



**AGENDA**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**  
**September 20, 2006**  
**5:30 P.M. *NOTE TIME***  
**Meeting Room**  
**Town Administrative Offices**  
91 Ashfield Road  
Atherton, California  
**Special Meeting**

**5:30 P.M.     ROLL CALL             Janz, J. Carlson, A. Carlson, Marsala, McKeithen**

**5:32 P.M.     PUBLIC COMMENTS**

**5:35 P.M.     CLOSED SESSION**

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

**Claimant: Pasquale Exposito**  
**Agency Claimed Against: Town of Atherton**

**Claimant: Giselle McKeller**  
**Agency Claimed Against: Town of Atherton**

**Claimnant: Min Katrina Lieskovsky**  
**Agency Claimed Against: Town of Atherton**

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

**One (1) potential case**

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

**Three (3) potential cases**

**RECONVENE TO OPEN SESSION**

**Report of action taken.**

**ADJOURN**

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*☛ 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**  
**September 20, 2006**

**7:00 p.m.**

**Pavilion** ➔ **NOTE LOCATION**  
**Holbrook-Palmer Park, 150 Watkins Avenue**  
**Atherton, California**

**REGULAR MEETING**

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

- 7:00 P.M.    1.    **PLEDGE OF ALLEGIANCE**
- 7:03 P.M.    2.    **ROLL CALL**            Janz, J. Carlson, A. Carlson, Marsala, McKeithen
- 7:05 P.M.    3.    **PRESENTATION**
- 7:05 P.M.    4.    **COUNCIL REPORTS**
- 7:20 P.M.    5.    **PUBLIC COMMENTS** (only for items which are not on the agenda – limit of three minutes per person)
- 7:30 P.M.    6.    **STAFF REPORTS**
- 7:40 P.M.    7.    **COMMUNITY ORGANIZATION ROUNDTABLE REPORT**  
(Directed by Resolution Nos. 99-6 and 02-31)
- 7:40 P.M.    **CONSENT CALENDAR** (Items 8 – 17)

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

8.    **APPROVAL OF MINUTES OF THE SPECIAL MEETING OF AUGUST 3, 2006, AND THE REGULAR AND SPECIAL MEETINGS OF AUGUST 16, 2006**
9.    **APPROVAL OF BILLS AND CLAIMS FOR AUGUST 2006 IN THE AMOUNT OF \$ 1,117,357**

**10. ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR AUGUST 2006**

**11. ADOPTION OF A RESOLUTION APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE CALIFORNIA RIVER PARKWAYS GRANT PROGRAM UNDER THE WATER SECURITY, CLEAN DRINKING WATER, COASTAL AND BEACH PROTECTION ACT OF 2002 (PROPOSITION 50) FOR THE ATHERTON CHANNEL AT HOLBROOK-PALMER PARK RESTORATION AND PATHWAY PROJECT**

**Recommendation:** Adopt a resolution authorizing staff to submit an application for a California River Parkways Program grant to restore and expand the Atherton Channel adjacent to the Holbrook-Palmer Park south meadow and create a new pathway.

**12. ADOPTION OF A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE LOCAL AGENCY GRANT PROGRAM - FISCAL YEAR 2006/07 UNDER THE HABITAT CONSERVATION FUND PROGRAM OF THE CALIFORNIA WILDLIFE PROTECTION ACT OF 1990 FOR THE ATHERTON CHANNEL AT HOLBROOK-PALMER PARK RESTORATION AND PATHWAY PROJECT**

**Recommendation:** Adopt a resolution authorizing staff to submit an application for A Habitat Conservation Fund (HCF) Program grant to restore and expand the riparian habitat of the Atherton Channel adjacent to the Holbrook-Palmer Park south meadow and create a new pathway, and committing the required local match of 50%

**13. ADOPTION OF A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE LOCAL AGENCY GRANT PROGRAM- FISCAL YEAR 2006/07 UNDER THE HABITAT CONSERVATION FUND PROGRAM OF THE CALIFORNIA WILDLIFE PROTECTION ACT OF 1990 FOR THE UPPER ATHERTON CHANNEL RESTORATION PROJECT**

**Recommendation:** Adopt a resolution authorizing staff to submit an application for a Habitat Conservation Fund (HCF) Program grant to rehabilitate and restore the Upper Atherton Channel adjacent to Walsh Road and Reservoir Road, and committing the required local match of 50%.

**14. BIENNIAL REVIEW OF THE TOWN'S CONFLICT OF INTEREST CODE**

**Recommendation: Conduct review of the Town's Conflict of Interest Code and confirm, by motion, its continued effect.**

**15. ACCEPTANCE OF STAFF RESPONSE TO GRAND JURY REGARDING DISASTER PREPAREDNESS**

**16. ACCEPTANCE OF STAFF RESPONSE TO GRAND JURY REGARDING REPORT ON POLICE DEPARTMENT RADIOS**

**17. APPROVAL OF AN AGREEMENT BETWEEN THE TOWN OF ATHERTON AND THE SEQUOIA UNION HIGH SCHOOL DISTRICT TO CONTINUE THE SCHOOL RESOURCE OFFICER PROGRAM**

**Recommendation: Authorize the Mayor to sign the agreement between the Town and Sequoia Union High School District to continue participation in the School Resource Officer Program at Menlo-Atherton High School.**

**PUBLIC HEARINGS (Items 18 & 19)**

**7:50 P.M. 18. INTRODUCTION OF AN ORDINANCE FOR THE PRESERVATION OF HISTORICAL ARTIFACTS**

**Recommendation: Staff recommends that the City Council conduct the public hearing, waive reading of the ordinance beyond the title, and introduce an Ordinance.**

**8:10 P.M. 19. INTRODUCTION OF AN ORDINANCE TO AMEND THE LENGTH OF THE CONSTRUCTION TIME ORDINANCE**

**Recommendation: Staff recommends that the City Council conduct the public hearing, waive reading of the ordinance beyond the title, and introduce an Ordinance.**

**REGULAR AGENDA (Items 20 - 26)**

**8:30 P.M. 20. CONSIDERATION AND POSSIBLE ACTION REGARDING ROAD IMPACT FEES (RESOLUTION NO. 00-27) AND OFF-HAUL EXCAVATION SURCHARGE (RESOLUTION NO. 05-34)**

- 9:30 P.M. 21. **CONSIDERATION OF ATHERTON POLICE DEPARTMENT SURVEY CONDUCTED BY GODBE ASSOCIATES**
- Recommendation: Receive and consider a PowerPoint presentation of the results of the survey regarding Atherton residents' level of satisfaction with police services in the Town of Atherton**
- 10:00 P.M. 22. **UPDATE FROM THE GENERAL PLAN COMMITTEE**
- Recommendation: Staff recommends that Council accept the report.**
- 10:20 P.M. 23. **PUBLIC COMMENTS**
- 10:30 P.M. 24. **ADJOURNMENT**

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(29CRF35.104 ADA Title II.)



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

**August 3, 2006**

**5:30 P.M.**

**Meeting Room  
Town Administrative Offices**

91 Ashfield Road  
Atherton, California

**Special Meeting**

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

**ROLL CALL**

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

**PUBLIC COMMENTS**

There were no public comments.

**CLOSED SESSION**

**A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

City Attorney

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

One (1) potential case

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

Two (2) potential cases

**RECONVENE TO OPEN SESSION**

**Report of action taken.**

**City Attorney Marc Hynes reported during open session that no reportable action was taken by Council regarding Items A, B, and C.**

**ADJOURN**

**The Special Meeting adjourned at 10:45 p.m.**

**Respectfully submitted,**

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**Charles E. Marsala  
Mayor**

**Minutes Prepared by:**

**Kathi Hamilton**



**DRAFT MINUTES**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**  
**August 16, 2006**  
**6:00 P.M.**  
**Meeting Room**  
**Town Administrative Offices**  
91 Ashfield Road  
Atherton, California  
**Special Meeting**

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

**ROLL CALL**

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

**PUBLIC COMMENTS**

There were no public comments.

**CLOSED SESSION**

**A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

City Attorney

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

One (1) potential case

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

Two (2) potential cases

## **RECONVENE TO OPEN SESSION**

### **Report of action taken.**

**City Attorney Marc Hynes reported during open session that Items A. B. & C. were continued to the end of the Regular City Council Meeting at which time the Closed Session was reconvened at 10:05 p.m. There was no reportable action taken on Items A. B. & C.**

## **ADJOURN**

**The Special Meeting adjourned at 10:20 p.m.**



**DRAFT MINUTES**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON**  
**CHANNEL DRAINAGE DISTRICT**  
**August 16, 2006**  
**7:00 p.m.**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California

**REGULAR MEETING**

Mayor Marsala called the meeting to order at 7:10 p.m.

1. **PLEDGE OF ALLEGIANCE**

2. **ROLL CALL**

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

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

3. **PRESENTATION**

NONE

4. **COUNCIL REPORTS**

- Council Member McKeithen said the newly formed Emergency Preparedness Committee met that afternoon with Sergeant Grimm, Chief Brennan, and the City Manager and looked into securing vital equipment: 1) a new generator was needed in order to move the emergency operations center from the Council Chambers to the Corporation Yard, as well as moving telephone lines; 2) a mobile command center operation so police cars would have monitors to access vital information; 3) the well at the park; and 4) a trailer for the police to use at incident sites. A report would be provided to the Council on how the funds would be spent. The citizens' emergency preparedness group met and was working on a citizens' Captain Manual for each of the 14 to 16 divisions of the Town. Community groups were also meeting on the issue.

- Vice Mayor Alan Carlson also attended the meetings of the Emergency Preparedness Committee and the citizens' group.
- Council Member Jerry Carlson attended the San Francisco Airport Roundtable meeting. Discussion centered on the budget.
- Council Member Janz said the Atherton Rail Committee was involved in discussions with Menlo Park regarding quiet zones and pursuing money for safety improvements on the Caltrain line. He attended the August 10<sup>th</sup> Cities/County Association of Governments (C/CAG) meeting. C/CAG was supporting several bond issues on the November ballot. Proposition 1b, SB1266, provided \$40 million to San Mateo County for local street and road improvements of which Atherton would receive \$40 thousand. With regard to the sub-regional allocation process for the San Mateo County housing allocation, 16 cities had already approved it and the remaining 5 were scheduled to consider it and indicated support for the process.
- Mayor Marsala announced the Town barbecue, sponsored by the Atherton Dames and Holbrook-Palmer Park Foundation, was scheduled for October 15, at 3:00 p.m. He and Council Member Jerry Carlson attended the League of California Cities meetings in July. Menlo College asked Mayor Marsala to be on its Board of Directors. The college was organizing its students to do more community service and to apply for an Americorp grant to work on improving test scores in the local area. He discussed upcoming issues regarding "finished" grade and allowing basements under accessory structures on large lots and the need for clarification in the Zoning Code. Mayor Marsala wrote to one newspaper expressing disappointment in the headline of an article about the Town. He and Council Member Janz attended a Waste Reduction Committee meeting, which would be renamed the Environmental Policy Committee and would be promoting "green" building.
- Council Member McKeithen said the Atherton Channel needed additional repair along the entire wall on Marsh Road. Additionally, she met with Public Works Director Duncan Jones, Rosemary Maulbetsch, Public Works Supervisor Steve Tyler, as well as Town Arborist Kathy Hughes Anderson to discuss the train station. City Manager Jim Robinson would ask Caltrain to replace missing windows, to repair wood rot, and to do some painting. Regarding the landscaping, dead trees, bushes, and flowers were removed, making an immediate improvement.

## 5. PUBLIC COMMENTS

**Jim Dobbie, James Avenue, spoke regarding the cancellation of a recent General Plan Committee meeting. He suggested preparing rules and procedures for at least the General Plan Committee and the Planning Commission. Additionally, he believed the website was not up to date.**

**Assistant to the City Manager Wende Protzman explained the Town was experiencing temporary problems with website posting, which should be solved in the next two weeks. An announcement to that effect was posted on the home page.**

A short discussion took place regarding the merits of developing rules and procedures for the General Plan Committee. City Attorney Marc Hynes noted that Section 2.37.060 of the Atherton Municipal Code spoke to meetings and quorums: “The general plan committee shall meet on the call of its chairperson, at least annually. A quorum shall consist of a majority of the members of the committee.” Section 2.37.040 gave authority to adopt guidelines for the committee’s transactions and business.

John Sisson, Belleau Avenue, spoke regarding the Building Department audit and the right for the public to be informed.

Don Arata, Encinal Avenue, offered to donate a sandbagging machine to the Town.

Pat Gemma, Superintendent, Sequoia Union High School District, spoke regarding the Pop Warner Football organization and his decision to grant permission for Pop Warner to use the Menlo-Atherton High School football field for games and practices. An attempt was made to meet the new guidelines. Pop Warner made many changes to its game and practice schedule with the exception of August practices, which ended at 8 p.m. He asked that any complaints be referred to him in the future.

Council Member McKeithen said she received many complaints from neighbors. People were upset and disheartened with the Town and the District. She did not believe Pop Warner should be encouraged to violate an ordinance given that so much went into making compromises in the first place.

Vice Mayor Alan Carlson thought the decision by the District put the Town in a difficult position. The Town enacted the ordinance and needed to determine what to do about the violation. Additionally, he disagreed with the legal authority under which the District was acting.

Jim Dobbie, James Avenue, said clarification was needed as to who had authority over the school fields for non-school related activities, i.e., Pop Warner. His understanding was except for school-related activities, the schools had to abide by Atherton’s ordinances.

**6. STAFF REPORTS**

- **City Attorney Marc Hynes reported out of Closed Session as follows:**
  - A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION**  
**City Attorney**
  - B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**  
**Significant Exposure to litigation pursuant to subsection (b) of Government Code Section 54956.9:**

One (1) potential case

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

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

Two (2) potential cases

The Closed Session was continued at 7:05 p.m. to the end of the Regular Meeting.

- **City Manager Jim Robinson announced that articles were being solicited for the fall *Athertonian* and should be sent to Wende Protzman at the Town Administrative Offices. He complimented the citizens' emergency preparedness group of the ACIL for its display of the emergency preparedness kit at Town Hall. Additionally, he testified before the Caltrain Joint Powers Board regarding improvements needed to the Atherton train station: painting, a new roof, hold-out improvements, fencing, quad gates, etc. Staff was continuing to work on behalf of the Town to ensure service was restored. The results of the attitudinal survey regarding the Police Department would be presented at the September Council meeting.**
- **Finance Director John Johns said the auditors were performing the yearend review.**

**7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT**

**Carolyn Williams, Principal, Selby Lane School, said she had been at Selby Lane School for the past six years, five years in administration and currently as the principal. Test scores had increased, and the school was approaching a score of 800, which was considered an excellent school. Hopefully, in the next year, the school would soon become an International Baccalaureate Middle Years Program School.**

**A short discussion ensued regarding the street reconstruction project on Selby Lane.**

**Mayor Marsala offered his congratulations for the turnaround in Selby Lane School over the past four years. The rising test scores were a great inspiration to the community.**

**Council Member Jerry Carlson offered his thanks, as well. He would like to see the high school become involved in the International Baccalaureate Program so the Selby Lane School students could make a smooth transition to high school.**

**CONSENT CALENDAR (Items 8 –13)**

Council Member Janz suggested with regard to Item No. 12, the BKF agreement, the first line in paragraph 10 should read, “The consultant *has not* employed or retained any...”; line 3, remove the words “*that he*”; line 6 should read, “For breach or violation of the *foregoing*....”

Council Member McKeithen, suggested with regard to Item No. 13, the CSG Consultants agreement, the term Building Official should be replaced with Director of Building and Planning in Section 8. In Section 17, A 4, Errors and Omissions Insurance should reflect \$2,000,000.

**MOTION – to approve the Consent Calendar as presented with modifications to Items 12 and 13.**

**M/S McKeithen/Janz**

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

- 8. APPROVED MINUTES OF THE SPECIAL AND REGULAR MEETINGS OF JULY 19, 2006**
- 9. APPROVED BILLS AND CLAIMS FOR JUNE 2006 IN THE AMOUNT OF \$975,498**
- 10. ACCEPTED MONTHLY FINANCIAL REPORT FOR JULY 2006**
- 11. ACCEPTED STAFF RESPONSE TO CIVIL GRAND JURY REQUEST (INTERNET CRIME REPORT)**
- 12. APPROVAL OF AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE TOWN OF ATHERTON AND BKF ENGINEERS TO REVIEW THE TOWN’S DRAINAGE CRITERIA**

**Approved the amendments in the attached Professional Services Agreement with BKF Engineers for the Review of the Town’s Drainage Criteria with above-noted changes.**

- 13. APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE TOWN OF ATHERTON AND CSG CONSULTANTS, INC., FOR BUILDING OFFICIAL, BUILDING INSPECTION, PLAN REVIEW AND CODE ENFORCEMENT SERVICES**

**Approved the attached Agreement for Professional Services with CSG (Consultants) to provide interim Building Official Services and Code Enforcement Services to the Town of Atherton with above-noted changes.**

**PUBLIC HEARINGS NONE**

**REGULAR AGENDA** (Items 14 - 17)

**14. PHASE III BUILDING DEPARTMENT PERMIT AND PROCESS AUDIT**

**Finance Director John Johns presented the staff report. The first two phases of the audit focused on fee collection practices. The emphasis in Phase III was to look at the permit issuance process, the plan check process, and the building inspection process. The project should be completed in approximately 400 hours over 7 weeks. A report would be submitted to the Council by October 9<sup>th</sup> to be discussed at the City Council meeting of October 18th. The Building Department would be asked to assist in collecting the records, particularly those records that had been closed or were on microfiche. Preliminary assessment of the physical and electronic recordkeeping systems resulted in the need for a new permit tracking system. Additionally, the records out in the field were not coming back to the office when a project was closed resulting in the inability to verify whether inspections were conducted. An immediate remedy was put in place that a copy of the permit card which recorded the inspections would be retained as a part of the permit record. The type and characteristics of the files that needed to be examined were identified, along with the objective evaluative criteria that would be used, e.g., the files should contain a record of a licensed civil engineer having verified setback requirements and height limitations. Developing subjective criteria would require the use of a subject matter expert, particularly in examining whether the number and frequency of inspections were reasonable in relation to the complexity and size of the project. Approximately 80 hours would be required for this part of the project. A great deal of work had been done with the risk assessment process and the assessment of the physical and electronic recordkeeping systems.**

**A discussion ensued regarding what systems and procedures had been put in place as a result of the Phase I and Phase II audits. The Building Department had implemented new fee assessment collection procedures. More work needed to be done in the area of better documentation of policy and procedures for the entire department, as well as acquiring a new permit tracking system. Staff was visiting various cities to observe different software. A temporary, short-term improvement to the current system would be implemented within the next few weeks. Cost varied depending upon how many “bells and whistles” would be included. Staff would submit a recommendation to Council at the October Council meeting.**

**Council Member Janz wanted to know how much of the Phase III audit addressed the issues in Phase I and Phase II. He was concerned about spending \$32,000 to review files over the past 5 to 6 years when what needed to be done had already been determined and work was being done to remedy the issues.**

**Finance Director Johns said the objective was to identify whether there were recurring instances of non-compliance with essential elements of the permit process, e.g., whether the Building Department had consistently required**

**applicants to submit their engineer reports for setback and height requirements. The fundamental question that Phase III would address was whether builders adhered to the Zoning Ordinance and Building Codes.**

**Council Member Jerry Carlson listed five items to be addressed: 1) The Phase III audit needed to be completed, and the implementation of new processes, new computer software, the completion of documentation, the institution of internal controls, and training of employees needed to be completed by October. He asked that the outside auditors verify that the systems and procedures were adequate and complete. He also requested that any new systems captured information at the front-end to be tracked throughout the entire process and brought to closure. 2) A professional Personnel/Human Resources function as part of Town staff was needed. 3) He believed there was an unresolved issue with the City Attorney regarding the City Council's right to decide whether or not to accept the risk of reading the special investigator's report. 4) A follow-up was needed regarding the City Manager's handling of the matter which would be addressed as part of the evaluation process. 5) He was under certain constraints as to what could be made public: a) concern for residents' privacy who were quoted in the report; employees had privacy rights when disciplinary actions were taken; b) employee personnel records could not be disclosed pursuant to a request under the California Public Records Act; c) disclosure of the report to the public without the permission of the affected employees could subject the Council to legal liabilities based upon claims of invasion of privacy; d) personal liability may attach to any disclosure to confidential personnel records. He believed the Finance Director was doing a thorough job with the Phase III audit.**

**Vice Mayor Alan Carlson was also concerned with spending \$32,000 for the Phase III audit and asked what the Finance Director's time would cost for the project, as well as the cost for the Phase I and Phase II audits.**

**Finance Director Johns said his hourly rate was \$65 an hour. The cost of Phase I and Phase II, not including the Finance Director's time, was approximately \$12,000.**

**Vice Mayor Carlson said once a system was selected, it should include 1) a software system by which all permit activity could be tracked from issuance of the permit to compliance with the critical criteria; 2) policies and procedures that included human systems checks; and 3) adequate management of the system. His question was whether the \$32,000 would be better spent putting the system together and moving forward rather than looking backward to find consistency. He was willing to assume consistency was not present and suggested moving forward to remedy the system. If it were decided to look back, only look back one year to determine whether you needed to look back further.**

**Council Member Jerry Carlson believed there were unanswered questions that constituted a reason for the Finance Director to decide what proper amount of data/time was needed.**

**Finance Director Johns said no matter how good a new system would be it would be unable to determine for many months what the opportunities for improvement were. The real purpose of looking back was to determine what the department was doing right and what it needed to do to improve, as well as to address the concerns brought forward by constituents.**

**Council Member McKeithen believed if spending \$32,000 would finally put an end to the matter, the money would be well spent. Until the records were examined and all the constituents' issues and concerns were answered, credibility would not be restored to the Building Department. Examining the records would show how to avoid the systematic violations in the future.**

**Discussion ensued regarding the transfer of data from the old data base to a new system and the integrity of the information being transferred. One reason for performing the audit and for looking back was to determine that the information that was unreliable by virtue of the lack of security did have some reliability to it. Even with very good systems, ongoing audits were essential. Additionally, changes in procedures had taken place in the Building Department such as the Plan Checker or the Building Official needing to sign off on issuing permits. Staffing issues would be examined and recommendations would be forthcoming. Training needs would also be addressed.**

**Mayor Marsala said there was a balance between spending \$32,000 and restoring credibility in the Building Department. He had visited over 40 projects in the past few years only to discover that everything was done right. Upgrading software throughout the Town had been identified at least 5 years ago. Some of the \$32,000 could be used for that purpose.**

**Council Member Jerry Carlson suggested talking with other cities for solutions, particularly the cities of Dublin, Pleasanton, and Martinez, before spending thousands of dollars for a new system.**

**The discussion centered on what information the Phase III report would actually ascertain other than how many times a mistake was made since the Town's records were inadequate. There was an argument for doing substantive testing; however, if the Council preferred, a report could be written based upon the analytical review and the understanding of the process already completed.**

**Vice Mayor Alan Carlson preferred a report from the Finance Director where deficiencies were identified and subsequent to that the Council could determine whether it wanted to go through the records and prove the deficiencies. The \$32,000 could then be spent to fix the problem.**

**Council Member McKeithen disagreed. Until the files were reviewed, the issues and problems could not be determined, i.e., that calculations were based on property records from ten years ago or that there were three different notations for the square footage of a property. Without researching the files, the Town was being reactive rather than proactive: 1) A generic system could not be built to account for the kinds of creativity found in the Town; 2) the citizens who raised concerns could not be answered; and 3) the entire issue of credibility would not be addressed.**

**In response to Vice Mayor Alan Carlson, Finance Director Johns said audit staff would not be able to render a definitive answer as to whether a particular project had met all the zoning and building requirements applicable. However, should instances of apparent non-compliance were discovered, the files would be flag for a more thorough review by a qualified individual. In the end, a statement of findings would be produced.**

**Bob Jenkins, Atherton, spoke regarding construction projects and the data that should be retained. Additionally, he noted a significant number of projects were found that used the value as represented by the owner. He believed the actual square footage should be determined for residential properties in Atherton.**

**Mayor Marsala queried whether any funds would actually be recaptured.**

**Finance Director Johns said the \$32,000 would be charged to the Building Department and would be recovered from building fees.**

**Vice Mayor Alan Carlson suggested the Council authorize the Phase III audit, not to exceed \$32,000, with the understanding that the Finance Director could use his discretion to go back up to five years to review files.**

**Council Member Janz believed the audit was a “fishing” expedition. His concern was that after spending \$32,000, nothing new would be discovered, or a situation would arise that required more money to be spent to find an answer. He did not have a fundamental issue with reviewing the files, he wished it cost less.**

**In response to Council Member Jerry Carlson, Finance Director Johns said the probable range for the cost of the audit was between \$24,000 and \$32,000. He believed the money would be well spent from a systems planning standpoint.**

**Mayor Marsala agreed with Council Member Janz but also thought gaining value from a software standpoint was important.**

**MOTION – to approve the scope of the Phase III of the Building Department Permit and Process Audit with the understanding that the Finance Director reserved the right, after review of 20+ files, to cut back or stop the review if nothing new was discovered**

**15. DISCUSSION AND CONSIDERATION OF APPOINTING ALTERNATES TO CITY COUNCIL STANDING COMMITTEES**

**Mayor Marsala noted that alternates for City Council Standing Committees did not exist and believed there were times when a backup was necessary.**

**A discussion ensued and the consensus was there would be a lack of continuity. Generally, Council Members were not concerned if one of the appointed members could not attend.**

**No action was taken.**

**16. DISCUSSION AND POSSIBLE ACTION REGARDING CITY COUNCIL GOALS AND OBJECTIVES**

**City Manager Jim Robinson presented the staff report. Before the Council was a prior list of goals, newly identified goals and the status of whether the goals had been completed or were ongoing. He suggested that Council either identify new goals that evening so staff could prepare a list to send out to Council for prioritizing, or address the list that evening.**

**Vice Mayor Carlson favored using a ranking system that staff would analyze and then return the prioritized list for Council to consider. He also thought establishing a Human Resources function for the Town should be added which went along with revising Employee Personnel Rules and Procedures.**

**A discussion ensued as to the timeline for reviewing the General Plan (every five years) and a determination was made to add it to the list.**

**City Manager Robinson said he would add the new items to the previously established list and send it to the Council to prioritize.**

**Bob Jenkins, Atherton, spoke regarding developing a Strategic Plan for the Town. The Strategic Plan should include a Vision Statement and a Mission Statement from which the goals would flow.**

**A discussion ensued regarding the merits of developing a Mission Statement.**

**John Sisson, Atherton, spoke regarding Mission Statements and thought they became useless. He favored prioritizing the list of goals and seeking public input on the process.**

**Council Member Janz did not think a Mission Statement could be written for the Town but thought one could be written for employees as part of the Personnel Rules and Procedures.**

**MOTION – to continue the item to the next meeting with the understanding that the City Manager would provide a list to the City Council**

**M/S A.Carlson/Marsala                      Ayes: 5   Noes: 0   Absent: 0   Abstain: 0**

- 17.    CONSIDER ADOPTION OF A RESOLUTION PROVIDING FOR THE APPOINTMENT TO THE OFFICE OF CITY COUNCIL THOSE PERSONS WHO HAVE BEEN NOMINATED, OR ADOPTION OF A RESOLUTION TO HOLD THE GENERAL MUNICIPAL ELECTION AS SCHEDULED ON NOVEMBER 7, 2006**

**MOTION – to adopt Resolution No. 06-15, “A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON PROVIDING FOR APPOINTMENTS TO THE OFFICE OF CITY COUNCIL OF THE TOWN OF ATHERTON THAT WERE TO BE ELECTED ON TUESDAY, NOVEMBER 7, 2006” and cancelling the election**

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

- 18.    PUBLIC COMMENTS**

**There were no public comments.**

- 19.    ADJOURNMENT**

**Mayor Marsala adjourned the meeting at 10:05 p.m. to a *Continued* Closed Session**

- A.    PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

**City Attorney**

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

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

**One (1) potential case**

- C    CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

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

**Two (2) potential cases**

**There was no reportable action taken on Items A. B. & C.**

**Mayor Marsala adjourned the *Continued* Closed Session at 10:20 p.m.**

**Respectfully submitted,**

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**Kathi Hamilton  
Acting City Clerk**



## 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 SEPTEMBER 20, 2006**

**SUBJECT: ADOPT A RESOLUTION APPROVING THE APPLICATION FOR  
GRANT FUNDS FOR THE CALIFORNIA RIVER PARKWAYS  
GRANT PROGRAM UNDER THE WATER SECURITY, CLEAN  
DRINKING WATER, COASTAL AND BEACH PROTECTION  
ACT OF 2002 (PROPOSITION 50) FOR THE ATHERTON  
CHANNEL AT HOLBROOK-PALMER PARK RESTORATION  
AND PATHWAY PROJECT**

#### **RECOMMENDATION:**

Adopt a resolution authorizing staff to submit an application for a California River Parkways Program grant to restore and expand the Atherton Channel adjacent to the Holbrook-Palmer Park south meadow and create a new pathway.

#### **BACKGROUND:**

In July, the State of California Resources Agency issued a call for projects to be funded by the California River Parkways Grant Program. The program provides state funds for the development of capital projects to restore, protect and develop river parkways throughout California. Project applications are due by October 17, 2006. A total of \$40.5 million is available statewide in the 2006/07 fiscal year.

The Park and Recreation Commission considered this grant program at its September 6, 2006, meeting. The Commission recommended that an application be submitted for restoring and expanding the Atherton Channel and creating a new pathway in accordance with the recently adopted Landscape Master Plan.

In order to submit an application for a project, the following is required:

1. Resolution of the City Council approving the filing of the application for the grant.
2. Project application, location map, site plan, site photographs, preliminary workplan, and cost estimate. These items are being prepared by staff to be ready for submittal on October 18.

### **ANALYSIS:**

The project recommended for the River Parkways application consists of restoration and expansion of the south meadow side of the Atherton Channel between the Caltrain tracks and the first park entrance along Watkins Avenue and creation of a new pathway beside and into the new riparian habitat. This park feature was developed as a part of the Landscape Master Plan process. The Landscape Master Plan was presented at the Joint City Council/Park and Recreation Commission meeting held on October 6, 2004. The Park and Recreation Commission considered this grant application at its September 6, 2006, meeting and recommended that the City Council approve application for the grant.

No matching funds are required for this grant; however, projects that include other sources of funds will be more competitive. The project will be defined to include the bridge and pathway for which a federal grant has been received. Federal grants are acceptable "other sources" for state grants. In addition, the Atherton Dames have pledged proceeds from their kitchen tour towards the bridge project. These funds will also count as other sources for this grant as well.

A branch of the walking path will pass through the newly planted area to provide a different recreational and educational venue for park patrons. This walking path will qualify as a recreational river parkway, an essential element of the grant eligibility criteria. The agency representative also suggested that the walking path is a positive educational feature of the project that will improve its score.

The project will remove the existing channel lining on the park side of the Atherton Channel, excavate a significant quantity of earth to create a gradually sloping creek bank, and re-vegetate the new creek bank with native riparian plant species. The project will restore the bank to a natural habitat for native plants and wildlife. The native plants will help clean the water in the channel before it exits into San Francisco Bay. Improving habitat for wildlife and water quality is also an element of this grant program's eligibility criteria.

Currently, the Atherton Channel runs through Unincorporated County, Redwood City and Menlo Park before reaching the Bayfront Canal. The Canal, which outlets to the Bay, has insufficient capacity for some of the heavier rainstorms experienced in recent years, and flooding occurs frequently in the jurisdictions downstream from Atherton. Construction over the decades since the Atherton Channel was constructed has increased the runoff from the Channel District properties. Current new construction practices require no

increase in runoff, but reduction of the runoff from the Atherton Channel is needed to reduce the impacts to downstream neighbors. The additional volume added by the excavation for this project will provide additional flood water storage within the Atherton Channel, providing supplemental protection from flooding to downstream properties. Flood management is another element of grant eligibility.

A preliminary discussion with a Resources Agency representative, at the agency's August 2, 2005, workshop, indicated that this type of urban stream restoration project is a very strong contender for funding by its grant program.

A grant application was submitted in 2005 but was not recommended for approval. This is a re-application for the same project.

**FISCAL IMPACT:**

The cost estimate for the Atherton Channel at Holbrook-Palmer Park Restoration Project is \$500,000 based on a cost estimate prepared by staff, including design, construction, inspection and contingency. The trail bridge and pathway project is estimated to cost \$131,000. The total project cost is \$631,000. No matching funds are required for this grant; however, projects that include other sources of funds will be more competitive. By incorporating the trail, bridge and pathway in the project, with funding already secured, the project will be more competitive for the River Parkways grant. The following chart summarizes the costs related to this grant:

Atherton Channel Restoration and Expansion

Grant Amount	\$500,000
Federal Grant	\$104,800
Local Match	<u>\$26,200</u>
Total Cost	<u>\$631,000</u>

Prepared by:

Approved by:

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

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James H. Robinson  
City Manager

Attachments: Resolution

**RESOLUTION 06-**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE  
CALIFORNIA RIVER PARKWAYS GRANT PROGRAM UNDER THE WATER  
SECURITY, CLEAN DRINKING WATER, COASTAL AND BEACH  
PROTECTION ACT OF 2002 (PROPOSITION 50)**

WHEREAS, the Legislature and Governor of the State of California have provided Funds for the program shown above; and

WHEREAS, the Resources Agency has been delegated the responsibility for the administration of this grant program, establishing necessary procedures; and

WHEREAS, said procedures established by the State Resources Agency require a resolution certifying the approval of the application by the Applicant's governing board before submission of said application to the State; and

WHEREAS, the Applicant, if selected, will enter into an agreement with the State of California to carry out the Project

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the Town of Atherton:

1. Approves the filing of an application for the Atherton Channel at Holbrook-Palmer Park Restoration and Pathway Project;
2. Certifies that Applicant understands the assurances and certification in the application, and
3. Certifies that Applicant will have sufficient funds to operate and maintain the Project consistent with the land tenure requirements; or will secure the resources to do so, and
4. Certifies that it will comply with the provisions of Section 1771.8 of the State Labor Code regarding payment of prevailing wages on Projects awarded Proposition 50 Funds, and
5. If applicable, certifies that the Project will comply with any laws and regulations including, but not limited to, legal requirements for building codes, health and safety codes, disabled access laws, and, that prior to commencement of construction, all applicable permits will have been obtained, and

6. Appoints the City Manager, or designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to, applications, agreements, payment requests and so on, which may be necessary for the completion of the aforementioned Project.

\* \* \* \* \*

*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 20<sup>th</sup> day of September, 2006, by the following vote:*

<i>AYES:</i>	<i>COUNCILMEMBERS:</i>
<i>NOES:</i>	<i>COUNCILMEMBERS:</i>
<i>ABSENT:</i>	<i>COUNCILMEMBERS:</i>
<i>ABSTAIN:</i>	<i>COUNCILMEMBERS:</i>

ATTEST:

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Charles E. Marsala, MAYOR  
TOWN OF ATHERTON

---

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

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Marc G. Hynes, City Attorney



## 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 SEPTEMBER 20, 2006**

**SUBJECT: ADOPTION OF A RESOLUTION AUTHORIZING APPLICATION FOR  
GRANT FUNDS FOR THE LOCAL AGENCY GRANT PROGRAM -  
FISCAL YEAR 2006/07 UNDER THE HABITAT CONSERVATION FUND  
PROGRAM OF THE CALIFORNIA WILDLIFE PROTECTION ACT OF  
1990 FOR THE ATHERTON CHANNEL AT HOLBROOK-PALMER  
PARK RESTORATION AND PATHWAY PROJECT**

#### **RECOMMENDATION:**

Adopt a resolution authorizing staff to submit an application for a Habitat Conservation Fund (HCF) Program grant to restore and expand the riparian habitat of the Atherton Channel adjacent to the Holbrook-Palmer Park south meadow and create a new pathway, and committing the required local match of 50%.

#### **INTRODUCTION:**

In June, the State of California Department of Parks and Recreation issued a call for projects to be funded by the HCF grant program. The HCF program provides State funds for programs which bring urban residents into park, recreation or wildlife areas. Project applications are due by October 2, 2006. Funds totaling \$2.0 million (\$500,000 for riparian habitat) are available for HCF projects statewide in the 2006/07 fiscal year.

The Landscape Master Plan process produced a suggestion that the Atherton Channel adjacent to the south meadow be restored to its natural riparian condition to improve the edge conditions of the park. A pathway in the riparian area will provide opportunities for park patrons to view the natural habitat. This area will also function as a storm water retention site.

In order to submit an application for a project, the following is required:

1. A resolution of the City Council approving the filing of the applications for the grant, and certifying the availability of the required local share of the total project cost. This project will be constructed within the next three years, so the City Council can commit to providing the local share in a future year's budget.
2. Documentation of completed environmental clearance. A categorical exemption under California Environmental Quality Act (CEQA) is required for HCF program. An environmental clearance document has been prepared by staff and can be approved at staff level for categorical exemptions.
3. Location map, site plan, project proposal, cost estimate and photographs. These items are being prepared by staff to be ready for submittal by October 2.

### **ANALYSIS:**

The project recommended for the HCF program application consists of restoration and expansion of the south meadow side of the Atherton Channel between the Caltrain tracks and the first park entrance along Watkins Avenue and creation of a new pathway beside and into the new riparian habitat. The project will remove the existing channel lining on the park side of the Atherton Channel, excavate a significant quantity of earth to create a gradually sloping creek bank, and re-vegetate the new creek bank with native riparian plant species. The project will restore the bank to a natural habitat for native plants and wildlife. The native plants will help clean the water in the channel before it exits into San Francisco Bay. Improving habitat for wildlife and water quality is a significant element of this grant program's eligibility criteria.

The project will also create additional retention area for storm water being carried by the Atherton Channel. Currently, the Atherton Channel runs through Unincorporated County, Redwood City and Menlo Park before reaching the Bayfront Canal. The Canal, which outlets to the Bay, has insufficient capacity for some of the heavier rainstorms experienced in recent years, and flooding occurs frequently in the jurisdictions downstream from Atherton. Construction over the decades since the Atherton Channel was constructed has increased the runoff from Channel District properties. Current new construction practices require no increase in runoff, but reduction of the runoff from the Atherton Channel is needed to reduce the impacts to downstream neighbors. The additional volume added by the excavation for this project will provide additional flood water storage within the Atherton Channel, providing supplemental protection from flooding to downstream properties. Flood management is another element of grant eligibility.

This park feature was developed as a part of the Landscape Master Plan process. The Landscape Master Plan was presented at the joint City Council/Park and Recreation Commission meeting held on October 6, 2004. The Park and Recreation Commission considered this grant application at their September 6, 2006, meeting and recommended that the City Council approve application for the grant.

### **FISCAL IMPACT:**

The cost estimate for the Atherton Channel at Holbrook-Palmer Park Restoration Project is \$500,000, based on a cost estimate prepared by staff including design, construction, inspection and contingency. The Town needs to commit to fund \$250,000 to match the HCF grant;

however, other non-state grants may be able to provide matching funds for the HCF grant and vice versa, if such other grants are awarded. A maximum of \$250,000 from the either Parcel Tax funds, or the new Parks for the Future funding if passed by the voters, will need to be committed and budgeted for the project in future years.

Prepared By:

Approved:

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

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James H. Robinson  
City Manager

Attachments:  
Resolution

**RESOLUTION 06-**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE LOCAL AGENCY  
GRANT PROGRAM- FISCAL YEAR 2006/07 UNDER THE HABITAT  
CONSERVATION FUND PROGRAM OF THE CALIFORNIA WILDLIFE  
PROTECTION ACT OF 1990 FOR THE ATHERTON CHANNEL AT HOLBROOK-  
PALMER PARK RESTORATION AND PATHWAY PROJECT**

**WHEREAS**, the people of the State of California have enacted the California Wildlife Protection Act of 1990, which provides funds to the State of California for grants to local agencies to acquire and/or develop facilities for public recreational and fish and wildlife habitat protection purposes; and

**WHEREAS**, the State Department of Parks and Recreation has been delegated the responsibility for the administration of a portion of the program within the State, setting up necessary procedures governing application by local agencies under the program; and

**WHEREAS**, said procedures, established by the State Department of Parks and Recreation require the applicant to certify by resolution the approval of the application before submission of said application to the State; and

**WHEREAS**, said application contains assurances that the applicant must comply with; and

**WHEREAS**, the applicant will enter into an agreement with the State of California for development of the project;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the Town of Atherton hereby:

1. Approves the filing of an application for the Habitat Conservation Fund Grant Program under the California Wildlife Protection Act of 1990 for State grant assistance for the above project; and
2. Certifies that said applicant understands the assurances and certification in the application form; and
3. Certifies that said applicant has or will have available prior to commencement of any work on the project included in this application, the required match; and will have sufficient funds to operate and maintain the project; and
4. Appoints the City Manager as agent of the Town of Atherton to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the aforementioned project.

\* \* \* \* \*

*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 20<sup>th</sup> day of September, 2006, by the following vote:*

*AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:*

ATTEST:

\_\_\_\_\_  
Charles E. Marsala, MAYOR  
TOWN OF ATHERTON

\_\_\_\_\_  
Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Marc G. Hynes, City Attorney



## Town of Atherton

### CITY COUNCIL STAFF REPORT

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

**FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR**

**DATE: FOR THE MEETING OF SEPTEMBER 20, 2006**

**SUBJECT: ADOPTION OF A RESOLUTION AUTHORIZING APPLICATION FOR  
GRANT FUNDS FOR THE LOCAL AGENCY GRANT PROGRAM -  
FISCAL YEAR 2006/07 UNDER THE HABITAT CONSERVATION FUND  
PROGRAM OF THE CALIFORNIA WILDLIFE PROTECTION ACT OF  
1990 FOR PHASE TWO OF THE UPPER ATHERTON CHANNEL  
RESTORATION PROJECT**

#### **RECOMMENDATION:**

Adopt a resolution authorizing staff to submit an application for a Habitat Conservation Fund (HCF) Program grant to rehabilitate and restore the Upper Atherton Channel adjacent to Walsh Road and Reservoir Road, and committing the required local match of 50%.

#### **INTRODUCTION:**

In June, the State of California Department of Parks and Recreation issued a call for projects to be funded by the HCF grant program. The HCF program provides State funds for programs which restore riparian areas and wildlife habitat areas. Project applications are due by October 2, 2006. Funds totaling \$2.0 million (\$500,000 for riparian habitat) are available for HCF projects statewide in the 2006/07 fiscal year.

The Upper Atherton Channel is a degraded natural channel for most of its length between Reservoir Road and Valley Road. The Phase One project completed a new drop structure to dissipate energy to slow the flow and reduce scour in the channel downstream. Phase One also constructed a vortex weir below the drop structure to create a pool intended to provide breeding habitat for the California Red Legged Frog (CRLF). The Phase Two project will construct additional vortex weirs and bank stabilization to complete the rehabilitation and restoration of this segment of the channel.

In order to submit an application for a project, the following is required:

1. A resolution of the City Council approving the filing of the applications for the grant, and certifying the availability of the required local share of the total project cost. This project will be constructed within the next three years, so the City Council can commit to providing the local share in a future year's budget.
2. Documentation of completed environmental clearance. A categorical exemption under California Environmental Quality Act (CEQA) is required for HCF program. An environmental clearance document has been prepared by staff and was approved by the City Council in February of 2004.
3. Location map, site plan, project proposal, cost estimate and photographs. These items are being prepared by staff to be ready for submittal by October 2.

**ANALYSIS:**

Several key aspects of the HCF riparian habitat restoration program are significant attributes of the Phase Two project. One crucial aspect is that the project site supports an endangered species, namely the California Red Legged Frog (CRLF). Another is that the project site provides a corridor linking habitat areas, in that the CRLF migrates up and down the Upper Atherton Channel from a large CRLF population west of Interstate 280. Many of the existing pools upstream and downstream of the project site are also now significant habitat areas for the CRLF.

Because a principle goal of the project is to stabilize the channel banks and restore the riparian vegetation along the banks, which will enhance the channel's habitat value for CRLF, this project is an excellent candidate for HCF funding.

**FISCAL IMPACT:**

The cost estimate for the Upper Atherton Channel Restoration Project is \$250,000, based on a cost estimate prepared by BKF Engineers, including design, construction, inspection and contingency. \$125,000 in matching funds from the Atherton Channel District will need to be committed and budgeted for the project in future years. The Channel District fund balance is currently sufficient to cover this amount, but insufficient for the entire \$250,000.

Prepared By:

Approved:

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

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James H. Robinson  
City Manager

Attachments:

Resolution

**RESOLUTION 06-**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE LOCAL AGENCY  
GRANT PROGRAM- FISCAL YEAR 2006/07 UNDER THE HABITAT  
CONSERVATION FUND PROGRAM OF THE CALIFORNIA WILDLIFE  
PROTECTION ACT OF 1990 FOR PHASE TWO OF THE UPPER ATHERTON  
CHANNEL RESTORATION PROJECT**

**WHEREAS**, the people of the State of California have enacted the California Wildlife Protection Act of 1990, which provides funds to the State of California for grants to local agencies to acquire and/or develop facilities for public recreational and fish and wildlife habitat protection purposes; and

**WHEREAS**, the State Department of Parks and Recreation has been delegated the responsibility for the administration of a portion of the program within the State, setting up necessary procedures governing application by local agencies under the program; and

**WHEREAS**, said procedures, established by the State Department of Parks and Recreation require the applicant to certify by resolution the approval of the application before submission of said application to the State; and

**WHEREAS**, said application contains assurances that the applicant must comply with; and

**WHEREAS**, the applicant will enter into an agreement with the State of California for development of the project;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the Town of Atherton hereby:

1. Approves the filing of an application for the Habitat Conservation Fund Grant Program under the California Wildlife Protection Act of 1990 for State grant assistance for the above project; and
2. Certifies that said applicant understands the assurances and certification in the application form; and
3. Certifies that said applicant has or will have available prior to commencement of any work on the project included in this application, the required match; and will have sufficient funds to operate and maintain the project; and
4. Appoints the City Manager as agent of the Town of Atherton to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the aforementioned project.

\* \* \* \* \*

*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 20<sup>th</sup> day of September, 2006, by the following vote:*

*AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:*

ATTEST:

\_\_\_\_\_  
Charles E. Marsala, 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 MEMBERS**

**FROM: MARC G. HYNES, CITY ATTORNEY**

**DATE: FOR THE CITY COUNCIL MEETING OF SEPTEMBER 20, 2006**

**SUBJECT: REVIEW OF TOWN'S CONFLICT OF INTEREST CODE**

#### **RECOMMENDATION:**

Conduct review of the Town's Conflict of Interest Code and confirm, by motion, its continued effect.

#### **BACKGROUND:**

The Political Reform Act of 1974, approved by the voters, requires state and local government agencies to adopt a Conflict of Interest Code. The Town has adopted a Conflict of Interest Code which references the terms of 2 California Code of Regulations §18730, as may, from time to time, be amended by the Fair Political Practices Commission. Section 18730 contains a standard code.

A Conflict of Interest Code lists each position within the Town that makes or participates in the making of governmental decisions. Individuals employed in these positions are called "designated employees." In addition, certain consultants to the Town qualify as code filers because they make or participate in making governmental decisions on behalf of the Town.

Exhibit A is the Resolution adopting the standard conflict of interest code. Exhibit B is a resolution adopted in 2002 which sets out the parties designated to comply with the code. Exhibit C is the most recent resolution establishing threshold amounts for disclosure categories. It was last amended in 2004.

The City Council is the code reviewing body for the Town. Every two years, the code reviewing body must review the code and make any revisions that may be required. Usually, these revisions result from creation of new positions in the Town or significant change in the duties of existing positions. The City Manager, City Clerk, and City Attorney have reviewed the list of

designated employees and recommend that no changes be made to the designated positions (Exhibit B).. Threshold amounts in the disclosure categories have also been reviewed and do not require any changes since the last revision in 2004 (Exhibit C).

**FISCAL IMPACT:**

None.

Prepared By:

Approved By:

/s/ Marc G. Hynes

Marc G. Hynes  
City Attorney

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

Attachments

RESOLUTION 91-6

A RESOLUTION OF THE TOWN OF ATHERTON  
ADOPTING A NEW CONFLICT OF INTEREST CODE  
AND REPEALING RESOLUTION 80-30

RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ATHERTON THAT THE FOLLOWING SHALL CONSTITUTE THE CONFLICT OF INTEREST CODE OF THE TOWN OF ATHERTON:

Section 1: Conflict of Interest Code - Adopted.

The Political Reform Act, Government Code Section 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regs. Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 Cal. Code of Regs. Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and, along with the attached Appendix A in which officials and employees are designated and Appendix B in which disclosure categories are set forth, constitute the Conflict of Interest Code of the Town of Atherton, which is considered the "agency" within the purview of this code. The Conflict of Interest Code of the Town of Atherton so adopted amends and replaces any Conflict of Interest Code of the Town of Atherton previously in effect to conform to this newly adopted code.

Section 2: Same - Statements.

Designated employees shall file statements of economic interests by the filing deadline of April 1 with the City Clerk who shall be and perform the duties of filing officer for the Town of Atherton.

Section 3: Savings Clause.

Any change provided for in this conflict of interest code shall not effect or excuse any offense or act committed or done or omission or any penalty or forfeiture incurred or accruing under any other conflict of interest code; nor shall it affect any prosecution, suit or proceeding pending or any judgement rendered in connection with any other conflict of interest code.

AND BE IT FURTHER RESOLVED that Resolution 80-30 is hereby repealed effective immediately upon adoption of Resolution 91-6.

\* \* \* \* \*

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 19th day of June, 1991, by the following vote:

AYES: COUNCILMEMBER: Christopher E. Cobey  
William R. Conwell  
Malcolm H. Dudley  
Nanette F. Chapman  
Dianne M. Fisher

NOES: COUNCILMEMBER: None

ABSENT: COUNCILMEMBER: None

*Christopher E. Cobey*

\_\_\_\_\_  
Christopher E. Cobey, MAYOR  
TOWN OF ATHERTON

ATTEST:

*Susan P. Jankowski*  
\_\_\_\_\_  
Susan P. Jankowski, DEPUTY CITY CLERK  
TOWN OF ATHERTON

APPENDIX "A"  
TOWN OF ATHERTON  
CONFLICT OF INTEREST CODE

LIST OF DESIGNATED POSITIONS

Department: Administration and Police

Date: June 19, 1991

<u>JOB TITLE</u>	<u>DISCLOSURE CATEGORY</u>
Building Official	1
Assistant to the City Manager	1
Chief of Police	1
Police Commander (2)	1

APPENDIX "A"

DISCLOSURE CATEGORY 1

SPECIFICATION SHEET

REPORTABLE INVESTMENTS, INTERESTS IN REAL PROPERTY, AND INCOME

CONFLICT OF INTEREST CODE  
TOWN OF ATHERTON

- \* Investments (partnerships, common stock, etc.)  
- Worth \$1,000 or more in business entities located in or doing business in your jurisdiction.
- \* Interests in Real Property  
- Worth \$1,000 or more located in your jurisdiction.
- \* Interests in Real Property and Investments Held by Business Entities or Trusts
- \* Income (Other than Loans, Gifts and Honoraria)  
- Aggregating \$250 or more received from a source located in or doing business in your jurisdiction.
- \* Loans (Received or Outstanding During the Reporting Period)  
- Aggregating \$250 or more from a source located in or doing business in your jurisdiction.
- \* Gifts  
- Aggregating \$50 or more received from any source located inside or outside your jurisdiction.
- \* Honoraria  
- Aggregating \$50 or more received from any source located inside or outside your jurisdiction.
- \* Business Positions  
- Held in a business entity located in or doing business in your jurisdiction.
- \* Commission Income (Gross payments received as a result of services rendered as a broker, agent or salesperson)
- \* Income and Loans to Business Entities or Trusts
- \* Income from Rental Property

FOOTNOTE: Definitions and Explanations are per current 730 Manual issued by the California Fair Political Practices Commission.

RESOLUTION NO. 02-23

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
AMENDING THE CONFLICT OF INTEREST CODE  
FOR DESIGNATED EMPLOYEES

WHEREAS, the City Council of the Town of Atherton did adopt a Conflict of Interest Code, Resolution 91-6, on the 19th day of June, 1991; and

WHEREAS, the City Council has previously amended said Conflict of Interest Code to reflect additional designated positions by Resolution No. 94-8 on the 23rd day of March, 1994; and Resolution No. 00-26 on the 20<sup>th</sup> day of September, 2000; and

WHEREAS, it is now necessary to amend said Conflict of Interest Code to reflect additional designated positions as follows:

- Assistant Finance Director
- Building Official/Planning Administrator
- Town Planner
- Deputy Town Planner
- Associate Engineer
- Town Arborist/Public Works Specialist

NOW, THEREFORE, BE IT RESOLVED by the City Council of the Town of Atherton that the amendment as described shall appear as Appendix "A" to the Town of Atherton Conflict of Interest Code along with the designated positions previously described and as amended by Resolution No. 94-8 and No. 00-26 and this Resolution. Except as amended, all other terms and provisions of the Conflict of Interest Code shall continue to remain in effect.

\* \* \* \* \*

*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 17th day of July, 2002, by the following vote:*

AYES:	5	COUNCILMEMBERS:	McKeithen, Janz, Fisher, Conwell, Carlson
NOES:	0	COUNCILMEMBERS:	
ABSENT:	0	COUNCILMEMBERS:	
ABSTAIN:	0	COUNCILMEMBERS:	

  
 Alan B. Carlson, Mayor  
 TOWN OF ATHERTON

ATTEST:

  
 Sharon Barker, City Clerk

APPROVED AS TO FORM:

  
 Marc G. Hynes, City Attorney

APPENDIX "A"

TOWN OF ATHERTON  
CONFLICT OF INTEREST CODE

LIST OF DESIGNATED POSITIONS

Date: July 17, 2002

<u>JOB TITLE</u>	<u>DISCLOSURE CATEGORY</u>
Assistant Finance Director	1
Assistant to the City Manager	1
Building Official/Planning Administrator	1
Chief of Police	1
City Clerk	1
Town Planner	1
Deputy Town Planner	1
Consultants*	1*
Finance Assistant	1
Park Program Manager	1
Police Lieutenant	1
Public Works Director/City Engineer	1
Associate Engineer	1
Public Works Superintendent	1
Public Works Supervisors (2)	1
Town Arborist/Public Works Specialist	1

\*Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The City Manager may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements described in this section. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The City Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

**RESOLUTION 04-16**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
AMENDING THE CONFLICT OF INTEREST CODE FOR DESIGNATED  
EMPLOYEES BY APPROVING APPENDIX "A" DATED JULY 2004  
OF CERTAIN DESIGNATED EMPLOYEES AND DISCLOSURE CATEGORIES  
IN THE CONFLICT OF INTEREST CODE**

**WHEREAS**, The Political Reform Act of 1974, amended (Government Code Section 81000, et seq.), requires state and local government agencies to adopt and promulgate a Conflict of Interest Code; and

**WHEREAS**, by adopting Resolution No. 02-23 on July 17, 2002, this Council amended a Conflict of Interest Code adopted by Resolution 91-6 on June 19, 1991, which adopted by reference the terms of 2 Cal. Code of Regulations 18730, as may, from time to time be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act, and by also approving as an APPENDIX "A" thereto, disclosure categories for certain designated positions with the Town of Atherton; and

**WHEREAS**, the APPENDIX "A" containing the disclosure categories for the designated positions reflects current personnel status; and

**WHEREAS**, THIS Council, as code reviewing body for the Town of Atherton, has determined that the attached APPENDIX "A" accurately sets forth those positions which should be designated and the categories of financial interests which should be made reportable for each position.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the Town of Atherton that the APPENDIX "A" dated July 2004, attached hereto and by reference made a part of the Conflict of Interest Code of the Town of Atherton, is hereby approved; and this resolution confirms and continues in effect the terms and provisions of the Conflict of Interest Code as amended, all of which shall continue to remain in effect.

All former resolutions or parts thereof conflicting or inconsistent with the provisions of this resolution are superseded and repealed.

\* \* \* \* \*

*I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the 21st day of July 2004, by the following vote:*

*AYES: 5 Councilmembers: Janz, Marsala, Carlson, McKeithen, Conwell*  
*NOES: 0 Councilmembers:*  
*ABSENT: 0 Councilmembers:*  
*ABSTAIN: 0 Councilmembers:*

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Kathy McKeithen, Mayor  
Town of Atherton

ATTEST:

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Kathi Hamilton, Interim City Clerk

APPROVED AS TO FORM:

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Marc G. Hynes, City Attorney

APPENDIX "A"

TOWN OF ATHERTON  
CONFLICT OF INTEREST CODE

LIST OF DESIGNATED POSITIONS

Date: July 2004.

<u>JOB TITLE</u>	<u>DISCLOSURE CATEGORY</u>
Assistant Finance Director	1
Assistant to the City Manager	1
Building Official/Planning Administrator	1
Chief of Police	1
City Clerk	1
Town Planner	1
Deputy Town Planner	1
Consultants*	1*
Finance Assistant	1
Park Program Manager	1
Police Lieutenant	1
Public Works Director/City Engineer	1
Associate Engineer	1
Public Works Superintendent	1
Public Works Supervisors (2)	1
Town Arborist/Public Works Specialist	1

\*Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The City Manager may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements described in this section. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The City Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

APPENDIX "A"

DISCLOSURE CATEGORY 1

SPECIFICATION SHEET

REPORTABLE INVESTMENTS, INTEREST IN REAL PROPERTY, AND INCOME

CONFLICT OF INTEREST CODE  
TOWN OF ATHERTON

- \* Investments (partnerships, common stock, etc.)  
- Worth \$2,000 or more in business entities located in or doing business in the Town.
- \* Interests in Real Property  
-Worth \$2,000 or more located in the Town.
- \* Interests in Real Property and Investments Held by Business Entities or Trusts
- \* Income (Other than Loans, Gifts and Honoraria) Received During the Reporting Period  
-Aggregating \$500 or more received from a source located in or doing business in the Town.
- \* Loans (Received or Outstanding During the Reporting Period)  
-Aggregating \$500 or more from a source located in or doing business in the Town.
- \* Gifts (Received During the Reporting Period)  
-Must disclose \$50 or more received from any source located inside or outside the Town. May not exceed \$340 from any single source.
- \* Honoraria  
-Received from any source located inside or outside the Town – generally prohibited, and if not, may be reportable as income or gift depending on the circumstances.
- \* Business Positions  
-Held in a business entity located in or doing business in the Town.
- \* Commission Income (Gross payments received as a result of services rendered as a broker, agent, or salesperson).
- \* Income and Loans to Business Entities or Trusts.
- \* Income from Rental Property.

**FOOTNOTE: Refer for more detailed information to Definitions and Explanations in the Manual issued by the California Fair Political Practices Commission.**



## Town of Atherton

### CITY COUNCIL STAFF REPORT

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

**FROM: CHIEF ROBERT J. BRENNAN**

**DATE: FOR THE MEETING OF SEPTEMBER 20, 2006**

**SUBJECT: RESPONSE TO THE CIVIL GRAND JURY REGARDING SUMMARY  
OF DISASTER PREPAREDNESS TRAINING FOR RESIDENTS OF  
CITIES IN SAN MATEO COUNTY**

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#### **RECOMMENDATION:**

Staff recommends that the City Council accept the response to the Grand Jury.

#### **INTRODUCTION:**

On July 14, 2006, the City Manager, Jim Robinson, received a letter from the San Mateo County Civil Grand Jury requesting responses to an inquiry regarding the Town of Atherton's plans for:

1. Summary of Disaster Preparedness Training for Residents of Cities in San Mateo County. The Grand Jury requested that the Town of Atherton respond in writing to this inquiry by October 17, 2006. Under the direction of the City Manager, the Police Chief has responded to the request and will mail the response by the due date of October 17, 2006.

#### **ANALYSIS:**

See the letter of response to the Grand Jury request.

#### **FISCAL IMPACT:**

The Town of Atherton is currently involved in a comprehensive program regarding emergency and disaster preparedness at many levels. Specifically, the Town of Atherton supports the Community Emergency Response Teams (CERT) and is actively encouraging residents to participate in that program. Additionally, a recent Personal Emergency Preparedness (PEP) program has been adopted and training of neighborhood groups is underway. Because of the

availability of CERT equipment and supplies from the San Mateo County Sheriff's Office of Emergency Services, the program costs involved for both of those programs is expected to be minimal. However, if either of those programs expanded beyond the County's ability to provide equipment, it is estimated that purchasing necessary equipment and supplies would not exceed \$2,500.00 per year.

Prepared by:

Approved by:

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Robert J. Brennan  
Police Chief

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James H. Robinson  
City Manager

Attachments

- \* Letter of request from the San Mateo County Grand Jury
- \* Letter responding to the request by the Grand Jury

September 6, 2006

Hon. Stephen M. Hall  
Judge of the Superior Court  
Hall of Justice  
400 County Center: 2<sup>nd</sup> Floor  
Redwood City, CA 94063-1655

Dear Judge Stephen M. Hall,

As the Town of Atherton Emergency Management Coordinator, and under the direction of Chief Robert Brennan, I have included comments related to the findings of the San Mateo County Civil Grand Jury's "Summary of Disaster Preparedness Training for Residents of Cities in San Mateo County" dated July 14, 2006.

The Town of Atherton agrees with the findings of the Grand Jury related to disaster and emergency preparedness of San Mateo County residents.

The Town of Atherton is actively engaged in the Community Emergency Response Team (CERT) and Personal Emergency Preparedness (PEP) programs and is continuing with efforts to train residents, employees and elected officials of the Town. Training dates have been set for October 2006 for all employees and elected officials of the Town who will participate in eight (8) hours of instruction in the implementation of the Standardized Emergency Management System (SEMS) and the National Incident Management System (NIMS). Future CERT training will be schedule for each employee and elected official to participate. In cooperation with the Menlo Park Fire Protection District we have held and will continue to hold ongoing CERT and PEP classes for our residents.

We concur with the San Mateo County Civil Grand Jury's recommended of an initial goal of training and preparing 5% of a city's households. It is our goal that all of the households in Atherton have at least one trained person residing in the home.

Sincerely

Eric Grimm, Sergeant  
Atherton Police Department



## Town of Atherton

### CITY COUNCIL STAFF REPORT

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

**FROM: CHIEF ROBERT J. BRENNAN**

**DATE: FOR THE MEETING OF SEPTEMBER 20, 2006**

**SUBJECT: RESPONSE TO THE CIVIL GRAND JURY REGARDING ANALOG TO  
DIGITAL CONVERSION OF POLICE RADIO SYSTEMS REPORT**

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#### **RECOMMENDATION:**

Staff recommends that Council accept the response to the civil Grand Jury.

#### **INTRODUCTION:**

On January 25, 2006, City Manager Jim Robinson received a letter from the San Mateo County Civil Grand Jury requesting responses to an inquiry regarding the Town of Atherton's plans for:

1. Upgrading of our analog radios with digital radios which are compatible with the County digital microwave radio system.
2. The schedule for the purchase and implementation of this equipment.

The Grand Jury requested that the Town of Atherton respond in writing to this inquiry by February 10, 2006. Under the direction of the City Manager, the Police Chief responded to the request and mailed the response by the due date of February 10, 2006.

In July of 2006, we received the report that compiled the results of that investigation. We were asked to respond to the report and indicate the following.

1. The respondent agrees with the finding.
2. The respondent disagrees wholly or partially with the findings, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

**ANALYSIS:**

See the letter of response to the Grand Jury request.

**FISCAL IMPACT:**

Although the actual date is in question, the Town of Atherton will eventually have to migrate to a digital format. Like all new technology, the costs in the beginning are very high. As costs for Research and Development are recovered, fees will come down dramatically. As stated in the response to the Grand Jury request, if the conversion was done today, Atherton could be looking at a \$700,000 cost for an upgrade to the digital technology. We will continue to look at Federal grant funding which looks like a probable source for many jurisdictions as the nation goes digital.

Prepared by:

Approved by:

\_\_\_\_\_  
Robert J. Brennan  
Police Chief

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

**Attachments**

- \* Summary of Preparing for FCC-mandated Changes in County Law Enforcement Radio Networks
- \* Letter responding to the request by the Grand Jury

September 6, 2006

Hon. Stephen M. Hall  
Judge of the Superior Court  
Hall of Justice  
400 County Center: 2<sup>nd</sup> Floor  
Redwood City, CA 94063-1655

Dear Judge Stephen M. Hall

In February 2006 and at the request of the Grand Jury, the Town of Atherton responded to the Analog to Digital conversion of police radio systems. On July 24, 2006, we received the completed report that was a compilation of the input from the cities throughout the County.

The Town of Atherton is in agreement with the findings, conclusions and recommendations made by the Grand Jury. In my opinion, it is inevitable that radio technology will migrate to narrow band width and the digital format. As you are aware, most of the cities and towns in San Mateo County are smaller in area, population and employ less staff than the counties that surround us. The cost of the conversion will continue to be the biggest obstacle to individual jurisdictions as we approach the 2013 deadline. As pointed out in the report, the County and Redwood City spent 24 million dollars on a system that services just two jurisdictions out of the 21 within San Mateo County. An estimate of the Town of Atherton to the digital format is in excess of \$700,000 and continued service costs during the life of the system. In personnel terms, that equals at least 7 police officer FTE's. With an authorized sworn staff of 23, it would have a devastating affect on departments our size.

I have been encouraged by the information coming from the Federal Government regarding the Homeland Security dollars being spent on compatible communications systems (Interoperability) for both fire and police. It is critical that the county spend these dollars toward a county wide digital system not only to defray costs to the cities and towns, but to create a Bay Area wide system that can serve all public safety.

Sincerely

Robert J. Brennan  
Atherton Police Chief



## Town of Atherton

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

**FROM: CHIEF ROBERT J. BRENNAN**

**DATE: FOR THE MEETING OF SEPTEMBER 20, 2006**

**SUBJECT: SCHOOL RESOURCE OFFICER AGREEMENT WITH THE SEQUOIA  
UNION HIGH SCHOOL DISTRICT**

### **RECOMMENDATION:**

Staff recommends that the members of the City Council agree with the findings in this report and authorize the City Manager to sign the updated agreement in order to continue our participation at Menlo-Atherton High School with our School Resource Officer Program for the fiscal year 2006-2007.

### **INTRODUCTION:**

The School Resource Officer Program (SRO) is back in its sixth year at Menlo-Atherton High School after a two-year absence in 1999 through summer 2001. The program has proven to lessen violent crime on campus and to provide better communications with the Police Department, high school administration, staff, and students. It also provides an on-campus resource to incorporate the elements and the philosophy of Community Policing. These elements include community partnerships and problem solving. It is during the last four years that the Town of Atherton has received payment from the District even though the program had been in place for many years. The charging for police services began as the economy took a downturn in 2001. The Police Department staffing had been cut and the revenues were down. In order to continue the program, an arrangement was made with the former Sequoia Union High School District superintendent to pay half of the SRO's salary to include benefits. It was fortunate that the District's willingness to pay also coincided with a three-year Federal "Cops in Schools" grant the Police Department had applied for and received. The ending date of the grant was the end of the academic year 2004-2005. During the 2005-2006 academic year, the Council authorized the renewal of the SRO contract with the District continuing to pay half of the salary and benefits prorated over a nine-month period. Because of additional cuts in the District, each high school within the District was told to cut back on positions for the 2006-2007 academic year. The information was provided to all of the jurisdictions participating in the program (Sheriffs Office, Redwood City, Belmont, and Atherton) that the funds would be restored during the 2007-2008 academic year. A meeting was held with the chief executives of the affected jurisdictions.

Because of the benefits provided by the program, each jurisdiction has elected to continue the program for this year (2006-2007) without compensation from the District. We are expecting, and the District has committed, that funding will return next year (2007-2008). We will review the program again at that time.

**ANALYSIS:**

All four agencies met with each principal and came to an agreement on costs and service levels. At this time, the agreement is that the District would pay half of a top step Officer's salary for a nine-month period. A written contract was presented to and agreed upon by the District that outlined services the Police Department would provide during the Officer's time on campus. Since the total salary and benefits were covered by either the grant or the District (the assigned Sergeant's salary and benefits of \$106,000), the Town of Atherton would have to cover half the cost plus 3 months that school is out of session, totaling \$82,000. If the decision was made not to provide an SRO, the Atherton Police Department would still have the responsibility for all police services on campus without the benefit of any contribution or cost sharing by the District. The new agreement for services would remain in effect, minus the financial contribution from the District.

During the current academic year, the SRO position is funded as a full-time equivalency.

**FISCAL IMPACT:**

If the Council decides to continue the SRO Program for this academic year, the expected revenue from the District needs to reflect this change. The position should be evaluated at the Midyear Budget Review in order to augment the Police Department budget if needed.

Prepared by:

Approved by:

\_\_\_\_\_  
Robert J. Brennan  
Chief of Police

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

Attachments

1. Updated Agreement 06-07
2. SRO Annual Report

**AGREEMENT BETWEEN THE TOWN OF ATHERTON  
AND THE SEQUOIA UNION HIGH SCHOOL DISTRICT  
FOR SCHOOL RESOURCE OFFICER PROGRAM**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2006, by and between the **TOWN OF ATHERTON** ("Town") and the **Sequoia Union High School District** ("District") (collectively, the "Parties").

NOW, THEREFORE, for and in consideration of the collaborative agreements herein contained, the sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. **Term and Termination.** The term of this Agreement shall be for a period beginning on or before \_\_\_\_\_, 2006 and ending \_\_\_\_\_, 2007.

2. **Obligation of Town.** During the term of this Agreement, Town hereby covenants and agrees to the following:

A. Assign one (1) peace officer ("School Resource Officer") to Menlo Atherton High School for the term of this Agreement. Each School Resource Officer shall perform law enforcement services under the supervision and direction of the Town's Chief of Police.

B. The School Resource Officer's workweek shall be ten (10) hours per day, Tuesday through Friday, for a total of forty (40) hours per week, excluding recognized school holidays. The time allocations will be modified on a day-to-day basis based on emergency situations, sick leave, court appearances, required training days and such other special requirements of the Town. During the years that summer school is held at Menlo-Atherton High School, the school resource officer's hours will be adjusted by mutual agreement. The Principal will request the school resource officer be on campus only when students are on campus.

C. Make available to each School Resource Officer appropriate equipment and training as would normally be afforded a peace officer working for Town. Town will strive to schedule required training during non-school days so as to maximize the on-site time of the School Resource Officer. District will be kept apprised of any scheduled training.

D. Town agrees to accept and investigate reported incidents of criminal behavior consistent with Town Police Department guidelines.

3. **Obligations of District.** During the term of this Agreement, District hereby covenants and agrees to the following:

A. District personnel shall cooperate with the School Resource Officer and Town to facilitate the performance of law enforcement services pursuant to this Agreement and Town's general law enforcement duties.

B. District will provide the School Resource Officer with an office, desk, computer, and telephone (with voice mail).

C. When there is a need for emergency law enforcement assistance the principal of Menlo Atherton High School, or designee, shall first call 911 and then notify the School Resource Officer. The School Resource Officer shall respond as quickly as reasonably possible and provide further direction as necessary.

D. The principal of Menlo-Atherton High School, or his/her designee, shall be responsible for making non-emergency requests for law enforcement services. Such requests shall be made directly to the School Resource Officer. If the School Resource Officer is not available, the Dispatch Center at Town Police Department at 323-8471 may be contacted.

4. **Supplemental Services.** District or the School may request Town to provide additional law enforcement services for evening or weekend events such as PTA meetings, Back-to-School Nights, Open House, athletic or performance events, dances, proms, or other District-sponsored events. Town shall use its best efforts to provide the requested services by the School Resource Officer. District shall be obligated to compensate Town for such supplemental services, whether the school resource officer or a patrol officer provides the services.

5. **Compensation.** During the term of this agreement only, the Sequoia Union High School District has not offered and the Town of Atherton understands it will not receive compensation or reimbursement for the School Resource Officer from the District.

6. **Selection of School Resource Officer.** The selection of the School Resource Officer shall be at the sole discretion of Town's Chief of Police. The Chief of Police is encouraged to solicit input from District as to the School Resource Officer selection.

7 **Insurance - Town.** Town will obtain and maintain for the duration of the Agreement and any and all amendments, insurance coverage against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the Services by Town or Town's agents, representatives, employees or subcontractors. The Town's insurance coverage will be through a joint powers insurance authority risk-sharing pool organized and operated under the applicable laws of the State of California.

7.1 **Coverages and Limits.** Town will maintain the types of coverages and minimum limits indicated below,

7.1.1 Commercial General Liability Insurance Coverage. \$1,000,000 combined single-limit per occurrence for bodily injury, personal injury and property damage. If the submitted policies contain aggregate limits, general aggregate limits will apply separately to the work under this Agreement or the general aggregate will be twice the required per occurrence limit.

7.1.2 Automobile Liability. \$1,000,000 combined single-limit per accident for bodily injury and property damage.

7.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code and Employer's Liability limits of \$1,000,000 per accident for bodily injury.

7.1.4 Professional Liability. Errors and omissions liability appropriate to the Town's profession with limits of not less than \$1,000,000 per claim.

7.2. Additional Provisions. Town will ensure that the Commercial General Liability and Automobile Liability policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

7.2.1 Sequoia High School District, its officers, and employees will be named as additional insureds.

8. **Insurance – District.** District will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the Services by District or District's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-V."

8.1 Coverages and Limits. District will maintain the types of coverages and minimum limits indicated below, unless the Town's City Manager, in consultation with the Town's City Attorney, approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on District's indemnification obligations under this Agreement. Town, its officers, agents, volunteers and employees make no representation that the limits of the insurance specified to be carried by District pursuant to this Agreement are adequate to protect District. If District believes that any required insurance coverage is inadequate, District will obtain such additional insurance coverage, as District deems adequate, at District's sole expense.

8.1.1 Commercial General Liability Insurance. \$1,000,000 combined single-limit per occurrence for bodily injury, personal injury and property damage. If the submitted policies contain aggregate limits, general aggregate limits will apply separately to the work under this Agreement or the general aggregate will be twice the required per occurrence limit.

8.1.2 Automobile Liability. \$1,000,000 combined single-limit per accident for bodily injury and property damage.

8.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code and Employer's Liability limits of \$1,000,000 per accident for bodily injury.

8.1.4 Professional Liability. Errors and omissions liability appropriate to District's profession with limits of not less than \$1,000,000 per claim.

8.2. Additional Provisions. District will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

8.2.1 For Commercial General Liability Insurance and Automobile Liability Insurance, Town, its officers, agents, volunteers and employees will be named as additional insureds.

8.2.2 District will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

8.2.3 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to Town sent pursuant to the Notice provisions of this Agreement.

8.3 Providing Certificates of Insurance and Endorsements. Prior to Town's execution of this Agreement, District will furnish certificates of insurance and endorsements to Town.

8.4 Failure to Maintain Coverage. If District fails to maintain any of these insurance coverages, then Town will have the option to declare District in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. District is responsible for any payments made by Town to obtain or maintain insurance and Town may collect these payments from District or deduct the amount paid from any sums due District under this Agreement.

8.5 Submission of Insurance Policies. Town reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

8.6 Reduction in Coverage/Material Changes. District will notify Town thirty (30) days prior to any reduction in any of the insurance coverage required pursuant to this Agreement or any material changes to the respective insurance policies.

9. **Mutual Indemnification.** District will defend, indemnify and hold harmless Town and its officers, agents, employees and volunteers from and against all claims, damages, losses and expenses including attorney fees arising out of the performance of the Services, caused in whole or in part by the willful misconduct or any negligent act or omission of the District, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of Town.

Town will defend, indemnify and hold harmless District and its officers, agents, employees and volunteers from and against all claims, damages, losses and expenses including attorney fees arising out of the performance of the Services, caused in whole or in part by the willful misconduct or any negligent act or omission of the Town, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of District.

10. **Dispute Resolution.** Should any dispute arise out of this Agreement, the Parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. The costs of the mediator, if any, shall be paid for by District. If a mediated settlement is reached, neither Party shall be the prevailing party for the purposes of the resolution of the dispute. Neither Party shall be permitted to file legal action without first meeting in mediation and maintaining a good faith attempt to reach a mediation resolution. Each Party will bear their own attorney's fees, if any.

11. **Third Party Beneficiary.** This Agreement including, but not limited to, indemnification provisions, is for the benefit of the Parties only and does not create, nor is it intended to create, any benefit or liability to third parties.

12. **Notices.** All notices, statements, demands, requests, consents, approvals, authorizations, appointments or designations hereunder by either Party to the other will be in writing and will be deemed given and served upon the Party if delivered personally or three (3) days after depositing in the United States mail, postage prepaid, addressed as follows:

<b>Town:</b> <u>Town of Atherton Police Dept.</u>	<b>District:</b> <u>Sequoia Union High School District</u>
Attn: Chief of Police	Attn: District Superintendent
83 Ashfield Road	480 James Avenue
Atherton, CA 94027	Redwood City, CA 94062
(650) 688-6500	(650) 369-1411

13. **Assignment.** Town shall not assign this Agreement, or any interest therein, without the prior written consent of District. Any such assignment without

14. District's consent shall be void and shall, at the option of District, terminate this Agreement.

15. **Non-Waiver.** The failure of either Party to insist upon the strict performance of any of the terms, conditions or covenants in this Agreement shall not be deemed a waiver of any right or remedy that either Party may have and shall not be deemed a waiver of any right or remedy for a subsequent breach or default of the terms, conditions or covenants herein contained.

16. **Authority.** The Parties each warrant and represent to the other that they have the full legal authority to enter into this Agreement.

17. **Entire Agreement.** This Agreement sets forth the entire agreement between the Parties and any modifications or extensions must be in the form of a written amendment fully noticed and approved.

18. **Equal Employment Opportunity.** In connection with the performance of this Agreement, neither Town nor District shall discriminate against any employee or applicant for employment because of race, religion, color, sex, physical or mental disability, age, sexual orientation, or national origin. Town shall comply with Section 504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified disabled individual shall, solely be reason of a disability, be excluded from participation or be denied the performance of this Agreement.

19. **Termination.** Either Party may elect to terminate this Agreement by giving thirty (30) days prior written notice in the manner set forth in Paragraph 11 above. District shall pay only the pro-rated share of the costs based on the duration of this Agreement prior to termination.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first written above.

TOWN OF ATHERTON

Sequoia Union High School District

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Dr. Pat Gemma, District Superintendent

Attest:

\_\_\_\_\_  
Kathi Hamilton, Acting City Clerk

Approved as Form:

\_\_\_\_\_  
Marc G. Hynes, City Attorney

# **Menlo-Atherton High School SRO Partnership**

## ***End of Year Report***

**2005-2006 Academic Year**

Prepared by  
MAHS SRO Sgt. Mike Guerra, Ed.D.

### **Overview**

The School Resource Officer (SRO) Program at Menlo-Atherton High School (M-A) continues to evolve following a process that began with the start of the 2003-2004 academic year. As mentioned in previous reports, this evolutionary process was initiated by Chief Bob Brennan following his return from a Chief Executive Officer Safe Schools Forum through the National Center for Missing and Exploited Children, which is a component of the Federal Comprehensive School Safety Leadership Initiative. Before examining the data collected from this 2005-2006 academic school year in relation to the mission and goals of the comprehensive SRO program, it would be useful to review the ongoing mission and goals of the program. The mission of the SRO program continues to focus on fostering a collaborative interagency partnership where leadership and resources target issues related to creating and maintaining a safe school environment.

The goals of this mission are:

- To demonstrate standards of excellence that promote the effective use of SROs such as, the identification and utilization of risk and protective factors for addressing problems and facilitating improved referral services for children and families.
- To promote community and school collaboration that support comprehensive proactive partnerships among public and private entities, the feeder schools, and the greater M-A community.
- To illustrate the importance of a locally based interagency strategy to identify and address school and community safety issues.
- To increase the capacity of community leaders, organizations, and schools to use information to make more informed decisions regarding children, youth, and families particularly as they relate to school safety.
- To help community leaders develop an action plan centered on specific goals and objectives related to safe schools.
- To help communities refocus existing community resources to better serve children and families in the M-A community.

### **Comparing 2002-2003, 2003-2004, 2004-2005, 2005-2006 Academic Years**

One of the important elements for determining the effectiveness of any program is to compare what is occurring now with what has occurred in the past. Unfortunately, evaluating the effectiveness of SRO programs, such as ours, is problematic. At the

present time, no reliable research study has been conducted in the United States to investigate the effectiveness of SRO programs on school campuses. The only reliable data that exists today continues to be anecdotal. This anecdotal evidence suggests that we think SRO programs help create and maintain a safe school environment. Some of those comments made to me this year indicate:

- School administrators believe SROs are highly effective.
- Students and staff perceive the school to be more secure.
- Students and staff believe SROs deter drug and weapon violations.

These anecdotal perceptions have been told to me repeatedly since I first began interacting with M-A students and staff in 1984 as a new police officer. Consequently, it appears the program is perceived as being effective. In addition to comparing anecdotal evidence, it may be useful to compare statistical data between this academic year and data from past years. Table 1 below compares the total number of cases generated town-wide over the last four academic years with the percentage of the cases generated by M-A and the percentage of M-A cases generated by the SROs. This data was gathered using information contained in the police department's RIMS database.

	2002-2003 Academic Year	%	2003-2004 Academic Year	%	2004-2005 Academic Year	%	2005- 2006 Academic Year	%
Total No. of Case Reports Town- Wide	783		909		826		657	
Case Reports at M-A	54	7% of total reports	100	11% of total reports	154	19% of total reports	171	26% of total reports
Case Reports at M-A by SRO	35	65% of reports taken at M-A were by the SRO, or 4% of the total reports	71	71% of reports at M-A were taken by the SRO, or 8% of the total reports	153	99% of reports taken at M-A were by the SRO, or 19% of the total reports	150	88% of reports at m- A were taken by the SRO or 23% of the total reports

Table 1

From the data and percentages in Table 1, an inference can be drawn there has been a significant drop in the number of cases generated within the Town of Atherton between the 2004-2005 and 2005-2006 academic years. Specifically, there were 169 less cases town-wide in 2005-06. However, the number of cases at Menlo-Atherton High School increased from 154 in 2004-05 to 171 in 2005-06. According to these figures, the cases

at M-A accounted for 26% of the Department's entire caseload this academic year. In addition, the SRO now accounts for 23% of the cases generated within the department during M-A's 2005-06 academic year. This is up from last year's 19%. While these figures are statistically significant, it is also equally important to consider the scope of the SRO's activities at M-A when evaluating this program since the mission itself has evolved from one that was participative to one where active collaboration by all stakeholders at all organizational and community levels is essential for the program's success.

### **2005-2006 SRO Activities**

Using the School COP software program to collect data and record my activities, I have been able to show where my time is spent at M-A. I will present the data in four charts in two sets. The first two show 2005-06 data and the second set shows the data for the 2004-05 academic year. The first chart in each set will depict generalized categories and the second chart in each set will depict a breakdown of the activities in each category. Chart 2 below depicts my activities by categories in simple percentages for 2005-06.

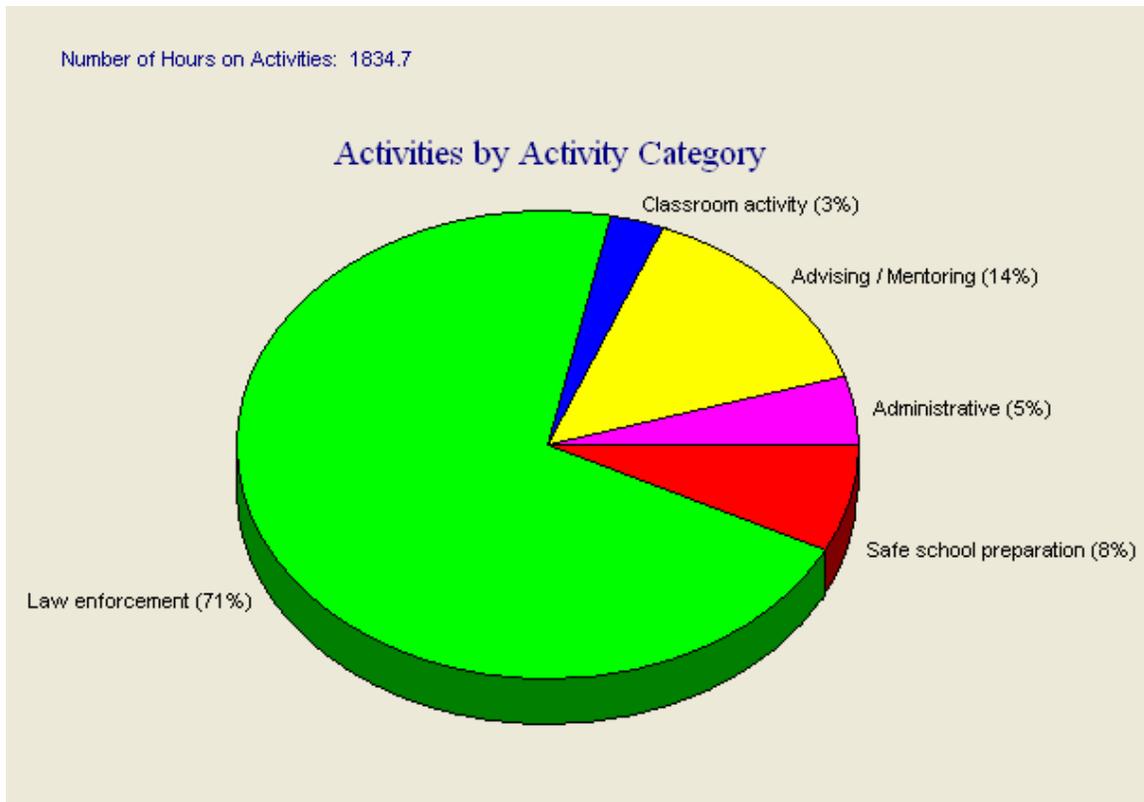


Chart 2 2005-2006 Academic Year

As you can see in Chart 2, 71% of my time is spent on law enforcement, which includes campus patrol and investigating incidents. My next largest block of time (14%) is spent on counseling and advising students, parents, and staff. This means that

approximately 85% of my time is spent on counseling and law enforcement. The remaining 15% encompasses classroom teaching, training, court, grant writing, etc. As I mentioned before, Chart 3 will depict the time spent on activities within each category for 2005-06. When you examine Chart 3, you will see that there are several categories where the percentage of time is less than one-percent. This does not mean no time was spent doing this activity. Instead, it means less than 1% of my overall time was devoted to these categories.

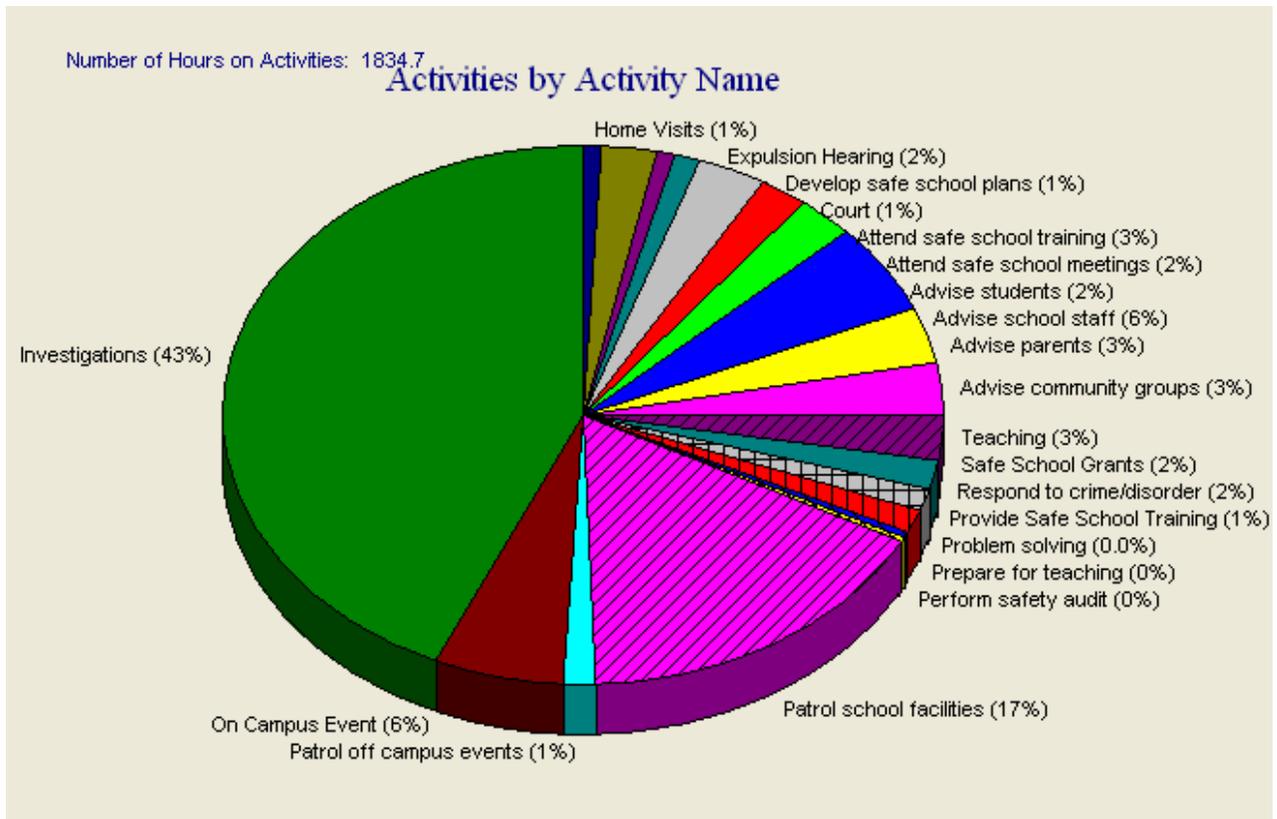


Chart 3 2005-06 Academic Year

### 2004-2005 SRO Activities

As mentioned above, I have been using the School COP software program to collect data and record my activities. The data depicted in the charts below represents the total activities for the 2004-05 academic year. Like Charts 2 and 3 above, the first chart in each set will depict generalized categories and the second chart in each set will depict a breakdown of the activities in each category. Chart 4 below depicts my activities by categories in simple percentages for 2004-05.

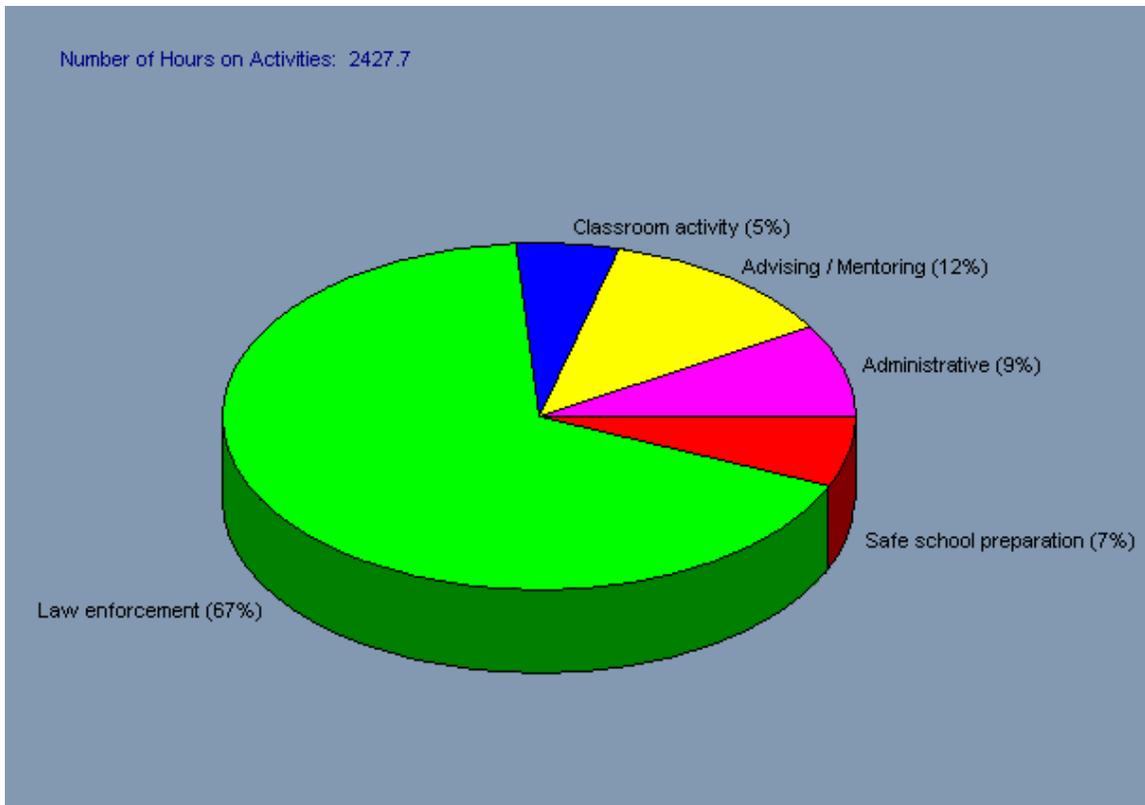


Chart 4 2004-05 Academic Year

As you can see in Chart 4, 67% of my time was spent on law enforcement, which includes campus patrol and investigating incidents. My next largest block of time (12%) was spent on counseling and advising students, parents, and staff. This means that approximately 80% of my time is spent on counseling and law enforcement. As I mentioned before, Chart 5 will depict the time spent on activities within each category for 2004-05.

When the data from the two academic years are compared and analyzed, the results show the amount of time and resources devoted to law enforcement activities continues to rise. The biggest jump has been in the area of investigations, which has increased from 30% to 43%.

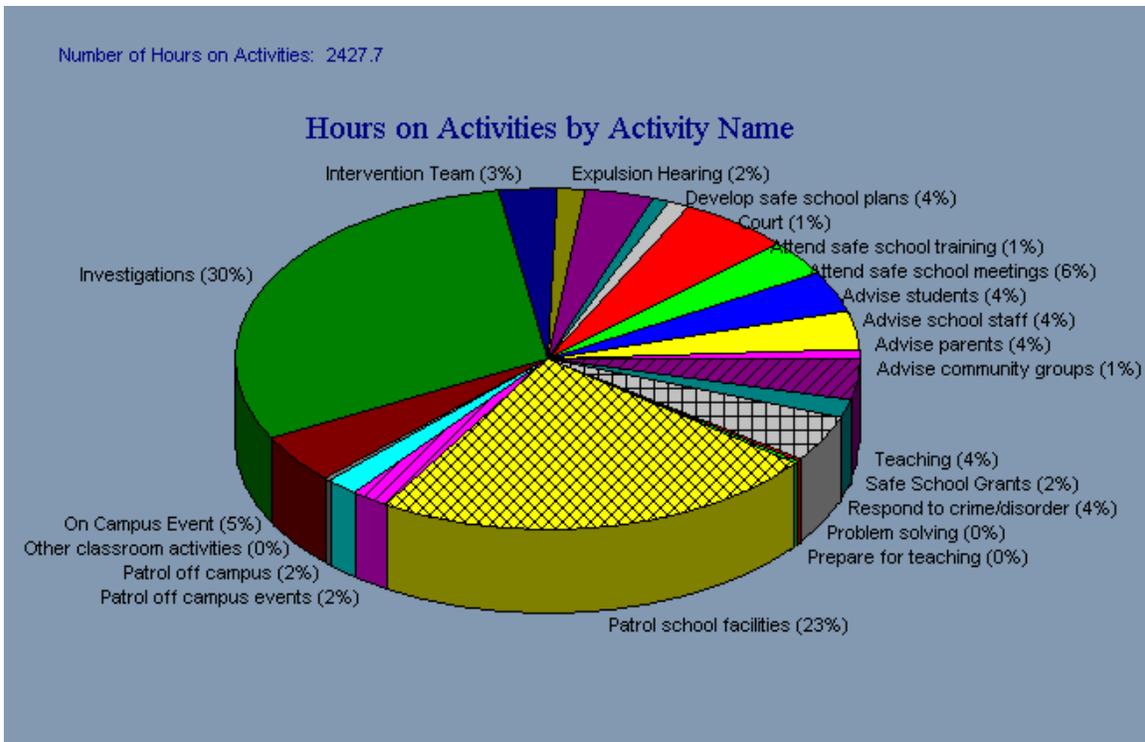


Chart 5 2004-05 Academic Year

## Campus Safety

Our M-A team continues to act under the philosophy of the “broken windows” theory, which has been supported by research over the years. By addressing minor violations at lower levels it helps decrease the amount of minor conduct violations as well as more serious offenses such as, batteries and threats.

In collaboration with MAHS Principal Norm Estrada, AVPs Matthew Zito and Judy Duran, the Campus Supervisors, students and staff; several small-scale initiatives that were piloted in 2004-05 to increase the safety and security on the MAHS campus continued this academic year. As a result of our efforts in 2004-05, M-A was able to add a Dean of Students position. Dean of Students Fred Kessler was an integral part of our campus safety team, which led to an overall decline in the frequency of violent crime and conflict on campus. During the last few months of school, the dominant crime that was reported to staff was petty thefts.

Our short-term strategy continues to be to strictly enforce student conduct codes such as; tardiness, fighting, creating a disturbance on campus, and truancy through high visibility. In addition, we do not allow any student groups to claim territory on campus through passive intimidation or any form of bullying.

### School Community Policing Partnership Grants:

Last year our grant writing team prepared and submitted a grant to deal with school crime and safety issues as part of a joint funding effort between the California Department of Education and the Office of the Attorney General. The competitive grant was worth up to \$325,000 over three years. We formed a collaborative partnership between the staff, students, parents, law enforcement and the community to develop our grant application. The grant application was developed over a five-month period and was submitted on time. Unfortunately, we were not selected to advance past the first-round of screening. This year, our grant writing team explored this grant opportunity again. As we analyzed the data, we found that violent crime at M-A was on the decline and that the addition of the Dean of Students position was part of the reason for the overall decline of campus misconduct. Consequently, we decided to not pursue this funding opportunity for this academic year because we felt our justification of need would not be competitive with other schools who were facing severe violent acts on campus.

The Department of Justice invited Atherton P.D. to apply for a school safety grant because we had been awarded a grant in the past. Unfortunately, this grant would not pay for current programs. However, it would fund new programs. At the time, San Mateo County Probation was searching for funding to pay for their probation officers on school campuses. With the support of Chief Brennan, we offered to help probation apply for the grant, which we would host for them. Probation considered our offer, but chose another option.

#### **Classroom Presentations:**

This year a number of officers from our Department presented in the Outreach and Safety Education classes on topics ranging from Internet Crime to safe driving habits. Beside myself, other presenters were: Officers Kockler, Wade, Metzger and Buckley.

#### **Campus Security Class:**

At the request of the Sequoia Union High School District, Sgt. Guerra presented a certified 24-hour campus security training workshop for the campus supervisors in the district. This is a statutory requirement for campus supervisors. In addition to Atherton's SRO, Woodside High Schools SROs Parks and Gathwright also assisted.

#### **Overtime:**

In the 2005-06 academic year the SRO worked approximately 234.3 hours of overtime (translates into approximately 351.43 hours at 1.5). The overtime was caused by evening and weekend campus activities relating to campus safety issues such as; School dances, presenting training for the district, athletic events, the graduation ceremony, staff meetings, and criminal investigations.

### **Concluding Comments**

After reviewing the data collected over the last four years and reviewing the activities and projects that we worked on in the 2005-06 academic year, I discovered a few key points. Based on the objective data, it may seem that crime has significantly increased on campus. However, there were two brand new administrative vice-principals and a new

principal at M-A for 2004-5. Their approach was different than past administrations that I've worked with. This new administrative team was the first group of administrators that I've work with who were not afraid to tackle the tough issues and to try and improve the school's climate through education, mentoring, and accountability. As a result, much of my time was spent on traditional law enforcement activities; specifically, order maintenance through proactive patrol on campus and criminal investigations. The fruits of our labor seem to be paying off this year. The growth rate of crime on campus has stabilized and more thefts are getting reported. The subjective explanation of this phenomenon is that our campus safety team has developed relationships with students so they feel comfortable coming forward to report crime and to provide information to us so we can reduce crime at school. These relationships have also helped deal with crime in the greater M-A community. For instance, through students coming forward to us, we were able to identify suspects in a series of armed robberies in Palo Alto and on the Sanford campus.

The current SRO completed his three-year assignment and was due to rotate out of this position. Chief Brennan asked the current SRO to continue in his position for another year (2006-07 academic year), which the SRO agreed to do. Consequently, the M-A campus safety team remains together and will continue to work toward maintaining an environment on campus where teachers can teach and students can learn.

From: Bob Brennan  
Sent: Wednesday, September 06, 2006 8:09 AM  
To: Kathi Hamilton  
Subject: FW: SRO Letter

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

From: Pat Gemma [mailto:pemma@seq.org]  
Sent: Tuesday, September 05, 2006 5:09 PM  
To: Bob Brennan  
Cc: Jim Robinson; Denise Plante  
Subject: Re: SRO Letter

Hi Bob,

It is the district's intent to reinstate the SRO contract at MA in the 2007-08 school year.

We learned from the county assessors office in late May 2006 that our anticipated increased revenue from local property tax would be 30% less than originally projected in October of 2005. This late notice limited our options for budget cutting and cost saving because the Education Code requires a March 15th notice for a district to lay off teachers and other certificated staff.

We will be able to make decisions for cuts in certificated staff this year that will take effect in 2007-08. With these cost savings we will be able to fund the SRO position again.

Thank you for your consideration.

Pat



**Town of Atherton**

**CITY COUNCIL STAFF REPORT**

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

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

**DATE: FOR THE CITY COUNCIL MEETING OF SEPTEMBER 20, 2006**

**SUBJECT: ORDINANCE FOR THE PRESERVATION OF HISTORICAL ARTIFACTS**

**RECOMMENDATION:**

Staff recommends the City Council conducts the public hearing and introduces the attached Ordinance for the reasons outlined in this staff report.

**BACKGROUND:**

The City Council, at its April 20, 2005, meeting, adopted an Urgency Ordinance to protect historical artifacts. The Urgency Ordinance was subsequently extended by the Council and will expire on October 19, 2006.

The Town retained the services of Laura Jones (consultant) to assess the potential historical significance of artifacts throughout Town. The study began in June 2005 with an inventory of artifacts in the public right-of-way, public property, and private property with owners' consent. The collections of the Atherton Heritage Room, the San Mateo County Historical Museum, the Menlo Park Historical Society, the Stanford University Special Collections, and the California State Library were reviewed for photographs and documents relating to the historic estates associated with the artifacts. Several hundred photographs and documents were found, with detailed guide to those collections in the Inventory report.

Staff advertised the study in the *Athertonian* and mailed several notices to affected property owners. Two public meetings were held; the first to review the findings of the inventory, and the second to discuss parameters for Town regulations. Staff then prepared a draft Ordinance for review by the General Plan Committee at its April 5, 2006, June 7, 2006, and September 13, 2006, meetings.

As indicated above, the General Plan Committee reviewed the draft preservation Ordinance at three separate meetings, providing opportunity for public input and providing direction to staff. At the September 13, 2006, meeting, the Committee (with a 7-2 vote) requested the item be continued for further discussion and requested staff incorporate the concerns expressed at the meeting with a revised Ordinance (see attached minutes). The Committee did not feel comfortable recommending the Council adopt the Ordinance as presented.

Due to the pending expiration of the moratorium, staff scheduled this item for consideration at the September 20, 2006, meeting and advertised the public hearing prior to the General Plan Committee meeting. Although the General Plan Committee is not comfortable with the Ordinance as prepared, staff feels it meets the Council's objectives and values expressed by the public at the workshops and General Plan Committee meetings. As indicated in the attached minutes, the General Plan Committee's discussion on the Ordinance was general and specific direction was not provided to staff on areas to further modify the Ordinance. Committee members requested an approach that encourages preservation rather than a punitive Ordinance, places higher value on private property rights, and is voluntary.

### **ANALYSIS:**

The draft Ordinance covers artifacts that are structures and objects (examples include; urns, lamp posts, walls, fountains, etc.) located within the Town. The Ordinance does not cover buildings or interior objects. To be eligible for listing in the Inventory of Historical Artifacts, the item must either meet the guidelines of the National or State Registry or be considered to be of local significance by being associated with the early development of the Town (prior to 1930); associated with the Lindenwood district (prior to 1937); *and* retain sufficient integrity of design, materials, and association to be recognizable as artifacts of the historical period of their significance. The Ordinance establishes procedures for designation on the Inventory with review by the Planning Commission at a public hearing and with property owner consent.

Regardless of listing on the Inventory, any artifact that is eligible for listing is covered by the Ordinance. Preventive maintenance activities that maintain or restore the historical appearance of historical artifacts are exempt from Town review. Minor alterations to historical artifacts include changes to the color or minor details and temporary removal during construction require the property owner to apply for a minor alteration permit from the Building Official. The intent of the permit is to document the work that has been completed. Major alterations include permanent changes to the visual character of an artifact or its setting and require the issuance of a permit by the Planning Commission. A historical artifact may be relocated within the property or to another property within the Town with a major alteration permit. The relocation of an artifact outside of the Town limits is covered under a demolition permit by the Planning Commission.

The draft Ordinance also includes requirements to protect historical artifacts during construction (similar to the protection of heritage trees). The draft Ordinance allows repairs due to accidental damage and assesses penalties for alterations or demolitions without a permit. Staff recommends utilizing the appraised value of the artifact plus 25% rather than a flat penalty amount. The value of artifacts varies greatly, from a lamppost to a large fountain, and the penalty amount should more closely reflect the resulting loss.

Concern was expressed at a previous General Plan Committee meeting relating to the public listing on the Inventory. Staff recommends that copies of the complete Historical Inventory Report with artifact inventory sheets be stored at the following archival repositories;

- Atherton Heritage Room
- San Mateo County Historical Association
- California State Historical Resource Information System

Upon designation, the individual inventory sheets shall be stored within the subject property's address file at the Building Department with notation in a property based computer tracking system. It is unlikely that individuals will seek the above-listed archival repositories if they are seeking to steal an artifact. The above-listed organizations are more commonly frequented by persons conducting historical research.

Staff has completed the fee schedule in section 8.14.083 based on input provided by the Town's Finance Director. The fees are based on cost recovery and track the current cost of a Conditional Use Permit and Appeal. Staff recommends no fee be charged for a minor alteration permit to encourage property owners to file this information with the Town and based on the fact that minimal staff work will be necessary. The Council also has the option as was suggested at the General Plan Committee of waiving all fees to encourage compliance with the Ordinance.

The attached Ordinance has been reviewed by the City Attorney (memo attached). The City Attorney recommends the Ordinance be incorporated in Chapter 8.14 of the Atherton Municipal Code. The City Attorney further recommends other modifications to the draft Ordinance that have been incorporated in the version attached to this staff report.

### **CONCLUSION:**

Staff feels the draft Ordinance meets the objective of protecting historical artifacts within the Town while providing a streamlined approach for property owners to move or conduct minor alterations to their artifacts within their property and providing opportunities for property owners wishing to relocate an artifact off of their property within the Town.

### **ALTERNATIVES:**

The Council has the option to adopt the Ordinance as presented, adopt the Ordinance as amended, or not adopt the Ordinance and request the General Plan Committee continue its discussion on the matter.

### **FISCAL IMPACT:**

Costs of preparing the Ordinance are at the Town expense. Cost of future implementation of the Ordinance will be borne by applicants.

### **ENVIRONMENTAL IMPACT:**

The Ordinance 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 adopt the Ordinance.

Prepared by:

Approved by:

/s/Lisa Costa Sanders

Lisa Costa Sanders  
Deputy Town Planner

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

Attachment:

1. Draft Ordinance
2. Memo from Marc Hynes, City Attorney, dated July 7, 2006
3. General Plan Committee Draft Meeting Minutes, September 13, 2006

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

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

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

“8.14.010 Purpose

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

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

8.14.020 Enabling Authority

California Government Code Section 37361(b)

8.14.030 Definitions

- A. “Accidental Damage” means unintentional damage by an individual or an act of Nature. This does not include accidental damage during the course of construction on the property where the artifact was not adequately protected.
- B. "Alteration" means any work changing the exterior appearance and visual quality of character-defining features of a historical artifact.
- C. "Alteration Permit" means a permit approving an alteration to a historic artifact, or a property determined eligible for historic artifact designation pursuant to the provisions of this Chapter.
- D. “Artifacts” for the purposes of this ordinance are structures as defined below and objects located on the grounds of single family homes, landscaped areas of public, commercial, and multifamily housing properties, and adjacent to public roads and

- streets. Buildings designed for human occupation and objects housed in the interiors of buildings are not subject to the terms of the ordinance.
- E. "Character-defining features" means the elements embodying style, design, general arrangement and components of all of the exterior surfaces of any structure or object, including, but not limited to, the type of building materials, and type and style of elements related to such structure or object.
  - F. "Demolition" means the act or process that destroys, completely or partially, any structure or object.
  - G. "Historical Artifact" means a structure or object that meets the criteria for listing on the national, state or local level as described below.
  - H. "Historic Integrity" means the authenticity of a resource's physical identity, evidenced by the survival of characteristics that existed during the resource's period of significance. Integrity is evaluated with regard to the retention of location, design, setting, materials, workmanship, feeling and association. It must also be judged with regard to the particular criteria under which a resource is proposed for eligibility.
  - I. "Inventory of Historical Artifacts" is the official list of properties subject to the terms of this ordinance. In order to be listed on the Inventory, the artifact must be found to be an appropriate property type, and meet the criteria for listing on the national, state or local level as described below. An artifact shall not be included in the Inventory if the owner opposes its listing.
  - J. "Major Alteration" means permanent changes to the visual character of an Historical Artifact or its' setting, including but not limited to changes in size, surface treatment or location of historical artifacts as described below.
  - K. "Minor Alteration" means changes to the color or minor details of an Historical Artifact, such as for example the replacement of missing or damaged elements. The relocation of a moveable objects on the property is a minor alteration and temporary removal of an artifact from the property during restoration or for its protection during construction shall be treated as minor alterations under this ordinance.
  - L. "National Register of Historic Places" means the official inventory of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology and culture which is maintained by the Secretary of the Interior under the authority of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq., 36 C.F.R. Sections 60, 63.).
  - M. "Object" (as applied in the context of this chapter) means a construction, such as a statue, monument or milepost that may be by nature of design moveable, yet related to a specific setting or environment.
  - N. "Owner" means the person(s) whose name appears as the owner of a property on the last tax assessment roll of San Mateo County.
  - O. "Preventative Maintenance" means any work to prevent deterioration or damage to the structural integrity or any exterior character-defining feature of a historic resource that does not involve a change in design, material or exterior appearance. Such work includes, but is not limited to, painting, grouting or repointing, foundation work or landscaping in the vicinity of an Historic Artifact.

- P. "Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings" means the illustrated version of the Standards and Guidelines for Rehabilitation developed by the Technical Preservation Services Branch, Preservation Assistance Division of the National Park Service, as it may be amended.
- Q. "Secretary of the Interior's Standards for the Treatment of Historic Properties" means principles developed by the National Park Service (36 CFR 68.3, as it may be amended from time to time) to help protect historic properties by promoting consistent preservation practices and providing guidance to historic building owners and building managers, preservation consultants, architects, contractors, and project reviewers on how to approach the treatment of historic properties. The Secretary of the Interior Standards for the Treatment of Historic Properties may also be referred to in this chapter as "Secretary of the Interior's Standards.
- R. "State Historical Building Code" means California Code of Regulations, Part 8 of Title 24 (California Building Standards Code), as it may be amended.
- S. "Structure" (as applied in the context of this chapter) means a functional, man-made construction, such as a fence, gate, bridge or tunnel, typically made for purposes other than creating shelter fixed to the property on which it is located.

#### 8.14.040 Review Authority

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

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

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

#### 8.14.051 Inventory of Historical Artifacts

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

#### 8.14.052 Criteria

##### 1. Property Types

For the purposes of this ordinance artifacts are structures and objects located on the grounds of single family homes, landscaped areas of public, schools, , and adjacent to public roads and streets. Buildings designed for human occupation and objects housed in the interiors of buildings are not subject to the terms of the ordinance.

##### 2. National Register of Historic Places

The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- a. That are associated with events that have made a significant contribution to the broad patterns of the Town of Atherton's history; or
- b. That are associated with the lives of significant persons in the Town of Atherton's past; or
- c. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- d. That have yielded or may be likely to yield, information important in history or prehistory.

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

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

##### 3. California State Historical Landmarks, Points of Interest, and the California Register of Historical Resources

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

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

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

#### 4. Local Significance

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

#### 8.14.053 Procedures for Designation

Official listing on the Inventory of Historical Artifacts, or removal from listing, shall be approved by the City Council.

##### 1. Initiation of listings on the Inventory of Historical Artifacts.

Designation may be initiated by the Planning Commission, by any resident of the Town, or by the owner of an artifact. Applications for designation must be accompanied by such historical and architectural documentation as may be required to evaluate the artifact’s significance under the criteria described above. If the application is filed by a property owner or resident of the Town, the application shall be accompanied by a nonrefundable fee as described below.

2. Notice of the Public Hearing.

Upon receipt of a completed application, the secretary of the Planning Commission shall set a date for the public hearing which shall be held within forty days of the acceptance of the completed application.. Written notice by first class mail shall be sent to property owners within 500 feet of the property containing the artifact and shall be posted on the official town bulletin boards within 10 days of the public hearing .

The designation of historical artifacts shall be made by resolution of the City Council and shall be communicated to the Building Official, the Director of Public Works, , and the Atherton Heritage Association. , After thirty (30) days from the Public Hearing, if no written objection is filed by the property owner, the Town shall forward a copy of the resolution to the recorder of the County of San Mateo and to the property owner.

3. Owner Consent.

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

Artifacts that the City Council accepts for designation as Historical Artifacts are subject to the terms of the ordinance, even in those cases where the property owner objects to inclusion in the official Inventory. An inventory sheet shall be stored in the address file in the Building Division Offices of properties accepted for designation but not published in the official Inventory of Historical Artifacts.

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

4. Stop Work Order

While the application for a designation as an Historical Artifact is pending, prior to the public hearing where the Planning Commission or City Council approves or denies the application, the Building Official may declare a stop work order. During the pendency of the stop work order, work that would require an alteration permit if the artifact were already designated as a Historical Artifact shall not be carried out. The stop work order will be lifted upon the earlier of the Planning Commission or Council's decision on the proposed designation, the stop work order termination date as adopted by the Building Official, or 180 calendar days from the date of the commencement of the stop work order.

#### 8.14.060 Procedures and Criteria for Reviewable Actions

##### 8.14.061 Preventive Maintenance activities exempt from review

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

##### 8.14.062 Activities requiring an alteration permit

###### a. Minor alterations

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

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

###### b. Major alterations

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

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

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

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

#### 8.14.063 Demolition permits

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

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

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

#### 8.14.064 Protection during construction

Prior to issuance of a grading, demolition or building permit for a property that contains an Historical Artifact, the applicant shall present an Artifact Protection Plan if any activity associated with the permit has the potential to impact a Historical

Artifact. The Artifact Protection Plan shall include barriers to prevent accidental damage to artifacts, protection against dirt and debris, and if necessary, temporary removal and storage of the Historical Artifact during the construction project.

#### 8.14.065 Consistency with CEQA and other statutes

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

#### 8.14.070. Cases of Economic Hardship

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

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

#### 8.14.080 Enforcement and Fees

#### 8.14.081 Accidental damage

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

#### 8.14.082 Alterations/Demolitions without a permit – Violation – Penalty

- a. Any person causing the alteration or an Historical Artifact in a manner which exceeds Preventive Maintenance as defined above without an alteration permit shall submit a fee in the amount of Five Thousand Dollars (\$5,000.00) to be deposited into a fund reserved for projects that preserve, restore or enhance Historical Artifacts on the official inventory of Historical Artifacts as a civil penalty in addition to the penalties as outlined in Chapter 1.20.

- b. Any person causing an Historical Artifact to be removed or demolished without a demolition permit shall submit a fee an the amount equal to the appraised value of the artifact plus 25% (twenty-five percent) to be deposited into a fund reserved for projects that preserve, restore or enhance Historical Artifacts on the official inventory of Historical Artifacts as a civil penalty in addition to the penalties as outlined in Chapter 1.20.
- c. In the event the Historical Artifact can be restored to its appearance at the time of its designation or at the time of the most recent alteration permit or demolition permit, no civil penalty shall be imposed. Otherwise, as part of a civil action brought by the town, a court may assess against any person who commits, allows, or maintains a violation of any provision of this Chapter, the civil penalties as described in Section A and B above.
- d. A civil action may be commenced to abate, enjoin, or otherwise compel the cessation of violation of any provision of this chapter. In a civil action brought pursuant to this chapter in which the town prevails, the court may award to the town all costs of investigation and preparation for trial, the costs of trail, reasonable expenses including overhead and administrative costs incurred in prosecuting the action and reasonable attorneys' fees.
- e. Upon any guilty plea of judgment or conviction, in any criminal proceeding brought for the violation of this chapter, where the defendant is entitled by law to probation, then the court may require the payment to the town of the costs and expenses as described above as one of the conditions of such probation.

8.14.083 Fee Schedule

Application for designation of a Historical Artifact.....	\$750
Appeal of designation of a Historical Artifact.....	\$750
Minor Alteration Permit.....	no charge
Appeal of Minor Alteration Permit.....	\$750
Major Alteration Permit.....	\$750 plus the cost of historical evaluation if not already completed.
Appeal of Major Alteration Permit.....	\$750
Demolition or Removal Permit.....	\$750
Appeal of Demolition of Removal Permit.....	\$750

**SECTION 2:** That the City Council hereby declares that it would have passed this Ordinance word by word, sentence by sentence, paragraph by paragraph and section by section, and does hereby declare that any provisions of this Ordinance are severable and,

if for any reason any word, sentence, paragraph or section of this Ordinance shall be held invalid, such decision shall not affect the validity of the remaining parts of this Ordinance.

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

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

\* \* \* \* \*

Introduced this 20<sup>th</sup> day of September, 2006.

Passed and adopted as an Ordinance of the town of Atherton at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 2006, by the following vote:

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

\_\_\_\_\_  
Charles E. Marsala  
MAYOR, Town of Atherton

ATTEST:

\_\_\_\_\_  
Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Marc G. Hynes, City Attorney

**GENERAL PLAN COMMITTEE  
SPECIAL MEETING  
DRAFT MINUTES**

**TOWN OF ATHERTON  
September 13, 2006  
6:00 P.M.  
TOWN COUNCIL CHAMBERS  
94 ASHFIELD ROAD**

**1. ROLL CALL:**

**PRESENT:** Barbara Shoor  
James Ransohoff  
Elizabeth Lewis  
Randy Lamb  
Todd Beardsley  
Alan Carlson

Marc Hynes, City Attorney, Lisa Costa Sanders, Deputy Town Planner, and Laura Jones were also present.

**2. APPROVAL MINUTES**

M/S Oster/ Ransohoff to approve the June 7, 2006 meeting minutes as corrected.  
Motion passed.

**3. PUBLIC COMMENT**

None.

**4. COUNCIL REPORTS**

None.

**5. PLANNING COMMISSION REPORTS**

Committee Member Oster reported the following items from the August 23, 2006 Planning Commission Meeting: Tree removal at 4 Catalpa approved, two trees at 7 Faxon Forest approved, a lot line redesignation approved, and three trees at 2 Bellbrook approved for removal.

**6. COMMITTEE MEMBER REPORTS**

None.

**7. STAFF REPORTS**

Lisa Costa Sanders reported on items scheduled for the next City Council meeting; heritage artifact ordinance, amendment to length of construction ordinance to apply to the entire project, and a report on the progress of the General Plan Committee.

## **8. REGULAR AGENDA**

### **A. Review Draft Preservation Ordinance for Artifacts**

Lisa Costa Sanders and Laura Jones reviewed the item. Hau noted the letters in packet; Lindenwood Homes Association, Neil Rasmussen

Committee member Ransohoff stated that he would like to have a location for artifacts to be relocated for public view (i.e. a park). Committee member Lewis stated that she feels the Committee should approach the Ordinance from a positive perspective. She prefers to create a foundation to preserve artifacts in public right-of-way and should apply for grants to preserve the artifacts. She would like a better public venue for artifacts (park) with information. There needs to be excitement created over the artifacts. She questioned whether there were artifacts outside Lindenwood.

Laura Jones responded that other artifacts outside Lindenwood were inventoried with owner consent. She noted that the Town would need the conservation reports and to be able to apply for grants, and there needs to be an Ordinance in place in order to be eligible to apply for the grants. Jones indicated that the Ordinance does allow the artifacts to be moved within the Town they could go to a park with Planning Commission approval.

Committee Member Oster stated that the Town does not currently maintain or restore artifacts in Town. She expressed concerned with placing more artifacts at the Park. She noted that artifacts in the public right-of-way are maintained by the Lindenwood Homes Association.

Committee Member Lewis stated that she would like to see a foundation or historical fund for preservation rather than a restrictive ordinance. She asked about an enabling authority.

#### **PUBLIC COMMENT**

Shirley Carlos, 95 Mt. Vernon, stated that she would not encourage locating more artifacts at the Park due to maintenance concerns.

Steve Ackley, 55 Bellbrook, PPG, asked whether the artifacts could be moved to other properties. Staff responded in the affirmative, with Planning Commission approval and within the Town.

Judy Castic, 22 Linden Avenue, stated that she is pleased with the proposed Ordinance.

Lisa Lamb, 51 Laburnum, stated that she owns 3 artifacts on her property and has spent a lot of money to restore them. She would like to move them with her when she moves.

Phil Lively, 24 Hawthorn, stated he would like to see the Ordinance adopted. He would prefer the artifacts stay within Lindenwood but if not, at least within the Town.

#### CLOSE PUBLIC COMMENT

Committee discussion;

- Want to encourage participation and waive all fees. Would like to see artifacts stay in Lindenwood and would like to pursue grants.
- Concerned with Town-wide participation in a foundation.
- Fees only apply to major restoration or relocating the artifact.
- Thanked Laura Jones and Julie Cain on extensive research. Also noted outreach efforts and public meetings.
- Feel we are not owners of artifacts but caretakers. Should recommend Ordinance to the Council.
- Not in favor of Ordinance as drafted- feels it is too punitive.
- Question as to how many properties are affected. Laura Jones replied that there are about 33 properties with about 50 artifacts and 8-10 artifacts in public places.
- Believe in preservation of history and private property rights. Concern with discretion of Planning Commission. Feel it should be voluntary, not mandatory.
- Concern that Ordinance is punitive and only affects a small portion of the Town. Concern with burden placed on property owners. Prefer voluntary program rather than Ordinance.
- Ok with removing fees. Recommend passing the Ordinance to City Council with reservations expressed at this meeting.
- Without Ordinance will lose artifacts.

M/S Hau/Beardsley to continue to study the Ordinance to incorporate the issues discussed tonight. Motion passed 6-2.

**The Lindenwood Homes Association  
Board of Directors**

July 6, 2006

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

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

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

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

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

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

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

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

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

Sincerely,

Philip D. Lively  
President, Lindenwood Homes Association

*Philip D. Lively*  
*Patricia Dobie*  
*Thomas R. Hill*  
*Alicia K. Seibold*  
*Harriet Judson*  
*Lisa Hunt*

*Margaret [unclear]*  
*Robert & Heather*

Atherton Town Council Members,

Atherton has been my hometown for 52 of my 56 years. I have been around long enough to have ridden horses with Mr. Palmer's visiting granddaughters when our park was still a private residence, and to have explored the creek in its natural state before the gunitite was applied. So hopefully I can claim the long view while expressing my concern for the recent accelerated change in Atherton's once rural residential character – now fast forward to our current identity crisis. I am grateful that a publication of Atherton's history is currently in progress by the same authors that have already produced excellent histories of Palo Alto and Portola Valley. I hope to remind everyone that behind the noise and dust of the "weapons of mass construction" we still have remnants of our heritage and the obligation to protect them. Many new comers to our town can apparently take up to 10 years to settle in these days but when you finally do, I can promise that you will eventually develop your own sense of nostalgia about this place and your own remembrance of the "good old days". Please support the Heritage Artifact ordinance at the September 13<sup>th</sup> general plan meeting so that we may all continue to enjoy feeling like we have the hometown we were all seeking whenever it was that we first arrived.

Melinda Tevis  
88 Tallwood Court  
Atherton

854-1946



## Town of Atherton

### CITY COUNCIL STAFF REPORT

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

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

**DATE: FOR THE CITY COUNCIL MEETING OF SEPTEMBER 20, 2006**

**SUBJECT: AMENDMENT TO THE LENGTH OF CONSTRUCTION ORDINANCE**

#### **RECOMMENDATION:**

Staff recommends the City Council conducts the public hearing and introduces the attached Ordinance for the reasons outlined in this staff report.

#### **BACKGROUND:**

The City Council adopted the Length of Construction Ordinance on June 21, 2006. The Ordinance establishes time limits for the completion of construction projects based on the size of the project.

#### **ANALYSIS:**

When the Ordinance was initially prepared, it was recognized that an applicant could request a separate building permit for each structure on his/her property and take advantage of the time limit established for each issued building permit. The Building Department has reviewed the application of this Ordinance with the types of projects that are issued building permits. Most new construction projects that are submitted contain multiple structures (main dwelling, detached garage, pool, etc.) on the plan set and are issued one building permit. The Building Department, recognizing the intent of the Ordinance to have all construction work completed in a timely fashion, requested that the Ordinance be clarified to have the time limits apply to all construction work on the site rather than to allow applicants to work around the Ordinance and stage building permits for each structure.

Staff and the City Attorney recommend the Ordinance be amended to have the time limits apply to a "project" defined as "all development on a site and includes the term construction project."

With this amendment, applicants will need to complete all construction work on the site within the maximum three years.

**CONCLUSION:**

Planning staff's professional opinion is that the proposed ordinance amendment would not be contrary to the purpose and intent of the General Plan and the Zoning Code.

**ALTERNATIVES:**

The Council could adopt the Ordinance as proposed, adopt with further amendment, or choose not to adopt.

**FISCAL IMPACT:**

Cost of preparing the ordinance is paid for by the Town of Atherton.

**ENVIRONMENTAL IMPACT:**

The proposed Ordinance Amendment is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15305, Minor Alterations in Land Use Limitations of the CEQA guidelines.

**FORMAL MOTION:**

I move that the City Council introduce for first reading the attached Ordinance

Prepared by:

Approved by:

\_\_\_\_\_  
Lisa Costa Sanders  
Deputy Town Planner

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

**Attachment:**

1. Ordinance

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
AMENDING CHAPTERS 15.40.160, 15.40.170 AND 15.40.180 REGARDING TIME  
LIMITS FOR COMPLETION OF CONSTRUCTION**

---

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

**SECTION 1: Amendment of Code.** Chapters 15.40.110(f), 15.40.160, 15.40.170 and 15.40.180 of the Atherton Municipal Code are hereby amended to read as follows:

**"15.40.110(F) "Project" means all development on a site and includes the term construction project"**

**"15.40.160 Application.**

Sections 15.40.160 through 15.40.220 shall apply to all building construction **projects** (including, but not limited to, all additions, alterations, modifications, repairs and improvements) that requires a building permit, **including all structures on the site** and landscaping related to such building construction."

**"15.40.170 Construction completion.**

For the purpose of Sections 15.40.160 through 15.40.220, construction **project** shall be complete upon the final performance of all construction work other than landscaping, including, but not necessarily limited to, exterior repairs and remodeling, total compliance with all conditions of application approval, and the clearing and cleaning of all construction-related materials and debris from the site. Final inspection and approval of the construction **project** work by the Town shall mark the date of construction completion. Deadlines for the completion of landscaping are set forth in Section 17.50.060. "

**"15.40.180 Time limits.**

<b>Building Permit Valuation Project Size</b>	<b>New Building Construction Additions, alterations, modifications, repairs and improvements</b>
2,000 square feet or less	12 months from original building permit issuance
2001 – 4,000 square feet	24 months from original building permit issuance
Greater than 4,001 square feet	36 months from original building permit issuance

Time limits will not be increased by issuance of subsequent building permits for the same project."

**SECTION 2:** 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 no possibility that the ordinance may have a significant effect on the environment (CEQA Guidelines section 15061.b).

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

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

\* \* \* \* \*

Introduced this 20th day of September, 2006.

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the \_\_\_ day of \_\_\_, 2006, by the following vote:

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

\_\_\_\_\_  
Charles E. Marsala  
MAYOR, Town of Atherton

ATTEST:

\_\_\_\_\_  
Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Marc G. Hynes, City Attorney



**Town of Atherton**

**CITY COUNCIL STAFF REPORT**

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

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

**DATE: FOR THE MEETING OF MARCH 16, 2005**

**SUBJECT: CONSIDERATION OF REVISIONS TO ROAD IMPACT FEE AND  
EXCAVATION FEE – RECOMMENDATION FROM THE FINANCE  
COMMITTEE AND PUBLIC HEARING**

**RECOMMENDATION:**

Adopt a resolution adjusting existing road impact fees and extending such fees to excavation and grading.

**DISCUSSION:**

In September 2000, the City Council adopted Resolution No. 00-27 adopting a road impact fee to provide for roadway maintenance and repair related to damages caused by construction activity. Such impact fees were implemented pursuant to staff recommendations and based upon findings contained in a consultant study prepared by DKS and Associates. According to the DKS report, a road impact fee equivalent to ½ of one-percent of the permitted value of new construction was justified in order to recover the cost of maintaining and repairing roads damaged from heavy equipment operating in support of residential construction.

Subsequent to the adoption of the fee recommendations contained within the DKS report, Atherton has collected total of \$2,093,399 in road impact fees, or an average of \$474,272 per year. These funds, combined with proceeds of the Atherton parcel tax, Measure A funds, Gas Tax proceeds, and federal transportation improvement grants, have enabled the Town to expend

approximately \$6 million (\$1,485,000 annually) to maintain, repair, and rehabilitate its roads during the past four years. Attachment 1 to this report provides an analysis of road maintenance and rehabilitation expenditures according to financing source from Fiscal Years 1999-00 through 2003-04.

Despite the significant level of investment during the past several years, the Town's roadways have deteriorated further. In fact, the most recently completed pavement condition study indicates that the Town would have had to spend an additional \$672,000 over the past four years to maintain the condition of the roads at their 2000 level.

To ascertain the reasons for the continued deterioration of the Town's surface streets despite the level of investment in road maintenance and repair during the past several years, staff retained the engineering firm of Kimley Horn and Associates. A primary objective of the Kimley Horn study was to reexamine the relationship between building activity and the deterioration of the Town's roads. Staff believed such an examination was warranted in light of the significant increase in the size of homes under construction within Atherton and the increased excavation activity that had been observed to accommodate the construction of basements.

In performing its examination, the consultant used certain engineering calculations to ascertain the damage attributable to construction and excavation activity based upon the following parameters:

- The estimated weight and volume of materials transported to and from construction sites given the size of homes being constructed;
- The volume of earth material being excavated and off-hauled to accommodate basement construction given the number of homes being constructed with basements and the estimated size of such basements;
- The configuration and carrying capacity of vehicles used to support construction and excavation activity; and,
- The estimated number of trips made by construction activity given the carrying capacity of such vehicles.

It should be noted that the approach used by Kimley Horn & Associates to quantify the impact of construction traffic was based upon certain engineering calculations as described above; whereas, the study performed by DKS & Associates in 2000 used certain analytic methods combined with statistical sampling. It should also be noted that Kimley Horn's study was conducted subsequent to a separate road impact analysis conducted by the consulting firm of Hilton, Farnkopf and Hobson (HFH) on behalf of the South Bayside Waste Management Authority. (The purpose of the HFH study was to ascertain the extent to which refuse vehicles operating in support of refuse and recycling activities contribute to the deterioration of surface streets throughout the 13 member South Bayside Waste Management Authority.)

The results of Kimley Horn's study are summarized as follows:

- When taking into account the findings of the HFH study, it is reasonable to conclude that vehicles operating in support of construction within the Town of Atherton account for

87.4 percent of the deterioration of the Town's surface streets. (As indicated in the HFH study, the remaining 12.6 percent of wear and tear is attributable to trucks operated by the Town's refuse haulers.)

- The estimated cost of the deterioration in Atherton's roads resulting from construction and excavation support traffic amounts to \$1,465,485 annually, 45% of which is due to vehicles operating in support of construction and the remaining 55% of which is due to the off-haul of excavated earth.

Given the findings contained within the Kimley-Horn study, staff recommends that existing road impact fees for residential construction be adjusted from the current level of .5 percent of the permitted value of new construction to .71 percent of the permitted value of such construction. Additionally, staff recommends implementation of an excavation surcharge amounting to \$22 per cubic yard of earth excavated and off-hauled for residential construction projects in which the scope of such projects includes the excavation and removal of earth for the construction of basements or other features.

To provide an indication as to how the adjustments described above would affect the cost of residential development within the Town of Atherton, staff has prepared an analysis of permits, licenses, and fees that developers currently pay with those fees that would be paid should the new fee structure be approved. The results of this analysis are presented as Attachment 2 to this report and are summarized as follows:

- Under the Town's existing fee structure (Scenario 1 as depicted on Attachment 2), the cost of all permits, licenses, and fees for a 4,000 square foot project amounts to \$18,600 or 1.86 percent of the permitted value of the new project.
- If a 4,000 square foot home were built without a basement (Scenario 2 as depicted on Attachment 2) the cost of all permits, licenses, and fees would amount to \$20,691 at the recommended road impact fee level of .71 percent of the permitted value of new construction. The \$20,691 in fees paid would represent 2.07 percent of the permitted value of new construction.
- Should a 4,000 square foot home entail the excavation of a basement underneath the entire footprint of the house (Scenario 3 as depicted on Attachment 2), the total fees paid by the applicant would amount to \$36,987 or 3.7 % of the permitted value of the new construction.

## **CONCLUSION**

Despite the expenditure of approximately \$6 million to maintain, repair, and reconstruct Atherton's roads over the past four years, the condition of Atherton's roads have continued to deteriorate.

Based upon an engineering study commissioned by the Town, the additional deterioration in the Town's roads can be attributed to the significant changes in the scope and volume of residential

construction during the past several years. In fact, engineering calculations performed by the consultant now indicate that residential construction and excavation account for 87.4 percent of the cost of wear and tear on the Town's roads.

Adjusting current road impact fees equivalent to .71 percent of the permitted value of new construction, and charging \$22 per cubic yard of earth excavated and off-hauled from construction sites, the Town will increase the amount of funds available for the maintenance and repair of city streets by \$663,128.

Prepared by:

Approved by:

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John P. Johns, CPA  
Finance Director

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James H. Robinson  
City Manager

Attachment 1: Analysis of expenditures for roads FY 1999-00 through 2003-04 revenue

Attachment 2: Road Impact Fee Incremental Revenue Analysis

Attachment 3: Road Impact Fee Resolution No. 00-27

Attachment 4: Road Impact Fee Resolution No. 05-\_\_



*Attachment 2*  
*Town of Atherton Road Impact Fee Incremental Revenue Analysis*

<b>Scenario 1: Current</b>							
Residence Size in Square Feet	Permitted Value	Building Permit	Business License	Road Impact	Excavation Surcharge	Total	As a Percent of Permitted Value
4,000	1,000,000	10,000	3,600	5,000		18,600	1.86%
8,000	2,000,000	20,000	7,200	10,000		37,200	1.86%
12,000	3,000,000	30,000	10,800	15,000		55,800	1.86%
<i>Existing road impact fees based upon \$100 million in new construction</i>						<b>\$ 500,000.00</b>	

<b>Scenario 2: Road Impact Fees Set at full Cost Recovery, No excavation surcharge</b>							
Residence Size in Square Feet	Permitted Value	Building Permit	Business License	Road Impact	Excavation Surcharge	Total	As a Percent of Permitted Value
4,000	1,000,000	10,000	3,600	7,091		20,691	2.07%
8,000	2,000,000	20,000	7,200	14,182		41,382	2.07%
12,000	3,000,000	30,000	10,800	21,273		62,073	2.07%
<i>Total Road Impact Fees based upon \$100 million in residential construction</i>						<b>709,106</b>	

<b>Scenario 3: Road Impact Fees set at full cost recovery, excavation surcharge of \$22 per cubic yard</b>							
Residence Size in Square Feet	Permitted Value	Building Permit	Business License	Road Impact	Excavation Surcharge	Total	As a Percent of Permitted Value
4,000	1,000,000	10,000	3,600	7,091	16,296	36,987	3.70%
8,000	2,000,000	20,000	7,200	14,182	32,593	73,975	3.70%
12,000	3,000,000	30,000	10,800	21,273	48,889	110,962	3.70%
<i>Road Impact Fees and Excavation surcharges based upon \$100 million in residential construction</i>						<b>\$ 1,163,128</b>	

*Incremental Revenue Resulting from Excavation Surcharge and Road Impact Fee Modification* **\$ 663,128**

**RESOLUTION NO. 05-34**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
ADJUSTING ROAD IMPACT FEES TO PROVIDE FOR ROADWAY MAINTENANCE  
AND REPAIR RELATED TO DAMAGES CAUSED BY CONSTRUCTION,  
EXCAVATION, AND HAULING**

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

**WHEREAS**, the Town of Atherton is required to fund ongoing roadway projects to maintain and repair local roadways;

**WHEREAS**, Resolution No. 00-27 established a road impact fee in the amount of .5 percent of the permitted value of new construction;

**WHEREAS**, the City Council has considered an updated analysis performed by City staff in consultation with the engineering firm of Kimley Horn and Associates of the extent to which residential construction and excavation activities contribute to the deterioration on the Town's roadways;

**WHEREAS**, the City Council has determined that the cost to the Town for increases in maintenance and repair requirements caused by construction traffic should be offset by the collection of fees to cover the costs;

**WHEREAS**, said analysis performed by City staff in consultation with Kimley Horn and Associates include calculations that show the following fees will cover the costs to the Town for its roadway maintenance and repair resulting from construction activity; and,

**WHEREAS**, notice of the proposed road impact fee has been noticed consistent with California Government Code Section 66018.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the Town of Atherton that the following fees are to become effective consistent with state law and shall be subject to the requirements and collected as specified herein:

Road impact fees shall be collected at the time of issuance of a building permit by the Building Department. A road impact fee of 0.71% (71 tenths of one percent) of the project valuation shall be paid for all construction projects.

Excavation and/or grading surcharges will be placed upon road impact fees in the amount of \$22 per cubic yard of earth excavated and off-hauled from, as well as any earth hauled onto, a construction site when the scope of residential construction projects include the excavation and/or removal from and/or hauling of earth to a site for the construction of basements or other features requiring such excavation and removal of earth or other features requiring such excavation and/or removal and/or hauling of earth.

Road impact fees and excavation and hauling surcharges shall be used to fund roadway projects to maintain and repair local roadways, including normal engineering, administrative overhead and other costs associated therewith. Road impact fees and excavation and hauling surcharges shall be retained in a separate fund with all fund accounting and reporting performed consistent with State Law.

The Resolution shall be effective immediately upon adoption; however, the fee established shall become operative 60 days thereafter in accordance with State law. Resolution No. 00-27 is superseded and rescinded as of the operative date of this Resolution.

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

\* \* \* \* \*

*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 16<sup>th</sup> day of March 2005, by the following vote.*

*AYES: Councilmembers: Janz, Marsala, Carlson, Conwell, McKeithen*  
*NOES: Councilmembers: None*  
*ABSENT: Councilmembers: None*  
*ABSTAIN: Councilmembers: None*

*/s/ William R. Conwell*

\_\_\_\_\_  
William R. Conwell  
Mayor, Town of Atherton

ATTEST:

*/s/ Linda Kelly*

\_\_\_\_\_  
Linda Kelly, 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 COUNCIL  
INTERIM CITY MANAGER, RALPH FREEDMAN**

**FROM: CLIFF TEMPS, PUBLIC WORKS DIRECTOR**

**DATE: FOR THE MEETING OF SEPTEMBER 20, 2000**

**SUBJECT: PUBLIC HEARING - RESOLUTION NO. 00-\_\_\_, ADOPTING A ROAD  
IMPACT FEE TO PROVIDE FOR ROADWAY MAINTENANCE AND  
REPAIR RELATED TO DAMAGES CAUSED BY CONSTRUCTION  
ACTIVITY**

#### **RECOMMENDATION:**

Hold a public hearing, then adopt Resolution No. 00-\_\_\_ , adopting a Road Impact Fee to provide for roadway maintenance and repair related to damages caused by construction activity.

#### **INTRODUCTION:**

It has become obvious over recent years of increased building activity that the rate at which Town streets are deteriorating has been increasing in some proportion to the volume of building activity. This deterioration is believed to be the result of truck traffic associated with this building activity. In order to protect the Town's investment in its streets, spending on repair and maintenance must be increased to keep up with the wear and tear caused by construction truck traffic. Normal sources of street repair funds, Gas Tax and Measure A, remain relatively constant and are not sufficient to meet this demand. The Council has asked staff to propose a method of collecting funds to cover the added cost of funding road maintenance and repair due to construction traffic from those who are responsible for creating the need.

#### **BACKGROUND:**

Staff found three cities in Marin County, Ross, Belvedere and Tiburon, that have addressed the same construction related road damage issue by imposing fees on new construction. The theory behind the fee, and why it does not fall under the 2/3 voter approval requirement of Proposition

218, is that repairing street damage caused by construction is an expense that is incurred as a consequence of issuing permits for construction. Just as the Town is justified in imposing fees to recover the costs of providing plan checking and inspection services for building projects, it is justified in charging a fee to cover the cost or repairs to roads made necessary by construction traffic servicing those projects. The key element in justifying and being fair in the application of this approach is determining how much of the cost of repairing and maintaining streets is due to normal wear and tear and how much is due to construction traffic.

#### **ANALYSIS - DKS CONSTRUCTION TRAFFIC IMPACT FEE STUDY:**

The Council authorized DKS to perform a study to develop a sound factual basis for a construction traffic impact fee. A copy of the recently completed study is attached. It is based on actual pavement condition surveys of all the Town's streets conducted in 1997 and 2000, and actual building permit records for the same period. The pavement condition studies were done by independent consultants, following Metropolitan Transportation Commission developed pavement evaluation procedures. The DKS study determined that there is a significant and quantifiable difference between the deterioration of streets that have been and have not been exposed to construction traffic, and related a dollar cost to offsetting increased maintenance and repair needs to the value of construction.

#### **RECOMMENDED FEE STRUCTURE AND USE OF FUNDS:**

The DKS report offers two alternative approaches to assessing a road impact fee: charging \$1.15/square foot of new construction, or charging ½% of the permit value. Both approaches produce revenue for road repair and maintenance that is proportionate to the level of construction activity. Charging on a square foot basis would make fee calculation somewhat discretionary, and possibly inconsistent where remodeling, without adding area, is involved. To avoid this, staff recommends that the fee be based on permit value.

The attached resolution uses the percent of permit value approach. It also directs money collected through this mechanism to be placed in a separate fund and used only for projects to maintain and repair roadways.

#### **FISCAL IMPACT:**

The fiscal impact of imposing a Construction Traffic Impact Fee depends on the level of construction activity. The chart in the DKS study shows that it could range from \$125,000 in a year with low permit activity to \$500,000 in a year with the level of activity being experienced now. The relationship between revenue produced by the fee and the amount of road damage caused by the corresponding volume of construction traffic should remain constant.

**CONCLUSION:**

Imposition of a Construction Traffic Impact Fee will offset the Town's cost of added maintenance and repair caused by private building construction. It will be collected from those who cause the need for increased maintenance and repair, and it will be fair and equitable.

Respectfully Submitted

Reviewed and Approved

Cliff Temps  
Public Works Director

Ralph Freedman  
Interim City Manager

**RESOLUTION NO. 00-27**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
ADOPTING A ROAD IMPACT FEE TO PROVIDE FOR ROADWAY MAINTENANCE  
AND REPAIR RELATED TO DAMAGES CAUSED BY CONSTRUCTION ACTIVITY**

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

**WHEREAS**, the Town of Atherton is required to fund ongoing roadway projects to maintain and repair local roadways; and

**WHEREAS**, traffic associated with construction activity places a significant burden on local roadways and is a significant cause of roadway damage; and

**WHEREAS**, the City Council has considered the Construction Traffic Impact Fee Study prepared for it by DKS Associates, which identifies the increase in maintenance and repair required to offset increased roadway deterioration caused by construction traffic; and

**WHEREAS**, the City Council has determined that the cost to the Town for such increase in maintenance and repair required to offset increased roadway deterioration caused by construction traffic should be offset by the collection of fees to cover the costs; and

**WHEREAS**, said Construction Traffic Impact Fee Study includes calculations that show the following fees will cover the costs to the Town for its roadway maintenance and repair resulting from construction activity; and

**WHEREAS**, notice of the proposed road impact fee has been noticed consistent with California Government Code Section 66018.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the Town of Atherton that the following fees are to become effective consistent with state law and shall be subject to the requirements and collected as specified herein:

Road impact fees shall be collected at the time of issuance of a building permit by the Building Department. A road impact fee of 0.5% (one half percent) of the project valuation shall be paid for all construction projects. Road impact fees shall be used to fund roadway projects to maintain and repair local roadways, including normal engineering, administrative overhead and other costs associated therewith. Road impact fees shall be retained in a separate fund with all fund accounting and reporting performed consistent with State Law.

\* \* \* \* \*

*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 20<sup>th</sup> day of September, 2000, by the following vote.*

<i>AYES:</i>	<i>5</i>	<i>Councilmembers: Carlson, Conwell, Dudley, Fisher, Huber</i>
<i>NOES:</i>	<i>0</i>	<i>Councilmembers:</i>
<i>ABSENT:</i>	<i>0</i>	<i>Councilmembers:</i>
<i>ABSTAIN:</i>	<i>0</i>	<i>Councilmembers:</i>

*/s/ Dianne M. Fisher*  
Dianne M. Fisher, Vice Mayor  
Town of Atherton

ATTEST:

*/s/Sharon Barker*  
Sharon Barker, City Clerk



**Town of Atherton**

**CITY COUNCIL STAFF REPORT**

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

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

**DATE: FOR THE CITY COUNCIL MEETING OF SEPTEMBER 20, 2006**

**SUBJECT: UPDATE FROM THE GENERAL PLAN COMMITTEE**

**RECOMMENDATION:**

Accept the Report.

**BACKGROUND:**

At its October 19, 2005, meeting, the City Council requested the General Plan Committee discuss recent construction issues facing the Town. The General Plan Committee held a public meeting on November 2, 2005, to hear from concerned residents and builders. The Committee generated a list of topics raised at that meeting.

**ANALYSIS:**

The attached list of topics was prepared from the community-wide General Plan Committee meeting held in November 2005. Most of the topics have been addressed by the Committee, with recommendations to the Planning Commission and City Council for Ordinance changes. After discussion on a few of the items, the Committee felt the current regulations were sufficient.

Staff has summarized the status of the topics as follows;

**Construction Parking** – the General Plan Committee recommended changes to the current construction parking regulations that were adopted by the City Council on May 17, 2006.

**Length of Construction Project** – the Committee recommended a new Ordinance that was adopted by the City Council that provides maximum time limits for construction projects. The Ordinance as adopted on June 21, 2006.

**Construction Hours** – the Committee reviewed the current construction hours and was provided a comparison of construction hours in neighboring communities. The Committee recommends no change to the current regulations. Comments were raised at the public meeting that extending the construction hours could result in overall length of construction.

**Discharge of water for basements** – the Committee held discussion on this item pending completion of the Drainage study authorized by the City Council.

**Abandoned construction site** – the Committee felt the Town should enforce the current Nuisance Abatement Ordinance without amendment.

**Location of construction equipment, manufacturing building materials onsite** – the Committee studied this issue and determined no changes to the current regulations were necessary with the adoption of the construction site screening requirements and the length of construction ordinance.

**Screening construction sites** – the Committee recommended an Ordinance that was adopted by the City Council on June 21, 2006 to require construction site screening for all active construction projects.

**Setback for noise generating structures (HVAC, pool equipment)** – the Committee evaluated the existing Ordinances and determined they were sufficient the Building Department requires as all new noise generating structures (HVAC, generators) meet the current noise ordinance or include sound insulating design to mitigate and the operation of pool equipment is limited to certain hours.

**Basement** – the Committee discussed this item at several meetings and was unable to reach consensus on the topic of limiting basement garages. The Committee requested direction from the City Council. This item is scheduled for further discussion at the September 13, 2006, General Plan Committee meeting.

**Location of accessory structures** - the Committee decided not to discuss this item further and that the existing regulations were sufficient.

**House size on smaller lots** – the Committee decided not to discuss this item further.

**Design review for larger homes** - Committee members were not interested in pursuing design review.

**Green Building/Sustainable Building requirements** – this item will be scheduled for discussion at a future General Plan Committee meeting.

**Impervious surface** - the Committee held discussion on this item pending completion of the Drainage study authorized by the City Council

**Code Enforcement Officer** – the Committee did not comment on this item as it was under review by the City Council

**House size on larger lots** (greater than one acre) – this item is scheduled for discussion at the September 13, 2006, General Plan Committee meeting.

### **CONCLUSION:**

As stated above, the Committee has completed review of most of the items identified at the community meeting.

### **ALTERNATIVES:**

The Council could request the Committee reconsider any of the items listed above or could add additional topics to be discussed.

### **FISCAL IMPACT:**

Cost of staff assistance to the General Plan Committee is paid for by the Town of Atherton.

Prepared by:

Approved by:

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Lisa Costa Sanders  
Deputy Town Planner

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James H. Robinson  
City manager

**Attachment:**

1. General Plan Committee Status

## Summary of General Plan Committee topics and status

<b>Topic</b>	<b>Status</b>
Construction Parking	City Council revised – May 17, 2006
Length of Construction Projects	City Council –adopted June 21, 2006
Construction Hours	GP committee recommends no change to current regulations
Discharge of water for basements	Drainage policy under review by City Council
Abandoned construction sites	Utilize Nuisance Abatement Ordinance
Location of construction equipment, manufacturing building materials on-site	General Plan Committee recommends no change to current regulations
Screening construction sites	City Council - adopted June 21, 2006
Setback for noise generating structures (HVAC, pool equipment)	General Plan Committee recommends no change to current regulations
Basements <ul style="list-style-type: none"> <li>• Do not allow below grade garages</li> <li>• Restrict the size of basements</li> <li>• Include basements in floor area calculation</li> </ul>	General Plan Committee discussion at September 13, 2006 meeting
Location of accessory structures <ul style="list-style-type: none"> <li>• Flexibility for lots with three streets</li> <li>• Do not allow structures in front of the main residence</li> </ul>	General Plan Committee decided not to discuss further
House size on smaller lots	General Plan Committee decided not to discuss further
Design review for larger homes	General Plan Committee decided not to discuss further
Green Building/Sustainable Building requirements	Scheduled for discussion at a future General Plan Committee meeting
Impervious surface	Hold discussion pending results of Drainage study
Code Enforcement Officer	Under review by City Council
House size on larger lots (greater than one acre)	General Plan Committee discussion at September 13, 2006 meeting