



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

**April 19 2006**

**6:00 P.M.**

**Meeting Room**

**Town Administrative Offices**

91 Ashfield Road  
Atherton, California

**Special Meeting**

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

**6:02 P.M.     PUBLIC COMMENTS**

**6:05 P.M.     CLOSED SESSION**

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

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

**Three (3) potential cases.**

**B.     LIABILITY CLAIM – pursuant to Government Code Section 54956.95**

**Claimant: Quincy Sanders**

**Agency Claimed Against: Town of Atherton Police Department**

**RECONVENE TO OPEN SESSION**

**Report of action taken.**

**ADJOURN**

*Agendas and staff reports may be accessed on the Town website at: [www.ci.atherton.ca.us](http://www.ci.atherton.ca.us)  
☛ Please contact the City Clerk's Office at 650.752.0500 with any questions*

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



**AGENDA**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON**  
**CHANNEL DRAINAGE DISTRICT**  
**April 19, 2006**  
**7:00 p.m.**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California

**REGULAR MEETING**

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

- 7:00 P.M.    1.    **PLEDGE OF ALLEGIANCE**
- 7:03 P.M.    2.    **ROLL CALL**            Janz, J. Carlson, A. Carlson, Marsala, McKeithen
- 7:05 P.M.    3.    **PRESENTATION**
- A.    Proclamation – West Nile Virus Awareness Week  
B.    Proclamation – Voter Education Month  
C.    Proclamation – Arbor Day  
D.    Presentation – SBWMA RFP Process – Bob Hilton
- 7:20 P.M.    4.    **COUNCIL REPORTS**
- 7:30 P.M.    5.    **PUBLIC COMMENTS** (only for items which are not on the agenda –  
limit of three minutes per person)
- 7:40 P.M.    6.    **STAFF REPORTS**
- 7:50 P.M.    7.    **COMMUNITY ORGANIZATION ROUNDTABLE REPORT**  
(Directed by Resolution Nos. 99-6 and 02-31)

**Menlo Park Fire Protection District**

**8:00 P.M.     CONSENT CALENDAR (Items 8 - 11)**

*(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 CLOSED SESSION AND REGULAR MEETING OF MARCH 15, 2006 AND THE SPECIAL CLOSED SESSION MEETING OF MARCH 30, 2006**
  
- 9.     APPROVAL OF BILLS AND CLAIMS FOR MARCH 2006 IN THE AMOUNT OF \$ 1,069,460**
  
- 10.    ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR MARCH 2006**
  
- 11.    APPROVAL OF AN INCREASE IN THE CONTRACT WITH INTERSTATE GRADING AND PAVING, INC, FOR SELBY LANE RECONSTRUCTION, PROJECT NO. 04-004**

**Recommendation: Approve an increase in the contract with Interstate Grading and Paving, Inc. for the Selby Lane Reconstruction Project No. 04-004 in the amount of \$320,808.51, with a contingency amount of \$32,080.85, for a total authorization of \$352,889.36.**

**PUBLIC HEARINGS    NONE**

**REGULAR AGENDA (Items 12 - 23)**

**8:05 P.M.    12.    PARK LANE COMMUNITY POLICING REPORT**

**Recommendation: Continue proactive enforcement and educational efforts using S.A.R.A. problem-solving model directed at maintaining compliance in relation to municipal code ordinances involving construction parking and related activities.**

**8:20 P.M.    13.    ADOPTION OF A RESOLUTION TO APPROVE REVISIONS TO GUIDELINES: CONSTRUCTION, OPERATIONS AND PARKING PLANS (COP Plans)**

**Recommendation: Consider revised Guidelines for Construction, Operation and Parking Plans and, if desired, rescind Resolution No. 03-28 and adopting revised guidelines.**

**8:40 P.M. 14. GENERAL PLAN RECOMMENDATION - INTRODUCTION OF AN ORDINANCE REGARDING TIME LIMITS FOR COMPLETION OF CONSTRUCTION**

**Recommendation: After consideration, introduce for adoption an ordinance establishing time limits for completion of construction projects.**

**9:00 P.M. 15. UPDATE FROM THE GENERAL PLAN COMMITTEE REGARDING FLOOR AREA RATIO (FAR) OF UNDERGROUND GARAGES WHEN CALCULATING THE TOTAL FAR OF THE HOME**

**Recommendation: Discuss options as provided by the General Plan Committee to modify allowed basement area and provide direction to staff.**

**9:15 P.M. 16. DISCUSSION AND POSSIBLE ACTION – CREATION OF CODE ENFORCEMENT OFFICER POSITION**

**Recommendation: Provide direction to staff regarding the creation of a Code Enforcement Officer position or other alternatives to provide code enforcement services.**

**9:30 P.M. 17. ADOPTION OF A RESOLUTION TO APPROVE EXPENSE REIMBURSEMENT POLICY (AB 1234)**

**Recommendation: Review and adopt a resolution approving a policy governing reimbursable expenses for City officials in compliance with state law.**

**9:35 P.M. 18. APPOINTMENT OF COMMISSION / COMMITTEE MEMBERS**

**Recommendation: Accept the recommendation of the City Council Screening Committee to appoint members to Town commissions and committees, and consider changing the term of office for the General Plan Committee to a four-year term.**

**9:45 P.M. 19. APPROVAL OF PROFESSIONAL SERVICES AGREEMENT FOR DRAINAGE STUDY**

**Recommendation: Consider approval of a professional services agreement for review of the Town's drainage policy.**

- 10:00 P.M. 20. **AMENDMENT TO HERITAGE TREE ORDINANCE – MODIFY PENALTY PROVISIONS – FIRST READING**
- Recommendation: Consider an amendment to the penalty provisions of the Heritage Tree Ordinance to set out certain remedies related to planting of replacement trees where a heritage tree has been removed in violation of Town regulations.**
- 10:10 P.M. 21. **CONSIDERATION OF SETTING A DATE FOR A SPECIAL STUDY SESSION REGARDING THE DEVELOPMENT OF GOALS AND OBJECTIVES FOR THE TOWN**
- Recommendation: Select a date for a special meeting of the City Council to consider goals and objectives.**
- 10:15 P.M. 22. **CONSIDER SETTING A DATE FOR A POSSIBLE SPECIAL MEETING TO CONSIDER THE DRAFT FISCAL YEAR 2006-2007 OPERATING AND CAPITAL BUDGET**
- Recommendation: Select a date for a Special Meeting for a Study Session and consideration of the Draft FY 2006-07 Operating and Capital Budget.**
- 10:20 P.M. 23. **CONSIDERATION AND DIRECTION TO STAFF REGARDING RESIDENT AWARENESS AND EMERGENCY PREPAREDNESS**
- Recommendation: It has been requested that the City Council hold a study session to review the Town’s emergency plan and efforts for resident awareness.**
- 10:35 P.M. 24. **PUBLIC COMMENTS**
- 10:40 P.M. 25. **ADJOURNMENT**

*Agendas and staff reports may be accessed on the Town website at: [www.ci.atherton.ca.us](http://www.ci.atherton.ca.us)*

*☞ Please contact the City Clerk’s Office at 650.752.0500 with any questions*

Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the City Clerk’s Office at (650) 752-0500. Notification 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting. (29CRF35.104 ADA Title II.)



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

**March 15, 2006**

**6:00 P.M.**

**Meeting Room**  
**Town Administrative Offices**

91 Ashfield Road  
Atherton, California

**Special Meeting**

The meeting was called to order at 6:05 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**

- 6:05 P.M.    A.    **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**  
**Significant Exposure to litigation pursuant to subsection (b) of Government Code Section 54956.9:**
- 2 potential cases
- B.    **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**  
**Initiation of litigation pursuant to subdivision (c) of Government Code Section 54956.9**
- 1 Potential Case

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

**Claimant: Mark E. Bandeen  
Agency Claimed Against: Town of Atherton**

**Claimant: Tenley Baxter  
Agency Claimed Against: Town of Atherton**

**RECONVENE TO OPEN SESSION**

**Report of action taken.**

**City Attorney Marc Hynes reported during open session that Item A, Anticipated Litigation – Significant Exposure to Litigation, contained only one potential case and no reportable action was taken; Item B, Anticipated Litigation – Initiation of Litigation, no reportable action was taken; and Item C, Liability Claims, no reportable action was taken with regard to Claimant Mark E. Bandeen or Claimant Tenly Baxter.**

**ADJOURN**

**The Special Meeting adjourned at 6:50 p.m.**

**Respectfully submitted,**

---

**Charles E. Marsala  
Mayor**

**Minutes Prepared by:**

**Kathi Hamilton**



**DRAFT MINUTES**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON**  
**CHANNEL DRAINAGE DISTRICT**  
**March 15, 2006**  
**7:00 p.m.**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California

**REGULAR MEETING**

Mayor Marsala called the meeting to order at 7:03 p.m.

**1. PLEDGE OF ALLEGIANCE**

**ROLL CALL**

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

**ABSENT** Alan B. Carlson (excused)

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

**3. PRESENTATION**

**Swearing in of new Police Officer Gordon Dere**  
**Oath of Office Administered by Police Chief Bob Brennan**

**Police Chief Bob Brennan introduced Police Officer Gordon Dere and administered the Oath of Office.**

**Promotional Appointment - Sgt. Joe Wade**  
**Oath of Office Administered by Police Chief Bob Brennan**

**Police Chief Bob Brennan introduced Sgt. Joe Wade and administered the Oath of Office.**

**4. COUNCIL REPORTS**

- **Council Member Jerry Carlson attended the March 3<sup>rd</sup> Finance Committee meeting where the evaluation of road impact fees was discussed. No action was taken to increase the fees. Staff was asked to look at the actual cost of**

repairing/replacing the roads. The next meeting was scheduled for March 20<sup>th</sup> to discuss the budget and the Police Department services survey. Additionally, the Buildings and Facilities Committee seemed to be the appropriate venue to prepare a preliminary plan to replace Town facilities. Council Member Carlson suggested forming a Citizen Advisory Committee to help in the process. He attended the San Francisco Airport Roundtable workshop where noise issues were discussed. He met with Gail Ortega from Menlo College regarding student volunteers. The Selby Lane School fundraiser scheduled for March 17<sup>th</sup> was canceled. Phil Lively took him on a tour of the upper Atherton Drainage Channel. He suggested the Council consider setting two or three priorities for 2006/2007 to focus on in the Town.

- Council Member Janz attended the City/County Association of Governments (C/CAG) meeting last week. Jim Vreeland, Pacifica, was reelected Chair and Debora Gordon, Woodside, and Nick Jones, Menlo Park, Vice Chairs. Two weeks ago, members of the Atherton Rail Committee met with Supervisor Jerry Hill, new member of the Caltrain Joint Powers Board (JPB), to express the Town's concern regarding Caltrain issues. A letter was being prepared asking the JPB to put an item on the next agenda to approve the construction to cure the hold-out situation and reinstate Atherton train service on July 1. The Association of Bay Area Governments meeting was scheduled for the next evening. A report on the Blueprint for the Future would be presented. He asked staff to look into the San Mateo County Telecommunications Authority, composed of the County and most cities in the County, regarding wireless internet service. Atherton Menlo Park, Burlingame, and East Palo Alto were not involved.
- City Manager Jim Robinson said the Town belonged to an organization with Palo Alto since the Town's issues related more to Menlo Park and Palo Alto. Staff would look into the issue further.
- Council Member McKeithen also attended the Finance Committee meeting and noted the Road Impact Fee, at \$22 per cubic yard, accounted for approximately 75% of the wear and tear on the roads; however, 87% of the wear and tear was attributable to construction. The committee was analyzing the figures and would reassess the fees in six months. The March 20<sup>th</sup> meeting would also include a discussion on the Police Department attitudinal survey. The Town needed to develop a plan for new facilities, including the cost, before soliciting commitments from the community. She attended the Portola Valley Emergency Preparedness session on Saturday, an excellent course with good information regarding first aid, search and rescue, etc. The Towns of Woodside and Portola Valley partnered to map the towns into divisions with division chiefs, held regular meetings, and performed drills twice a year. The Atherton Civic Interest League would highlight emergency preparedness at its annual meeting in May and would merge with the citizens group to develop a plan for the Town.
- Mayor Marsala asked staff to add an item to next month's agenda regarding priority setting. The Building and Facilities Committee met two weeks ago to discuss soliciting grants for facility development, consultant assistance for facility needs, and citizen participation with the committee activities. Council had funds budgeting to begin the process. He attended the Grand Blvd. Task

Force meeting which included every city from Daly City to Santa Clara. Mike Scanlon headed up the task force formed to improve El Camino Real. At the League of Cities meeting, cable was discussed. The Park Foundation's "kick-off" on April 1st was a fundraising effort for the new walking bridge to be named in memory of Bill Conwell. The Easter Egg Hunt was back on and Betty Ogawa agreed to chair the event. Next week he would participate in Mayors on Wheels to deliver meals to seniors. Over 400 mayors nationwide would be participating in the event. He met with staff from Sacred Heart and reviewed their master plan. He attended the third anniversary of the Peninsula Conflict Resolution group. Additionally, he went to the Media Center and saw its new facility. With regard to the General Plan Committee's review of construction time limits, he thought a fourth level should be included for homes over 10,000 square feet. Mayor Marsala said the park budget was reduced last year; as the Town began to review the budget and projected surplus, he asked staff to consider how much money should be budgeted for the park.

## 5. PUBLIC COMMENTS

Marion Oster, Atherton, representing the Atherton Heritage Association, spoke regarding Farlap, an Australian racehorse that died in Atherton.

Rosemary Maulbetsch, Atherton, spoke regarding improving the landscaping in the center of Town; between the Lloyd Park gates and the reading park in front of the library.

Staff would review what the cost would be to have the gardeners maintain those areas and review it in the budget discussions.

Shirley Carlson, Atherton, reported on a meeting with Gail Ortega from Menlo College on March 2<sup>nd</sup> regarding bridging the college community and the Town of Atherton. Over 700 students attended Menlo College and were interested in participating in projects, internships, disaster preparedness, computer labs for seniors, website resources, etc. Additionally, she indicated she was taking the C.E.R.T. training along with five other Atherton residents.

Bob Jenkins, Atherton, reported on the progress of the Citizens Committee for Disaster Preparedness. The first meeting on February 11th was attended by 10 people. The committee was looking to include the 18 Atherton residents who were C.E.R.T. graduates and the 6 new C.E.R.T. participants, along with the Neighborhood Associations, the schools, and college. The next meeting was scheduled for 9:00 a.m. on March 18<sup>th</sup> in the Council Chambers.

John Sisson, Atherton, spoke regarding 1) former City Manager Richard Moore's Beautification and Creation of a Town Center plan; and 2) an open letter from Mr. Law in the *Almanac* regarding the proposed senior housing complex. He believed the Council needed an avenue to respond in a non-political manner to clarify misinformation/misrepresentations. In March 2002, the Town had done a synopsis

of Town objectives. He suggested using the document as a starting point for priorities and budget discussions.

**6. STAFF REPORTS**

- **City Manager Jim Robinson said the Finance Committee would begin the process of identifying goals for capital improvement. He met with a member of the Menlo Park Fire Protection District Board and chief commander to discuss the necessity for more training in disaster preparedness. Additionally, he asked for ideas/articles for the upcoming edition of the *Athertonian*.**
- **City Attorney Marc Hynes reported out of the Closed Session as follows:**

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

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

**2 potential cases**

**City Attorney Hynes clarified there was only one potential case. No reportable action was taken.**

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

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

**1 Potential Case**

**No reportable action was taken.**

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

**Claimant: Mark E. Bandeen**

**Agency Claimed Against: Town of Atherton**

**No reportable action was taken.**

**Claimant: Tenley Baxter**

**Agency Claimed Against: Town of Atherton**

**No reportable action was taken.**

- **Police Chief Bob Brennan reported on burglaries in Lindenwood. The City of Palo Alto made an arrest and found stolen property from the Lindenwood burglaries. The property was recovered and the burglaries were solved. The emergency radio system was operational and was tested on a regular basis.**

- Deputy Town Planner Lisa Costa Sanders reminded Council that the South Bayside Waste Management Authority (SBWMA) was hosting a meeting the next day at 8:00 a.m. for elected officials to be briefed on the contractor selection process.

7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT**

None

**CONSENT CALENDAR** (Items 8 - 14)

Staff clarified Council questions regarding Item Nos. 11 and 13. City Attorney Marc Hynes clarified a question by a member of the public on Item No. 12.

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

M/S McKeithen/J. Carlson

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

8. **APPROVED MINUTES OF THE SPECIAL CLOSED SESSION AND SPECIAL MEETING OF JANUARY 9, 2006, AND THE SPECIAL CLOSED SESSION AND REGULAR MEETING OF FEBRUARY 15, 2006**

9. **APPROVED BILLS AND CLAIMS FOR FEBRUARY 2006 IN THE AMOUNT OF \$ 628,708**

10. **ACCEPTED MONTHLY FINANCIAL REPORT FOR FEBRUARY 2006**

11. **APPROVED PURCHASE OF TWO PATROL VEHICLES**

Authorized the Town to participate in a bid with the City of Redwood City for the purchase of two marked police patrol vehicles for the Fiscal Year 2006-2007 budget cycle for a total cost of \$65,788.16 plus tax.

12. **ACCEPTED RESPONSE TO GRAND JURY REGARDING CITIES EXERCISE OF EMINENT DOMAIN**

Accepted the City Attorney's response to the Civil Grand Jury regarding exercise of eminent domain.

13. **AWARDED CONTRACT FOR HOLBROOK-PALMER PARK CARPETING, PROJECT NO. 05-002**

Awarded the contract for the Holbrook-Palmer Pavilion Carpeting Project, Project No. 05-002, to the low bidder, Gletzco Inc., dba The Floor Club, the low bidder on the March 9, 2006 bids, for \$44,523.08, with a 10% construction contingency of \$4,452.31, for a total authorization of \$48,975.39, and to authorized the Mayor to sign the contract on behalf of the Town.

**14. AUTHORIZATION TO CHANGE THE NAME OF THE CALTRAIN CORRIDOR AD HOC SUBCOMMITTEE TO THE ATHERTON RAIL COMMITTEE**

Authorized a name change from the existing Caltrain Corridor Ad Hoc Subcommittee to the Atherton Rail Committee.

**PUBLIC HEARINGS** NONE

**REGULAR AGENDA** (Items 15 - 18)

**15. PARK LANE COMMUNITY POLICING REPORT**

**Recommendation:** Continue proactive enforcement and educational efforts using S.A.R.A. problem-solving model directed at maintaining compliance in relation to municipal code ordinances involving construction parking and related activities.

Police Chief Bob Brennan noted that responses to each of the nine areas contained in the S.A.R.A. problem-solving model were contained in the staff report. Officer Tony Dennis, assigned to the Park Lane area, was present to answer questions.

Officer Dennis clarified that the procedure was to issue a written warning if the particular site had not been warned previously. If a warning had been issued previously, a citation would be given.

City Attorney Marc Hynes explained that the Council had approved, with regard to construction violations, that the first instance was a warning followed by a citation on the second event. Council could certainly change the procedure if desired.

Police Chief Brennan said the goal was to get compliance. A verbal warning could be successful in obtaining continuing compliance.

McKeithen noted the cost to the Police Department since March 9, 2006, was \$2,657 in overtime funds. Officer Dennis was also assigned during regular hours which she believed pointed to the need for a Code Enforcement Officer.

Jerry Carlson requested a “score card” of warnings/citations for each of the 11 construction sites in the Park Lane area.

Discussion took place regarding Officer Dennis’ schedule. His time was divided between looking for Municipal Code violations and working traffic related issues, which was the bigger issue. Only three contractors had been cited; most infractions were from residents, students, and neighboring communities.

John Ruggeiro, Atherton, spoke regarding catering trucks.

**Police Chief Brennan said in the future, surveillance of the area would be diminished to observe whether compliance continued. Officer Dennis would discontinue his overtime and patrol the area on his regular working schedule.**

**Council Member Janz was concerned about a similar situation occurring again in another neighborhood and asked whether the Town could limit or stop issuing building permits.**

**Building Official Mike Hood said it was his ministerial duty to issue a building permit if the contractor met the criteria and filed a COP Plan. He could not refuse to issue one on the basis of too much construction in the area.**

**City Attorney Marc Hynes clarified building permits were governed by a uniform code and if the requirements were met, the building permit must be issued. An urgency ordinance for a building moratorium might be implemented based upon a certain number of applications.**

**Council Member McKeithen was concerned with imposing that type of restriction as it seemed like violating a Constitutional right.**

**Bob Huber, Atherton, spoke regarding the need for exceptions when parking was not possible in front of a site.**

**Jim Dobbie, Atherton, spoke regarding the use of shuttle services when the parking situation became an issue.**

**Mayor Marsala said that one of the homes on Park Lane was interested in using the Sacred Heart parking lot during the landscape phase. Shuttles could be a solution; however, there were still issues to resolve.**

**City Manager Robinson stated staff would continue enforcement based on the process outlined by Chief Brennan. If Council desired something different, direction to staff was needed.**

**Direction to staff to return to the April 19, 2006, City Council meeting with a written report containing a “score card” of warnings/citations that was site specific, as well as by week or month.**

**16. REVISION TO GUIDELINES: CONSTRUCTION, OPERATIONS AND PARKING PLANS (COP Plans)**

**Recommendation: Consider revisions to Guidelines and provide direction to staff.**

**Marc Hynes presented the staff report. Included in the revisions to the Construction, Operations and Parking Plan Guidelines were remarks by Council Member Jerry Carlson. Additional comments were received subsequent to the Agenda Packet and Council received a copy. If any of those comments needed to be incorporated, the**

**Guidelines could be returned at the next meeting and needed to be adopted by resolution.**

**Building Official Mike Hood noted the discussion needed to take into consideration the effect of the guidelines on flag lots, cul-de-sac lots, and small lots.**

**Council Member McKeithen proposed the following changes and/or observations: 1) if the requirement that lights on construction trailers should only be lit during construction hours was too restrictive, then the lights should be down shielded if they were lit beyond construction hours; 2) requirements were needed for debris boxes and locations; 3) regarding deliveries and truck traffic, language should be added to ...”installation of temporary construction back fencing to prevent additional access points, *and to detract from an attractive nuisance*”; 4) location of sanitary facilities needed to be enforced: 40 feet from front property line or 20 feet in a R1A zone; 5) regarding the cleanup process and Regional Quality Control Board requirements, clarification was needed as well as how enforcement would be handled; 6) requirements were needed for construction material storage; 7) holidays should be delineated; 8) regarding parking spaces, how were the required number of construction parking places determined and by whom; 9) regarding reports by the Chief of Police, information was needed on the how/where/to whom; 10) if COP Plans were violated, each and every owner should be given a ticket after the first warning for violation of any of the guidelines; and 11) regarding placement of construction signs, placement needed to be close to the road so people could see them.**

**Mayor Marsala was concerned with burdening staff and thought the review by the City Manager regarding Item No. 11 was unnecessary. Additionally, he wanted to know how much time was needed to generate the reports by the Police Department. He wanted signs posted (bilingual) at the front of the site noting a COP Plan was in place. Another concern was that 25 to 30% of homes could not comply and he suggested excluding neighborhoods with smaller lots.**

**Herman Christensen, Atherton, said Municipal Code Section 15.40.040 governed the situation, not the parking plan. The problem with the existing guidelines was that they were not specific. He suggested specifying that onsite parking was preferred, onsite parking spaces be delineated, and a reasonable number of spaces be designated.**

**City Manager Jim Robinson said there were great differences in size of projects and in the area for frontage parking. What might work in one area of Town might not work in another. Staff welcomed whatever changes to improve the situation. Council should also be aware that there would be a fiscal impact for staff to monitor 100 sites. Shuttles could be an alternative to providing extra parking. One of the dilemmas was contractors carried their equipment on their trucks which made it a logistics problem. The Caltrain parking lot would lend itself to a shuttle/parking service.**

**Council Member Jerry Carlson asked staff to consider the comments of Council Member McKeithen and suggested that staff confer with Herman Christensen. Additionally, he suggested the shuttle alternative should be explored further.**

A discussion took place regarding flag lots and their particular parking issues.

Council Member Janz concurred with Mr. Christensen's suggestions that if a wall, fence, or hedge was scheduled for removal, that it be removed at the start of construction to maximize the number of perpendicular parking spaces. He agreed with the two additions of "c" and "d" for Item No. 9.

A discussion regarding the placement of debris boxes, portable bathrooms, material boxes, etc. ensued. As much as practicable, placement needed to comply with the 40 foot setback. "Best Management Practices," for example, meant having a specific wash-down area where concrete or paint was dumped to protect trees, etc.

Council Member McKeithen suggested that the Best Management Practices be attached to the guidelines.

Council Member Janz asked staff to find out how shuttles worked in those communities that utilized them, who pays, etc.

Jim Dobbie, Atherton, believed contractors did not plan very well. The Town's role was to make the rules and enforce them. Installing equipment boxes onsite would eliminate the need of carrying tools in every day and enable a shuttle system to work.

Direction was given to staff to incorporate the comments by Council Member McKeithen and Herman Christensen into the next draft of the Guidelines, to be returned to the City Council meeting of April 19, 2006.

**17. DISCUSSION AND POSSIBLE ACTION – CREATION OF CODE ENFORCEMENT OFFICER POSITION**

**Recommendation:** Provide direction to staff regarding the creation of a Code Enforcement Officer position or other alternatives to provide code enforcement services.

City Manager Jim Robinson presented the staff report. Options were identified on various methods of providing code enforcement for Council consideration. A number of issues related to code enforcement were handled by the Building Official and Building Inspectors who were required to ensure perspective construction complied with certain codes, others were handled by the Police Department, and some were related to public right-of-way issues and heritage trees. Various staff members were involved in code enforcement. The question was to what level and to what extent Council desired code enforcement, i.e., expectations for compliance, code enforcement, and code issues. If Council considered adding some type of code enforcement position, he suggested the evaluation could be done in relationship with the budget process. Staff said current practice was enforcement on a complaint basis. If the desire was for more strict enforcement, staff would spend the time on what the priorities were.

**Eighty percent of the people complied when sent a code enforcement letter, and another 10 percent complied when sent a nuisance abatement letter.**

**Council Member Janz believed a full-time Code Enforcement Officer was not necessary. The issue could be addressed with a part-time person, someone on staff, or purchasing time from another city's code enforcement officer. A discussion continued on various ways in which to handle code enforcement, etc.**

**Mayor Marsala believed contracting for a code enforcement officer would eliminate the need for benefit/retirement costs. He was concerned about increasing the workload for staff. He was interested in learning about the companies that provided code enforcement services.**

**Council Member McKeithen said violations included construction runoff, construction noise, and growth. Whoever provided code enforcement services (a contract person, a part-time person, or existing staff) should assist the other people in Town and ensure the laws were enforced. She did not think it was up to the Arborist, Police Department, or other staff to provide code enforcement. Residents should be able to go to someone who was independent and understood what needed to be enforced. She wanted a breakdown of the cost for each option including the advantages and disadvantages.**

**Council Member Jerry Carlson said ordinances were enacted to improve/protect the quality of life in Town and believed there was a problem with selective enforcement. The Town needed to be consistent and fair, and Council needed to set the tone. There were advantages to having an expert regarding ordinances. Perhaps a trial period was appropriate to evaluate the situation.**

**Bob Huber, Atherton, said if laws were not going to be enforced, don't have the law or change the code.**

**Jim Dobbie, Atherton, spoke in favor of a Code Enforcement Officer.**

**John Ruggeiro, Atherton, spoke regarding a new problem created by BFI arbitrarily changing pickup days; garbage containers were seen all week. He spoke in favor of a Code Enforcement Officer.**

**Marion Oster, Atherton, spoke in favor of a Code Enforcement Officer in the Town.**

**City Manager Jim Robinson said the Town should look at what abatement processes or procedures were needed and evaluate how the Code Enforcement Officer would handle the abatement in Town.**

**Mayor Marsala also said the Town needed to make a decision as to the level of enforcement.**

Direction was given to staff to prepare a follow-up report based upon a half-time position with a cost analysis of the various options for a Code Enforcement Officer, including the advantages and disadvantages, violations, and what to enforce, to be returned at the City Council meeting of April 19, 2006.

**18. REFERRAL TO THE PLANNING COMMISSION TO AMEND ATHERTON MUNICIPAL CODE SECTION 17.36.195 REGARDING FENCE HEIGHT, HEIGHT OF GRADING, AND AMOUNT OF GRADING**

**Recommendation:** Consider recommendations from staff for modification to Atherton Municipal Code Section 15.40.157 (screening) and Section 17.36.195 (retaining walls) and refer to the Planning Commission.

Deputy Town Planner Lisa Costa Sanders said the City Attorney prepared draft language relating to screening of construction sites and retaining walls. Since the retaining wall modifications pertained to the Zoning Code, the item was noticed to be heard at the March Planning Commission meeting. Staff was seeking input from Council on the proposed language. Both items would be returned to Council for formal consideration.

Council Member McKeithen wanted clarification that construction screening should be installed prior to commencement of construction. Additionally, all retaining walls, including the successive 20 feet retaining walls, should be off the natural grade.

A discussion regarding the exception for basements and underground driveways ensued. The language “*except for*” would be eliminated.

Council Member Janz suggested the item be referred to the General Plan Committee first and then on to the Planning Commission.

Language regarding “*construction screening on fences shall be installed first*” would be added.

The City Council referred the recommended amendments to Municipal Code Section 15.40.157 (screening) and Section 17.36.195 (retaining walls) to the General Plan Committee meeting of April 5, 2006, the Planning Commission Meeting of April 26, 2006, to be returned to the City Council Meeting of May 17, 2006.

**19. PUBLIC COMMENTS**

There were no public comments.

**20. ADJOURNMENT**

**Mayor Marsala adjourned the meeting at 10:50 p.m.**

**Respectfully submitted,**

---

**Kathi Hamilton  
Acting City Clerk**



**DRAFT MINUTES**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**  
**March 30, 2006**  
**8:00 A.M. ☞ NOTE TIME**  
**Meeting Room**  
**Town Administrative Offices**  
91 Ashfield Road  
Atherton, California  
**Special Meeting**

The meeting was called to order at 8:05 a.m.

**ROLL CALL**

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

**PUBLIC COMMENTS**

There were no public comments.

**CLOSED SESSION**

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

1 potential case

**RECONVENE TO OPEN SESSION**

Report of action taken.

City Attorney Marc Hynes reported that the City Council authorized him to initiate litigation pursuant to subsection (c) of Government Code Section 54956.9.

**MOTION – to initiate litigation pursuant to subsection (c) of Government Code Section 54956.9**

M/S McKeithen/A. Carlson

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

## **REGULAR AGENDA**

Mayor Marsala called the meeting to order at 8:58 p.m.

**1. CONSIDERATION AND DIRECTION TO STAFF REGARDING A PROPOSAL FROM GODBE RESEARCH TO CONDUCT A POLICE SERVICES STUDY OF RESIDENTS VIA MAIL AND PHONE SURVEY**

City Manager Jim Robinson gave a brief staff report outlining two options contained in the Proposal to Conduct a Police Services Study of Residents by Godbe Research. The first option was a Town-wide mail survey. The second option was a shorter mail survey followed up by a telephone version of the survey to residents who did not respond.

Council Member McKeithen noted that the Finance Committee recommended Option 2, the mail/phone option. The focus of the survey was to ascertain what residents wanted in terms of police services, the level of service, and whether they would support a measure or parcel tax to support police services. Since the survey would take approximately 8 to 10 weeks to complete, a concern was raised whether the survey should be sent during the summer months or after.

Discussion continued on various aspects of the survey.

**MOTION – to approve Option 2, Mail/Phone Survey, and initiate a contract with Godbe Research to conduct a Police Services Study of Residents**

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

## **PUBLIC COMMENTS**

There were no public comments.

## **ADJOURN**

The meeting was adjourned by Mayor Marsala at 9:28 a.m.

Respectfully submitted,

---

Charles E. Marsala  
Mayor

Minutes Prepared by:  
Kathi Hamilton

**TOWN OF ATHERTON**  
**CLAIMS LIST**  
 March 2006

Payroll Checks	7461 - 7618	\$ 37,194
Electronic Transfers		494,441
A/P Checks	21588 – 21791	537,825
TOTAL		\$ 1,069,460

I, James H. Robinson, City Manager of the Town of Atherton, do hereby certify under penalty of perjury that the demands listed above, check numbers 7461 - 7618 (payroll) and 21588 - 21791 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$1,069,460; are true and correct, and that there are sufficient funds for payment.

---

James H. Robinson  
City Manager

The above claims, check numbers 7461 - 7618 (payroll) and 21588 - 21791 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$1,069,460; are true and correct, and are authorized for payment.

---

Charles Marsala  
Mayor, Town of Atherton

**SOURCE OF FUNDS**

<b>101</b>	General Fund	1,005,781
<b>105</b>	Tennis Fund	
<b>201</b>	Special Parcel Tax	20,085
<b>202</b>	Transportation	
<b>203</b>	Gas Tax Fund	
<b>210</b>	Road Construction Impact Fees	9,578
<b>211</b>	Park Grants Fund	
<b>213</b>	Library Special Revenue Fund	1,380
<b>401</b>	General Capital Projects	
<b>402</b>	Storm Drainage	
<b>403</b>	Atherton Channel District	3,583
<b>406</b>	Facilities Construction	
<b>610</b>	Vehicle Replacement	
<b>611</b>	Computer Maint. & Replacement	24,567
<b>612</b>	Administrative Services	4,021
<b>715</b>	Evans Estate	65
<b>740</b>	Tree Committee	400
<b>TOTAL</b>		<b>\$1,069,460</b>



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

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

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

**DATE: FOR THE MEETING OF APRIL 19, 2006**

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

#### **RECOMMENDATION:**

Receive the Monthly Financial Report for March 2006.

#### **INTRODUCTION:**

The attached schedules show revenues and expenditures and fund balance for all funds as of March 31, 2006.

#### **HIGHLIGHTS:**

General Fund expenditures for the nine months ended March 31, 2006, have amounted to \$6,000,252, or 69% of the \$8,701,010 budgeted for the fiscal year. For the nine months ended March 31, 2006, General Fund revenues amounted to \$6,116,823, or 70% of the \$8,720,458 estimated for the year.

By comparison, General Fund expenditures amounted to 66% of appropriations for the nine months ended March 31, 2005. Additionally, General Fund revenues amounted to 69% of estimated revenues for the nine months ending March 31, 2005.

**FISCAL IMPACT:**

None

Prepared by:

Approved by:

---

John P. Johns  
Finance Director

---

James H. Robinson  
City Manager

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

<b>Fund</b>	<b>Revenue Source</b>	<b>2005-06 Estimate</b>	<b>Current Period Revenues</b>	<b>Year to Date Revenues</b>	<b>% Received</b>
	Property Tax	\$ 3,651,651	197,325	2,621,532	72%
	Sales and Use Tax	126,000	16,565	133,842	106%
	Other Taxes	830,760	101,715	702,135	85%
	Licenses & Permits	1,839,879	158,427	1,294,154	70%
	Fines & Forfeitures	35,000	4,324	41,268	118%
	Revenue from Other Agencies	303,166	58	182,848	60%
	Charges for Services	336,208	13,546	238,605	71%
	Investment & Rental Income	291,633	5,377	208,819	72%
	Other Revenues	5,000	20,477	41,620	832%
	<b>Total General Fund Revenues</b>	<b>7,419,297</b>	<b>517,814</b>	<b>5,464,823</b>	<b>74%</b>
	Interfund (Operating) Transfers In	1,301,161	-	652,000	50%
<b>101</b>	<b>General Fund Total</b>	<b>8,720,458</b>	<b>517,814</b>	<b>6,116,823</b>	<b>70%</b>
	<b>Special Revenue Funds:</b>				
105	Tennis	7,000	350	5,024	72%
201	Special Parcel Tax	1,858,000	92,929	1,216,711	65%
202	Transportation	180,000	24,047	184,357	102%
203	Street Improvement (Gas Tax)	172,376	22,026	114,095	66%
209	Law Enforcement	100,000	-	100,868	101%
210	Road Construction Impact Fees	1,158,328	137,528	789,663	68%
211	State Park Grants Fund	197,399	13,600	13,600	0%
213	Library	200,000	-	97,101	49%
	<b>Total</b>	<b>3,873,103</b>	<b>290,480</b>	<b>2,521,419</b>	<b>65%</b>
	<b>Capital Project Funds:</b>				
401	Capital Improvement	-	-	2,213	
402	Storm Drainage	-	-	379	
403	Channel Drainage District	50,665	2,729	37,469	74%
406	Facilities Construction	-	-	570	
	<b>Total</b>	<b>50,665</b>	<b>2,729</b>	<b>40,631</b>	<b>80%</b>
	<b>Internal Service Funds:</b>				
610	Vehicle Replacement	97,980	-	50,349	
611	Information Technology	101,621	-	52,959	52%
612	Administrative Services	294,389	-	151,645	52%
614	Workers Compensation Insurance	-	-	-	
	<b>Total</b>	<b>493,990</b>	<b>-</b>	<b>254,953</b>	<b>52%</b>
	<b>Trust and Agency Funds:</b>				
715	Evans Creative Design	13,200	-	2,430	18%
740	Tree Committee	-	100	2,500	
	<b>Total</b>	<b>13,200</b>	<b>100</b>	<b>4,930</b>	<b>37%</b>
	<b>Total Revenues</b>	<b>13,151,416</b>	<b>811,123</b>	<b>8,938,756</b>	<b>68%</b>

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

<b>Fund</b>	<b>Description Department</b>	<b>2005-06 Budget</b>	<b>Current Period Expenditures</b>	<b>Year to Date Expenditures</b>	<b>% Spent</b>
101	General Fund				
	11 City Council	\$ 20,535	\$ 696	\$ 9,162	45%
	12 City Manager	475,598	35,415	308,453	65%
	16 City Attorney	180,255	20,546	104,027	58%
	18 Finance	460,667	45,320	315,993	69%
	25 Building	1,042,371	106,567	720,546	69%
	40 Police	4,521,000	458,967	3,161,862	70%
	50 Public Works	1,900,584	197,479	1,380,209	73%
	Contingency	100,000	-	-	0%
	Total General Fund Expenditures	<u>8,701,010</u>	<u>864,990</u>	<u>6,000,252</u>	<u>69%</u>
	Interfund (Operating) Transfers Out	-	-	-	0%
101	<b>General Fund Total</b>	<b><u>\$ 8,701,010</u></b>	<b><u>\$ 864,990</u></b>	<b><u>\$ 6,000,252</u></b>	<b><u>69%</u></b>
<b>Special Revenue Funds:</b>					
105	Tennis	25,011	-	11,290	
201	Special Parcel Tax	1,832,077	20,085	1,481,594	81%
202	Transportation	323,420	-	28,400	9%
203	Street Improvement (Gas Tax)	150,000	-	73,107	49%
209	Law Enforcement	100,000	19,325	67,190	67%
210	Road Impact Fees	1,598,671	9,400	459,026	29%
211	State Park Grants	196,736	-	10,350	5%
213	Library Fund	71,045	1,380	22,746	32%
	Total	<u>4,296,960</u>	<u>50,190</u>	<u>2,153,703</u>	<u>50%</u>
<b>Capital Project Funds:</b>					
401	Capital Improvement	282,896	-	-	0%
402	Storm Drainage	21,394	-	2,563	12%
403	Channel Drainage District	425,300	3,583	408,957	96%
	Total	<u>729,590</u>	<u>3,583</u>	<u>411,520</u>	<u>56%</u>
<b>Internal Service Funds:</b>					
610	Vehicle Replacement	76,000	-	81,543	107%
611	Information Technology	112,622	24,567	84,457	75%
612	Administrative Services	317,139	16,408	240,574	76%
614	Workers Compensation Insurance	-	-	-	
	Total	<u>505,761</u>	<u>40,975</u>	<u>406,574</u>	<u>80%</u>
<b>Trust and Agency Funds:</b>					
715	Evans Creative Design	11,200	65	1,010	9%
740	Tree Committee	-	-	2,568	
	Total	<u>11,200</u>	<u>65</u>	<u>3,578</u>	<u>32%</u>
<b>Total Expenditures</b>		<b><u>14,244,521</u></b>	<b><u>959,803</u></b>	<b><u>8,975,627</u></b>	<b><u>63%</u></b>

**TOWN OF ATHERTON**  
**Budget Summary**  
**Fiscal Year 2005-06**  
**As of March 31st, 2006**

<b>Fund</b>	<b>Description</b>	<b>Beginning Fund Balance July 1, 2005</b>	<b>Revenues to Date</b>	<b>Transfers to Date</b>	<b>Expenditures To Date</b>	<b>Ending Fund Balance to Date</b>
101	<b>General Fund</b>	7,582,785	5,464,823	652,000	6,000,252	7,699,356
	<b>Special Revenue Funds:</b>					
105	Tennis	21,841	5,024		11,290	15,575
201	Special Municipal Tax	1,112,743	1,216,711		1,481,594	847,860
202	Transportation	330,685	184,357		28,400	486,642
203	Street Improvement (Gas Tax)	34,413	114,095		73,107	75,401
209	Law Enforcement	13,758	100,868		67,190	47,436
210	Road Construction Impact Fees	832,049	789,663		459,026	1,162,686
211	State Park Grants	38,688	-		10,350	28,338
213	Library Special Revenue Fund	1,415,042	97,101		22,746	1,489,397
	Sub Total	<u>3,799,219</u>	<u>2,507,819</u>	-	<u>2,153,703</u>	<u>4,153,335</u>
	<b>Capital Projects Funds:</b>					
401	Capital Improvement	253,970	2,213		-	256,183
402	Storm Drainage	45,262	-		2,563	42,699
403	Channel Drainage District	439,931	37,469		408,957	68,443
406	Facilities Construction	65,382	570		-	65,952
	Sub Total	<u>804,545</u>	<u>40,252</u>	-	<u>411,520</u>	<u>433,277</u>
	<b>Internal Service Fund</b>					
610	Vehicle Replacement	412,904	50,349		81,543	381,710
611	Information Technology	133,100	52,959		84,457	101,602
612	Administrative Services	140,976	151,645		240,574	52,047
614	Workers Compensation Insurance	10,871	-		-	10,871
	Sub Total	<u>697,851</u>	<u>254,953</u>	-	<u>406,574</u>	<u>546,230</u>
	<b>Trust and Agency Funds</b>					
715	Evans Creative Design	113,488	2,430		1,010	114,908
740	Tree Committee	1,949	100		2,568	(519)
	Sub Total	<u>115,437</u>	<u>2,530</u>	-	<u>3,578</u>	<u>114,389</u>
	<b>Grand Total</b>	<u><b>\$ 12,999,837</b></u>	<u><b>\$ 8,270,377</b></u>	<u><b>\$ 652,000</b></u>	<u><b>\$ 8,975,627</b></u>	<u><b>\$ 12,946,587</b></u>



## Town of Atherton

### CITY COUNCIL STAFF REPORT

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

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

**DATE: FOR THE MEETING OF APRIL 19, 2006**

**SUBJECT: APPROVAL OF AN INCREASE IN THE CONTRACT WITH  
INTERSTATE GRADING AND PAVING, INC. FOR THE SELBY LANE  
RECONSTRUCTION PROJECT NO. 04-004 IN THE AMOUNT OF  
\$320,808.51, WITH A CONSTRUCTION CONTINGENCY AMOUNT OF  
\$32,080.85, FOR A TOTAL AUTHORIZATION OF \$352,889.36**

#### **RECOMMENDATION:**

Approve an increase in the contract with Interstate Grading and Paving, Inc. for the Selby Lane Reconstruction Project No. 04-004 in the amount of \$320,808.51, with a construction contingency amount of \$32,080.85, for a total authorization of \$352,889.36.

#### **BACKGROUND:**

A contract was awarded to Interstate Grading and Paving, Inc. for the Selby Lane Reconstruction Project at the June 15, 2005 City Council meeting for a contract amount of \$1,337,621.50, with a 10% construction contingency of \$133,762.15, for a total authorization of \$1,471,383.65. When the contractor began work it was discovered that several utility lines were too shallow for the work to continue. The various utility companies mobilized and lowered their lines. PG&E gas had the most laterals to lower, and also needed to replace a segment of gas main that was too close to the proposed storm drain line. PG&E's work took in to the fall to complete, at which time it was determined that the street paving work could not be accomplished before the rain season began. It was decided that the project should be delayed until the spring of 2006.

## **ANALYSIS:**

The contract was delayed by causes out of the control of the contractor; therefore the Town is responsible for any cost increases the contractor incurs. Under this delayed construction scenario, the actual cost paid by the Town will be the costs the contractor pays at the time of construction. If the prices go down by the summer, the price will be less. If they are more, the cost will be more, hence the construction contingency increase.

The primary cost increase is the price of asphalt. Dramatic increases in asphalt prices occurred last summer after the contract was bid, with a high in September of 39% above the June price (over 100% above the January 2005 price). These cost increases are not expected again this year, and fortunately the prices have even come down since September. The price requested here is not as high as it would have been had we restarted the contract in September.

Additional costs include:

- Mobilization - the contractor had to pull all his equipment off the job and will have to bring it all back again when he starts up.
- Notification and Signing - the contractor removed their signs, which will have to be reinstalled, and residents will have to be re-notified of the contractor's schedule of work.
- Layout and staking - most of the contractor's staking did not survive the winter, and will have to be re-staked.
- Disposal (fee and trucking) - the contractor had a site to dispose of the milled material at a fairly low cost when he bid the project. These sites are normally other construction projects underway at the time that need fill material. At this time, the contractor has a site that is farther away and will charge a disposal fee. Public Works is investigating alternative sites that may save some of this additional fee, but at this time disposal and trucking are included. If the cost can be avoided, it will not have to be paid.
- Labor increase - in order to begin the contract after Selby Lane School is out for the summer, the contract will work after the June 1 labor contract wage increases effective on June 1, 2006.
- Fuel costs - like asphalt, fuel costs took a sharp increase after the bid date.
- Concrete and steel - also like asphalt, but for different reasons (primarily due to the demand on the world supply by construction projects in mainland China), concrete saw a sharp price increase. This affected the cost of valley gutter and other concrete items.
- HDPE - plastic pipe is manufactured from petroleum, and also saw a price increase similar to that of asphalt.

## **FISCAL IMPACT:**

This price increase is 24% of the original contract. Industry estimates for the current year's contracts show a 20% across the board increase due to the worldwide increases in the costs of petroleum products, concrete and steel. Without the disposal costs that are unique to this project, the cost increase included in this request would be 19%.

A breakdown of the added costs is as follows:

• Asphalt Price Increase	\$197,067.22
• Trucking	\$32,604.00
• Disposal Fees	\$51,535.00
• Labor Increase	\$2,831.40
• Fuel Cost Increase	\$7,040.00
• Remobilize & re-notice	\$10,943.99
• Re-staking	\$9,900.00
• Concrete and plastic pipe	<u>\$8,886.90</u>
TOTAL	\$320,808.51

\$1,500,000 in Parcel Tax, Road Impact and Capital Improvement funds were budgeted for this project in FY 2005-06. This request would bring the total authorization to \$1,824,273.01. Staff recommends approval of a budget augmentation of \$325,000 from the Parcel Tax fund to cover this amount.

Prepared by:

Approved by:

---

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

---

James H. Robinson  
City Manager



**Town of Atherton**

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

**FROM: ROBERT BRENNAN, CHIEF OF POLICE**

**DATE: FOR THE CITY COUNCIL MEETING OF APRIL 19, 2006**

**SUBJECT: PARK LANE COMMUNITY POLICING PROJECT**

**RECOMMENDATION:**

The Police Department will continue to proactively patrol in the Park Lane neighborhood and will provide verbal or written reports to the City Council as requested.

**INTRODUCTION:**

This is the third in a series of reports provided to the City Council regarding construction activity in the Park Lane neighborhood. These reports have been in response to the City Council's direction that resulted from construction related activity located in the Park Lane neighborhood, and is a result of complaints received from citizens and neighbors regarding the construction and its associated problems. By the direction of the City Council, the assigned officer has continued to monitor the Park Lane neighborhood in addition to his assigned patrol duties. The assigned officer has also addressed construction complaints of the same nature on Broadacres Road and Tallwood Court.

**ANALYSIS:**

The City Council has requested that the assigned officer provide specific information regarding written warnings or citations issued specifically to contractors and/or construction workers for municipal or vehicle code violations in the Park Lane neighborhood since the inception of this project on January 26, 2006. The warnings and/or citations listed below are only those issued to "confirmed" contractors and/or



## Town of Atherton

### CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCILMEMBERS**

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

**DATE: CITY COUNCIL MEETING OF APRIL 19, 2006**

**SUBJECT: RESCINDING RESOLUTION No. 03-28 AND ADOPTING REVISED GUIDELINES FOR CONSTRUCTION, OPERATION AND PARKING PLANS**

#### **RECOMMENDATION:**

Consider revised Guidelines for Construction, Operation and Parking Plans and if desired, rescind Resolution No. 03-28 and adopting revised guidelines.

#### **BACKGROUND:**

On December 17, 2003, the City Council adopted Guidelines for Construction, Operation and Parking Plans in conformance with provisions of Section 15.40.152 of the Atherton Municipal Code. Now that the Town has had some experience with these, revisions have been proposed. The attached guidelines showing the 2006 revisions are attached to the Resolution which would rescind Resolution No. 03-28 and adopt the revised guidelines. Revisions are shown in **bold**. If the City Council is satisfied with these revisions, they may be adopted as written. If any changes are desired, they may be made and the Guidelines as revised adopted by the enclosed Resolution.

#### **FISCAL IMPACT:**

Additional costs of enforcement.

Prepared By:

Approved By:

---

Marc G. Hynes  
City Attorney

---

James H. Robinson  
City Manager

Attachment

workers. Actual statistics are probably significantly higher as a large number of warnings and/or citations were issued to unoccupied parked vehicles which were believed to be associated with contractors and/or workers.

1. Written warning for 22350 CVC (Speeding) issued to contractor at 245 Park Lane.
2. Written warning for 22350 CVC (Speeding) issued to contractor (unknown address)
3. Written warning for 15.40.040 MC (Required on-site/same side construction parking) issued to contractor at 245 Park Lane.
4. Written warning issued for 15.40.040 MC (Required on-site/same side construction parking) issued to contractor at 283 Park Lane.
5. Written warning issued for 15.040.120 MC (Construction prior to 0800 hours) to contractor at 266 Camino Al Lago.
6. Written warning for 22450 CVC (Stop sign violation) issued to catering truck.
7. Written warning issued to contractor at 217 Park Lane for 15.40.040 MC (Required on-site/same side construction parking).
8. Parking citation issued to contractor at 245 Park Lane for 22502(A) CVC (Right hand wheels not within 18" of curb).

**CONCLUSION:**

Continued community policing efforts to address the construction related activities in the Park Lane neighborhood have been effective based on both the assigned officer's observations and neighborhood residents' comments. Continued proactive enforcement of both vehicle and municipal related codes in this neighborhood should ensure future compliance.

Prepared by:

Approved by:

---

Robert Brennan  
Police Chief

---

James H. Robinson  
City Manager

**RESOLUTION NO. 06-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
AMENDING GUIDELINES FOR CONSTRUCTION, OPERATION AND PARKING  
PLANS AND RESCINDING RESOLUTION NO. 03-28**

---

WHEREAS, the Atherton City Council has previously adopted guidelines for construction, operation and parking plans by Resolution 03-28, and

WHEREAS, the Atherton City Council has considered revisions to those guidelines and

WHEREAS, the Atherton City Council hereby determines that the adoption of the revised guidelines is Categorically Exempt from the California Environmental Quality Act pursuant to Section 15305, Minor Alteration in Land Use Limitations.

NOW THEREFORE BE IT RESOLVED, that the City Council of the Town of Atherton hereby adopts the Guidelines for Construction, Operations and Parking Plans (Revised 2006) as attached. All previous Guidelines are superseded and of no effect.

IT IS FURTHER RESOLVED that Resolution No. 03-28 is hereby rescinded.

\* \* \* \* \*

*I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the 19th day of April, 2006, by the following vote:*

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

ATTEST

\_\_\_\_\_  
MAYOR  
TOWN OF ATHERTON

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

APPROVED AS TO FORM

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

Guidelines for Construction, Operations and Parking Plans  
**[Revised April, 2006]**

The following guidelines are adopted by City Council Resolution in compliance with Chapter 15.40 of the Atherton Municipal Code requiring the submittal of a Construction Operation and Parking Plan (**COP Plan**).

Prior to acceptance of plans for building plan check, the applicant for a building permit shall submit a COP Plan for review and approval by the Building Official. The **COP Plan** shall be made a part of the public file. At a minimum, the **COP Plan** shall contain the elements listed below:

1. **Parking Area for Construction Personnel.** All construction parking shall be located on-site where possible or within the public right-of-way. **Parking shall be located and conducted in a safe manner that affords a minimum disruption to the neighbors and neighborhood.**
  - a. **Parking in the public right-of-way shall be only in front of the construction site and on the same side of the street as the construction site. For construction projects in excess of 2000 square feet; on flag lots or for properties located on cul de sacs parking on the public right of way shall be allowed for a distance of \_\_\_\_ feet on either side of the front of the property under construction.**
  - b. **Street parking spaces shall be delineated on the COP Plan. Parked vehicles shall not obstruct the paved roadway.**
  - c. The COP Plan shall provide a sufficient area to accommodate the number of construction personnel anticipated to be working on the project. **Clearly designated parking for the planned number of construction related spaces shall be indicated on the COP Plan.**
  - d. **Parking spaces shall be located perpendicular to the adjacent street whenever possible. Whenever a wall, fence, or hedge is located on the front property line and is scheduled for removal during the course of construction, it shall be removed at the start of construction in order to maximize the number of perpendicular parking spaces.**
  - e. The construction parking area shall be located outside of any tree protection fencing area. The construction parking area shall be rocked, with a rocked access drive.
  - f. All construction personnel shall park in the construction parking area when at the job site.
  - g. The City Manager or City Manager's designee may provide written permission for construction personnel parking in the public right-of-way only during such times as finish landscaping or other similar circumstance prevent(s) use of the on-site construction parking area.

2. **No Parking Signs.** At the discretion of the **City Manager** or **City Manager's** designee, to protect health and safety, or in the event the contractor fails to properly implement the COP Plan, the City Manager or City Manager's designee may require the contractor to post signs on and along streets at 100 foot intervals for a distance of 500 feet on both sides of the street from the construction project notifying that parking is prohibited except for residents and their guests as authorized by California Vehicle Code Section 22507. **Further to the provisions of Section 5.40.155 of the Atherton Municipal Code, signs advising of times and days when construction is prohibited along with signs advising of the requirements of the ordinance and guidelines shall be posted at locations on the property which shall be visible to persons on the property as well as to persons on the street.** The contractor shall pay for the cost of the signs.

3. **Construction Trailer.** If a construction trailer is proposed, it shall be located completely on the ~~private~~ property **under construction** at least 10 feet from any side or rear property line, at least 40 feet from the front property line for properties located in the R1-B zone and at least 20 feet from the front property line for properties located in the R1-A zone. **Any lighting used for security purposes shall be appropriately shielded and down-lit so as to minimize interference to adjacent properties.**

4. **Debris Box.** Any debris box used in conjunction with the construction shall be placed completely on the ~~private~~ property **under construction**. The debris box shall be accessible from a paved or rocked access road. **The debris box shall be located at least ten (10) feet from any property line.**

5. **Deliveries and Truck Traffic.** A temporary construction driveway shall be installed consisting of base rock or alternate material approved by the Building official, beginning at the edge of pavement and extending a minimum of 100 feet into the property in order to reduce dust and mud tracking. Signs, delineators and flag personnel shall be available on-site, if necessary. If an existing paved driveway is maintained during construction, a temporary access will not be required. The applicant may propose, or the Building Official may require temporary construction fencing to restrict additional access points.

6. **Sanitary Facilities.** The temporary sanitary facilities should be placed **on the property under construction and** out of the views of neighboring properties as much as possible. The facilities shall be accessed from a paved or rocked road or driveway. The sanitary facilities shall not be located in the public right-of-way and shall be located at least 10 feet from any side or rear property line, at least 40 feet from the front property line for properties located in the R1-B zone and at least 20 feet from the front property line for properties located in the R1-A zone.

7. **Cleanup Area.** When on-site cleaning of equipment is required for concrete forms and trucks, paint brushes, plastering tools and other similar equipment, a clean-up area shall be specified on the COP Plan and posted with a sign. This area shall not be located beneath any tree canopy or in any proposed planting area. Runoff from the clean-up area shall be

contained and the waste material disposed of using "Best Management Practices" as described by the Building Official.

8. **Construction Materials Storage.** An area shall be designated on-site for the storage of construction materials. The storage area shall not be located within the drip lines of any trees.

9. **Notes to be Included on Construction Operation and Parking Plans.** The following notes shall be included on all COP Plans:

a. Construction, deliveries and servicing of any item (i.e., debris box, sanitary sewer facilities, etc.) on the site shall only **be** permitted Monday through Friday, 8:00 a.m. to 5:00 p.m.

b. No work of any nature including but not limited to hauling or heavy equipment shall be permitted on Saturdays, Sundays, or Holidays.

c. **Construction parking on-site shall be utilized before parking on the public right-of-way in front of the site.**

d. **A sign shall be posted at the front of the construction site stating that all construction vehicles shall park on the construction site if space is available.**

10. **Contractor Responsibility.** The contractor shall be responsible for ensuring that all elements of the COP Plan are followed including compliance of construction personnel parking to the parking plan. The contractor shall be responsible for ensuring parking areas used for the construction site are maintained and kept clear of litter resulting from construction personnel use.

11. **Building Official Review and Approval of COP Plan.** The Building Official will determine the number of construction parking spaces that can be clearly delineated on the COP Plan, which preferably will maximize the use of on-site areas for construction parking. When there are multiple construction sites located in the same general area, the Building Official will ensure the collective plans will allow for safe use of the public streets in the area including driveway entrances. The Building Official will provide a copy of the approved COP Plan to the Chief of Police.



**Town of Atherton**

**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 APRIL 19, 2006**

**SUBJECT: ORDINANCE ESTABLISHING TIME LIMITS FOR COMPLETION OF  
CONSTRUCTION**

**RECOMMENDATION:**

Staff recommends that the City Council introduce for adoption the attached Ordinance establishing time limits for completion of construction projects based on the following finding for the reasons outlined in this staff report:

1. The ordinance is necessary to achieve the objectives of the Zoning Plan and the General Plan.

**INTRODUCTION:**

The General Plan Committee researched regulations from the towns of Hillsborough, Belvedere and Tiburon in developing the proposed Ordinance establishing time limits for completion of construction projects. The draft Ordinance was modeled after the established regulations in the Town of Hillsborough.

**ANALYSIS:**

The proposed Ordinance establishes time limits for construction projects based on the square footage of the work. Projects less than 2,000 square feet need to be completed within twelve months from issuance of a building permit, projects between 2,001 and 4,000 square feet need to be completed within twenty-four months of issuance of a building permit, and projects greater than 4,001 square feet need to be completed within thirty-six months of issuance of a building permit. Penalties are imposed for failure to meet the prescribed time limits as outlined in Section 15.40.190, for a maximum penalty amount of \$250,000. A deposit is required to be posted upon reaching the time limit if construction has not been completed. The amount of the deposit tracks the penalty amount. The deposit must be increased after four months if the project is not completed.

The proposed Ordinance establishes an appeals procedure for Planning Commission review as outlined in Section 15.40.210.

If the Council adopts the Ordinance, the Building Department will develop procedures for tracking the established time limits for construction projects to ensure that deposits are collected and appropriate enforcement is followed.

The attached chart was prepared by the Finance Director based on historical data of building permits. The General Plan Committee utilized this information to support the time limits established in the Ordinance. The attached Ordinance was prepared by the City Attorney based on direction provided by the General Plan Committee.

**CONCLUSION:**

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

**FISCAL IMPACT:**

Potential revenues resulting in payment of penalties cannot be estimated at this time.

**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 the attached Ordinance establishing time limits for completion of construction projects in the Town of Atherton based on the findings and for the reasons incorporated in the Staff Report.

Prepared by:

Approved by:

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

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

**Attachments:**

1. Draft Ordinance
2. Length of construction projects

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
ESTABLISHING TIME LIMITS FOR COMPLETION OF CONSTRUCTION AND  
AMENDING CIVIL PENALTY PROVISIONS AND RENUMBERING CODE  
SECTION PERTAINING TO VIOLATIONS OF CHAPTER 15.40 PERTAINING TO  
CONSTRUCTION REGULATIONS**

---

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

**SECTION 1: Findings..**

The City Council of the Town of Atherton finds that:

- A continuous stream of large numbers of construction projects on private properties within the Town of Atherton for many years past has resulted in substantial and continuing adverse impacts on the Town and its residents from construction activities;
- Among those adverse impacts are long-term noise disturbances to neighbors of the construction projects, loss of already inadequate on-street parking due to the presence of large numbers of construction vehicles, and frequent closures of the Town's narrow streets for construction deliveries and staging, which closures hinder and/or eliminate local and emergency access for varying periods of time;
- The Town has seen numerous individual projects designed and built on a very large scale so that construction has often continued for many years, thus prolonging the adverse impacts created by those projects;
- It is in the interests of the health, safety, and welfare of the citizens of the Town of Atherton to place a reasonable time limit on the duration of each construction project, so as to balance the needs of the owner of the project with those of his neighbors and the community generally in the safe and peaceful enjoyment of their properties;
- These amendments are needed in order to reduce the incidence of unreasonably lengthy construction projects that extend through subsequent uniform code update cycles, create noise, debris, traffic problems and a general disruption of the neighborhood.
- The time limits adopted allow an adequate and reasonable amount of time for the kinds of construction projects undertaken in the Town; and
- Because of the large monetary value of many of the construction projects in the town, substantial penalties should be imposed upon persons who violate the time limits imposed pursuant to this chapter, so as to encourage compliance with such time limits and achieve their purposes.

**SECTION 2: Amendment of Code.** Chapter 15.40 of the Atherton Municipal Code is hereby amended by adopting new Sections 15.40.160 through Sections 15.40.220 to read as follows:

**"15.40.160 Application.**

Sections 15.40.160 through 15.40.220 shall apply to all building construction (including, but not limited to, all additions, alterations, modifications, repairs and improvements) that requires a building permit, 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 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 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>Size of Construction Project</b>	<b>New <u>Building</u> Construction, Additions, alterations, modifications, repairs and improvements</b>
Less than 2,000 square feet	12 months from building permit issuance
2,001 – 4,000 square feet	24 months from building permit issuance
Greater than 4,001 square feet	36 months from building permit issuance

**"15.40.190 Penalties.**

A. If a property owner fails to complete construction by the applicable time limit established in this chapter, the property owner shall be subject to the following penalties payable to the town:

<b>Period of time that project remains incomplete beyond applicable time limit</b>	<b>Penalty</b>
First 30 days	0
31 <sup>st</sup> through 60 <sup>th</sup> day	\$200.00 per day (i.e., \$6,000.00 maximum penalty applicable to this 30-day period)
61 <sup>st</sup> through 120 <sup>th</sup> day	\$400.00 per day (i.e., \$24,000.00 maximum penalty applicable to this 60-day period)
121 <sup>st</sup> day and every day thereafter	\$1,000.00 per day (to a maximum of \$250,000.00)

B. Penalties, fees and costs due to the town pursuant to this chapter are due each day as the penalties accrue.

C. Any violation of this chapter shall constitute a public nuisance and, in addition to being subject to any other remedies allowed by law, may be abated as provided by law."

**"15.40.200 Deposit.**

A. **Upon reaching the time limits set out in Section 15.40.180 above, if construction has not been completed, if no final inspection has been made or a certificate of occupancy issued,** the property owner or his representative shall deliver to the building department a refundable deposit (in cash or in the form of a Certificate of Deposit or a payment penalty bond) in the amount of **Thirty Thousand Dollars (\$30,000.00)**. Any bond shall be in the amount of the deposit and in form and contents satisfactory to the town and shall cover a minimum time period of two years.

B. If no deposit is made as provided in subsection A above, the Building Official shall issue a stop work order.

C. If a property owner fails to complete construction by the applicable time limit, the applicable penalties shall accrue daily up to the maximum set out in Section 15.40.190.

D. **On or before the 120<sup>th</sup> day that the project has remained incomplete, no final inspection has been made and no certificate of occupancy issued, the property owner or his representative shall deliver to the building department a refundable deposit (in cash or in the form of a Certificate of Deposit or a payment penalty bond) in the amount of Two Hundred Twenty Thousand (\$220,000.00). Any bond shall be in the amount of the deposit and in form and contents satisfactory to the Town which shall cover a minimum time period of two (2) years.**

E. **If no deposit is made as provided in subsection D above, the building official shall issue a stop work order.**

F. If the owner believes that the failure to meet the applicable time limit was caused by circumstances beyond the owner's control and those circumstances are among those listed as grounds for appeal in Section 15.40.210(B), the owner may file a written statement to that effect with the building official **at the time of making the deposit as described in subsections A and/or B above** and provide documentation substantiating such grounds of appeal and the effect on the construction. If the owner makes such filing, no part of the deposit shall be forfeited to the town and no demand shall be made against the bond **if construction is completed within** thirty (30) days of the deposit. If construction is thus completed and the building official concurs with the owner's statement as to the cause of the failure to meet the deadline, the building official **shall waive the penalty** and return the cash deposit or bond to the owner. **If the building official does not concur with the owner's statement, it shall be treated as an appeal under Section 15.40.210 and all the provisions of that section shall apply.**

G. If construction is completed after the applicable time limit, the town shall draw on the deposit or bond in the amount of the applicable penalties; provided, however, that in the event of an appeal, the town shall not draw on the deposit or bond until the **Planning Commission and, if applicable, the City Council** has rendered its decision as set forth in Section 15.40.210(A).

H. After construction is completed and all applicable penalties received by the town, any remaining deposit shall be refunded or the bond shall be returned."

**"15.40.210 Appeal.**

A. A penalty imposed pursuant to Section 15.40.190 may be appealed **to the Planning Commission** on the grounds that the property owner was unable to comply with the applicable time limit for reasons beyond the control of the property owner and the owner's representatives. There shall be no right to appeal until construction is completed. **Any person aggrieved by the decision of the Planning Commission on the appeal may appeal to the Atherton City Council. The provisions of Chapter 17.64 of the Atherton Municipal Code shall apply to the appeal process.**

B. The grounds for appeal may include, but not be limited to, labor stoppages, acts of war or terrorism, and natural disasters, but shall not include delays caused by the winter rainy season, the issuance of any stop work order, the use of custom and/or imported materials, the use of highly specialized sub-contractors, significant or numerous or late design changes, site access difficulties, failure of materials suppliers to provide materials in a timely manner, or delays associated with project financing, unless a failure or delay was caused by a labor stoppage, act of war or terrorism or natural disaster.

C. At the time the appeal is filed or within two weeks thereafter, the appellant shall submit documentary and other evidence sufficient to establish that design decisions, construction drawings and documents, bids and construction contracts, permit applications, and compliance with all required permit conditions were undertaken in a diligent and timely manner. Documentary evidence shall include dated design contracts, date stamped plans, dated construction contracts and material orders, and proof of timely payment of any deposits or fees required pursuant to any of the foregoing items. The documentary and other evidence shall demonstrate to the City Council's satisfaction that construction delays resulted from circumstances fully out of the applicant's control and despite diligent and clearly documented efforts to achieve construction completion within the applicable time limit. Penalties shall not be modified or cancelled unless the evidence required by this subsection is submitted at the time of appeal."

**"15.40.220 Enforcement.**

A. Sections 15.40.160 through this section 15.40.220 shall apply to all construction for which a building permit was issued on or after the effective date of the ordinance codified in these sections.

B. Any penalty due under Section 15.40.200 shall be a personal debt owed to the town by the property owners(s) and, in addition to all other means of enforcement and collection, shall become a lien against the subject property and shall be subject to the same penalties (including interest thereon at the maximum rate allowed by law from the date the lien attaches until the date of payment) and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes."

**SECTION 3: Amendment of Code.**

Existing Section 15.40.160 of the Atherton Municipal Code entitled "Violations" is renumbered as Section 15.40.230 and subsection B thereof is amended to read as follows:

**"15.40.230. Violations.**

B. 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 provisions of this chapter a civil penalty in an amount not to exceed five thousand dollars per violation. The civil penalty is separate and distinct from penalties imposed pursuant to Sections 15.40.160 through 15.40.220 above."

**SECTION 4:** 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 5:** 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 6:** This Ordinance shall be posted in at least three public places according to law and shall take effect and be in force from and after 30 days following its passage and adoption.

\* \* \* \* \*

Introduced this \_\_\_\_\_ day of \_\_\_\_\_, 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: COUNCILMEMBERS \_\_\_\_\_  
NOES: COUNCILMEMBERS \_\_\_\_\_  
ABSTAIN: COUNCILMEMBERS \_\_\_\_\_  
ABSENT: COUNCILMEMBERS \_\_\_\_\_

\_\_\_\_\_  
Mayor, Town of Atherton

ATTEST:

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

APPROVED AS TO FORM:

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



**Town of Atherton**

**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 APRIL 19, 2006**

**SUBJECT: DIRECTION FROM THE GENERAL PLAN COMMITTEE TO RESTRICT  
BASEMENT AREA**

**RECOMMENDATION:**

Discuss the options to modify the allowed basement area in Atherton and provide direction to Staff.

**BACKGROUND:**

Staff provided comparative information at the February 8, 2006 General Plan Committee meeting on the allowed floor area ratios in other communities. At that meeting, the Committee requested staff prepare options to: limit the area of basements; limit the size of light wells; limit the area of below grade garages or include them in the allowed floor area; reduced floor area on larger lots and require increased setbacks for larger lots. Staff presented some options for discussion by the Committee at the March 8, 2006 meeting. At that meeting, the Committee requested staff further refine the options to address garages in basements, the size of basements and restrict the area of light wells. At the April 5, 2006 meeting, the Committee reviewed the options discussed below. As the Committee was not able to reach consensus on all items, the Committee requests the City Council provide direction to staff.

**ALTERNATIVES:**

The General Plan Committee desired to limit the construction of below grade garages, mainly due to the visual impact of the driveway approach and, retaining walls. The Committee was able to reach consensus that below grade garages be included in the floor area calculations. Committee members also expressed concern with the possible construction of deep basements. The Committee was able to reach consensus to limit the depth of a basement to fourteen feet below average natural grade to the top of slab below. The Committee was unable to reach consensus on further limitations on the area of basements and on further limitations for light wells. Below grade basement area is currently exempt from the floor area calculations. Some Committee members expressed interest in limiting the area of basements and possibly requiring a portion of the basement area to be included in the floor area

calculations. Other Committee members felt the current regulations of limiting basements to below the main residence were sufficient and did not need to be further restricted. Committee members also expressed different opinions on additional limitations for light wells. Light wells are currently restricted to within the main buildable area. Some Committee members wanted to see restrictions to limit the size of light wells while others felt the current regulations are sufficient.

The General Plan Committee recommends the Council discuss options to limit basement area and light wells and provide direction to Staff.

The General Plan Committee discussed several options to limit the basement area, including the following:

Options to limit the basement area:

1. Require the entire basement area to be calculated as floor area
2. Exempt mechanical rooms in basements from the floor area calculation and include all livable basement space in the floor area calculation
3. Exempt the first 200 square feet of a basement area from the floor area calculation
4. Require 50% of the basement area in the floor area calculation
5. Limit the maximum area of a basement to no more than 2,000 square feet (area not included in floor area calculation)
6. Limit the maximum area of a basement to 25% of the allowed floor area of the lot or limit to 5% of the lot area.

Option to limit the size of light wells:

1. Light wells serving below grade basements shall extend no more than four feet from the exterior wall of the basement, or the minimum distance as required by the uniform building code.

Options to limit the area of below grade garages:

1. Require below grade garages to be calculated as floor area (as listed above)
2. Exempt the first 400 square feet of basement garage area and include any additional basement garage area in the floor area calculation.
3. Prohibit below grade garages on lots with an average cross slope less than 20%.
4. Prohibit below grade garages on all lots.

As indicated above, there was Committee consensus to on the following recommendations:

- Require below grade garages to be calculated as floor area.
- Limit the depth of a basement to fourteen feet below average natural grade to finish slab below.

The attached list shows active construction projects in Town.

**FISCAL IMPACT:**

There are several possible fiscal impacts associated with restricting the area of basements, the extent of which is not quantifiable at this point.

- Reduced property values
- Lower building permit fees
- Lower excavation/road impact fees
- Assessed valuation

Prepared by:

Approved by:

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

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

**Attachment:**

1. Active Construction projects



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

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

**DATE: FOR THE MEETING OF APRIL 19, 2006**

**SUBJECT: DISCUSSION AND POSSIBLE ACTION – CREATION OF CODE ENFORCEMENT OFFICER POSITION**

#### **RECOMMENDATION:**

That the City Council consider the various options for the creation of a Code Enforcement Officer and provide direction to staff.

#### **BACKGROUND:**

At its meeting of March 15, 2006, the City Council requested that the staff prepare a report on the cost analysis of the various options for a Code Enforcement Officer including the advantages and disadvantages of each, and what violations were to be enforced.

In its report of March 15, 2006, staff identified 5 options for providing Code Enforcement Options within the Town of Atherton. Attached is a summary of these options identifying advantages and disadvantages, and an estimate of cost.

**1. Utilizing Existing Staff and Allocating Additional time to Enforcement Activities:**

The Atherton staff currently involved in Code Enforcement activities, include the Town Arborist, Police Officers, Street Superintendent, Public Works Superintendent, Building Official, and many others. The Police Chief, Finance Director and City Manager, along with their support staff, are also involved with Code Enforcement. Ultimately the City Attorney is also involved in the compliance side of Code Enforcement. Since the Code Enforcement services cross so many departmental lines and involve so many staff, it is difficult to analyze the cost associated with this option. An advantage of continuing to utilize existing staff is that there are no new costs of providing Code Enforcement. It is possible that the Town could assign an existing staff member to utilize ½ of their time dedicated solely to code enforcement. This could include a Police Officer at \$60.00 an hour, or a Town Arborist at \$47.00 per hour, or a Community Service Officer at \$34.00 per hour. The disadvantage of this option is the emphasis on Code Enforcement can be constantly diluted as the demands on their other staff assignments increase or decrease. These positions may also not have the adequate training or understanding of the many Code Issues within the Town of Atherton. This could be remedied by additional training.

**2. Create a Part –Time Position specifically Directed to Handle Code Enforcement Activities:**

Cost estimates of this alternative would depend upon the level of the position created on a part-time basis. However, assuming that a Part- Time Code Enforcement position was in the range between a Community Services Officer and a Building Inspector, the hourly rate would average \$44.00 per hour. Assuming half time at 1040 hours per year results in an annual cost of \$45,760. The advantages are principally having one position focused on Code Enforcement with no distractions for other assignments. If properly selected and trained, the part time position could provide a point person for dealing with a variety of Code Enforcement issues and complaints and assisting all departments with Code Compliance Issues. A part-time position over time would also provide some continuity and increased level of expertise. The disadvantage of a part-time position is the Town would probably have to guarantee some minimum number of hours to attract a competent candidate for a position that may see a number of peaks and valleys in demand for their services. It is also sometimes difficult to retain for any length of time competent half-time personnel if there are opportunities elsewhere for full time employment in another agency.

**3. Contract with an Individual:**

This option has many of the advantages and disadvantages associated with option # 2. It does however eliminate the employee status and allow for a greater flexibility for possible recruitment or reduction in service. If an individual contractor provides similar services to another agency, this option may not have some of the inherent risks of the part-time employee who may wish to expand

hours or move on to greener pastures. The cost would vary upon the individual selected but would generally cost in the \$44.00 per hour to \$65.00 range for an annual cost of between \$45,760 and \$67,600.

**4. Contract or Partner With An adjoining Community to Provide Code Enforcement:**

Cost estimates would vary based on the position utilized by the Town or City for providing Code Compliance Services. For example, Hillsborough utilizes staff within its Police Department and Woodside utilizes a third of an Assistant Planner. The advantages include an opportunity for cost sharing and eliminating the responsibility for recruitment and retention issues for the Town of Atherton. The disadvantages may be balancing and competing with needs between the two cities. These concerns could be addressed in an agreement with a minimum number of hours of service. The Town staff has not approached any contiguous or prospective cities, but if the City Council would like to explore this option, staff can make those inquiries.

**5. Contract With A Company with Code Compliance Enforcement Expertise:**

The Town staff solicited and has received proposals from two firms within the San Mateo County and Peninsula area. These include CSG and Neal Martin and Associates. The cost for these services ranges from \$65.00 per hour to \$75.00, or \$67,600 to \$78,000 per year, assuming 20 hours of Code Enforcement work per week. The advantage of a contract with a firm is the opportunity of utilizing existing contract staff currently providing this service on a contract basis which provides for some flexibility in the time and hours. CSG currently utilizes a former municipal Code Enforcement employee from the City of San Jose. This option also provides for an opportunity to conduct Code Enforcement activities and evaluate the demand of services in the Town of Atherton and also possibly provide some training if the Town opted to consider utilizing in-house staff in the future or creating a part time position. The disadvantage may be the inability to “select” the individual provided by the Firm as well as the increased costs, although it is staff’s opinion that the advantages may outweigh the disadvantages on an interim basis.

**CONCLUSION:**

There are obviously advantages and disadvantages to each option. If the Council wants to consider a more focused and increased level of Code Enforcement, staff would recommend exploring an option that would provide for a contract Code Enforcement approach on an experimental basis for a minimum of six months. At the end of six months the Town could evaluate the level and demand of time for a more focused code enforcement program within the Town of Atherton. Based on the results, the Town could consider the continuation of Code Enforcement activities under contract or continue the same level but through a different option. This could range from utilizing in-house staff to creation of a part-time position or contracting with an adjoining agency. Both contract

firms indicated the ability to provide an evaluation of code enforcement needs within the Town of Atherton.

If this is an acceptable option, it is suggested that staff be directed to prepare a contract proposal for City Council consideration. In addition, the City Council and staff should identify specific areas of code enforcement that could be best served through this experiment. For example, it may be prudent to continue to have the Arborist deal with Code Compliance issues related to trees and the Police Department continue to ensure code compliance related to construction parking and construction hours. The Code Enforcement Officer could also function as an extension of these departments and assist or focus on specific areas of non-compliance.



## Town of Atherton

### CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS**

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

**DATE: CITY COUNCIL MEETING OF APRIL 19, 2006**

**SUBJECT: EXPENSE REIMBURSEMENT POLICY**

### RECOMMENDATION

It is recommended that the City Council review and adopt a resolution approving a policy governing reimbursable expenses for City officials in compliance with state law.

### BACKGROUND

Effective January 1, 2006, the California Legislature, through legislation commonly referred to as AB 1234, amended the California Government Code to require that local entities adopt, at a public meeting, a policy regarding reimbursable expenses for City officials and employees receiving reimbursement for expenses related to their official duties prior to paying for these expenses. Attached is a draft reimbursement policy for consideration and adoption.

The law pre-existing AB 1234 authorized public officials to be reimbursed for actual and necessary expenses incurred in the performance of official duties. (Government Code § 36514.5.) This law was strictly construed against public officials. An opinion of the Attorney General issued in 1982 concluded that:

- "An expense must meet four requirements to be reimbursable:
- (1) It must be an expense of a member of the city council;
  - (2) It must be an 'actual' expense;
  - (3) The expense must have been 'incurred in the performance of official duties'; and
  - (4) It must be a 'necessary' expense."
- 65 Cal.Op.Atty.Gen. 517, 521 (1982) (interpreting Government Code § 36514.5).

## DISCUSSION

AB 1234 adds sections 53232 through 53232.4 to the California Government Code. Government Code § 53232.1 authorizes the reimbursement for expenses incurred by Town officials in attending:

1. A meeting of the City Council
2. A meeting of an advisory body or
3. A conference or organized educational activity conducted in compliance with Government Code § 54952.2, including but not limited to ethics training now required by Government Code Sections 53234 and following.

Government Code § 53232.1 also provides that compensation may be paid for attendance at occurrences not specified above only if the City Council has adopted, in a public meeting, a written policy specifying other types of occasions which constitute the performance of official duties for which a Town official may receive payment. Pursuant to Government Code § 53232.2, if a local agency reimburses its officials for actual and necessary expenses incurred in the performance of their duties, the written policy, adopted in a public meeting, must specify the types of occurrences that qualify for reimbursement relating to travel, meals, lodging and other actual and necessary expenses. (Government Code § 53232.2(b).)

The policy must also specify reasonable reimbursement rates for travel, meals and lodging and other actual and necessary expenses. If it does not, Internal Revenue Service rates for reimbursement of travel, meals and lodging and other necessary expenses must be followed. (Government Code § 53232.2(c).)

Expense report forms must be provided by the Town and completed and submitted for reimbursement of actual and necessary expenses (Government Code § 53232.3.) Those reports must document that expenses meet the policy. (Government Code § 53232.3.(b).)

Reports must be submitted within a "reasonable time" after incurring the expense. The reports must be accompanied by receipts documenting the expense. (Government Code § 53232.3.(c).) City Council Members and members of all advisory bodies are required to provide brief reports on meetings attended at the Town's expense. The reports must be made at the next regular meeting of the City Council or advisory body after the event. (Government Code § 53232.3.(d).)

All documents relating to reimbursable expenditures are public records subject to disclosure under the Public Records Act.

Government Code § 53232.4 provides penalties for misuse of public resources or falsifying expense reports. These include, but are not limited to:

1. Loss of reimbursement privileges.
2. Restitution of reimbursement payments.
3. Civil penalties pursuant to Section 8314 of the Government Code -- \$1,000 per day on which a violation occurs plus three times the value of the unlawful use.
4. Prosecution pursuant to Section 424 of the Penal Code. (Embezzlement) Imprisonment for 2, 3, or 4 years and permanent disqualification from holding public office in the state.

**CONCLUSION**

It is recommended that the City Council review and adopt the attached Resolution incorporating the Reimbursement Policy.

**FISCAL IMPACT**

None.

Prepared By:

Approved By:

---

Marc G. Hynes  
City Attorney

---

James H. Robinson  
City Manager

Attachments:     Resolution  
                      Exhibit A: Reimbursement Policy

**RESOLUTION NO. 06-\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON SPECIFYING OFFICIAL FUNCTIONS FOR WHICH REIMBURSEMENT OF COSTS OF ATTENDANCE IS AUTHORIZED AND APPROVING A REIMBURSEMENT POLICY FOR REASONABLE AND NECESSARY EXPENSES**

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

**WHEREAS**, Assembly Bill 1234 adopted by the California Legislature in 2005 and amending Sections 53232.1 through 53232.4 requires the City Council specify what official functions are subject to reimbursement for attendance costs where a function does not fit into three narrow categories identified by the Legislature; and

**WHEREAS**, THE City Council finds that benefits accrue to the Town when its officials attend functions (1) where the Town's concerns are discussed with state and federal officials; (2) where regional, state and national organizations provide activities which affect the Town; (3) Where educational seminars designed to improve officials' skill and information levels are presented; and (4) where public service and morale are promoted by recognizing such service; and

**WHEREAS**, this policy establishes standards for reimbursements for reasonable and necessary expenses incurred in attending such functions; and

**WHEREAS**, reimbursement of the costs of attendance at these events and meetings to Council Members is appropriate and should be authorized.

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

1. In addition to reimbursement for functions and activities specified in Sections 53232.1 of the Government Code, reimbursement is authorized for the costs of attendance by Council Members and Town employees and officials at meetings and events of the following described organizations: California Legislature; League of California Cities, both Peninsula Division and State.

All expense reimbursements shall be processed pursuant to and governed by the Reimbursement Policy attached here as Exhibit A and incorporated by this reference.

This Resolution shall be effective immediately upon adoption.

\* \* \* \* \*

*I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the 19th day of April, 2006, by the following vote.*

*AYES: Councilmembers:  
NOES: Councilmembers:  
ABSENT: Councilmembers:  
ABSTAIN: Councilmembers:*

\_\_\_\_\_  
Mayor, Town of Atherton

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Marc Hynes, City Attorney

## **EXHIBIT A**

### **TOWN OF ATHERTON REIMBURSEMENT POLICY**

#### **AUTHORIZED EXPENSES**

Town funds, equipment, supplies (including letterhead), titles, and staff time must only be used for authorized Town business. The following types of expenses generally constitute authorized expenses, as long as the other requirements of this policy are met:

1. Communicating with representatives of local, regional, state and national government on Town-adopted policy positions;
2. Attending educational seminars designed to improve officials' skill and information levels;
3. Participating in local, regional, state and national organizations whose activities affect the Town's interests;
4. Recognizing service to the Town;

All other expenditures require prior approval by the City Council, including.

#### **CITY COUNCIL APPROVAL**

The City Council must approve, in advance, the following expenses:

1. Out-of-state travel;
2. Expenses which exceed the annual budget established by the Town for travel expenses.

#### **NON-REIMBURSED EXPENSES**

Expenses which the Town will not reimburse include:

1. Political or charitable contributions or events;
2. Expenses of any person accompanying the person being reimbursed for expenses incurred on town-related business unless approved, in advance, by the City Council.
3. Automobile expenses, except as set out below, including repairs, traffic citations, insurance or gasoline; and
4. Personal losses incurred while on Town business.

Any questions regarding the propriety of a particular type of expenses should be resolved by the City Council before the expense is incurred.

## **TRANSPORTATION COSTS REIMBURSEMENT**

Where government or group rates are available they must be used. In the event that a more expensive transportation form or route must be used, the most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements should be used, using the most direct and time-efficient route. .

Automobile mileage is reimbursable at Internal Revenue Service rates. These rates compensate for gasoline, insurance, maintenance, and other expenses associated with vehicle operation. Bridge and road tolls are reimbursable in addition to mileage reimbursement.

## **LODGING COST REIMBURSEMENT**

Lodging costs will be reimbursed or paid for when travel on official Town business reasonably requires an overnight stay. If such lodging is in connection with a conference, lodging costs can not exceed the group rate published by the conference sponsor for the meeting in question. If group or government rates are available, the Town must use them. For overnight stays in other contexts, the Internal Revenue Service per diem rates for lodging, which include adjustments for higher cost locations as set forth in Publication 1542 or any successor publication will be followed.

## **MEAL COST REIMBURSEMENT**

Meal expenses and associated gratuities should be in accordance with Internal Revenue Service per diem rates for meals and incidental expenses which includes adjustments for higher cost locations as set forth in Publication 1542 or as amended.

## **TELEPHONE/FAX/CELLULAR COST REIMBURSEMENT**

Actual telephone and fax expenses incurred on Town business will be reimbursed. Telephone bills must identify calls made on Town business. For cellular calls when a particular number of minutes are included in the service plan, the percentage of calls made on public business must be identified.

## **AIRPORT PARKING COST REIMBURSEMENT**

For travel exceeding 24 hours, airport parking costs will be reimbursed at the long-term parking rates.

## **OTHER COST REIMBURSEMENT**

Baggage handling fees will be reimbursed. Expenses for which Town officials receive reimbursement from another agency are not reimbursable.

## **EXPENSE REPORT CONTENT AND SUBMISSION DEADLINE**

Expense reports on forms prepared by the Town must document that the expense in question meets requirements of the policy.

Persons requesting reimbursement must submit their expense reports within thirty (30) days of an expense being incurred, accompanied by receipts documenting each expense.

### **AUDITS OF EXPENSE REPORTS**

All expenses are subject to verification of compliance with this policy.

### **REPORTS TO CITY COUNCIL**

At the first meeting of the legislative body as defined in Government Code section 54952.2 after the member of that body has attended an event for which reimbursement will be made, the member shall briefly report on the event. If multiple members attended, a joint report may be made.

### **COMPLIANCE WITH LAWS**

Some expenditures may be subject to reporting under the Political Reform Act and other laws in addition to this policy. All documents related to reimbursable expenses for Town business are public records.

### **VIOLATION OF THIS POLICY**

Use of public resources or falsifying expense reports in violation of this policy may result in any or all of the following: 1) loss of reimbursement privileges, 2) restitution to the Town of reimbursements which have been paid, 3) reporting by the Town of the expenses as income to the official to appropriate state and federal tax authorities, 4) imposition of civil penalties of up to \$1,000 per day and three times the value of the resources used, and 5) criminal prosecution.



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

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

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

**DATE: FOR THE CITY COUNCIL MEETING OF APRIL 19, 2006**

**SUBJECT: ANNUAL APPOINTMENT OF COMMISSION/COMMITTEE MEMBERS**

#### **RECOMMENDATION:**

Accept the recommendation of the City Council Screening Committee to appoint members to Town commissions and committees. Additionally, staff recommends consideration of changing the term of office for the General Plan Committee to a four-year term with the ability to reapply for a second term.

#### **BACKGROUND:**

Each April, the City Council Screening Committee interviews applicants and makes recommendations to the City Council to fill the vacancies created when terms expire on Town Commissions and Committees. The Screening Committee, consisting of Mayor Charles Marsala and Vice Mayor Alan Carlson, will interview potential candidates for the General Plan Committee prior to the City Council Meeting of April 19, 2006. Three applications were received. The Screening Committee will make its recommendation at the meeting.

No applications were received for the Arts Committee or the Waste Reduction and Recycling Committee. An additional solicitation for applicants has been included in the upcoming *Athertonian*. Staff has not generated many applicants through the various methods of solicitation, e.g., articles in the *Athertonian*, *the Almanac*, and on the Town's website. Staff would like to recommend that the City Council consider changing the term of office of the General Plan Committee from the current one two-year term to a four-year term with the ability to reapply for an additional term. Since the General Plan Committee usually meets only four

times a year, this would provide for more continuity as well as less turnover and fewer soliticitations for applicants.

Prepared by:

Approved by:

---

Kathi Hamilton  
Acting City Clerk

---

James H. Robinson  
City Manager



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

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

**FROM: MICHAEL A. HOOD, BUILDING OFFICIAL**

**DATE: APRIL 19, 2006**

**SUBJECT: APPROVAL OF PROFESSIONAL SERVICES AGREEMENT FOR  
DRAINAGE STUDY**

On March 15, 2006 the Town advertised a Request for Proposal for the review of the Town's drainage policy. Notices of the Request for Proposal were posted on the Town bulletin boards, city hall, and train station. Various geotechnical engineers were contacted by telephone and notified of the 5:00 P.M., April 14, 2006 deadline for submitting a proposal. As of 5:00 P.M. only the firm of BKF Engineers responded.

Normally, the next step would be to review multiple responses to the Request for Proposal and make a selection of the most qualified firm or individual. Since the Request for Proposal consists of multiple tasks, the next step would be to examine the bid dollar amount associated with each task, and accept or reject each task and adjust the total amount of the bid, and then award that bid.

Since there is only one response to the Request for Proposal, and only one bid, the City Council has the following options:

1. Review the response of BKF Engineers, examine the dollar amount of their bid, make adjustments as necessary, and authorize the preparation of a professional services agreement.
2. Re-advertise the Request for Proposal in order to attract more responses.

3. Reject all proposals and bids.

A copy of the response to the Request for Proposal will follow.

Respectfully submitted:

Reviewed/Approved:

---

Michael A. Hood  
Building Official

---

James H. Robinson  
City Manager



## Town of Atherton

### CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCILMEMBERS**

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

**DATE: CITY COUNCIL MEETING OF APRIL 19, 2006**

**SUBJECT: AMENDMENT TO HERITAGE TREE ORDINANCE –  
REMEDIES FOR VIOLATIONS**

#### **Recommendation:**

It is recommended that the City Council consider an amendment to the penalty provisions of the Heritage Tree Ordinance to set out certain remedies related to planting of replacement trees where a heritage tree has been removed in violation of Town regulations.

#### **Background:**

Revisions to the Town's Heritage Tree Ordinance are proposed to provide remedies for violations of Town regulations to protect heritage trees. A new subsection D is proposed to be added to existing section 8.10.060 which sets out penalties for violation of the Heritage Tree Ordinance. Existing Section 8.10.060 is attached to this report. The title of the section would be revised to read: Violation – Penalties and Remedies.

Remedies require that a permit be obtained for any previously conducted unlawful activity. This conforms with existing Town practice. Additional provisions of subsection D require replacement of unlawfully removed trees and/or cash payments where replacement trees cannot be accommodated on-site or replacement trees are not to be planted off-site. Subsection D(2) provides that any person required to plant replacement trees on-site must permanently maintain them in good and health condition to ensure their permanent establishment.

New Subsection E simply confirms that all remedies provided in the section are cumulative and not exclusive.

**Fiscal Impact:**

None.

Prepared By:

Approved By:

---

Marc G. Hynes  
City Attorney

---

James H. Robinson  
City Manager

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
AMENDING CHAPTER 8.10 (HERITAGE TREES) OF THE ATHERTON MUNICIPAL  
CODE BY ADDING PROVISIONS TO SECTION 8.10.060 PERTAINING TO  
PENALTIES AND REMEDIES FOR VIOLATIONS OF HERITAGE TREE  
REGULATIONS**

---

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

**SECTION 1:** Amendment of Code. Section 8.10.060 of the Atherton Municipal Code is hereby amended by revising the title to read Violation – Penalties and Remedies and by adding thereto a new subsection D and E to read as follows:

"8.10.060 Violations; Penalties and Remedies.

D. The violation of any provision contained in this chapter shall be subject to the penalties or remedies as described herein and any other remedies authorized by the Town of Atherton Municipal Code, including, but not limited to the following:

(1) Requiring that the violator obtain a tree removal, pruning or encroachment permit for the previously conducted unlawful activity, including one or more of the following conditions as appropriate:

(i) The violator shall replace each unlawfully removed tree with one or more new trees which can be accommodated on the site of the violation according to good forestry practices and, in the opinion of the Building Official, will provide equivalent value in terms of cost (as determined pursuant to the Town's Arborist's calculation of the value of the removed tree(s) in accordance with the Guide for Plant Appraisal adopted by reference), aesthetic and environmental quality, size, height, location, appearance and other characteristics of the unlawfully removed tree, or

(ii) Where replacement trees cannot be accommodated on site according to good forestry practices, or cannot provide equivalent aesthetic or environmental quality of removed tree(s) on site, the violator shall either plant replacement trees off site or make a cash payment as described in subparagraph B above, or any combination thereof, in accordance with the following:

(a) To the extent that a cash payment is required for any portion or all of the value of the removed tree, such payment shall be doubled to reflect the estimated installation costs that would be incurred if replacement trees are planted; and

(b) To the extent that the planting of offsite replacement trees is required, the retail cost of such trees, as shown by documentary evidence satisfactory to the Building Official, shall be offset against the value of the removed tree, but no credit shall be given for transportation, installation, maintenance and other costs incidental to the planting and care of the replacement trees; or

(iii) Where the unlawful activity did not result in tree removal, but did result in tree damage, the violator shall enhance the condition of the remaining trees or portions of trees according to good forestry practices which in the opinion of the Building Official, will provide equivalent value in terms of damage to the tree(s), aesthetic and environmental quality, size, height, location, appearance and other characteristics of the unlawfully damaged tree; provide equivalent enhancement of the condition of trees off site or make a cash payment to the fund described in subparagraph A above (based on the Town's Arborist's calculation of the equivalent value of the unlawful damage to the tree).

(2) Any person who is required to plant replacement trees on site pursuant to this Section shall permanently maintain such trees in a good and healthy condition, for a minimum of five years to ensure permanent establishment of any such tree(s), as determined by the Town Arborist. Such person shall post a maintenance bond or security deposit in a form prescribed by the Building Official and execute a maintenance agreement with the Town, which shall be recorded in the office of the County Recorder.

E. All remedies provided in this Section shall be cumulative and are not exclusive."

**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 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:** 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.

**SECTION 4:** 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).

\* \* \* \* \*

Introduced this 19<sup>th</sup> day of April , 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: COUNCILMEMBERS \_\_\_\_\_  
NOES: COUNCILMEMBERS \_\_\_\_\_  
ABSTAIN: COUNCILMEMBERS \_\_\_\_\_  
ABSENT: COUNCILMEMBERS \_\_\_\_\_

\_\_\_\_\_  
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**

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

**DATE: FOR THE MEETING OF APRIL 19, 2006**

**SUBJECT: SELECTION OF A DATE FOR A GOALS SETTING SESSION**

#### **RECOMMENDATION:**

That the City Council consider and select a date for a Goals Setting Session.

#### **BACKGROUND:**

In 2002, the City Council developed a list of prioritized goals for the Town of Atherton. This list was established one year after the approval of the Parcel Tax in 2001, and shortly after the adoption of a four year long-term Capital Improvement Program for Fiscal Years 2001-02 through 2004-05. The Capital Improvement Program covered the length of the life of the Parcel Tax and also became a source for development of our long-term General Fund Revenue and Expenditure Analysis that appears in our Annual Budget. (See page 15 of adopted FY 05-06 Budget.) Recently, in June 2005, Atherton residents approved the renewal of the Parcel Tax through 2010. Staff and the City Council Finance Committee are currently working on a Capital Improvement Program for the upcoming 06-07 Fiscal Year as well as developing potential projects for each of the fiscal years through 2010.

It is therefore timely to reconsider previous goals, establish new goals, provide direction to staff, and establish priorities for long-term Capital Improvement needs through 2010. Establishment of goals, particularly Capital Improvement priorities help establish long term Revenue needs but also provide a priority list and the vision necessary to apply for, and compete for any County, State, or Federal grants.

If the City Council concurs, it is recommended that a separate Special Meeting be held specifically to identify and prioritize future goals as well as projects to be considered for a long-term Capital Improvement Program through FY 2009- 2010. The City Council may also wish to consider incorporating this discussion with the Special City Council meeting dealing with the 06-07 Fiscal Year budget.



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

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

**DATE: FOR THE MEETING OF APRIL 19, 2006**

**SUBJECT: SELECT A DATE FOR A SPECIAL MEETING FOR  
CONSIDERATION OF THE DRAFT FY 2006-2007 OPERATING  
AND CAPITAL BUDGET**

#### **RECOMMENDATION:**

That the City Council select a date for a Special Meeting for a Study Session and consideration of the Draft FY 2006-2007 Operating and Capital Budget.

#### **BACKGROUND:**

The Staff and Finance Committee are currently developing a Draft Budget for the Fiscal Year 2006-2007. In recent years the City Council has held special meetings to consider a draft operating and capital budget prior to a public hearing and adoption at a regular meeting. Staff recommends that the City Council select a date prior to the regular City Council meeting date of June 21, 2006. Possible dates could include Wednesday, June 14, 2006 or Monday, June 19, 2006.