



AGENDA
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
MAY 16, 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 – ANTICIPATED LITIGATION
Initiation of litigation pursuant to subsection (c) of Government Code Section 54956.9:

Four (4) potential cases

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

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

Charles W. King III and Leslie King v. Town of Atherton, et al.
Superior Court of California, San Mateo County, CIV 461513

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

C. LIABILITY CLAIMS – pursuant to Government Code Section 54956.95

Claimant: RJR Transportation, Inc.
Agency Claimed Against: Town of Atherton

D. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

City Manager

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

May 16, 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. Certificate of Appreciation to Sherman Hall from REACT
B. Recognition of Outgoing Planning Commission Members
C. Certificates for Young Artists' Environmental Art Contest
- 7:20 P.M. 4. **PUBLIC COMMENTS** (only for items which are not on the agenda –
limit of three minutes per person)
- 7:35 P.M. 5. **STAFF REPORTS**
- 7:45 P.M. 6. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT** (Directed
by Resolution No. 99-6)
- Lindenwood Homes Association**
- 7: 55 P.M. **CONSENT CALENDAR** (Items 7– 14)
7. **APPROVAL OF MINUTES OF THE SPECIAL CITY COUNCIL
CLOSES SESSION AND SPECIAL MEETINGS OF APRIL 9, 2007;
SPECIAL CITY COUNCIL CLOSED SESSION AND REGULAR
MEETINGS OF APRIL 18, 2007**
8. **APPROVAL OF BILLS AND CLAIMS FOR APRIL 2007 IN THE
AMOUNT OF \$ 1,127,031**
9. **ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR APRIL
2007**

10. ACCEPTANCE OF THE QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDED MARCH 31, 2007

11. AUTHORIZATION FOR THE POLICE CHIEF TO ACCEPT A CITIZEN DONATION TO THE POLICE DEPARTMENT

Recommendation: The Council authorizes the Police Chief to accept the donation of \$1,200 from a citizen and to use the funds to sponsor an event that benefits the police department as a whole.

12. ACCEPTANCE OF A PROPOSAL FROM PMC FOR THE TOWN OF ATHERTON ZONING ORDINANCE UPDATE

Recommendation: The City Council to accept a proposal from PMC to complete a focused update of the Town of Atherton Zoning Ordinance and direct the City Manager to prepare a Professional Services Agreement to be returned to the City Council for approval.

13. REVIEW AND APPROVAL OF A RESOLUTION AUTHORIZING CONTINUED PARTICIPATION IN THE CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY (C/CAG) AND APPROVAL OF THE JOINT POWERS AGREEMENT

Recommendation: Review and approve a Resolution authorizing continued participation in the City/County Association of Governments of San Mateo County (C/CAG) and approval of the Joint Powers Agreement in accordance with the staff recommendations.

14. APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT WITH KIKUCHI & ASSOCIATES FOR LANDSCAPE DESIGN SERVICES FOR THE HOLBROOK-PALMER PARK MAIN HOUSE LAWN, PLAYGROUND RESTROOMS AND TENNIS COURT BUFFER LANDSCAPE PROJECT, IN AN AMOUNT NOT TO EXCEED \$15,500 PLUS A TEN PERCENT CONTINGENCY, FOR A TOTAL AUTHORIZATION OF \$17,050.

Recommendation: Accept the proposal and authorize the Mayor to sign a Professional Services Agreement with Kikuchi & Associates to provide landscape design services for the Holbrook-Palmer Park Main House Lawn, Playground Restrooms and Tennis Court Buffer Landscape Project in an amount not exceed \$15,500, plus a 10% contingency, for a total authorization of \$17,050.

PUBLIC HEARINGS (Items 15-18)

- 8:00 P.M.** **15.** **APPEAL REGARDING 94 TALLWOOD** Continued from April 18, 2007)
Recommendation: To be continued to the City Council meeting of June 20, 2007
- 8:01 P.M.** **16.** **APPEAL REGARDING 55 BELBROOK WAY** (Continued from April 18, 2007)
Recommendation: To be continued to the City Council meeting of June 20, 2007
- 8:07 P.M.** **17.** **APPEAL REGARDING 70 BARRY LANE** (Continued from April 18, 2007)
Recommendation: To be continued to the City Council meeting of June 20, 2007
- 8:03 P.M.** **18.** **INTRODUCTION OF AN ORDINANCE AMENDMENT CHAPTER 17 OF THE ATHERTON MUNICIPAL CODE REGULATING BASEMENTS**
Recommendation: Conduct the public hearing and introduce the attached Ordinance based on the following finding for the reasons outlined in this staff report: The proposed amendment is required to achieve the objectives of the Zoning Plan and the General Plan.

REGULAR AGENDA (Items 19-26)

- 8:20 P.M.** **19.** **CONSIDERATION OF ADOPTION OF A RESOLUTION MAKING FINDINGS ON APPEAL OF THE PROPERTY OWNERS AT 84 WALNUT AVENUE FROM A DETERMINATION BY THE BUILDING OFFICIAL CHAPTER 17.44 OF THE ATHERTON MUNICIPAL CODE)**
Recommendation: Consider the resolution making findings and, if appropriate, adopt the resolution by majority vote.
- 8:30 P.M.** **20.** **CONSIDERATION OF ADOPTION OF A RESOLUTION MAKING FINDINGS ON APPEAL OF THE PROPERTY OWNERS AT 370 ATHERTON AVENUE FROM A DETERMINATION BY THE BUILDING OFFICIAL RELATED TO 384 ATHERTON AVENUE (CHAPTER 17.64 OF THE ATHERTON MUNICIPAL CODE)**

Recommendation: Consider the resolution making findings and, if appropriate, adopt the resolution by majority vote.

- 8:40 P.M. 21. CONSIDERATION AND POSSIBLE APPROVAL OF EXTENSION OF PLANNING SERVICES PROVIDED BY NEAL MARTIN ASSOCIATES**

Recommendation: Authorize the expansion of services provided by Neal Martin and Associates to provide the services of a part- time Planner in the Building Department to assist in the review of building permit plans.

- 8:55 P.M. 22. REQUEST TO REFER THE REVIEW OF BUILDING HEIGHT LIMITS WITH SOLAR PROJECTS TO THE GENERAL PLAN COMMITTEE**

Recommendation: Staff recommends the City Council review the request and provide direction to staff as appropriate. The Council could refer the item to the General Plan Committee for further study or could direct staff to request the consultant include appropriate language as a part of the Zoning Code update.

- 9:15 P.M. 23. CONSIDERATION OF A MASTER RESOLUTION FOR COMMITTEES**

Recommendation: Review the draft resolution which is designed to provide one master document governing all Town committees with the exception of the Planning Commission and provide direction to staff regarding the powers and duties of respective committees.

- 9:35 P.M. 24. DISCUSSION AND FINALIZATION OF GOALS AND OBJECTIVES**

Recommendation: The City Council consider the finalization of a list of previously established and new goals with the expectation that the goals would be circulated and ranked by the City Council to be returned to the June 20, 2007, City Council meeting with the results.

- 10:00 P.M. 25. DISCUSSION AND CONSIDERATION TO SCHEDULE A SPECIAL MEETING TO DISCUSS THE FISCAL YEAR 2007/2008 BUDGET**

Recommendation: The City Council to select a date for a Special Meeting to consider the Draft FY 2007-2008 Operating and Capital Budget.

10:05 P.M. 26. DISCUSSION AND POSSIBLE ACTION REGARDING A RECRUITMENT PROCESS FOR A CITY MANAGER

Recommendation: The City Council to consider the process for recruitment and selection of a City Manager to fill the vacancy created by the retirement of the current City Manager.

10:25 P.M. 27. COUNCIL REPORTS

10:45 P.M. 28. PUBLIC COMMENTS

10:55 P.M. 29. ADJOURNMENT

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DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
MONDAY, APRIL 9, 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 5:10 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

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

Town of Atherton v. Johnson Trust, et.al. Superior Court of California, County of San Mateo, CLJ 460946

- B. PUBLIC EMPLOYEE PERFORMANCE EVALUATION** (*Continued from the City Council Closed Session meeting of February 21, 2007.*)

City Attorney
City Manager

RECONVENE TO OPEN SESSION

Report of action taken.

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

With respect to Item A, CONFERENCE WITH LEGAL COUNSEL, Existing Litigation, there was no reportable action. Item B, PUBLIC EMPLOYEE PERFORMANCE EVALUATION, the item was continued to the City Council Closed Session of April 18, 2007/

ADJOURN

The meeting was adjourned by Mayor Alan Carlson at 5:50 p.m.

Respectfully submitted,

Alan B. Carlson
Mayor

Minutes Prepared by:
Kathi Hamilton



DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
MONDAY, APRIL 9, 2007

7:00 p.m.

TOWN COUNCIL CHAMBERS

94 Ashfield Road
Atherton, California

SPECIAL MEETING

Mayor Alan Carlson called the meeting to order at 7:00 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.

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

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

Town of Atherton v. Johnson Trust, et.al. Superior Court of California, County of San Mateo, CLJ 460946

No reportable action.

- B. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (*Continued from the City Council Closed Session meeting of February 21, 2007.*)

City Attorney
City Manager

Continued to the Special City Council Closed Session of April 18, 2007, at 5:00 p.m.

3. EMERGENCY PREPAREDNESS - INCIDENT COMMAND SYSTEM (ICS) 1 & 2 TRAINING (Continued from the City Council meeting of March 21, 2007.)

Police Chief Bob Brennan said a discussion took place at the last Atherton Emergency Preparedness Subcommittee meeting regarding the possibility of providing additional training to the City Council and interested members of the public. The proposed training was an 8-hour session that Town staff had completed in October.

Council Member McKeithen said members of the Council were not really prepared for an emergency in the Town; and as a member of the Office of Emergency Services for the County and the Emergency Preparedness Subcommittee for the Town, she believed Council would benefit from additional training.

Council Member Jerry Carlson wanted to know how the training would make him more effective in an emergency and whether the training would educate him in his role.

Chief Brennan did not believe the training would be specific to the Council Members' role; however, it would provide an understanding of what the emergency response personnel would be doing. The Council did not have an active role in any of the command posts during an emergency.

A discussion ensued on whether a shorter training session would be more appropriate given the fact that Council's role was primarily one of public relations. Council Members agreed that an abbreviated session would be better.

Mayor Carlson suggested that staff review the training materials, select those areas pertinent to the Council, and develop a 3-hour session to be held on a Saturday.

Council Member Marsala believed most of the material had been covered in a previous training session and might be repetitive.

John Sisson, Belleau Avenue, said the recurring question at neighborhood meetings was what role people would have in an emergency. He suggested the focus of the training should be Council's role.

Mayor Carlson agreed and said the title of the training could be, "What is the role of the City Council in an Emergency and How Does the City Council fulfill that Role?"

Direction to staff was to canvass the Council for a possible date on a Saturday in July for the training.

4. DISCUSSION AND POSSIBLE DIRECTION TO STAFF REGARDING THE COMMITTEE/COMMISSION APPOINTMENT PROCESS (Continued from the City Council meeting of March 21, 2007.)

Council Member Jerry Carlson had concerns regarding the current method of consecutive terms of office for appointed members on those committees with 1-year terms. He believed staggered terms would make more sense. Using the Audit Committee as an example, he stated if all five resident members decided not to reapply, the committee would lose continuity and institutional knowledge.

City Attorney Marc Hynes clarified that some commissions/committees were required to file a Form 700 Statement of Economic Interests, e.g., City Councils, Planning Commissions, and generally those committees that recommended expenditures of money.

Council Member Carlson believed each committee should have an authorized role and list of duties. He wanted clarification regarding the types/definition of committees and what they could or could not do (advisory vs. ad hoc). Additionally, he said there was merit in the current Screening Committee process in regards to asking certain questions that might not be asked in an open session with the full Council. He suggested that perhaps two Screening Committees with two Council Members each could interview the candidates, without violating the Brown Act, and four members would become more knowledgeable about the qualifications of the candidates.

Council Member Marsala raised the issue of expenditure of funds regarding the Arts Committee and the Environmental Programs Committee with respect to Form 700.

City Attorney Hynes said he would research the statutes and provide Council with the information regarding who should file Form 700.

City Manager Jim Robinson clarified there was a resolution that established the Arts Committee. The Arts Committee maintained the Rita Corbett-Evans fund and a budget was established and incorporated into the Town's budget. The Council did approve the expenditures.

City Attorney Hynes acknowledged that the committees/commissions had been formed in different ways; some by ordinance, the Arts Committee by resolution, others in the Council's Rules of Procedure. At one time, the Brown Act treated bodies differently depending upon the mode of their creation. Over time, the Brown Act has been expanded to treat every committee the same way. He suggested developing a master ordinance/resolution that would set out each committee, its charter, etc.

Mayor Carlson agreed having everything described in one place, either by resolution or ordinance, made sense. A fundamental problem was the lack of resident interest to fill vacancies. He did not think the current 1-year term concurrent with Council Member terms on some of the committees made sense. A multi-year, staggered term would provide continuity. He believed oftentimes the selection process was purely perfunctory because there were not enough applicants from which to choose. He suggested for committees such as the Arts Committee, Traffic Committee, and Rail Committee, that the current screening process be used. For the Planning Commission or the General

Plan Committee, the full Council should interview those candidates at a Special meeting. He also thought term limits should be eliminated.

Council Member McKeithen also agreed that a 1-year term on the Audit Committee was inappropriate. A level of expertise, continuity, familiarity with the balance sheet, etc., was necessary. A staggered 4-year term would be appropriate. The Environmental Programs Committee also needed staggered terms. Having everything in one resolution or ordinance was appropriate. She was concerned about the screening process and the possible change to the full Council interviewing candidates. She believed it might have an even greater adverse effect on the number of residents willing to apply. Despite the screening process' imperfections, she believed it was the better method and members serving on it rotated over time.

Vice Mayor Janz agreed with most of Mayor Carlson's suggestions; however, he concurred with Council Member McKeithen's argument with continuing the current Screening Committee process. Additionally, he did not agree with eliminating term limits because he did not believe it solved the problem of a lack of applicants.

Lou Paponis, MacBain Avenue, believed the reason people did not volunteer for positions on the committees/commissions was because responsibilities were not defined in notices. He did not believe the 1-year terms were adequate. Additionally, he did not believe people should sit on more than one committee at the same time because a conflict of interest could arise. No person should sit on a committee for more than four years.

John Sisson, Belleau Avenue, said face-to-face recruitment had worked well for neighborhood issues and might be effective in recruiting committee/commission applicants. He hoped the Council should maintain some control over commission members and their service.

Bob Jenkins, Irving Avenue, thought emphasis should be put on the recruitment process and someone should be responsible for actually recruiting members. The quality of the members deteriorated over time.

Council Member Carlson concurred that the current applicant screening process should continue, with the full Council's approval. He thought one 4-year term was not sufficient for most committees. However, the second term should not be automatic. Recruitment efforts needed improvement.

Council Member Marsala also thought rotating Council Members' service on the Screening Committee was important. Committees/commissions should reflect different views within the Town. He favored term limits because it allowed people to retire gracefully and allowed for rotation and new members to volunteer. Recruitment efforts needed to be improved.

Mayor Carlson suggested that staff develop a draft resolution consisting of those committees that were not controlled by ordinance that outlined terms, duties, selection

process, etc. As much as the committees/commissions could be standardized, they should be standardized.

City Attorney Hynes indicated staff would return with a draft master resolution at the May 16th City Council meeting which would include all the categories in a uniform process for Council's approval.

Mayor Carlson believed the current Screening Committee process should remain since the members changed every year. A Council Member was free to call any prospective applicant for further information at any time.

After a short discussion, Council concurred that with respect to the current Planning Commission vacancies, that the Screening Committee conduct interviews and recommend prospective appointees to the full Council at the April 18th City Council meeting. Additionally, the Screening Committee would suggest that any unsuccessful applicants for the Planning Commission apply to the General Plan Committee.

City Manager Jim Robinson noted that current recruitment efforts did include advertising in the *Almanac* and the *Athertonian*, as well as on the Town's website. He welcomed any suggestions for other methods of getting the word out.

5. **DISCUSSION OF COUNCIL PROCEDURES (NO WRITTEN REPORT)**
(Continued from the City Council meeting of March 21, 2007.)

Mayor Alan Carlson suggested a standardized format for staff reports and presentations in an effort to streamline meetings. He suggested a check-off area on the staff report designating whether there was a legal issue or a policy change, as well as a one paragraph executive summary at the beginning of the report, wording for motions, and alternative resolutions for the issue. He believed the Council and the public had an obligation to read the reports when they became available; therefore, staff should only present information that was not included in the staff reports. Another issue was Council Reports. Originally, the purpose was for Council Members to ask questions of one another because the Brown Act prevented such dialogue outside of the Council Chambers. He believed reporting on his activities was a waste of time and not the original intent, i.e., addressing Council not the public. Council needed to address the issue of what Council Reports should be and suggested moving the item to the end of the meeting agenda.

Vice Mayor Janz agreed Council Reports should be moved to the end of the agenda. He thought the purpose was for reporting the substance of what an individual Council Member was doing/attending to his/her colleagues. He also agreed staff members should not present what was written in the staff reports. The written report should specifically delineate the action items and alternatives, and the oral presentation should restate those items.

Council Member Jerry Carlson concurred with his colleagues regarding staff reports. He also suggested that other department heads might have comments that should be

included, such as the financial officer. Council also needed to do its homework before meetings and clarified that it was appropriate to contact staff members for questions and clarification before meetings.

In response to Council Member Carlson, City Attorney Marc Hynes explained that *Robert's Rules of Order* were designed for the U.S. Congress; however, the Town used a similar format but one that was smaller-body friendly. There was a booklet available for distribution.

Council Member Carlson wanted the Public Comment section of the agenda standardized. For example, if there were a large contingency wishing to speak, speaker cards should be utilized. Additionally, new topics should not be agendaized beyond a specific time in the meeting and perhaps another meeting should be scheduled to handle those items not discussed.

Council Member Marsala believed there should always be some type of written report included in the packet. He agreed with moving Council Reports to the end of the meeting. Time should be allowed for the City Manager to announce upcoming events at the beginning of the meeting. He suggested scheduling Public Hearings after the Regular agenda since they were more individual in nature. Additionally, he suggested a short study session before the meeting for Council and the public to ask questions regarding the Consent Calendar could facilitate that part of the meeting.

Council Member McKeithen concurred with moving Council Reports to the end of the meeting. She believed staff should present a summary staff report at meetings since the public might not have read all the staff reports, perhaps just the one they came to discuss. She concurred with including whether a legal opinion was required. On items that came before the Council that were repetitious renewals/updates, she wanted to know what was different from the previous version. She believed repetition was the biggest problem in elongating meetings, including comments by the Council. She concurred with a time limit on meetings for all items, e.g., 11:00 p.m., which included setting another meeting time. Informing the public of upcoming events should be through a single source, i.e. the City Manager.

Mayor Carlson asked the City Manager to develop a format for staff reports for Council consideration at its next regular meeting and to move Council Reports to the end of the agenda starting with the meeting of April 18th. Other issues for discussion were the possibility of utilizing speaker cards for public comments, setting a time limit of 11:00 p.m. at Council meetings at which time the Council would decide to continue the meeting or schedule a Special meeting (predetermined date) for the remaining items. Additionally, he requested an additional tab be created in Council's packet for all other meeting agendas that occurred since the previous Council meeting. He suggested a subcommittee of Council review Council's Rules of Procedure for revision.

Vice Mayor Janz wanted a "running" list that maintained the open items that staff was working on, at any one time, to be included in the packet as well.

6. DISCUSSION AND POSSIBLE ACTION REGARDING CITY COUNCIL GOALS AND OBJECTIVES

Council Member McKeithen said an item missing from the list of Goals and Objectives was, “Evaluate Methodology for Expediting Building Plan Review, dated January 16, 2002. She wanted to put it back on the list. Item No. 17, “Revise Employee Personnel Rules and Procedures,” had not been done. She suggested the need for someone to head a Personnel Department and the need to develop an Evaluation Policy.

City Manager Jim Robinson noted the Evaluation Policy was part of Item No. 17 and was assigned to the Assistant to the City Manager. A list of the previously listed goals, as well as the list of new goals, had been placed before Council that evening and included a sheet to add new goals.

Council Member McKeithen reiterated that Item No. 17 be expanded to include potential need for a department head for Personnel and specifically to add development of an Evaluation Policy. With regard to emergency preparedness, she wanted an all-inclusive update with a checklist of all the issues and the completion of the emergency preparedness booklet.

Mayor Alan Carlson thought a list of the Goals and Objectives should also be included in a separate section of Council’s packet, a running tally sheet of items to be returned to Council, were ongoing, or were action oriented.

Council Member Jerry Carlson wanted a goal added for Environmental Planning and Implementation. Additional items included review of the Permit Fee Schedule, implementing an outside annual audit of the Building Department, the zoning code update, and permit software implementation.

City Manager Jim Robinson asked for clarification as to what the goals were and what the priorities were.

Mayor Carlson suggested that Council Members needed to rank the goals and through that process goals would be prioritized. There were two categories: goals and action items. He asked staff to list all the established goals, previous and new, give the list to Council to add any new goals and to rank the goals, and return with the results at the next meeting.

Council Member Carlson believed the City Manager needed to estimate the amount of time action items would take to complete based upon the amount of funds and available staff. A timeline should accompany the goals delineating the amount of time needed, e.g., three months, one year, two years, etc.

Vice Mayor Janz emphasized the 5-year General Plan Review and Update and the Housing Element needed to be kept in the forefront as the Town went forward with the Regional Housing Needs Allocation process.

Mayor Carlson asked staff to review the City Council minutes from the past six to nine months to determine whether any items had slipped through the cracks. A format should be developed by which the information could be inserted into Council's packet on the status of goals and action items.

City Manager Robinson asked Council Members to submit any additional goals to him so they could be included in the list to be distributed among Council for ranking. After a brief discussion, Council requested an item be placed on next month's agenda for finalization of the list. After the meeting, the list could be circulated for ranking and returned at the June 20th meeting with the results.

7. DISCUSSION, POSSIBLE DECISION TO RECONSIDER THE DENIAL OF AN APPEAL AT 84 WALNUT AVENUE (ASSESSOR'S PARCEL NUMBER 060-332-230), AND TO SET A DATE FOR SAID RECONSIDERATION

Mayor Alan Carlson requested the item be placed on the agenda for that evening. The purpose of the discussion was to provide the Council with the opportunity to schedule a hearing for reconsideration. Under the Rules of Procedure for the Council, Section 11.6, a motion for reconsideration could be made by any member who voted in favor of the motion that passed but had to be made before the close of that meeting. However, Section 10.1 allowed the Council, upon motion by majority vote, to vote to suspend its rules. At the end of the appeal hearing on March 21, 2007, minutes of the January City Council meeting were presented regarding the action Council took on a similar appeal. Mayor Carlson believed if he had had an opportunity to review the minutes before he voted, he would have voted differently in the appeal of 84 Walnut Avenue. He wanted to place that before the Council to allow Council the opportunity to reconsider its action and grant the appeal.

Council Member Jerry Carlson believed the discussion had taken place and was not able to support a reconsideration.

Council Member Marsala would support the motions.

Council Member McKeithen believed the two appeals were distinguishable based upon the facts and did not see a basis for reconsideration.

The merits of the appeal were not before the Council that evening. The only item before Council was the opportunity to reconsider.

Vice Mayor Janz did not believe the action taken by the Council in January was discussed at the meeting in March, nor did he believe the action or the situation was accurately described.

MOTION – to suspend the rules under Section 10.1 of the Council's Rules of Procedure with respect to the appeal of 84 Walnut Avenue

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

MOTION – to reconsider the denial of the appeal with respect to 84 Walnut Avenue based upon Section 11.6 of the Council’s Rules of Procedure, and to set the public hearing for the City Council Meeting of April 18, 2007.

Council Member Carlson said there was no background information in the staff report to prepare him to be sympathetic to the issue. Council had taken action on the item and should move forward. He was not convinced that the reconsideration was appropriate and might set a precedent.

Mayor Carlson said the information was presented by the appellant but had not been given to Council to consider during the meeting. The issue was one of fundamental fairness.

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

8. ENVIRONMENTAL PROGRAMS COMMITTEE BUDGET

City Manager Jim Robinson said the Town had an enthusiastic Environmental Programs Committee (EPC) that developed a comprehensive program for Earth Week. Council needed to determine what level of support should be given for the immediate event and what amount of support should be allocated for future years. Two sources of revenue were identified in the budget: 1) Liquidated Damages; and 2) Forfeiting Recycling Deposits. Council should determine the priorities and the needs and allocate accordingly. The EPC identified estimated expenditures for the Earth Week events, along with possible revenues. The EPC had received approximately \$1500 to support the programs. The EPC was requesting approval of a \$10,000 budget and approval for future ongoing funding.

Council Member Jerry Carlson wanted to see the EPC’s master plan. He thought the Earth Week events were to be self-supporting through donations and fundraising. He queried how much staff time was utilized for the program.

City Manager Robinson said the Town Arborist and he attended meetings, staff prepared agendas, and staff’s involvement in creating the program. The EPC was making the request to Council.

Council Member Carlson was concerned that all the costs were not being represented. In the future, cost accounting for staff resources needed to be taken into consideration for all the committees/commission. Perhaps budgeting by committees should be developed. He did not want to authorize expenditures for the next year until he saw a plan.

Council Member Marsala clarified that some of the events during Earth Week required a fee to attend and would match the expenses. By using the Forfeiting Recycling Deposits for the EPC, money would not be coming out of Council’s budget or tax dollars from residents. Additionally, damages from Allied Waste that were

received by the Town could help create a budget for the EPC. Future revenues would match Forfeiting Recycling Deposits.

Mayor Carlson was concerned about the EPC making statements in the press that sounded like policy statements of the Town or the City Council.

Council Member McKeithen asked what the revenues in Liquid Damages and Forfeiting Recycling Deposits would have been used for if not used for the EPC.

City Manager Robinson said the revenues from both sources would have been allocated to the General Fund.

Council Member McKeithen noted that the EPC was not charged any rental fees for using Holbrook-Palmer Park facilities which might have resulted in a loss of revenue because the facilities were not available for rental for four days; another cost that needed to be included. Additionally, there was a cost of staff time associated with oversight at the events, i.e. park personnel. She was concerned about all the hidden costs. She thought the EPC was a little too ambitious, too fast.

Vice Mayor Janz agreed with Council Member McKeithen that the EPC was exuberant. He believed there were funds to support the activities and a great deal had been accomplished in a short period of time. He was in favor of supporting the budget request for the upcoming event; however, he was not in favor of approving an annual budget.

Finance Director John Johns believed the estimate of expenses and revenues were reasonable. He suggested, if Council believed the activities were worthwhile, money should be appropriated from the Reserves rather than a specific revenue source.

Council Member Marsala clarified there were no rental bookings for the Pavilion for the four days in question. He described many of the events that would take place and believed the event could be cash positive. A discussion ensued regarding costs for park personnel, energy costs, etc. Council Member Marsala said success would be measured by: 1) the annual report by San Mateo County that measured annual gas and energy consumption per household; 2) attendance at the events; 3) how many units of solar were installed; and 4) a non-quantifying method of favorable comments.

Council Member Carlson was not pleased. In the future, he wanted ample opportunity to give input, know what the numbers were, and see a plan before being placed in a position to approve a budget. A discussion ensued regarding how much money should be allocated to the event.

MOTION – to approve a budget of \$6,000 for Earth Week activities

M/S McKeithen/J.Carlson

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

10. PUBLIC COMMENTS

11. ADJOURNMENT

Mayor Carlson adjourned the meeting at 9:17 p.m.

Respectfully submitted,

Kathi Hamilton
Acting City Clerk



DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
APRIL 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 5:05 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 – ANTICIPATED LITIGATION**
Significant exposure to litigation pursuant to subsection (b) of Government Code Section 54956.9:

One (1) potential case

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

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

Charles W. King III and Leslie King v. Town of Atherton, et al. Superior Court of California, San Mateo County, CIV 461513

C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION *(Continued from the City Council Closed Session meeting of February 21, 2007.)*

**City Attorney
City Manager**

RECONVENE TO OPEN SESSION

Report of action taken.

City Attorney Marc Hynes reported out of Closed Session as follows: There was no discussion regarding Item A, CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION. Item B, CONFERENCE WITH LEGAL COUNSEL – Existing Litigation, the first two cases were discussed and no reportable action was taken.

The Council adjourned to open session to consider a request by the City Attorney to add the following item to the Closed Session agenda.

Town of Atherton v. Johnson Trust, et.al. Superior Court of California, County of San Mateo, CLJ 460946

No reportable action was taken. Item C, PUBLIC EMPLOYEE PERFORMANCE EVALUATION, was discussed and no reportable action was taken.

ADJOURN

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

Respectfully submitted,

**Alan B. Carlson
Mayor**

**Minutes Prepared by:
Kathi Hamilton**



DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT

April 18, 2007

7:00 p.m.

TOWN COUNCIL CHAMBERS

94 Ashfield Road
Atherton, California

REGULAR MEETING

Mayor Alan Carlson called the meeting to order at 7:03 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 proclaiming April 21, 2007, as Earth Day in Atherton

Mayor Carlson presented the proclamation to Council Member Marsala who accepted it on behalf of the Environmental Programs Committee.

B. Proclamation proclaiming April 23 through April 29, 2007, as Mosquito Awareness, West Nile Virus Prevention Week

Chindi Peavey, Biologist, Mosquito Abatement District, reported there were no human cases of West Nile Virus in San Mateo County; however, there were infected birds. She advised residents to call the District if a dead bird were found or mosquito problems existed on their property.

4. PUBLIC COMMENTS

Shirley Carlson, Mt. Vernon Lane, said the Atherton Dames held their annual Easter Egg Hunt, which was a huge success with over 1,100 attendees. She thanked

Holbrook-Palmer Park staff; Richard Moore and members of the Atherton Civic Interest League (ACIL); the Atherton Police Department; and Council Members Charles Marsala and Jerry Carlson for all their help on the event. Additionally, she announced the Town Barbeque would be held on September 9, 2007.

Bob Jenkins, Irving Avenue, commented that Atherton's Earth Week events, sponsored by the Environmental Programs Committee, was mostly the work of member Valerie Gardner. Regarding disaster preparedness, Mr. Jenkins noted there was a Community Alert Network through San Mateo County that Atherton residents could sign up for which would inform them of emergencies in the area, such as last week's fire in Redwood City that produced some toxins in the air.

5. STAFF REPORTS

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

A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

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

One (1) potential case

There was no discussion on the item.

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

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

No reportable action was taken.

Charles W. King III and Leslie King v. Town of Atherton, et al.
Superior Court of California, San Mateo County, CIV 461513

No reportable action was taken.

The Council adjourned to open session to consider a request by the City Attorney to add the following item to the Closed Session agenda.

Town of Atherton v. Johnson Trust, et.al. Superior Court of California, County of San Mateo, CLJ 460946

No reportable action was taken.

Adopted Ordinance 569, “AN ORDINANCE OF THE COUNCIL OF THE TOWN OF ATHERTON AMENDING SECTIONS 12.06.030 – 12.06.050 AND ADDING CHAPTERS 12.07 AND 12.09 TO TITLE 12 OF THE ATHERTON MUNICIPAL CODE; ADDING SECTION 13.08.600 TO CHAPTER 13.08 AND CHAPTER 13.10 [VIDEO SERVICE PROVIDERS – APPLICABLE REQUIREMENTS] TO TITLE 13 OF THE ATHERTON MUNICIPAL CODE TO CONFORM TO THE CALIFORNIA DIGITAL INFRASTRUCTURE AND VIDEO COMPETITION ACT OF 2006”; This ordinance was introduced at the regular City Council meeting on March 21, 2007.

11. PERFORMANCE OF TOWN LANDSCAPING CONTRACT WITH COMMERCIAL ENVIRONMENTAL LANDSCAPE

Approved retaining the services of Commercial Environmental Landscape (CEL) to perform landscaping duties in various locations in the Town of Atherton.

12. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION, AND APPROVAL OF CONTRACT CHANGE ORDERS FOR THE SELBY LANE RECONSTRUCTION PROJECT, PROJECT NO. 04-004

Accepted the work, authorized recording of a Notice of Completion, and approved contract Change Orders in the amount of \$164,523.79 for the Selby Lane Reconstruction Project, Project No. 04-004.

13. AWARD OF CONTRACT FOR THE CAPE SEAL AND SLURRY SEAL PROJECT, PROJECT NO. 06-003

Awarded the contract for the 2007 Street Microsurfacing Project, Project No. 06-003, to Valley Slurry Seal, Inc., the low bidder on the March 9, 2007, bids, for \$68,863.43, with a 10% construction contingency of \$6,886.34, for a total authorization of \$75,749.77; and to authorize the Mayor to sign the contract on behalf of the Town.

**14. ADOPTION OF A RESOLUTION ADDING THE POSITION OF PERMIT TECHNICIAN TO THE TOWN’S JOB CLASSIFICATION LISTING
(Continued from the City Council meeting of March 21, 2007.)**

Adopted Resolution No. 07-11, “A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ADDING THE POSITION OF PERMIT TECHNICIAN TO THE TOWN’S CLASSIFICATION LISTING AND SETTING SALARY AND BENEFITS FOR THE POSITION.”

15. APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH CSG CONSULTANTS, INC. FOR MUNICIPAL CIVIL ENGINEERING SERVICES FOR THE REVIEW OF DEVELOPMENT PROJECTS, IN AN AMOUNT NOT TO EXCEED \$30,000.

Accepted the proposal and authorized the Mayor to sign a Professional Services Agreement with CSG Consultants, Inc. for Municipal Civil Engineering services for the review of development projects, in an amount not to exceed \$30,000.

16. APPROVAL OF A CONTRACT WITH EL DORADO TOWING TO BE ADDED TO THE ATHERTON POLICE DEPARTMENT TOW ROTATION LIST

Approved the contract for El Dorado Towing to add this company to the tow rotation list for the Atherton Police Department.

17. ACCEPT AND APPROVE THE RECOMMENDATION OF THE CITY COUNCIL SCREENING COMMITTEE FOR APPOINTMENTS TO THE PLANNING COMMISSION

Accepted and approved the recommendation of the City Council Screening Committee to appoint Mr. Phil Lively and Mr. Herman Christensen as members of the Atherton Planning Commission and to serve four-year terms effective May 1, 2007.

18. CONSIDERATION AND POSSIBLE APPROVAL OF A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON RE-NAMING THE WASTE REDUCTION COMMITTEE TO THE ENVIRONMENTAL PROGRAMS COMMITTEE, INCREASING MEMBERSHIP TO TEN RESIDENT ADVISORS, INCREASING TERM LIMITS, AND DESIGNATING ITS FUNCTIONS

Approved Resolution No. 07-10, "RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON RE-NAMING THE WASTE REDUCTION COMMITTEE TO THE ENVIRONMENTAL PROGRAMS COMMITTEE, INCREASING MEMBERSHIP TO TEN RESIDENT ADVISORS, INCREASING TERM LIMITS AND DESIGNATING ITS FUNCTIONS."

19. AWARD OF CONTRACT FOR HOLBROOK-PALMER PARK EMERGENCY WATER WELL PROJECT NUMBER 06-004

Awarded the contract for the Holbrook-Palmer Park Emergency Water Well Project, Project No. 06-004, to the low bidder to be determined by informal bids to be received on or before April 18, 2007, for an amount to be determined by Council based on the bid results, to authorize the use of an informal bid process, to authorize the Mayor to sign the contract, and to authorize the City Manager to execute the contract on behalf of the Town.

PUBLIC HEARINGS (Items 20 - 24)

Due to voice problems, Mayor Alan Carlson asked Vice Mayor Janz to temporarily preside over the meeting.

20. APPEAL REGARDING 370 AND 384 ATHERTON AVENUE

Former Acting Building Official Mike Cully presented the staff report. Michael McGregor, the appellant, was appealing the decision of the former Acting Building Official regarding a final approval of a building permit issued to an adjacent property at 384 Atherton Avenue for landscape structures. Mr. McGregor asserted there were

various violations of the zoning regulations and the grading and drainage criteria that caused storm runoff onto his property. Mr. Cully presented a timeline and background of the project at 384 Atherton Avenue. Mr. McGregor had visited the Building Department on numerous occasions to discuss various concerns regarding the neighboring property. In December of 2006, Acting Building Official Cully and the Senior Building Inspector visited the site and determined the project did not violate provisions of any of the Town's adopted regulations and final approval was granted. Mr. McGregor was sent notification and an explanation of the findings regarding his complaints. Mr. Cully summarized the five Municipal Code violations asserted by Mr. McGregor as outlined in the staff report. Staff's professional opinion was the permit that was issued for the work at 384 Atherton Avenue was completed to the satisfaction of the plans and in compliance with the zoning regulations of the Town. Mr. Cully responded to Council's questions.

In response to Mayor Alan Carlson, City Attorney Marc Hynes clarified that the any action taken by the Building Official. The appeal was filed within the time limit of 10 days as set out in Municipal Code Section 17.64.

Vice Mayor Janz opened the public hearing.

Michael McGregor, 370 Atherton Avenue, appellant, said the landscape structure had a direct physical impact on his property; water ran across the driveway which presented potential damage. His attorney advised him he would have to disclose the code violations if he ever wanted to sell his property. Mr. McGregor worked to try to resolve the issues with the property owner. He distributed a packet of information refuting statements in the staff report. His first point of contention was that the property owners should not have been granted an exemption. All seven criteria listed in the Municipal Code Section 8.54 had to be met for an exemption to be granted. The first criterion was the amount of landfill that could be placed could not exceed $\frac{1}{4}$ of an acre: at least .9 of an acre was used at 384 Atherton Avenue. Mr. McGregor, through pictures, demonstrated the succession of attempts by the contractor that failed to keep water from seeping onto his property that began as a well and ultimately led to the vertical retention pit. The manner in which the pipes were laid resulted in water still reaching the sump outside the sealed collection box that then drained onto Mr. McGregor's property. He believed a dye test needed to be made into the sump that would demonstrate the water leaking onto his property. Further, he contended that the rockery wall was really a retaining wall and, as such, needed to be outside the 5-foot setback. The steep slope would not hold up over time. Rockery walls were not intended to hold back fill.

In response to Council Member Jerry Carlson, Mr. McGregor said he suggested a dye test be performed in February. The dye needed to be injected into the sump, under the collection box.

Council Member Marsala believed only the part of the lot being worked on should be counted in the calculation for the landfill limit, i.e., the area where the rockery wall was located as opposed to the entire lot. There was a difference of opinion as to how

that calculation was applied under the code. Council Member Marsala was in favor of performing the dye test.

Mayor Carlson asked if there was any evidence that the water ran across Mr. McGregor's driveway in a like amount prior to the work performed at 384 Atherton Avenue.

Mr. McGregor explained from 1989 to 1992, there was a problem with water draining across his driveway due to faulty construction for the driveway at 384 Atherton Avenue. In 1992, the problem was corrected by re-grading the driveway and water no longer drained unto his property. The current problem was worse because there was a continuous flow.

Council Member McKeithen said given the fact there was a continuous flow that was worse than before, and the only change was the construction of the vertical absorption pit, the problem seemed to be the vertical pit.

Mr. McGregor believed the problem was the sump. All the water theoretically went into the concrete box and was pumped out and flowed to the street. In actuality, a great deal of water still went into the sump because the pipes were not sealed. Even though the pipes entered the sealed concrete box, they dumped water into the sump. Only solution was to remove the sump.

Vice Mayor Janz clarified that Mr. McGregor's solution was to eliminate the small retention pit, or sump.

Mr. McGregor believed both pits needed to be removed and filled which would solve the immediate problem. What would be replaced would come down to grading and drainage criteria. With regard to the rockery wall, he said the angle of repose of the materials would eventually go downhill toward his property.

Vice Mayor Janz closed the public hearing.

Council Member Jerry Carlson said at the very least, a dye test should be completed before taking any action on the pit or the vertical retention device.

Council Member Marsala agreed a dye test should be conducted. He queried whether the deeper retention pit was actually working as a well and hit an underground stream that was seeping up. He thought both pits should have a dye test. He was unsure what to do about the rockery wall and what legal options would exist over time.

City Attorney Hynes said over time, additional rules or regulations could be put into place relative to retaining walls. If the decision that evening were that the wall was or should be a retaining wall and must be engineered like a retaining wall, the direction would be for the Town to tell the property owner to build retaining wall. Since the wall had been approved, findings would need to be made to justify the reason Council was reversing the decision of the Building Official.

Former Acting Building Official Cully clarified based on the information shown on the plans, the areas identified for fill were the area of the rockeries. He did not take into consideration the fill on the entire lot and did not believe it was the intent of the code. The areas were small and isolated and met all seven criteria.

Council Member McKeithen said there was no harm in doing dye tests in both the vertical absorption pit as well as the sump pump. Given the assumption that the water was found to be coming from at least the sump pump, she thought Council should direct the Building Department to have the property owner remove both features and develop a system to retain water on the property. If that were not feasible, the features should be removed without adversely affecting any neighboring properties. She believed the rockery wall was intended to resist lateral movement of soil and believed it was truly a retaining wall and should be engineered as such.

Mayor Carlson believed the findings should be based on the evidence. And the evidence showed that prior to the most recent work at 384 Atherton Avenue, water did not drain across Mr. McGregor's driveway. Consequently, the appeal should be granted and the property owner at 384 Atherton Avenue should be required to restore the condition as it existed before, i.e., no water drainage across the driveway. He thought the retaining wall was a matter of interpretation. He did not believe the interpretation of the Building Official was unreasonable; therefore, the appeal with respect to the wall should be denied.

Vice Mayor Janz shared the concern that the problem with the retention pits should be corrected. He queried whether to do a dye test first. With respect to the retaining wall/rockery, he agreed with Mayor Carlson that the interpretation that the wall was a landscape feature was a reasonable interpretation by the Building Official.

Council Member Jerry Carlson thought the property owner should decide whether a dye test should be done or not.

Council Member Marsala was still in favor of the tests so all parties were convinced that retention pits were the culprit.

Mayor Carlson believed the dye test was not warranted based on the evidence in the record.

Council Member McKeithen was concerned about the retaining wall and disagreed with her colleagues. The record spoke for itself, i.e., that the rocks and boulders were not just up the side of a slope but up the side of fill.

MOTION – to grant the appeal of the Building Official's final approval of a building permit at 384 Atherton Avenue based on the fact that before construction took place, there was no drainage on Mr. McGregor's property; further, the property owner at 384 Atherton Avenue is to resolve/restore to the existing state prior to construction with the remedy left to the property owner at 384 Atherton Avenue

M/S A.Carlson/J.Carlosn

Ayes 5 Noes 0 Absent: 0 Abstain: 0

MOTION – to uphold the decision of the Building Official in regard to the rockery/retaining wall because sufficient evidence existed in the record that the Building Official’s decision was not unreasonable, thereby denying the appeal

Council Member Jerry Carlson was disturbed by the rockery wall. If the rocks were removed what would happen to the soil. Clearly, the soil needed to be retained by something. The encroachment into the 5-foot setback was also bothersome. He could not support motion.

Council Member Marsala believed the rockery functioned as a retaining wall; however, it was allowed within the code.

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

Mayor Carlson resumed presiding over the meeting.

21. APPEAL REGARDING 70 BARRY LANE

Mayor Alan Carlson stated the appeal was continued to the City Council meeting of May 16, 2007.

22. APPEAL REGARDING 55 BELBROOK WAY

Mayor Alan Carlson stated the appeal was continued to the City Council meeting of May 16, 2007.

23. APPEAL REGARDING 94 TALLWOOD

Mayor Alan Carlson stated the appeal was continued to the City Council meeting of May 16, 2007.

24. DISCUSSION, POSSIBLE DECISION TO RECONSIDER THE DENIAL OF AN APPEAL REGARDING THE ALTERATION OF A NONCONFORMING STRUCTURE AT 84 WALNUT AVENUE (ASSESSOR’S PARCEL NUMBER 060-332-230)

Mayor Alan Carlson noted at the Special City Council meeting of April 9, 2007, the City Council decided to suspend its rules and reconsider the appeal of 84 Walnut Avenue.

Vice Mayor Janz initially suggested reconsideration of the item because he received some information during the City Council meeting that he was unable to review until after the meeting. In particular, he found a great similarity in what the owner at 172 Austin Avenue had done and which Council addressed at its January meeting. He acknowledged that actions taken by Council were not precedent setting for the future, however, he believed the project on 84 Walnut had more merit and should be approved. He pointed out similarities between the two. He said the “historical fiction”

being used was that if a piece of a nonconforming building was kept, the property owner could build around it and not lose the benefit of the nonconforming portion of the structure. In recent years, property owners were allowed to build a new wall where the nonconforming wall was and place a new foundation under it because that was a better method, which was the case on Austin Avenue. The only difference on 84 Walnut Avenue was the property owner was told to keep the walls as a placeholder; however, building a new foundation was contemplated and new walls would be built where the nonconforming walls were. In terms of impact on neighbors and impact on the standards of setbacks, he believed what took place on Austin Avenue was much greater than what was proposed for 84 Walnut Avenue. He believed the appeal should be granted based on: 1) general fairness issues; 2) that Municipal Code Section 17.44 justified that the walls being knocked down were “or other” accidental occurrence; and 3) applying a strict interpretation of an ambiguous law was a travesty of justice for the owner.

Council Member Marsala would have approved the appeal at the previous meeting. He agreed with Vice Mayor Janz that the project met the test of accidental occurrences. Additionally, the neighbors were in favor of the project. He was in favor of granting the appeal.

Council Member McKeithen said the supreme premise was that every case had to be judged on its own merits. She would disregard a comparison with 172 Austin Avenue, initially; judge 84 Walnut Avenue on its own and determine what she would do in the case of 84 Walnut Avenue; and determine whether she would have done anything different on 172 Austin. She believed “accidental” referred to act of God. A contractor mistake was not an act of God and not provable and could not be applied in the current case. Additionally, she did not believe whatever the former Building Official said or did not say really made a difference because the fact was the provisions of the permit were not met. There was nothing to discuss as a nonconforming structure because one no longer existed. The bigger issue was Paragraph D in the findings relative to 172 Austin Avenue that said there were no objections from adjacent neighbors which allowed the conclusion that there were no adverse impacts from development of the property in accordance with the approved plans, which meant the community was not going to suffer. The side setback allowed for adequate screening from adjacent property owners that would blend in perfectly with the neighborhood. She described what she believed were adverse effects, as well as safety concerns regarding 84 Walnut Avenue’s reduced front setback which made it different from 172 Austin Avenue. All the new development surrounding 84 Walnut Avenue had the newly required 20-foot setbacks. If the entire right-of-way were used for road, 84 Walnut Avenue would only be 7 feet from the roadway, causing a safety issue. She concluded that: 1) there was a safety issue; 2) the conditions of the permit were not met; 3) there was an issue of whether there was adequate screening; and 4) there was a reduced front setback. She was not in favor of granting the appeal.

Mayor Carlson believed his vote was wrong at the last meeting. Had he had in mind the Austin Avenue case, he would have voted differently. He concurred with Vice Mayor Janz’s comments in total.

Council Member Jerry Carlson really was perplexed by the logic of some of his colleagues. He believed the general fairness issue should be what was fair for the community and not comparing a past action of Council. A fairness test was whether the Council was upholding the rules the Town adopted for the whole community. For the reasons noted in the findings, the appeal should be denied. He believed reversing Council's decision would give the impression that Council did not have the political will to follow through on enforcement actions and opened the door for other challenges.

Mayor Carlson opened public hearing.

Amanada Miller, appellant, 84 Walnut Avenue, presented minor revisions to her plans that would increase the front setback to 10 feet 6 inches. Additionally, the window was moved away from the door by 10 inches. She was submitting the revised plans to the Building Department for approval. She asked Council to approve the appeal.

Mayor Carlson closed public hearing.

MOTION – to grant the appeal of the Building Official's decision regarding the alteration of a nonconforming structure at 84 Walnut Avenue and allow construction to continue

A brief discussion ensued clarifying the need for the City Attorney to return with specific findings to support Council's decision to grant the appeal.

Council Member McKeithen requested her comments be very carefully noted in the record. She believed the Council was in a tricky position where human nature and good will controlled over logic.

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

City Attorney Marc Hynes stated in accordance with the Atherton Municipal Code, he would prepare findings consistent with the motion to be returned at the City Council Meeting of May 16, 2007.

Mayor Carlson called for a break at 9:58 p.m. The meeting was reconvened at 10:08 p.m.

REGULAR AGENDA (Items 25 - 29)

**25. SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING
ATHERTON MUNICIPAL CODE CHAPTER 17.44 REGULATING
NONCONFORMING USES WITHIN THE TOWN OF ATHERTON**

Deputy Town Planner Lisa Costa Sanders noted changes, as suggested at the last meeting, were incorporated into the ordinance.

MOTION – to adopt Ordinance 570, “AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON AMENDING CHAPTER 17.44 REGULATING

NONCONFORMING USES WITHIN THE TOWN OF ATHERTON”

M/S McKeithen/J.Carlson

Ayes 5 Noes 0 Absent: 0 Abstain: 0

26. CONSIDERATION OF REQUEST FROM ATHERTON DISASTER PREPAREDNESS COMMITTEE TO PURCHASE A LAPTOP AND SOFTWARE.

Council Member Jerry Carlson clarified the computer would be used to maintain a record of volunteers, assisting in the event of an emergency and preparing for emergencies. He queried whether the issue of obtaining/maintaining personal information had been resolved.

City Manager Jim Robinson said one of the issue raised at the Town’s Emergency Preparedness Committee was who would provide the computer and how confidentiality would be maintained. In discussions with the Menlo Park Fire Protection District (MPFPD), the MPFPD said it would not provide a laptop computer but did not have objections if the citizen committee had one. Concerns were raised by the Police Chief regarding the information that would be stored and controlled by volunteers and what liability, if any, the Town would have.

Council Member Marsala noted the Atherton Civic Interest League had purchased other items in the past. He believed the equipment was needed and served a function for the Town. However, there was the unresolved issue of security. He queried whether a precedent would be set for other groups wanting computers.

City Manager Robinson said the MPFPD noted that other groups had their own computers, such as homeowner organizations, and probably had rules on how information was maintained.

Bob Jenkins, Irving Avenue, Chair of the Atherton Disaster Preparedness Committee, had already purchased a laptop and software. Lloyd Park was being set up as the alpha site which would have various maps of the area and would include shutoff valves and data on the individual occupants for each parcel. Better software had been purchased and data input was 80% completed and would be shared with MPFPD. Signoffs by all the participants were secured before information was entered into the computer. He encouraged the Council to fund the cost of the laptop computer and software.

City Attorney Marc Hynes clarified the Town would not have liability if the laptop computer were lost or the data was comprised.

Lou Paponis, Citizens Disaster Preparedness Committee, clarified one of the purposes of the database was to identify the number of people living in residences, e.g., senior citizens, children, etc. Experience showed that when catastrophes happened, confusion was paramount, and people tended to get lost.

Council Member McKeithen said Council had given money for many different causes. The citizen group had roots within the Town with dedicated volunteers who made a big

difference in how Atherton would be prepared in a disaster. She agreed that some information should not be in the public domain. A donation would be a good faith showing that Council cared about the committee and what it was doing.

MOTION – to authorize a donation of \$2,000 to the Atherton Citizens Disaster Preparedness Committee for a laptop computer and software which had been purchased

M/S McKeithen/A.Carlson

After a short discussion regarding how the donation should be made, Mayor Carlson made the following amendment to the motion:

AMENDMENT – to appropriate \$2,000 to reimburse the Atherton Citizens Disaster Preparedness Committee for the purchase of a laptop computer and software, payable to an individual on the Committee, approved by the City Manager

A/S A. Carlson/ McKeithen

MOTION AS AMENDED

Ayes 5 Noes 0 Absent: 0 Abstain: 0

27. CONSIDERATION AND POSSIBLE APPROVAL OF RESPONSE TO SAN MATEO COUNTY CIVIL GRAND JURY FEBRUARY 7, 2007 INTERIM REPORT REGARDING TOWN OF ATHERTON BUILDING DEPARTMENT.

Mayor Carlson called for a recess at 10:35 p.m. Mayor Carlson reconvened the meeting at 10:38 p.m.

Mayor Alan Carlson provided Council with a proposed draft response and clarified some legal issues. Article 9 was in the Fire Code which was part of the Building Standards Code and controlled apparatus access, was not required to be adopted by any municipality, and had not been adopted by Atherton. The Menlo Park Fire Protection District (MPFPD) was required to adopt the Fire Code; however, Article 9 was not within the totality of the Fire Code. There was an argument that Article 9 needed to be adopted in addition to and separately from the Fire Code. There was a question as to whether MPFPD had adopted Article 9. If not, there was an argument that MPFPD could not enforce Article 9 within Atherton. Another legal issues was whether Article 9 applied only to commercial, or did it apply to single-family residential. MPFPD did take the position that it had jurisdiction and authority with respect to Article 9 for both commercial and residential construction, had acted consistently in that regard, and had relied, historically, on an informal understanding with the Building Department.

Mayor Carlson agreed to correct a sentence on Page 8 and a word correction on Page 9. The response would be forwarded to the San Mateo County Civil Grand Jury, signed by the Mayor.

MOTION – to accept the draft response to the San Mateo County Civil Grand Jury Interim Report regarding the Town of Atherton Building Department, with direction to the Mayor to incorporate the suggested changes, sign, and mail the response

M/S McKeithen/J.Carlson

Ayes 5 Noes 0 Absent: 0 Abstain: 0

28. CONSIDERATION AND POSSIBLE APPROVAL OF ALLOCATION OF FUNDS TO CONTRACT WITH JILL BOONE TO ASSIST TOWN IN ESTABLISHING CO2 BASELINE

City Manager Jim Robinson said a CO2 baseline analysis needed to be completed and ICLEI did not perform those services. Council was being asked to appropriate funds to establish a CO2 baseline.

Council Member Jerry Carlson was under the impression that when the Town joined ICLEI, ICLEI would provide the expertise without Town resources.

Council Member Marsala noted AB 32 was passed by the State and would soon require cities/towns to meet objectives on CO2 reduction. The baseline analysis would help the Town meet the new regulations.

Council Member McKeithen was concerned with the amount of staff time utilized by the Environmental Programs Committee. Additionally, she did not like the piecemeal budget approach. She believed the committee needed to develop a budget.

Mayor Alan Carlson agreed. The committee needed to develop one plan over the next year, as well as a budget.

Vice Mayor Janz agreed and thought the request should be made as part of the Town's budgeting process.

No action taken.

29. CONSIDERATION AND POSSIBLE ACTION REGARDING THE TOWN OF ATHERTON ENVIRONMENTAL PROGRAMS COMMITTEE REQUEST TO REDUCE THE SOLAR PERMIT FEE TO ZERO

City Manager Jim Robinson said the recommendation was part of a discussion at the Joint Meeting of the Environmental Programs Committee and the General Plan Committee. The recommendation was to reduce the solar permit fee to zero.

Vice Mayor Janz was in favor of reducing the fee to zero when the item was before the Council previously. Since there was an upcoming comprehensive Building Department Fee reconsideration in process, he suggested waiting for that discussion.

Council Member Marsala said each committee had voted separately to recommend the fee be reduced to zero. There was a marketing advantage for the solar incentive plan

to have the fee set to zero. Additionally, a bulk rate purchase program with Solar City had been negotiated. A presentation would be held during Earth Week activities.

Council Member McKeithen said setting the fee to zero had multiple bases for being inappropriate: 1) the fee was reduced last May; 2) the Town should not subsidize other residents' projects; and 3) the 2-1/2 hours of Building Department time should be recovered. She did not believe reducing the fee would encourage the use of solar systems: a fee of \$250 would not discourage anyone.

Mayor Alan Carlson agreed with his colleagues and thought the discussion should be held with the Building Department Fee item.

No action taken.

30. COUNCIL REPORTS

- Council Member Marsala noted a solar drive would be launched the next evening and announced the various Earth Week activities. The Easter Egg Hunt was huge success. He attended the Atherton Disaster Preparedness Committee meeting. He attended a League of Cities meeting in Los Angeles to discuss pension plans and other legal issues. Mayor Carlson read a book to the first graders at Laurel School.
- Council Member McKeithen announced an Office of Emergency Services meeting would be held the next evening to review the budget. The meeting was scheduled for 5:30 p.m., in the Jury Room.
- Council Member Jerry Carlson was encouraged that younger people in Town were picking up leadership roles in the Town. Valerie Gardner, Environmental Programs Committee; and Jennifer Jeffries, Veronica Kogler, and Loren Gruner from the Dames. He thanked Jack Ringham and Phil Lively for their contributions to the Rail Committee. He attended the demonstration of the Permit Tracking System and thought it would be a great system in terms of extracting information. The biggest challenge would be the input of data, which might necessitate supplementing the budget.
- Vice Mayor Janz said the Sub-regional Housing Needs Allocation Policy Advisory Committee met on March 22nd. The formula that was submitted by the end of March was the same one used by ABAG. The number of housing units allocated to all of San Mateo County by creating a sub-region came out lower than it otherwise would have been. The next step was for the PAC and TAC to work together to determine any trade allocations. The resolution passed by the Town asking CalTrain to hire an independent consultant to review the schedule had been passed by five other cities, and Colma had submitted a letter.

31. PUBLIC COMMENTS

Lou Paponis, appreciated that Council donated \$2,000 to the Atherton Disaster Preparedness Committee. Atherton was far ahead of the cities of Menlo Park Palo Alto or any other surrounding community.

Council Member McKeithen noted Atherton was ahead of any other city in the County with the exception of Portola Valley.

32. ADJOURNMENT

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

Respectfully submitted,

**Kathi Hamilton
Acting City Clerk**

TOWN OF ATHERTON
CLAIMS LIST
 April, 2007

Payroll Checks	9517 - 9588	\$ 17,741
Electronic Transfers		351,531
A/P Checks	23843 - 23983	757,759
TOTAL		\$ 1,127,031

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 9517 – 9588 (payroll) and 23843 – 23983 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$1,127,031; are true and correct, and that there are sufficient funds for payment.

James H. Robinson
City Manager

The above claims, check numbers 9517 – 9588 (payroll) and 23843 - 23983 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$1,127,031; are true and correct, and are authorized for payment.

Alan Carlson
Mayor, Town of Atherton

SOURCE OF FUNDS

101	General Fund	\$741,139
105	Tennis Fund	-
201	Special Parcel Tax	362,503
202	Transportation	-
203	Gas Tax Fund	-
210	Road Construction Impact Fees	3,500
211	Park Grants Fund	-
213	Library Special Revenue Fund	502
401	General Capital Projects	-
402	Storm Drainage	-
403	Atherton Channel District	75
406	Facilities Construction	-
610	Vehicle Replacement	11,824
611	Computer Maint. & Replacement	2,163
612	Administrative Services	5,325
715	Evans Estate	-
740	Tree Committee	-
TOTAL		\$1,127,031



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 MAY 16, 2007

SUBJECT: MONTHLY FINANCIAL REPORT, APRIL 2007

RECOMMENDATION:

Receive the Monthly Financial Report for April 2007.

INTRODUCTION:

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

HIGHLIGHTS

General Fund expenditures for the ten months ended April 30, 2007, have amounted to \$7,500,799, or 79% of the \$9,480,065 budgeted for the fiscal year. For the ten months ended April 30, 2007, General Fund revenues amounted to \$7,825,804, or 98% of the \$8,018,670 estimated for the year.

By comparison, General Fund expenditures amounted to 76% of appropriations for the ten months ended April 30, 2006. Additionally, General Fund revenues amounted to 89% of estimated revenues for the ten months ended April 30, 2006.

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 April 30th, 2007

Fund	Revenue Source	2006-07 Estimate	Current Period Revenues	Year to Date Revenues	% Received
	Property Tax	\$ 4,135,402	1,200,150	3,850,349	93%
	Sales and Use Tax	157,500	28,415	180,148	114%
	Other Taxes	1,111,546	520,677	1,212,195	109%
	Licenses & Permits	1,466,200	215,787	1,183,496	81%
	Fines & Forfeitures	35,000	4,883	44,911	128%
	Revenue from Other Agencies	395,215	26,691	171,695	43%
	Charges for Services	176,500	18,910	252,548	143%
	Investment & Rental Income	307,852	120,681	405,905	132%
	Other Revenues	229,000	3,410	524,557	229%
	Total General Fund Revenues	8,014,215	2,139,604	7,825,804	98%
	Interfund (Operating) Transfers In	4,455	-	-	0%
101	General Fund Total	8,018,670	2,139,604	7,825,804	98%
	Special Revenue Funds:				
105	Tennis	8,000	1,133	6,771	85%
201	Special Parcel Tax	1,858,000	451,991	1,591,254	86%
202	Transportation	265,000	24,129	236,193	89%
203	Street Improvement (Gas Tax)	150,000	13,500	159,279	106%
209	Law Enforcement	100,000	94	100,796	101%
210	Road Construction Impact Fees	1,100,000	113,032	41,493	4%
211	State Park Grants Fund	313,910	-	-	0%
213	Library	200,000	22,297	93,914	47%
	Total	3,994,910	626,176	2,229,700	56%
	Capital Project Funds:				
401	Capital Improvement	-	2,970	5,586	
402	Storm Drainage	20,000	466	918	5%
403	Channel Drainage District	50,000	16,654	36,889	74%
406	Facilities Construction	-	652	1,438	
	Total	70,000	20,742	44,831	64%
	Internal Service Funds:				
610	Vehicle Replacement	120,919	2,822	55,606	46%
611	Information Technology	104,670	1,058	56,586	54%
612	Administrative Services	303,221	1,370	158,703	52%
614	Workers Compensation Insurance	-	-	-	
	Total	528,810	5,250	270,895	51%
	Trust and Agency Funds:				
715	Evans Creative Design	14,500	1,353	5,489	38%
740	Tree Committee	1,400	2,078	27,406	1958%
	Total	15,900	3,431	32,895	207%
	Total Revenues	12,628,290	2,795,203	10,404,125	82%

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

Fund	Description Department	2006-07 Budget	Current Period Expenditures	Year to Date Expenditures	% Spent
101	General Fund				
	11 City Council	\$ 21,749	\$ -	\$ 21,536	99%
	12 City Manager	504,360	40,762	393,369	78%
	16 City Attorney	188,337	49,377	309,630	164%
	18 Finance	448,576	27,006	361,701	81%
	25 Building	1,364,503	80,734	992,075	73%
	40 Police	4,696,248	373,216	3,763,607	80%
	50 Public Works	2,036,292	140,737	1,658,881	81%
	Disaster Preparedness	120,000	-	-	0%
	Contingency	100,000	-	-	0%
	Total General Fund Expenditures	<u>9,480,065</u>	<u>711,832</u>	<u>7,500,799</u>	<u>79%</u>
	Interfund (Operating) Transfers Out	-	-	-	0%
101	General Fund Total	<u>\$ 9,480,065</u>	<u>\$ 711,832</u>	<u>\$ 7,500,799</u>	<u>79%</u>
Special Revenue Funds:					
105	Tennis	5,522	-	3,670	
201	Special Parcel Tax	1,910,535	362,503	2,567,282	134%
202	Transportation	444,500	-	15,000	3%
203	Street Improvement (Gas Tax)	150,000	-	23,234	15%
209	Law Enforcement	100,000	-	100,000	100%
210	Road Impact Fees	1,470,000	-	1,523,736	104%
211	State Park Grants	277,040	-	82,167	30%
213	Library Fund	78,326	502	37,904	48%
	Total	<u>4,435,923</u>	<u>363,005</u>	<u>4,352,993</u>	<u>98%</u>
Capital Project Funds:					
401	Capital Improvement	-	-	-	
402	Storm Drainage	21,394	-	2,963	14%
403	Channel Drainage District	60,000	75	10,719	18%
	Total	<u>81,394</u>	<u>75</u>	<u>13,682</u>	<u>17%</u>
Internal Service Funds:					
610	Vehicle Replacement	76,000	11,824	45,343	60%
611	Information Technology	116,120	2,163	51,260	44%
612	Administrative Services	288,342	18,166	262,469	91%
614	Workers Compensation Insurance	-	-	-	
	Total	<u>480,462</u>	<u>32,153</u>	<u>359,072</u>	<u>75%</u>
Trust and Agency Funds:					
715	Evans Creative Design	11,500	-	1,175	10%
740	Tree Committee	-	-	2,159	
	Total	<u>11,500</u>	<u>-</u>	<u>3,334</u>	<u>29%</u>
	Total Expenditures	<u>14,489,344</u>	<u>1,107,065</u>	<u>12,229,880</u>	<u>84%</u>

TOWN OF ATHERTON
Budget Summary
Fiscal Year 2006-07
As of April 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	7,825,804	-	7,500,799	9,669,479
	Special Revenue Funds:					
105	Tennis	23,692	6,771		3,670	26,793
201	Special Municipal Tax	1,005,832	1,591,254		2,567,282	29,804
202	Transportation	527,577	236,193		15,000	748,770
203	Street Improvement (Gas Tax)	102,874	159,279		23,234	238,919
209	Law Enforcement	10,437	100,796		100,000	11,233
210	Road Construction Impact Fees	1,373,559	41,493		1,523,736	(108,684)
211	State Park Grants	-	-		82,167	(82,167)
213	Library Special Revenue Fund	1,947,286	93,914		37,904	2,003,296
	Sub Total	<u>4,991,256</u>	<u>2,229,700</u>	-	<u>4,352,993</u>	<u>2,867,963</u>
	Capital Projects Funds:					
401	Capital Improvement	258,424	5,586		-	264,010
402	Storm Drainage	43,455	-		2,963	40,492
403	Channel Drainage District	36,039	36,889		10,719	62,209
406	Facilities Construction	-	1,438		-	1,438
	Sub Total	<u>337,919</u>	<u>43,913</u>	-	<u>13,682</u>	<u>368,150</u>
	Internal Service Fund					
610	Vehicle Replacement	440,370	55,606		45,343	450,633
611	Information Technology	89,739	56,586		51,260	95,065
612	Administrative Services	198,175	158,703		262,469	94,409
614	Workers Compensation Insurance	10,871	-		-	10,871
	Sub Total	<u>739,155</u>	<u>270,895</u>	-	<u>359,072</u>	<u>650,978</u>
	Trust and Agency Funds					
715	Evans Creative Design	117,345	5,489		1,175	121,659
740	Tree Committee	24,558	2,078		2,159	24,477
	Sub Total	<u>141,903</u>	<u>7,567</u>	-	<u>3,334</u>	<u>146,136</u>
	Grand Total	<u>\$ 15,554,708</u>	<u>\$ 10,377,879</u>	<u>\$ -</u>	<u>\$ 12,229,880</u>	<u>\$ 13,702,707</u>



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 MAY 16, 2007

**SUBJECT: QUARTERLY INVESTMENT REPORT, FOR THE QUARTER ENDED
MARCH 31, 2007**

RECOMMENDATION:

Note, receipt and file.

INTRODUCTION:

This is the quarterly status report of the Town's investments in the Local Agency Investment Fund (LAIF) and the San Mateo County Investment Pool (SMCIP) for the quarter ending March 31, 2007.

DISCUSSION

As of March 31, 2007, the Town had a total investment of **\$13,237,273**. The total interest earning for the quarter ending March 31, 2007, amounted to **\$161,678**. The funds are invested in the San Mateo County Investment Pool (SMCIP) and the Local Agency Investment Fund (LAIF).

For the quarter ended March 31, 2007, interest earnings on funds invested with LAIF amounted to an annual rate of 5.2 percent of the average daily cash balance of funds invested. This compares to an annual interest earnings of 4.34 percent of the average daily cash balance of funds invested with San Mateo County Investment Pool.

The interest income credited to Atherton's investment account by the San Mateo County Treasurer and by the State of California Treasurer includes interest payments on fixed income securities held by these entities as well as any gains or losses realized on securities sold during the reporting interval. Calculations of interest income earned or reported yields do not reflect any changes in the market value of the fixed income securities held by either the San Mateo County Pool or the State of California Local Agency Investment Fund.

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

As of March 31, 2007, the County's investment pool carried investments with a total value of \$2.7 billion and an average duration of 256 days. The Town's investment with the San Mateo County Investment Pool as of March 31, 2007, amounted to \$8,864,184 or 66 percent of the Town's total investment holdings.

Attachment 1 to this staff report provides a summary of the investment earnings and investment holdings for the San Mateo County Investment Pool as of March 31, 2007.

Investment in LAIF: Local Agency Investment Fund (LAIF) is created and managed by the California State Treasurer as part of the Treasurer's Pooled Money Investment Account (PMIA). According to the State Treasurer, 2,733 local government agencies and special districts participate in LAIF with total investments amounting to approximately \$18.3 billion or roughly 34 percent of the \$54.5 billion that the State Treasurer manages in the PMIA. (Since LAIF investments are combined with PMIA, the Treasurer does not report the results for LAIF separately).

The Town's investment with LAIF as of March 31, 2007, amounted to \$4,373,089 or 33 percent of the Town's total investment holdings. The average duration to maturity of PMIA as of February 28th (the most recent date for which data was available) was 184 days.

Attachment 2 to this report provides a summary of investment holdings for the PMIA as of February 28th, 2007.

FISCAL IMPACT:

Informational only.

Prepared by:

Approved by:

John P. Johns
Finance Director

James H. Robinson
City Manager

ATTACHMENTS:

1. Quarterly investment summary as of December 31, 2006, San Mateo County Investment Pool
2. State of California Treasurer, Pooled Money Investment Account Portfolio Analysis as of February 28, 2007

Attachment 1

COUNTY OF SAN MATEO
ESTIMATED SUMMARY OF POOL EARNINGS
FOR THE 3RD QUARTER ENDED MARCH 31, 2007

	03/31/07 <u>Par Value</u>	<u>Gross Earnings</u>
<u>Fixed Income Investments</u>		
U S Treasury Notes	\$450,000,000	\$2,594,780
Federal Agencies	\$315,000,000	\$1,398,937
Corporate Notes	\$132,000,000	\$955,395
Floating Rate Securities	\$329,000,000	\$2,034,218
Asset Backed Securities		
<u>Short Term Investments</u>		
Federal Agencies	392,000,000	\$3,224,018
Corporate Notes	\$65,000,000	\$501,554
Floating Rate Securities	\$155,000,000	\$487,335
Certificate of Deposit	\$316,500,000	\$2,829,748
Commercial Paper	\$512,000,000	\$352,423
LAIF	\$37,000,000	\$472,049
SUBTOTAL - ACCRUED INCOME	<u>\$2,703,500,000</u>	<u>\$14,850,457</u>
<u>Realized Gain/Loss & Interest Received</u>		
U S Treasury Notes		\$1,078,984
Federal Agencies		\$2,116,629
Corporate Notes		\$324,811
Floating Rate Securities		\$3,637,790
Asset Backed Securities		\$12,992
Certificate of Deposit		\$965,475
Commercial Paper		\$6,256,399
Repurchase Agreement		\$1,703,085
Securities Lending Income		\$100,319
GROSS POOL RATE/EARNINGS*	4.66%	<u>\$31,046,941</u>

<u>POOL BREAKDOWN</u>	<u>Pool 1</u>	<u>Pool 2</u>	<u>Pool 3</u>	<u>TOTAL</u>
Average Balance	386,330,565	548,468,851	1,768,441,243	2,703,240,659
Gross Earnings	4,437,038	6,299,210	20,310,693	31,046,941
Admin Fees	(119,074)	(169,049)	(545,068)	(833,191)
Bank Fees	(10,274)	(6,850)		(17,124)
Net Earnings	<u>4,307,689</u>	<u>6,123,312</u>	<u>19,765,625</u>	<u>30,196,626</u>
Net Earnings %	4.52%	4.53%	4.53%	4.53%

Earnings %'s are based on Q3 06-07 average daily balance of investment pools.
Pool 1 and Pool 2 are charged with bank fees associated with their disbursement/depository activity.

Attachment 2

BILL LOCKYER
TREASURER
STATE OF CALIFORNIA

INVESTMENT DIVISION SELECTED INVESTMENT DATA
ANALYSIS OF THE POOLED MONEY INVESTMENT ACCOUNT PORTFOLIO
(000 OMITTED)

TYPE OF SECURITY	AMOUNT	FEBRUARY 28, 2007	
		PERCENT OF PORTFOLIO	DIFFERENCE IN PERCENT OF PORTFOLIO FROM PRIOR MONTH
Government			
Bills	\$ 4,613,158	7.70	-0.03
Bonds	0	0.00	0
Notes	0		0
Strips	0	0.00	0
Total Government	\$ 4,613,158	7.70	-0.03
Federal Agency Coupons	\$ 7,281,356	12.15	-4.36
Certificates of Deposit	9,903,334	16.52	-1.60
Bank Notes	1,275,018	2.13	+0.33
Bankers' Acceptances	0	0.00	0
Repurchases	0	0.00	0
Federal Agency Discount Notes	4,588,019	7.65	-1.53
Time Deposits	8,487,495	14.16	-0.25
GNMAs	220	0.00	0
Commercial Paper	11,130,392	18.57	+2.94
FHLMC/Remics	928,475	1.55	-0.03
Corporate Bonds	517,363	0.86	-0.17
AB 55 Loans	8,575,934	14.31	+0.30
GF Loans	2,638,400	4.40	+4.40
Reversed Repurchases	0	0.00	0
Total (All Types)	\$ 59,939,164	100.00	

INVESTMENT ACTIVITY

	FEBRUARY 2007		JANUARY 2007	
	NUMBER	AMOUNT	NUMBER	AMOUNT
Pooled Money	637	\$ 30,393,586	534	\$ 24,805,849
Other	6	83,550	1	117
Time Deposits	186	4,076,000	211	5,817,500
Totals	829	\$ 34,553,136	746	\$ 30,623,466
PMIA Monthly Average Effective Yield	5.181		5.156	
Year to Date Yield Last Day of Month	5.060		5.044	



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: POLICE CHIEF ROBERT BRENNAN

DATE: FOR THE MEETING OF MAY 16, 2007

**SUBJECT: AUTHORIZATION FOR THE POLICE CHIEF TO ACCEPT A CITIZEN
DONATION TO THE POLICE DEPARTMENT**

RECOMMENDATION:

The Council authorizes the Police Chief to accept the donation of \$1,200 from a citizen and to use the funds to sponsor an event that benefits the police department as a whole.

BACKGROUND:

A citizen who wishes to remain anonymous contacted the Police Chief and offered to pay for an event or a meal for all of the Atherton Police Department employees. This offer came after the police department had interacted with several members of his family that resulted in a service that he felt the department went above and beyond the traditional service levels of most police departments. He expressed an interest in doing something to show his appreciation and support for the effort and caring that was displayed by many of the police employees to not only himself but to other members of his family over the last several months.

ANALYSIS:

The Atherton Police Department is unique in its character and service level it provides to not only the residents of Atherton but citizens of San Mateo County, California and borders beyond. These service levels were recently measured and reflected by a 97% satisfaction rating after an independent survey. Throughout the almost seven years that I have been the police chief, I still find it both amazing and tremendously satisfying that the people we serve insist on displaying their thanks for not only for what we may provide individually but for the sacrifices police

officers make on a daily basis. Throughout the year and especially on the holidays when they know that public safety is always on duty, food seems to be the way they express their caring, satisfaction, confidence and comfort with the police department. It has always been the policy that no one individual profits and or receives an individual benefit or that person or group receive any special treatment by the police department, but that doesn't seem to stop people dropping off a plate of cookies or a pie for everyone to share. Although this donation is well beyond a batch of cookies, a cake or a pie, it is certainly not the first time a generous offer has been made.

FISCAL IMPACT:

There is no fiscal impact associated with the acceptance of the offer.

Prepared by:

Approved by:

Robert Brennan
Police Chief

James H. Robinson
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF MAY 16, 2007

SUBJECT: ACCEPTANCE OF A PROPOSAL FROM PMC FOR THE TOWN OF ATHERTON ZONING ORDINANCE UPDATE

RECOMMENDATION:

The City Council to accept a proposal from PMC to complete a focused update of the Town of Atherton Zoning Ordinance and direct the City Manager to prepare a Professional Services Agreement to be returned to the City Council for approval.

BACKGROUND:

The City Council had previously solicited proposals from qualified firms for the preparation of a comprehensive update of the Zoning Code. The Town received one proposal from PMC of Sacramento, California. PMC projected three months to complete the project with a budget of \$64,300.

Primary Tasks would include:

1. Organize the Zoning Code in a logical manner that facilitates the ease of use and clear interpretations;
2. Update the Zoning Code to be consistent with the Goals and Policies of the General Plan;
3. Ensure compliance of the Zoning Code with all applicable state and federal laws;
4. Reorganize the document to be user-friendly with a traditional zoning code approach; zoning provisions would be clear and concise with use of tables and graphics to simplify or clarify regulations and improve readability.

As previously reported, PMC recently completed Zoning Ordinance reviews for Ranch Cordova, Pinole, Inyo County, and Elk Grove. Staff had contacted a number of cities that utilized PMC, and they were all extremely complimentary regarding the process and the completed product.

At its meeting of March 21, 2007, the City Council recommended sending out another solicitation of proposals. Although this process has not been completed, the City Council Finance Committee recommended that the Town proceed with the proposal submitted by PMC to avoid any further delays and to ensure this important zoning review can be completed in a timely manner.

FISCAL IMPACT:

The proposal submitted by PMC for completion of the Zoning Code Update is \$64,300.



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF MAY 16, 2007

SUBJECT: REVIEW AND APPROVAL OF A RESOLUTION AUTHORIZING CONTINUED PARTICIPATION IN THE CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY (C/CAG) AND APPROVAL OF THE JOINT POWERS AGREEMENT

RECOMMENDATION:

Review and approve a Resolution authorizing continued participation in the City/County Association of Governments of San Mateo County (C/CAG) and approval of the Joint Powers Agreement in accordance with the staff recommendations.

BACKGROUND:

C/CAG was founded in 1991 and renewed in 1995, 1999, and 2003. The current Joint Powers Agreement that provides C/CAG its legal basis is in effect until 12/1/07. Therefore, it is necessary to review C/CAG and consider reauthorization. All the Cities and the County are currently members of C/CAG. The **Town of Atherton** approved participation and the Joint Powers Agreement in 2003.

C/CAG Role:

The role of C/CAG is to:

Provide a forum for all agencies to work together on common issues:

Transportation
NPDES
Abandoned Vehicle Abatement

Solid Waste
Airport Land Use Commission
Legislation

Educate and elevate the decision-making of local elected officials and technical professional staffs to include/address countywide concerns in their local decisions. Develop a consensus on the common issues of concern to the general public, solutions, and applicable funding recommendations/priorities.

Act as Program Manager for Congestion Management Plan (CMA) Transportation funds (state and federal) and Air Quality funds (AB434/TFCA).

C/CAG Performance:

C/CAG programs are mandated, or bring in revenue to San Mateo County, or provide a cost savings through countywide implementation. See the attached C/CAG Accomplishments/ Analysis/Programs. C/CAG has had very significant accomplishments including the Congestion Relief Plan, AB 1546 C/CAG DMV Fee (Only County in State), Sub-regional RHNA Process (Only sub-region in the State) and the Transit Oriented Development Incentive Program. Numerous County, Regional, State and National awards have been received. The C/CAG FY 06-07 Budget **member dues/ fees (\$2,024,645) are leveraged 3.9 times for total revenue and 14.3 times for controlled transportation funds.** Utilization of two direct staff and contract staff for the remaining tasks has minimized the staffing necessary to meet the program requirements. This staffing approach enables C/CAG to meet the program requirements in a cost-effective manner. Most of the C/CAG programs are mandates that must be performed. It is likely that the cost for the Town to perform the mandates provided by C/CAG would be significantly higher than the annual fee of \$25,622.00. As a member of C/CAG the Town has had a voice in programming over \$100M in transportation funds.

C/CAG Benefits:

Benefits of C/CAG to the member agencies include:

Provide a **forum to share ideas and solutions** among agencies for common issues.

Enable all agencies to have a **vote in the distribution of State and Federal Transportation funds (\$70-80M every two years)** allocated to San Mateo County.

Transportation funding provided to Cities and County. Provide support to assist agencies in getting and maintaining funds.

Provide cost-effective programs to **assist member agencies in meeting mandates.**

Provide active **intergovernmental support for San Mateo County** and the member agencies in the Region.

Provide additional information to agency staff on the system-wide transportation impacts of proposed developments such that better local decisions can be made.

Lobbyist support in Sacramento.

Provide proactive **Advocating at the State level to provide additional funding** such as AB 1546 and to preserve City/County revenue.

Joint Powers Agreement:

The agreement proposed is essentially identical to the one adopted by the Town in 2003. The proposed Joint Powers Agreement is attached. To assist in the review of the document, changes are shown in bold below and in italics in the agreement. Key changes in the Joint Powers Agreement other than numbering or typographical include:

- 1- Section 12. Dates changed to reflect reauthorization:
“Effective Date/Termination Date. This agreement shall be effective on July 1, **2007**, or upon its execution by the County and by at least eleven (11) cities representing the majority of the population of the County, whichever is later. This agreement shall automatically terminate on December 1, **2011**, unless renewed in writing by the County and by at least eleven (11) cities containing a majority of the population of the County. Upon such termination, the provisions of Sections 10 and 11 apply.”

- 2- Section 17. Fixed Self-Insured Retention limit.
Insurance. The County shall add C/CAG to its existing excess liability insurance coverage and shall maintain such coverage in full force and effect during the life of this agreement. Said excess liability insurance coverage *includes a* ~~has a~~ \$250,000 self-insured retention by the County. Unless the Board of Directors decides otherwise, County shall provide for the defense of any claims or litigation within the *amount of the* \$250,000 self-insured retention. Legal representation by the County will ordinarily be provided by the Office of the County Counsel. Any out-of-pocket expenses or loss, by way of judgment or settlement, arising out of the operation of this agreement, within the limits of the County's \$250,000 self-insured retention shall be shared by the parties in accordance with the formula set forth in Section 6. Expenses shall not include salaries or office expenses of any county employees, including any attorneys from the Office of the County Counsel.

- 3- Section 24. Added to reflect a new legislated program.
AB 1546 Transportation/ Environmental Vehicle Registration Fee Program.
C/CAG shall serve as the overall program manager for the San Mateo County Transportation/ Environmental Program which programs up to a \$4 motor vehicle fee in accordance with Chapter 2.65 (commencing with Section 65089.11) to Division 1 of Title 7 of the Government Code and Section 9250.5 of the Vehicle Code.

ALTERNATIVES:

- 1- Review and approve a Resolution authorizing continued participation in the City/County Association of Governments of San Mateo County (C/CAG) and approve the Joint Powers Agreement in accordance with the staff recommendations.
- 2- Review and approve a Resolution authorizing continued participation in the City/County Association of Governments of San Mateo County (C/CAG) and approve the Joint Powers Agreement in accordance with the staff recommendations with modifications.
- 3- No action.

FISCAL IMPACT:

FY 06-07 Member Assessment of \$25,622.00.

Attachments:

C/CAG Accomplishments/ Analysis/ Programs
Joint Powers Agreement: Continuing Establishment of the City/County Association of Governments - Revised March 2007
Resolution

RESOLUTION NO. ____

**A RESOLUTION OF THE CITY COUNCIL OF THE
TOWN OF ATHERTON AUTHORIZING CONTINUED PARTICIPATION IN THE
CITY/ COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY
(C/CAG) AND APPROVAL OF THE JOINT POWERS AGREEMENT AND
AUTHORIZING THE MAYOR TO EXECUTE THE JOINT POWERS AGREEMENT**

WHEREAS the Town of Atherton is currently a member of the City/County Association of Governments of San Mateo County (C/CAG); and

WHEREAS the Town of Atherton approved and executed the Joint Powers Agreement in 1999 continuing C/CAG for four years; and

WHEREAS C/CAG has achieved significant accomplishments including the Countywide Transportation Plan and the Transit Oriented Development Incentive Program; and

WHEREAS C/CAG has received numerous County, Regional, State and National awards for its programs; and

WHEREAS C/CAG provides programs to address State Mandates in a cost effective manner; and

WHEREAS Participation in C/CAG provides the Town of Atherton a voice in the programming of over \$60-80M in transportation funds; and

WHEREAS, the Town of Atherton desires to continue participation in C/CAG; and

WHEREAS, the Town of Atherton desires to execute the Joint Powers Agreement;

NOW, THEREFORE, BE IT RESOLVED that the Mayor of the Town of Atherton is hereby authorized and directed to execute the Joint Powers Agreement for and on behalf of Town of Atherton, subject to approval as to form by the Town’s Legal Counsel.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on this 16th day of May, 2007, by the following vote:

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

ATTEST:

Alan B. Carlson, MAYOR
TOWN OF ATHERTON

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

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

JOINT POWERS AGREEMENT

Continuing Establishment of the City/County Association of Governments

THIS AGREEMENT, by and between the COUNTY OF SAN MATEO (hereinafter referred to as "County") and those cities within the County of San Mateo who become signatories to this agreement (hereinafter referred to as "Cities" or "City" as the context requires), is made in light of the following recitals:

A. The County and the Cities have authority to perform a variety of functions in their respective communities and desire to establish a City/County Association of Governments (C/CAG) within the County of San Mateo whereby the parties will prepare, review, adopt, monitor and facilitate implementation by the member agencies county-wide state mandated plans as specified in 3(c) below. Local land-use decisions, except as they are affected by state-mandated county-wide plans, will remain solely within the cognizant local jurisdiction.

B. The parties are authorized to contract with each other for the joint exercise of any common power pursuant to Government Code Sections 6500 through 6518.

NOW, THEREFORE, the County and the Cities, in consideration of the mutual promises and agreements contained herein, **AGREE AS FOLLOWS**:

1. **Establishment of City/County Association of Governments of San Mateo County.** The parties hereby create an entity to be known as the City/County Association of Governments of San Mateo County (hereinafter referred to as "C/CAG") for the preparation, review, adoption, monitoring and facilitation of implementation by the member agencies of county-wide

state mandated plans. C/CAG shall be an entity which is separate from the parties to this agreement and shall be responsible for the administration of this agreement. Except as provided herein, the debts, liabilities, and obligations of C/CAG shall be the debts, liabilities, and obligations of the entity and not the debts, liabilities, and/or obligations of the parties to this agreement.

C/CAG shall have the power and is authorized to do any or all of the following:

- (a) To make and enter contracts;
- (b) To employ agents and employees;
- (c) To lease, maintain, manage, acquire, construct or operate any building, works or improvements;
- (d) To acquire, hold, or dispose of property;
- (e) To incur debts, liabilities, or obligations;
- (f) To sue and be sued in its own name;

2. **Board of Directors.** The Board of the City/County Association of Governments of San Mateo County (C/CAG) shall consist of a member of the City Council of each participating City to be selected by that City and one (1) member of the Board of Supervisors to be selected by the Board of Supervisors. Each City Council and the Board of Supervisors may select one (1) alternate member from its body who shall participate when the regular member is absent. In addition, there shall be two (2) non-voting ex-officio members: a representative of the San Mateo County Transit District Board of Directors selected by the Board of Directors and a representative of the San Mateo County Transportation Authority selected by the Authority. Additional Ex-Officio members may be established by Board action in accordance with the special voting procedures identified in 4 (c). Regular attendance by the designated representative or alternate at the C/CAG Board and

Subcommittee meetings shall be encouraged by the C/CAG Board and member agencies.

3. **Purposes and Activities.** C/CAG is established to fulfill the following purposes operating through the Board of Directors for control, direction, and administration:

- (a) Plan, organize, and maintain the work of C/CAG and be responsible for its overall operation.
- (b) Advise City Councils and the Board of Supervisors of all significant activities of C/CAG.
- (c) Prepare, review, adopt, monitor and facilitate implementation by the member agencies the following state-mandated county-wide plans:
 - (1) Congestion Management Plan (as the designated Congestion Management Agency including enforcing compliance with the Congestion Management Plan);
 - (2) Integrated Solid Waste Management Plan (as the designated Local Task Force);
 - (3) Airport Land Use Plan (as the designated Airport Land Use Commission);
 - (4) Hazardous Waste Management Plan;
 - (5) NPDES - Stormwater Management Plan.
- (d) Perform such additional county-wide planning activities as approved by or directed by two-thirds (2/3) of the members representing two-thirds (2/3) of the population of the County. Final adoption of any such plans shall only be after the plan has been

introduced at a prior meeting held at least twenty-five (25) days earlier.

- (e) Perform any additional County-Wide activities as set forth in this agreement (Sections 20., 21., 22., and 23.).
- (f) Utilize and establish advisory subcommittees wherever necessary, including but not limited to:
 - (1) Airport Land Use Committee
 - (2) Congestion Management and Air Quality Committee
 - (3) Congestion Management Plan (CMP) Technical Advisory Committee
 - (4) Solid Waste Advisory Committee (Local Task Force)
 - (5) Hazardous Waste Management Plan Advisory Committee
 - (6) Bikeways and Pedestrian Advisory Committee
 - (7) Finance Committee
 - (8) NPDES Committee
 - (9) NPDES Technical Advisory Committee
 - (10) Legislative Committee

Subcommittees may be established by Board action in accordance with the special voting procedures identified in 4 (c). Subcommittee membership may include persons who are not members of the Board of Directors, including other elected officials or public members.

- (g) Adopt By-laws and such other rules of procedure as may be deemed necessary.

The duties, responsibilities or obligations of C/CAG, as set forth in this Agreement, are not intended, and shall not be interpreted, to expand or diminish any legal duties,

responsibilities or obligations that any city or county member of C/CAG has, or may in the future have, under any provision of State or Federal law.

Notwithstanding anything to the contrary in any other provision of this Agreement, C/CAG shall have no authority and/ or obligation to implement or enforce the provisions of any County-wide plan except when C/CAG is functioning as an agency specifically designated by state or federal law as having the authority and/ or obligation to implement or enforce such County-wide plan.

4. **Voting Procedures**. The parties intend to strive for consensus following full discussion but in the event consensus cannot be reached the following voting procedures shall be utilized.

- (a) A quorum shall consist of at least a majority of the voting members and shall be required for all meetings of C/CAG.
- (b) All decisions and actions shall be by majority vote of those present unless the decision involves the adoption of a county-wide plan or any one (1) member requests the use of the special voting procedures hereinafter set forth.
- (c) The special voting procedures shall be utilized upon the request of any one (1) member. Addition of Ex-Officio members to the Board, the establishment of Subcommittees, and the final adoption of county-wide plans shall require the special voting procedures. Special voting procedures shall be as follows: for a motion to be successful it must receive the votes of a majority of the members representing a majority of the population of the County. In determining the population of local governments, the population shall be utilized as set forth in a

resolution adopted by the Board of Directors pursuant to Section 19.

5. **Budget**. The Board annually shall adopt, by a date C/CAG designates by resolution, an operating budget for C/CAG setting forth anticipated expenses, financing sources and proposed service levels necessary to carry out the purposes of this agreement. C/CAG shall establish its fiscal year by resolution. Immediately after approving the annual budget, the Board shall recommend the budget to the governing bodies of the members for the purpose of securing from each of them contributions and/or appropriations in accordance with each party's obligations as set forth in Section 6 below. It is expressly agreed and understood that the Board has no authority to bind any governing board to make the recommended contribution and/or appropriation and that this decision rests solely with each governing body. Each party shall deposit its monetary contribution to the budget with the C/CAG Treasurer on or before the date C/CAG designates by resolution.

6. **Contribution of Parties**. In consideration of the mutual promises contained herein, the parties agree that they shall make the following annual contributions towards maintaining the program of C/CAG.

Each member's contribution shall be its pro-rata share of the revenue needed for the annual budget as adopted by the Board of Directors. The pro-rata share of each agency shall be based upon its population as set forth in a resolution adopted by the Board of Directors pursuant to Section 19. By use of the special voting procedures under special circumstances the Board of Directors may waive contributions. If a member fails to pay its annual contribution, it shall forfeit its voting rights as provided in Paragraph 10 and there shall be no further recourse against it for nonpayment.

7. **Treasurer**. The Board of Directors shall select a Treasurer from one of its member entities who shall be the depository and have custody of all the money and property of C/CAG from whatever source. The duties of the C/CAG Treasurer shall include those set forth in the Government Code Section 6500 et seq., Joint Exercise of Powers.

8. **Controller**. The Board of Directors shall select a Controller from one of its member entities who shall perform the functions of auditor and/or controller for C/CAG. The duties of the C/CAG Controller shall include those set forth in Government Code Section 6500 et seq., Joint Exercise of Powers.

9. **Staffing**. It is understood that C/CAG may require the support of its own administrative staff. When deemed necessary, the Board of Directors may employ an Executive Director. The Board shall have responsibility for all employment decisions regarding said Executive Director who shall serve at the pleasure of the Board of Directors.

The Executive Director shall be responsible for the day-to-day administration of C/CAG under the direction of the Board of Directors. The Executive Director shall seek advice and assistance from the Administrators' Advisory Committee. The Executive Director shall have the authority to employ administrative staff consistent with the approved budget of C/CAG.

There shall be an Administrators' Advisory Committee. The Committee will be advisory to the C/CAG Board of Directors and Executive Director to assist them to most effectively accomplish the objectives of C/CAG by giving advice on agenda matters, monitoring outcomes of activities, assisting with identifying and allocating resources, and communicating with all members.

The Committee members shall be: the City Managers from cities that contract staff to C/CAG, the County Manager, the General Manager of SamTrans, one (1) City Manager appointed by the City Managers' Association, and, the Chair and Vice-Chair(s) and Legal Counsel of C/CAG as ex-officio members. Committee Chairs and staff who have items for discussion at the Committee will be invited to participate. The definition and membership of this Committee may be revised by Board action in accordance with the special voting procedures identified in 4 (c).

It is understood that C/CAG may employ personnel, utilize existing County, SamTrans or City staff, or retain professional consultants to perform any necessary staff work in meeting its goals and objectives. It is further understood that no County, SamTrans or City staff will be utilized without the consent of the employing agency.

10. **Withdrawal**. Any party may withdraw from this agreement by filing written notice of intention to do so with the Chair of the governing board by September 30th of each year, or by another date C/CAG designates by resolution. The rights and obligations of such party shall terminate at the end of the first full fiscal year for which the withdrawing party has made its contribution following such notice having been given. The withdrawal of any party from this agreement shall in no way affect the rights and obligations of the remaining parties. If a party withdraws from this agreement, such party shall not be entitled to the return of any funds contributed to C/CAG nor to the return in cash or in kind of any materials or supplies until termination of this agreement. If a party fails to make its contribution in accordance with Section 6 of this agreement, that agency shall forfeit its voting rights during the period of such non-payment. However, if one of the Cities or the County wishes to rejoin after forfeiting its membership by non-payment of its contribution, it may do so by paying the designated amount.

11. **Termination and Disposition of Property.** This agreement shall be deemed terminated when the number of Cities participating in this agreement contain less than a majority of the population of the County, or are fewer than eleven (11) in number. Upon termination, equipment and all other assets shall be distributed to the parties hereto in proportion to the contributions of the parties during the life of C/CAG including distribution to parties which may have withdrawn at an earlier date. Upon termination, any surplus money on hand shall be returned to the parties in proportion to the contributions of the parties during the life of C/CAG including distribution to parties which may have withdrawn at an earlier date.

12. **Effective Date/Termination Date.** This agreement shall be effective on July 1, **2007**, or upon its execution by the County and by at least eleven (11) cities representing the majority of the population of the County, whichever is later. This agreement shall automatically terminate on December 1, **2011**, unless renewed in writing by the County and by at least eleven cities containing a majority of the population of the County. Upon such termination, the provisions of Sections 10 and 11 apply.

13. **Meetings.** Monthly meetings of the C/CAG Board of Directors shall be held in accordance with the Brown Act, Government Code Section 54950 et seq. The Board of Directors shall establish a regular time and place for the required meetings. In addition, the Board of Directors shall have such other meetings as are deemed necessary.

14. **Notice of Agreement.** Pursuant to Government Code Section 6503.5, C/CAG

shall, within thirty (30) days after the effective date of this agreement, cause a notice of the agreement to be prepared and filed with the Office of the Secretary of State.

15. **Other Associations.** Participation in C/CAG is not intended to preclude member entities from entering into similar agreements with other jurisdictions.

16. **Legal Counsel.** Unless the Board of Directors determines otherwise, the County Counsel shall serve as legal counsel to C/CAG and provide all routine legal advice and service necessary including attendance at Board of Directors meetings.

17. **Insurance.** The County shall add C/CAG to its existing excess liability insurance coverage and shall maintain such coverage in full force and effect during the life of this agreement. Said excess liability insurance coverage *includes a* ~~has a~~ \$250,000 self-insured retention by the County. Unless the Board of Directors decides otherwise, County shall provide for the defense of any claims or litigation within the *amount of the* ~~\$250,000~~ self-insured retention. Legal representation by the County will ordinarily be provided by the Office of the County Counsel.

Any out-of-pocket expenses or loss, by way of judgment or settlement, arising out of the operation of this agreement, within the limits of the County's ~~\$250,000~~ self-insured retention shall be shared by the parties in accordance with the formula set forth in Section 6. Expenses shall not include salaries or office expenses of any county employees, including any attorneys from the Office of the County Counsel.

18. **Amendments.** This Joint Powers Agreement may be amended at any time with

the agreement of the majority of the members representing a majority of the population of the County, except as provided in 3(d).

19. **Adjustment of Population Figures.** The Board of Directors shall establish by resolution the population figures to be utilized in determining the population of local governments under this agreement based on the results of the decennial federal census or population figures provided by the State Department of Finance, and may revise the population figures at any time by resolution.

20. **Clean Air Vehicle Registration Fee Program.** C/CAG shall serve as the overall program manager for the San Mateo County under Health and Safety Code Section 44241 for funds made available by the increase in motor vehicle registration fees that the Bay Area Air Quality Management District is authorized to levy under A.B. 434, (1991 Statutes, Chapter 807.)

21. **Storm Water Discharge Plan and Permit.** The City/County Association of Governments shall assume responsibility for the following activities under the National Pollutant Discharge Elimination System (NPDES) Program (40 CFR 122):

- (a) Ratify submission of a county-wide storm water discharge permit application and accept permit on behalf of the County and Cities in the County, as co-permittees.
- (b) Prepare preliminary draft and final draft storm water management plan describing existing activities the County and Cities are conducting to help minimize the discharge of pollutants to storm water, describing new pollution

measures that will be undertaken during the initial five year period of the NPDES permit, and containing other matters C/CAG determines are necessary or desirable.

- (c) Identify and recommend alternatives for implementation of a revenue program.
- (d) Enter into contracts with the County, the Cities, the County Flood Control District, and other entities to implement the revenue program and the storm water management plan.
- (e) Perform additional county-wide activities in connection with the NPDES program as set forth in the storm water management plan approved by, or as directed, by the Board of Directors.
- (f) Provide coordination and overall management of the NPDES program and advice to the County and the Cities on implementation.

The County and each City shall be solely responsible for complying with NPDES permit conditions and all federal, state, and local laws and regulations, relating to discharges from the storm sewers in its jurisdiction and under its control. The County and each City shall defend, indemnify, and hold harmless every other party to this agreement, and its officers and employees, from all claims, suits, actions, fines, penalties, damages, or liability of every name, kind, and description arising in any way out of the negligent or intentional acts of that County or City in complying or failing to comply with NPDES permit conditions, and all federal, state, and local regulations applicable to that County or City.

22. **Service Authority for Abatement of Abandoned Vehicles.** C/CAG shall be the service authority for the abatement of abandoned vehicles under Vehicle Code Section 22710.

C/CAG shall impose a service fee of one dollar (\$1) on vehicles registered to an owner with an address in San Mateo County as authorized by Vehicle Code Sections 9250.7 and 22710. As provided in Vehicle Code Section 22710(b), C/CAG may contract and undertake any act convenient or necessary to carry out any law relating to its duties as the service authority.

23. Programming State and Federal Transportation Funds. C/CAG acting as the Congestion Management Agency shall be responsible for programming State and Federal Transportation Funds allocated to San Mateo County. These funds include but are not limited to State Transportation Improvement Program, Transportation Equity Act for the 21st Century, and Transportation Development Act Article 3.

24. ***AB 1546 Transportation/ Environmental Vehicle Registration Fee Program.***
C/CAG shall serve as the overall program manager for the San Mateo County Transportation/ Environmental Program which programs up to a \$4 motor vehicle fee in accordance with Chapter 2.65 (commencing with Section 65089.11) to Division 1 of Title 7 of the Government Code and Section 9250.5 of the Vehicle Code.

IN WITNESS WHEREOF, the parties hereto by their duly authorized representative, have affixed their hands on this _____ day of _____, 2007.

COUNTY OF SAN MATEO

ATTEST:

Clerk of the Board

by _____
President of the Board of Supervisors

TOWN OF ATHERTON

ATTEST:

Clerk of Town Council

by _____
Mayor

CITY OF BELMONT

ATTEST:

Clerk of City Council

by _____
Mayor

CITY OF BRISBANE

ATTEST:

Clerk of City Council

by _____
Mayor

CITY OF BURLINGAME

ATTEST:

Clerk of City Council

by _____
Mayor

TOWN OF COLMA

ATTEST:

Clerk of Town Council

by _____
Mayor

ATTEST:

Clerk of City Council

by _____
Mayor

CITY OF DALY CITY

ATTEST:

Clerk of City Council

by _____
Mayor

CITY OF EAST PALO ALTO

ATTEST:

Clerk of City Council

by _____
Mayor

CITY OF FOSTER CITY

ATTEST:

Clerk of City Council

by _____
Mayor

CITY OF HALF MOON BAY

ATTEST:

TOWN OF HILLSBOROUGH

Clerk of Town Council

by _____
Mayor

ATTEST:

Clerk of City Council

by _____
Mayor

CITY OF MENLO PARK

ATTEST:

Clerk of City Council

by _____
Mayor

CITY OF MILLBRAE

ATTEST:

Clerk of City Council

by _____
Mayor

CITY OF PACIFICA

ATTEST:

Clerk of Town Council

by _____
Mayor

TOWN OF PORTOLA VALLEY

ATTEST:

Clerk of City Council

by _____
Mayor

CITY OF REDWOOD CITY

CITY OF SAN BRUNO

ATTEST:

Clerk of City Council

by _____
Mayor

CITY OF SAN CARLOS

ATTEST:

Clerk of City Council

by _____
Mayor

CITY OF SAN MATEO

ATTEST:

Clerk of City Council

by _____
Mayor

CITY OF SOUTH SAN FRANCISCO

ATTEST:

Clerk of City Council

by _____
Mayor

TOWN OF WOODSIDE

ATTEST:

Clerk of Town Council

by _____
Mayor

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02/23/07



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF MAY 16, 2007

**SUBJECT: APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH
KIKUCHI & ASSOCIATES FOR LANDSCAPE DESIGN SERVICES FOR
THE HOLBROOK-PALMER PARK MAIN HOUSE LAWN,
PLAYGROUND RESTROOMS AND TENNIS COURT BUFFER
LANDSCAPE PROJECT, IN AN AMOUNT NOT TO EXCEED \$15,500
PLUS A TEN PERCENT CONTINGENCY, FOR A TOTAL
AUTHORIZATION OF \$17,050.**

RECOMMENDATION:

Accept the proposal and authorize the Mayor to sign a Professional Services Agreement with Kikuchi & Associates to provide landscape design services for the Holbrook-Palmer Park Main House Lawn, Playground Restrooms and Tennis Court Buffer Landscape Project in an amount not exceed \$15,500, plus a 10% contingency, for a total authorization of \$17,050.

BACKGROUND:

The FY 2006/07 Capital Improvement Budget includes \$15,000 in Parcel Tax funding for design services for the Carriage House Courtyards design project. As a part of the Landscape Master Plan, the Park & Recreation Commission recommended, and the City Council approved, a list of first-step projects to begin implementing the Mater Plan. In order to accomplish those first steps, landscape design services are required. The Carriage House Courtyards are on list A. Staff recommends that the budget for the List A projects be applied to the first-steps projects first and that the Carriage House Courtyards be deferred to 2008-2009 when additional budget will be available for that design.

Staff developed a Request for Proposals (RFP) to solicit proposals for the work. The RFPs were sent to 16 local firms listed as having expertise in landscape design work and known to Town staff based on work performed in Atherton for private owners. An invitation was extended to these firms to attend an on-site review and explanation of the Holbrook-Palmer Park projects. Three consultant firms submitted proposals. A copy of the selected proposal is included in the packages prepared for Council Members.

ANALYSIS:

Staff evaluated the RFPs and called at least three references for each firm. The selected firm scored best on the evaluation and received good comments from the references. Kikuchi received enthusiastic comments from all references called.

FISCAL IMPACT:

Parcel Tax funds in the amount of \$15,000 are budgeted for this project in FY 2006-07. The Scope of Services and Fee Estimate were negotiated with the selected firm. The final negotiated fee estimate is \$15,500. A 10% contingency of \$1,550 would bring the total authorization to \$17,050, which is \$2,050 over the approved budget. Staff recommends that the budget be augmented by \$2,050 to fully fund this project.

Prepared by:

Approved by:

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

James H. Robinson
City Manager

Attachments: Proposal of Kikuchi & Associates
Professional Services Agreement

PROFESSIONAL SERVICES AGREEMENT FOR
HOLBROOK-PALMER PARK MAIN HOUSE LAWN, PLAYGROUND RESTROOMS AND
TENNIS COURT BUFFER LANDSCAPE DESIGN SERVICES

THIS AGREEMENT is entered into between the Town of Atherton, a municipal corporation, hereinafter referred to as "the City", and Kikuchi & Associates, hereinafter referred to as the "Consultant", in consideration of the mutual benefits, terms, and conditions hereinafter specified.

1. Project Designation. The Consultant is retained by the City to perform landscape design services in connection with the project designated as Holbrook-Palmer Park Main House Lawn, Playground Restrooms and Tennis Court Buffer Landscape

2. Scope of Services. Consultant agrees to perform the services, identified on Exhibit "A" attached hereto, including the provision of all labor, materials, equipment and supplies.

3. Time for Performance. Work under this contract shall commence upon the giving of written notice by the City to the Consultant to proceed. Consultant receipt of a Purchase Order shall constitute said notice. Consultant shall perform all services and provide all work product required pursuant to this agreement within 120 calendar days from the date written notice is given to proceed, unless an extension of such time is granted in writing by the City.

4. Payment. The Consultant shall be paid by the City for completed work and for services rendered under this agreement as follows:

a. Payment for the work provided by Consultant shall be made as provided on Exhibit "B" attached hereto, provided that the total amount of payment to Consultant shall not exceed \$15,500 without express written modification of the agreement signed by the City.

b. The consultant may submit vouchers to the City once per month during the progress of the work for partial payment for project completed to date, up to 85% of total project costs. Such vouchers will be checked by the City, and upon approval thereof, payment will be made to the Consultant in the amount approved.

c. Final payment of any balance due the Consultant of the total contract price earned will be made promptly upon its ascertainment and verification by the City after the completion of the work under this agreement and its acceptance by the City.

d. Payment as provided in this section shall be full compensation for work performed, services rendered and for all materials, supplies, equipment and incidentals necessary to complete the work.

e. The Consultant's records and accounts pertaining to this agreement are to be kept available for inspection by representatives of the City and state for a period of three (3) years after final payments. Copies shall be made available upon request.

5. Ownership and Use of Documents. All documents, drawings, specifications and other materials produced by the Consultant in connection with the services rendered under this agreement shall be the property of the City whether the project for which they are made is executed or not. The Consultant shall be permitted to retain copies, including reproducible copies, of drawings and specifications for information, reference and use in connection with Consultant's endeavors.

6. Compliance with laws. Consultant shall, in performing the services contemplated by this agreement, faithfully observe and comply with all federal, state, and local laws, ordinances and regulations, applicable to the services to be rendered under this agreement.

7. Indemnification. Consultant shall indemnify, defend and hold harmless the City, its officers, agents and employees, from and against any and all claims, losses or liability, or any portion thereof, including attorneys fees and costs, arising from injury or death to persons, including injuries, sickness, disease or death to Consultant's own employees, or damage to property to the extent caused by a negligent act, omission or failure of the Consultant.

8. Insurance. The Consultant shall secure and maintain in force throughout the duration of this contract comprehensive general liability insurance with a minimum coverage of \$500,000 per occurrence and \$2,000,000 aggregate for personal injury, and \$500,000 per occurrence/aggregate for property damage. Said general liability policy shall name the Town of Atherton as an additional named insured and shall include a provision prohibiting cancellation of said policy except upon thirty (30) days prior written notice to the City. Certificates of coverage as required by this section shall be delivered to the City within fifteen (15) days of execution of this agreement.

9. Independent Contractor. The Consultant and the City agree that the Consultant is an independent contractor with respect to the services provided pursuant to this agreement. Nothing in this agreement shall be considered to create the relationship of employer and employee between the parties hereto. Neither Consultant nor any employee of Consultant shall be entitled to any benefits accorded City employees by virtue of the services provided under this agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security or for contributing to the state industrial insurance program, otherwise assuming the duties of an employer with respect to Consultant, or any employee of Consultant.

10. Covenant Against Contingent Fees. The Consultant warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this contract, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty, the City shall have the right to annul this contract without liability or, in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

11. Assignment. The Consultant shall not sublet or assign any of the services covered by this agreement without the express written consent of the City.

12. Non-Waiver. Waiver by the City of any provision of this agreement or any time limitation provided for in this agreement shall not constitute a waiver of any other provision.

13. Termination.

a. The City reserves the right to terminate this agreement at any time by giving thirty (30) days written notice to the Consultant.

b. In the event of the death of a member, partner or officer of the Consultant, or any of its supervisory personnel assigned to the project, the surviving members of the Consultant hereby agree to complete the work under the terms of this agreement, if requested to do so by the City. This section shall not be a bar to renegotiations of this agreement between surviving members of the Consultant and the City, if the City so chooses.

14. Notices. Notices to the Town of Atherton shall be sent to the following address:

Duncan Jones, Atherton Public Works Director
91 Ashfield Road
Atherton, CA 94027

Notices to Consultant shall be sent to the following address:

Christopher Kankel, Vice President
Kikuchi & Associates
730 Mill Street
Half Moon Bay, CA 94019

15. Integrated Agreement. This Agreement together with attachments or addenda represents the entire and integrated agreement between the City and the Consultant and supersedes all prior negotiations, representations, or agreements written or oral. This agreement may be amended only by written instrument signed by both City and Consultant.

DATED this _____ day of _____, 200_.

Town of Atherton

Consultant

By _____
Mayor

By _____

Approved as to Form

/s/ Marc Hynes
City Attorney

Exhibit A & B -

May 9, 2007



Kikuchi & Associates

Landscape Architecture
Site Planning

Duncan Jones, PE
Director of Public Works
Town of Atherton
91 Ashfield Road
Atherton, CA 94027

RE: Landscape Architectural Design Services – Holbrook-Palmer Park

Dear Duncan,

It was a pleasure to meet you last week at Holbrook-Palmer Park. Thank you for taking the time to walk me around the site and explain the current issues related to the landscape as well as the program for improvements. The additional amenities that are proposed in conjunction with the existing features will make the park even more enjoyable to the residents and visitors. We hope that we can assist the Town in the design of quality improvements the park warrants.

As we briefly discussed at our meeting, please find below a description of our "full" or complete services. Although we are seeking authorization to commence the Design Phase *only*, we have listed all potential phases so that you are aware of the services available if desired. These phases are listed as they would occur in chronological order:

DESIGN PHASE: The main purpose of this phase is to determine the overall concept and scope of the site work that the Town will undertake. The following is a list of tasks that will take place during the design phase as part of our services:

1. We will conduct a site reconnaissance of the areas of improvement within the park. We will photograph the existing conditions and verify the locations of relevant existing site features and conditions including existing trees and shrub massings to remain, paths, adjacent site features, sun orientation, views, and screening requirements for each of the three project areas. We will utilize topographical and boundary survey information that will be provided to us by the Town as a basis for the design concepts.
2. Based on the site reconnaissance and the program you have provided us, we will develop at least two Conceptual Plans for each area depicting rough landscape design concepts. For the fountain area we will

730 Mill Street • Holliston, MA 01919
(650) 726 7100 • Fax (650) 726 7677
www.kikuchilandassociates.com

Steven T. Kikuchi, ASLA, Principal
Christopher Kanisek, ASLA, Principal
Warren Barnes, Associate

study the placement of the fountain within the lawn area, paving material and layout options, tree locations and arrangements for views, shade, and fountain maintenance, and we will consider the fountain area integration within the existing park master plan. For the children's playground restrooms we will consider screening requirements for the existing facility, opportunities for donor benches, and tree locations for screening and shade. For the tennis court screening we will propose planting schemes that visually separate the tennis courts from the baseball field and minimize litter onto the courts, and we will propose options for bench locations. Also, we may recommend additional improvements that may become apparent during our site reconnaissance. Drawings for each area will be conceptual in nature and may have design options if determined to be viable. It is our intention at this stage to provide the Town with as many design opportunities as possible to allow you the ability to prioritize potential improvements. We will meet with Town staff and the Master Plan architects to review the designs with the intention of gaining a "design direction" and possibly to stimulate other ideas or concerns that the Town and Master Plan Architects may have.

3. After determining a direction, we will commence refinement of the design. These drawings will be of greater detail and accuracy and may include elevations and study character sketches. At this point in time we will generate a detailed cost estimate for budgeting purposes. We will meet with the Town staff and the Parks and Recreation Commission to review the refined design and to collect additional comments. Based upon the Commission's comments and the cost estimate, we will make any necessary additional design refinements and produce a final Design Plan.
4. Once the design is complete, we will determine the fees necessary to produce construction documents for bidding and construction. We will prepare a proposal for the Town's review and will attend the City Council meeting at which the fees and proposal are discussed.

We propose to provide these services on a time and materials basis with maximum upset amount of . . . \$15,500.00

CONSTRUCTION DOCUMENTS PHASE: Upon your authorization, we would commence construction documents, necessary for construction purposes. These drawings will specifically detail the construction means and methods necessary for several aspects of the park design. The scope of these services or the necessity for construction phasing will be as determined from the Design Phase and estimate. These documents are typically inclusive of a demolition plan, construction layout plan, a grading and drainage plan, construction details, an irrigation plan, a planting plan, a lighting plan, and specifications.

CONSTRUCTION ADMINISTRATION AND REVIEW: Once construction has commenced, we will be available to provide reviews for conformance to plans. The frequency of our site visits and involvement in the daily progress of the project is dependent upon the contractor or the Town staff's desire for our input. We will also assist in evaluating contractor payments and administering any contract changes if so required. Due to the large variation of our involvement during this phase, we would provide these services on a time and materials basis.

Fee Schedule

Sr. Principal time	\$135.00/hr.
Jr. Principal time	\$120.00/hr.
Associate time	\$100.00/hr.
Project Manager time	\$90.00/hr.
Draftsman time	\$80.00/hr.
Clerical time	\$45.00/hr.
Reproductions	cost plus 10% handling
Mileage	\$.40/mile

Any services not included with the described scope of work, beyond the control of the Landscape Architect are Additional Services to be billed at the hourly rates. Design revisions beyond the scope listed above may result in additional fees. Printing and reproduction costs other than for inner-office use are reimbursable expenses as noted. Billings shall be submitted monthly for the time expended and are due within 30 days or subject to a 1-1/2% interest charge.

Kikuchi & Associates maintains a \$1,000,000 professional liability and general office insurance policies.

We are looking forward to working with the Town of Atherton on the Holbrook-Palmer Park improvements. If you have any questions in regards to the process, our fee structure, or any other item as described above, please feel free to call. Please let us know if there is any additional information needed in order for the Town to execute an Agreement.

Sincerely,



Christopher Kankel, ASLA, Vice President
California Registration Number 4051

EXHIBIT "B"
PAYMENT

1. Consultant shall be paid up to \$15,500 as per Exhibit B-1 to complete the scope of work as outline in Exhibit "A".

2. The consultant may submit vouchers to the City once per month during the progress of the work for partial payment for project completed to date, up to 85% of total project costs. Such vouchers will be checked by the City, and upon approval thereof, payment will be made to the Consultant in the amount approved.

3. Final payment of any balance due the Consultant of the total contract price earned will be made promptly upon its ascertainment and verification by the City after the completion of the work under this agreement and its acceptance by the City.



March 1, 2007

PROPOSAL FOR IMPROVEMENTS TO HOLBROOK-PALMER PARK AND TOWN CENTER, ATHERTON

LANDSCAPE ARCHITECTURAL SERVICES



Kikuchi & Associates
730 Mill Street
Half Moon Bay, CA 94019

March 1, 2007

Duncan Jones, PE
Director of Public Works
Town of Atherton
91 Ashfield Road
Atherton, CA 94027



Kikuchi & Associates
Landscape Architecture
Site Planning

Dear Mr. Jones,

Please find attached our proposal for the Holbrook-Palmer Park and Town Center landscape improvements within the Town of Atherton. I hope that you will find the time to thoroughly review our qualifications and experience.

As you will find, our work is varied and extensive. We have a history of taking on diverse projects and design and services that result in successful projects. We openly accept new challenges and welcome the growth process that accompanies them. We also take great pride in utilizing our years of technical knowledge in production of detailed documents that "can be built" from.

We are enthusiastic about providing services for the Town of Atherton. Having worked on residential projects within Atherton for over 20 years, we are familiar with the needs, tastes, and attitudes of the citizens as well as the climate, history, and character of the town itself.

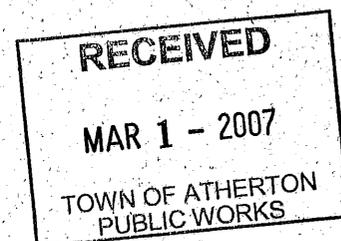
We also encourage you to contact our references to verify our responsive, personal, and professional services.

Thank you for your consideration and your interest in our firm.

Sincerely,

A handwritten signature in black ink that reads "Christopher Kankel".

Christopher Kankel, ASLA
Principal, Vice President



FIRM DESCRIPTION



KIKUCHI & ASSOCIATES

Kikuchi & Associates was founded in December 1984. The firm operates as a S-Corporation with Steven T. Kikuchi as Owner and Senior Principal / President and Christopher Kankel as Junior Principal / Vice President. The firm's principals offer over forty-five years of professional experience. A varied list of past projects have included park and recreation planning, subdivision planning, urban planning, commercial design, computer R & D design, institutional and educational design, health care design, and estate residential design.

The firm is a seven-person office composed of two Principals, one Associate, two Project Managers, support drafts people, and one Office Manager. Every member of the firm is committed to improving the quality of our built and living environment. Located in Half Moon Bay, California, most of the firm's work is within the immediate San Francisco Bay Area. The firm's range of work includes projects in Idaho, Lake Tahoe, Nevada, Northern and Southern California.

Kikuchi & Associates is committed to providing the best possible design and administration services possible. We have elected to remain a relatively small firm, feeling that every project will receive the attention and continuity it deserves. Direct Principal and Project Manager involvement throughout all phases of a project insures a personal commitment to design quality, production efficiency, and conscientious responses.

KEY PERSONNEL



Steven T. Kikuchi, Senior Principal

POSITION:	Senior Principal, President
EDUCATION:	Bachelor of Science, Landscape Architecture, 1977 California State Polytechnic University, Pomona Magna Cum Laude Japanese Garden Studies: Kyoto, Tokyo, Osaka, 1976 Design Excellence Award, 1975-76 ASLA Certificate of Honor, 1976-77
REGISTRATION:	California State License #2005 Nevada State License #434
PROFESSIONAL SOCIETIES:	American Society of Landscape Architects
COMMUNITY SERVICES:	City of Half Moon Bay Architectural Review Committee, 1990-2000; Chairperson 2006-present Blue Ribbon Committee for the establishment of a new Police Facility for the City of Half Moon Bay; Chairman 2000-2001 MacDutra Park Downtown Merchants Improvements Study- City of Half Moon Bay; Lead Moderator, 1997

The foundation for Steve Kikuchi's professional background originated with three years in Southern California and six years with a Bay Area firm. Mr. Kikuchi subsequently founded Kikuchi & Associates in 1984. As Principal and President of the firm, Mr. Kikuchi oversees all business and design aspects of the office and is closely involved in all projects.

Christopher Kankel, Junior Principal

POSITION:	Junior Principal, Vice President
EDUCATION:	Bachelor of Science, Landscape Architecture 1990 California Polytechnic State University, San Luis Obispo ASLA National Award of Merit, 1989
REGISTRATION:	California State License #4051
PROFESSIONAL SOCIETIES:	American Society of Landscape Architects

Mr. Kankel joined Kikuchi & Associates in 1990 upon graduation from Cal Poly University in San Luis Obispo, was promoted to Associate in 1995, achieved the position of Junior Principal in 2000 and became Vice President in 2005. Mr. Kankel's knowledge in construction techniques, graphics, and design principles have been invaluable to the office's growth and maturation. Mr. Kankel has served as Project Manager / Designer for numerous projects including the master plan for the Hewlett Packard Facility - Steven's Creek, Ronnie Lott's Club Fitness in San Jose, Our Lady of Fatima Villa in Saratoga, and numerous residential gardens in Atherton, Woodside, and Saratoga, CA.

KEY PERSONNEL



Warren Barnes, Associate

POSITION: Associate

EDUCATION: Bachelor of Landscape Architecture, 2001
State University of New York College of
Environmental Science and Forestry, Syracuse, N.Y.

Associates Degree in Arts and Sciences, 1998
Broome Community College, Binghamton, N.Y.

International Studies Abroad Program, 1997
Bond University; Gold Coast, Queensland, Australia

Off-Campus Experiential Study Program, 2000
South Western England

ASLA Honor Award 2001
S.U.N.Y. Chancellor's Award, 2001

Mr. Barnes' educational experiences and travels bring a well-rounded background to Kikuchi & Associates. Since joining Kikuchi & Associates in 2001, he has designed and managed numerous institutional, residential, and public projects in Daly City, Los Altos Hills, San Mateo, Brisbane, and Atherton. Mr. Barnes' computer skills have greatly advanced Kikuchi & Associates' ability to communicate design concepts via photo and graphic simulation.

Thomas Conroy, Project Manager

POSITION: Project Manager

EDUCATION: Bachelor of Landscape Architecture, 2000
University of Illinois, Urbana-Champaign, IL

National Park Service (Student Conservation Association Intern), 2000
Mammoth Cave National Park, Mammoth Cave, KY

Since moving to the Bay Area in early 2001, Tom has focused most of his professional career designing and managing the construction of high-end residential landscapes. His extensive construction experience, both in the Bay Area and in his native Chicago, has given him a keen understanding of the intricacies of construction detailing and the importance that well thought-out details make to the success of the overall landscape. Tom is currently Project Manager for numerous park & civic projects, including the San Mateo Central Park Japanese

KEY PERSONNEL



Jeff Barnea, PLS

POSITION: Consulting Land Surveyor
EDUCATION: University of New Hampshire
REGISTRATION: Cal. Lic. #7044

Mr. Barnea has been providing Kikuchi & Associates with topographic and boundary surveys for over ten years. As a consultant to Kikuchi & Associates, Mr. Barnea has prepared accurate, detailed surveys for both residential and commercial properties throughout the Bay Area in an affordable and timely manner.

WORK PLAN for CITY CENTER



West Parking Lot Perimeter, Two Sides of Lloyd Park Entry

TASK	TEAM MEMBERS*	TIME**
I. Design Phase		
A. Gather base information	PR, PM	4 wks
1. photo document both areas		
2. licensed Land Surveyor to prepare topographical and boundary survey for all project areas		
B. Community Input	PR, PM	2 wks
1. prepare base sheets		
2. conduct first of two community meetings for input, ideas, concerns		
C. Initial concept development	PR, PM, DR	3 wks
1. produce a minimum of two concepts for each area		
2. assemble photo library of proposed plant material		
3. produce photo simulations to indicate proposed improvements for key areas		
4. progress meeting with Town staff		
D. Community presentation	PR, PM	1 wk
1. conduct second of two meetings to present concepts and photo simulations		
2. gain additional input from community		
E. Concept refinement	PR, PM, DR	2 wks
1. revise concepts into final graphics		
2. prepare detailed, itemized cost estimate		
3. progress meeting with Town staff		
4. Town Council meeting		
II. Construction Document Phase		
A. Fee estimate	PR	1 wk
1. prepare professional fee proposal for construction documents		
a. planting plans		
b. irrigation plans		
c. planting and irrigation details		
d. specifications		
2. progress meeting with Town staff		
3. negotiate contract with Town		
B. Prepare construction documents for bidding, permits, and construction	PR, PM, DR	6 wks
1. planting plans indicating botanical and common names, sizes, and quantities		
2. irrigation plans indicating equipment selection, pipe sizing, and hydraulic calculations		
3. planting and irrigation details indicating installation methods		

4. specifications indicating materials and installation standards
5. 50% complete document set delivered
6. 95% complete document set review meeting with Town
7. 100% complete set delivered

- | | | | |
|----|---|--------|------|
| C. | Prepare bid package | PR, PM | 1 wk |
| | 1. compile package, print, and distribute per Town standards | | |
| | 2. prepare construction cost estimate for comparison purposes | | |

III. Construction Administration Phase

- | | | | |
|----|--|--------|--------|
| A. | Fee estimate | PR | 1 wk |
| | 1. prepare professional fee proposal for construction observation and administration | | |
| | a. site visits | | |
| | b. field reports | | |
| | c. coordination with Contractor and Town | | |
| | 2. progress meeting with Town staff | | |
| | 3. negotiate contract with Town | | |
| B. | Construction observation | PR, PM | 12 wks |
| | 1. site visits | | |
| | 2. field reports | | |
| | 3. coordination with Contractor and Town | | |

* PR – Principal, PM – Project Manager, DR – Draftsperson
 ** Indicates approximate period of time for task to take place
 colored text indicates meeting with Town representative(s)

WORK PLAN for H-P PARK



Fountain, Restrooms, and Tennis Court Buffer

TASK	TEAM MEMBERS*	TIME**
I. Design Phase		
A. Gather base information	PR, PM	4 wks
1. photo document all areas		
2. licensed Land Surveyor to prepare topographical and boundary survey for all project areas		
3. existing park master plan		
B. Initial concept development	PR, PM, DR	4 wks
1. produce a minimum of two concepts for each area		
2. produce photo simulations or sketches to indicate proposed improvements for key areas		
3. progress meeting with Town staff		
C. Concept refinement	PR, PM, DR	2 wks
1. revise concepts into final graphics		
2. prepare detailed, itemized cost estimate		
3. progress meeting with Town staff		
II. Construction Document Phase		
A. Fee estimate	PR	1 wk
1. prepare professional fee proposal for construction documents		
a. demolition plans		
b. layout plans		
c. grading and drainage plans		
d. construction details		
e. lighting plans		
f. planting plans		
g. irrigation plans		
h. planting and irrigation details		
i. specifications		
2. progress meeting with Town staff		
3. negotiate contract with Town		
B. Prepare construction documents for bidding, permits, and construction	PR, PM, DR	14 wks
1. demolition plans indicating items to be removed and retained		
2. layout plans indicating materials and finishes and horizontal layout and control points for new construction		
3. grading and drainage plans indicating vertical control points, and piping and drainage systems		
4. construction details indicating construction methods for detailed items		
5. lighting plans indicating fixtures, lamps, and circultry		
6. planting plans including botanical and common names, sizes, and quantities		

- 7. irrigation plans including equipment selection, pipe sizing, and hydraulic calculations
 - 8. planting and irrigation details indicating installation methods
 - 9. specifications indicating materials and installation standards
 - 10. 50% complete document set delivered
 - 11. 95% complete document set review meeting with Town
 - 12. 100% complete set delivered
- C. Prepare bid package PR, PM 1 wk
- 1. compile package, print, and distribute per Town standards
 - 2. prepare construction cost estimate for comparison purposes
- III. Construction Administration Phase
- A. Fee estimate PR 1 wk
- 1. prepare professional fee proposal for construction observation and administration
 - a. site visits
 - b. field reports
 - c. coordination with Contractor and Town
 - 2. progress meeting with Town staff
 - 3. negotiate contract with Town
- B. Construction observation PR, PM 12 wks
- 1. site visits
 - 2. field reports
 - 3. coordination with Contractor and Town

* PR – Principal, PM – Project Manager, DR – Draftsperson
 ** Indicates approximate period of time for task to take place
 colored text indicates meeting with Town representative(s)

FEES



Hourly Rates

Sr. Principal	\$135.00 / hr.
Jr. Principal	\$120.00 / hr.
Associate	\$100.00 / hr.
Project Manager	\$90.00 / hr.
Drafts person	\$80.00 / hr.
Clerical	\$45.00 / hr.

Insurance

Kikuchi & Associates presently maintains insurance in the form of a \$1,000,000 Commercial General Liability policy, a \$1,000,000 Workers' Compensation policy, and a \$1,000,000 Errors and Omissions policy.

REFERENCES & TESTIMONIALS



"I have worked with Kikuchi & Associates on several projects over a period of 8 years, including ball field and park design, creation of a dog park, and provision of a recreational trail master plan. In each of these projects Steve Kikuchi and his staff have provided a creative, responsive and sensitive approach to completing the task on time and on budget. They have been incredible available every step of the way and have never rejected any potential idea or solution. They undertake each project in a professional manner, with color renderings, maps and finished product always very clearly stated and presented in a pleasing manner. Working with the public and public presentations are a particularly strong asset of Steve, combining well researched data with a confident yet not cocky approach. The end result has resulted in the participants feeling that they are clearly a stakeholder in the process and, in all cases, actually heard and considered".

"The confidence that I have in Kikuchi & Associates comes with no reservations. I am happy to give personalized reference information for those who are interested."

Jim Skeels - Brisbane Director of Parks and Recreation - (415)508-2141

Projects: Highlands Park, San Carlos; Crocker Recreation Loop, Brisbane

ADDITIONAL REFERENCES:

Paul Nagengast - Half Moon Bay Director of Parks & Recreation and Public Works Dept. (650) 726-8250

Projects: Oak Avenue Park, Half Moon Bay; Highway1 Medians, Half Moon Bay

Rich Quadri - Former Director Burlingame Parks and Recreation, Current consultant to City of San Mateo and Half Moon Bay (650) 726-8294, (650) 522-7543

Project: Oak Avenue Park, Half Moon Bay

PUBLIC PARK PROJECTS



Highlands Park & Playground - San Carlos

Oak Avenue Park - Half Moon Bay

San Mateo Japanese Garden - San Mateo

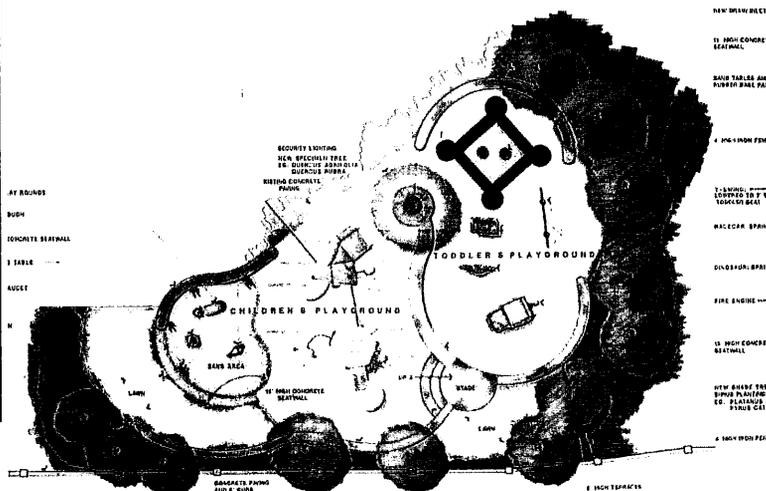
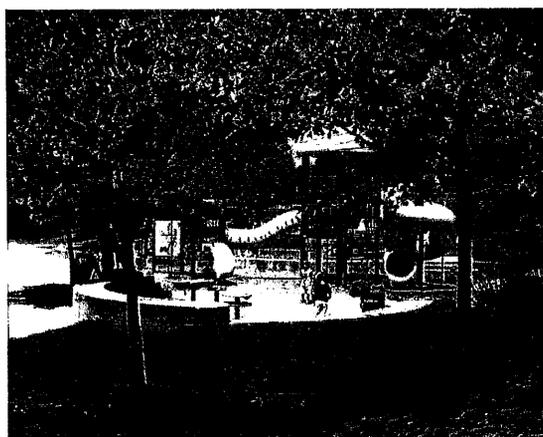
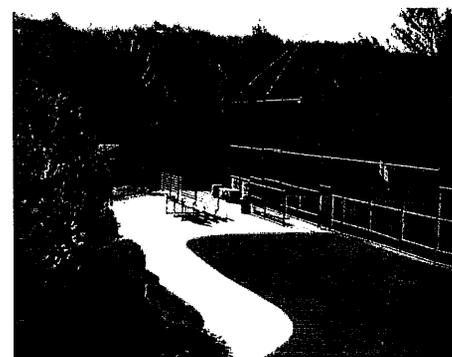
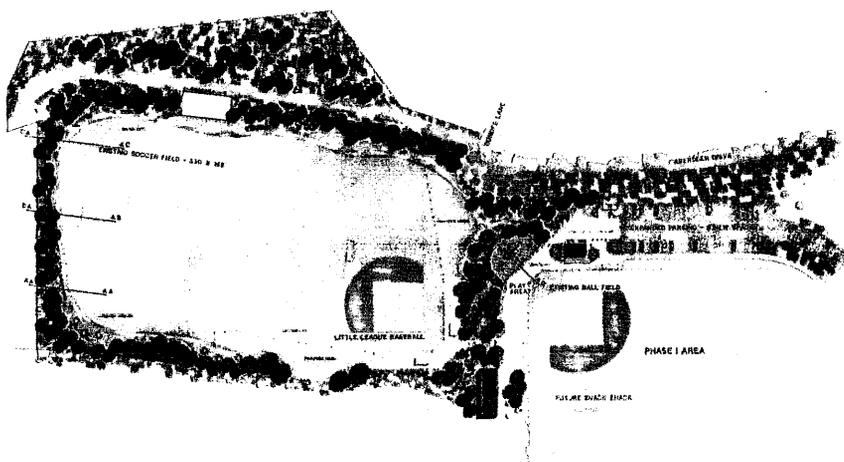
Washington Park Tennis Court Reconstruction - Burlingame



HIGHLANDS PARK & PLAYGROUND - SAN CARLOS, CA

Kilkuchi & Associates developed the Master Plan and detailed Playground plans for the second phase of a community park in the San Carlos hills. Planned components include a soccer field, Little League baseball field, walking paths, picnic areas, a snack shack, children's playground and extensive landscape screening. Located at the site of the old San Carlos High School, extensive grading and drainage improvements were implemented. Facilities were also upgraded to meet current disability access requirements. Community involvement included presentation of multiple alternatives to the Parks and Recreation Commission, presentation to the City Council, direct involvement with the AYSO, Little League, and adjacent neighbors. The project was completed in June 1998 on schedule and on budget.

Jim Skeels - former City of San Carlos Director of Parks and Recreation (415) 508-2141

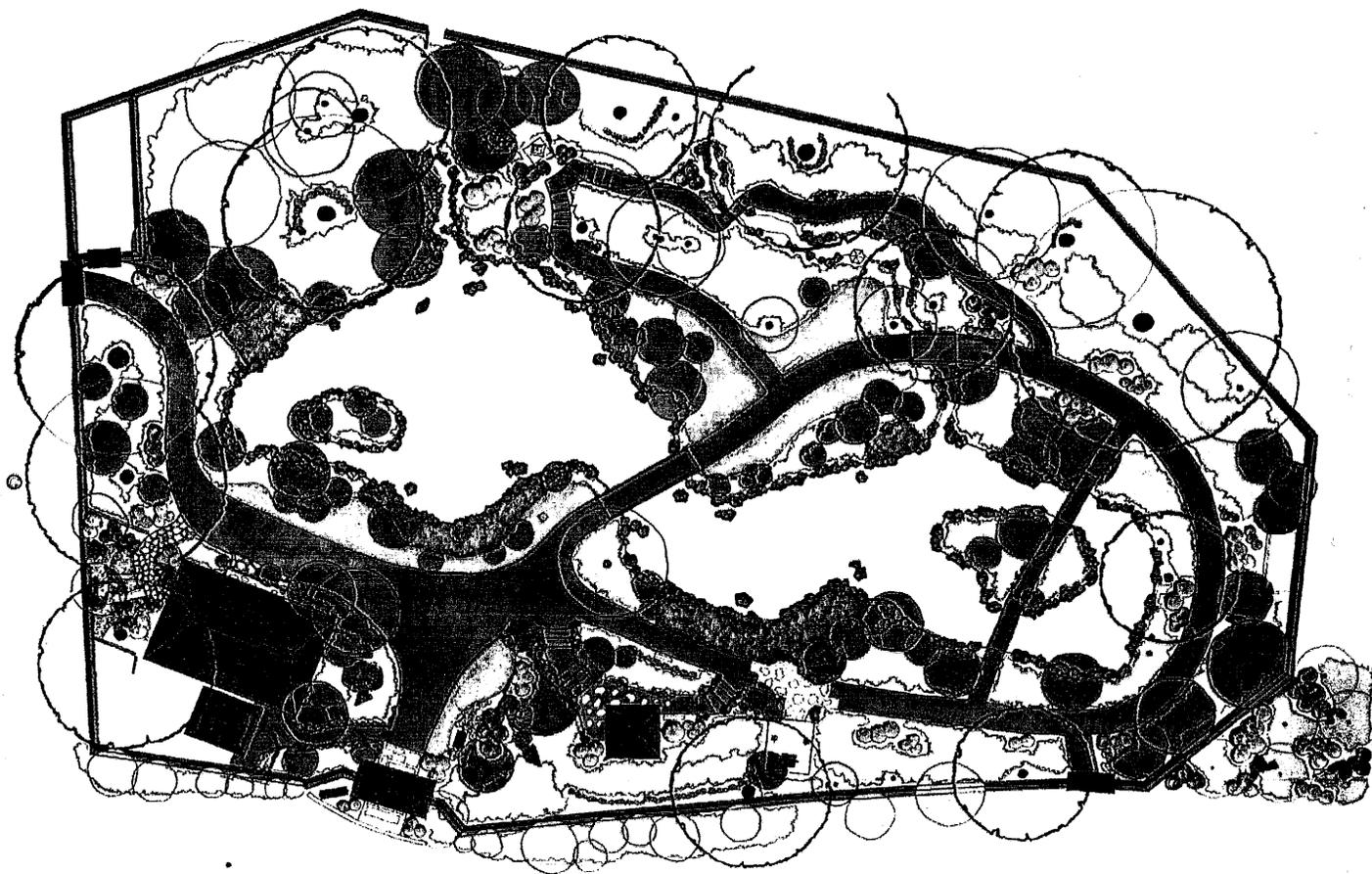




SAN MATEO JAPANESE GARDEN - SAN MATEO, CA

Kikuchi & Associates has completed the design and documentation for the renovation of the acclaimed San Mateo Japanese Garden in Central Park. Originally constructed in 1966, the one acre site is in need of major upgrades and repair. Work to be implemented includes: new paths, and paving bring the garden to ADA standards, a new irrigation system, a signage program, new lighting, a security system and new plantings to restore the gardens authenticity. Work to be completed in 2007.

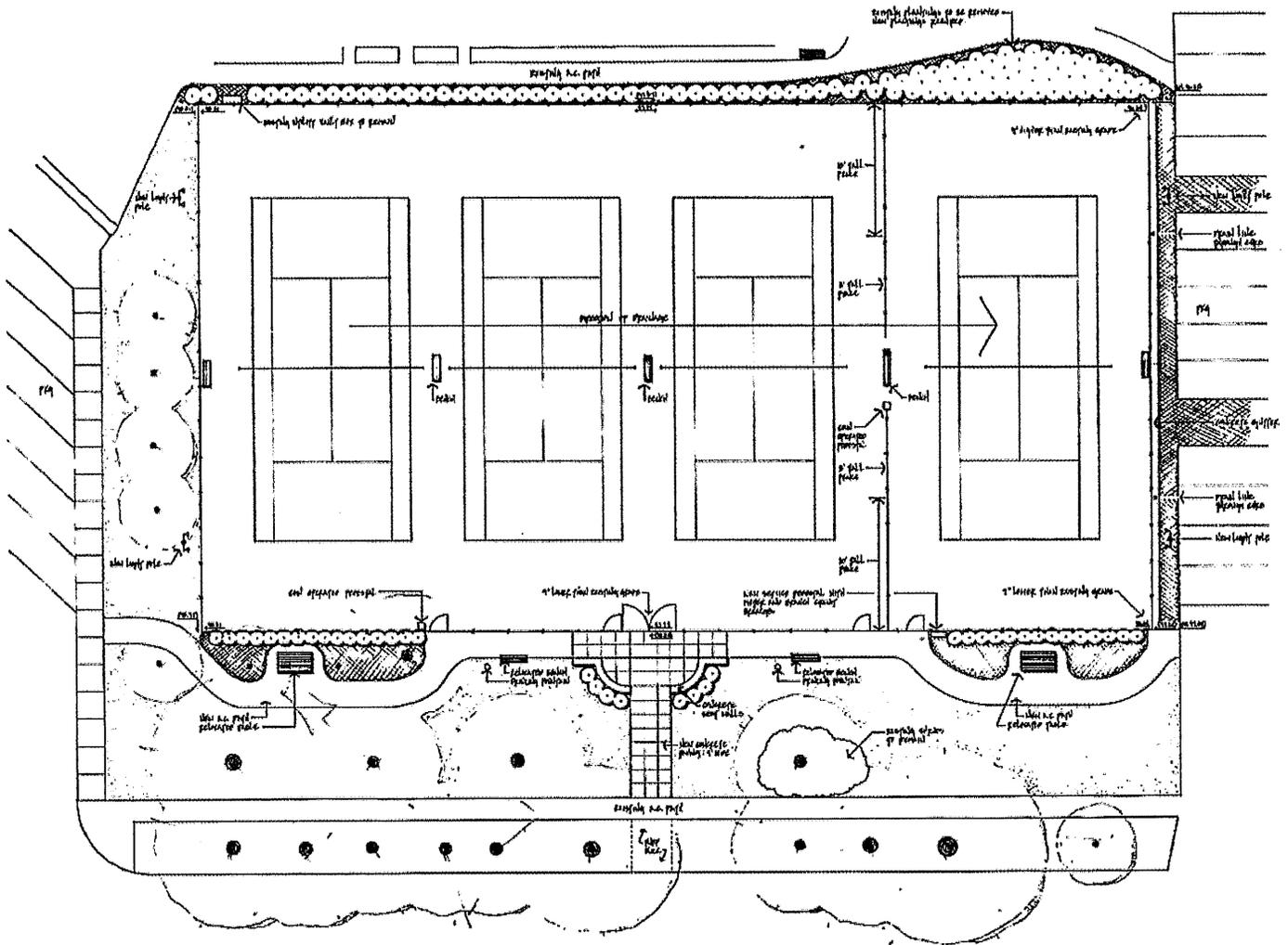
Ron Mason - City of San Mateo Project Manager Parks and Recreation (650) 522-7542





WASHINGTON PARK TENNIS COURT RECONSTRUCTION - BURLINGAME, CA

Kikuchi & Associates assisted the City of Burlingame Parks and Recreation Department in the total reconstruction of 4 public tennis courts within the City's largest public park. Improvement additions included night time play lighting, improved surface drainage, new fencing and windscreens, pathways, picnic areas, a seating plaza, a perimeter landscaping. Completed in the Fall of 1992 and on budget.





ADDITIONAL PARK PROJECTS

Arnold Way Park - Half Moon Bay

Crocker Recreation Loop - Brisbane

Highlands Recreation Center - San Mateo

Pescadero Playground - Pescadero

Regional Medical Center of San Jose Pocket Park - San Jose

CIVIC IMPROVEMENT PROJECTS



Highway 1 Median Landscaping - Half Moon Bay

San Mateo County Government Center - Redwood City

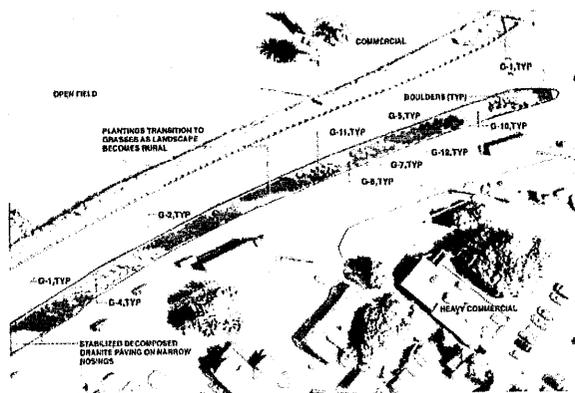
Bellarmine College Preparatory - San Jose



HIGHWAY 1 MEDIAN LANDSCAPING - HALF MOON BAY, CA

Kikuchi and Associates has master-planned and documented improvements for the medians between the south-bound and north-bound lanes through the City of Half Moon Bay. As part of Caltrans jurisdiction, the medians are required to meet all of the state highway regulations including setbacks, signage, plant materials, and plant heights.

Designing the medians provided Kikuchi & Associates with an opportunity to draw attention not only to the existence of the City, but also to the character of the surrounding environment. The goal was to condense the rural, coastal, and agricultural nature of Half Moon Bay into a transitional experience for those passing through the City. Using plant materials indigenous to or reminiscent of this coastal and farm community, Kikuchi & Associates designed the plantings to reflect the floraculture, to provide movement and color, and to emphasize and de-emphasize views. The design also recognized and complements the color and materials of a beach environment as well as the landforms of the adjacent coastal hills. Construction to commence in Spring 2007.



Hybrid Photo-Plan



Photo Simulations



SAN MATEO COUNTY GOVERNMENT CENTER CAMPUS RENOVATION - SAN MATEO, CA

Kilkuchi & Associates led the site design portion of the Master Plan development for San Mateo County's Government Center. The Master Plan addresses the 20-year build-out of the Center and a transformation into a campus environment. Features include a new pedestrian promenade, renovated plazas, and a signage program. Approximately 60% of the Master Plan has been implemented and completed as of the summer of 1996 with Kilkuchi & Associates continuing as documentation project landscape architects.





ADDITIONAL CIVIC PROJECTS

Hansen Way Utility Yard Landscaping Frontage - City of Palo Alto

General Plan 1987-2005 (sub-consultant) - City of Petaluma

City Center Parking Structure (sub-consultant) - City of Redwood City

Vista Park – City of San Carlos

Hedding Street Median Island Landscaping - City of San Jose

County Visitor Parking Structure (sub-consultant) – Santa Clara County

San Rafael Parking Structure (sub-consultant) – City of San Rafael

Terrace Ave. Park Master Plan – City of Half Moon Bay

Locust Street Parking Structure (sub-consultant) - City of Walnut Creek

PLANTING PROJECTS



Typical Planting Plan

Typical Irrigation Plan

Campbell Technology Park, Campbell

Rushmore Townhomes, San Mateo

Palo Alto Hills Golf and Country Club, Palo Alto

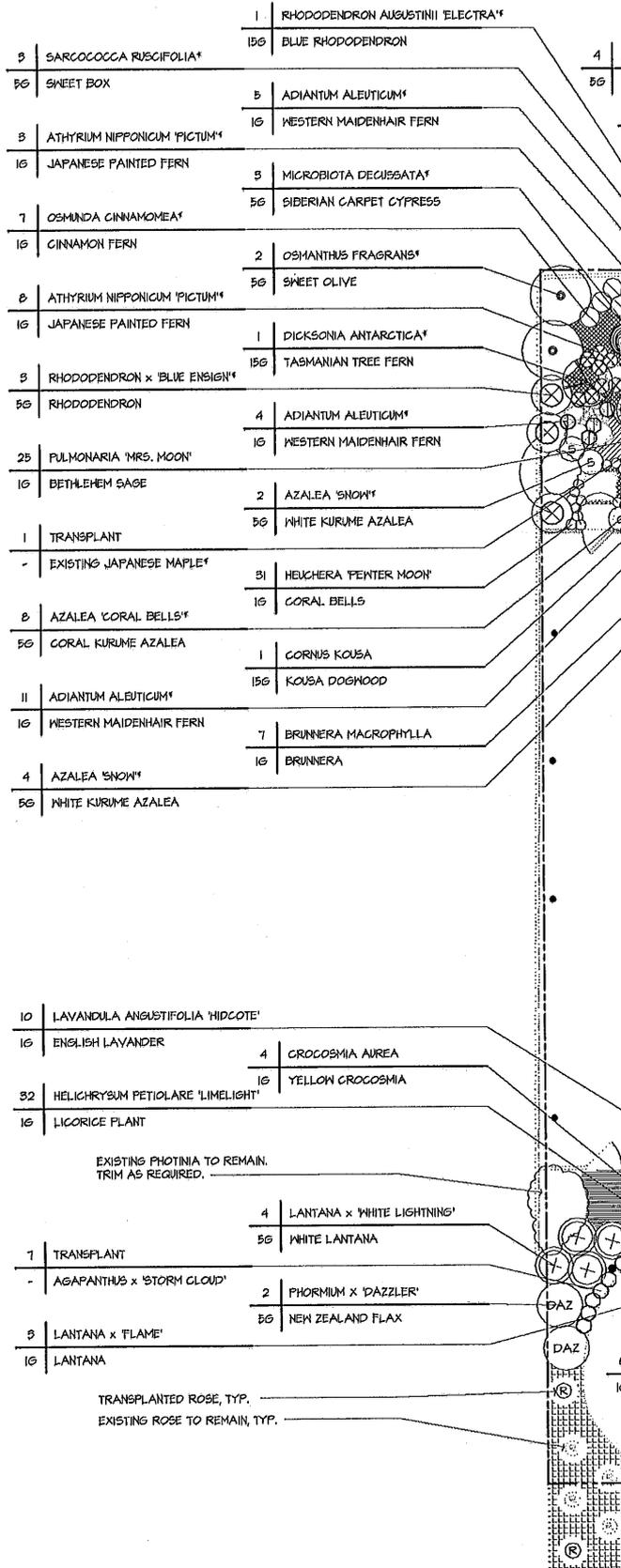
San Mateo City Parking Lot, San Mateo

WORKING DRAWING STANDARDS

Kikuchi & Associates approaches every project, regardless of size, with the same attention to detail. The intention of each working drawing is to provide a set of clear instructions for both permit and construction. Each planting plan clearly indicates each plant's botanical and common name, container size, location, and exact quantity. A clear, detailed document is the best way to answer any questions before they need to be asked.

Kikuchi & Associates irrigation plans are tailored complements to their sister planting plans. Each irrigation plan is designed to provide the optimal quantity of water in the most appropriate manner. Irrigation plans typically delineate drip zones, spray zones, head layout, pipe locations and sizes, hydraulic calculations and equipment specifications. A fully operational and efficient irrigation system is always the goal.

RE-USE, REPRODUCTION OR PUBLICATION OF THESE PLANS IS PROHIBITED WITHOUT WRITTEN CONSENT OF KIKUCHI & ASSOCIATES.



EGEND

- 4 SEE SYMBOL, SPECIES & SIZE PER PLANT KEY
- 56 POTS TO BE STAKED PER $\frac{A}{4.4}$
- TO BE STAKED PER $\frac{B}{4.4}$
- SEE SYMBOLS, SPECIES & SIZE PER $\frac{C}{4.4}$
- MICRANTHA, DICHONDRA; 9' O.C. $\frac{D}{4.4}$
- IN JAPONICUS, MONDO GRASS; 6' O.C. $\frac{D}{4.4}$
- PANICULATA, BLUE STAR CREEPER; 8' O.C. $\frac{D}{4.4}$
- MARGARETAE, PYMONDIA; 9' O.C. $\frac{D}{4.4}$
- OR AS SELECTED BY LANDSCAPE 6' O.C. $\frac{D}{4.4}$

- ORIENTALE, FOUNTAIN GRASS; 10
- PANICULATA 'BRISTOL FAIRY', BABY'S BREATH; 10
- AUGUSTA VETCHII'; GARDENIA; 50
- VARIETIES: FIREPOT; 50
CAMANO BRAM; 50
AUNT RUTH; 50
- GLOMERATA 'ALBA'; 10
- LOS x 'BUSH GOLD', KANGAROO PAW; 10
- x 'APPLE BLOSSOM', PENSTEMON; 10
- JOHNSON'S BLUE', PERENNIAL GERANIUM; 10
- ANTEUM, GIANT ALLIUM; BULB
- B ORIENTALIS, LENTEN ROSE; 10
- ROSANGUINEUS, CHOCOLATE COSMOS; 10
- RANDIFLORUM 'ECHO' STRAIN, LISTANTHUS; 10
- B BREVIFEDUNCULATA 'ELEGANS';
BERRY; 50, WIRE TO FENCE
- A ANOMALA PETIOLARIS,
YDRANGEA; 50, WIRE TO HOUSE
- SEE POT KEY BELOW

- POTS WITH THE APPROPRIATE SIZES INDICATED. ALL THE OWNER. ALL POTS SHALL HAVE HOLES, SAUCERS SEALED WITH ASPHALTIC EMULSION.
- ING POTS TO REMAIN.
- RIAL SHALL BE INSTALLED IN THE POTS INDICATED
- A FLORIBUNDA COMPACTA;
6 D-TOMORROW; 50
- GOLD FLASH', PARROT'S BEAK; 4' POTS @ 9' O.C.
- IGTAIN FIRE', JAPANESE ANDROMEDA; 50
- UBEROUS BEGONIA,
LLOW VARIETIES; 10, 5 PER POT
- 20', POMEGRANATE; 50
- ANSPLANT FROM EXISTING
FROM EXISTING
LAVE', NEW ZEALAND FLAX; 50

NOTES

- EDEN ORNAMENTS/STATUARY/ETC SHALL REMAIN
- CONTRACTOR SHALL RELOCATE SUCH ITEMS
- OUT THE DURATION OF CONSTRUCTION.
- AS SHALL RECEIVE A 2" LAYER OF ORGANIC
- ATED INTO THE TOP 6" OF SOIL, AREAS BENEATH
- RESHAPE EXISTING LAWN PLANT PITS INDIVIDUALLY AMENDED.
- FILL REQUIREMENTS PER SPECS.
- PROTEA AMENDMENT REQUIREMENTS
- D SHRUB PLANTING AREAS SHALL RECEIVE
- REDDED BARK MULCH PER SPECS.
- ONAL REQUIREMENTS.



Kikuchi & Associates

Landscape Architecture
Site Planning

730 Mill Street
Half Moon Bay, CA 94019
(650) 726-7100
Fax (650) 726-7677
www.kikuchilandassociates.com

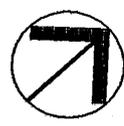
LANDSCAPE IMPROVEMENTS

RESIDENCE

Revisions:
Date: 1/3/07 BID
Drawn By: TWC
Checked:
Scale: 1/8" = 1'-0"

PLANTING PLAN

Sheet No.
4.2
of





Kikuchi & Associates

Landscape Architecture
Site Planning

730 Mill Street
Half Moon Bay, CA 94019
(650) 726-7100
Fax (650) 726-7677
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LANDSCAPE IMPROVEMENTS

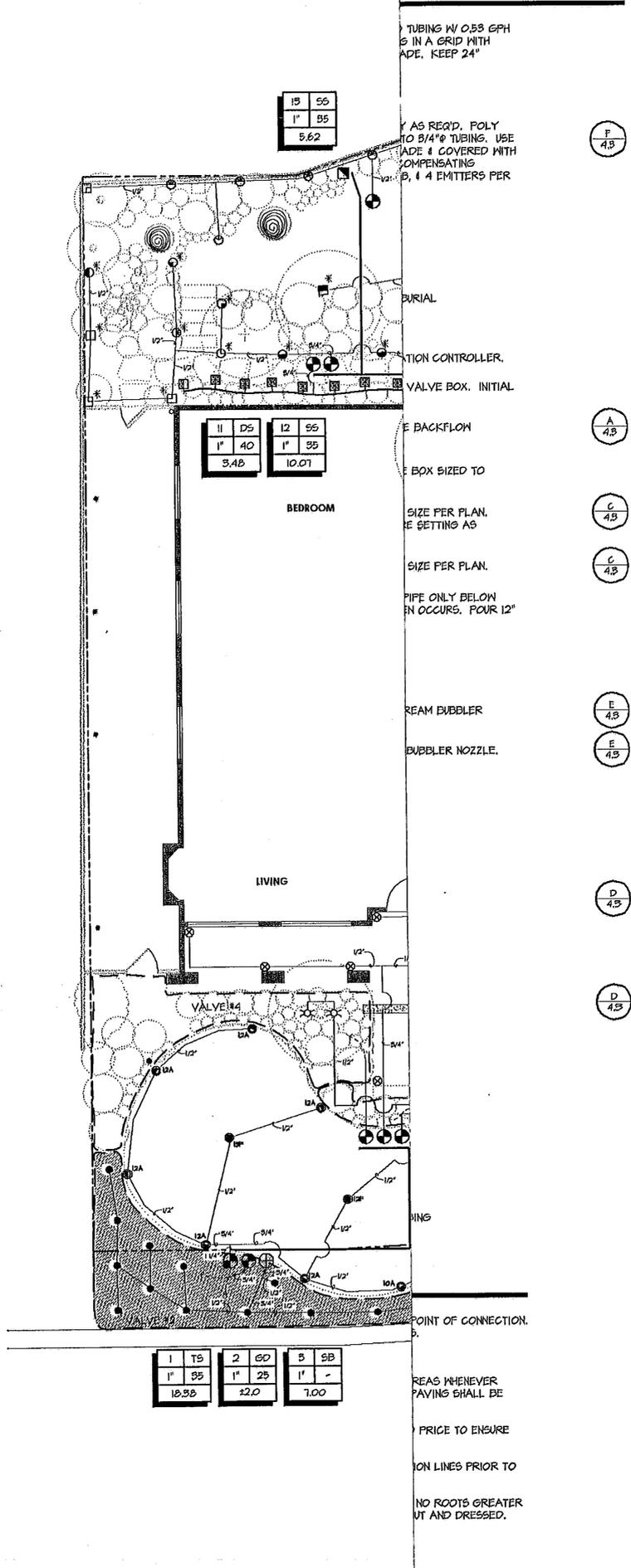
RESIDENCE

Revisions: _____
Date: 1/3/07 BID
Drawn By: TWC
Checked: _____
Scale: _____

IRRIGATION PLAN

Sheet No.
4.1
Of _____

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15	56
1"	55
5.62	

11	D5	12	55
1"	40	1"	35
3.4B		10.07	

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15.5B		22.0		7.00	

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C
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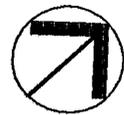
C
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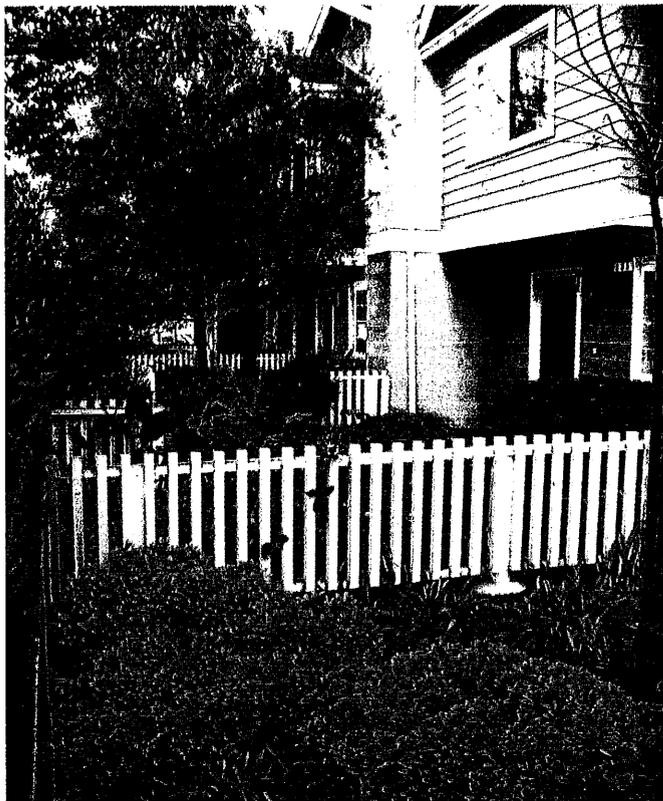
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RUSHMORE TOWN HOMES, SAN MATEO, CA

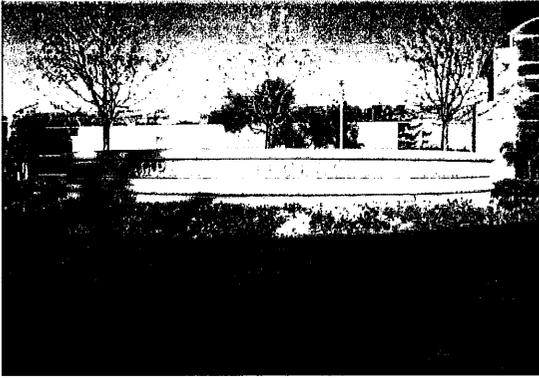
As the consulting landscape architect, Kikuchi & Associates helped transform a vacant corner lot into a multi-family town house development. The design's intent was to create a residential-feeling environment along busy El Camino Real. White picket fences, extensive plantings, and layers of trees help give the podium-supported building the appearance of multiple homes on a quaint residential street.





CAMPBELL TECHNOLOGY PARK - CAMPBELL, CA

Kikuchi & Associates served as consulting landscape architect for the conversion of an old drive-in movie site to a multi-building 20-acre technology park. Kikuchi & Associates' services included planting design for the entire complex, fountain design for courtyards between buildings, fitness par course design, monumental signature design, and coordination with various consultants and agencies. Because of the site's proximity to Hwy. 880, Kikuchi & Associates not only processed plans with Campbell Planning Department but also with CalTrans.





PALO ALTO HILLS GOLF AND COUNTRY CLUB - PALO ALTO, CA

Kikuchi & Associates served as consulting landscape architect for improvements to an outdoor dining patio and adjacent plantings along the golf course. Plantings were designed to provide colorful, textured backdrop for the patio, to allow views to the adjacent green, and to buffer the dining area from the course.



Scale:
1" = 10'-0" (not to scale)
Kikuchi & Associates

Patio concept plan B
**PALO ALTO HILLS GOLF
AND COUNTRY CLUB**

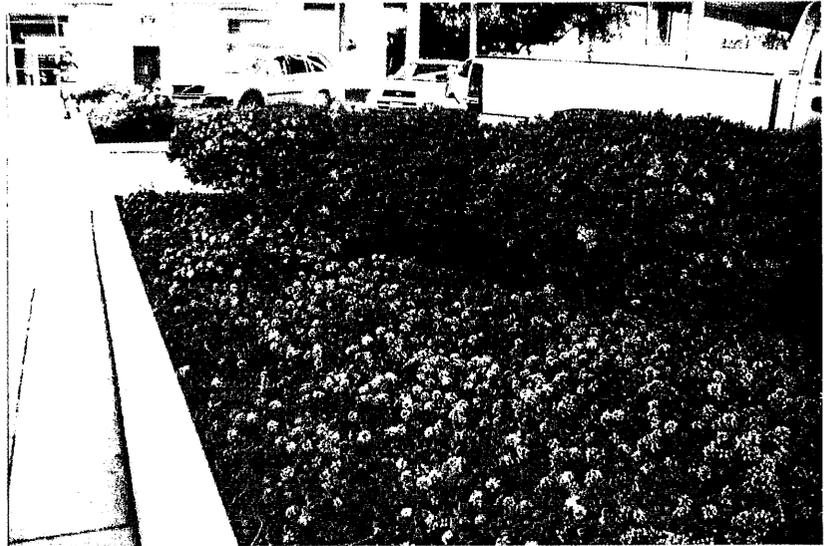
Site: Palo Alto Hills Golf and Country Club
Kikuchi & Associates
1000 California Street, Suite 100
San Francisco, CA 94109
Tel: 415.774.1100
Fax: 415.774.1101
www.kikuchi.com





CENTRAL PARK PLAZA SHOPPING CENTER PARKING LOT - SAN MATEO, CA

Kikuchi & Associates served as consulting landscape architect for improvements to an existing city parking lot. Plantings were selected to provide color and texture while maintaining site lines and pedestrian safety at the same time as screening objectionable views of autos from on and off site.



RESIDENTIAL ATHERTON CLIENTS



66 Atherton Avenue	1989
86 Tallwood Court	1991, 1996
70 Santiago	1992, 2002
54 Leon Way	1994
86 Leon Way	1994, 1996
33 Stern Lane	1997
82 Howard Way	2000
140 Catalpa	2003, 2005
274 Atherton Avenue	2006
42 Robleda	2007
269 Oak Grove Avenue	2007

ITEM 15

APPEAL REGARDING 94 TALLWOOD

THIS ITEM IS RECOMMENDED TO BE CONTINUED TO
THE CITY COUNCIL MEETING OF JUNE 20, 2007.

ITEM 16

APPEAL REGARDING 55 BELBROOK WAY

THIS ITEM IS RECOMMENDED TO BE CONTINUED TO
THE CITY COUNCIL MEETING OF JUNE 20, 2007.

ITEM 17

APPEAL REGARDING 70 BARRY LANE

THIS ITEM IS RECOMMENDED TO BE CONTINUED TO
THE CITY COUNCIL MEETING OF JUNE 20, 2007.



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 MAY 16, 2007

**SUBJECT: INTRODUCTION OF AN ORDINANCE AMENDMENT CHAPTER 17 OF
THE ATHERTON MUNICIPAL CODE REGULATING BASEMENTS**

RECOMMENDATION:

Staff recommends that the City Council conduct the public hearing and introduce the attached Ordinance based on the following finding for the reasons outlined in this staff report:

1. The proposed amendment is required to achieve the objectives of the Zoning Plan and the General Plan.

BACKGROUND:

At the request of the City Council, the General Plan Committee reviewed the current regulations limiting basements. Basements are currently limited to “under the footprint of buildings located within the main building area.” Prior to 2002, basements were permitted to be constructed anywhere on the lot with a minimum 5’ setback.

The General Plan Committee, at its January 10, 2007, meeting, voted to recommend the Planning Commission consider several changes to the current basement regulations as follows;

- Allow basements under the area parallel to the exterior lines of buildings located within the main building area.
- Allow basements under accessory buildings with a conditional use permit from the Planning Commission.
- Include the floor area of basement garages in the floor area calculations for the lot.
- Basement garages may be permitted when the driveway approach is screened from the public right-of-way by design, landscaping, or a solid wall and gate, and that basement and driveway approach will not negatively impact heritage trees.

At a previous meeting of the General Plan Committee, the Committee reached consensus on limiting the depth of basements to 14' measured from average natural grade to the finish floor below.

The Planning Commission, at its February 28, 2007, meeting, reviewed the recommendations of the General Plan Committee as listed above. The Commission provided direction to staff to further modify the Ordinance as follows:

- Include alternate language for section 17.36.190(A)(1); “coincident to the exterior lines of building located within the main building area.” Or, “defined by lines running collinear with the exterior lines of buildings....”
- Add a limitation to 17.36.190(A)(1); “basement area shall not exceed the floor area of the first floor of the main dwelling” and that “at least 80% of the basement area shall be located under the footprint of the main dwelling.”
- Eliminate the depth restriction in the Ordinance.
- Do not require the floor area of basement garages with the floor area calculations for the lot.
- Allow basements under accessory structures outside the main dwelling area with a conditional use permit.

Staff incorporated the above-listed items in the draft Ordinance for consideration at the March 28, 2007, Planning Commission meeting. At that meeting, the Commission further modified the draft Ordinance to allow a basement with a floor area of up to 120% floor area of the first floor of the main residence with a Conditional Use Permit and with the requirement that at least 70% of the basement area be located under the footprint of the main dwelling.

ANALYSIS:

The Ordinance, as recommended by the Planning Commission, allows for some flexibility and creativity with the design of new basements. Currently, basements are limited to under the footprint of the main dwelling. The changes, as recommended, will allow basements to extend beyond the footprint of the main dwelling so long as at least 70% of the basement area is located under the main dwelling. The current regulations also limit the square footage of the basement based on the footprint of the main dwelling. The recommended changes will allow basement area up to 120% of the floor area of the first floor of the main dwelling with a conditional use permit from the Planning Commission.

The Planning Commission concurred with the recommendation of the General Plan Committee to allow basements under accessory structures outside the main building area with a conditional use permit from the Planning Commission. In reviewing applications, the Commission would need to make the finding that the basement would not impact heritage trees, require light wells be located on the interior side of the yard and could impose reasonable conditions including increased setbacks and limitation on size of light wells. Basements are not currently allowed outside the main dwelling area.

The Planning Commission did not concur with the recommendations of the General Plan Committee relating to the floor area of basement garages and the depth of basements. The Planning Commission recommended the current floor area exemption for basement garages continue, while the General Plan

Committee had recommended that the floor area of basement garages be calculated with the floor area for the lot. The Planning Commission did not see a need to limit the depth of basements, while the General Plan Committee recommended a maximum depth of 14'. The Planning Commission did agree with the General Plan Committee recommendation with the requirement to screen the driveway approach for basement garages.

There was discussion at both the Planning Commission and General Plan Committee meetings regarding light wells. Light wells are currently limited to the main dwelling area. The Planning Commission and General Plan Committee did not recommend any changes relating to light wells within the main dwelling area. They did recommend language relating to light wells at accessory buildings be located to the interior side of the lot.

A new defined term has been added for “accessory building.” Currently, “accessory structures” include tennis courts and pools and the General Plan Committee wanted to limit basements to under “accessory buildings” and not allow basements under “accessory structures.”

Staff has incorporated the recommendations of the Planning Commission and General Plan Committee with the attached draft Ordinance. For ease of read and implementation, staff has also reorganized the code section.

CONCLUSION:

It is Planning Staff’s professional opinion that the proposed Ordinance Amendment is consistent with the General Plan and will provide more flexibility in the area in which a basement is permitted to be located.

ALTERNATIVES:

The City Council could further modify the Ordinance or not adopt the changes.

FISCAL IMPACT:

Costs associated with the implementation of the Ordinance will be borne by applicants.

ENVIRONMENTAL IMPACT:

The proposal has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Sections 15305, Class 5 which permits minor alterations in land use limitations which do not result in any changes in land use or density.

FORMAL MOTION:

I move that the City Council introduce the Ordinance Amendment based on the finding listed in the staff report for the reasons listed in the staff report.

Prepared by:

Approved by:

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

James H. Robinson
City Manager

Attachments:

1. Draft Ordinance
2. Atherton Municipal Code section 17.36.190
3. Planning Commission minutes from the March 28, 2007, meeting (excerpt)
4. Staff Report – March 28, 2007, Planning Commission
5. Planning Commission minutes from the February 28, 2007, meeting (excerpt)
6. Staff Report – February 28, 2007, Planning Commission
7. General Plan Committee minutes (excerpt)
8. Staff Report – January 10, 2007, General Plan Committee

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
ADDING SECTION 17.08.032 and AMENDING SECTIONS 17.08.020, 17.08.054 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 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 120% of the floor area of the first floor of the main dwelling. 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 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.

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.
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.

Introduced this __ day of _____, 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

ATTEST

Alan Carlson
MAYOR, Town of Atherton

Kathi Hamilton
Acting City Clerk

APPROVED AS TO FORM:

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

Atherton Municipal Code

17.36.190 Basements.

Basements shall not exceed two feet in height above the surrounding average natural grade. Exceptions to the requirements 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. Basements are only permitted under the footprint of buildings located within the buildable area. Areas for stairways and light wells may extend beyond the footprint of buildings, but shall be limited to the buildable area. (Ord. 536 § 1, 2002; Ord. 497 § 10, 1998)

**APPROVED MINUTES
PLANNING COMMISSION MEETING
March 28, 2007
6:00 p.m.**

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

REGULAR MEETING

Chair Andrews called the meeting to order at 6:00 p.m.

ROLL CALL:

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

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

Ordinance Amendment- Ordinance Amendment amending Atherton Municipal Code Section 17.08.020, defining accessory structure, adding Section 17.08.180 defining accessory building and amending Section 17.36.190 regulating basements.

Lisa Costa Sanders reviewed the changes incorporated in the draft Ordinance based on direction provided at the last Planning Commission meeting.

OPEN PUBLIC COMMENT

Heide Welch, Ralston Road presented alternative language for the ordinance; “ A basement area may extend beyond the main dwelling by no more than 20 percent of the first floor building footprint.”

Steve Ackeley, Pacific Peninsula Group, noted the long process and stated that he supported the ordinance.

Lou Paponis, MacBain, stated he felt that the footprint should be defined.

Carol Flarety, Camino por los Arboles expressed her appreciation to the Commissioners. She added that most basements are used for entertainment, recreation rooms, home theater, wine cellars, etc. She stated she did not see a problem if larger basements were allowed since no one would see them. She discussed the need to consider the practical application and added that basements should be allowed within the buildable area.

Herman Christensen, Park Lane stated that he felt the proposed language was acceptable except that a basement garage should count in floor area and there should be some limit to the light wells from the basement wall. Regarding the wording on light wells, he suggested "...and not extend more than 10' from basement wall".

Paul Reyff, Atherton Avenue, expressed support for basements and garages and added that they should be encouraged to be built underground, while leaving green space above ground.

CLOSE PUBLIC HEARING.

Commissioner Dobbie stated support for keeping the basement the same size as the first floor.

Commissioner Hau noted that the issue of light wells was discussed at the General Plan meeting and that the Committee recommended no changes to the current light well requirement

Commissioner Oster suggested the basement could be extended to 120% of the floor area of the first floor with a Conditional Use Permit.

Commissioner Dobbie suggested changing the area of basement required to be under the home to 70% and keep the same square footage of the first floor.

Commissioner Waldron stated that she would not support basement larger than those currently allowed unless it were counted in the floor area.

Chair Andrews suggested allowing basements up to 120% of the first floor area with a Conditional Use Permit and 70% of the basement area must be under the footprint of the main residence. He also proposed the wording for light wells as "deeper than it is wide."

MOTION to accept the Ordinance as drafted with Section 17.36.190 (A)(1) to read "basement shall not extend beyond the main building area except as defined below."

M/S Dobbie/Oster Ayes: 3 Noes: 2 (Hau/Andrews)

MOTION to reconsider the last motion.

M/S Oster/Andrews Ayes: 3 Noes: 2 (Dobbie/Waldron)

MOTION to allow a basement of up to 120% of first floor with a Conditional Use Permit and to add to the last line of section 17.36.190(A)(1); "Basement shall not extend beyond the main building area except as defined below."

M/S Oster/Andrews Ayes: 3 Noes: 2 (Dobbie/Waldron)



DATE: PLANNING COMMISSION MEETING OF MARCH 28, 2007

TO: THE PLANNING COMMISSION

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

SUBJECT: ORDINANCE AMENDMENT REGULATING BASEMENTS

RECOMMENDATION

Staff recommends that the Planning Commission conduct the public hearing and recommend the City Council adopt the attached Ordinance based on the following finding for the reasons outlined in this staff report:

1. The proposed amendment is required to achieve the objectives of the Zoning Plan and the General Plan.

BACKGROUND

This item was discussed at the February 28, 2007 Planning Commission meeting. At that meeting, the Commission continued discussion and provided the following direction to staff to revise the Ordinance;

- Include alternate language for section 17.36.190(A)(1); “coincident to the exterior lines of building located within the main building area”. Or, “defined by lines running collinear with the exterior lines of buildings...”.
- Add a limitation to 17.36.190(A)(1); “basement area shall not exceed the floor area of the first floor of the main dwelling” and that “at least 80% of the basement area shall be located under the footprint of the main dwelling”.
- Eliminate the depth restriction in the Ordinance.
- Do not include basement garages in the floor area calculations.
- Allow basements under accessory structures outside the main dwelling area with a conditional use permit.

ANALYSIS

Staff has incorporated the changes as requested by the Planning Commission with the attached draft Ordinance.

Planning Staff reviewed the above listed recommendations with Building Department Staff. Building Staff felt that the requirement of at least 80% of the basement area be located under the footprint would adequately describe the area in which a basement could be located. Staff felt that the other description of “coincident to the exterior lines” or “collinear of the exterior lines” would not be necessary and felt the wording is subjective and open to interpretations. Staff has drafted the attached Ordinance as recommended by Building Staff. If the Commission also wished to include a further description of the area, the following language should be substituted in 17.36.190(A)(1);

“Basements are permitted under the area coincident to the exterior lines of buildings located within the main building area. Basement area shall not exceed the floor area of the first floor of the main dwelling and, at least 80% of the basement area shall be located under the footprint of the main dwelling.”

Commissioners discussed the option of limiting the area of light wells, but did not provide direction or recommend specific language at the last meeting. The Commission should discuss if it desires to limit the size of a light wells or continue the current limitation to within the main dwelling area. One option raised at the last meeting was to define a light well as “deeper than it is wide”. Light wells are required for habitable basements to provide an additional means of egress. The minimum size for a light well is 3’ from the exterior of the basement with a drop ladder. Staff would prefer a more standard staircase design rather than a ladder configuration. A standard staircase would require at least 6’ wide light well from the exterior of the basement. As stated above, the Commission could continue the current limitation of restricting light wells to the main building area. The view of any light well within the main building area can be mitigated with landscape screening. As proposed in the draft Ordinance, the Commission would have discretion to limit the size of the light well associated with a basement in a detached accessory structure outside of the main building area.

CONCLUSION:

It is Planning Staff’s professional opinion that the proposed Ordinance Amendment is consistent with the General Plan and will better define the area in which a basement is permitted to be located.

ALTERNATIVES:

The Planning Commission could further modify the Ordinance or not adopt the changes.

FISCAL IMPACT:

Costs associated with the implementation of the ordinance will be borne by applicants.

ENVIRONMENTAL IMPACT:

The proposal has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Sections 15305, Class 5 which permits minor alterations in land use limitations which do not result in any changes in land use or density.

FORMAL MOTION:

I move that the Planning Commission adopt the Ordinance Amendment based on the finding listed in the staff report for the reasons listed in the staff report.

Lisa Costa Sanders, Deputy Town Planner

Attachments:

1. draft Ordinance
2. Atherton Municipal Code section 17.36.190

**APPROVED MINUTES
PLANNING COMMISSION MEETING
February 28, 2007
6:00 p.m.**

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

REGULAR MEETING

Chair Andrews called the meeting to order at 6:00 p.m.

ROLL CALL:

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

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

Ordinance Amendment – Ordinance Amendment amending Atherton Municipal Code section 17.08

Lisa Costa Sanders presented the Staff report noting recommendations of the General Plan Committee to modify the current basement regulations.

OPEN PUBLIC COMMENT

Susan Aalaei, Flood Circle, stated that the Commission should be more open to changes.

Herman Christensen, Park Lane, distributed graphics of possible implementation of the new ordinance and expressed concern with the resulting expanded basement area. He recommended the Commission retain the existing basement regulations.

Steve Dostart, Patricia Drive, stated that the recommended Ordinance is a compromise and expressed his support.

Carol Flarety, Camino por los Arboles, stated that the proposed Ordinance is a thoughtful compromise and feels that the floor area of basement garages should not be counted towards the floor area limitations for the lot.

Paul Wythes, Park Lane, expressed concern that the proposed ordinance will allow very large basements that will impact heritage trees and drainage issues and that the Planning Commission should deny the Ordinance Amendment.

Linda Liebes, Monte Vista, recommended the Planning Commission deny the ordinance amendment due to concern with drainage and impact to heritage trees.

Denise Reyff, Atherton Avenue stated that she would prefer underground garages from an aesthetic perspective.

Scott Feamster, Park Lane, stated that he would like to see more house and less garage and the Commission should encourage underground garages.

Jeff Wise, Linden Avenue, stated that once built, a basement is not visible from the outside and the area surrounding the home is typically covered with hardscape (parking pads, patios, etc.). He stated that the floor area of basement garages should not be included.

Dave Welch, Ralston, stated the depth limit on basements should be removed.

Gene, Fletcher Drive, feels the proposed changes are poorly written and should keep basements under the footprint of the residence.

Phil Lively, Hawthorn, reviewed examples of basements with the proposed regulations and suggested Commissioners visit 49 Heather. He stated that the Commission should keep the ordinance as existing.

CLOSE PUBLIC COMMENT

Commissioner Andrews expressed concern with drainage and the use of the entire building area. He does not see an issue with underground garages.

Commissioner Hau stated that the Ordinance is a compromise situation, basement garages should not be calculated in the floor area requirements and remove the 14' depth restriction.

Commissioner Oster expressed concern with drainage, large light wells and would like to see underground garages count in the floor area due to the driveway approach.

Commissioner Dobbie stated that the problem with basements is cumulative, underground garages are unattractive, the Ordinance can be manipulated and suggested the area of the basement be the same square footage of the home and limited to under the home with some extensions.

Commissioner Waldron stated that we should not regulate the use in basements, do not include underground garages in the floor area calculations, would not like to see the Ordinance allow for expanded basement areas and would like to define light wells as "a well is deeper than it is wide".

Commissioners discussed alternate language for section 17.36.190(A)(1); “coincident to the exterior lines of building located within the main building area”. Or, “defined by lines running collinear with the exterior lines of buildings...”.

Commissioners also suggested a limitation to the area of basement be tied to the floor area of the first floor of the main building. Commissioners suggested a limitation of “basement area shall not exceed the floor area of the first floor of the main dwelling” and that “at least 80% of the basement area shall be located under the footprint of the main dwelling”. These regulations would limit the area that a basement could be constructed and eliminate the possible loophole of connecting the exterior points of a building to maximize the basement area.

MOTION to eliminate the depth restriction in the Ordinance.

M/S Andrews/Hau Ayes: 5 Noes: 0

MOTION to not include basement garages in the floor area calculations.

M/S Andrews/Hau Ayes: 5 Noes: 0

MOTION to require at least 80% of the basement shall be located under the footprint of the main dwelling.

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

MOTION to allow basements under accessory structures outside the main dwelling area with a conditional use permit.

M/S Andrews/Waldron Ayes: 4 Noes: 1

MOTION to continue this item to the next meeting.

M/S Andrews/Oster Ayes: 5 Noes: 0



DATE: PLANNING COMMISSION MEETING OF FEBRUARY 28, 2007
TO: THE PLANNING COMMISSION
FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER
SUBJECT: ORDINANCE AMENDMENT REGULATING BASEMENTS

RECOMMENDATION

Staff recommends that the Planning Commission conduct the public hearing and recommend the City Council adopt the attached Ordinance based on the following finding for the reasons outlined in this staff report:

1. The proposed amendment is required to achieve the objectives of the Zoning Plan and the General Plan.

BACKGROUND

At the request of the City Council, the General Plan Committee has reviewed the current regulations limiting basements. Basements are currently limited to “under the footprint of buildings located within the main building area”. Prior to 2002, basements were permitted to be constructed anywhere on the lot with a minimum 5’ setback.

The General Plan Committee, at their January 10, 2007 meeting, voted to recommend the Planning Commission consider several changes to the current basement regulations as follows;

- Allow basements under the area parallel to the exterior lines of buildings located within the main building area.
- Allow basements under accessory buildings with a conditional use permit from the Planning Commission.
- Include the floor area of basement garages in the floor area calculations for the lot.
- Basement garages may be permitted when the driveway approach is screened from the public right-of-way by design, landscaping or a solid wall and gate and that basement and driveway approach will not negatively impact heritage trees.

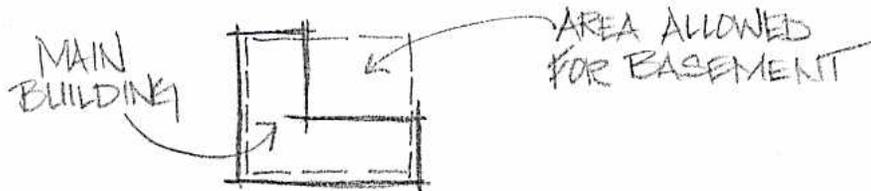
At a previous meeting of the General Plan Committee, the committee reached consensus on limiting the depth of basements to 14’ measured from average natural grade to the finish floor below.

ANALYSIS

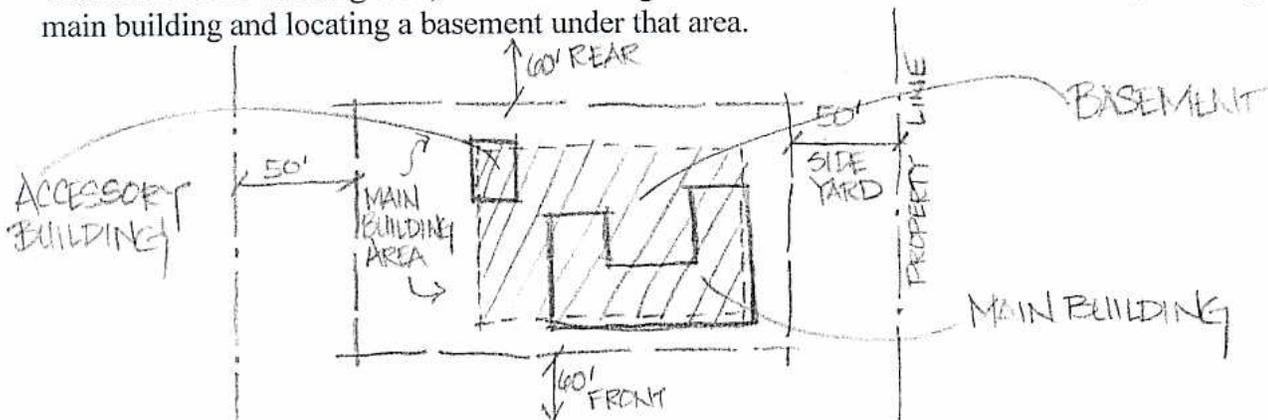
The current regulations only allow basements under the footprint of buildings located within the main building area. Areas for stairways and light wells may extend beyond the footprint of buildings, but

shall be limited to the main building area. Building is defined in the Atherton Municipal Code as “a structure having a roof supported by columns or walls”.

The General Plan Committee recommended the code be amended to allow more flexibility for the location of basements. The Committee recommended that basements be permitted under the area parallel to the exterior lines of buildings located within the main building area. A simple example is an “L” shaped main building could have a full square basement beneath it.



It should be noted that the proposed wording would allow creative siting of an accessory building within the main building area, then connecting all the exterior lines of the accessory building with the main building and locating a basement under that area.



A simple alternative would be to allow a basement to be constructed anywhere within the main building area. The General Plan Committee did discuss this option, but preferred to have a more restricted limitation as recommended.

The Committee also voted to recommend allowing basements under the footprint of accessory buildings outside of the main building area with a conditional use permit from the Planning Commission. In reviewing applications, the Commission would need to make the finding that the basement would not impact heritage trees, require light wells be located on the interior side of the yard and could impose reasonable conditions including increased setbacks. Staff also recommends that wording be added relating to “reasonable conditions” to include limitation on size of light wells. The Committee also recommended to include a new defined term for “accessory building”. Currently, “accessory structures” include tennis courts and pools and the Committee wanted to limit basements to under “accessory buildings” and not allow basements under “accessory structures”. Staff has added the defined term for accessory buildings and other resulting code revisions with this new defined term.

The Committee also recommended that the area of a basement garage be included in the floor area calculations for the lot and that a requirement be added to the code requiring basement garage driveway approach be screened from the public right-of-way by design, landscaping or a solid wall and gate and that the basement and driveway approach will not negatively impact heritage trees.

Staff has incorporated the recommendations of the General Plan Committee with the attached draft Ordinance. For ease of read and implementation, staff has also reorganized the code section.

CONCLUSION:

It is Planning Staff's professional opinion that the proposed Ordinance Amendment is consistent with the General Plan and will better define the area in which a basement is permitted to be located.

ALTERNATIVES:

The Planning Commission could further modify the Ordinance or not adopt the changes.

FISCAL IMPACT:

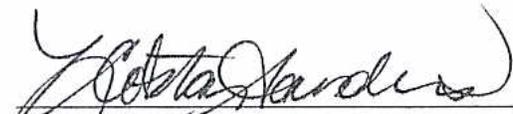
Costs associated with the implementation of the ordinance will be borne by applicants.

ENVIRONMENTAL IMPACT:

The proposal has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Sections 15305, Class 5 which permits minor alterations in land use limitations which do not result in any changes in land use or density.

FORMAL MOTION:

I move that the Planning Commission adopt the Ordinance Amendment based on the finding listed in the staff report for the reasons listed in the staff report.


Lisa Costa Sanders, Deputy Town Planner

Attachments:

1. draft Ordinance
2. Atherton Municipal Code section 17.36.190
3. General Plan Committee minutes (excerpt)
4. Staff Report – January 10, 2007 General Plan Committee

**GENERAL PLAN COMMITTEE
REGULAR MEETING
DRAFT MINUTES**

TOWN OF ATHERTON

January 10, 2007

6:00 P.M.

**TOWN COUNCIL CHAMBERS
94 ASHFIELD ROAD**

1. ROLL CALL:

PRESENT: Rose Hau
Marion Oster
Alan Carlson
Jim Janz
Todd Beardsley
James Ransohoff
Elizabeth Lewis
Randy Lamb

EXCUSED: Barbara Shoor

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

Basements

- i. Permitted location**
- ii. Garages**

Lisa Costa Sanders presented the staff report and outlined options listed in the staff report if the Committee wished to consider modifications to the current basement regulations.

Committee members asked about the status of the drainage report.

PUBLIC COMMENT

Steve Ackley, 55 Belbrook, stated that his firm, PPG, has constructed over 18 basements in town with no neighbor issues.

Steve Dostart, 85 Patricia, stated that the impacts of basements can be mitigated with screening and preservation of heritage trees and drainage issues can be resolved.

Carol Flaherty, 10 Camino por los Arboles, stated that they wanted to build a basement so they could maximize usable land area but was unable to do so due to a high water table. She expressed concern with a use permit process for basements.

Bill Ruehle, 233 Park, stated that they stated construction on their home in December, 2003 and due to defective construction had to start over. They resubmitted a design in 2006 and are under a stop work order due to current interpretation of basement regulations by the current Building Official.

Karin Payson, Architect, discussed the proposed plans at 233 Park with a basement under a patio. She presented a sketch of the plan for the Committee's review.

Carol Flaherty, noted her support for the design as presented by the Architect for 233 Park Lane.

Melinda Tevis, 88 Tallwood, expressed concern with drainage issues and the outcome of that report.

Dave Welch, 1 Ralston, stated that he would like to see the ability to construct basements.

Jeff Wise, 150 Linden, stated that basements are a great place to put space without impact to neighbors. In most parts of Town, the water table is not an issue. The Town should allow basement if no impact to heritage trees.

Scott Femster, 230 Park, feels that people should be allowed to construct basements and not be concerned with what happens below grade.

CLOSE PUBLIC COMMENT

Committee member discussed the following options relating to the area in which a basement could be constructed;

- Allow basements anywhere within the envelope of the building area.
- Allow basements under structures, calculate basement garage in allowed floor area
- Basement garages should be included in the floor area calculations, allow basements under structures within the main building area and ensure driveway is screened. Also limit light wells to 4'.
- Use permit process would allow more flexibility for creative design.
- Should only require the use permit process if there is an issue with the design or steep slope. Should allow basement under the area parallel to the perimeter of the exterior house walls.
- Allow basements under the area parallel to the exterior walls of the main dwelling within the main building area.
- Allow basements under the building footprint. If outside the building footprint, require a conditional use permit.

M/S Carlson/Lewis to recommend to the Planning Commission recommend an Ordinance to allow basements under the area parallel to the exterior lines of buildings located within the main building area. Motion passed.

Committee member discussed the following options relating to the basements under accessory structures;

- Basements should not be allowed under accessory structures.
- If allow basements under accessory structures, should require a greater setback.
- Should allow basements under accessory structures if no harm to heritage trees.
- Basement require large over cutting and should not be allowed outside of the main building area. Concern with damage to heritage trees.
- Basements could be located under accessory structures with larger setback requirement and no light wells.
- Basements could be allowed under accessory structures if the lightwell were located away from neighboring properties.
- Support basements under accessory structure with lightwells on the interior side and no impact to heritage trees.
- Allow basements under accessory structure with light wells directed away from the exterior property lines and restricted to building footprint.

M/S Hau/Lewis to recommend the Planning Commission recommend an Ordinance to allow basements under the footprint of accessory buildings with a Conditional Use Permit on the finding that the basement will not impact heritage trees, with light wells located on the interior side of the yard and that the Planning Commission may impose reasonable conditions including increase setbacks. Motion passed.

Committee member discussed the following options relating to the basement garages;

- Basement garages should be calculated in the floor area.
- Basement garages should be calculated in the floor area
- Do not include basement garages in the floor area calculations.
- Basement garages should be calculated in the floor area and screen from neighboring properties.
- Do not include basement garages in the floor area calculations.
- Basement garages should be calculated in the floor area.
- Basement garages should be calculated in the floor area.

M/S Lamb/Beardsley to not include the area of a basement garage in the floor area calculations. Motion failed (3-5).

M/S Carlson/Oster to recommend only allowing basement garages within the main building area. Motion passed (6-2)

M/S Oster/Carlson to recommend the Planning Commission recommend an Ordinance that will include the floor area of basement garages be included in the floor area calculations for the lot. Motion passed (5-3).

M/S Hau/Lamb to recommend the Planning Commission recommend an Ordinance that basement garages be permitted when the driveway approach is screened from the public right-of-way by design, landscaping or a solid wall and gate and that basement and driveway approach will not negatively impact heritage trees. Motion passed (7-1).



Town of Atherton

DATE: GENERAL PLAN COMMITTEE MEETING OF JANUARY 10, 2007
TO: THE GENERAL PLAN COMMITTEE
FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER
SUBJECT: BASEMENTS

RECOMMENDATION

Staff recommends the Committee discuss the options listed below and provide direction to staff.

BACKGROUND

At the September 13, 2006 meeting of the General Plan Committee, the Committee discussed two topics relating to basements; 1) the permitted location for basements; and 2) basement garages (staff reports attached).

Relating to the permitted location for basements, the Committee recommended replacement of the term "buildable area" with "main building area" defined as; "the area within a lot in which the main dwelling may be constructed". The Committee also requested the City Council direct the Committee to study the issue further. At its meeting of November 15, 2006, the Council approved the revised wording as recommended by the General Plan Committee and authorized the Committee to discuss the topic further.

Relating to basement garages, at its September 13, 2006 meeting, the Committee requested Staff prepare two options for consideration. Committee members expressed interest in options that would; allow basement garages with screening of the driveway approach, include the area in the floor area calculations and require a Conditional Use Permit for all basement garages.

DISCUSSION

Permitted location for Basements

The current regulations only allow basements under the footprint of buildings located within the main building area. Areas for stairways and light wells may extend beyond the footprint of buildings, but shall be limited to the main building area. Building is defined in the Atherton Municipal Code as "a structure having a roof supported by columns or walls".

If the Committee is interested in providing more flexibility for the area in which a basement could be constructed, it could consider the following options;

1. Allow a basement to be constructed anywhere within the main building area. This would

allow basements under patios or landscaped areas within the main building area. This would provide additional flexibility for locating a basement while still preserving trees within the tree preservation area (any area outside of the main building area). Staff has recently reviewed a few requests for full rectangular shaped basements under “U” shaped homes with a raised patio. Staff would recommend the regulations continue to limit areas for light wells and stairways to within the main building area.

2. Allow a basement to be constructed under accessory structures outside of the main building area. The Committee could consider allowing basements outright under accessory structures or could consider on of the following requirements;
 - a. Basements may be located under accessory structures with the issuance of a Conditional Use Permit from the Planning Commission on the finding that no heritage tree will be impacted with the construction of the basement (on the subject site and on any adjacent property).
 - b. Basements may be located under accessory structures when in the opinion of the Town Arborist the basement construction will not impact a heritage tree and will be constructed outside of any heritage tree preservation zone.
 - c. Basements may be located under accessory structures with a minimum 20’ setback from the side or rear property line and outside of any heritage tree preservation zone (defined as one foot per inch of tree diameter – example; a 20” diameter tree will have a 20’ radius from the perimeter of the trunk).

The Committee could also recommend no further modifications to the current basement regulations.

Basement Garages

The Committee could consider recommending that basement garages be regulated or could recommend no changes to the current code requirements.

If the Committee wishes to recommend regulations, it could consider the following options;

1. Garages may only be permitted in basement areas when the driveway approach is fully screened from the public right-of-way by design, landscaping or a solid wall and gate.
2. The floor area for garages located in basements shall be calculated in the floor area calculations for the lot.
3. Garages in basements require the issuance of a Conditional Use Permit from the Planning Commission on the finding that there is no negative visual impact of the driveway approach and the driveway will not negatively impact heritage trees.

Attachments

1. General Plan Committee Staff report – Permitted Location for Basements, September 13, 2006
2. General Plan Committee Staff report – Basement Limitations - Garages, September 13, 2006
- 3.



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: CITY COUNCIL MEETING OF MAY 16, 2007

SUBJECT: CONSIDERATION OF ADOPTION OF A RESOLUTION MAKING FINDINGS ON APPEAL OF THE PROPERTY OWNERS AT 84 WALNUT AVENUE FROM A DETERMINATION BY THE BUILDING OFFICIAL CHAPTER 17.44 OF THE ATHERTON MUNICIPAL CODE)

RECOMMENDATION:

Consider attached resolution making findings and, if appropriate, adopt the resolution by majority vote.

BACKGROUND:

At the City Council meeting on April 18, 2007, the City Council conducted a public hearing on an appeal by the property owners of 84 Walnut Avenue, from a determination by the Building Official that the proposed reconstruction of a residence on their property could not proceed under the provisions of the Town's nonconforming use regulations. Attached is a resolution setting forth the findings to support the grant of the appeal.

FISCAL IMPACT:

None.

Prepared By:

Approved By:

/s/Marc Hynes
Marc G. Hynes
City Attorney

James H. Robinson
City Manager

Attachment

RESOLUTION NO. 07-__

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
UPHOLDING APPEAL OF BUILDING OFFICIAL DETERMINATION
FOR 84 WALNUT AVENUE, ATHERTON**

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

The City Council of the Town of Atherton having reconsidered the matter, and in accordance with the provisions of Chapter 17.44 and particularly Sections 17.44.020 and 17.44.050 of the Atherton Municipal Code hereby makes the following findings and determinations in the appeal from the decision of the Building Official dated February 14, 2007, regarding loss of nonconforming status for property located at 84 Walnut Avenue, Atherton, California.

1. Amanda and Alan Miller, owners of property located at 84 Walnut Avenue, Atherton, California, ("Owners") timely appealed the decision of the Building Official regarding plans for a new residence proposed by them at 84 Walnut Avenue.

2. Amanda Miller was present at the appeal hearing and presented the matter on Owners' behalf.

3. Written and documentary evidence was presented and considered by the City Council, along with testimony from Amanda Miller, all of which testimony and evidence was received without objection and considered and discussed by the City Council Members during the public hearing and thereafter in making their determination.

4. The City Council determines that, based upon substantial evidence, the appeal should be granted and the Owners allowed to proceed with construction of their residence at 84 Walnut Avenue, Atherton, in accordance with approved plans, except for requirements to keep original walls in the nonconforming area, for the following reasons:

A. Owners proposed to alter a structure originally constructed in 1921 and located at 84 Walnut Avenue, Atherton, California.

B. Regulations regarding setbacks within the R-1B Zoning District in which the structure is located make the existing structure nonconforming under the provisions of Section 17.44.020 and related provisions of the Atherton Municipal Code, as adopted in 1985.

C. A building permit issued on June 14, 2006, allowed alteration of the residence with retention of a nonconforming room from the original residence. Approved plans required that a room with original walls and nonconforming area was to be kept. This required that the front wall and the left side wall remain.

D. During the course of construction, the contractor involved in demolition accidentally knocked down most of the above-described nonconforming walls and removed them

from the site. As a result, the Building Official determined that the nonconforming status of the structure had been lost and, accordingly, construction in the setback area as previously envisioned would no longer be authorized.

E. Section 17.44.050B of the Atherton Municipal Code provides that any non-conforming primary dwelling structure which was conforming at the time of its construction and which is damaged or destroyed by fire, explosion, earthquake, or other accidental occurrence may be restored within the building envelope which existed immediately prior to the accidental occurrence, provided that all such reconstruction must meet current building codes.

F. The City Council determines that based upon the evidence presented, the removal of original walls was accidental within the meaning of subsection B of Section 17.44.050 and, therefore, that work on the structure may be completed within the existing building envelope.

G. The City Council further finds that the adjacent property owners will be benefited by a prompt completion of the project as envisioned. Fairness to the Owners, coupled with the absence of any apparent adverse impact to the community supports a determination that for this case only and based upon the unique facts here, the determination of the Building Official is reversed.

This Resolution shall be effective immediately upon adoption.

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the 16th day of May, 2007, by the following vote.

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

ATTEST:

Alan Carlson
Mayor, Town of Atherton

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

/s/ Marc Hynes
Marc Hynes, City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCILMEMBERS

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: CITY COUNCIL MEETING OF MAY 16, 2007

SUBJECT: CONSIDERATION OF ADOPTION OF A RESOLUTION MAKING FINDINGS ON APPEAL OF THE PROPERTY OWNERS AT 370 ATHERTON AVENUE FROM A DETERMINATION BY THE BUILDING OFFICIAL RELATED TO 384 ATHERTON AVENUE (CHAPTER 17.64 OF THE ATHERTON MUNICIPAL CODE)

RECOMMENDATION:

Consider attached resolution making findings and, if appropriate, adopt the resolution by majority vote.

BACKGROUND:

At the City Council meeting on April 18, 2007, the City Council conducted a public hearing on an appeal by the owner of property at 370 Atherton Avenue, from determinations by the Building Official pertaining to construction work on property located at 384 Atherton Avenue involving the installation of a rockery feature and certain drainage work. Attached is a resolution setting forth the findings which support, in part, the appeal related to drainage issues while upholding the Building Official's determination, and therefore denying in part the appeal relative to installation of the rockery feature.

FISCAL IMPACT.

None.

Prepared By:

Approved By:

/s/ Marc Hynes
Marc G. Hynes
City Attorney

James H. Robinson
City Manager

Attachment

RESOLUTION NO. 07-

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON UPHOLDING APPEAL, IN PART, AND DENYING APPEAL, IN PART, OF BUILDING OFFICIAL DETERMINATIONS FOR 384 ATHERTON AVENUE, ATHERTON

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

The City Council of the Town of Atherton having considered an appeal of the owner of property located at 370 Atherton Avenue, Atherton, California, concerning certain work performed on adjacent property located at 384 Atherton Avenue, Atherton, California, hereby makes the following findings and determinations:

1. Michael D. MacGregor, owner of property located at 370 Atherton Avenue, timely appealed the decision of the Building Official regarding certain construction work performed on property at 384 Atherton Avenue, principally the installation of a rockery retaining wall/rockery feature and work on drainage facilities in the nature of absorption pits/dry wells immediately adjacent to the boundary line of said properties.

2. Michael D. MacGregor was present at the appeal hearing and presented the matter on his behalf.

3. Written and documentary evidence was presented and considered by the City Council, along with testimony from Michael D. MacGregor, all of which testimony and evidence was received without objection and considered and discussed by the City Council Members during the public hearing and thereafter in making their determination.

4. The City Council determines that, based upon substantial evidence, the appeal should be granted in part and denied in part as follows:

A. The owners of real property located at 384 Atherton Avenue have performed certain construction work on the property which includes the installation of a rockery retaining wall/rockery feature, and improvements to absorption pits which function as dry wells, at least one of which is equipped with a sump pump.

B. The owner of property located at 370 Atherton Avenue adjacent to 384 Atherton Avenue has appealed the decision of the Building Official approving the rockery retaining wall/rockery feature and objecting to approval of the existing location and present operation of absorption pits/dry wells which are discharging water onto appellant's property at 370 Atherton Avenue.

C. The City Council determines that, based upon the evidence presented, construction activities on 384 Atherton Avenue have resulted in the introduction of drainage water onto property located at 370 Atherton Avenue and must be corrected by the owner of 384 Atherton Avenue. The Owners of property located at 384 Atherton Avenue must take action to

restore the property to a state such that drainage therefrom will be handled in the same manner it was prior to any construction under the permit which is the subject of the appeal.

D. The City Council further finds that the determination of the Building Official that the rockery retaining wall/ rockery feature does not require treatment under the Atherton Municipal Code as a retaining wall is reasonable. The City Council notes the comments of the Director of Public Works to the effect that such features are considered to be erosion protection rather than retaining walls.

E. The City Council upholds the appeal with respect to the absorption pits/dry wells and, therefore, requires that the owner of property at 384 Atherton Avenue take action to restore the property to a condition such that drainage water will not flow onto or across property located at 370 Atherton Avenue.

F. The City Council further finds that the determination of the Building Official regarding the rockery retaining wall/rockery feature is properly approved as a landscape feature and therefore denies the appeal of the Building Official's approval of such feature.

This Resolution shall be effective immediately upon adoption.

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the 16th day of May, 2007, by the following vote.

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

ATTEST:

Alan Carlson
Mayor, Town of Atherton

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

*Marc Hynes*_____
Marc Hynes, City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF MAY 16, 2007

SUBJECT: CONSIDERATION AND POSSIBLE APPROVAL OF EXTENSION OF PLANNING SERVICES PROVIDED BY NEAL MARTIN ASSOCIATES

RECOMMENDATION:

Staff recommends that the City Council authorize the expansion of services provided by Neal Martin and Associates to provide the services of a part-time Planner in the Building Department to assist in the review of building permit plans.

BACKGROUND:

The audit of the Building Department and the needs analysis of the Department by the Interim Building and Planning Administrator (Gary Binger) both recommended an independent planning review of building permits. A proposal was requested and received from Neal Martin and Associates to provide these services as outlined in the attachment. The proposal anticipates a part-time Assistant Planner two days a week at a rate of \$55.00 per hour. The current Neal Martin contract currently includes the Assistant Planner position at this rate. As a result, it would not require an amendment to the existing contract but would require an appropriation for the 2007-08 fiscal year budget to accommodate the provision of these services.

FISCAL IMPACT:

The Finance Committee has reviewed and approved of this proposal as a part of the existing contract with Neal Martin and Associates which could be terminated by either party on 30-days notice. Estimated expenses between now and the end of the fiscal year are \$5,200.00

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

March 27, 2007

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

Dear Jim,

Neal Martin & Associates is pleased to provide a proposal to the Town of Atherton to provide the services of a part-time Assistant Planner. This proposal is provided in response to your request and based on our meeting with Building Official Mike Wasmann.

The Building Department Audit identified several areas in need of improvement and specifically the recommendations of Gary Binger and John Johns both identified the need for separate planning review of Building Permits.

Neal Martin & Associates proposes to place an Assistant Planner at the Building Department offices two days per week to complete the following tasks;

- Review Building Permit plans for conformance with Zoning Code requirements (floor area, setbacks, height, location of uses, etc). Planning Staff will review all plans for new structures or additions (new residences, additions, pools, accessory buildings, fountains, arbors, retaining walls, outdoor fireplace, etc.)
- Correspond directly with the applicant any plan check comments.
- Conduct site inspections as necessary
- Enter project status into permit tracking system
- Respond to inquiries at the counter and on the phone.

We feel two days per week would be adequate time to provide the Planning review of Building Permit plans and not cause any delay to the Building plan check process. If additional hours are needed due to increased building plan submittals, we will seek prior authorization from the City Manager. If the Assistant Planner has time available, we would have them prepare staff reports for the Planning Commission and General Plan Committee.

The Assistant Planner will require use of a desk, computer and phone while in the Building Department offices. We initially propose to provide these services on Tuesdays and Thursdays.

The Assistant Planner will report directly to the Deputy Town Planner or Town Planner who reports directly to the City Manager.

Based on the Neal Martin & Associates rate schedule as approved by the City Council, Assistant Planner services would be billed at a rate of \$55 per hour.

We look forward to further assisting the Town with professional planning services. Please contact me if you have any questions or need additional information. I can be reached at 650-333-0248.

Sincerely,

L. Costa Sanders

Lisa Costa Sanders
Chief Financial Officer, NM&A



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 MAY 16, 2007

**SUBJECT: REQUEST TO REFER THE REVIEW OF BUILDING HEIGHT LIMITS WITH
SOLAR PROJECTS TO THE GENERAL PLAN COMMITTEE**

RECOMMENDATION:

Staff recommends the City Council review the request and provide direction to staff as appropriate. The Council could refer the item to the General Plan Committee for further study or could direct staff to request the consultant include appropriate language as a part of the Zoning Code update.

BACKGROUND:

At the February 7, 2007, joint meeting of the General Plan Committee and Environmental Programs Committee, both committees voted to request the City Council refer the topic of height limits for solar projects to the General Plan Committee for further review.

REQUEST:

Concern was expressed at the joint meeting of the General Plan and Environmental Programs Committees that the Town does not have a height limit exemption for solar panels placed on top of a roof. The committees wanted to encourage the use of solar.

Currently, the maximum height of buildings is measured to the topmost point of the roof. Solar panels placed along the sides of a pitched roof would be within the height limit as the maximum height is measured to the roof ridge. Solar panels placed on a flat roof or on accessory structures may exceed the height limit if the building is designed at the maximum height limit.

17.08.070 Building height.

“Building height” means the vertical distance from the natural grade or finish grade, whichever results in the lower height, measured to the topmost point of the roof. Continuous decorative roof elements, including but not limited to widow walks and railings, shall be included in the maximum building height. (Ord. 539 § 2, 2003; Ord. 512 § 2, 2000; Ord. 497 § 5, 1998; Ord. 407 § 16-5, 1985)

Prepared by:

Approved by:

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

James H. Robinson
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: CITY COUNCIL MEETING OF MAY 16, 2007

SUBJECT: CONSIDERATION OF A MASTER RESOLUTION FOR COMMITTEES

RECOMMENDATION:

Review draft resolution which is designed to provide one master document governing all Town committees with the exception of the Planning Commission. The Planning Commission has been created by ordinance in compliance with State law and terms of provisions related to the Planning Commission will remain in Chapter 2.36 of the Atherton Municipal Code. The Council should provide direction to staff regarding the powers and duties of respective committees. Adoption of a formal resolution will be taken at a subsequent meeting at which time revisions will need to be made to the Atherton Municipal Code relative to the Parks and Recreation Commission and General Plan Committee and to the existing Resolution No.98-06 regarding the Arts Committee.

BACKGROUND:

Thirteen committees have been created to assist the City Council in connection with matters affecting the Town. The committees are described alphabetically in the attached draft resolution. With the exception of the Arts Committee, the Parks and Recreation Commission (whose name will be revised to the Parks and Recreation Committee to standardize matters) and the General Plan Committee, all other committees are presently described in the City Council Rules of Procedure. The Arts Committee was created and is governed by Resolution No. 98-06. The General Plan Committee and Parks and Recreation Commission/Committee were created by and are currently described in the Atherton Municipal Code Chapters 2.37 and 2.40, respectively.

The Planning Commission is established and described in Chapter 2.36 of the Atherton Municipal Code. Under State Planning Law, Government Code section 65100 and following, the Planning Commission must be established by ordinance. There is no similar requirement for establishment of the Parks and Recreation Commission/Committee or the General Plan Committee. Accordingly, these two may be removed from the Atherton Municipal Code and

placed in the draft resolution. Resolution 98-06 governing the Arts Committee would be rescinded and the Arts Committee added into the draft resolution as shown.

As may be seen, the respective committees are described in terms of membership, term of office, meeting schedule and location, and powers and duties. In some cases, powers and duties described are minimal. This will be readily apparent from the brevity of the description in the attached draft resolution. Other committees, such as the Arts Committee, have an extensive list which may or may not need to be retained.

Following review and any suggested revisions to the draft resolution, a final version will be presented for adoption, along with related actions on Resolution No. 98-06 and amending the Atherton Municipal Code as described.

FISCAL IMPACT:

None.

Prepared By:

Approved By:

/s/Marc Hynes
Marc G. Hynes
City Attorney

James H. Robinson
City Manager

Attachment

RESOLUTION NO. 07-

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
ESTABLISHING COMMITTEES**

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

Section 1. Establishment of Committees.

The following committees are established for the Town of Atherton:

1. Arts Committee
2. Atherton Channel Drainage District Committee.
3. Atherton Rail Committee
4. Audit Committee
5. Budget and Finance Committee
6. Buildings and Facilities Committee
7. Environmental Programs Committee
8. General Plan Committee
9. Parks and Recreation Committee
10. Screening Committee
11. Transportation Committee
12. Tree Committee

Section 2. Rules of Procedure. All committees of the Town shall follow the Rules of Procedure as adopted by and as amended by the City Council.

Section 3: Appointment of Voting Members to Committees – Powers and Duties.

Members other than City Council Members shall be appointed following recommendation of the City Council Screening Committee and approval by the City Council. All appointed members shall be registered voters in the Town. Members shall serve at the pleasure of the City Council, or until the terms as set out in the respective committees described below.

Section 4. Powers and Duties. The powers and duties of the Town's committees shall be as described below:

1. Arts Committee.

Consists of up to, but not exceeding, ten (10) members appointed by the City Council. The term of office is as follows: Five (5) of the Town resident members shall be appointed to a four (4) year term commencing 2007. The remaining Town resident members' terms shall be three (3) years commencing 2007. Thereafter, each term of office shall be for four (4) years. The Arts Committee meets on the 4th Tuesday of each month at 1:00 p.m. in the Holbrook-Palmer Park Garden Room. The Arts Committee shall have the following powers and duties:

- a. Study, evaluate and recommend Town policies relating to arts activities such as, but not limited to: Facilities Use Policy, Guidelines for Co-sponsorship of Arts Groups, fees and charges and license agreements.
- b. Provide a forum for citizen comments on needs, current services, facilities, and then report said citizen comments and the Arts Committee recommendations to the Park and Recreation Committee and City Council.
- c. Review the annual budget that relates to the arts, as submitted to the Council by the City Manager, and make recommendations concerning the budget to the Park and Recreation Committee.
- d. Review and report on other specific service areas as requested by the City Council or City manager.
- e. Review those portions of Master Plans of park or facility development or expansion which relate to the arts, for adequacy, appearance and other appropriate criteria, in an attempt to ensure good design and then make recommendations to the Park and Recreation Committee.
- f. Attend appropriate meetings, workshops and conferences, and represent the Town when requested by the City Council and/or City Manager.
- g. Prepare an annual Arts Committee work program for Park and Recreation Committee and City Council review and approval.
- h. Review and make recommendations regarding co-sponsored and directly funded groups in the area of arts.
- i. Suggest and help secure outside funding sources for the arts.
- j. Study the Regional and State Arts Master Plans and make recommendations thereon to the Park and Recreation Committee and the City Council.
- k. Examine alternatives for the yearly art event.
- l. Study and make recommendations regarding the establishment of a Fund for the Arts.
- m. Make recommendations regarding a public/private partnership for the arts.

2. Atherton Channel Drainage District Committee.

Consists of three (3) members including two (2) Council Members, and one (1) resident of the Town. The committee meets on an as-needed basis in the City Council Chambers. The term of

office shall be a one (1) year term concurrent with the Council Member's term on the committee. The Atherton Channel Drainage District Committee shall have the following powers and duties:

a. Act in an advisory capacity to the City Council in all matters pertaining to the Atherton Channel Drainage District.

3. Atherton Rail Committee.

Consists of thirteen (13) members including two (2) Council Members and up to eleven (11) residents of the Town. The committee meets on the first Tuesday of each month at 6:00 p.m. in the City Council Chambers. The term of office shall be a one (1) year term concurrent with the Council Members' term on the committee. The Atherton Rail Committee shall have the following powers and duties:

a. Act in an advisory capacity to the City Council in all matters pertaining to rail service in and through the Town. The Atherton Rail Committee will research and address the specific impact of high-speed rail and other rail improvements may have on the Town.

4. Audit Committee.

Consists of seven members, including two Council Members of the Budget and Finance Committee, and five residents of the Town. The committee meets quarterly in the Conference Room of the Town Administrative Offices. The term of office of three (3) Town resident members appointed in 2005 shall be for three years. The terms of two of the remaining two Town resident members shall be for four (4) years. Thereafter, the term of office shall be for four (4) years. The Audit Committee shall have the following powers and duties:

a. Act in an advisory capacity to the City Council in all matters pertaining to Town finances.

b. Provide oversight of the annual audit.

c. Provide guidance to Town Staff on financial controls.

5. Budget and Finance Committee.

Consists of two (2) Council Members. The Members also serve on the Audit Committee. The committee meets on an as-needed basis in the conference Room of the Town Administrative Offices. The term of office is one (1) year. The Budget and Finance Committee shall have the following powers and duties:

a. Act in an advisory capacity to the City Council in all matters pertaining to Town finances.

6. Buildings and Facilities Committee.

Consists of two (2) Council Members. The committee meets on an as-needed basis in the Conference Room of the Town Administrative Offices. The term of office is one (1) year. The Buildings and Facilities Committee shall have the following powers and duties:

a. Act in an advisory capacity to the City Council in all matters pertaining to Town buildings and facilities.

7. Environmental Programs Committee.

Consists of twelve (12) members including two (2) Council Members and ten (10) residents of the Town. The committee also includes the City Manager, Town Arborist, a South Bay Waste Management Authority (SBWMA) representative, and a representative of the franchise waste hauler. The committee meets monthly on the first Wednesday of the month at 10:00 a.m. in the Conference Room of the Town Administrative Offices. The term of office is as follows: Five (5) of the Town resident members shall be appointed to a five-year term commencing 2007. The remaining five (5) Town resident members' terms shall be four (4) years commencing 2007. Thereafter, each term of office shall be for four (4) years. The Environmental Programs Committee shall have the following powers and duties:

a. Act in an advisory capacity to the City Council in all matters pertaining to environmental issues, including:

- i. Global warming and CO2 emissions
- ii. Green Building
- iii. Earth Day events
- iv. ABAG/PG&E Energy Watch Partnership
- v. E-Waste Collection Day
- vi. Mayors Agreement on Climatic Change
- vii. Energy Awards for Homeowners
- viii. Energy Consumption Reduction in Town and School Buildings.

8. General Plan Committee.

Consists of two (2) Council Members, two (2) Planning Commissioners and up to five (5) residents of the Town. The committee meets quarterly on the first Wednesday of the month at 6:00 p.m. in the Town Council Chambers. Town resident members are appointed by the City Council for one four(4) year term. Council and Planning Commission representatives are selected by their respective bodies for a term of one (1) year. The General Plan Committee shall have the following powers and duties:

a. Act in an advisory capacity to the City Council in all matters pertaining to planning.

b. Review the General Plan and make recommendations to the City Council, Planning Commission and Town Staff regarding the operation of the ordinances and policies in the community on the subject of planning.

9. Parks and Recreation Committee.

Consists of seven (7) residents of the Town. One resident shall be a representative of the Holbrook-Palmer Park Foundation. One resident shall be a representative of the Atherton Dames. Each representative shall serve a term of two (2) years and no more than two consecutive terms. The term of office for the two (2) members ending in 2008 shall continue for one additional four (4) year term. The terms of office for the remaining three (3) members shall be four (4) years for members appointed in 2007 and five (5) years if the member was appointed in 2008, and thereafter for a period of four (4) years. No member shall serve for more than two (2) full consecutive terms. The Parks and Recreation Committee meets on the first Wednesday of each month at 6:30 p.m. in Holbrook-Palmer Park, 150 Watkins Avenue, Atherton, California. Thereafter, each term of office shall be for four (4) years. The Parks and Recreation Committee shall have the following powers and duties:

- a. Act in an advisory capacity to the city council in all matters pertaining to parks and public recreation and to cooperate with other governmental agencies and civic groups in the advancement of the park and recreation planning and programming; and
- b. Develop and maintain a master plan for park development for each park facility within the town and annually, in the month of April, present a report to the city council detailing the changes to the plan enacted by the council during the previous year and proposed study or change of the future year; and
- c. Consider the annual budget for parks and recreation during the process of its preparation and make recommendations with respect thereto to the city council. The budget should contain estimates and recommendations for such long-term capital outlay projects as may be necessary to provide for an orderly development of park and recreation areas and facilities; and
- d. Study and make recommendations on the acquisition and development of recreation areas and facilities such as playgrounds, parks, pools and other centers of recreation; and
- e. Assist in the planning of recreational programs for the inhabitants of the town, promote and stimulate public interest therein, and to that end, solicit public and private agencies, interested therein.

10. Screening Committee.

Consists of two (2) Council Members. The committee meets on an as-needed bases in the conference Room of the Town Administrative Offices. The term of office is one (1) year. The Screening Committee shall have the following powers and duties:

- a. Act in an advisory capacity to the City Council in all matters pertaining to interview all applicants for Town committees and the Planning Commission, and to make recommendations for appointment to the City Council.

11. Transportation Committee.

Consists of five (5) members including two (2) Council Members and three residents of the Town. The committee meets quarterly on the second Tuesday of the month at 6:00 p.m. in the City Council Chambers. The term of office shall be a one (1) year term concurrent with the Council Member's term on the Committee. The Transportation Committee shall have the following powers and duties:

- a. Act in an advisory capacity to the City Council in all matters pertaining to transportation.

12. Tree Committee.

Consists of _____ Town resident members, including the Town Arborist. The committee meets on an as-needed basis. The term of Town resident members shall be for _____ years. The Tree Committee shall have the following powers and duties:

- a. Act in an advisory capacity to the City Council in all matters pertaining to the Town's heritage trees.

This Resolution shall be effective immediately upon adoption.

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the _____ day of _____, 2007, by the following vote.

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

ATTEST:

Alan Carlson
Mayor, Town of Atherton

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

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



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF MAY 16, 2007

SUBJECT: DISCUSSION AND FINALIZATION OF GOALS AND OBJECTIVES

RECOMMENDATION:

The City Council consider the finalization of a list of previously established and new goals with the expectation that the goals would be circulated and ranked by the City Council to be returned to the June 20, 2007, City Council meeting with the results.

BACKGROUND:

The City Council initially established and prioritized certain goals. In addition, the City Council identified additional goals at its meeting of June 14, 2006. At its meeting of April 9, 2007, the City Council requested an agenda item be placed on the May 16, 2007, meeting for finalization of the goals list. Following the May 16, 2007, meeting, the list of goals would be circulated for ranking and returned at the June 20, 2007, meeting with the results.

Attached is a list of the previously established goals and new goals identified in June 2006. In addition, space is provided to identify any new goals that could be discussed at our May 16, 2007, meeting and prioritized for consideration at our June meeting.

CITY COUNCIL
PREVIOUSLY ESTABLISHED LIST

GOAL

STATUS

1. Establish Objectives and Identify Funding sources for El Camino Real and Other Drainage Improvements:	Completed for the Atherton Drainage Channel, not for El Camino Real.
2. Establish a Strategy for the Atherton Channel Upgrade, Repairs and Long-Term Maintenance:	Projects completed at upper channel and along Marsh Road Monitoring continues Ongoing
3. The Valparaiso Study and Implementation of Appropriate Recommendations:	Completed.
4. The Housing Element:	Town is participating in a county wide Regional Housing Needs Allocation program . Ongoing.
5. Developing a Long-Term Financial Plan:	Completed but evaluated and revised each year .
6. Review and Revise the Strategic Park and Recreation Plan:	Completed.
7. Establish a Strategy for Maintaining a Full Staffing for the Police Department that Currently Exists:	Completed.
8. The Needs Assessment for Town Facilities:	Some items completed and a proposal to evaluate further needs is underway.
9. The Town Home:	Money budgeted for improvements.
10. Town-wide Street Striping Improvements:	Completed.
11. The General Plan Review and Update:	A great deal had been done; however the required five-year review was not completed.
12. Volunteer Recognition:	A policy was not yet established, recognition occurred at Council Meetings, and an event was contemplated.
13. The Strategic Plan for Town Computer Technology Needs:	Accomplishments in the Finance and Police Departments, needs in the Building Department.
14. Update the Atherton Resident Handbook:	Completed.
15. Revise and Update the Commission and Committee Handbook:	Completed.
16. Construction Noise Control Techniques:	Ongoing.
17. Revise Employee Personnel Rules and Procedures:	In progress.
18. Review and Revise the City Council Rules of Procedures:	Completed.
19. Updating the Municipal Code:	Ongoing

NEW GOALS JUNE 2006/FUTURE GOALS

GOAL

STATUS

1. Develop Alternative Funding Sources for the Town Budget that were Non-Parcel Tax Funding Sources.	Staff has submitted various grant applications for irrigation, bridge, tennis court, and creek restoration for Holbrook Palmer Park. Staff currently working on a review of building and engineering fees.
2. Develop a Drainage Plan.	Council approved contract study by BKF. Review underway and study partially completed. Workshop planned for May 14, 2007
3. Prioritization of Giving and Membership Support to Various Groups.	Prioritization not completed Council has authorized financial support for HIP Housing and continues to receive requests for funding support for Sustainable San Mateo County and periodically from other groups. (See attached list.)
4. Code Enforcement	City Council authorized a contract with CSG to provide contract code enforcement services 1 day a week through June 30, 2007. A progress report will be presented to the City Council.
5. Emergency Preparedness	City Council authorized a City Council emergency preparedness committee. To date regular meetings have been held, many residents and city council members have become CERT trained. Sgt. Grimm has completed the revised Atherton Emergency and Disaster Preparedness Program Operations Manual. In addition, plans are underway to move the Emergency Operations Center to the Corporation Yard and authorization to purchase a generator for the EOC and a Well at Holbrook Palmer Park approved by Council.
6. Facility Plans	The City Council Facilities Committee has completed a preliminary needs analysis for the City Hall, Police Station, and Permit Center. The Committee is currently working on a preliminary plan to utilize in the solicitation of funding.
7. Grant Resource Person:	We continue to utilize existing staff for grant applications.
8. Alternative Power Sources:	The Environmental Programs Committee sponsored Earth Week in April where representatives of Solar City provided information about Solar alternatives along with dozens of green exhibitors. The EPC and staff have met with PG&E and ABAG to complete an audit of Town facility energy use and determine where improvements can be made.
9. Caltrain Service Issues:	The Atherton Rail Committee meets monthly and has been actively involved with CETS to seek restoration of week day rail service. The Committee has also worked with CETS group in encouraging the adoption of Resolutions in Burlingame, Belmont, Atherton, and other cities requesting that a consultant be hired to evaluate train schedules that would provide additional local service.
10. Town Home Renovations:	The Town Home was recently "tented" and fumigated for Termite Infestation. The Town Home along with other park facilities have recently had a comprehensive inspection by an independent inspector to evaluate any needed improvements
11. Building Department Operations Review:	Audits have been completed in review of the Building Department Operations and many of the recommendations implemented Staff is currently working with CRW to develop a permit tracking system proposal . In addition a new Building Official has been appointed and recruitment is underway for a Senior Building Inspector and plan checker.

GOAL

STATUS

12.	
13.	
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Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF MAY 16, 2007

**SUBJECT: SELECT A DATE FOR A SPECIAL MEETING FOR
CONSIDERATION OF THE DRAFT FY 2007-2008 OPERATING
AND CAPITAL BUDGET**

RECOMMENDATION:

The City Council to select a date for a Special Meeting to consider the Draft FY 2007-2008 Operating and Capital Budget.

BACKGROUND:

The staff and Finance Committee are currently developing a Draft Budget for the Fiscal Year 2007-2008. In recent years, the City Council has held special meetings to consider a draft operating and capital budget. Staff recommends that the City Council select a date prior to the regular City Council meeting date of June 20, 2007, to consider, hold the public hearing, and adopt the budget. Possible dates could include Wednesday, June 13, 2007, or Monday, June 18, 2007.



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF MAY 16, 2007

**SUBJECT: DISCUSSION AND POSSIBLE ACTION REGARDING A
RECRUITMENT PROCESS FOR A CITY MANAGER**

RECOMMENDATION:

City Council consider the process for recruitment and selection of a City Manager to fill the vacancy created by the retirement of the current City Manager.

BACKGROUND:

The City Council has several alternatives for conducting the recruitment of a City Manager. These may include:

1. The City Council conducts the recruitment;
2. The City Council retains a professional recruitment firm to conduct the recruitment;
3. The City Council conducts the recruitment utilizing a hybrid of the first two alternatives by sharing the responsibilities between the City Council and a professional recruiter.

Currently, both of our neighboring cities of Redwood City and Menlo Park are conducting recruitments for a City Manager. Redwood City is utilizing the firm of Ralph Anderson and Associates and Menlo Park is utilizing the firm of Bob Murray Associates.

There are a number of critical steps in recruitment of a City Manager, and understanding those steps and the resources available in-house to complete these steps could assist in the determination of the preferred method for the selection process.

Generally, these are the basic number of steps for recruitment:

1. Establish criteria for a preferred candidate which would include experience and abilities desired.
2. Establish a Salary Range and benefit package to be offered.
3. Establish a Schedule for recruitment and selection.
4. Develop a Job Flyer.
5. Publish Job Flyer in appropriate publications that could include Western Cities Magazine, ICMA, Jobs Available, and the ICMA website.
6. Determine Process for screening applications and selection of candidates for interviews.
7. Determine Process for interviews of candidates.
8. Conduct initial interviews.
9. Conduct finalist interviews.
10. Conduct background check on finalist(s).
11. Prepare offer to finalist.
12. Negotiate employment agreement.
13. Approve agreement.

All or part of the above could be completed by a professional recruitment firm. The City Council would need to determine its preferred role in the recruitment process to select its next City Manager and determine in what steps of the process the City Council would be involved.

In order to assist in this process, staff recommends that the City Council solicit proposals from at least three professional firms. These proposals could provide the City Council with valuable information related to the approach to the recruitment and the estimated costs to assist in all or a portion of the above steps to complete the recruitment process.

Attached is a publication created by the International City/County Management Association that provides in greater detail Recruitment Guidelines for a City Manager.