AND APPROVAL OF ACCESS AND
WATER SUPPLY**

RECOMMENDATION:

Introduce for first reading an ordinance ratifying amendments to the Menlo Park Fire Protection District Code pertaining to fire sprinklers. Establish requirements for fire sprinklers in basements of any size newly constructed in the Town of Atherton. Confirm by letter that the Chief of the Menlo Park Fire Protection District will administer provisions in Article 9 of the California Building Standards Code relating to fire apparatus access, access roads, fire hydrant systems, and required water supply fire flow requirements and fire hydrant location and distribution in the Town.

BACKGROUND:

Further to the request from the Chief of the Menlo Park Fire Protection District, an ordinance has been prepared which will ratify amendments to the Menlo Park Fire Protection District Code regarding fire sprinklers in new construction. Additionally, the Town's ordinance will establish a requirement for fire sprinklers in basements of any size newly constructed in the Town. Ordinance No. 29 of the Menlo Park Fire Protection District requires fire sprinklers only in basements exceeding 250 square feet in area. The proposed ordinance is attached to this report.

A draft letter is attached which will assign to the Fire Chief of the Menlo Park Fire Protection District responsibility for fire department access and water supply in accordance with sections of the California Building Standards Code which are detailed in the letter.

Prepared By:

Approved By:

/s/ Marc Hynes

Marc G. Hynes
City Attorney

James H. Robinson
City Manager

Attachments: Proposed Ordinance
Draft letter to Fire Chief

ORDINANCE NO.

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
RATIFYING ORDINANCE NO. 29 OF THE MENLO PARK FIRE PROTECTION
DISTRICT AMENDING DISTRICT FIRE PREVENTION CODE PERTAINING TO
AUTOMATIC FIRE SPRINKLER SYSTEM REQUIREMENTS IN THE TOWN OF
ATHERTON**

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

SECTION 1: With the additional requirement set out in Section 2 below, Ordinance No. 29 of the Menlo Park Fire Protection District entitled "An Ordinance Amending District Fire Prevention Code" passed and enacted by the District Board of the Menlo Park Fire Protection District on May 18, 2004, and incorporated by this reference is hereby ratified. Pursuant to the provisions of Section 13869.7 of the California Health & Safety Code, the City Manager or designee is directed to file copies of all applicable findings and amendments to the Menlo Park Fire Protection District Fire Prevention Code with the appropriate State agency.

SECTION 2: Automatic fire sprinkler systems as defined and described in Ordinance No. 29 of the Menlo Park Fire Protection District shall be installed in any new basement constructed in the Town regardless of size.

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

SECTION 4: This ordinance is exempt from the provisions of Chapter 3 (commencing with Section 21100) of Division 13 of the public Resources Code (California Environmental Quality Act (CEQA)) pursuant to the State CEQA Guidelines Section 15308 as an action that assures the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

SECTION 5: Upon passage and adoption of this ordinance, Town of Atherton Ordinance No. 551, passed and adopted on November 17, 2004, is hereby repealed.

SECTION 6: This Ordinance shall be posted in at least three public places according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

Introduced this 18th day of July, 2007.

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the _____ day of _____, 2007, by the following vote:

AYES: COUNCIL MEMBERS
NOES: COUNCIL MEMBERS
ABSTAIN: COUNCIL MEMBERS
ABSENT: COUNCIL MEMBERS

Alan B. Carlson, Mayor
Town of Atherton

ATTEST:

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney



Town of Atherton

**91 Ashfield Road
Atherton, California 94027
Phone: (650) 752-0500
Fax: (650) 688-6528**

Draft July 13, 2007

Harold Schapelhouman, Fire Chief
Menlo Park Fire Protection District
300 Middlefield Road
Menlo Park, CA 94025

Re: Town of Atherton

Dear Chief Schapelhouman:

This letter responds to your letter dated June 12, 2007, to the City Council of the Town. The City Council has reviewed and considered the letter and has approved this response.

As Fire Chief of the Menlo Park Fire Protection District, you are assigned responsibility for fire department access and water supply in accordance with the provisions of 24 California Code of Regulations, Part 9, the California Fire Code, and specifically the following sections thereof:

Section 901.2.2.1	Fire Apparatus access
Section 901.4.2	Fire Apparatus access roads
Section 901.2.2.2	Fire hydrant systems
Section 903.2	Required Water Supply for Fire Protection
Section 903.3	Appendix III-Fire Flow Requirements for Buildings
Section 903.4.2	Appendix III-BB Fire hydrant location and distribution.

You are authorized to administer, impose and collect fees for services in connection with your activities taken pursuant to the foregoing sections. You are further authorized to administer conditions imposed in connection with Fire District approvals. This includes, without limitation, monitoring actions required by property owners to comply with imposed conditions, and collecting and returning any funds or deposits made as security, and completing final sign-offs of Fire District approvals.

Very truly yours,

Mike Wasmann
Chief Building Official



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL AND

FROM: JAMES H. ROBINSON, CITY MANGER

DATE: FOR THE MEETING OF JULY 18, 2007

**SUBJECT: DISCUSSION REGARDING A REQUEST FROM MENLO-ATHERTON
LITTLE LEAGUE TO RECONSIDER A PROVISION IN THEIR
AGREEMENT TO LEAVE THE BACKSTOP IN PLACE FOR THE
FORESEEABLE FUTURE AT HOLBROOK-PALMER PARK**

RECOMMENDATION

The City Council consider a request from the Menlo-Atherton Little League to maintain the Baseball Back Stop at Holbrook-Palmer Park on a year-round basis

BACKGROUND

The Mayor recently received the attached email from the Menlo-Atherton Little League thanking the Town for its longstanding support of youth baseball. The League has stated that use of the field is critical to its ability to continue to offer Little League Baseball to residents of Atherton and Menlo Park. The League is requesting that the current backstop remain in place year-round. The current agreement, approved in July of 2000, between the Little League and the Town of Atherton requires that the backstop and first and third base fencing and players seating area fencing be removed at the end of each season . The current season of the Little League runs from February through June.

If the City Council was supportive of the Little League request, it would be necessary to modify the existing agreement. The current agreement allows modifications if approved by each party in writing. The current agreement is in force through 2010.

Staff would also recommend that before any decision is made that the City Council request input from the Park and Recreation Commission.

ALTERNATIVES:

1. Support the request of the Menlo-Atherton Little League and request that a modification to the agreement be prepared for consideration by the City Council.
2. Reject the request of the Menlo-Atherton Little League and continue with the current agreement through 2010.
3. Defer action on the request and refer to the Atherton Parks and Recreation Commission for a recommendation to the City Council.

FISCAL IMPACTS:

If the request was approved, some savings would be derived to the Little League and would also reduce the wear and tear on the backstop fencing. No anticipated fiscal impacts for the Town .

From: Carlson, Alan B. [ACarlson@littler.com]
Sent: Saturday, July 07, 2007 3:05 PM
To: Jim Robinson
Cc: Kathi Hamilton; Jeffrey Morris; David Crowder; Robert Crowe
Subject: RE: Holbrook Palmer Park - Menlo Atherton Little League
Jim,

Please place this matter on the Council's agenda for the regular July 18 meeting.

Thanks, Alan

Alan B. Carlson
Littler Mendelson
50 W. San Fernando St., 14th Floor
San Jose, CA 95113
Telephone: (408) 998-4150
Facsimile: (408) 715-0309
Email: acarlson@littler.com

From: Jeffrey Morris [mailto:jeff@jamorris.com]
Sent: Saturday, July 07, 2007 7:00 AM
To: Carlson, Alan B.
Cc: David Crowder; Robert Crowe; Jeffrey Morris
Subject: Holbrook Palmer Park - Menlo Atherton Little League

July 7, 2007

Mayor Alan B. Carlson
Town of Atherton
91 Ashfield
Atherton, CA 94027
Dear Mr. Mayor,

On behalf of the Menlo-Atherton Little League, we would like to express our appreciation for the Town of Atherton's longstanding support for youth baseball in our community. Our league's use of the baseball field at Holbrook-Palmer Park is critical to our ability to offer the Little League baseball program to residents of Atherton and Menlo Park, and our players and their families really enjoy practicing and playing baseball in this beautiful park.

As you know, our operating agreement with the Town of Atherton requires the Little League to set up and take down the backstop at the Holbrook-Palmer field before and after each baseball

season. While we are happy to continue to honor our agreement, it would save Menlo-Atherton Little League considerable time and money if we could leave the backstop in place on a year-round basis. We would like to ask the City Council to reconsider this provision of our agreement so that we can leave the backstop in place for the foreseeable future.

We are happy to appear at the next City Council meeting if you think it would be helpful. If you have any questions or if there is anything we can do to facilitate approval of our request, please let us know.

Thank you for your consideration and for your support of Menlo-Atherton Little League.

Sincerely,

Bob Crowe
President

Dave Crowder
Vice President/Fields

Jeff Morris
Coach/former Board member

To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this document (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

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Littler Mendelson, P.C.
<http://www.littler.com>



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: MIKE WASMANN, BUILDING OFFICIAL

DATE: FOR THE MEETING OF JULY 18, 2007

**SUBJECT: REVIEW OF OPEN PERMITS WITH MENLO PARK FIRE
PROTECTION DISTRICT**

RECOMMENDATION

Staff recommends that the City Council review the findings of open permits by Menlo Park Fire Protection District.

INTRODUCTION

The Menlo Park Fire District has requested access and water requirements to be reviewed for all of the Town of Atherton building permits according to California State Law. The Town of Atherton City Council, on June 20, 2007, made a motion to direct staff, in cooperation with MPFPD, to review all open permits for access issues.

ANALYSIS

Fire Inspector Bob Blach and Town of Atherton Building Official Mike Wasmann conducted 257 reviews of open permits. It was determined seven (7) open permits of the 32 new residence active permits have not been through a formal plan review with Menlo Park Fire Protection District. Of the remaining 225 open permits, only fourteen (14) were found to not have been reviewed for site/access and water. However, these were found to be submitted prior to the MPFPD and the Town of Atherton Fire Sprinkler Ordinance.

CONCLUSION

The direction from council to review all open permits has been completed.

FISCAL IMPACT

Approximately 30 hours of staff time.

Prepared by:

Approved by:

Mike Wasmann
Building Official

James H. Robinson
City Manager

Attachments

1. Menlo Park Fire District Staff Report

MENLO PARK FIRE PROTECTION DISTRICT

STAFF REPORT

To: Board of Directors **Meeting Date** 7/17/07
From: Fire Prevention **Item #**
Date: June 9, 2007

Prepared By: Bob Blach

Approved By: Geoffrey Aus

Item: **RESPONSE TO TOWN OF ATHERTON CITY COUNCIL
MOTION FOR PLAN REVIEW**

* * * * *

Staff Recommendation

1. That the Board of Directors accepts the review to be presented to the Town of Atherton on Wednesday, July 18, 2007.
2. Provide the Battalion Chiefs with the current addresses of questionable structures to provide pre-plans for access and water.
3. Work with Cal Water and the Town of Atherton to provide upgrades to the water infrastructure.

Background

The Menlo Park Fire Protection District (MPFPD) has requested access and water requirements to be reviewed for all of the Town of Atherton building permits according to California Fire Code, Section 101.2.2.2. On June 20, 2007, the Atherton City Council made a motion to direct staff in cooperation with MPFPD to review 32 new active permits for new residences within the next 30 days with a report to Council regarding access issues. In the next 60 days, review all permits for any new basement, as well as all projects that had not been reviewed for access that were new or alterations/additions to any building with floor space greater than 2,500 square feet or larger when the alteration or addition exceeded 50% of the existing floor space. The list that Menlo Park Fire District worked off of was a combination of three separate lists supplied by the Acting Building Official Mike Cully.

Discussion

Fire Inspector Bob Blach and Town of Atherton Building Official Mike Wasmann reviewed a total of 257 open permits to comply with the Town of Atherton motion request.

“Motion- to Direction to staff, in cooperation with the MPFPD, review the 32 new active permits for new residences within the next 30 days with a report to Council regarding access issues; further, in the following 60 days, review all permits for any new basement, as well as all projects that had not been reviewed for access that were new or alterations/additions to any building with the floor space greater than 2,500 square feet or larger when the alteration or addition exceeded (50%) of the existing floor space” – Town of Atherton Council.

Of the 32 in question new active permits for access issues, seven (7) did not submit plans for a formal review for access by MPFPD.

Of the original 257 open permits, 225 of those were reviewed as projects larger than 2,500 square feet or which exceeded 50% addition/alteration and/or included basements. Twenty one (21) open permits, which were questionable for California State Fire Code compliance, were physically inspected by platoon fire inspector Bill Moore. Fourteen (14) new residences have been determined to not have been reviewed by MPFPD for water and site/access prior to the MPFPD and Town of Atherton Sprinkler Ordinance.

Fiscal Impact

The fiscal impact has been 21 hours of overtime to complete plan reviews and approximately 60 hours have been spent during normal business hours by Fire Prevention staff.



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 JULY 18, 2007

**SUBJECT: CONSIDERATION OF TOWN PARTICIPATION IN AN AMOUNT UP TO
\$100,000 IN THE COST OF INSTALLING A TRAFFIC SIGNAL ON
MIDDLEFIELD ROAD AT ENCINAL AVENUE**

RECOMMENDATION:

Staff recommends that the City Council consider whether or not to participate up to \$100,000 in the cost of installing a traffic signal on Middlefield Road at Encinal Avenue, provided that the Menlo Park School District and the City of Menlo Park agree to proportionate shares.

BACKGROUND:

The Town of Atherton and the City of Menlo Park hired traffic engineering consultants (DKS) to study the signals on Middlefield Road from Ringwood Avenue to Marsh Road. A signal at Encinal Avenue is an alternative being considered by the DKS study. Preliminary findings of the study are that the intersection is currently operating at level of service F during the a.m., afternoon and p.m. peak hours, with an average delay exceeding 60 seconds. The intersection currently meets the standard warrants for installation of a traffic signal.

The Menlo Park School District (MPSD) is planning expansion of the Encinal Elementary School campus to accommodate an increase in enrollment from the current level of approximately 395 students to a new capacity of 704 students. As a part of preliminary traffic studies, MPSD determined that the intersection of Middlefield Road and Encinal Avenue would be significantly degraded by the increased vehicle and pedestrian traffic to and from the school. Preliminary traffic projections indicate an increase in peak trips to and from the school 119 in the a.m. (144 in/119 out) and 86 (66 in/86 out) in the afternoon.

The City of Menlo Park has several developments on and near El Camino Real that are projected to increase traffic on Middlefield Road, Encinal Avenue and other streets leading to Middlefield Road. Several of these developments have been or will be charged traffic impact fees. Menlo Park has indicated preliminarily that a portion of these impact fees could be assigned to mitigating traffic impacts on Middlefield Road by contributing towards a signal at Encinal Avenue.

ANALYSIS:

While these studies have not been completed and coordinated sufficient to determine the precise impact on the Middlefield/Encinal intersection of the existing conditions, the school expansion and the Menlo Park developments, it is clear that the intersection is already operating at a substandard level of service and would benefit greatly from signalization. Not only would a signal allow traffic to move in and out of Encinal Avenue much easier, but would also create traffic platoons in the currently unsignalized one-mile section of Middlefield Road from Oak Grove Avenue to Marsh Road. These platoons would provide gaps in traffic allowing easier movements at other intersections such as Watkins Avenue, Lane Place, James Avenue, Prior Lane, Surrey Lane, Glenwood Avenue and Linden Avenue.

This is very similar in concept to the signal installed in 2003 on Valparaiso Avenue at University Avenue. That signal had the dual purpose of improving access to Menlo School and platooning vehicles on Valparaiso Avenue to provide improved access to and from Emilie Avenue and other side streets. The Town of Atherton, the City of Menlo Park, Menlo School and Sacred Heart Academy shared in the cost of installing that signal.

The Transportation Subcommittee considered this issue at its July 10, 2007, meeting when presented with the issue by the Menlo Park School District. No recommendation was made.

FISCAL IMPACT:

A cost estimate has not been developed for this signal at this time. The Valparaiso/University signal was estimated to cost \$145,000, but finally cost \$120,000 (there were 10 bidders on the project, very competitive). With inflation in labor and materials costs, it would be expected that the Middlefield/Encinal Signal would cost no more than \$200,000. This does not include street widening or sidewalks, as proposed by the MPSD for Encinal School bound traffic (and normally included in a signal quoted as costing \$300,000 to \$400,000). Those improvements, if made, would be funded by the MPSD.

Atherton's portion would be related to existing traffic congestion, which could be as much as one-half the cost, or a maximum of \$100,000, from Parcel Tax funds. This is currently not budgeted in the CIP, but could be accomplished by deferral of a single street reconstruction or drainage improvement project, or by a one-time increase in the allocation to the CIP from the General Fund.

Prepared by:

Approved by:

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

James H. Robinson
City Manager



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 JULY 18, 2007

**SUBJECT: CONSIDERATION AND POSSIBLE ACTION TO ALLOW AN
ENTRANCE TO MIDDLEFIELD ROAD FROM THE NEW TEACHERS'
PARKING LOT AT ENCINAL SCHOOL**

RECOMMENDATION:

Staff recommends that the City Council decide whether to allow an entrance to Middlefield Road from the new Encinal School teacher's parking lot and give appropriate direction to staff for reconsideration by the Transportation Subcommittee.

BACKGROUND:

The Menlo Park School District (MPSD) is in the planning process to reconfigure the campus of Encinal Elementary School. As a part of this project, they propose to create a teachers' parking lot at the corner of Middlefield Road and Prior Lane (the North Parking Lot). Currently at that location are tennis courts that are not used and are in disrepair. Originally the school district requested advice from Public Works regarding an encroachment permit for the driveway. Public Works advised that the General Plan does not allow additional entrances onto Middlefield Road; therefore, the entrance should be to Prior Lane, an adjacent residential street with no access restrictions.

Comments made by residents of Prior Lane at subsequent public meetings held by the MPSD, and after presentations to the Transportation Subcommittee, objected to an additional entrance onto Prior Lane. The principal reasons were: 1) additional traffic by teachers using the lot; 2) additional traffic by parents dropping off children if pedestrian access to the campus is created; and 3) loss of vegetation screening the school grounds from view.

The MPSD developed an alternative concept to provide an entrance to the parking lot from Middlefield Road. The entrance was moved south from the existing fire gate to avoid conflicts with traffic entering and exiting Prior Lane. The MPSD brought the two concepts to the Transportation Subcommittee's July 10, 2007, meeting, asking for guidance from the Town.

ANALYSIS:

The Transportation Subcommittee considered this item at length, hearing from residents and the MPSD. Because the General Plan of the Town of Atherton, adopted on November 20, 2002, discourages additional access from lots along Middlefield Road, the Transportation Subcommittee felt that the City Council first needed to decide if the situation warranted an exception from the General Plan policy. The Subcommittee made no recommendation, asking that the City Council decide and send the item back to the Subcommittee for further action.

FISCAL IMPACT:

There is no fiscal impact to the Town of Atherton with either alternative entrance location.

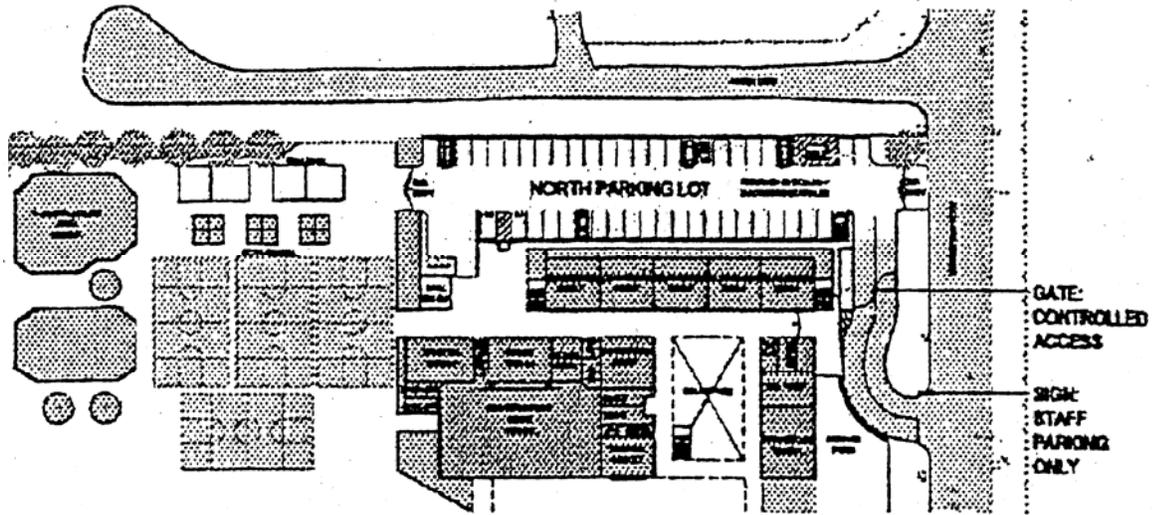
Prepared by:

Approved by:

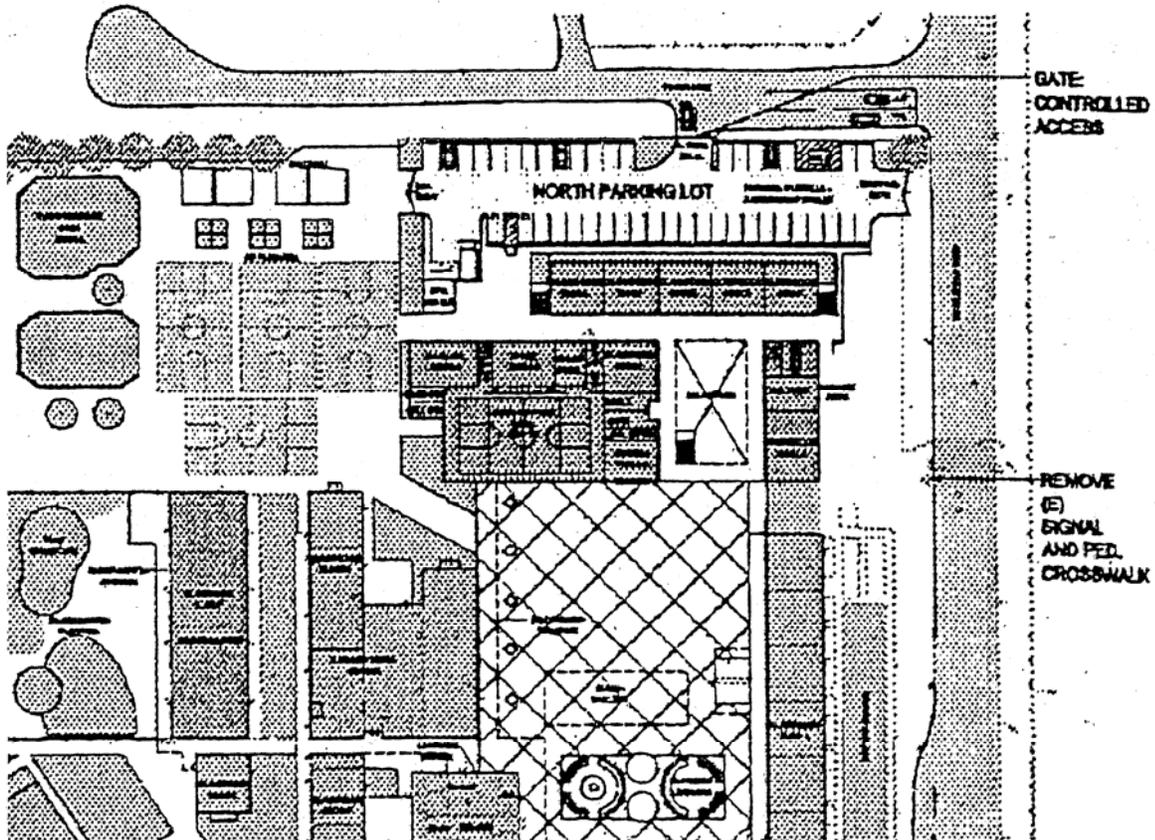
Duncan L. Jones, P.E.
Public Works Director

James H. Robinson
City Manager

Attachments: Alternative Concept Plans



OPTION WITH MIDDLEFIELD RD. ACCESS



Town of Atherton
Alan B. Carlson-Mayor
James R. Janz-Vice Mayor
Council Members:
Jerry Carlson
Charles Marsala
Kathy Mc Keithen
cc: James Robinson
Duncan Smith ✓
Ahmad Sheikholeslami

July 12, 2007

RECEIVED
TOWN OF ATHERTON

2007 JUL 12 A 9:51

Gentlemen and Madame:

I would like to take this opportunity to further communicate with the Atherton Town Council in connection with one aspect of the Menlo Park School District's development plans for the Encinal School site. As I am sure you are aware, Mr. Sheikholeslami and several consultants made a presentation to the Atherton Traffic Committee on July 10. My comments herein are in light of their presentation, but are directed solely to the plans for the so called "North Parking Lot" (hereinafter NPL) which is to be located on the school grounds at the corner of Prior Lane and Middlefield Road.

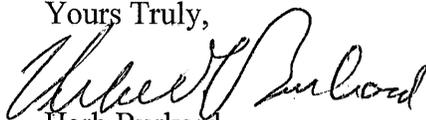
As the Council is aware, the School District had originally proposed that the entrance and exit to the NPL be from Prior Lane. We residents of Prior Lane made our concerns and objections known to both the Atherton Town Council and to Mr. Sheikholeslami. A subsequent face to face meeting was held with Mr. Sheikholeslami who graciously indicated a willingness to give careful considerations to our concerns. At the July 10 Traffic Committee meeting I, and the other attending Prior Lane residents were delighted to hear for the first time that, based on the results of its traffic study, the School District was entirely agreeable to having access to the NPL to be from Middlefield Road rather than Prior Lane. Mr. Sheikholeslami further indicated that the choice of the access road was entirely up to the Town of Atherton. I will not repeat my previous comments on the undesirability of using Prior Lane but would rather focus on the factors favoring a Middlefield road access, recognizing that this may be contrary to Atherton's current position.

- 1) The NPL would be reserved for school staff only, and be access controlled. The Middlefield access route would provide almost 10% more parking spaces for the same lot footprint.
- 2) According to the School Board traffic study, only 15% of the students, but a substantial portion of the school staff come from north of Prior Lane so that staff entering the NPL would have, at most, minimal impact on any parent traffic flow. Additionally, the staff almost invariably arrives before the parents and leaves after the school children are picked up, yet further reducing the possibility of negatively impacting parent traffic flow. Finally, the NPL does not present a simultaneous "in-out" situation. The school staff would only enter the NPL in the morning and leave in the afternoon.

- 3) As shown by the School Board plot plan the Prior Lane entrance would require the removal of 30' to 40' of trees and lovely, tall Oleander bushes along the south side of Prior Lane. I would submit that this factor alone makes this alternative unacceptable on both environmental and aesthetic grounds. After all, we are known as a "tree city".
- 4) Finally, the School board contemplates using the NPL for evening special events. The Prior Lane residents are not opposed to this additional use *if* the entrance to the NPL is from Middlefield Road, but are vehemently opposed if were to be from Prior Lane.

If there is any further information or comment you wish, please let me know at the July 18 Town Council Meeting.

Yours Truly,



Herb Burkard



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL AND

FROM: JAMES H. ROBINSON, CITY MANGER

DATE: FOR THE MEETING OF JULY 18, 2007

**SUBJECT: CONSIDERATION AND POSSIBLE ACTION REGARDING
ESTABLISHING A BUDGET FOR THE ENVIRONMENTAL
PROGRAMS COMMITTEE**

RECOMMENDATION

Staff recommends that the City Council consider the request from the Environmental Programs Committee for its annual budget and provide appropriate direction to staff.

BACKGROUND

The currently adopted budget did not include funding for the support of the Environmental Programs Committee. A request has been made from the EPC to consider the following allocation of resources for the Environmental Programs Committee for FY 2007/08. This request includes \$3800.00 to calculate the CO2 emissions baseline and \$10,000 for outreach and public awareness.

ALTERNATIVES:

1. Approve Budget as requested.
2. Modify Budget as requested.
3. Refer request to the Finance Committee for review and recommendation.

FISCAL IMPACTS:

The current budget does not include funds allocated for the EPC. Approval would require an additional appropriation of \$13,800.00.



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: WENDÉ C. PROTZMAN, ASSISTANT TO THE CITY MANGER

DATE: FOR THE MEETING OF JULY 18, 2007

**SUBJECT: SELECTION OF A CONSULTANING FIRM TO ASSIST IN THE
RECRUITMENT OF A CITY MANAGER**

RECOMMENDATION

Staff recommends that the City Council discuss the interviews conducted for a consulting firm in assisting in the recruitment of a new City Manager and choose the recruiting firm that best meets the needs of the Town.

BACKGROUND

On May 7, 2007, City Manager Jim Robinson announced he would be retiring on July 31, 2007. During the May 16, 2007, City Council meeting, staff was directed to solicit a request for proposals from approximately five consultant firms to make a presentation before the Council. Staff returned on June 20, 2007, with a list of three interested recruitment firms and was directed to schedule a Special meeting to interview potential consulting firms to assist in the recruitment of the City Manager.

Two firms, CPS Executive Search and Bob Murray & Associates, were interviewed during a Special City Council meeting on July 12, 2007, and one firm, Avery Associates was interviewed on July 18, 2007.

Prepared by:

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