



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

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

5:32 P.M. PUBLIC COMMENTS

5:35 P.M. CLOSED SESSION

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

Six (6) potential cases

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

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

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

One (1) potential case

RECONVENE TO OPEN SESSION

Report of action taken.

ADJOURN

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

Please contact the City Clerk's Office at 650.752.0500 with any questions Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the City Clerk at (650) 752-0500. Notification of 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting. (29 CRF 35.104 ADA Title II)



AGENDA
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT

December 13, 2006

7:00 p.m.

TOWN COUNCIL CHAMBERS

94 Ashfield Road
Atherton, California

SPECIAL MEETING

- 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. **INDUCTION / PRESENTATIONS / REORGANIZATION**
- A. **Induction of those Council Members Appointed In-Lieu of an Election – Council Members Alan Carlson, Jerry Carlson, and Charles Marsala – Oaths of Office**
- B. **Presentation to Outgoing Mayor, Charles Marsala**
- C. **City Council Reorganization - Selection of Mayor and Vice Mayor**
- 7:35 P.M. 4. **COUNCIL REPORTS**
- 7:50 P.M. 5. **PUBLIC COMMENTS** (only for items which are not on the agenda – limit of three minutes per person)
- 8:00 P.M. 6. **STAFF REPORTS**
- 8:15 P.M. 7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT** (Directed by Resolution No. 99-6)
- 8:15 P.M. **CONSENT CALENDAR** (Items 8 – 13)
8. **APPROVAL OF MINUTES OF THE SPECIAL CLOSED SESSION MEETING AND THE REGULAR COUNCIL MEETING OF NOVEMBER 15, 2006, AND THE SPECIAL CLOSED SESSION OF DECEMBER 1, 2006**

9. APPROVAL OF BILLS AND CLAIMS FOR NOVEMBER 2006 IN THE AMOUNT OF \$ 1,125,277

10. ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR NOVEMBER 2006

11. MID-YEAR BUDGET REPORT

Recommendation: Approve the schedule of budgetary adjustments contained within the body of the mid-year budget report.

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

Recommendation: Accept work, authorize recording the Notice of Completion, and approve payment of a retainer for a total contract amount of \$58,012.50.

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

Recommendation: Accept work, authorize recording the Notice of Completion, and approve contract change orders in the amount of 44,523.08.

PUBLIC HEARING (Item)

REGULAR AGENDA (Items 14 -18)

8:25 P.M. 14. A DEFINED CODE ENFORCEMENT PROGRAM

Recommendation: Accept the report and authorize the City Manager to implement a Defined Code Enforcement Program for a six-month trial period.

8:45 P.M. 15. A PRESENTATION AND ADOPTION OF A RESOLUTION TO APPROVE SBWMA'S OFFER TO MANAGE THE COMPETITIVE CONTRACTOR SELECTION PROCESS ON BEHALF OF THE TOWN OF ATHERTON

Recommendation: Accept the recommendations by the South Bayside Waste Management Authority (SBWMA) Board for future solid waste, recycling, and organics collections programs and future agreements, and adopt the Resolution accepting the SBWMA's offer to manage the competitive contractor selection process on behalf of the Town of Atherton.

- 9:05 P.M. 16. **CONSIDERATION OF THE STATUS OF THE BUILDING DEPARTMENT AUDIT RECOMMENDATIONS AND BUILDING DEPARTMENT ASSESSMENT BY INTERIM BUILDING/ PLANNING ADMINISTRATOR AND CONSIDERATION OF STAFF RECOMMENDATIONS RELATING TO THE PROVISIONS OF BUILDING SERVICES**

- 9:25 P.M. 17. **REFERRAL TO THE GENERAL PLAN COMMITTEE – A NONCONFORMING STRUCTURE ALLOWING CONTINUATION OF A NONCONFORMING SETBACK**

Recommendation: Review the request and provide direction to staff.

- 9:35 P.M. 18. **CONSIDERATION OF A REQUEST FOR THE CITY COUNCIL TO REMAND THE DECISION OF THE PLANNING COMMISSION REGARDING THE RELOCATION OF TWO HISTORICAL ARTIFACTS FROM LABURNAM ROAD TO 224 PARK LANE IN ATHERTON**

- 9:45 P.M. 19. **PUBLIC COMMENTS**

- 9:55 P.M. 20. **ADJOURNMENT**

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DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
November 15, 2006
5:30 P.M.
Meeting Room
Town Administrative Offices
91 Ashfield Road
Atherton, California
Special Meeting

The meeting was called to order at 5:40 p.m.

ROLL CALL

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

ABSENT: Kathy McKeithen (Excused)

PUBLIC COMMENTS

The following people spoke regarding the property at 94 Tallwood Avenue:

Mr. King, the property owner;
Mr. Weed, an attorney;
Mr. Chesler, the contractor.

CLOSED SESSION

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

Six (6) potential cases

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

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

C. LIABILITY CLAIMS – pursuant to Government Code Section 54956.95

Claimant: Colleen Berndt
Agency Claimed Against: Town of Atherton

Claimant: Christopher Baldwin
Agency Claimed Against: Town of Atherton

Claimant: Jackie Martin
Agency Claimed Against: Town of Atherton

RECONVENE TO OPEN SESSION

Report of action taken.

City Attorney Marc Hynes reported during open session that Items A. B. & C. were continued to the end of the Regular City Council Meeting at which time the Closed Session was reconvened at 12:20 a.m. At the end of the Closed Session, Mr. Hynes reported that there was no reportable action taken on Items A. B. & C.

ADJOURN

The Special Meeting adjourned at 12:40 a.m.

Respectfully submitted,

Charles E. Marsala
Mayor

Minutes Prepared by:

Kathi Hamilton



DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON
CHANNEL DRAINAGE DISTRICT
November 15, 2006

7:00 p.m.

Town Council Chambers
94 Ashfield Road
Atherton, California

REGULAR MEETING

Mayor Marsala called the meeting to order at 7:05 p.m.

1. **PLEDGE OF ALLEGIANCE**

2. **ROLL CALL**

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

ABSENT: Kathy McKeithen (Excused)

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

3. **PRESENTATION**

A. Annual Red Ribbon Week Presentation

Police Chief Bob Brennan and Reserve Police Sergeant Bruce Potts presented awards to the Annual D.A.R.E. Red Ribbon Week poster contest winners from local elementary schools.

B. Annual Tree Awards – Atherton Tree Committee

Town Arborist Kathy Hughes Anderson and Tree Committee Chairperson Denise Kupperman presented the 2006 Annual Tree Awards to Peter Watkins and Karen Moore, Don and Alberta Delnevo, John And Penelope Murray, Tom and Rachel Croft, and Frank and Sheila Allegret.

4. COUNCIL REPORTS

- Vice Mayor Alan Carlson commended Officer Potts and his wife for their service to the Town and to the children of the community. He attended the Finance Committee meeting which was held earlier that evening.
- Council Member Jerry Carlson also attended the Finance Committee meeting and reviewed the revenue situation and discussed the proposal for the red light enforcement camera. He attended the San Francisco Airport Roundtable on November 1 and heard a presentation on the A380 Airbus that would one day fly to SFO. The Airbus held 555 passengers and cost \$300 million.
- Council Member Janz attended the City/County Association of Governments C/CAG meeting last Thursday where the Regional Housing Needs Allocation Process was discussed.
- Mayor Marsala attended a police meeting held with local schools regarding emergency procedures from disasters to drugs and gangs. A goal was for the Police Department to have blue prints and photo albums of each school in order to be informed about a campus before an emergency arose. He attended the Buildings and Facilities meeting earlier that evening where space needs were discussed. The County Library held its quarterly meeting and discussed what was working and what was not, as well as trends in usage. The Holbrook-Palmer Park Foundation met. Nearly \$3,000 was raised at the Town Barbecue. He completed CERT training along with 17 other residents. Sacred Heart also held CERT training with 26 people completing the training. He attended the Bay Area Climate meeting and the Association of Bay Area Governments (ABAG) meeting regarding energy savings.

5. PUBLIC COMMENTS

Shirley Carlson, Mt. Vernon Lane, announced the Holiday Lunch/Tea sponsored by the Atherton Dames was scheduled for December 3 and was selling out quickly. The Town Barbecue was very successful and all the funds would go toward building the new foot bridge in the Holbrook-Palmer Park.

John Sisson, Belleau Avenue, asked the City Attorney whether the City Council conducted business under *Robert's Rules of Order*.

City Attorney Marc Hynes said the Council adopted a document, "Council Rules of Procedure," which set out the manner in which meetings proceeded and how public hearings were held. *Robert's Rules of Order* was available as a reference only. The City Clerk would provide Mr. Sisson with a copy of the "Council Rules of Procedure."

6. STAFF REPORTS

- City Attorney Marc Hynes reported out of Closed Session as follows:
 - A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

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

Six (6) potential cases

Five of the six cases were discussed and there was no reportable action. The item was continued to a Closed Session to be held after the regular meeting.

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

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

The item was continued to a Closed Session to be held after the regular meeting.

C. LIABILITY CLAIMS – pursuant to Government Code Section 54956.95

**Claimant: Colleen Berndt
Agency Claimed Against: Town of Atherton**

**Claimant: Christopher Baldwin
Agency Claimed Against: Town of Atherton**

**Claimant: Jackie Martin
Agency Claimed Against: Town of Atherton**

The item was continued to a Closed Session to be held after the regular meeting.

- **City Manager Jim Robinson noted that Council Member McKeithen was out of Town and her absence was recognized as an excused absence. A meeting was scheduled for Thursday, November 16, at 6:30 p.m. at the Menlo Park Senior Center, regarding the Dumbarton Rail Project. A public comment period would be held at the meeting and written comments would be accepted until November 30. The Town was actively recruiting for a new Building Official and had advertised in several professional publications. Staff would be returning at the December 13th meeting with a list of items included in Phase I, II, and III of the audit, as well as recommendations from Gary Binger's report as to the progress and actions taken by staff. The emergency repairs began on the Atherton Channel wall at Marsh Road that day. In response to Council Member Jerry Carlson, Mr. Robinson said staff met with representatives of BKF Engineers several weeks ago and visited some sites in Town. He expected to return to Council in January/February with a report. BKF was making contact with residents to review sites. He would provide Council with a progress report to date. Council Member Carlson thanked staff for the quarterly project report and suggested adding a follow-up on the Building Department audits and GASB 45 regarding projected health benefit costs.**

- In response to Mayor Marsala, Public Works Director Duncan Jones said he did not attend the Regional Water Quality Control Board meetings. The various cities of San Mateo County hired a representative to attend the meetings who reported to the cities at their regular monthly meetings, which would be held the next day.
- In response to Council member Jerry Carlson, Finance Director John Johns said the current data base would be “cleaned up” when a new system was implemented.
- In response to Council Member Jerry Carlson, Public Works Director Jones said the contractor had a crew committed to Selby Lane and the project should be completed within the next two to three weeks. City Manager Robinson said the paving was completed last week on Austin Avenue and the trash was picked up.
- In response to Mayor Marsala regarding an article in the *Athertonian*, Police Chief Bob Brennan said off-duty police officers would respond to the Town in an emergency. He had differing opinions than the author of the article.

7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT**

None.

CONSENT CALENDAR (Items 8 – 15)

With regard to Item No. 12, Council Member Jerry Carlson commented on the appointment process for Town committees/commissions. He requested an item be scheduled on a future agenda to discuss the Environmental Programs Committee in particular regarding its purpose, authority, and duties. Additionally, he wanted an item scheduled to discuss the processes in general. Vice Mayor Carlson concurred.

MOTION - to approve the Consent Calendar as presented

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

8. **APPROVED MINUTES OF THE REGULAR AND SPECIAL MEETINGS OF OCTOBER 18, 2006, AND THE SPECIAL MEETING OF OCTOBER 31, 2006**
9. **APPROVED BILLS AND CLAIMS FOR SEPTEMBER 2006 IN THE AMOUNT OF \$ 1,286,337**
10. **ACCEPTED MONTHLY FINANCIAL REPORT FOR OCTOBER 2006**
11. **ACCEPTED THE QUARTERLY INVESTMENT REPORTS FOR THE QUARTERS ENDED JUNE 30, 2006, AND SEPTEMBER 30, 2006**
12. **APPROVED APPOINTMENT TO THE ENVIRONMENTAL PROGRAMS COMMITTEE (Formerly the Waste Reduction and Recycling Committee)**

Accepted the recommendation of the City Council Screening Committee to appoint Valerie Gardner to the Environmental Programs Committee

13. **SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING SECTION 17.08.080 and 17.36.190 OF THE ATHERTON MUNICIPAL CODE PLACING LIMITS ON BASEMENTS WITHIN THE TOWN OF ATHERTON DEFINING BUILDABLE AREA AND REGULATING BASEMENTS**

Adopted Ordinance No. 568, "An Ordinance Amending Section 17.08.080 and 17.36.190 of the Atherton Municipal Code Placing Limits on Basements within the Town of Atherton Defining Buildable Area and Regulating Basements

14. **CONSIDERATION OF AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH CSG, CONSULTANTS INC., REGARDING THE ACTING BUILDING OFFICIAL**

Approved amendment to professional services agreement with CSG Consultants, Inc., regarding the Acting Building Official

15. **EMERGENCY REPAIRS TO THE LOWER ATHERTON CHANNEL WALL**

Advised Council that Schnabel Foundation Corp. would make emergency repairs to the lower Atherton Channel wall for the cost of \$84,000.00 which included design, shoring and repairs.

PUBLIC HEARINGS

REGULAR AGENDA (Items 16-22)

16. **CONSIDERATION OF A PROPOSAL FROM CSG CONSULTANTS FOR A CODE ENFORCEMENT OFFICER ON A 6-MONTH TRIAL BASIS**

Robert Cushing, CSG Constultants, Inc., presented the staff report. At its October 18, 2006, meeting, Council directed staff to return with a proposal from CSG Consultants Inc., for continuing code enforcement services through December 31, 2006, and to establish funding for a pilot program for six months in 2007. Additionally, Council requested a recommendation on whether the program should be proactive, complaint based, or some combination of the two. Since the October 18th meeting, an increase in the amount of code enforcement cases had occurred, approximately 10 cases per week. Additionally, he had observed 5 cases per week as he went out in the community. He believed courtesy notices worked best rather than citations in most cases. However, in some areas there were so many parking violations on construction sites occurring on a regular basis, that stronger enforcement might be needed. Residents had been actively involved, as well. If a proactive approach was implemented, Mr. Cushing estimated an additional 1/2 day per week would be needed. He suggested that the Town website include a complaint form/request for service that could be submitted anonymously. The *Athertonian* should be

used for informing residents of the “Top Ten” code enforcement issues in the community and what to do. The staff report included a table for the fiscal impact for continuing the program for the rest of 2006 and for a pilot program for the first six months of 2007.

A discussion ensued regarding the merits of a web-based complaint form, as well as community members wanting a more active pursuit.

Vice Mayor Alan Carlson said the issue for him was where to draw the line between proactive enforcement and complaint-based enforcement. He was concerned that the Town had not defined what it wanted as a community. A discussion followed regarding the Police Department’s continued monitoring of construction sites, as well as defining what the code enforcement priorities were, and what policy should be set.

Mayor Marsala asked staff to prepare a spread sheet depicting how many calls were received and how many calls were from the same person. He was in favor of continuing the program through the end of the year; however, he wanted to know whether the calls were driven by the same 10 people.

City Manager Jim Robinson said three policy decisions were needed: 1) should one individual be responsible for code enforcement; 2) what amount of resources should be applied; and 3) what code enforcement issues were priorities.

Carol Flaherty, Camino Por Los Arboles, said she lived a long time without code enforcement. She queried whether the cost was the best use of Town money when there were so many other priorities and projects that would be a greater benefit to residents.

Melinda Teves, Tallwood, was grateful for a code enforcement officer while the Building Department was being reengineered. She suggested a notice be prepared for builders outlining the new rules.

Council Member Janz thought part of the outside consultant’s scope of work was to find out what types of concerns/complaints people had. He wanted the consultant to determine whether enforcement should be proactive or complaint based. Construction parking was one of the biggest problems.

Vice Mayor Carlson would vote against the proposal. If staff wanted to return with a defined program, he might reconsider it. He did not want to see code enforcement performed by the squeaky wheel got the grease. The City Council had to define what it wanted to enforce.

Mayor Marsala wanted to see a spreadsheet at next month’s meeting and comments from staff before going further.

City Manager Robinson encouraged Council to continue the program until the end of the year in order for the consultant to prepare the evaluation and the report for the December 13th meeting. He confirmed there was a request for a spreadsheet that included the number and types of calls, as well as from where the calls came. Additionally, there was a request to define the program.

Vice Mayor Carlson said one part of the defined program would be to determine where the complaints would come in and where they would be referred. He was only willing to continue the program through the end of the year on a complaint basis only for an allocation of \$5544.

Council Member Janz wanted a report that indicated how many and what kind of violations occurred on enforcement issues pursued by Mr. Cushing, as well as those on a complaint basis to date.

MOTION – to continue the Code Enforcement Program on a complaint basis only and to allocate \$ 5,544 to continue the program from November 15 to December 31, 2006; further, direction to staff to return to Council at its December 13, 2006, meeting with a defined program.

M/S A.Carlson/Marsala Ayes: 3 Noes: 1 (J.Carlson) Absent: 1 (McKeithen) Abstain: 0

Mayor Marsala, with the consensus of Council, moved Item No. 21 and Item No. 18 forward to be heard before Item No. 17.

21. CONSIDERATION AND POSSIBLE ADOPTION OF A RESOLUTION APPROVING THE U.S. MAYORS' CLIMATE PROTECTION AGREEMENT AND CONSIDERATION OF MEMBERSHIP IN ICLEI

Mayor Marsala presented the report. He attended a conference where Al Gore spoke, along with representatives from cities and counties in the Bay Area, sponsored by the Bay Area Air Quality Management District. Additionally, he attended a conference sponsored by ABAG regarding energy consumption and savings. Global warming was happening and accelerating much faster than previously thought. Air quality in the Bay Area had an impact on asthma cases, which were increasing. People were beginning to accept the scientific community's view of global warming. Different programs were being promoted to make buildings more efficient. Atherton was the largest consumer of electricity and gas in the Bay Area. The Town needed to take action to bring the numbers down. He suggested joining ICLEI, an organization that could help set standards and monitor how to reduce CO2 and green house gases. He proposed for 2007 that the Environmental Programs Committee look at presenting awards for green building, to expand Earth Day in April to include new programs, and to promote other activities.

Council discussion centered on what obligations would be imposed upon the Town by endorsing the U.S. Mayor's Agreement for Climate Protection. There

was concern about what the practical application was. Atherton was one of the highest recyclers of green waste and was the first city in California to enact a demolition recycling program. The Town had a tradition not to focus on broader world issues outside of Atherton. There were legitimate issues for the Town to address and on which committees could work.

Jill Boone, San Mateo County and C/CAG, said San Mateo County passed a resolution to reduce CO2 emissions in November 2005. Before engaging in any activity on a countywide basis, the County made a commitment to reduce CO2 emissions within its county-owned facilities and fleets. Ms. Boone chaired an ad hoc committee, the Utilities and Sustainability Task Force, which was given the responsibility of developing an energy strategy for the County. The committee was made up of six elected officials from six jurisdictions and six others. At the County level, a goal was set for a 10 percent reduction of CO2 emissions by 2010 in three areas: 1) raising the miles per gallon of its fleet by 5 miles per gallon; 2) reducing electricity use by 20 percent in County facilities; and 3) keeping natural gas usage at an even level. In terms of household energy use, Atherton consumed three to four times the amount per household as other homes in the County. Big houses consumed more energy and she encouraged the use of solar because it did not have an impact on the grid or infrastructure. The Mayoral agreement was being considered by many cities in the County, which was an initial step toward reducing CO2.

Gary Bailey, a volunteer leader with the global warming education and outreach campaign of the Sierra Club, represented 160 Sierra Club members in Atherton, and represented all those who would inherit the world that was left to them, urged Council to support the agreement.

Carol Flaherty, Camino Por Los Arboles, participated in a luncheon with over 200 business leaders, “Palo Alto Goes Green.” The speaker was Dr. Stephen Snyder, one of the world’s foremost climatologists. He reinforced the concern that there were not hundreds of years to address global warming. Ms. Flaherty was involved in the certification of her company going “green.” She suggested that Atherton use what others had developed in the way of handouts/guidelines for residents.

Jeff Wise, Linden Avenue, agreed with focusing on what Atherton could do rather than supporting an idea of providing direction to the U.S. Congress. The Council should focus on making a difference in Atherton.

Valerie Gardner, McCormick Lane, encouraged everyone to see “An Inconvenient Truth,” Al Gore’s movie. She noted that CO2 actually impacted trees, which were an important part of Atherton. Nothing was more important than focusing attention on the issue of global warming. She urged Council to support the agreement.

Jill Boone, noted that the Energy Watch Program was funded by P.G.&E. (through ABAG) and was free to any city that signed up for it. P.G.&E. would

Jill Boone, Recycle Works, gave a brief presentation on “green” building. She invited Council and staff to attend an energy strategy meeting the next day from 3 to 5 p.m. The County began its program in 2001 for County buildings. The new Youth Services Center was a “green” building. A countywide process developed “green” building guidelines, many cities and towns participated in the development, and some of the cities and towns had used the guidelines. The County provided the booklets and checklists for the asking. She encouraged the Town to hire a new building official who understood “green” building.

A short discussion took place regarding the unincorporated areas of the County. A great deal of education had been done, but there was not any requirement at the current time in terms of “green” building. Additionally, Council was interested in the Energy Watch Program.

MOTION – to direct staff to investigate the Energy Watch Program sponsored through the Association of Bay Area Governments (ABAG)

Ms Boone distributed invitations to the Coyote Point Museum, which had a “green” dollhouse exhibit. The dollhouses would be auctioned on November 29th, and the proceeds would support Sustainable San Mateo County and the Coyote Point Museum.

Deputy Town Planner Lisa Costa Sanders said the item was scheduled for future discussion at the General Plan Committee. Another workshop would be held and possibly a joint meeting with the Environmental Programs Committee on the topic and could be required of builders.

M/S Janz/Marsala Ayes: 4 Noes: 0 Absent: 1 (McKeithen) Abstain: 0

17. PURCHASE OF STREET SWEEPER FOR ATHERTON PUBLIC WORKS DEPARTMENT (Continued from the City Council Meeting of October 18, 2006)

Public Works Director Duncan Jones presented the staff report. The report answered questions posed by the Council at its last meeting, which were summarized in the Fiscal Impact section and compared each with a contract sweeper or a Town-owned sweeper, the assumption being one winter storm cleanup. If there were more storms, the contract street sweeper would cost approximately \$6,000 more per cleanup than a Town-owned sweeper.

Council Member Jerry Carlson said since the last meeting, he did his own research focusing on the California Regional Water Quality Control Board’s proposed rules, including the draft of the Municipal Regional Urban Runoff NPDES Permit Provisions. The new regulations said street-sweeping capability would be required. The Town would have six months to react once the regulations were adopted. He did not see any reason to approve a street sweeper that night in order to meet a pending deadline. The best course of action would be for staff to prepare a set of specifications to meet the intent of

the proposed regulations, undertake a comprehensive effort to contact potential third-party sweeper services, including other governmental agencies to see if they would be interested in bidding on such services.

A short discussion ensued regarding periodic washing of the sweeper and contacting other jurisdictions. West Bay Sanitary District would charge \$2500 a year to service a sweeper. Both Redwood City and Menlo Park did not have an interest in contracting services especially as it related to storm cleanup.

Mayor Marsala was in favor of moving forward in order to provide needed services to the residents during winter storms.

MOTION – to approve the expenditure of \$140,000 to purchase a street sweeper

M/S Marsala/Janz

Public Works Director Jones noted demonstration street sweepers that were used for three months were available for purchase at a discount. The retail price of the demonstration sweeper was approximately \$5,000 less than the other model and had all of the good features with the addition of a vacuum tube, which could retrieve leaves from storm drains. It also had an articulated arm on the front that could clean driveways, etc.

Mayor Marsala amended the motion to include direction to staff to pursue the most economical street sweeper for the expenditure.

Carol Flaherty, Camino Por Los Arboles, believed there were more critical priorities in the Town. She did not want parcel tax money to be used for a street sweeper.

Council Member Jerry Carlson reiterated that street sweeping would be required by the new regulations. A discussion ensued regarding the pros and cons of the financial aspects of contract services vs. a Town-owned sweeper.

Vice Mayor Alan Carlson noted he would not vote in favor of the motion. If the motion failed, he suggested referring the item to the Finance Committee for review.

The motion was withdrawn by the maker with the consent of the seconder.

MOTION – to refer the item to the Finance Committee for review, to define the new federal requirements, and to make a recommendation to the Council regarding the purchase of a street sweeper

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

19. EMERGENCY RESPONSE AND PREPAREDNESS PROGRAM – BUDGET PURCHASES: LAP TOPS, DISASTER TRAILER, AND A GENERATOR FOR THE CORPORATION YARD

Police Chief Bob Brennan presented the staff report. Several months prior, Council authorized an augmentation to the budget for disaster preparedness in the amount of \$140,000. The philosophy was to purchase items that would be used on a daily or weekly basis and if and when a disaster occurred, the items would be used for that purpose. One priority was a disaster trailer that could also be used for a command post for any other type of event: a DUI trailer, crime scene trailer, or any other localized emergency. The trailers were found to cost anywhere from \$40 to \$90 thousand. A resident had expressed an interest in contributing to the purchase or purchasing the trailer; therefore, staff was recommending continuing that item. He also suggested that the Emergency Occupation Center (EOC), which was housed in the Council Chamber, be temporarily moved to the new corporation yard building. A new generator was estimated to cost \$60 thousand. Staff recommended deferring the purchase until more information was obtained on what was needed from a generator to run the facility. The other item was a request for Mobile Data Computers (MDCs) for the patrol cars. Technology had improved and each patrol car could become a command post; however, they could be used on a daily basis in the meantime and would receive all the information that was received in the communications center. Atherton's Police Department was the only department in San Mateo County that did not have some type of computer in patrol cars. Staff was asking Council to approve the MDCs, radios that could be distributed during a disaster, the Emergency Response Resource Guide, and the relocation of the EOC.

City Manager Jim Robinson suggested providing and installing phones in the proposed EOC out of the existing budget. Additionally, he suggested going out to bid for a generator and what options existed.

A discussion ensued on the Town's generators' capacities in an emergency and whether the Town should hire an expert engineer to do an analysis and provide specification requirements for a new generator. Additionally, the discussion continued regarding MDCs and whether a trailer would be necessary if all the patrol cars had MDCs that would have the capability to do everything a home computer could do. Officers would have the ability to share information with other jurisdictions, as well as receive pictures, etc.

City Manager Robinson clarified that the Police Department budget included \$40 thousand in 2006/07 for a disaster trailer. Money to improve the well in Holbrook-Palmer Park was allocated in the Capital Improvement Program. Following the \$40 thousand approval, a list was brought to Council that identified over \$100 thousand of emergency preparedness expenses. Council appropriated \$110 thousand into the budget to be used for that purpose.

Council Member Jerry Carlson was under the impression that the Emergency Preparedness Committee would return with a recommended priority list that equaled the \$110 thousand.

City Manager Robinson said the Council's Emergency Preparedness Committee, comprised of Vice Mayor Carlson and Council Member McKeithen, met and reviewed the list to determine priorities. One of the priorities was the generator. Other priorities included the purchase of the MDCs and moving the EOC.

Council Member Jerry Carlson was reluctant to go forward without knowing whether the committee had endorsed the plan.

Vice Mayor Carlson noted that discussion was taking place as to where the Emergency Preparedness Committee belonged in an organizational sense. The question was whether it belonged in the Town or with the Menlo Park Fire Protection District. The majority opinion was the committee was more a function of the Fire District than that of the Town. The idea of the committee to develop various teams within designated boundaries of the Town in case of an emergency was actually a Fire District function as opposed to a Town function. Vice Mayor Carlson's understanding was that the Town was funding what the Town would need to function in terms of an emergency, such as communications among members of the Police Department which would also communicate with the Fire District.

Police Chief Brennan clarified that the Fire District was legally responsible to do disaster preparedness not the Police Department. His requests were for things the Police Department needed in terms of operating in an emergency.

City Manager Robinson said when the Council committee of Carlson and McKeithen met, they discussed priorities such as moving the EOC and the need for a generator. The MDCs were also discussed and determined to be a priority to be used instead of a trailer.

Council Member Janz suggested cooperating with the City of Menlo Park and request to use its trailer in a localized emergency. Police Chief Brennan affirmed the possibility.

Mayor Marsala stated that the Junior League donated a trailer to the City of Menlo Park. If someone wanted to donate a trailer to the Town, the Town should accept it. A discussion took place on the merits of having a trailer that could be used as a tactical command post in conjunction with the incident command post.

Vice Mayor Carlson said the next step for the Council's Emergency Preparedness Committee was to meet with the Fire District and the citizens group to define areas of responsibility. Police Chief Brennan described the process of working with the County EOC in terms of an emergency. A

continued discussion centered on the Police Department's role in a disaster and what tools were needed. Fire Departments were mandated to be responsible for disaster preparedness. Because Atherton did not have its own Fire Department, coordination became more difficult. The Police Department was responsible for life and property.

Bob Jenkins, Atherton, spoke regarding citizens who were CERT trained and neighborhood teams/divisions. Confusion existed as to which department the groups should report to in case of a disaster/emergency: fire or police. The chain of command needed to be clarified.

Carol Flaherty, Camino Por Los Arboles, believed the \$130 thousand would be better spent on water/drainage issues within the Town than on an emergency that might or might not happen. She also noted there could be far more devastating effects from pandemic flu than an earthquake. Additionally, she said she would help the Town get the money for a trailer if one was not donated.

Discussion ensued regarding which items should be approved that evening and whether items should be paid out of the Police Department budget or another fund.

MOTION – to approve Item No. 2, Moving existing phone lines from the current Emergency Operations Center to the proposed EOC; Item No. 4, purchase of the Emergency Response Directory; and Item No. 5, 17 Motorola XTN Series radios

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

MOTION – to authorize staff to retain a consultant at a cost not to exceed \$2,500 to determine the size and type of generator to supply power needs to the EOC

M/S Marsala/Janz Ayes: 4 Noes: 0 Absent: 1 (McKeithen) Abstain: 0

MOTION – to approve the purchase of one wireless, Mobile Digital Computer for the supervisor's patrol car and to authorize the \$6,700 expense from the contingency fund

M/S Marsala/Janz Ayes: 4 Noes: 0 Absent: 1 (McKeithen) Abstain: 0

Mayor Marsala, with the consensus of Council, moved Item No. 22 forward to be heard before Item No. 20.

22. CONSIDER APPROVAL OF A JOINT MEETING OF THE ATHERTON PARKS AND RECREATION COMMISSION WITH THE CITY OF MENLO PARK PARK AND RECREATION COMMISSION

John Davey, Vice Chair, Park and Recreation Commission, proposed a joint meeting with the Park and Recreation Commission of the City of Menlo Park. He prepared a short agenda regarding issues facing each jurisdiction, how to address a solution to the mutual shortage of sports playing fields, parity on charges for recreational programs, and comparison of Master Plans for parks. The Commission was asking Council's approval to schedule a joint meeting.

Council discussion centered on concerns with the timing of a joint meeting due to pending legal issues with the City of Menlo Park. Additionally, Council discussed the issue of playing fields and suggested developing a schedule of availability for the fields that could be used at a later date.

The City Council advised Mr. Davey that the Park and Recreation Commission not schedule a joint meeting at the current time.

20. GENERAL PLAN HOUSING ELEMENT UPDATE 2009: STATUS REPORT ON SAN MATEO COUNTY SUBREGIONAL HOUSING NEEDS ALLOCATION

MOTION – to accept the report

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

23. PUBLIC COMMENTS

24. ADJOURNMENT

Mayor Marsala adjourned the meeting to a *Continued* Closed Session at 12:15 a.m.

A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

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

Six (6) potential cases

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

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

C. LIABILITY CLAIMS – pursuant to Government Code Section 54956.95

**Claimant: Colleen Berndt
Agency Claimed Against: Town of Atherton**

**Claimant: Christopher Baldwin
Agency Claimed Against: Town of Atherton**

Claimant: Jackie Martin
Agency Claimed Against: Town of Atherton

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

Mayor Marsala adjourned the *Continued* Closed Session at 12: 40 a.m.

Respectfully submitted,

Kathi Hamilton
Acting City Clerk



DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
December 1, 2006
7:30 A.M.
Meeting Room
Town Administrative Offices
91 Ashfield Road
Atherton, California
Special Meeting

The meeting was called to order at 7:30 a.m.

ROLL CALL

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

ABSENT: Jerry Carlson (Excused)

PUBLIC COMMENTS

There were no public comments.

CLOSED SESSION

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

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

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

One (1) potential case

RECONVENE TO OPEN SESSION

Report of action taken.

City Attorney Marc Hynes reported during open session that no reportable action was taken on Item A or B.

ADJOURN

The Special Meeting adjourned at 9:00 a.m.

Respectfully submitted,

Charles E. Marsala
Mayor

Minutes Prepared by:

Kathi Hamilton

TOWN OF ATHERTON
CLAIMS LIST
NOVEMBER 2006

Payroll Checks	8791 - 8868	\$ 15,314
Electronic Transfers		341,940
A/P Checks	22970 – 23171	768,023
TOTAL		\$1,125,277

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 8791 - 8868 (payroll) and 22970 - 23171 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$1,125,277; are true and correct, and that there are sufficient funds for payment.

James H. Robinson
City Manager

The above claims, check numbers 8791 - 8868 (payroll) and 22970 - 23171 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$1,125,277; are true and correct, and are authorized for payment.

Charles Marsala
Mayor, Town of Atherton

SOURCE OF FUNDS

101	General Fund	\$767,569
105	Tennis Fund	-
201	Special Parcel Tax	6,955
202	Transportation	-
203	Gas Tax Fund	-
210	Road Construction Impact Fees	280,286
211	Park Grants Fund	-
213	Library Special Revenue Fund	12,233
401	General Capital Projects	-
402	Storm Drainage	2,963
403	Atherton Channel District	-
406	Facilities Construction	-
610	Vehicle Replacement	45,688
611	Computer Maint. & Replacement	4,463
612	Administrative Services	4,445
715	Evans Estate	675
740	Tree Committee	-
TOTAL		\$1,125,277



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 DECEMBER 13, 2006

SUBJECT: MONTHLY FINANCIAL REPORT, NOVEMBER 2006

RECOMMENDATION:

Receive the Monthly Financial Report for November 2006.

INTRODUCTION:

The attached schedules show revenues, expenditures and fund balance for all funds as of November 30, 2006.

HIGHLIGHTS

General Fund expenditures for the five months ended November 30, 2006, have amounted to \$3,677,111, or 40% of the \$9,305,065 budgeted for the fiscal year. For the five months ended November 30, 2006, General Fund revenues amounted to \$1,697,799, or 19% of the \$8,969,215 estimated for the year.

By comparison, General Fund expenditures amounted to 38% of appropriations for the five months ended November 30, 2005. Additionally, General Fund revenues amounted to 23% of estimated revenues for the five months ended November 30, 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 November 30th, 2006

Fund	Revenue Source	2006-07 Estimate	Current Period Revenues	Year to Date Revenues	% Received
	Property Tax	\$ 4,135,402	196,024	427,178	10%
	Sales and Use Tax	157,500	15,234	65,852	42%
	Other Taxes	1,111,546	41,125	141,542	13%
	Licenses & Permits	1,466,200	99,445	623,782	43%
	Fines & Forfeitures	35,000	4,984	23,750	68%
	Revenue from Other Agencies	395,215	24,472	90,424	23%
	Charges for Services	176,500	21,158	155,039	88%
	Investment & Rental Income	307,852	7,654	150,448	49%
	Other Revenues	229,000	1,058	9,784	4%
	Total General Fund Revenues	8,014,215	411,154	1,687,799	21%
	Interfund (Operating) Transfers In	955,000	-	-	0%
101	General Fund Total	8,969,215	411,154	1,687,799	19%
	Special Revenue Funds:				
105	Tennis	8,000	75	1,074	13%
201	Special Parcel Tax	1,858,000	-	10,629	1%
202	Transportation	265,000	26,885	75,251	28%
203	Street Improvement (Gas Tax)	150,000	11,623	92,126	61%
209	Law Enforcement	100,000	-	-	0%
210	Road Construction Impact Fees	1,100,000	(238,362)	(190,564)	-17%
211	State Park Grants Fund	313,910	-	-	0%
213	Library	200,000	29,531	50,179	25%
	Total	3,994,910	(170,248)	38,695	1%
	Capital Project Funds:				
401	Capital Improvement	-	-	2,745	
402	Storm Drainage	20,000	-	462	
403	Channel Drainage District	50,000	2,725	3,335	7%
406	Facilities Construction	-	-	707	
	Total	70,000	2,725	7,249	10%
	Internal Service Funds:				
610	Vehicle Replacement	120,919	-	-	
611	Information Technology	104,670	-	-	0%
612	Administrative Services	303,221	-	-	0%
614	Workers Compensation Insurance	-	-	-	
	Total	528,810	-	-	0%
	Trust and Agency Funds:				
715	Evans Creative Design	14,500	1,100	2,346	16%
740	Tree Committee	1,400	20,026	24,886	
	Total	15,900	21,126	27,232	171%
	Total Revenues	13,578,835	264,757	1,760,975	13%

TOWN OF ATHERTON
Expenditure Summary
For the Month Ended November 30th, 2006

Fund	Description Department	2006-07 Budget	Current Period Expenditures	Year to Date Expenditures	% Spent
101	General Fund				
	11 City Council	\$ 21,749	\$ 7,997	\$ 15,572	72%
	12 City Manager	504,360	36,601	210,985	42%
	16 City Attorney	188,337	61,447	122,032	65%
	18 Finance	448,576	3,445	194,262	43%
	25 Building	1,189,503	130,095	522,500	44%
	40 Police	4,696,248	316,932	1,761,783	38%
	50 Public Works	2,036,292	169,355	849,977	42%
	Disaster Preparedness	120,000	-	-	0%
	Contingency	100,000	-	-	0%
	Total General Fund Expenditures	<u>9,305,065</u>	<u>725,872</u>	<u>3,677,111</u>	<u>40%</u>
	Interfund (Operating) Transfers Out	-	-	-	0%
101	General Fund Total	<u>\$ 9,305,065</u>	<u>\$ 725,872</u>	<u>\$ 3,677,111</u>	<u>40%</u>
Special Revenue Funds:					
105	Tennis	5,522	-	2,721	
201	Special Parcel Tax	1,910,535	6,955	18,373	1%
202	Transportation	444,500	-	-	0%
203	Street Improvement (Gas Tax)	150,000	-	23,234	15%
209	Law Enforcement	100,000	12,604	68,536	69%
210	Road Impact Fees	1,470,000	-	1,283,220	87%
211	State Park Grants	277,040	-	48,678	18%
213	Library Fund	78,326	12,390	29,905	38%
	Total	<u>4,435,923</u>	<u>45,901</u>	<u>1,530,599</u>	<u>35%</u>
Capital Project Funds:					
401	Capital Improvement	-	-	-	
402	Storm Drainage	21,394	2,963	2,963	14%
403	Channel Drainage District	60,000	-	5,434	9%
	Total	<u>81,394</u>	<u>2,963</u>	<u>8,397</u>	<u>10%</u>
Internal Service Funds:					
610	Vehicle Replacement	76,000	45,688	45,688	60%
611	Information Technology	116,120	4,463	18,734	16%
612	Administrative Services	288,342	12,291	184,248	64%
614	Workers Compensation Insurance	-	-	-	
	Total	<u>480,462</u>	<u>62,442</u>	<u>248,670</u>	<u>52%</u>
Trust and Agency Funds:					
715	Evans Creative Design	11,500	675	875	8%
740	Tree Committee	-	-	2,159	
	Total	<u>11,500</u>	<u>675</u>	<u>3,034</u>	<u>26%</u>
	Total Expenditures	<u>14,314,344</u>	<u>837,853</u>	<u>5,467,811</u>	<u>38%</u>

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

Fund	Description	Beginning Fund Balance July 1, 2006	Revenues to Date	Transfers to Date	Expenditures To Date	Ending Fund Balance to Date
101	General Fund	9,344,474	1,687,799	-	3,677,111	7,355,162
	Special Revenue Funds:					
105	Tennis	23,692	1,074		2,721	22,045
201	Special Municipal Tax	1,005,832	10,629		18,373	998,088
202	Transportation	527,577	75,251		-	602,828
203	Street Improvement (Gas Tax)	102,874	92,126		23,234	171,766
209	Law Enforcement	10,437	-		68,536	(58,099)
210	Road Construction Impact Fees	1,373,559	(190,564)		1,283,220	(100,225)
211	State Park Grants	-	-		48,678	(48,678)
213	Library Special Revenue Fund	1,947,286	50,179		29,905	1,967,560
	Sub Total	<u>4,991,256</u>	<u>38,695</u>	<u>-</u>	<u>1,530,599</u>	<u>3,499,352</u>
	Capital Projects Funds:					
401	Capital Improvement	258,424	2,745		-	261,169
402	Storm Drainage	43,455	-		2,963	40,492
403	Channel Drainage District	36,039	3,335		5,434	33,940
406	Facilities Construction	-	707		-	707
	Sub Total	<u>337,919</u>	<u>6,787</u>	<u>-</u>	<u>8,397</u>	<u>336,309</u>
	Internal Service Fund					
610	Vehicle Replacement	440,370	-		45,688	394,682
611	Information Technology	89,739	-		18,734	71,005
612	Administrative Services	198,175	-		184,248	13,927
614	Workers Compensation Insurance	10,871	-		-	10,871
	Sub Total	<u>739,155</u>	<u>-</u>	<u>-</u>	<u>248,670</u>	<u>490,485</u>
	Trust and Agency Funds					
715	Evans Creative Design	117,345	2,346		875	118,816
740	Tree Committee	24,558	20,026		2,159	42,425
	Sub Total	<u>141,903</u>	<u>22,372</u>	<u>-</u>	<u>3,034</u>	<u>161,241</u>
	Grand Total	<u>\$ 15,554,708</u>	<u>\$ 1,755,653</u>	<u>\$ -</u>	<u>\$ 5,467,811</u>	<u>\$ 11,842,550</u>



TOWN OF ATHERTON

CITY COUNCIL STAFF REPORT

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

FROM: JOHN P JOHNS, FINANCE DIRECTOR

DATE: FOR THE MEETING OF DECEMBER 13, 2006

SUBJECT: MID-YEAR BUDGET REPORT

RECOMMENDATION

Approve the schedule of budgetary adjustments contained within the body of the mid-year budget report.

INTRODUCTION

This report consists of the following elements:

- A mid-year projection of General Fund revenues, expenditures, and other financing sources and uses as well as a comparison of such projections with the budget adopted by Council in June of 2006;
- A schedule of recommended budget adjustments that have been necessitated by events that have transpired during the first five months of the fiscal year; and,
- A six-month update to staff's intermediate-range financial plan that illustrates the effect of the projected variances between budget and actual revenues, expenditures, and fund balance carryover in FY 2006-07.

MID-YEAR PROJECTION OF GENERAL FUND REVENUES, EXPENDITURES AND OTHER FINANCING SOURCES AND USES

The following table provides a summary of projected FY 2006-07 General Fund revenues, expenditures and other financing sources and uses at mid-year.

	FY 2006-07 Adopted Budget	FY 2006-07 Projection at Mid- Year	Projected Variance Favorable (Unfavorable)
Financing Sources:			
Prior Year Carryover	\$1,088,282	\$1,888,151	\$799,869
Revenues	8,014,215	8,044,231	30,016
Operating Transfers	955,000	130,000	(825,000)
Subtotal Financing Sources	\$10,057,497	\$10,062,382	4,885
Financing Uses:			
Expenditures	9,305,066	9,343,128	(38,062)
Operating Transfers	0	0	-
Subtotal Financing Uses	9,305,066	9,343,128	(38,062)
<i>Revenues and Other Financing Sources Over (Under) Expenditures and other Financing Uses</i>	<i>\$752,431</i>	<i>\$719,254</i>	<i>(\$33,177)</i>

As indicated in the preceding table, our mid-year projection of General Fund revenues, operating transfers and carryover funding is \$10,062,382, or \$4,885 more than the estimate of \$10,057,497 that was adopted in the FY 2006-07 budget. Additionally, our mid-year projection for General Fund expenditures and other financing uses is \$9,343,128, or \$38,062 more than the \$9,305,066 that was appropriated by Council. Accordingly, our mid-year projection indicates that total financing sources will exceed total financing uses by \$719,254, or \$33,177 less than the total amount estimated at the beginning of the fiscal year.

ANALYSIS OF VARIANCES IN GENERAL FUND REVENUES, EXPENDITURES AND OTHER FINANCING SOURCES AND USES

General Fund Revenues and Other Financing Sources

The following table provides a comparison, by revenue category, of revenues estimated at the beginning of FY 2006-07 with our mid-year projection.

Revenue Category	Budgeted Revenues FY 2006-07	FY 2006-07 Projection as of 12/31/06	Projected Variance Favorable (Unfavorable)
Property Taxes	\$4,135,402	\$4,018,875	(\$116,527)
Sales Taxes	157,500	151,854	(5,646)
Other Taxes	1,111,546	1,112,037	491
Permits & Licenses	1,466,200	1,564,711	98,511
Fines & Forfeitures	35,000	56,301	21,301
From Other Agencies	176,500	163,536	(12,964)
Service Charges	307,852	340,359	32,507
Use of Money & Property	395,215	402,498	7,283
Other Revenues	229,000	234,060	5,060
Subtotal Revenues	\$8,014,215	\$8,044,231	\$30,016
Operating Transfers In	955,000	130,000	(825,000)
Prior Year Carryover	1,088,282	1,888,151	799,869
Subtotal Other			
Financing Sources	\$2,043,282	\$2,018,151	(\$25,131)
Total Financing Sources	\$10,057,497	\$10,062,382	\$4,885

As indicated in the preceding table, General Fund revenues are projected to amount to \$8,044,231, or \$30,016 higher than the estimate of \$8,014,215 included in the FY 2006-07 adopted budget.

Additionally, the fund balance carryover from FY 2005-06 amounts to \$1,888,151, or \$799,869 higher than the estimate adopted for budgetary purposes. However we are also anticipating a reduction in operating transfers in the amount of \$825,000. Accordingly, we project a favorable variance in revenues and other financing sources of \$4,885 at year-end.

General Fund Expenditures

The following table provides our mid-year projection of General Fund expenditures by department for FY 2006-07.

Department	FY 2006-07 Adopted Budget	FY 2006-07 Mid-Year Estimate	Projected Variance Favorable (Unfavorable)
City Council	\$ 21,749	\$ 19,733	\$ 2,016
City Manager	504,360	493,654	10,705
City Attorney	188,338	152,875	35,462
Finance	448,576	446,694	1,882
Building	1,189,503	1,409,993	(220,490)
Police	4,696,248	4,597,125	99,123
Public Works	2,036,292	2,003,053	33,239
Contingency	100,000	100,000	-
Emergency Preparedness	120,000	120,000	-
Total General Fund	\$ 9,305,066	\$ 9,343,128	\$ (38,062)

General Fund expenditures are projected to amount to \$9,343,128, or \$38,062 more than the \$9,305,066 appropriations adopted at the beginning of the fiscal year.

While staff's mid-year projection of ongoing revenues and expenditures tracks very closely with the appropriations that have been approved at the beginning of the fiscal year, two events have occurred which require a budgetary adjustment. These are as follows:

- The loss of \$825,000 in road impact fees resulting from the recession of excavation and the need to make additional funds available to implement the Capital Improvement Program approved by the City Council for FY 2006-07; and,
- The need for an additional \$175,000 in appropriations for contract services to provide the funds necessary to acquire and implement a computerized permit tracking system for the Building Department.

The following table provides a schedule of recommended budget adjustments:

Account	Description	Revenue and Other Financing Sources	Expenditure and Other Financing Uses
		Increase (Decrease)	Increase (Decrease)
101-25-3165-125	Building Department Contract Services		\$175,000
101-00-7109-000	Reserve for Future Building Inspection	\$175,000	
201-00-2021-000 202-00-2022-000 203-00-2023-000	Operating Transfers to General Fund	(\$825,000)	
101-00-4010-000	Operating Transfers from Capital Improvement Funds		(\$825,000)

INTERMEDIATE-RANGE FINANCIAL PLAN UPDATE

Attachment 1 to this report provides an updated assessment of our financial position during the next several years. Due to the favorable variance in carryover funding from FY 2005-06 combined with expectation that some of the budgetary savings realized in FY 2005-06 will carry forward into subsequent years, we expect to retain an unreserved fund balance of \$1,004,713 at FY 2010 yearend.

Prepared by:

Approved by:

John P. Johns, CPA
Finance Director

Jim Robinson
City Manager

Attachment 1

General Fund Revenue and Expenditure Analysis Fiscal Years 2006 through 2010

Revenue Category	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Property Tax	\$ 4,075,437	\$ 4,018,875	\$ 4,219,819	\$ 4,430,810	\$ 4,652,350
Sales Taxes	167,393	151,854	155,650	159,542	163,530
Other Taxes	1,350,921	1,112,037	1,139,838	1,168,334	1,197,542
Licenses and Permits	1,716,348	1,564,711	1,580,358	1,596,162	1,612,123
Fines and Forefietures	57,453	56,301	57,427	58,576	59,747
Aid from other Agencies	444,564	163,536	73,536	73,536	73,536
Service Charges	335,165	340,359	348,868	357,590	366,529
Use of Money and Property	323,658	402,498	377,811	344,431	311,877
ERAF and Other Revenues	53,416	234,060	5,000	5,000	5,000
Subtotal Revenues	\$ 8,524,355	\$ 8,044,231	\$ 7,958,307	\$ 8,193,979	\$ 8,442,236
Expenditure Category					
Contingency		100,000	100,000	100,000	100,000
Council	13,461	19,733	20,522	21,343	22,197
Manager	409,624	493,654	513,401	533,937	555,294
Attorney	149,250	152,875	158,990	165,350	171,964
Finance	438,490	446,694	464,562	483,145	502,470
Building	995,564	1,409,993	1,117,393	1,162,088	1,208,572
Police	4,193,559	4,597,125	4,803,010	4,995,131	5,194,936
Public Works	1,955,384	2,003,053	2,099,175	2,183,142	2,270,468
Subtotal Expenditures	\$ 8,155,332	\$ 9,223,128 <i>1,067,796</i>	\$ 9,277,053	\$ 9,644,135	\$ 10,025,901
Surplus Deficit of Revenues over Expenditures	369,023	(1,178,897)	(1,318,746)	(1,450,156)	(1,583,665)
Add (subtract) Operating Transfers In (out)					
Parcel Tax	799,000	450,000	705,000	705,000	705,000
Gas Tax/Road Impact Fees	352,161	-	-	-	-
CIP Support	150,000	130,000	150,000	150,000	150,000
Subtotal Operating Transfers	1,301,161	580,000	855,000	855,000	855,000
Beginning Fund Balance	7,582,785	9,252,969	8,654,072	8,190,326	7,595,170
Ending Fund Balance	\$ 9,252,969	\$ 8,654,072	\$ 8,190,326	\$ 7,595,170	\$ 6,866,505
Less Reserves and Designations:					
Insurance	500,000	500,000	500,000	500,000	500,000
Cash Flows and Contingencies	3,200,000	4,800,000	4,800,000	4,800,000	4,800,000
Building Inspections	987,269	392,920	119,093	-	-
Comensated Absences	561,792	561,792	561,792	561,792	561,792
Equals Unreserved/Undesignated Fund Balance	\$ 4,003,908	\$ 2,399,360	\$ 2,209,441	\$ 1,733,378	\$ 1,004,713



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF DECEMBER 13, 2006

**SUBJECT: ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE
OF COMPLETION AND APPROVAL OF STREET PATCHING
CONTRACT NUMBER 05-006**

RECOMMENDATION

Accept work and authorize recording of a Notice of Completion and payment of retainer for a total contract amount of \$58,012.50.

INTRODUCTION

The Council awarded a contract in July 2006 to G.Bortelloto & Co. for street patching. The authorized contract amount was \$58,012.50. There have been 0 authorized contract change orders totaling \$0.00 bringing the total to \$58,012.50. Work under the contract has been completed.

ANALYSIS

The original contract price was for \$58,012.50, with a \$0.00 construction contingency, for a total authorized amount of \$58,012.50. There were 0 field directive change orders totaling \$0.00.

FISCAL IMPACT

Funding for this project in the amount of \$58,012.50 is included in the FY 06/07 budget. The final cost of this segment of work is \$58,012.50.

Staff Report
December 13, 2006
Page 2 of 2

CONCLUSION:

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

Respectfully submitted:

Reviewed/Approved:

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

James H. Robinson
City Manager

Attachment: Notice of Completion
Certificate of Completion

RECORD REQUESTED BY:

TOWN OF ATHERTON
AND WHEN RECORDED MAIL TO:

CITY CLERK, TOWN OF ATHERTON

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

No fee pursuant to Government Code Section 6103

SPACE ABOVE THIS LINE FOR RECORDER'S USE

TOWN OF ATHERTON
NOTICE OF COMPLETION

2006 PATCHING
PROJECT NO. 05-006
ATHERTON, CALIFORNIA

NOTICE IS HEREBY GIVEN THAT Duncan L. Jones, Engineer of Work for the Town of Atherton, County of San Mateo, California, on the 29th day of November, 2006, did file with the City Clerk of said Town a Certificate of Completion, for the work described in the construction contract awarded to Bortolotto on the 20th day of July, 2006, said contract being executed on the 19th day of July, 2006.

That said work and improvements were accepted as completed on the 3rd day of August, 2006, and that acceptance for completion of said work was ordered by Motion of the City Council of said Town, adopted on the 13th day of December, 2006, and that the name of the surety on the Contractor's bond for performance, labor and materials on said project is Travelers Casualty and Surety Company of America, Hartford, Connecticut 06183-9062.

That said work and improvements consisted of asphalt patching as described in the plans an specification approved by the City Council of the Town of Atherton pursuant to motion, adopted the 19th day of July, 2006.

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

BY: _____
City Engineer

ATTEST: _____
City Clerk

Date

Date

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

(Date and Place)

(Signature)

CERTIFICATE OF COMPLETION

TOWN OF ATHERTON

PROJECT NAME: 2006 PATCHING
PROJECT NUMBER: 05-006
LOCATION: VARIOUS LOCATIONS

NOTICE IS HEREBY GIVEN:

1. That on November 29, 2006, the Public Works project known as 2006 Patching was completed in accordance with the plans and specifications as required by the Town of Atherton.
2. That the name and address of the party filling this notice is:

Town of Atherton
91 Ashfield Road
Atherton, California 94027.
3. That the name and address of the Contractor responsible for the construction of the project is:

G. Bortolotto & Company, Inc.
580 Bragato Road
San Carlos, Ca. 94070-6227
4. That the name and address of the Contractor's surety is:

Travelers Casualty and Surety Company of America,
One Tower Square
Hartford, Connecticut, 06183
5. 2006 Patching, as more particularly described in the plans and specification approved by the City Council of the Town of Atherton pursuant to Motion, adopted the 19th day of July, 2006.

BY:

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

Date

ATTEST:

Kathi Hamilton
Acting City Clerk

Date



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF DECEMBER 13, 2006

**SUBJECT: ACCEPTANCE OF WORK AND AUTHORIZATION TO RECORD
NOTICE OF COMPLETION OF HOLBROOK-PALMER PARK
PAVILION CARPETING PROJECT NO. 05-002**

RECOMMENDATION

Accept work, authorize recording of a Notice of Completion and approve contract change orders in the amount of \$44,523.08 for the Holbrook-Palmer Park Pavilion Carpet Replacement Project, Project No. 05-002.

INTRODUCTION

The Council awarded a contract in March 2005 to Gletzco Inc., dba The Floor Club of Mountain View, for \$44,523.08, with a \$4,452.31 construction contingency, for a total authorized amount of \$48,975.39.

ANALYSIS

The original contract price was for \$44,523.08. There were no field directive change orders. Work under the contract has been completed.

FISCAL IMPACT

Funding for this project in the amount of \$170,000 was included in the FY 2005/06 budget, including the door and window replacement project. The final cost of this segment of work is \$44,523.08, less than the budget estimate.

Staff Report
December 13, 2006
Page 2 of 2

CONCLUSION:

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

Prepared by:

Approved by:

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

James H. Robinson
City Manager

Attachment: Notice of Completion
Certificate of Completion

RECORD REQUESTED BY:

TOWN OF ATHERTON
AND WHEN RECORDED MAIL TO:

CITY CLERK, TOWN OF ATHERTON

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

No fee pursuant to Government Code Section 6103

SPACE ABOVE THIS LINE FOR RECORDER'S USE

TOWN OF ATHERTON
NOTICE OF COMPLETION

Holbrook-Palmer Park Pavilion Carpeting Replacement Project
PROJECT NO. 05-002
ATHERTON, CALIFORNIA

NOTICE IS HEREBY GIVEN THAT Duncan L. Jones, Engineer of Work for the Town of Atherton, County of San Mateo, California, on the 4th day of December, 2006, did file with the City Clerk of said Town a Certificate of Completion, for the work described in the construction contract awarded to Gletzco Inc. dba The Floor Club of Mountain View on the 15th day of March, 2006, said contract being executed on the 15th day of March, 2006.

That said work and improvements were accepted as completed on the 1st day of December, 2006, and that acceptance for completion of said work was ordered by Motion of the City Council of said Town, adopted on the 13th day of December, 2006, and that the name of the surety on the Contractor's bond for performance, labor and materials on said project is Western Surety Company, P.O. Box 5077, Sioux Falls, SD 57117-5077.

That said work and improvements consisted of replacement of Jennings Pavilion carpeting as described in the plans and specification approved by the City Council of the Town of Atherton pursuant to motion, adopted the 15th day of September, 2005.

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

BY: _____
City Engineer

ATTEST: _____
City Clerk

Date

Date

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

(Date and Place)

(Signature)

CERTIFICATE OF COMPLETION

TOWN OF ATHERTON

PROJECT NAME: Holbrook-Palmer Park Pavilion Carpeting Replacement Project

PROJECT NUMBER: 05-002

LOCATION: Holbrook-Palmer Park Jennings Pavilion

NOTICE IS HEREBY GIVEN:

1. That on December 1, 2006, the Public Works project known as Holbrook-Palmer Park Pavilion Carpeting Replacement Project was completed in accordance with the plans and specifications as required by the Town of Atherton.

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

Town of Atherton
91 Ashfield Road
Atherton, California 94027.

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

Gletzco Inc. dba The Floor Club of Mountain View
2415 Charleston Rd.
Mountain View, CA 94043

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

Western Surety Company
P.O. Box 5077
Sioux Falls, SD 57117-5077.

5. Replacement of carpeting in the Jennings Pavilion as more particularly described in the plans and specification approved by the City Council of the Town of Atherton pursuant to Motion, adopted the 15th day of September, 2005.

BY:

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

Date

ATTEST:

Kathi Hamilton
Acting City Clerk

Date



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF DECEMBER 13, 2006

SUBJECT: DEFINED CODE ENFORCEMENT PROGRAM

RECOMMENDATION:

Staff recommends that the City Council accept the report and authorize the City Manager to implement a Defined Code Enforcement Program for a six-month trial period. It is further recommended that the Town authorize the expenditure of \$44,000 for contract code enforcement services through June 30, 2007 or consider other alternatives.

BACKGROUND:

At the November 15, 2006 City Council meeting the Council heard the Code Enforcement report of CSG Consultants Inc., proposing contractual code enforcement services and data collection through December 31, 2006 and establishing a *Defined Code Enforcement* program from January 1, 2007 through June 30, 2007.

The Council approved the continuation of code enforcement services on a complaint basis only and approved the allocation of program funding through December 30, 2006. The City Council directed staff to return to the December 13, 2006 meeting with a defined program and recommendations on the merits of a proactive component to the code enforcement program.

The Council also directed staff to collect case information on potential proactive code enforcement cases that were observed but not acted upon while investigating complaint-driven cases during this period. Council commented that it would base its decision on service level on the following:

- Numbers and types of cases, including referrals from residents and field observations by the code enforcement officer
- Its knowledge of the community's desired enforcement level.

Council also discussed the following two issues:

- Police Department monitoring and enforcement of construction site parking
- Benefits of a Internet-based complaint form

A summary of code enforcement activity for November and December is attached.

ANALYSIS:

There are four policy issues that should be considered:

- 1.) Should a primary individual be designated to provide code enforcement services?
- 2.) What level of resources should be applied to this program?
- 3.) What are the priority issues for code enforcement?
- 4.) Which department should manage the code enforcement program?

The advantages of having one primary individual responsible for code enforcement are as follows:

- **Consistency** in the way cases are investigated, researched and handled. Code enforcement cases are not usually resolved in one visit and most take a considerable amount of background research and experience to handle them.
- **Consistency** of outcome when a case is being handled.
- **Single point of contact** for staff and residents
- **Performance monitoring** of resources versus results
- **Follow-through** capability
- **Predictability** of schedule

Some residents have expressed frustration with lack of response and follow-through previously. With the number of code enforcement cases currently generated and expected, assigning the work on a contractual or part-time basis two days per week is more efficient and effective than assigning it to a full-time position performing code enforcement as one of several assignments. The proposed \$44,000 cost should also be compared with the negative effect of not acting on complaints such as those described below.

Priority issues for any code enforcement program begin with health and safety. A property that poses potential health and safety risks to the public, for example an open and accessible swimming pool that is not maintained, must be handled quickly. Enforcement of construction of unauthorized structures and unsafe occupancies is also critical. Less critical but still important are issues such as excess street parking, barking dogs and improper placement of portable toilets on construction sites. Finally, the needs of the community as expressed by those willing to come forward on a code enforcement issue are very important. While this can be mistaken as the 'squeaky wheel' syndrome, the value of responsible individuals who are willing to step forward and speak up cannot be discounted.

DEFINED CODE ENFORCEMENT PROGRAM

- 1. Accessibility**, both from an informational aspect and the ability to file a complaint or a concern regarding a code enforcement issue is one of the most important components of the program.
- 2. Confidentiality** to assure anyone wishing to file a complaint that their name will be held in confidence and will not be shared with anyone, including other agencies.
- 3. Processing and tracking** should be defined for the receipt and handling of complaint forms. A timeline for handling this form and assigning this case should be established. Complaints and requests that are received on line can be automatically assigned to the code enforcement officer.
- 4. Reporting.** The *Town of Atherton Code Enforcement Complaint Tracking System* is currently being used. This system, although limited, is already in place. As the RFP for a Building Department and Permit database progresses, there may be a more effective system available. However, the current system will initially provide valuable code enforcement tracking information.
- 5. Forms.** A *Request for Services* form should be printed and handed out and added to the Town website. This will provide an easy way for someone to register a complaint or simply ask for clarification on a specific issue. The form should be linked to the Municipal Code which is on the Town's website, and to appropriate city offices when referral is necessary. Keep in mind once this is implemented, the expectation for service will become routine for the public, thus making it difficult to pull back the program at the end of the 6-month trial.
- 6. Public Information** should be provided through publication of *Atherton's Top Ten Code Enforcement Questions* and added to the Town's website.
- 7. Enforcement alternatives.** The use of **Official Warning Notices** or **Administrative Citations** should be implemented. Warning notices work well in a majority of cases. However, a stronger incentive to correct a violation needs to be available. Often, until a penalty is proposed, responsible parties may respond slowly or not at all.
- 8. Progress reports** should be made through the City Manager to the City Council on a monthly basis during the initial trial period. This provides an opportunity for the Council to monitor the effectiveness of the program and to hear from the public.
- 9. Case analysis** should be conducted quarterly to identify common violations from which favored activity and educational campaigns can be developed.

FISCAL IMPACT:

The costs to implement and report on a Defined Code Enforcement Program are integrated into the costs for a Code Enforcement Officer through June 30, 2007. In order to implement a program as of January 1, contracted services would be employed. Staff estimated the cost of this program for up to two days per week, depending on number of cases, to be a maximum of forty four thousand dollars (\$44,000).

ALTERNATIVES:

1. Consider contracting for Code Enforcement Services for one day a week service during this six-month period in the amount of \$22, 000.
2. Consider the creation of a part time employee to provide code enforcement services.
3. Continue to use existing staff and implement an in-house Code Enforcement Program

Prepared by:

Approved by:

/s/ Robert L. Cushing
Robert L. Cushing, REHS
Acting Code Enforcement Officer

James H. Robinson
City Manager

ATTACHMENT:

	STREET	COMPLAINT	SOURCE	STATUS
1	Flood	Landscaping	Resident	Referred
2	Jennings	Acc Bld/Permits	Resident	Open
3	Jennings	Illegal Occupancy	Resident	Open
4	Greenoaks	Acc Bld/Permits/Zoning	City	Open
5	Selby	Construction Hours	Resident	Closed
6	Walsh.	Construction Parking	Resident	Closed
7	Tallwood	Construction Hours	Resident	Closed
8	Tallwood	Encroachment	Resident	Closed
9	Stevick	Encroachment	Resident	Referred
10	Heather	Artifacts	Resident	Open
11	El Camino	Dog Barking	Resident	Closed
12	Park Ln	Construction Parking	Pro active	No Action
13	Park Ln	Construction Parking	Resident	Closed
14	Atherton	Illegal Construction/Blight	Neighbor Grp	Open
15	Park Ln	Zoning	Resident	Open
16	Park Ln	Construction Parking	Resident	Open
17	Park Ln	Bld Height	Residents	Open
18	Elena	Construction Parking	Residents	Open
19	Park Ln	Portable Toilet	Resident	Closed
20	Tuscaloosa	Fence	Resident	Withdrawn
21	Tuscaloosa	Fence	Resident	Withdrawn
22	Euclid	Portable Toilet	Resident	Closed
23	Nora	Swim Pool	Resident	Closed
24	Monte Vista	Construction Parking	City	Closed
25	Monte Vista	Construction Parking	Pro active	No Action
26	Monte Vista	Construction Parking	City	Closed
27	Tuscaloosa	Construction Parking	Resident	Closed
28	Atherton	Public Nuisance	Neighbor Grp	Open
29	Stockbridge	Illegal Construction	Resident	Closed
30	Irving	Illegal Construction	Neighbor Grp	Open
31	Valparaiso	INOP Vehicles/Private Prop	Neighbor Grp	Open
32	Walsh	INOP Vehicles/Private Prop	Neighbor Grp	Open
33	Park Dr.	Public Nuisance/Storage	Resident	Closed
34	Park Dr.	Rodent Infestation	Resident	Closed
35	Park Ln	Accessory Structure/Zoning	Resident	Closed
36	Park Ln	Accessory Structure/Zoning	Pro active	No Action
37	Heather	Construction Parking	Pro active	No Action
38	Heather	Construction Parking	Pro active	No Action
39	Flood	Construction Hours	Neighbor Grp	Closed
40	Park Ln	Encroachment	City	Closed
41	Walnut	Construction Parking	Resident	Closed
42	Cebalo	Illegal Construction/Blight	Resident	Closed
43	Cebalo	Accessory Structure/Zoning	Pro active	No Action

44	Irving	Swimming Pool	Resident	Closed
45	Atherton	Construction Parking	Pro active	No Action
46	Atherton	Illegal Construction/Blight	Neighbor Grp	Open
47	Fenwood	Zoning/Illegal Occupancy	Resident	Open
48	Fenwood	Zoning/Illegal Occupancy	Resident	Open
49	Irving	Illegal Construction/Blight	Pro active	No Action
50	McCormick	Illegal Construction/Blight	Resident	Open
51	Adam	Construction Hours	City	Closed
52	Almendral	Encroachment	Resident	Closed
53	Almendral	Construction Hours	Resident	Closed
54	Walsh	Illegal Construction/Blight	Neighbor Grp	Open
55	Tallwood	Construction Hours	Resident	Closed
56	Tallwood	Construction Permits	City	Closed
57	Tallwood	Construction Parking	Resident	Closed
58	Redwood	Construction Permits	Pro active	No Action
59	Redwood	Construction Hours	Pro active	No Action
60	Nora	Construction Hours	Resident	Closed



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

DATE: FOR THE MEETING OF DECEMBER 13, 2006

**SUBJECT: SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY
(SBWMA) RECOMMENDATIONS FOR FUTURE PROGRAMS,
BUSINESS TERMS AND PROCESS RELATED TO THE
CONTRACTOR SELECTION PROCESS**

RECOMMENDATION:

Staff recommends the City Council accept the recommendations by the South Bayside Waste Management Authority (SBWMA) Board for future solid waste, recycling and organics collections programs and future agreements, with the following action:

1. Adopt the attached Resolution accepting the SBWMA's offer to manage the competitive contractor selection process on behalf of the Town of Atherton;
2. Affirm that the SBWMA's core package of services meets the Town of Atherton's needs with the addition of rear yard collection service and unlimited green waste collection;
3. Require that the SBWMA include in the RFP rear yard collection service and unlimited green waste collection as a base level of service for the Town of Atherton with a bid alternate for curb-side collection service.

BACKGROUND:

The SBWMA is a solid waste joint powers authority of 12 member agencies that are located on the eastern and southern portion of San Mateo County from Burlingame to Menlo Park and East Palo Alto. Originally, the Authority was established to help with the development of the San Carlos Transfer Station. In 2000, the Authority exercised its option to acquire this facility, the recycling facility, and support structure. While the Town of Atherton has its own franchise agreement, the SBWMA works on behalf of its

Member Agencies regarding the management of the agreements. In this case, the SBWMA is seeking to assist the Member Agencies through a coordinated competitive selection process. At the same time, the SBWMA is performing a competitive contractor selection process for operation of the Shoreway Recycling and Disposal Center.

The benefits to the Town in participating with other Member Agencies of the SBWMA include:

- Maintaining economies of scale in the future which can be achieved through one company providing services to more than one jurisdiction;
- Maintaining economies of scale in the future management of the collection agreements;
- Obtaining economies of scale in the contractor selection process.

In February 2006, the SBWMA established the Programs and Facilities (PAF) and Process and Contract (PAC) committees. From February through August 2006, these committees (attended by Town Staff; Kathy Hughes Anderson and John Johns) held 16 meetings and reviewed over 50 agenda reports on alternative programs, facility arrangements, contract terms, and selection processes. The Committees were guided by the following values:

- Ensure that the future contractor delivers cost-effective quality programs that will result in increased diversion (to achieve and sustain state mandated diversion goals) and customer convenience;
- Establish high standards for collection performance and customer service with corresponding liquidated damages for non-performance that can be easily measured and assessed;
- Achieve reasonable rates through cost-effective program design, best management practices requirements, and a competitive selection process.

An overview of the contractor selection process, including a schedule, was provided to the Council in May 2006 which identified seven milestones at which the Town Council would be asked for comments or decisions.

ANALYSIS:

The Town of Atherton's Agreement for Solid Waste, Recyclable Materials and Organic Materials Collection Services expires December 31, 2010, as is the South Bayside Waste Management Authority's (SBWMA) Agreement for Operation of the Shoreway Recycling and Disposal Center. These agreements have never been subject to a competitive selection process. In September 2005, the SBWMA initiated a contractor selection process for the operating agreement and, on behalf of the Member Agencies of the SBWMA, for the collection agreements.

Commencing February 2006, Town of Atherton staff became actively engaged with the Programs and Facility and the Process and Contracts committees of the SBWMA in the planning phase of this process. Over six months, the committees reviewed various program, service, contracting and selection process issues and made recommendations to

the SBWMA Board. In October 2006, the SBWMA Board considered these committee recommendations, made some modifications and approved a set of core and optional programs, business terms and request for proposal provisions for recommendation to the Member Agencies.

Attachment A to this staff report contains copies of the slides that will be presented by Bob Hilton, HF&F (SBWMA's Rate and Business Consultant). It summarizes the core and optional services (including estimated diversion impact and estimated rate impact), business terms and selection process recommended by the SBWMA Board. The actual rate impact will be a function of the compensation requested by those companies which is based on certain operational and financial assumptions made by the companies and the competitiveness of the market at the time. Therefore, the actual impact may be different than that estimated.

The collection system currently servicing the Member Agencies residential customers is outdated and relatively inefficient. The recommended residential core programs will replace the current two-person refuse collection vehicles, collection of recyclables and yard waste every other week, refuse collection cans, recycling tubs, etc. The SBWMA's recommended core programs, including collection, will occur weekly (for all materials) at the curb (with side/back-yard service for disabled customers and for others at an additional fee), with one-person automated collection vehicles, that will collect materials from carts that customers can roll (rather than have to be lifted). This will include recycling carts into which customers can place an expanded list of recyclables without separating them first, resulting in an estimated 20% - 30% increase in recycling volume. Optional residential programs available to the agency at an expected additional cost include: expanded on-call cleanups of additional materials, community cleanup and e-waste events, curbside collection of used oil and filters as well as household batteries, residential food waste collection, and alternative fuel vehicles.

The current refuse collection from commercial and multi-family customers is less outdated and our challenge here has focused primarily, but not exclusively, on improving diversion from these customers in order to meet the State diversion mandates. Instead of waiting for multi-family and commercial customers to request recycling services, the SBWMA core programs will roll out more aggressive outreach and technical assistance to encourage recycling. For those customers downtown with space constraints, shared recycling bins will be provided. On-call collection services of bulky waste as well as the increasing variety of special wastes (e-waste, universal waste, etc.) will be offered to customers. As SBWMA optional programs, recycling assistance and containers will be provided to all multifamily complexes; similarly, site visits to larger customers and telephone assistance for others will be available to commercial customers; and the collection of materials separated into wet and dry waste streams (that afford the opportunity to divert more material from landfill disposal) may be provided. Also, as an option, proposers will be requested to provide alternative fuel vehicles.

The current contract terms are also recommended for revision. The SBWMA recommends an initial collection contract term of 7 years that may be extended to as

much as 20 years based on the contractor's satisfactory performance, at the Member Agency's sole discretion. The contractor's compensation will place greater risk on the contractor (limiting increases in costs by certain indices) while allowing for periodic reviews of detailed costs. Rates for collection services will continue to be set by each Member Agency. Additional areas of service (e.g., customer service call center) will be subject to performance standards and liquidated damages for failure to perform and the assessment of all liquidated damages will be made less cumbersome.

The SBWMA Board also recommends the collection proposals be divided into two districts to attract more competitive proposals. The area districts are proposed to be divided at Belmont to the north and San Carlos to the south.

In order to create the most competitive procurement environment possible, the Shoreway Recycling and Disposal Center operating agreement proposals will be separate from the collection proposals, companies can propose on one or both of two collection districts, and discounts will be identified if one company gets both districts and/or one or more districts plus the operating agreement.

As indicated above, Bob Hilton, will make a presentation (refer to Attachment A) summarizing the SBWMA Board's recommendations. Following the presentation the Council should discuss:

- 1) Participating in the contractor selection process as part of the SBWMA;
- 2) The core and optional programs;
- 3) The key business terms; and,
- 4) The selection process.

A survey of Atherton residents was recently conducted to ascertain the desired level of garbage and recycling service and programs residents would be interested in (survey attached to this staff report). Based on the survey; 62% want the service to stay the same, 60% would bring all materials to the curb if rates were lowered and 33% would pay more to have recyclables collected rear yard. Currently, approximately 44% of residents have side or rear yard trash collection services with recyclable collection currently at the curb for all residents.

Staff recommends that the Council direct the SBWMA to include in the request for proposal document rear yard collection service and unlimited green waste services as a basic service level in Atherton with a bid alternate for curb-side collection service. The bid alternate allows the Council to understand any incremental cost impacts associated with rear yard collection services. As this service is an important factor for Atherton residents, Staff would recommend exploring other collection options if the SBWMA fails to add this service to the RFP or if the proposals come in at a premium.

Staff recommends the Council act on the recommended items described above. The SBWMA Staff will draft the request for proposal and agreement documents and return (prior to August 2007) to the SBWMA Board and the Member Agencies for approval of the draft documents before they are issued.

Prepared by:

Approved by:

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

James H. Robinson
City Manager

Attachments

RESOLUTION 06-

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
FOR COMMITMENT TO THE SOUTH BAYSIDE WASTE MANAGEMENT
AUTHORITY CONTRACTOR SELECTION PROCESS**

WHEREAS, the South Bayside Waste Management Authority (“Authority”) is a joint powers authority between the cities of Belmont, Burlingame, East Palo Alto, Foster City, Menlo Park, Redwood City, San Carlos, and San Mateo; the towns of Atherton and Hillsborough; the West Bay Sanitary Service; and, the County of San Mateo (“Member Agencies”); and,

WHEREAS, the Authority is planning to request and shall receive proposals for the collection, processing, and transfer of solid waste, recyclable materials, and organic materials within the jurisdiction of the Authority (“Contractor Selection Process”); and,

WHEREAS, the Board Members of the Authority desire to maintain the association of Member Agencies throughout the Contractor Selection Process so efficiencies associated with use of the same collection contractor(s) in the SBWMA service area will be realized for each Member Agency and its residents and businesses; and,

WHEREAS, the Council has reviewed the description of the Authority’s method for soliciting and evaluating proposals from companies interested in providing collection, processing, and transfer services to the Authority and its Member Agencies and the plan for selecting one or more contractor(s), and,

WHEREAS, the Council has reviewed the description of future collection programs and services to be provided to Member Agencies by the future collection contractor and the description of the future contract terms and conditions to be included in the future collection franchise agreements and in the future operating agreement for processing and transfer services;

NOW THEREFORE, the City Council of the Town of Atherton hereby passes this resolution acknowledging the following commitments to the Contractor Selection Process within the Authority’s service area:

- 1. Commitment to Participate in the Contractor Selection Process.** The Town of Atherton desires to participate in the Contractor Selection Process within the Authority’s service area to select one collection company to provide future collection services to the Town of Atherton and to select one or more companies to provide processing and transfer services for solid waste, recyclable materials, and organic materials collected in the Authority’s service area.
- 2. Commitment to Future Programs and Contract Terms and Conditions.** Town of Atherton agrees that the programs, services, and contract terms and conditions described in the staff report meet the future needs of the Town of Atherton with the addition of rear yard collection service and unlimited green waste collection.

3. Commitment to Method of Conducting the Contractor Selection Process. The Town of Atherton agrees that the method, schedule and evaluation criteria for the contractor selection, described in the staff report, reasonably addresses the selection process requirements of the Town of Atherton.

4. Agreement Not to Act Independently. The Town of Atherton agrees not to independently solicit or entertain proposals, bids, or offers of service from companies interested in separately provide collection, processing, or transfer services to the Town of Atherton with the provision that the Town's request to include rear yard collection service and unlimited green waste service is included in the bid document and the services can be provided in a cost effective manner to the residents.

* * * * *

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 special meeting thereof held on this 13th day of December, 2006, by the following vote:

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

ATTEST:

Charles E. Marsala, MAYOR
TOWN OF ATHERTON

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney

SBWMA Contractor Selection Process

Serving Member Agencies Through Quality and
Cost Effective Solid Waste and Recycling Programs

Member Agency Presentation
December 2006



Presentation by Robert Hilton
HF&H Consultants, LLC

Member Agency Needs

- Achieving and sustaining state-mandated AB 939 diversion goals (50% diversion)
- Implementing new collection and operating agreements by January 1, 2011
- Ensuring customers pay competitive rates for quality programs and services

SBWMA Working on Your Behalf

Managing Contractor Selection Process

- Commenced contractor selection process
 - Future collection contractor
 - Future Shoreway facility operator
- Member Agency staff actively engaged in the planning phase (PAC and PAF Committees)
- Ongoing involvement of Member Agency elected officials throughout the process
- New SBWMA Executive Director to lead process

SBWMA Working on Your Behalf (cont.)

Well-Planned Public Committee Process

- 16 well-planned PAF and PAC meetings
- Analysis of a wide array of options
- Over 50 staff reports prepared and reviewed
- Team of expert consultants provided analysis
- All meetings were “public meetings” with opportunities for public comment
- Other input via surveys and focused workshops

Member Agency Milestones

<u>Action</u>	<u>Date</u>
1. Hear SBWMA's general approach	Feb – Mar 2006
2. Commit to the process and approve programs and contract terms	Dec 2006/Jan 2007
3. Approve RFP and agreements	May – Jul 2007
4. Attend proposer presentations	Feb 2008
5. Receive proposal summaries	Mar – Jun 2008
6. Approve selection of contractors	Oct – Dec 2008
7. Approve collection and operating agreements	May – Jun 2009
Contractors commence new services	Jan 1, 2011

Member Agency Franchise Award

■ SBWMA role

- Solicit proposals for two service areas
- Staff/consultants evaluate proposals and present findings to evaluation committee
- Evaluation committee (consisting of Member Agency staff) reviews evaluation and recommends contractors to Board
- SBWMA Board reviews evaluation committee recommendations and makes recommendation for Member Agency consideration

Member Agency Franchise Award (cont.)

■ Member Agency role

- Review SBWMA Board recommendation
- Award its franchise to the company it selects
 - If a Member Agency chooses a company other than that recommended by the SBWMA Board, it will negatively impact **all other Member Agencies.**

- Fulfill its obligation to the SBWMA to deliver solid waste, recyclables, and yard waste to the SBWMA-owned Shoreway facilities (regardless of the collection contractor selected)

Decisions for Elected Officials

- **Commit** to the SBWMA process by adopting resolution
- **Affirm/Approve** SBWMA recommended core service package
- **Review** optional programs and services available to meet unique needs of Member Agencies

Commitment to the SBWMA Process

- Request commitment by adopting a resolution documenting that Member Agency:
 - Agrees to participate in SBWMA process
 - Agrees to proposed programs and contract terms
 - Agrees to method of soliciting proposals and selecting contractors
 - Agrees to not independently solicit or entertain collection and processing proposals during the SBWMA contractor selection process

Select Programs and Services

- Proposed programs (both core and optional) were developed by PAC and PAF committees and approved by SBWMA Board
- SBWMA fulfilling diverse needs for Member Agencies
 - Core programs – maximize cost efficiencies and increase diversion by modernizing collection programs and improving customer service
 - Optional programs
 - Address unique Member Agency needs
 - Ensure ongoing compliance with state-mandated diversion goal of 50% by offering additional diversion programs

Proposed Residential Programs

“Core Service Package”

- *OBJECTIVE: Modernize programs to increase customer convenience and improve cost effectiveness*
- Solid waste
 - Collected weekly at the curb, option for back/side yard for additional fee
 - One-person crews (“Automated Collection”)
 - Residents given new wheeled carts for ease of use; customer selection of cart size (20-, 32-, 64-, or 96-gallon)
 - Significant productivity improvements and potential cost savings are achieved if Member Agencies select curbside service. Assumes Member Agencies also charge a higher rate for the residents requesting side or backyard service.

Proposed Residential Programs

“Core Service Package” (cont.)

- *OBJECTIVE: Modernize programs to increase customer convenience , improve cost effectiveness and maximize recycling*
- **Recyclables and yard waste**
 - Weekly collection at the curb
 - Residents given 96-gallon wheeled carts to place/commingle all recyclables (**“Single Stream”**)*
 - Residents provided 96-gallon wheeled carts for yard waste as needed*
 - Separate trucks with one-person crews are used to collect recyclables and yard waste (**“Automated Collection”**)
 - **23% to 31% estimated increase** in residential recycling tonnage through proposed programs

* Small cart sizes will be provided upon customer request.

Proposed Residential Programs “Core Service Package” (cont.)

- *OBJECTIVE: Modernize programs to increase customer convenience and maximize recycling*



Source: “Automated Collection of Recyclables and Solid Waste, A Report to Mayor Dave Cieslewicz and the City Council,” prepared by George P. Dreckmann, Recycling Coordinator, City of Madison, Wisconsin, March 29, 2004.

- Solid waste carts: Customers have choice of 20-, 32-, 64-, or 96-gallon carts
- Recyclables and yard waste: Customers provided 96-gallon carts (smaller carts provided upon customer’s request)

Proposed Multi-Family and Commercial Programs

“Core Service Package”

- *OBJECTIVE: Modernize programs to increase customer convenience, improve cost effectiveness and maximize recycling*
- Solid waste - No change in solid waste collection
- Recycling service
 - Continue to offer at no cost to customer
 - Papers and bottles/cans commingled (“**Single Stream**”) by customer
- Food waste – Continue existing food waste collection program with reduced rates for recycling

Current Contract Terms

- Labor – employees represented by collective bargaining agreements
- Term of the collection and facility operating agreements expire December 31, 2010
- Contractors' compensation - cost plus profit; involves detailed annual review and reconciliation of costs
- Rate setting
 - Member agencies set their own customers' collection rates
 - SBWMA Board sets rates for Shoreway facility

Proposed Process and Contract Terms

“Core Package”

- Two collection districts – divide SBWMA north and south and allow the potential for different collection contractors to operate for improved competitiveness
- Labor policy – wages and benefits based on existing labor agreements; worker retention policy
- Contract term – initial 7 years for franchise plus extensions for a total not-to-exceed 20 years
- Contractor’s compensation – cost plus profit; review process simplified with detailed reviews of actual costs every three years and indexed adjustments in interim years; no reconciliation of costs

Proposed Process and Contract Terms

“Core Package” (cont.)

- Rate setting
 - Member agencies set customers' collection rates
 - SBWMA Board sets rates for Shoreway facility
- Alternative fuel vehicles – optional proposals will be solicited for SBWMA-wide implementation
- Liquidated damages for non-performance assessed more automatically

Proposed Shoreway Facility Improvements

■ Core

- Shoreway single stream processing equipment retrofit (currently dual stream processing system)
- Expanded transfer station to accommodate additional yard waste and food waste

■ Optional

- Other Shoreway transfer station expansion (currently floor space is limited) for additional tipping area

Estimated Diversion Impact (Tons per Year)

OBJECTIVE: Modernize programs to increase customer convenience, improve cost effectiveness and maximize recycling

Program	Core Package		Optional Package		Total	
	Low	High	Low	High	Low	High
Residential*	18,100	24,400	6,700	8,900	24,800	33,300
Multi-family and commercial	3,600	10,400	N.A.	N.A.	3,600	10,400
Other collection services	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Facility improvements	Included above (single stream)		13,000		13,000	
Total Tons per Year	21,700	34,400	19,700	21,900	41,400	56,700

*Includes residential food waste collection in the optional package for SBWMA-wide consideration.

Estimated Rate Impact

Program	Core Package		Optional Package		Total	
	Low	High	Low	High	Low	High
Residential*	0.43%	3.23%	0.83%	1.22%	1.26%	4.45%
Multi-family and commercial	0.21%	0.21%	1.45%	2.39%	1.66%	2.60%
Other collection services	0%	0.15%	0%	0%	0%	0.15%
Facility improvements	0%	0%	0.34%	0.41%	0.34%	0.41%
Process and contract terms	(0.04%)	2.39%	0%	0.75%	(0.04%)	3.14%
Total	0.60%	5.98%	2.62%	4.77%	3.22%	10.75%

*Includes residential food waste collection in the optional package.



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

**FROM: JAMES H. ROBINSON CITY MANAGER
MICHAEL CULLY, ACTING BUILDING OFFICIAL**

DATE: FOR THE MEETING OF DECEMBER 13, 2006

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

A Three-Phase Audit was performed addressing various aspects of the Building Department's activities. The Audit was conducted by both an outside consultant and in-house staff. Below is a status report of items identified as recommendations in the Phase III Audit Report, as well as a status report of recommendations included in the assessment of the Building/Planning Department by Gary Binger.

Additionally, a Policies, Procedures and Interpretations Manual (PPI) is being completed. Procedures for the daily operations of the Building Department are incorporated into this manual. As the study of the Department's daily operations identified areas needing improvement, improvements have been implemented, or are in the process of being finalized.

Phase III Audit

FINDING # 1

The lack of administrative controls over the plan check and permit issuance process has hampered the Building Department's ability to ensure that a construction project is in conformity with applicable building and zoning ordinances prior to the release of a building permit.

RECOMMENDATION 1

To improve the overall integrity of the permit intake and plan review process, the Building Department should:

1. Update and disseminate to plan check staff standardized plan review instructions based upon the current building and zoning code;

- 2 Prepare a plan review template for the purpose of documenting the results of plan reviews to building permit applicants and to ensure consistency amongst reviewers in communicating the results of said plan reviews; and,
3. Instruct plan review staff to initial plans and to sign permits themselves rather than to rely upon clerical staff to perform such recordkeeping functions on behalf of plan review staff.

RESPONSE:

A comprehensive Policies, Procedures and Interpretations Manual will address daily activities of plan intake, plan check procedures and permit issuance, addressing all of the above items.

STATUS:

A PPI Manual is in process to provide documentation of certain daily procedures such as: plan review staff has been directed to complete a Zoning Compliance Worksheet for each reviewed project, documenting compliance with setbacks, heights, and square footages – the basis for determining permit fees. Plans examiners are required to personally stamp, date and initial the cover sheet of all Approved Plans. These are a few of the procedures that have already been put in place.

FINDING #2

The Building Department does not have a complete or accurate accounting of events that have transpired subsequent to the issuance of a building permit. As a result, the Department is unable to demonstrate that it has been effective in ensuring compliance with chapters 15 and 17 of the Atherton Municipal Code during the project construction and close-out phases.

RECOMMENDATIONS:

To ensure that construction projects conform to all applicable building and zoning codes during the construction and project close-out phases, the Building Department should:

1. Adhere to its standard practice of requiring that certain administrative requirements be met prior to the scheduling of interim and final inspections;
2. Through the use of a project close-out checklist provide an objective means of verifying that all project requirements have been met prior to the release of a certificate of occupancy; and,
3. Ensure that both a project close-out checklist and copies of field inspection reports are retained within the permanent record.

RESPONSE:

An Office Copy of the Building Inspection Card has been created for all newly issued projects. Additionally, a copy of this card was also created for existing projects as inspection requests are made of the Department. This card is in addition to the Job-Site Inspection Card. The Inspector's Office Copy also incorporates a list of signoff requirements for close-out of the permit and related files. This card will be archived with the permit/plan file.

STATUS:

Completed

FINDING # 3

The Building Department's permit tracking system (Q&A) lacks the features and functions to adequately support the Building Department's business objectives. Additionally, since much of the data contained within Q&A is unreliable, validating and converting data contained within Q&A to a new permit tracking system will add significantly to system replacement costs.

RECOMMENDATION:

To ensure that a new permit tracking system effectively supports the Building Department's business process and management reporting capability, the Building Department should implement a phased approach to its system replacement effort that includes:

1. A careful and deliberate assessment of the functional requirements for a new system; and,
2. An intensive data effort to rectify errors within the current permit tracking system prior to migrating such data to a new permit tracking system.

RESPONSE:

Staff is currently issuing an RFP for a new comprehensive Building Permit Tracking System.. Under the direction of the Assistant to the City Manager and the interim Building and Planning Director, the Town visited a number of cities with relatively new tracking systems in place. Staff utilized criteria identified within the Phase III Audit, the operational needs of the Department and input from the Senior Building Inspector and Office Specialist. One system in particular, provided by CRW and currently in use in Hillsborough and soon to be implemented in Woodside, provided an excellent example of the abilities of such a tracking system. See attached.

STATUS:

Consideration of the such a tracking system is being presented to the Town's Finance Committee for consideration on December 9, 2006, and will be presented to the City Council at its January 17, 2007 meeting.

FINDING # 4

By relying upon discretionary powers afforded to the Chief Building Official in the Uniform Building Code to interpret local building and zoning ordinances, the Building Department has allowed residential construction to proceed that does not conform to the intent, if not the letter, of chapters 15 and 17 of the Atherton Municipal Code.

RECOMMENDATION:

To provide greater assurance that both the letter and intent of the Town's building and zoning ordinances are enforced, the City Manager, in consultation with the City Council, should consider:

1. Granting the Town Planner a status equivalent to that of the Building Official and vest within the Town Planner the authority to interpret and enforce Chapter 17 of the Atherton Municipal Code; or,
2. Empower the Code Enforcement Officer to review of permitted projects currently under construction and to take actions as necessary to ensure that such projects comply with Chapters 15 and 17 of the Atherton Municipal Code.

RESPONSE:

A Policies, Procedures and Interpretations (PPI) Manual will include interpretations of various zoning regulations, as determined cooperatively between the Town Planner and the Acting Building Official, clarifying the intent of various zoning ordinances – in accordance with the provisions of the General Plan. These interpretations will assist staff and the general public in understanding the intent of the requirements to meet the General Plan objectives. Some interpretations have already been created, and have been submitted to the Town’s Attorney for review and comment. The City Council will be provided with the PPI Manual for its consideration and approval.

The Building Inspector and Plans Examiners are delegated the authority to enforce the provisions of the California State Building Code (AMC Ch. 15) through required certification, this is something outside of the scope of qualifications of a typical Code Enforcement Officer. Ensuring that Building Department staff regularly attends Continuing Education seminars (as required under AB 717) will help to ensure that staff is current on the latest changes and interpretations of the California Building Code.

With the establishment of a PPI manual there will be a clearer understanding of the requirements of the Town’s existing Zoning Regulations (AMC Ch.17) by staff as well as the general public. In regards to the enforcement of Zoning Regulations, it is imperative that all building staff actively participates in the formulation of any ordinances they will be enforcing, as well as continual contact with the Town’s Planner.

STATUS:

The Building staff and the Town Planner will hold joint staff meetings on an as-needed basis to discuss various projects and to receive guidance in Zoning issues. These regular meetings will result in the clear direction of the intent of existing ordinances, and prompt involvement in the creation of new ordinances to better carry out the direction of the General Plan.

Town administration has solicited applications for the Building Official position and is in the process of setting up interviews .

Completion of the initial Policies, Procedures and Interpretations Manual is in progress.

RECOMMENDATION:

It is also recommended that the City Council consider these additional recommendations as identified in both of the attached reports, as well as to continue day-to-day Building Services until a permanent Building Official can be appointed .

1. Authorize the appropriation of additional hours for the continuation of Interim Building Official services provided by CSG until a permanent employee can be appointed. Staff anticipates that services would be required, at a minimum, through January 2007. Current hours will probably carry us through December. Estimated costs will be provided at our December 13, 2006, meeting.
2. Authorize staff to develop an RFP for contract Engineering Services for the purpose of reviewing Grading and Drainage plans to be returned to the City Council for its review and consideration .

Summary of Recommendations

Atherton Planning and Building Department Assessment

Staffing

1. Complete a recruiting effort and select a permanent full-time department director/building official as soon as possible. Demonstrated experience, knowledge and success in interpreting and enforcing building-related codes, as well as management expertise and effective communication skills are essential.

Status/Response

Building Official applications have been received and preliminary interviews are scheduled for the week of December 11, 2006.

2. Provide a full-time permit technician to work at the front counter in the department; assist in maintaining permit tracking and other records; issue minor permits and plan reviews; and respond to general questions from realtors, contractors, and residents. This person should have certification as a Permit Technician from the International Council of Building Officials. Such a staffing change is intended to provide better service to the general public and applicants, assure that permit records are complete, and speed up plan checking services by reducing the need for plan checkers and inspectors having to handle day-to-day over-the-counter tasks.

Status/Response

Council has approved recruitment. Staff will defer appointment until a full-time Building Official has been appointed. The individual to attend to the permit counter should have certification as a Permit Technician. This individual, if certified (by ICC/ICBO) as a Plans Examiner would also be able to perform plan reviews for smaller projects, allowing for over-the-counter issuance and reducing the workload on Plan Check Staff.

3. Have a qualified independent professional sign off on the zoning compliance of new homes and major additions. This should be done prior to the issuance of building permits, and again in conjunction with final inspections performed prior to the issuance of any certificate of occupancy.

Status/Response

The town currently contracts for Planning Services with an outside firm. The use of a dedicated planner would help ensure there was an individual specializing in administering the Town's Zoning requirements through both initial plan review and at final inspection. Staff is exploring options/costs and will have a specific recommendation at the January City Council meeting.

4. Involve public works staff or outside civil engineers in reviewing grading, drainage and other site development aspects of proposed new private development. Such reviews must, however, be effectively managed to avoid delays in plan reviews and inspections.

Status/Response

Current Public Works staffing levels are inadequate to provide this service. Staff is preparing an RFP for the January City Council meeting.

5. Establish contractual relationships with outside individuals or firms to supplement Town staff in the review and inspection of private development. This outside expertise should be available to assist in the following:
 - A. Reviewing engineering calculations used in the design of new homes. These reviews should be performed by civil or structural engineers, and done concurrently with plan checking being handled by staff on other aspects of the project.

Status/Response

A member of building staff has a degree in engineering and needs to complete his Engineer in Training program to become a Registered Engineer. A relationship could be established with an outside engineering firm to assist with the plan review workload as well as providing mentoring duties for this individual.

- B. Performing field inspections when staff is shorthanded.

Status/Response

The daily workload of inspections is shared by two individuals. By utilizing a part-time contract inspector, one individual will be able to remain in the office and focus on plans review and other daily tasks of the department.

6. Transfer the Town arborist, currently working within the Public Works Department, to the Planning and Building Department. This person would continue to perform reviews and inspections related to heritage trees and landscape screening, and could also assist in evaluating and enforcing private construction, operations and parking plans as time allows.

Status/Response

The Town Arborist has been transferred into the Building Department, wherein other duties have been added that are similar in nature to the previous assignment. This has successfully consolidated some efforts.

7. Provide project management, record keeping, and technical training for all personnel in the department.

Status/Response

This task will be further served once a permanent Building Permit Tracing system is implemented. Technical training occurs with plan check and inspection staff through daily interaction in discussions of code requirements and methodologies. Recordkeeping functions have been enhanced by the implementation of internal procedures, as discussed in various phases of responses to the Audit.

Staff will develop an inservice training program and certification tracking system in the first quarter of 2007 and include funding in the budget for 2006-07.

Procedures

1. Establish a comprehensive computer-based program to improve the adequacy and streamlining of record keeping on building permit applications and processing. Such a system should include features which track inspection activities, receipts of money, support online permit application and approval, assist in performance analysis, and be web-based in order to allow for online permit applications, etc. Elements recommended for inclusion in a new permit tracking program are specified in “*Request for Proposals for Permitting Software and Related Services.*” It is expected to take 3-4 months to select and install such a system, and for staff to become fully trained on its use.

Status/Response

The Town is in the process of finalizing the selection of a comprehensive permit tracking system. The permit tracking system has been discussed by the Finance Committee and will be considered at the January City Council meeting.

2. Provide easy-to-read handouts that advise potential applicants and the public about various local requirements dealing with construction operations. This would include such matters as hours of operation and overall length of construction, tree screening and protection, noise, construction parking, and the location of construction trailers and sanitary facilities. These documents should also be available online.

Status/Response

Electronic copies of the existing handouts are being made, allowing ease of updating as requirements change and evolve (i.e.: building code adoption cycles).

3. Consider adjusting the current \$/square foot method of valuation to reflect the scope of work performed, provide equitable valuations, and assure that fees will match costs to operate Planning and Building Department staffing and related operations. Fees could be adjusted on a percentage basis, and be derived from the level of work required (for example, the level of effort to review and inspect a detached garage or certain remodeling activities is different from that required on a new home) A survey of different jurisdictional approaches with comparable levels and types of construction should be performed as part of any fee adjustment process.

Status/Response

Finance and Building staff is aware of this need. This is a goal that needs to be completed and adopted prior to the implementation of any new Building Permit Tracking program as these are included automated functions of any comprehensive program and are required to set up the permit program for use. A listing of the various permit categories and types is being compiled.

Zoning

1. Reorganize the zoning code to improve its clarity to staff, applicants and the general public. The goal of this recommendation is also to eliminate any internal inconsistencies.

Status/Response

To reorganize the Zoning Code will be a time-consuming legal process. Currently, formal interpretations of various sections of Chapter 17 have been created in a joint effort between Building and Planning. These are in review by the City Attorney to assure compliance with the provisions of the General Plan. Once this legal review is completed, they will be presented to the City Council for review. The intent of this process is to help eliminate previous misunderstandings by staff and the general design community of ordinances that are open for misinterpretation and misapplication. The use of a formalized Interpretation allows compliance (with the General Plan) to be obtained immediately while the existing ordinances are reviewed, updated and/or re-written for clarity of intent.

2. Clarify possible errors and areas of confusion in the current zoning code. Examples of possible areas of examination could include:
 - A. Section 17.08.070, the definition of building height.

Status/Response

See item # 1 above.

- B. Section 17.36.030 B which states that second dwelling units shall meet all setback requirements for residential structures. It appears that it should say “setback requirements for the main residence.” Section 17.36.030 H says second dwelling units are to be located only in the rear yard. (the rear yard is defined as the area between the rear property line and rear setback line for the main residence).
3. Consider the need to reassess and clarify methods used in determining maximum building height in areas of the Town with steeper terrain. Staff has collected information summarizing approaches in other communities which could be useful if this issue is pursued.

Status/Response

This issue is addressed in one of the proposed Interpretations, in clarifying the language and intent of existing ordinances, and creating a parallel of what other communities require. It is recommended that the Town review ordinances of other communities, determine if this is an acceptable direction to take, and draft similar clarified language with the assistance of the Town planner and/or contract planning/zoning staff.

Code enforcement

1. Modify and increase code enforcement on an ongoing and as-needed basis. Specific findings and recommendations are included in the “2006 Code Enforcement Assessment Report.”

Status/Response

Staff has prepared a report for Council consideration at its December 13, 2006, meeting.



TOWN OF ATHERTON

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

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

DATE: FOR THE CITY COUNCIL MEETING OF DECEMBER 13, 2006

**SUBJECT: REQUEST TO REFER THE REVIEW OF NONCONFORMING STRUCTURE
ORDINANCE TO THE GENERAL PLAN COMMITTEE.**

RECOMMENDATION

Staff recommends that the City Council review the request and provide direction to staff.

BACKGROUND

A nonconforming structure is any structure that was constructed legally based on the codes at the time of construction but does not meet current requirements. Examples include homes that exceed the current height limit or encroach upon the minimum setback requirements. Atherton's code regulating nonconforming uses (Chapter 17.44) does not allow nonconforming structures to be enlarged, increased, extended to occupy greater land area, or moved to another portion of the lot. Ordinary maintenance and minor repairs to non-conforming structures are permitted.

REQUEST

An Atherton resident, David Lewis, requests the City Council refer this item to the General Plan Committee for review. Mr. Lewis's home currently encroaches into the required side yard setback by 4". Mr. Lewis wishes to expand his home in that area and was advised by the Town that the addition would need to comply with the current setback requirements.

Other jurisdictions allow some continued use of a non-conforming setback as long as basic uniform building code separations are maintained. For example, in San Carlos and San Bruno, a property owner can continue a non-conforming setback at least 3' from the side property line.

Allowing some use of non-conforming setbacks would provide greater flexibility to homeowners wishing to expand their current homes. If referred to the General Plan Committee, staff would research the requirements in similar communities and provide options to the Committee for consideration.

Prepared by:

Approved by:

Lisa Costa Sanders
Deputy Town Planner

James H. Robinson
City Manager

Attachments:

1. Letter of Request from David Lewis
2. Chapter 17.44 of the Atherton Municipal Code

David A. Lewis
50 Jennings Lane
Atherton, Ca. 94027
November 15, 2006

Mr. Jim Robinson
City Manager
Town of Atherton
91 Ashfield Road
Atherton, CA 94027

Re: Nonconforming Structure Ordinance

Dear City Manager:

Due to increasingly accurate land surveys because of GPS techniques, I and other Atherton residents are being found to live in homes that are too close to their property line setbacks through no fault of our own. A problem arises when the resident tries to extend a room by elongating the wall that is already too close to the setback even though the extension would be basically parallel to the property line. In my case, our home is about 4 inches too close to our neighbor so that lengthening the wall parallel to my neighbor to enlarge a bedroom by 6 feet would create a strip 4" by 6' that would violate the setback law. To create a 4 inch "notch" in the new 6 feet of wall would look strange and create problems with the roofline and eaves.

Given the recent scrutiny placed on our building officials and the concern over the amount of personal judgments made by officials in matters like this, it would be very helpful if the City Council of Atherton would look into an ordinance that would allow continuation of a non-conforming setback, similar to San Carlos or Palo Alto that addresses this issue. Sample ordinances are attached.

Sincerely,



David A. Lewis

Chapter 17.44

NONCONFORMING USES

Sections:

- 17.44.010** Discontinuance of nonconforming use.
- 17.44.020** Preexisting nonconforming land use.
- 17.44.030** Expansion or alteration.
- 17.44.040** Cessation of lawful nonconforming use.
- 17.44.050** Nonconforming structures.

17.44.010 Discontinuance of nonconforming use.

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

17.44.020 Preexisting nonconforming land use.

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

17.44.030 Expansion or alteration.

A. Lawful nonconforming uses shall not be:

- 1. Enlarged or increased;

2. Changed to any other nonconforming use;

3. Extended to occupy greater land area;

4. Moved to another portion of the lot.

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

17.44.040 Cessation of lawful nonconforming use.

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

17.44.050 Nonconforming structures.

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

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

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

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

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

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

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

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