



AGENDA
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT

February 15, 2006

6:00 P.M.

Meeting Room
Town Administrative Offices

91 Ashfield Road
Atherton, California

Special Meeting

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

6:02 P.M. PUBLIC COMMENTS

6:05 P.M. CLOSED SESSION

6:05 P.M. A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Government Code Section 54956.9(b1):

1 potential case

B. CONFERENCE WITH LABOR NEGOTIATOR – Labor negotiations pursuant to Government Code Section 54957.6

Agency Negotiators: James H. Robinson, City Manager; Craig Jory, Jory HR

Employee Organization: Atherton Police Officers Association (APOA)

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
February 15, 2006
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

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

- 7:00 P.M. 1. **PLEDGE OF ALLEGIANCE**
- 7:03 P.M. 2. **ROLL CALL** Janz, J. Carlson, A. Carlson, Marsala, McKeithen
- 7:05 P.M. 3. **PRESENTATION**

 Parks for the Future, Julia Bott
- 7:10 P.M. 4. **COUNCIL REPORTS**
- 7:20 P.M. 5. **PUBLIC COMMENTS** (only for items which are not on the agenda –
 limit of three minutes per person)
- 7:30 P.M. 6. **STAFF REPORTS**
- 7:40 P.M. 7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT**
 (Directed by Resolution Nos. 99-6 and 02-31)

 Menlo College
- 7:50 P.M. **CONSENT CALENDAR** (Items 8 - 14)

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

8. **APPROVAL OF MINUTES OF THE SPECIAL AND REGULAR MEETINGS OF JANUARY 18, 2006, AND THE SPECIAL MEETING OF JANUARY 21, 2006**

- 9. APPROVAL OF BILLS AND CLAIMS FOR JANUARY 2006 IN THE AMOUNT OF \$ 358,350
- 10. ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR JANUARY 2006
- 11. ACCEPTANCE OF QUARTERLY INVESTMENT REPORT
- 12. ADOPTION OF A RESOLUTION TO APPROVE PERS "AIR TIME" PURCHASES

Recommendation: Adopt the attached resolution to enable Atherton employees to make installment payments for additional service retirement (ARS) purchases from CALPERS on a pre-tax basis.

- 13. ACCEPTANCE OF RESPONSE TO GRAND JURY REGARDING ANALOG TO DIGITAL CONVERSION OF POLICE RADIO SYSTEMS
- 14. ADOPTION OF MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN OF ATHERTON AND THE ATHERTON POLICE OFFICERS' ASSOCIATION FOR THE PERIOD OF JULY 1, 2005 THROUGH JUNE 30, 2008

Recommendation: Adopt the attached Memorandum of Understanding between the Town of Atherton and the Atherton Police Officers' Association for the period of July 1, 2005 through June 30, 2008, and authorize the Mayor to execute the agreement on behalf of the Town.

PUBLIC HEARINGS NONE

REGULAR AGENDA (Items 15 - 21)

- 8:00 P.M. 15. CONSIDERATION OF PARKING LIMITATIONS ALONG PARK LANE PURSUANT TO ATHERTON MUNICIPAL CODE TITLES 10 AND 15 AS REFERRED BY THE GENERAL PLAN COMMITTEE AND POSSIBLE DIRECTION TO STAFF REGARDING ANY AMENDMENTS TO ORDINANCE NO. 546 RELATING TO CONSTRUCTION PARKING REGULATIONS (Continued from the Council meeting of January 18, 2006)

Recommendation: Review report from the Chief of Police and provide direction to staff.

- 8:20 P.M. 16. DISCUSSION AND DIRECTION TO STAFF REGARDING FENCE HEIGHT, HEIGHT OF GRADING, AND AMOUNT OF GRADING.

- 8:40 P.M. 17. **AWARD OF CONTRACT FOR HOLBROOK-PALMER PARK PAVILION DOOR AND WINDOW REPLACEMENT PROJECT NUMBER 05-001**
- Recommendation:** Award the contract for the Holbrook-Palmer Pavilion Project, Project Number 05-001, to the low bidder on the February 14, 2006 bids, and to authorize the Mayor to sign the contract on behalf of the Town.
- 8:50 P.M. 18. **APPROVAL OF MAYOR’S REVISIONS TO CITY COUNCIL COMMITTEE ASSIGNMENTS FOR 2006**
- Recommendation:** Approve the 2006 Amended Council Committee assignments made by Mayor Marsala
- 9:00 P.M. 19. **CONSIDERATION AND DIRECTION TO STAFF REGARDING PURCHASE OF A STREET SWEEPER FOR THE ATHERTON PUBLIC WORKS DEPARTMENT**
- Recommendation:** Approve the purchase of an Allianz 3000 3-wheeled street sweeper from Nixon-Egli Equipment Company for \$114, 968 plus tax and delivery.
- 9:15 P.M. 20. **CONSIDERATION OF A TOWN FORUM TO DISCUSS VARIOUS TOWN FACILITIES**
- Recommendation:** Consider a Town Forum to discuss various Town facilities and options available for possible improvements and modifications and solicit public input.
- 9:30 P.M. 21. **CONSIDERATION OF A JOINT MEETING WITH THE CITY OF MENLO PARK CITY COUNCIL**
- Recommendation:** Consideration of a joint meeting with the City of Menlo Park City Council.
- 9:45 P.M. 22. **PUBLIC COMMENTS**
- 9:50 P.M. 23. **ADJOURNMENT**

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Parks for the Future

Executive Summary

Parks for the Future is an effort to secure dedicated tax-based revenues to support the parks and recreation related activities of San Mateo County, the cities located within the County, the Ladera and Highlands recreation districts and Midpeninsula Regional Open Space District by placing a measure to increase sales tax by 1/8th cent on a future ballot. The legislative permission required to place a 1/8th cent increment on the ballot was secured in 2005 with the approval of SB 203. The revenue, projected to raise between \$13-16 million per year, would be allocated to jurisdictions per a formula and may be used for park and recreation related functions such as maintenance, operations, activities and programs, capital improvements and acquisition.

This report outlines:

- the **need** for the measure;
- the *Parks for the Future* **process** to date;
- **recommendations** from the *Parks for the Future* participants, including the distribution of funds;
- the possible **timeline**.

While this item is presented as information only, *Parks for the Future* representatives are using it as an opportunity to receive feedback from council/commission members and the public.

Need

Today's parks and associated recreation programs play a significant role in communities. Parks are where we gather with our family and friends. The open spaces offer us solitude, and their beauty and quiet nourish our soul. The wild places provide habitat for native plants and animals, and provide critical functions in water supply and flood control. Well maintained parks, urban tree programs and community landscaping improve neighborhood aesthetics and property values.

Recreation programming supports healthy lifestyles and youth and senior programs, resulting in improved public safety. Teen after-school programs provide sports and healthy socializing. Senior programs prevent social isolation and support senior health through age-appropriate nutrition programs and physical exercises. Sports and other physical fitness programs now play a critical role in combating California's low rates of physical fitness and high rates of obesity—among youth and adults alike.

While parks and recreation programs are important to our communities they have not been funded at an optimal level for many years. As a non-mandated service, they are one of the few areas that can be and have been reduced during budget crises. The results are staffing reductions, reduced gardening and landscaping services, longer intervals between litter pick-up and bathroom cleaning, deferred maintenance, and removal or closure of facilities that need repair or do not meet safety standards.

San Mateo County Parks and Recreation Division alone has an unfunded deferred maintenance and capital improvement need of over \$100 million and has had its budget reduced by approximately 40% since FY 02/03. Staffing levels have been reduced from 94.3 FTE in 1990 to 65 FTE in 2005. Meanwhile visits to the County Parks has increased by 250,000. The cuts in June 2004 resulted in staff reduction precipitating the closure of numerous facilities within the

parks and the complete closure of 4 parks 3 days a week that summer. While closures of some facilities were lifted after the Board of Supervisors increased funding for the County Parks division the following September, budget related problems like staff shortages and safety issues created by deferred maintenance persist.

Cities within the County have similar funding needs. Atherton's needs include implementation of the Holbrook-Palmer Park Master Plan, renovation of existing park facilities, and assisting in maintenance of park grounds and landscaping.

Process

Parks for the Future is a wide-ranging group of local leaders that includes representatives from nonprofits, cities, the County, special districts and park advocates. Over the past year, *Parks for the Future* participants have been discussing a variety of issues in a workshop format. A feasibility study and a voter survey (poll) were also conducted.

The group has reached consensus on the following items so far during this process:

- Pursue 1/8th-cent sales tax
- Pursue the enabling legislation required to place the measure on the ballot
- Do not form a special district, instead utilize CCAG as the fiduciary agent
- Governance responsibilities of the managing board include distribution of funds, auditing and reporting functions
- Funds can be used for a variety of park and recreation related needs including maintenance, operations, activities and programs, capital improvements and acquisition.
- The formula for distributing funds to County, cities & districts
- Use population and a base amount to cities as the method for distributing funds to cities (Determined we could not use other methods such as acreage, programs or budgets as there was no consistent measurement).
- Use Department of Finance annual projections to adjust allocations.
- How to ensure that funds supplement, not supplant, parks and recreation budgets.

Items that have been discussed but additional information, including voter opinion polls, is required prior to final decision:

- Length of measure.
- Placement of measure on ballot in November 2006.

Frequently Asked Questions

Why was a one-eight cent sales tax chosen?

This approach was taken because of the strong level of support for a one-eighth cent sales tax, the amount of revenue that would be raised through the tax and the desire to not create another special district or level of bureaucracy to administer the tax.

The information from the poll conducted in early January 2005 showed that 67% of voters indicated that they would support or likely support a one-eighth cent increase in the sales tax compared to 56% would support or likely support one-quarter cent increase. The poll also showed that only a small parcel tax would garner 2/3rds support by voters and only yield \$4 million versus the \$13-16 million projected from the one-eighth cent sales tax increases.

What will this cost per person and how does our tax rate compare?

Estimated Revenue & Annual Cost		
Sales Tax	Annual Revenue	Annual Cost/Person
0.125%	\$16,074,486	\$18.10
Assumes 25% of income is spent on taxable items		
* Based on 2002 median per capita income of \$57,906		
** Average personal spending multiplied by # of county residents		

Current Sales Tax Rate Comparison	
County	Sales Tax
Alameda	8.75%
Contra Costa	8.25%
San Francisco	8.50%
San Mateo	8.25%
Santa Clara	8.25%
Santa Cruz	8.00%

Why was special legislation required and what is the status of the legislation?

Counties possess the authority for levying sales taxes in one-quarter cent increments under Revenue and Taxation Code Section 7285, the general provision for one-quarter or one-half cent sales tax increases. However, there is no general provision for counties – or cities – to impose a one-eighth cent sales tax, other than for the purposes of funding libraries.

SB 203 was introduced to provide San Mateo County with this authority. It received bipartisan support from the legislature and was signed by the Governor. While this law now gives San Mateo County the authority to place a measure on a ballot in 2006, if deemed appropriate, the authority is not limited to 2006 and carries over to future years. The authority in this law is limited to placing a measure on the ballot that raises funds for parks.

Has a Governance Board been chosen?

The goal is to minimize bureaucracy by utilizing an existing dependent board for governance responsibilities such as distribution of funds, auditing and reporting functions. The group recommends that CCAG serve in this role. This item is on CCAG's March agenda.

How can the revenue be spent?

The revenue would be dedicated to supporting functions relating to the parks and recreation departments of the cities, county, and special districts. Revenues from the sales tax are flexible so it can be spent on operations, maintenance and recreation activities and programs, although local jurisdictions would have latitude to spend the funds on capital improvements and acquisition. The poll found the voters placed a high value on funding operations and maintenance.

How will the sales tax revenues be distributed?

The group looked at various criteria to allocate funds. It was determined that methods such as acreage, programs or budgets could not be used as there was no consistent measurement. An allocation to the County, allocations to the special districts and an allocation to the cities, divided through a formula that included a base amount to smaller cities and population was chosen as the approach to distributing funds

Through a negotiated process that involved the representatives from the City Managers' group, the County and the San Mateo County Parks and Recreation Foundation, a distribution formula was determined. The table below assumes that administration is taken off the top. Note that the State Board of Equalization charges 5% to administer the tax and the amount for the governing agency's activities has not been determined. However, for draft calculations purposes we are using 1% for local administration.

Amount of annual allocation	Percentage	Recipient
\$8,008,309	52%	cities
\$6,497, 307	42%	county
\$755,501	6%	special districts
\$15,110,017	100%	
Annual growth of sales tax revenues equal to or less than 4% will be distributed on a pro-rata basis. Cities and special districts only will benefit from annual growth in excess of 4%.		

The City of Atherton's base distribution is \$205,000. The distribution chart for all cities is attached at end of document.

How will Maintenance of Effort work?

Discussions in the workshops identified that cities may be reluctant to tie their hands, particularly as it relates to potential future reductions in funding for their parks and recreation departments. On the other hand, it was agreed that no maintenance of effort would probably doom the measure as the voters want accountability and want this money to supplement park and recreation budgets.

Proposed Concept: Each city in San Mateo County will establish a general fund base line Parks and Recreation (P&R) budget in Fiscal Year 2006/07. Cities must maintain their general fund base line P&R budget or insure that any reductions to their P&R budgets are no greater than any other non-safety city departments to receive their full share of sales tax measure proceeds. Cities that reduce their P&R budget greater than any other non-public safety departments will receive a reduced amount of sales tax measure proceeds, consistent with the percentage that the P&R budget is reduced beyond that of any non-public safety department.

Comments on the specific maintenance of effort wording included:

- Concern that indexing needs to be added to prevent erosion of the value of the general funds dollars in future budget years.
- Concern that it does not include "increasing" budgets in good years.
- Language in ballot measure and materials should be understandable by the voters

Time Line

Note: This schedule assumes a November 2006 election. That date had not been determined. It is just the earliest the measure would go to the ballot. The measure may be delayed if sufficient progress towards the ballot language has not been made or if polling and other factors determine that November 2006 is not a good ballot for the measure.

- March 2004 – Idea of collaborating on a dedicated funding source first presented.
- March 2004-May 2004 – First legislative effort focused on formation of special district. Effort dropped in favor of more process first
- November 2004 – Workshop #1
- December 2004 – Survey of likely voters to evaluate support levels for benefit assessment, parcel tax and sales tax
- January 2005 – Workshop #2. Presentation of survey results.
- February 2005 – Workshop #3
- March 2005 – Workshop #4
- August 2005 – Workshop #5
- September 2005 – SB 203 receives legislative approval
- October 2005 – Governor approves SB 203
- **Fall 2005 – Reports to City Councils and Park Commissions**
- February 2006 – Workshop #6
- March 2006 – Take the comments of Parks Commissions/City Councils and Workshops #5 and #6 to CCAG.
- March-April 2006 – Preparation of ballot language by subcommittee
- May, June and July 2006 – Opportunity to take positions on ballot measure
- August 8, 2006 – County Board of Supervisors places measure on ballot
- November 7, 2006 – Election

Items that still need to be addressed

While most key elements of a parks and recreation funding structure have been sketched out, additional input is required for some decisions. In particular, additional information on a proposed sunset date is required.

Sunset and Process for Renewal

The duration of the tax and the renewal process has not been determined.

Many have suggested 25 or 30 years while others have suggested 15 years. The use of these funds to pay bond debt by cities with major capital or acquisition needs is one consideration for length.

It was decided that a report be provided to the public every two years for both accountability and to build support for renewal. This would be included in the Governance Responsibilities services covered by that administrative fee. A citizen oversight committee should also be considered.

Next Steps

Preparation of Ballot Measure Language

A subcommittee with a City Attorney, County Counsel and a representative of Trust for Public Land will prepare the language. Interim drafts will be distributed to City Managers.

Public Education

A general public information campaign highlighting the benefit of parks for our health and our communities will occur in spring 2006.

Political Campaign

A community based campaign committee will be formed to champion the ballot measure. As part of their effort, they will conduct additional polls and focus groups, prepare campaign literature and engage in a grassroots effort to pass the measure.

**Base year distribution assuming sales tax at 2002 level
and with administrative costs deducted**

	<i>Base Amount</i>
County	\$6,497,307
Special Districts	\$755,501
Atherton	\$205,000
Belmont	\$268,272
Brisbane	\$205,000
Burlingame	\$300,681
Colma	\$205,000
Daly City	\$1,106,502
East Palo Alto	\$315,076
Foster City	\$307,569
Half Moon Bay	\$205,000
Hillsborough	\$205,000
Menlo Park	\$328,733
Millbrae	\$221,234
Pacifica	\$409,942
Portola Valley	\$205,000
Redwood City	\$805,169
San Bruno	\$428,896
San Carlos	\$295,983
San Mateo	\$987,556
South San Francisco	\$646,596
Woodside	\$205,000
Total	\$15,110,017



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

January 18, 2006

6:00 P.M.

Meeting Room
Town Administrative Offices

91 Ashfield Road
Atherton, California

Special Meeting

The meeting was called to order at 6:07 p.m.

ROLL CALL

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

PUBLIC COMMENTS

There were no public comments.

CLOSED SESSION

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

2 potential case

B. CONFERENCE WITH LABOR NEGOTIATOR – Labor negotiations pursuant to Government Code Section 54957.6

Agency Negotiators: James H. Robinson, City Manager; Craig Jory, Jory HR

Employee Organization: Atherton Police Officers Association (APOA)

RECONVENE TO OPEN SESSION

Report of action taken.

City Attorney Marc Hynes reported during open session that direction was given to the City Attorney regarding Item A, Anticipated Litigation, 2 potential cases. Additionally, directions were given to the Agency Negotiators, Jim Robinson and Craig Jory, regarding Item B, Conference with Labor Negotiators.

ADJOURN

ADJOURN

The Special Meeting adjourned at 6:40 p.m.

Respectfully submitted,

**Charles E. Marsala
Mayor**

Minutes Prepared by:

Kathi Hamilton



DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON
CHANNEL DRAINAGE DISTRICT
January 18, 2006
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

Mayor Marsala called the meeting to order at 7:04 p.m.

1. **PLEDGE OF ALLEGIANCE**

ROLL CALL

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

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

Mayor Marsala spoke regarding former Mayor and Council Member Bill Conwell, who was well-known, loved, and respected throughout the County. Members of the County Board of Supervisors, Congresswoman Anna Eshoo, and the State all issued proclamations in his memory. His sons, Paul and John, accepted the proclamations.

3. **PRESENTATION**

Mayor Marsala switched the order of the presentations.

- B. **Jim Granucci – County Crime Lab – Award of Certificate to Officer Anthony Kockler – AFIS Hit**

From the San Mateo County Crime Lab, Retired San Carlos Chief of Police Jim Granucci recognized Officer Anthony Kockler for his excellent work in evidence collection to solve a residential burglary.

- A. **Stacey Wagner – BFI/Allied – Collection Day Changes Presentation**

Stacey Wagner, Community Relations Manager, BFI/Allied, explained the new collection day route changes for garbage/recyclables pickup. Changes would provide better customer service.

Jim Dobbie, Atherton, stated he did not believe the changes were really about customer service but rather to accommodate BFI.

City Manager Jim Robinson said he received many complaints regarding missed pickups. The change would enable having trucks in the area on any given day and would facilitate any missed pickups.

Virginia Ruggeiro, Atherton, raised a concern regarding Monday pickups.

4. COUNCIL REPORTS

- **Vice Mayor Carlson spoke regarding Council Member Conwell, noting that he continued his service to the Town while ill and dedicated the last days of his life to the community.**
- **Council Member Janz said the design to convert the Atherton train station to a “non-hold-out” station would be finished by the end of January. A request to the Joint Powers Board to begin the work would be made the beginning of February. An Association of Bay Area Governments (ABAG) meeting was scheduled for the next evening, which he was unable to attend. He attended the City/County Association of Governments meeting last week as the alternate. Bill Conwell had represented the Town as the primary representative and was very well thought of by people all over the Peninsula.**
- **Council Member McKeithen said she was on the Council because of Bill Conwell. She would miss his cowboy boots, his expressions, and hoped to fulfill his dreams for her accomplishments in his stead. The Transportation Committee met the previous day and the following five items were discussed: 1) The Lindenwood Homes Association requested a “hold” on the Acorn and Greenoaks intersection until enough funds were available, and staff was asked to pursue a bare-bones plan in the meantime. 2) The lighted crosswalk on Alejandra had not yet gone into place and staff would follow up. 3) A request from Menlo Park to install two signs on Almendral indicating a fire station was approved. 4) Installation of “Permit Only” signs in Victoria Manor was in progress. 5) The crosswalks and other traffic calming devices project on Watkins Avenue were almost completed. New items discussed included: 1) installation of a “School Zone” sign on Park Lane near Elena, to be added to the speed limit sign; 2) a recommendation to reduce the speed limit on Valparaiso from 35 to 30 MPH; and 3) red light violation cameras for three intersections.**
- **Mayor Marsala attended the funeral of Officer Richard May of East Palo Alto, who had family connections in Atherton. He was interviewed by CNN regarding three issues: emergency preparedness, parks funding, and Caltrain issues. He noted staff responded promptly to remove debris, etc., during the storm on December 31. Mayor Marsala called the mayor of Menlo Park to**

discuss scheduling a joint meeting regarding issues surrounding Menlo-Atherton High School, Caltrain, Valparaiso Avenue, etc. He and Council Member Janz attended the retirement dinner for Sergeant Steve Snider, who had 29 years of service. They also met with Mike Scanlon, CalTrans, to hear about plans for El Camino Real, etc. The Facilities Committee met and the Pavilion renovation would take place in March. Mayor Marsala said the Council would face many challenges in the next year and he wanted to schedule some Town meetings in the future.

5. PUBLIC COMMENTS

John Ruggeiro, Atherton, spoke regarding changing the venue for large City Council meetings.

Penny Dellaporta, Mandarin Way, spoke regarding new larger homes being built that caused drainage issues on her street and expressed concern regarding the large quantity of dirt being brought in on one site.

Mayor Marsala said he toured the area and took photographs.

Council Member McKeithen said a meeting would take place with the neighbors next week. When the framing was finished, a surveyor would verify that the structure was not more than 30 feet above the natural grade.

John Frenster, Stockbridge Avenue, spoke regarding increasing drainage problems in the channel. He urged the Atherton Channel Drainage Committee to schedule a meeting.

Council Member McKeithen said the property would be cleaned within the next week or so.

Jerry Carlson, Atherton, spoke on behalf of the ACIL and expressed sorrow at the passing of Bill Conwell who was a longtime supporter. The ACIL annual meeting was scheduled for Thursday, May 18, at the Holbrook-Palmer Park Pavilion. If the Council chose to hold a special election to fill the Council vacancy, the ACIL could host a candidates' forum. The ACIL was concerned about the elderly residents during an emergency/disaster and potential problems with looting. Additionally, he reported the construction pipe had not yet been picked up on Selby Lane, and a large pile of sand was still in front of Selby Lane School.

Stuart Awbrey, Atherton, read an email she sent to the Peninsula Corridor Joint Powers Board regarding a southbound train spewing noxious fumes into the Holbrook-Palmer Park and surrounding homes.

Jean Schaaf, Atherton, added to the plaudits for Bill Conwell and expressed appreciation for his help with the Arts Committee.

Donna Hopkins, Fair Oaks Lane, reported a drainage problem at the end of her cul-de-sac.

6. **STAFF REPORTS**

- City Manager Jim Robinson reminded the audience that the Emergency Preparedness meeting was scheduled for 9 a.m. to noon on Saturday, January 21. The purpose was to inform Council and the public what residents could do before, during, and after an emergency. Sergeant Eric Grimm, Atherton Police Department, would conduct the training. Additionally, a meeting was scheduled for 12:30 p.m. in the Council Chambers to interview candidates for the Council vacancy. The historic artifacts group met and an ordinance workshop would be held on Tuesday, February 21, at 6:00 p.m. in the Council Chambers. The *Athertonian* was mailed to residents the previous day.
- City Attorney Marc Hynes reported out of the Closed Session as follows:

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

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

2 potential case

Direction was given to the City Attorney.

B. **CONFERENCE WITH LABOR NEGOTIATOR – Labor negotiations pursuant to Government Code Section 54957.6**

Agency Negotiators: James H. Robinson, City Manager; Craig Jory, Jory HR

Employee Organization: Atherton Police Officers Association (APOA)

Directions were given to the Agency Negotiators, James H. Robinson and Craig Jory.

7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT**

None

CONSENT CALENDAR (Items 8 - 13)

Council Member McKeithen requested that Item No. 11 be removed for the purposes of discussion.

Council Member Janz requested a minor change to the Special Meeting Minutes of December 14, 2005.

MOTION - to approve the Consent Calendar as presented with the exception of Item No. 11, which was removed from the Consent Calendar and placed at the end of the Regular Agenda for discussion and Item No. 8 as corrected.

M/S McKeithen/Janz

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

- 8. APPROVED MINUTES OF THE SPECIAL CLOSED SESSION AND SPECIAL MEETING OF DECEMBER 14, 2005**
- 9. APPROVED BILLS AND CLAIMS FOR DECEMBER 2005 IN THE AMOUNT OF \$ 880,447**
- 10. ACCEPTED MONTHLY FINANCIAL REPORT FOR DECEMBER 2005**
- ~~11. RENEWAL OF AGREEMENT WITH LIEBERT, CASSIDY, WHITMORE FOR LABOR RELATIONS LEGAL SERVICES~~**

~~Recommendation: Approve the agreement with Liebert, Cassidy, Whitmore, A Professional Law Corporation, for legal services and authorize the Mayor to sign the agreement (Removed and placed at the end of the Regular Agenda for discussion.)~~

- 12. TOWN OF ATHERTON FRAUD POLICY**

Approved the Town of Atherton Fraud Policy as modified pursuant to Council direction on December 14, 2005.

- 13. ADOPTION OF MEMORANDUM OF UNDERSTANDING BETWEEN THE FREIGHT CHECKERS, CLERICAL EMPLOYEES AND HELPERS, LOCAL UNION NO. 856 (TEAMSTERS REPRESENTING MISCELLANEOUS TOWN EMPLOYEES) AND THE TOWN OF ATHERTON FOR THE PERIOD OF JULY 1, 2005 THROUGH JUNE 30, 2008**

Adopted the attached Memorandum of Understanding between the Town of Atherton and the Teamsters Local No. 856, for the period of July 1, 2005 through June 30, 2008, and authorize the Mayor to execute the agreement on behalf of the Town.

PUBLIC HEARINGS NONE

REGULAR AGENDA (Items 14 - 19)

Mayor Marsala moved Item No. 15 forward to be heard before Item No. 14.

15. CONSIDERATION OF A PROPOSED AGREEMENT BETWEEN THE TOWN OF ATHERTON AND LAW AND ASSOCIATES TO DEVELOP A SENIOR HOUSING PROJECT WITHIN THE TOWN OF ATHERTON'S OFFICE FACILITIES SITE

Recommendation: Consider attached agreement related to possible senior housing project between Linda and James Law of Law & Associates and the Town of Atherton. (91 Ashfield Road)

Mayor Marsala said due to a family emergency, the Laws were not present.

A discussion ensued on whether Council should proceed with the item or continue it to the next meeting when the Laws could be present. A majority of the Council decided to hear the item that evening.

City Attorney Marc Hynes presented the staff report. At the November 16, 2005, City Council meeting, Linda and James Law proposed to fund a facilities assessment study to determine whether the Town had excess land and, if so, determine whether senior housing was an appropriate use for that site. The City Manager and City Attorney met with the Laws and their attorney and discussed a form of agreement that was before the Council. The Town would not be committing itself to any course of action, and approval did not constitute approval of the project or a disposition of property for sale or ground lease. The Town would choose a consultant who would undertake a long-range needs assessment and facilities study, as well as alternative land planning scenarios, the cost of which would be paid by the Laws not to exceed \$25,000. The Laws also agreed to pay for any attorney fees incurred by the Town that were considered a special projects cost. The agreement, if approved, provided that the Laws could apply to the Town for a low-to-medium-density senior housing project to be located on the Town's parking lot. If, and only if, the Town granted all necessary approvals, the Town would ground lease the lot to the Laws for a term of 75 years. The value of the lot would be determined by an appraisal, paid for by the Laws; ground rent would be paid on a monthly basis at a yet-to-be-negotiated interest rate of the appraised value of the 75-year term; a lease-back from the Laws to the Town of the amount of ground floor space as determined by the needs assessment and facilities study as required for Town use. In the event the Town approved the project, or any project on the site, but did not enter into a lease with the Laws, the Town would refund all of the costs borne by it.

Mayor Marsala said as a member of the Buildings and Facilities Committee, he recognized the need for the Town's offices to be in one building. The Police Department needed facilities to accommodate women, etc. Council needed to educate the residents on those needs. The proposal was presented as a means to generate a dialogue.

Vice Mayor Carlson acknowledged the need for a new Town facility. He was troubled by some elements in the proposed agreement, e.g., the 75- year ground lease and a finding that the community wanted and needed the project. He received/saw many letters that said residents did not want it; however, that did not alleviate the need.

When the trailers first went in, a promise was made to residents that they were temporary, not permanent. A commitment was made to residents around City Hall and he hoped that would be fulfilled in the future. He believed the proposal was not the right project.

Council Member McKeithen believed the community most affected by the project should be heard. The Laws had spoken to each council member separately and indicated that the elderly in Atherton were looking for a place to go. She had not found one older person in favor of the project. She discussed the Town's housing element and the fact that the Town had yet to be certified. The project would not help meet medium- or low-income housing. She believed the project was strictly a business proposition that would adversely affect the residents in the area. She believed the residents had spoken and the project should be voted down that evening.

The following Atherton residents spoke in opposition to the project:

Patricia Haines, Ashfield Road, Member of Central Atherton Resident Area (CARA)

Patricia Engasser, Ashfield Road, presented a petition.

Claire Ravi, Fair Oaks Lane

Grace Fernando, Maple Avenue, presented a petition.

Vice Mayor Carlson requested the petitions become an official part of the minutes. (Exhibit A)

Annette Miller, Walnut Avenue

Betsy Kehoe, Walnut Avenue, presented a petition.

John Sisson, Belleau Avenue

Lou Paponis, MacBain Avenue

Miss Kehoe, Walnut Avenue

Council Member Janz believed the proposal would go a long way to get the housing element approved. State law required that every city/town/county had to take its fair share of additional housing without taking into consideration unique characteristics such as size, retail, commercial, residential, etc. California's population increased 600,000 people every year. Atherton failed to comply with State law. Regarding Caltrain, he believed if a transit-oriented development were built next to the train station, it would be a strong argument for keeping train service to Atherton. He agreed the proposal was not the right project, but the Town must address that issue. Additionally, he believed the Laws deserved an opportunity to present their ideas.

Mayor Marsala congratulated CARA on its formation and would gladly attend its meetings.

Vice Mayor Carlson said the housing element was important. Not much land was available, and he believed public land should be reserved for public uses.

MOTION – to reject the proposed agreement between the Town of Atherton and Law and Associates to develop a senior housing project within the Town of Atherton’s office facilities site

M/S McKeithen/Carlson Ayes: 3 Noes: 1 (Janz) Absent: 0 Abstain: 0

Mayor Marsala called for a recess at 8:48 p.m. The meeting reconvened at 8:52 p.m.

14. UPDATE ON APPOINTMENT PROCESS TO FILL COUNCIL VACANCY

City Manager Jim Robinson presented the staff report. At its Special meeting of January 9, 2006, Council directed staff to solicit letters of interest/statement of qualifications to fill the unexpired term of Bill Conwell. Eleven letters of interest/statement of qualifications were received by the 5:00 p.m. deadline that day and were provided to the Council. Council needed to consider the next steps in the process and set January 21, at 12:30 p.m. for that purpose.

Vice Mayor Carlson suggested starting at 12:30 p.m., proceeding in 10-minute increments for candidates to address the Council/ask questions, and then making a decision.

After a brief discussion, Council determined that the order of candidates to be interviewed should be randomly selected and scheduled in 10-minutes intervals.

Mayor Marsala suggested a ranking system whereby each Council Member would vote for their top three candidates: first place would receive 3 points, second place 2 points, and third place 1 point. The process could narrow the field or select a winner.

Vice Mayor Carlson agreed to a process to narrow the field; however, he believed a final vote should include seeking a nomination, a second, and a vote, similar to the selection of mayor and vice mayor.

John Rugeiro, Atherton, asked for the names of the candidates and suggested Council consider a special election.

City Manager Robinson read the names into the record as follows: Jerry Carlson, Joseph Comartin, John Davey, Malcolm Dudley, Bob Jenkins, Philip Lively, Jim Massey, Richard Moore, Carol Smith, Kristi Waldron, and Benjamin Weiss.

Jean Schaaf, Atherton, agreed with the previous speaker and felt disenfranchised by the process.

Loren Gruner, Walnut Avenue, supported the 5-minute presentation/5-minute question and answer process for interviewing candidates.

Bill Awbrey, Atherton, asked whether there was an alternative to waiting until June for a special election.

City Manager Robinson explained the Council needed to either appoint someone by January 24, 2006, or call a special election to be held on a regularly scheduled election date, which could not be called less than 114 days before the election.

Council Member Janz said the Council would grapple with the issue of whether a candidate was interested in filling out the term and/or interested in running for the seat in November. Appointment seemed the best alternative under the time constraints.

John Sisson, Atherton, noted that an incumbent had a huge advantage in an upcoming election. Council should put politics aside and choose the best person for the Town.

Mayor Marsala said Council Members were accountable to the Town, there were qualified candidates from which to choose, and he was confident the Council could select the candidate that was right for the Town.

Vice Mayor Carlson said he was elected by the residents of Atherton to exercise his best judgment. His intent was to choose the most qualified candidate whether he/she ran in November or not. He would vote his conscience and what he believed was best for the community.

Virginia Ruggiero, Atherton, suggested using the Pavilion as the interview site.

Bill Awbrey, Atherton, read a paragraph from an article appearing in the *Palo Alto Daily News* suggesting preference for a candidate who did not want to run for election in November.

Mayor Marsala stated the comment was taken out of context and was referring to what had occurred in the past.

Shirley Carlson, Atherton, said having 11 residents express interest in the position was very exciting, and she did not believe there was a need for a special election.

After a brief discussion, Vice Mayor Carlson made the following motion.

MOTION – to direct staff to schedule each candidate for a 10-minute interview; direct the city manager to notify each candidate of his/her interview time, to be randomly drawn; and specified the 10 minutes be used for questions, answers, and dialogue with the candidate.

Due to time constraints, Council indicated that anyone who was unable to attend an interview would still be considered for the appointment based upon the written materials he/she submitted.

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

16. CONSIDERATION OF PARKING LIMITATIONS ALONG PARK LANE PURSUANT TO ATHERTON MUNICIPAL CODE TITLES 10 AND 15 AS REFERRED BY THE GENERAL PLAN COMMITTEE

Recommendation: Provide direction to staff.

Deputy Town Planner Lisa Costa Sanders presented the staff report. At the January 11, 2006, General Plan Committee meeting, the issue of construction parking along Park Lane was referred to the Council, the unusual circumstance being there were ten active construction sites on the street. A parcel map showing the sites was included in Council's packet, along with photographs. Staff confirmed eight out of the ten sites had a Construction Operation Plan (COP). The Building Official had met at the site with each site manager to reinforce compliance with the COP, and some improvement had been made since the meeting. Staff was seeking whether Council preferred staff to pursue the strict enforcement of the COP or wanted to authorize "Resident Only" parking for the street, which could force parking problems to other unrestricted streets.

Council Member McKeithen said a large part of the problem was that the ordinance was not being enforced. Assessing whether or not parking plans worked was difficult when they had not really been enforced. She asked whether the Town was legally allowed to limit construction vehicles from parking in the public right-of-way from 8 a.m. to 5 p.m.

City Attorney Marc Hynes stated the eight properties that already had a COP, as long as they were parking in conformance with the COP, would not be affected by any further parking restriction imposed by the Town. The Town had the authority to regulate parking on its streets.

Mayor Marsala was given a suggestion of using the Mormon Church parking lot during the week and Sacred Heart School for parking during the summer as possible alternatives. He asked the City Manager to schedule a meeting with developers to brainstorm other solutions.

Council Member McKeithen said the Police Department needed to be aware of who had a plan and who did not.

Police Chief Bob Brennan conferred with the Building Department when complaints were received. The Municipal Code did not give the police authority to cite under the current circumstances. Voluntary compliance was sought from the builder and the property owner through the Building Department. In order for the police to enforce the parking under the Vehicle Code, red and white regulatory signs with "NO PARKING", 8 a.m. to 5 p.m., Monday through Friday, would need to be installed.

City Attorney Hynes noted that the penalty for not complying with the COP was a misdemeanor, subject to criminal action, which could include a fine of \$1,000 and a citation could be issued by the Building Official.

In response to Vice Mayor Carlson, Building Official Mike Hood said the eight sites were in compliance with the COP; parking on site and directly in front of the property.

City Attorney Hynes clarified that those sites with COPs in place would not be affected by a new “No Parking” regulation.

Herman Christensen, Park Lane, said the residents of Park Lane and Camino al Lago strongly supported “Resident Only” Parking, 8 a. m. to 5 p.m., Monday through Friday. Many of the 28 homes were not lived in due to renovations, etc. Only the residents who actually lived there should be allowed guest passes and perhaps be limited to three. He submitted petitions supporting the proposal.

Hugh Martin, Somerset Lane, said two additional properties were under construction, 2 Somerset Lane and 202 Camino al Lago, which had additional construction vehicles. He believed the biggest violations of the COP were flag lots with no real frontage for parking.

Tom Hutton, Santiago, was opposed to “Resident Only” parking on Park Lane because of the certain overflow parking moving to Santiago and Somerset.

Deputy Planner Costa Sanders clarified a mailed notice was sent to the residents of Park Lane. Property Owners of a construction site and their contractors were also notified.

Charles Gravelle, Park Lane, was concerned that in the case of a medical emergency, emergency vehicles could not get through in a timely manner.

Laura Foster, Prior Lane, had a home under construction on Park Lane. She believed she was in compliance with the COP, and urged Council to consider the impact of “Resident Only” parking. Construction would not last forever.

Mayor Marsala suggested a meeting with the ten property owners whose homes were under construction.

Randy Lamb, Laburnum Road, had a home under construction on Park Lane and empathized with the neighbors. He thought the Council was logical and always followed a process. He urged Council to follow the COP and pursue enforcement. He noted that during 2005, the Town received 16 calls regarding any parking which resulted in only 2 citations.

Paul Wise, Park Lane, believed the COPs were not being enforced. He discussed the issue of the “18-inches-from-the-curb” rule and the inability to enforce it since there were few curbs in Town.

Vice Mayor Carlson was unconvinced that COPs were being rigorously enforced. He suggested continuing the item to the next meeting and directing the Police Department

and Building Department staff to meet with contractors to notify them that COPs would be rigorously enforced and the problems would be alleviated. Restricting parking would just begin a movement for restricted parking from street to street.

Council Member Janz said the situation on Park Lane was not the normal situation. One out of every ten constructions sites in the Town was on Park Lane. The General Plan Committee wanted to do something specifically for Park Lane while other general problems were being reviewed. He agreed that the COPs needed to be enforced; however, if the problems were not alleviated, then “next steps” needed to be taken.

Kristy Waldron, former General Plan Committee member, said enforcement had always been the issue. She suggested a code enforcement officer might be the solution.

Council Member McKeithen said a code enforcement officer was a necessity. Meeting with the contractors to discuss what parking alternatives were was also a necessity. The Police Department should have COPs on file, more training should be given, enforcement should be made without complaints being made, and the police needed to be proactive. She requested a weekly list from the Police Department of what calls were received or where a violation occurred, what the address was, and what action was taken.

Mayor Marsala would meet with developers and contractors on Park Lane to inform them the COPs were going to be strictly enforced. Additionally, a follow-up was needed with the Mormon Church and Sacred Heart School to pursue alternative parking.

Vice Mayor Carlson said as a matter of routine, the COPs should go from the Building Department to the Police Department to the officer on the beat and become a routine part of patrol.

Police Chief Brennan said if a specific person were assigned to the area and routinely patrolled the area, he/she would be able to enforce the COPs and, in time, the problem would subside. It might be possible to utilize someone on an overtime basis.

Vice Mayor Carlson suggested that staff develop a plan that would achieve the desired results and return to Council.

City Manager Jim Robinson believed the best approach was enforcement. Meeting with the contractors was paramount because voluntary compliance was the most effective way to solve issues. When looking at a “Resident Only” Parking alternative, historically, the current Atherton locations were cul-de-sac streets. The more prudent approach was to look at the issue of enforcement, evaluate that, and return to the Council if additional resources were needed for enforcement. There was an increased level of construction in the Town, and parking restrictions would not prevent traffic in the Town.

Council Member Janz said he was in favor of authorizing a part time code enforcement officer.

Direction to staff: Police Department and Building Department staff was directed to meet with contractors to notify them that COPs would be rigorously enforced. Staff would evaluate enforcement over the next month and return to the City Council meeting of February 15, 2006, with a plan that included any additional resources to achieve the desired results.

Mayor Marsala called for a recess at 10:30 p.m. The meeting reconvened at 10:36 p.m.

17. MID-YEAR BUDGET REVIEW FISCAL YEAR 2005-2006

Recommendation: Receive and file staff's mid-year budget review report and provide appropriate direction to staff.

Finance Director John Johns presented the staff report. Staff was projecting a favorable variance in the fund balance amounting to \$736,000 and consisting of three elements: 1) an additional carryover from the previous year of \$244,000; 2) current year revenues of approximately \$400,000; and 3) a favorable variance in expenses of about \$82,000. Areas in the current year revenue variances were in secured property taxes and in motor vehicle license fee revenues. Staff had identified significant expenditures that were required to improve the infrastructure, administrative, and cultural facilities that were not yet funded. Staff would present a budget that would draw less upon the parcel tax than had been planned. An opportunity to redirect parcel tax funds from current operations to the Capital Improvement Program (CIP) was available.

Council Member McKeithen thought using the \$700,000 for the CIP was a good idea; however, the chronic drainage problems in the Town needed to be addressed first.

Discussion continued on possible uses as well as what would occur in subsequent years. At the end of FY 2010, the Town would have approximately \$2 million in excess of minimum reserve requirements. City Manager Robinson thought 20% of the operating budget was a prudent reserve and that our current budget resolution required a General Fund balance of \$3.7 million. Council needed to determine what long-term capital projects it wanted or thought most critical.

Jerry Carlson, Atherton, queried whether Proposition 13 homes "turning over" might explain the rise in property tax revenues.

Finance Director Johns said the Town realized approximately \$370,000 from the real property transfer tax last year, or about \$720 million worth of property turning over. The current year was a more "normal" year, perhaps half of last year. A discussion regarding Education Revenue Augmentation Funds (ERAF) and their effect on property tax revenues ensued.

MOTION – to accept the Mid-Year Budget Review Report. Further, to refer the item to the Finance Committee for review to determine the next steps.

M/S McKeithen/Carlson

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

18. REVIEW AND DISCUSS REQUEST FOR PROPOSALS FOR A CONSULTANT STUDY REGARDING TOWN OF ATHERTON DRAINAGE POLICY

Recommendation: Provide direction to staff regarding scope of work in RFP for Town-wide drainage study.

Building Official Mike Hood said the item was introduced at Council's December meeting. Council's comments had been incorporated into the Request for Proposals (RFP) and returned to Council for further comment.

A discussion took place regarding a drainage issue on Parker Lane and Stockbridge Avenue. The channel was not maintained by the Town. Staff needed to evaluate the problem and find a solution.

Building Official Hood said he was working with the Public Works Director regarding CIP projects in order to coordinate more specific drainage issues throughout the Town.

Council Member McKeithen asked to add a statement to the RFP requesting that if any professional responding to the RFP ascertained there was something overlooked, to please specify the task and determine the cost.

Building Official Hood said the request would be included as a final task.

Council Member Janz wanted Item 6c expanded to include the effect of the decrease in impervious surface, e.g., the rate of flow into the channel or influence on groundwater level.

MOTION – to accept the attached draft Request For Proposals For A Consultant Study Regarding Town Of Atherton Drainage Policy with the addition of a final task requesting if any professional responding to the RFP ascertained there was something overlooked, to please specify the task and determine the cost.

M/S McKeithen/Janz

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

19. APPROVAL OF MAYOR'S 2006 CITY COUNCIL COMMITTEE ASSIGNMENTS

Mayor Marsala stated when a new Council Member was chosen, some committees would be reassigned.

MOTION – to accept City Council Committee Assignments as presented

M/S Janz/McKeithen

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

11. RENEWAL OF AGREEMENT WITH LIEBERT, CASSIDY, WHITMORE FOR LABOR RELATIONS LEGAL SERVICES (Removed from the Consent Calendar)

Recommendation: Approve the agreement with Liebert, Cassidy, Whitmore, A Professional Law Corporation, for legal services and authorize the Mayor to sign the agreement

A discussion regarding the range of fees and the addition of a termination date was held.

MOTION – to approve the agreement with one change, the Term of the agreement will be effective for one year, expiring January 18, 2007.

M/S Janz/McKeithen

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

20. PUBLIC COMMENTS

There were no public comments.

21. ADJOURNMENT

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

Respectfully submitted,

**Kathi Hamilton
Acting City Clerk**



Draft Minutes
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT

January 21, 2006

12:30 P.M.

Meeting Room
TOWN COUNCIL CHAMBERS

94 Ashfield Road
Atherton, California

Special Meeting

Mayor Marsala called the meeting to order at 12:35 p.m.

ROLL CALL

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

PUBLIC COMMENTS

There were no public comments.

1. CANDIDATE INTERVIEWS TO FILL A VACANCY ON THE CITY COUNCIL

Eleven Atherton residents submitted letters of interest and a statement of qualifications to fill the unexpired term of former Mayor and Council Member Bill Conwell. One candidate withdrew before the interviews, and one candidate (Malcolm Dudley) was unable to attend the interviews. The successful candidate would serve until November 2006. Staff randomly drew the order of candidates, and candidates were notified of their interview time on Thursday, January 19, 2006. Each Council Member asked questions of the following Atherton residents:

Philip Lively, Carol Smith, John Davey, Jerry Carlson, Bob Jenkins, Richard Moore, Kristi Waldron, and Benjamin Weiss.

Mayor Marsala called a recess at 2:00 p.m. The meeting reconvened at 2:08 p.m.

Jim Massey was interviewed after the recess.

John Ruggeiro, Atherton, believed if the vote was not unanimous, the Council should consider a special election. He also suggested looking into district elections in the future.

2. CONSIDERATION AND POSSIBLE SELECTION OF A CANDIDATE TO FILL THE UNEXPIRED TERM OF FORMER MAYOR AND COUNCIL MEMBER BILL CONWELL

Acting City Clerk Kathi Hamilton presented three possible voting options as outlined in the staff report. After a brief discussion, Council chose to vote for their top four candidates, unranked, as a first step.

On the first ballot, Council Member Janz voted for Jerry Carlson, Malcolm Dudley, Philip Lively, and Richard Moore; Vice Mayor Carlson voted for Alan Carlson, Malcolm Dudley, Bob Jenkins, and Philip Lively; Mayor Marsala voted for Jerry Carlson, Philip Lively, Jim Massey, and Richard Moore; Council Member McKeithen voted for Philip Lively, Carol Smith, Jerry Carlson, and Kristi Waldron.

Philip Lively and Jerry Carlson each received four votes of the Council.

The Council decided to continue to a second ballot between Philip Lively and Jerry Carlson.

On the second ballot, Council Member Janz voted for Jerry Carlson, Vice Mayor Carlson voted for Jerry Carlson, Mayor Marsala voted for Jerry Carlson; and Council Member McKeithen voted for Philip Lively.

Jerry Carlson received three votes of the Council and was appointed on the second ballot.

Council encouraged all those who applied to consider running for election in November.

John Sisson, Atherton, commented on the day's process. He was impressed with the qualifications of all the candidates who came forward and how well informed they were.

Acting City Clerk Kathi Hamilton administered the Oath of Office to Jerry Carlson.

3. PUBLIC COMMENTS

There were no public comments.

4. **ADJOURN**

Mayor Marsala adjourned the meeting at 2:40 p.m.

Respectfully submitted,

**Kathi Hamilton
Acting City Clerk**

TOWN OF ATHERTON
CLAIMS LIST
 January 2006

Payroll Checks	7173 - 7250	\$ 32,395
Electronic Transfers		330,448
A/P Checks	20941 – 21077	358,350
TOTAL		\$ 721,193

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 7173 - 7250 (payroll) and 20941 - 21077 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$721,270; are true and correct, and that there are sufficient funds for payment.

James H. Robinson
City Manager

The above claims, check numbers 7173 - 7250 (payroll) and 20941 - 21077 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$721,270; are true and correct, and are authorized for payment.

Charles Marsala
Mayor, Town of Atherton

SOURCE OF FUNDS

101	General Fund	\$640,833
105	Tennis Fund	
201	Special Parcel Tax	65,912
202	Transportation	
203	Gas Tax Fund	
210	Road Construction Impact Fees	1,667
211	Park Grants Fund	
213	Library Special Revenue Fund	1,540
401	General Capital Projects	
402	Storm Drainage	
403	Atherton Channel District	370
406	Facilities Construction	
610	Vehicle Replacement	
611	Computer Maint. & Replacement	4,719
612	Administrative Services	6,152
715	Evans Estate	
740	Tree Committee	
TOTAL		\$721,193



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 FEBRUARY 15, 2006

SUBJECT: MONTHLY FINANCIAL REPORT, JANUARY 2006

RECOMMENDATION:

Receive the Monthly Financial Report for January 2006.

INTRODUCTION:

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

HIGHLIGHTS

General Fund expenditures for the seven months ended January 31, 2006, have amounted to \$4,592,934, or 53% of the \$8,701,010 budgeted for the fiscal year. For the seven months ended January 31, 2006, General Fund revenues amounted to \$5,233,744, or 60% of the \$8,720,458 estimated for the year.

By comparison, General Fund expenditures amounted to 52% of appropriations for the seven months ended January 31, 2005. Additionally, General Fund revenues amounted to 60% of estimated revenues for the seven months ending January 31, 2005.

FISCAL IMPACT:

None

Prepared by:

Approved by:

John P. Johns
Finance Director

James H. Robinson
City Manager

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

Fund	Revenue Source	2005-06 Estimate	Current Period Revenues	Year to Date Revenues	% Received
	Property Tax	\$ 3,651,651	651,554	2,365,196	65%
	Sales and Use Tax	126,000	12,033	100,327	80%
	Other Taxes	830,760	3,857	573,908	69%
	Licenses & Permits	1,839,879	76,465	1,029,471	56%
	Fines & Forfeitures	35,000	5,020	30,834	88%
	Revenue from Other Agencies	303,166	2,990	128,888	43%
	Charges for Services	336,208	16,524	208,181	62%
	Investment & Rental Income	291,633	5,312	129,626	44%
	Other Revenues	5,000	9,227	15,313	306%
	Total General Fund Revenues	7,419,297	782,982	4,581,744	62%
	Interfund (Operating) Transfers In	1,301,161	652,000	652,000	50%
101	General Fund Total	8,720,458	1,434,982	5,233,744	60%
	Special Revenue Funds:				
105	Tennis	7,000	-	300	4%
201	Special Parcel Tax	1,858,000	189,413	1,118,698	60%
202	Transportation	180,000	17,970	132,789	74%
203	Street Improvement (Gas Tax)	172,376	17,865	91,616	53%
209	Law Enforcement	100,000	-	100,551	101%
210	Road Construction Impact Fees	1,158,328	31,495	589,958	51%
211	State Park Grants Fund	197,399	-	-	0%
213	Library	200,000	-	84,723	42%
	Total	3,873,103	256,743	2,118,635	55%
	Capital Project Funds:				
401	Capital Improvement	-	-	-	
402	Storm Drainage	-	-	-	
403	Channel Drainage District	50,665	7,801	33,127	65%
406	Facilities Construction	-	-	-	
	Total	50,665	7,801	33,127	65%
	Internal Service Funds:				
610	Vehicle Replacement	97,980	-	48,990	
611	Information Technology	101,621	-	52,280	51%
612	Administrative Services	294,389	-	151,478	51%
614	Workers Compensation Insurance	-	-	-	
	Total	493,990	-	252,748	51%
	Trust and Agency Funds:				
715	Evans Creative Design	13,200	500	1,425	11%
740	Tree Committee	-	95	7,336	
	Total	13,200	595	8,761	66%
	Total Revenues	13,151,416	1,700,121	7,647,015	58%

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

Fund	Description Department	2005-06 Budget	Current Period Expenditures	Year to Date Expenditures	% Spent
101	General Fund				
	11 City Council	\$ 20,535	\$ 173	\$ 7,084	34%
	12 City Manager	475,598	23,587	249,942	53%
	16 City Attorney	180,255	11,413	79,255	44%
	18 Finance	460,667	32,475	238,527	52%
	25 Building	1,042,371	66,125	551,207	53%
	40 Police	4,521,000	305,506	2,430,445	54%
	50 Public Works	1,900,584	152,594	1,036,474	55%
	Contingency	100,000	-	-	0%
	Total General Fund Expenditures	<u>8,701,010</u>	<u>591,873</u>	<u>4,592,934</u>	<u>53%</u>
	Interfund (Operating) Transfers Out	-	-	-	0%
101	General Fund Total	<u>\$ 8,701,010</u>	<u>\$ 591,873</u>	<u>\$ 4,592,934</u>	<u>53%</u>
Special Revenue Funds:					
105	Tennis	25,011	60	9,519	
201	Special Parcel Tax	1,832,077	65,912	1,440,515	79%
202	Transportation	323,420	-	28,400	9%
203	Street Improvement (Gas Tax)	150,000	-	73,107	49%
209	Law Enforcement	100,000	14,365	36,113	36%
210	Road Impact Fees	1,598,671	1,667	423,510	26%
211	State Park Grants	196,736	-	10,350	5%
213	Library Fund	71,045	1,540	18,147	26%
	Total	<u>4,296,960</u>	<u>83,544</u>	<u>2,039,661</u>	<u>47%</u>
Capital Project Funds:					
401	Capital Improvement	282,896	-	-	0%
402	Storm Drainage	21,394	-	2,563	12%
403	Channel Drainage District	425,300	370	396,337	93%
	Total	<u>729,590</u>	<u>370</u>	<u>398,900</u>	<u>55%</u>
Internal Service Funds:					
610	Vehicle Replacement	76,000	-	81,543	107%
611	Information Technology	112,622	4,719	54,374	48%
612	Administrative Services	317,139	14,789	211,835	67%
614	Workers Compensation Insurance	-	-	-	
	Total	<u>505,761</u>	<u>19,508</u>	<u>347,752</u>	<u>69%</u>
Trust and Agency Funds:					
715	Evans Creative Design	11,200	-	945	8%
740	Tree Committee	-	-	2,193	
	Total	<u>11,200</u>	<u>-</u>	<u>3,138</u>	<u>28%</u>
	Total Expenditures	<u>14,244,521</u>	<u>695,295</u>	<u>7,382,385</u>	<u>52%</u>

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

Fund	Description	Beginning Fund Balance July 1, 2005	Revenues to Date	Transfers to Date	Expenditures To Date	Ending Fund Balance to Date
101	General Fund	7,582,785	4,581,744	652,000	4,592,934	8,223,595
	Special Revenue Funds:					
105	Tennis	21,841	300		9,519	12,622
201	Special Municipal Tax	1,112,743	1,118,698		1,440,515	790,926
202	Transportation	330,685	132,789		28,400	435,074
203	Street Improvement (Gas Tax)	34,413	91,616		73,107	52,922
209	Law Enforcement	13,758	100,551		36,113	78,196
210	Road Construction Impact Fees	832,049	589,958		423,510	998,497
211	State Park Grants	38,688	-		10,350	28,338
213	Library Special Revenue Fund	1,415,042	84,723		18,147	1,481,618
	Sub Total	<u>3,799,219</u>	<u>2,118,635</u>	<u>-</u>	<u>2,039,661</u>	<u>3,878,193</u>
	Capital Projects Funds:					
401	Capital Improvement	253,970	-		-	253,970
402	Storm Drainage	45,262	-		2,563	42,699
403	Channel Drainage District	439,931	33,127		396,337	76,721
406	Facilities Construction	65,382	-		-	65,382
	Sub Total	<u>804,545</u>	<u>33,127</u>	<u>-</u>	<u>398,900</u>	<u>438,772</u>
	Internal Service Fund					
610	Vehicle Replacement	412,904	48,990		81,543	380,351
611	Information Technology	133,100	52,280		54,374	131,006
612	Administrative Services	140,976	151,478		211,835	80,619
614	Workers Compensation Insurance	10,871	-		-	10,871
	Sub Total	<u>697,851</u>	<u>252,748</u>	<u>-</u>	<u>347,752</u>	<u>602,847</u>
	Trust and Agency Funds					
715	Evans Creative Design	113,488	1,425		945	113,968
740	Tree Committee	1,949	95		-	2,044
	Sub Total	<u>115,437</u>	<u>1,520</u>	<u>-</u>	<u>945</u>	<u>116,012</u>
	Grand Total	<u>\$ 12,999,837</u>	<u>\$ 6,987,774</u>	<u>\$ 652,000</u>	<u>\$ 7,380,192</u>	<u>\$ 13,259,419</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 FEBRUARY 15, 2006

**SUBJECT: QUARTERLY INVESTMENT REPORT, FOR THE QUARTER ENDED
DECEMBER 31, 2005**

RECOMMENDATION:

Note, receipt and file.

INTRODUCTION:

This is the quarterly status report of the Town's investments in the Local Agency Investment Fund (LAIF) and the San Mateo County Investment Pool (SMCIP) for the quarter ending December 31, 2005.

DISCUSSION

As of December 31, 2005, the Town had a total investment of **\$13,700,257**. The total interest earning for the quarter ending December 31, 2005, amounted to **\$109,186**. The funds are invested in the San Mateo County Investment Pool (SMCIP) and the Local Agency Investment Fund (LAIF).

During the fourth quarter of FY 2004-05, interest earnings on funds invested with LAIF amounted to an annual rate of 3.63 percent of the average daily cash balance of funds invested. This compares to an annual interest earnings of 3.36 percent of the average daily cash balance of funds invested with San Mateo County Investment Pool.

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

Investment at SMCIP: San Mateo County Investment Pool is created and managed by the County Treasurer. As of December 31, 2005, the County's investment pool carried investments with a total value at cost of \$2.3 billion and an average duration of 1.2 years. The Town's investment with the San Mateo County Investment Pool as of December 31st amounted to \$10,133,861, or 74 percent of the Town's total investment holdings.

Attachment 1 to this staff report provides a summary of the investment earnings and investment holdings for the San Mateo County Investment Pool as of December 31, 2005.

Investment in LAIF: Local Agency Investment Fund (LAIF) is created and managed by the California State Treasurer as part of the Treasurer's Pooled Money Investment Account (PMIA). According to the State Treasurer, 2,733 local government agencies and special districts participate in LAIF with total investments amounting to approximately \$18.3 billion, or roughly 34 percent of the \$54.8 billion that the State Treasurer manages in the PMIA. (Since LAIF investments are combined with PMIA, the Treasurer does not report the results for LAIF separately.)

The Town's investment with LAIF as of June 30, 2005, amounted to \$3,566,396, or 26 percent of the Town's total investment holdings.

The average duration to maturity of PMIA as of November 30, 2005, (the most recent date available of the pooled money investment report is available) was 204 days. Attachment 2 to this report provides a summary of investment holdings for the PMIA as of November 30, 2005.

FISCAL IMPACT:

Informational only.

Prepared by:

Approved by:

John P. Johns
Finance Director

James H. Robinson
City Manager

ATTACHMENTS:

1. Quarterly investment summary, San Mateo County Investment Pool
2. State of California Treasurer, Pooled Money Investment Account Portfolio Analysis

Attachment 1

COUNTY OF SAN MATEO
ESTIMATED SUMMARY OF POOL EARNINGS
DECEMBER 2005

	<u>12/31/05 Par Value</u>	<u>Gross Earnings</u>						
<u>Fixed Income Investments</u>								
U S Treasury Notes	\$400,000,000	\$935,472						
Corporate Notes	\$197,000,000	\$576,117						
Asset Backed Securities	\$11,000,000	\$21,211						
Federal Agencies	\$340,000,000	\$944,371						
Floating Rate Securities	\$182,380,000	\$509,600						
<u>Short Term Investments</u>								
Corporate Notes	\$87,000,000	\$259,620						
Floating Rate Securities	\$109,000,000	\$241,757						
Federal Agencies	\$325,000,000	\$860,438						
Commercial Paper	\$586,750,000	\$347,901						
Certificate of Deposit	\$35,000,000	\$129,563						
LAIF	\$37,000,000	\$125,699						
SUBTOTAL - ACCRUED INCOME	\$2,310,130,000	\$4,951,748						
<u>Realized Gain/Loss & Interest Received</u>								
Repurchase Agreements		\$292,101						
U S Treasury Notes		\$81,924						
Corporate Notes		\$26,284						
Floating Rate Securities		\$290,444						
Asset Backed Securities		\$17,987						
Federal Agencies		\$110,496						
Commercial Paper		\$1,091,205						
Securities Lending Income		\$66,776						
GROSS POOL RATE/EARNINGS*	3.65%	\$6,928,965						
<table><tbody><tr><td>POOL 1 NET EARNINGS RATE*</td><td style="text-align: right;">3.42%</td></tr><tr><td>POOL 2 NET EARNINGS RATE*</td><td style="text-align: right;">3.48%</td></tr><tr><td>POOL 3 NET EARNINGS RATE*</td><td style="text-align: right;">3.52%</td></tr></tbody></table>			POOL 1 NET EARNINGS RATE*	3.42%	POOL 2 NET EARNINGS RATE*	3.48%	POOL 3 NET EARNINGS RATE*	3.52%
POOL 1 NET EARNINGS RATE*	3.42%							
POOL 2 NET EARNINGS RATE*	3.48%							
POOL 3 NET EARNINGS RATE*	3.52%							

* - Earnings %'s are based on DECEMBER 2005 Average Daily Balance
Pool 1 & 2 rates include banking charges

Attachment 2

PHIL ANGELIDES
TREASURER
STATE OF CALIFORNIA

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

TYPE OF SECURITY	November 30, 2005		
	AMOUNT	PERCENT OF PORTFOLIO	DIFFERENCE IN PERCENT OF PORTFOLIO FROM PRIOR MONTH
Government			
Bills	\$ 1,084,383	1.98	-0.10
Bonds	0	0.00	0.00
Notes	2,423,232	4.42	-1.78
Strips	0	0.00	0.00
Total Government	\$ 3,507,615	6.40	-1.88
Federal Agency Coupons	\$ 8,630,674	15.74	+0.22
Certificates of Deposit	11,230,123	20.49	+0.10
Bank Notes	1,249,994	2.28	-0.31
Bankers' Acceptances	0	0.00	0.00
Repurchases	0	0.00	0.00
Federal Agency Discount Notes	5,728,659	10.45	+0.56
Time Deposits	7,578,995	13.82	-0.64
GNMAs	262	0.00	0.00
Commercial Paper	7,789,203	14.21	+2.15
FHLMC/Remics	782,344	1.43	+0.55
Corporate Bonds	965,953	1.76	-0.24
AB 55 Loans	7,354,096	13.42	+2.55
GF Loans	0	0.00	-3.44
Reversed Repurchases	0	0.00	-0.38
Total (All Types)	\$ 54,817,918	100.00	

INVESTMENT ACTIVITY

	NOVEMBER 2005		OCTOBER 2005	
	NUMBER	AMOUNT	NUMBER	AMOUNT
Pooled Money	499	\$ 23,634,276	546	\$ 26,231,481
Other	52	1,014,743	80	652,591
Time Deposits	143	3,478,300	155	4,264,190
Totals	694	\$ 28,127,319	781	\$ 31,148,262
PMIA Monthly Average Effective Yield	3.636		3.458	
Year to Date Yield Last Day of Month	3.330		3.255	



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 CITY COUNCIL MEETING OF FEBRUARY 15, 2006

**SUBJECT: ADDITIONAL SERVICE CREDIT PURCHASE PAYROLL
DEDUCTIONS**

RECOMMENDATION:

Approve the attached resolution to enable Atherton employees to make installment payments for additional service retirement (ARS) purchases from CALPERS on a pre-tax basis.

DISCUSSION:

In 2003, Governor Davis signed into law Assembly Bill 719 which permitted certain employees of state and local government to purchase as many as five years of additional service retirement credit from the California Public Employees Retirement system.

Originally referred to as "air-time legislation," AB 719 included the following provisions:

- The additional service credit purchase was limited to current employees of CALPERS covered employers with at least five years of full-time qualifying service with a CALPERS contracting agency.
- Eligibility for service credit purchase is not contingent upon the approval of the employer's governing body or a contract amendment with CALPERS.
- An eligible employee may purchase from one to five years of service credit purchase.

- An election to purchase additional service credit can be made only once and is irrevocable.
- The benefit must be implemented in a way that is cost-neutral to the employer (i.e., the employee must bear the full-cost of the expected value of the additional retirement benefits acquired through the purchase of additional service credit).

At present, CALPERS offers eligible employees the option of purchasing additional service credit on a lump-sum or installment basis. Should an employee choose to purchase such service credit on the installment basis, CALPERS will accept such payments on a pre-tax or an after-tax basis. However, to accept payment on a pre-tax basis, CALPERS requires a resolution from the governing body of the agency for which the employee is working approving the pre-tax treatment of such deductions.

Staff recommends that the City Council approve a resolution authorizing installment payments to be deducted on a pre-tax basis for service credit purchases for the following reasons:

- As required by State law, CALPERS has implemented the additional service credit purchase program in a manner so as to ensure that the purchase of such credit is cost-neutral to the employer irrespective of whether an employee purchases service credit on a lump sum, a pre-tax installment, or an after-tax installment basis. (CALPERS accomplished this by charging installment plan participants six percent per annum on the outstanding balance due on service credit purchases).
- The IRS has yet to issue a formal ruling on whether an employee's IRS Section 457 plan assets can be used to purchase additional service credit. Consequently purchasing service credit on a pre-tax installment basis is currently the only means by which state or municipal employees can avoid having to pay taxes on both the income used to acquire retirement plan assets and the retirement income itself.

FISCAL IMPACT:

None

Prepared by:

Approved by:

John P. Johns
Finance Director

James H. Robinson
City Manager

Attachment: Resolution

RESOLUTION 05-__

AN EMPLOYER PICKUP RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON AUTHORIZING PRE-TAX PAYROLL DEDUCTION PLAN FOR SERVICE CREDIT PURCHASES (CONTRIBUTION CODE 14)

WHEREAS, the Board of Administration of the California Public Employees' Retirement System (CalPERS), at the April 1996 meeting, approved a pre-tax payroll deduction plan for service credit purchases under Internal Revenue Code (IRC) section 414(h)(2); and

WHEREAS, the Town of Atherton has the authority to implement the provisions of IRC section 414(h)(2) and has determined that even though implementation is not required by law, the tax benefit offered by this section should be provided to those employees who are members of CalPERS; and

WHEREAS, the Town of Atherton elects to participate in the pre-tax payroll deduction plan for all employees in the following CalPERS coverage group(s):

Miscellaneous Employees

Public Safety Employees

* * * * *

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

I. That the Town of Atherton will implement the provisions of IRC section 414(h)(2) by making employee contributions for service credit purchases pursuant to the California State Government Code on behalf of its employees who are members of CalPERS and who have made a binding irrevocable election to participate in the pre-tax payroll deduction plan. "Employee contributions" shall mean those contributions reported to CalPERS which are deducted from the salary of employees and are credited to individual employee accounts for service credit purchases, thereby resulting in tax deferral of employee contributions.

II. That the contributions made by the Town of Atherton to CalPERS, although designated as employee contributions, are being paid by the Town of Atherton in lieu of contributions by the employees who are members of CalPERS.

III. That the employees shall not have the option of choosing to receive the contributed amounts directly instead of having them paid by the Town of Atherton to CalPERS.

IV. That the Town of Atherton shall pay to CalPERS the contributions designated as employee contributions from the same source of funds as used in paying salary, thereby resulting in tax deferral of employee contributions.

V. That the effective date for commencement of the pre-tax payroll deduction plan cannot be any earlier than July 1, 1996, or the date the completed resolution is received and approved in CalPERS, whichever is later.

VI. That the governing body of the Town of Atherton shall participate in and adhere to requirements and restrictions of the pre-tax payroll deduction plan by reporting pre-tax payroll deductions when authorized by CalPERS for those employees of the above stated Coverage Group(s) who have elected to participate in this plan.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on this 15th day of February, 2006, by the following vote:

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

ATTEST:

Charles Marsala, MAYOR
TOWN OF ATHERTON
91 Ashfield Road
Atherton, CA 94027

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

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

* * * * *

FOR CALPERS USE ONLY	
Pre-tax Payroll Deduction Plan Effective Date:	
Approved by:	Title:
MEMBER SERVICES DIVISION, Service Credit Section – Unit 830	



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: CHIEF ROBERT J. BRENNAN

DATE: FOR THE MEETING OF FEBRUARY 15, 2006

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

RECOMMENDATION:

This is an informational Staff Report that does not require action by the City Council.

INTRODUCTION:

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

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

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

ANALYSIS:

See the letter of response to the Grand Jury request.

FISCAL IMPACT:

Although the actual date is in question, the Town of Atherton will eventually have to migrate to a digital format. Like all new technology, the costs in the beginning are very high. As costs for

Research and Development are recovered, fees will come down dramatically. As stated in the response to the Grand Jury request, if the conversion were done today, Atherton could be looking at a \$700,000 cost for an upgrade to the digital technology. We will continue to look at Federal grant funding which looks like a probable source for many jurisdictions as the nation goes digital.

Prepared by:

Approved by:

Robert J. Brennan
Chief of Police

James H. Robinson
City Manager

Attachments

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



2005-2006 Grand Jury

COUNTY OF SAN MATEO

Hall of Justice

400 County Center

Redwood City, CA 94063-1655

(650) 599-1711; Fax (650) 363-7698

RECEIVED
TOWN OF ATHERTON

JAN 30 A 11: 03

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

January 25, 2006

Dear Mr. Robinson:

The San Mateo County Civil Grand Jury has learned that the four mutual aid radio channels used by County law enforcement agencies utilize analog radio technology and that the FCC has adopted rules⁽¹⁾ which effectively require radio users to adopt digital technology in the next few years.

Consequently, the Jury is writing to the Town of Atherton and to all other Cities in the County to determine:

1. the Cities' plans to for upgrading their analog radios with digital radios which are compatible with the County digital microwave radio system, and
2. the schedule for the purchase and implementation of this equipment.

The Grand Jury requests that the Town of Atherton respond in writing to this inquiry by February 10, 2006. This response should be directed to:

Mas Chikasuye
San Mateo County Superior Court
400 County Center
Redwood City, CA 94063

Thank you for your cooperation.

A handwritten signature in black ink, appearing to read "B. Thomas", with a long, sweeping underline.

B. Thomas, Chairman
Law Enforcement Committee
San Mateo County Civil Grand Jury

(1) The FCC rules state that:

- a. In 2008 the production of analog radio equipment and repair parts will cease.
- b. In 2011 modifications to existing wideband licenses and issuance of new wideband licenses will cease.
- c. In 2013 all radio users must adopt narrowband radio equipment. Analog radios used on narrowband frequencies will suffer reduced coverage and fidelity.

February 7, 2006

Mas Chikasuye
San Mateo County Superior Court
400 County Center
Redwood City, CA 94063

Dear Ms. Chikasuye:

Please accept this letter in response to the Civil Grand Jury's inquiry dated January 25, 2006 regarding the replacement of analog police radios with digital equipment.

Upon receiving the letter on Monday, January 30th, I have been asked to respond on behalf of the Atherton City Manager's Office and the City Council. The Town of Atherton is aware of the issues regarding both technologies, and appreciates the efforts of the Grand Jury in this regard.

I have been in contact with Hillsborough Police Chief Matt O'Connor who is the Chair of the San Mateo Police Chief's Association Technology Committee. He has reviewed the Federal Communications Commission mandate released on December 23, 2004 regarding narrow band requirements. We are in agreement with his assessment that the ruling can be summarized as follows:

- FCC establishes January 1, 2013 deadline for migration to 12.5 KHz technology.
- Applications for wideband operations (25 KHz channels) will be accepted until January 1, 2011.
- Application for modification of operations that expand the authorized contour of an existing station using 25 KHz channels will be accepted until January 1, 2011. (Also applies to "new" systems submitted for licensing.)

- Manufacture and importation of any equipment on 25 KHz channels will be permitted until January 1, 2011.

Please note that there is no mention of any requirement in the FCC mandate to convert to digital technology. We find no evidence to indicate that production of analog radio equipment or replacement parts will end in 2008.

Along with Chief O'Connor, I have consulted with the same Telecommunications Engineers that provide service to not only Hillsborough and Atherton, but most of the police agencies within San Mateo County. We learned that narrow band analog operation will provide reliable radio communication for law enforcement.

We have recently upgraded our entire Communications center, replaced our enhanced 911 telecommunications systems, and replaced radio system voters as recommended by our engineers and service providers. Due to the unusually challenging terrain that the Town presents, we discovered that analog equipment is best suited for our radio coverage needs.

Major considerations which steered our decision to stay with analog equipment were officer safety and topographical practicality. We have also considered the cost of the conversion to the new technology.

The cost estimate for the Town of Atherton to complete the conversion is in the area of \$700,000 with continued monthly maintenance fees in the thousands. We have continued to monitor the implementation of the County and Redwood City's digital system and have learned the difficulty that this new technology can pose.

We did consider digital radio technology and have determined that it did not offer the dependable, widespread coverage that our conventional analog radio system provides. Digital systems certainly have their strong points for certain cities, but would pose numerous idiosyncrasies in others that many experts in the field believe fall short of the performance of analog narrow band technology. As mentioned, digital radio equipment costs between three and five times more than equal quality analog equipment.

We are paying close attention to the direction the Federal Government is headed with setting priorities in the area of communications. We have already seen a change in the Homeland Defense strategies that have prioritized reliable communications technologies for first responders. The working groups and

decision groups that monitor and recommend projects for the federal grant funding that is labeled for San Mateo County are considering these new technologies and how these applications can be a benefit to all of San Mateo County, Police, Fire and Health agencies.

You can be assured that the Town of Atherton and San Mateo County Police Chiefs and Sheriff's Association will continue to monitor the requirements that may be put forth by the Federal Communication Commission or any other federal agency that has jurisdiction in this matter.

Sincerely,

Robert J. Brennan, Chief of Police
Atherton Police Department

cc: City Manager
Mayor's Office
City Council



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: ROBERT BRENNAN, CHIEF OF POLICE

DATE: FOR THE MEETING OF FEBRUARY 15, 2006

SUBJECT: PARK LANE COMMUNITY POLICING PROJECT

RECOMMENDATION:

This is a preliminary report requested by the City Council at the January 2006 regular meeting. The Police Department shall continue to monitor the construction activities in the Park Lane area using the Scan, Analyze, Response, Assess (S.A.R.A.) problem-solving model. The action plan will again be reviewed for its effectiveness at the March 15th City Council meeting.

INTRODUCTION:

This is a continuing study into construction-related activity located in the Park Lane neighborhood and is a result of complaints received from citizens and neighbors regarding the construction and its associated problems. The Police Department elected to initiate a Community Policing Program (Attachment A) to evaluate the effectiveness of directed policing via a specific Community Problem Report (Attachment B).

ANALYSIS:

The Police Department has contacted the surrounding neighbors to ascertain their views about the construction and to solicit their input for possible solutions (Attachment C) and contacted the general contractors and reviewed the applicable municipal codes and their parking plans when applicable (Attachment D). A total of 6 verbal warnings and 32 written warnings for construction-related municipal code violations offenses have been issued. We have visibly increased law enforcement presence in the community by

actively enforcing related vehicle code violations in the area resulting in four moving violations and three parking citations.

Issues of concern from the residents span from the number of parked cars associated with construction activities, littering, construction-related noise during construction hours, vehicular traffic as a result of workers arriving/leaving the work sites. There were no complaints about weekend/after-hour noise (see Attachment A for resident comments). Additionally there have been no construction-related complaints to Police Dispatch since this program initiated.

CONCLUSION:

Community Policing efforts to address the construction-related activities in the Park Lane neighborhood have been effective based on the assigned officer's observations and the neighborhood residents' comments. Additionally, contractors have been receptive to the Police Department's efforts to rectify the impact of construction-related activities and traffic issues in the neighborhood in compliance to the municipal code and California Vehicle Code. Residents were very pleased with the increased level of enforcement in the area.

FISCAL IMPACT:

This assignment is dependent upon overtime hours. As of the time of this report, 24.5 hours of police officer overtime has been dedicated to this project (\$1,329.62).

Prepared by:

Approved:

Robert Brennan
Chief of Police

Jim Robinson
City Manager

Attachments:

- Attachment A: Community Policing Program
- Attachment B: Community Problem Report
- Attachment C: Resident Survey
- Attachment D: Contractor list

**Atherton Police Department
Memorandum**

January 19, 2006

To: City Manager Jim Robinson
From: Police Chief Robert Brennan
Subject: Community Problem Solving on Park Lane

As discussed at the January 18, 2006 Council Meeting and at other Town Commission gatherings, the residents have brought forward a community problem on Park Lane between Elena and Valparaiso. This quality of life issue revolves around the new home construction projects which results in traffic and parking problems in the area. The Police Department has been asked to put a plan together to solve or significantly reduce the negative effects of the construction. We will be using a problem solving model known as S.A.R.A. (Scan, Analyze, Respond, Assess). I will briefly explain each step of the systematic inquiry with a follow-up plan that will be implemented.

➤ **Scanning-Identifying Problems**

Scanning entails taking a broad and intensive view over time of a particular area to accurately define the problems to be addressed. The process involves identifying the underlying patterns and conditions seen by the community as problems rather than continuously responding to incidents as separate, unrelated events.

➤ **Analysis-Collecting and Analyze Information**

The Analysis stage is the heart of the problem-solving process and must be a thorough, creative and innovative as the response since the characteristics of each problem vary. If an officer understands all the components of a problem, it is more likely that a custom-made response can be developed to fit the problem.

➤ **Responses-Cooperatively Develop and Implement Solutions with other Departments and the Public**

A complete analysis will provide data that reveals the underlying nature of the problems, perhaps clarifying or redefining it. Before initiating a response (action plan), all the components of the community who are affected should be in agreement as to the nature of the problem. Working with the residents, business interests (construction companies) and other Town Departments, the Police Department can tailor an action plan to the

specific characteristics of the problem. Goals and objectives are determined, as well as whether there is a need for further data collection.

Solutions may go beyond traditional remedies to include other community agencies or organizations.

➤ **Assessment-Evaluate Strategy Effectiveness**

Finally, the impact of the intervention efforts must be evaluated to see if the desired goals and objectives were achieved, and if the problems were actually solved or alleviated. Findings should address why the problem was or was not solved or reduced in scope. Assessments should also consider any positive and negative effects. If not considered, such effects may produce major unintended consequences. Accurate assessments allow officers to determine if the solution is working. If it isn't, the results of the assessment may be used to revise the response, collect more data, or even redefine the problem.

Within the next few days, we will put together a plan that incorporates all the elements of a successful problem solving model. My experience has shown me, that the time and effort using the systematic inquiry "S.A.R.A." Scanning, Analysis, Response and Assessment, will greatly increase the success of the solutions that will be proposed.

S.A.R.A – Community Problem Report

Received by: Chief Robert Brennan

Date: 1-18-2005

Identified by: Atherton City Council

Phone 752-0506

Address: 83 Ashfield Road, Atherton California 94027

E-mail

Does the complainant wish to be contacted-----YES

Scanning (Location/description of the problem):

Local residents that currently live on the 200 block of Park Lane are complaining about traffic, parking, and construction vehicles. With the number of vehicles parked on both sides of the street, it makes it dangerous to traverse the area and navigate in and out of the driveways and access roads.

Analysis of the problem:

The Town of Atherton has seen an increase in residential construction projects. Traditional style and size of homes that have been built over 40 years ago which were between 2000 and 4000 square feet have yielded to estate sized homes ranging from 8000 to 20,000 square feet, multiple stories including full basements under the footprint of the house, on one acre plus lots. Within the Town boundaries there are over 100 homes under construction or being remodeled. Currently, 10% of the total homes under construction are on the 200 block of Park Lane.

The addresses are; 202, 210, 213, 224, 233, 236, 245, 266, 269, and 283. The start dates for the homes range from February 2003 through October 2005. Due to the size and the complexity of construction, building times can exceed 3 years. In February of 2004, it became a requirement for each applicant to file an approved parking plan in order to receive their building permit. Concerns have been expressed that requirements to park on site or in directly in front are not being observed, are in violation and have caused the problems with parking and traffic.

A copy of the active construction projects, permit for each address, plot map, Municipal Code 15.40.152, 15.40.040 and Building Department contact sheets have been attached.

Response (Comments/Action)

1. Review Municipal Code 15.40.152 and 15.40.040 with all Police Department staff and each construction site superintendent.
2. Monitor arriving construction traffic and make contact with those out of compliance.

3. Issue warning citations for 15.40.152 and 15.40.040. to workers and supervisors who are out of compliance.
4. Restore and retain A-frames and barrier tape at affected home owner's property.
5. The Officer will keep a log of action taken on a daily basis.
6. If voluntary compliance is not adhered to by the involved parties, a citation shall be written to the superintendent of the job site.
7. Aggressive vehicle code action shall be taken on construction vehicles not meeting the requirements and in accordance with the California Vehicle Code.
8. Seek alternative construction parking in existing parking lots close by or vacant properties in the area.
9. Monitor the construction site for after hours construction activities.

Assessment:

The assigned officer will report to the Chief of Police each successive month the project continues regarding progress of each of the nine areas addressed in the response section of the plan.

ORDINANCE NO. 546

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
AMENDING CHAPTERS 10 AND 15 OF THE ATHERTON MUNICIPAL CODE
RELATING TO CONSTRUCTION REGULATIONS AND PARKING WITHIN THE
TOWN OF ATHERTON**

WHEREAS, the City Council of the Town of Atherton finds: That the Atherton General Plan has as its land use goal preservation of the Town's character as a scenic, rural, thickly wooded residential area with abundant open space. One of the objectives to obtain this goal is to retain the high quality of maintenance and living environment existing in the town's residential neighborhoods. The circulation element goal is a circulation system that is compatible with the needs of the various land uses planned within the Town. Objectives to achieve this goal include minimizing the encroachment of the circulation network on the residential and open space uses which prevail throughout most of the community. All streets in the town area to be preserved as scenic routes. Scenic roadway policies have been adopted which provide that on-street and visible off-street parking of vehicles and other means of transportation shall be carefully controlled. Over the last several years, the Town has experienced a significant increase in residential construction and re-construction projects. Many of these projects last for years and involve a large number of workers who park their vehicles on the streets adjacent to and near construction sites. In order to preserve the character of the Town and the quality of life as mandated by the General Plan, the City Council finds that it is necessary and appropriate to adopt regulations on the parking of vehicles involved in construction projects. Authority pursuant to California Vehicle Code Section 22507 should be exercised where necessary to avoid traffic congestion on the Town's streets, protect adjacent landscaping, and otherwise protect the public health, safety and general welfare of town residents serviced by those streets.

NOW, THEREFORE, the City Council of the Town of Atherton does ordain as follows:

SECTION 1: Section 10.16.040 of the Atherton Municipal Code is hereby added to read as follows:

10.16.040 No person shall stop, stand, park or leave standing any vehicle in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or other authorized officer or traffic sign, or signal

- A. In any area where the Town has indicated that parking is prohibited by appropriate signs or markings.
- B. In any area where the City Manager or designee has determined that the parking or stopping of a vehicle would constitute a traffic hazard or would congest traffic or damage landscaping and improvements in the right of way, or would endanger life or property, when such area is indicated by no parking signs or markings.

SECTION 2: Section 15.40.040 of the Atherton Municipal Code is hereby amended to read as follows:

15.40.040 Construction vehicle parking.

On site parking or parking within the public right-of-way only in front of the construction site, on the same side of the street for construction vehicles shall be required to avoid congestion and damage to landscaping and improvements in the right-of-way except when authorized in writing by the City Manager or the City Manager’s designee or when authorized by the guidelines adopted pursuant to these regulations. (Ord. 498 § 3, 1998)

SECTION 3: Section 15.40.110(B) and (D) of the Atherton Municipal Code is hereby amended to read as follows:

15.40.110 Definitions.

B. “Delivery” means delivery of building materials or equipment to any construction project and items related to the construction project.

D. “Pickup” means pickup or retrieval of building materials or equipment from any construction project and items related to the construction project.

SECTION 4: Section 15.40.152 is hereby added to the Atherton Municipal Code to read as follows:

15.40.152 Construction, operation, and parking plan.

Prior to submitting plans for building plan check, the owner of any property located within the Town for any construction project on said property shall submit a construction, operation, and parking plan (COP Plan) for review and approval by the Building Official. The construction, operation, and parking plan shall be prepared in accordance with guidelines to be adopted by Resolution of the City Council and made a part of the public file.

SECTION 5: That the City Council hereby declares that it would have passed this Ordinance sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions on this Ordinance are severable and, if for any reason any sentence, paragraph or section of this Ordinance shall be held invalid, such decision shall not effect the validity of the remaining parts of this Ordinance.

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

* * * * *

Introduced this 17th day of December, 2003

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the 21st day of January, 2004, by the following vote

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

s/Kathy McKeithen
Kathy McKeithen, Mayor
Town of Atherton

ATTEST

s/Sharon Barker
Sharon Barker, City Clerk

APPROVED AS TO FORM:

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



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: MICHAEL A. HOOD, BUILDING OFFICIAL

DATE: FOR THE MEETING OF FEBRUARY 15, 2006

**SUBJECT: DISCUSSION AND DIRECTION TO STAFF REGARDING FENCE
HEIGHT, HEIGHT OF GRADING, AND AMOUNT OF GRADING.**

INTRODUCTION:

At a recent meeting, Council Member McKeithen and residents on Mandarin Way expressed concern about the following Town standards:

1. Fence height location, and;
2. Height and total amount of grading on a property.

BACKGROUND:

Fences:

Fences bordering schools, fences along the Town boundary, and fences along busy streets such as El Camino Real may be eight feet high. All other fences that are located on private property are limited to six feet in height. A six foot fence may be located anywhere on the property as long as it is not located on top of a retaining wall.

In 2003, retaining walls were also limited to six feet in height, similar to fences, in an attempt to reduce their visual impact.

Grading:

Currently, the height and the total amount of grading on a property are not limited. A permit is required for the moving of more than 50 cubic yards of material; but, if one follows Uniform Building Code provisions and relevant engineering practices, there is no limit to the height or amount of grading.

ANALYSIS:

If the City Council wishes to make modifications to the existing ordinances, staff will return with the appropriate changes to the relevant chapters of the Atherton Municipal Code.

Prepared by:

Approved by:

/s/ Michael Hood
Michael A. Hood
Building Official

James H. Robinson
City Manager

ORDINANCE NO. 539

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
AMENDING SECTIONS 17.36.195 AND 17.08.070 OF THE ATHERTON MUNICIPAL
CODE REGULATING RETAINING WALLS AND BUILDING HEIGHT WITHIN
THE TOWN OF ATHERTON.**

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

SECTION 1: Section 17.36.195 is hereby amended to read as follows:

“Retaining Walls. Retaining walls shall be located no closer than five feet from any property line. Except for basements and underground driveway approaches, the maximum height of the retaining walls shall not exceed six feet solid wall construction, with a maximum three-foot high safety fence on top. The safety fence shall be substantially open to light and air in compliance with applicable safety codes”.

SECTION 2: Section 17.08.070 is hereby amended to read as follows:

“Building height. “Building height” means the vertical distance from the natural grade or finish grade, whichever results in the lower height, measured to the topmost point of the roof. Continuous decorative roof elements, including but not limited to widow walks and railings shall be included in the maximum building height.”

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

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

* * * * *

I hereby certify that the foregoing ordinance was introduced at a regular meeting of the City Council of the Town of Atherton held on March 19, 2003, and was adopted by said City Council at a regular meeting held on the 16th day of April 2003, by the following vote:

AYES 4 *COUNCILMEMBERS: Marsala, Carlson, Conwell, McKeithen*
NOES 0 *COUNCILMEMBERS:*
ABSENT 1 *COUNCILMEMBERS: Janz*
ABSTAIN 0 *COUNCILMEMBERS:*

/s/ Kathy McKeithen _____
Kathy McKeithen, Vice Mayor
Town of Atherton

ATTEST:

/s/ Sharon Barker _____
Sharon Barker, City Clerk

APPROVED AS TO FORM:

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



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF FEBRUARY 15, 2006

**SUBJECT: AWARD OF CONTRACT FOR HOLBROOK-PALMER PAVILION
DOOR AND WINDOW REPLACEMENT, PROJECT NO. 05-001**

RECOMMENDATION:

Award the contract for the Holbrook-Palmer Pavilion Project, Project No. 05-001, to the low bidder on the February 14, 2006 bids, and to authorize the Mayor to sign the contract on behalf of the Town.

INTRODUCTION:

On September 21, 2005, Council approved a two-phase plan for Jennings Pavilion improvements. Phase 1 will replace the windows and doors, replace the carpeting, and renovate the lighting using State Per Capita Program Grant Funds. Phase 2 will hire an architect to investigate the aesthetics and cost of adding a sunroom to the north side, using either the remaining Per Capita Program Grant Funds or future funds.

This project is the first project in Phase 1 for replacing the doors on all four sides of the Pavilion with new doors moved out to the exterior wall line and replacing the windows in the Pavilion kitchen.

ANALYSIS:

The project bid opening was delayed to give prospective contractors additional time to prepare and submit their bids. Bids will be received on February 14, 2006. A separate staff report will be prepared for distribution at the City Council meeting to convey the bid results.

FISCAL IMPACT:

State Park Grant funds in the amount of \$170,000 are budgeted for this project in FY 2005-06 for the Phase 1 improvements. The engineer's estimate prepared by staff for this first project is \$100,000. The Per Capita Program Grant funding from the State of California Department of Parks and Recreation will fully fund the improvements up to the grant amount of \$220,000. No local match is required.

Prepared By:

Approved:

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

James H. Robinson
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: KATHI HAMILTON, ACTING CITY CLERK

DATE: FOR THE MEETING OF FEBRUARY 15, 2006

SUBJECT: AMMENDED CITY COUNCIL COMMITTEE ASSIGNMENTS

RECOMMENDATION:

Approve the 2006 Amended Council Committee assignments made by Mayor Marsala

BACKGROUND/ANALYSIS:

At the January 18, 2006, City Council meeting, the City Council approved the 2006 Council Committee assignment made by Mayor Marsala with the caveat that some assignments could change after the appointment of a new Council Member.

Additionally, Mayor Marsala has added two new committees to the list: The Grand Blvd. Task Force (a task force created by the Peninsula Policy Partnership to develop a unified vision for El Camino Real), and Parks for the Future.

Attached for your approval, are the amended committee assignments.

Prepared by:

Approved by:

Kathi Hamilton
Acting City Clerk

James H. Robinson
City Manager

Attachments: Committee Assignments List
Peninsula Policy Partnership Letter dated January 30, 2006



Promoting the Power of the Peninsula

30 January 2006

Hon. Charles Marsala
Mayor
Town of Atherton
91 Ashfiled Road
Atherton, CA 94027-3897

RE: The Grand Boulevard Task Force

Dear Mayor Marsala:

This is sent to invite your organization to join us in implementing one of the enduring, great visions of the Peninsula, the raising of El Camino Real from its current status to that of a world-class boulevard.

We all rely on El Camino for our daily travel. It carries more car, truck and bus traffic than any other street on the Peninsula. It has more residents and more businesses than any other street in our region. It is a major thoroughfare and entryway for 19 of our cities. And it is a dominant symbol of the Peninsula. As its importance has increased through the decades we have been content to let it develop by increments, to the point that we now have a street that does not perform as well as it could, and which poses significant aesthetic, safety and interjurisdictional challenges.

A number of local and regional leaders, representing many organizations and disciplines in this area, met recently to discuss the problem and called for a united effort- of government, business, labor and environmentalists to join together to develop a unified vision for the street that will allow it to rise to these challenges (a copy of notes from that meeting is attached.) This letter is sent to ask that you join in that effort.

We ask that you or another member of your elected body serve on the Task Force that is being created to provide policy oversight for this effort (roster of invitees attached.) We also are approaching staff of the cities through which the street runs, both counties, the congestion management agencies, the transit districts, Caltrans, Caltrain and other involved agencies to serve on a Working Committee that will direct the details of the development of the plan.

The first meeting will be held on:

DATE: March 3, 2006

TIME: 10:00 AM to 12:00 PM

PLACE: DLA Piper Rudnick, 2000 University Avenue, Room 102, East Palo Alto, CA 94303

Please send the name of your agency's representative to Lisa Bruner (bruner@jointventure.org) as soon as possible.

We value and look forward to your participation.

Sincerely,

A handwritten signature in cursive script that reads 'Russell Hancock'.

Russell Hancock
Joint Venture Silicon Valley Network

A handwritten signature in cursive script that reads 'Michael J. Scanlon'.

Michael J. Scanlon
Peninsula Policy Partnership

copy: Mr. Jim Robinson, City Manager



Promoting the Power of the Peninsula



Task Force Roster (48)

Invited to Participate

San Mateo County Board (1)
Santa Clara County Board (1)
Each San Mateo City Council (13)
Each Santa Clara City Council (6)
P3 Board (1)
Joint Venture: Silicon Valley Network Board (1)
C/CAG Board (1)
VTA Board (1)
Joint Powers Board (1)
Caltrans Director (1)
Samtrans Board (1)
MTC Executive Director (1)
ABAG Executive Director (1)
Peninsula Open Space Trust Director (1)
San Mateo County Building Trades Council (1)
Santa Clara County Building Trades Council (1)
Santa Clara business (1)
Electronic Arts (1)
Safeway (1)
Mills-Peninsula (1)
Committee for Green Foothills (1)
Habitat for Humanity (1)
Summerhill Homes (1)
Federal legislators (3)
State legislators (6)



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF FEBRUARY 15, 2006

**SUBJECT: PURCHASE OF STREET SWEEPER FOR ATHERTON PUBLIC WORKS
DEPARTMENT**

RECOMMENDATION:

It is recommended that the council approve the purchase of an Allianz 3000 3-wheeled street sweeper from Nixon-Egli Equipment Company for \$114,968 plus tax and delivery.

BACKGROUND:

The Town of Atherton is a tree city and must deal with all the debris associated with trees. It also has a lot of residential construction which affects not only the address undergoing the construction but also the entire Town as trucks and equipment drive the streets dropping and tracking dirt, gravel, and sometimes litter on its streets. The Town has an extensive bike lane system, and many people walk in the streets because there are no sidewalks.

Currently, the Town's waste provider, Allied Waste, is under contract to sweep about 16.5 miles of the Town's streets on a monthly basis. These are streets that have curb and gutter, valley gutter, or a bike path. Marsh Road is also included because of the curb next to the Atherton Channel.

Currently, sweeping is done on the first Saturday of each month. The average amount of miles reported (which includes travel back and forth from the San Carlos facility, fueling, dumping, and other non-sweeping miles) is about 40 miles. The average amount of materials collected is about 6 cubic yards. Recently, in November and December of 2005, they doubled their cubic yards to about 12 (due to high leaf yield). For informational purposes, these sweepers hold 6

yards of materials when full to the very top. So when the operator dumps at the end of the day, he is probably inclined to report dumping a full hopper, whether or not it was actually full.

The Town currently pays Allied Waste \$822 per month for sweeping.

ANALYSIS:

The Public Works Department began looking into the feasibility of doing its own street sweeping in October of 2005. The reasons for this were many, including:

Deficiencies in Current Sweeping Contract

- Lack of response from Allied Waste of many kinds but including reporting of miles and amount swept and responding to poor performance complaints. They are difficult to contact during the day on the phone. Their drivers are unfamiliar with our streets with the exception of the ones they sweep for us on a monthly basis. To give them an instruction after a storm such as, "go out and sweep drain inlets in the Town," is not possible, as they do not even know the Town limits.
- Poor performance. The Town just generally looked dirty in many locations, especially after the first few rains. The bike paths, valley gutters, center medians, shoulder striping and right sides of streets (where pedestrians walk) all need attention after each rain event. Allied Waste is under no contractual agreement to sweep any more than once a month. The areas they do sweep during a non-rainy month could be done better. They can only accommodate our sweeping needs on Saturdays, which is not an optimum day for sweeping due to the additional parked cars on the street.
- Allied Waste's sweeper fleet is made up of very large sweepers, which makes it difficult to sweep streets with the unique tree canopy of our Town. This causes a lot of areas to be missed, as the sweeper swerves around trees. It does do well with the curb and gutter locations such as the Lloyd Park neighborhood.

Benefits of Town-Owned Sweeper

- This sweeping would be best performed by someone who really knows our streets and has a stake in the performance of sweeping duties.
- Increased level of maintenance for Town residents. Having our own sweeper will allow us to continue sweeping the areas our contractor currently does at a higher level of service. We will also be able to sweep other locations on an as-needed basis. We can hit "weak" areas as the needs arise, such as the now heavily burdened areas of Park Lane and the highlands area, where home construction keeps the streets in a less-than-desirable condition. The sweeper can also pick up litter episodes, such as when the wind blows papers down El Camino Real from Redwood City.
- Storm clean up. After a rain storm (especially with high winds), the streets get covered by leaves, needles, sticks, cones, and other debris from trees. This debris totally obliterates lane lines, makes walking/biking difficult and tends to make the travel way slippery. A quick response is needed to clear covered drain inlets before the next storm arrives. After a major storm, nearly every drain in Town is covered to the point of rendering the drain inoperable. Most of our entire public works force needs to respond to clean these drains

to prevent flooding in the next storm. Having a sweeper of our own will allow a single operator to clear a significant portion of these drains within a short period of time. Mudslides can also be cleaned up quickly with this machine

- Other maintenance operations. This piece of equipment will allow us to perform other maintenance duties in a safer, more cost effective and more expedient manner. Some of these duties include clean-up after asphalt dig outs, ditch cleaning, park parking lot cleaning, corporation yard recycle area clean-up, spill response and construction zone violation clean-up (which we can bill back to property owner/contractor).

Public Works staff began seriously shopping for a sweeper at the beginning of January because of the extensive debris left by the New Year's storm. Criteria used to determine which sweeper would be right for us were the following;

- Initial cost
- Operational cost (including service, wear parts and daily maintenance)
- Safety (noise, blind spots, ergonomics, accident record)
- Type of sweeper (regenerative air or broom type – if you could only have one, which would be best?)
- Sweeper effectiveness (for all types of debris – leaf, sticks, dirt, mud, litter)
- Specifications best for getting around our trees, low profile, driver vision, low noise output, low dust, Cal. Emissions.
- Maintenance - who would be able to repair/service for us?

It became immediately apparent that we needed a highly maneuverable sweeper due to our abundance of trees jutting out into the roadway and our many dead-end streets (courts). A sweeper with as low a profile as possible was also important because of the tree canopy. Either a three-wheeled sweeper or a small regenerative air sweeper would be the best for maneuvering.

We asked superintendents, supervisors, and operators from many agencies including Palo Alto, County of San Mateo, Redwood City, San Mateo, Berkeley, Alameda, and Los Altos: "If you could only have one type of street sweeper (regenerative air or broom), which would it be?" Unanimously, the answer was a broom sweeper. The reason for this was that an air sweeper works best for dry leaves and litter while a broom sweeper sweeps up everything.

We tested a small regenerative air sweeper (TYMCO model 210) borrowed from the County of San Mateo on the valley gutters on Atherton Avenue between Elena and Selby. The gutter was full of soil-type debris. The machine performed poorly, putting the material from the gutter into the street but only picking up about 40% of the material and leaving an ugly mess behind.

We then went to the City of Palo Alto who runs the Elgin Pelican 3-wheeled sweepers. These have the steering wheel at the rear of the sweeper. This sweeper did a very good job of sweeping. It was rather loud, both inside and outside of the cab, and had a large blind spot on the left side.

The City of Alameda has a fleet made up entirely of 3-wheeled sweepers, both Elgin Pelican and Allianz 3000 sweepers. The Allianz 3000 differs from the Elgin Pelican by having a lower profile, a bigger storage hopper (5.6 yards) and a front-centered operator cab. The biggest

difference is that the cab and steering wheel are at the front of the machine, making it drive like a regular truck and dramatically improving visibility, making it much easier to miss obstacles. An operator who has driven both types of sweepers for the past 15 years said they both do a great job of sweeping and are both very reliable, but he said the Allianz 3000 is more operator friendly with hands down the best visibility (he said they hit stuff all the time with the Pelican). The Allianz 3000 is more ergonomic, has a bigger hopper, and is less likely to clip overhanging trees. The Allianz also has a higher dead-head speed than the Pelican (26mph vs. 20 mph).

Based on the criteria of safety, driver vision, load capacity, dead-head speed, noise, profile, and ease of operation, the Allianz sweeper is recommended for use in Atherton.

FISCAL IMPACT:

Preliminary pricing for a new Elgin Pelican and Allianz 3000 are both about 140K. These two sweepers are the only 3-wheeled, broom type street sweepers on the market. Nixon-Egli is the Allianz representative for the West Coast. Bids were returned for prices of:

1. Nixon-Egli: single machine purchase cost with city discount - \$133,111.64
2. Nixon-Egli: tagging Atherton to the City of Bishop sweeper purchase - \$121,010.58
3. Nixon-Egli: tagging Atherton to the Houston-Galveston purchase - \$114,968.00

The sweeper has a one-year warranty and Nixon-Egli has service staff that can come to Atherton to take care of services and repairs, saving considerable drive time for maintenance.

Existing Public Works staff will run this sweeper. The time spent sweeping would have been spent doing the same work by hand, so the time saved on various tasks will more than make up for the additional monthly sweeping time. It is anticipated that this machine will run an average of 60 hours a month during the spring, summer, and fall and about 80 hours a month during the winter months.

We will either need an agreement with the City of Redwood City, the County of San Mateo, or West Bay Sanitary District to clean the sweeper at the end of each shift. The sweeper can dump at our corporation yard, but a NPDES-compliant wash down area is needed for the daily cleanup. This will cost approximately \$2,500 per year. Other costs such as service, wear parts, and maintenance will come out of Public Works operating expenses. The new AB 1546 funding, as well as the existing NPDES funding for street sweeping, will be used to pay for these operating expenses. This sweeper will replace the Allied Waste sweeping contract, saving \$9,864 per year.

Prepared by:

Approved by:

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

James H. Robinson
City Manager

Attachment: Pictures



Town of Atherton

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE CITY COUNCIL MEETING OF FEBRUARY 15, 2006

SUBJECT: CONSIDERATION OF A TOWN FORUM TO DISCUSS VARIOUS TOWN FACILITIES

RECOMMENDATION

Consider a Town Forum to discuss various Town facilities and options available for possible improvements and modifications and solicit public input.

ANALYSIS

The Town of Atherton Buildings and Facilities Committee has identified a number of necessary improvements and available revenues for Town Facility Improvements. The most recent project includes the upgrade to the Holbrook Palmer Park Pavilion to replace the doors, windows, and carpeting. Funds for this project will be provided exclusively by a State Parks Grant.

Other potential Facility Improvements include the Town Hall/Police Facility and Library and possibly elements of the Holbrook Palmer Park Master Plan.

The objective of the Town Forum would be to identify possible Town Facility projects, identify potential funding, and solicit input from the residents of the Town of Atherton.



Town of Atherton

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE CITY COUNCIL MEETING OF FEBRUARY 15, 2006

SUBJECT: CONSIDERATION OF A JOINT MEETING WITH THE CITY OF MENLO PARK CITY COUNCIL

RECOMMENDATION

Consideration of a joint meeting with the City of Menlo Park City Council.

BACKGROUND

As a neighboring community, the City of Menlo Park and the Town of Atherton occasionally have projects of mutual interest that require a joint approach to resolution. The most recent effort involved the University/Valparaiso Signal improvements and traffic lane modifications to the El Camino Real/Valparaiso intersection. The Town of Atherton and the City of Menlo Park are also currently working on a joint project dealing with the reconstruction of Valparaiso Avenue .

Other projects affecting both communities include the consideration of lowering speed limits on Valparaiso Avenue. The City of Menlo Park is also participating in a joint venture with the Sequoia Union High School District in the development of a Performing Arts Theatre at Menlo-Atherton High School. Another significant project affecting both communities is the potential, future modifications to the Caltrain Corridor as it traverses through Atherton and Menlo Park.

The staff would recommend that some or all of these items serve as potential agenda items for a joint meeting. The City Council may have other items they would like to include in a joint meeting.



Town of Atherton

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE CITY COUNCIL MEETING OF FEBRUARY 15, 2006

SUBJECT: ADOPTION OF MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN OF ATHERTON AND THE ATHERTON POLICE OFFICERS' ASSOCIATION FOR THE PERIOD OF JULY 1, 2005 THROUGH JUNE 30, 2008

RECOMMENDATION

Adopt the attached Memorandum of Understanding between the Town of Atherton and the Atherton Police Officers Association (APOA) for the period of July 1, 2005 through June 30, 2008, and authorize the Mayor to execute the agreement on behalf of the Town .

INTRODUCTION

The last MOU between the Town and Atherton Police Officers Association covered the period of July 1, 2000 through June 30, 2005. The Town's management negotiating team has met and conferred with APOA representatives regarding reaching a new agreement. The attached Memorandum of Understanding reflects the proposed agreement which has been reached between the negotiators on behalf of the Town and the APOA. The MOU, if adopted by Council, would be effective July 1, 2005 through June 30, 2008.

The APOA general membership has met and ratified the provisions of this proposal.

The proposed MOU has been reviewed by the APOA, the City Attorney, and the Town's negotiating team.

ANALYSIS

Adoption of the MOU would implement salary adjustments for Sworn and non-Sworn Police employees, effective July 1, 2005, representing an average annual increase for Fiscal Year 2005-2006 of 3.76 %. The salary adjustments represent the 70th percentile pay range of comparator positions with comparator agencies for APOA positions, using the salaries in effect for comparator positions as of July 1, 2005, (with the removal of the top and bottom salaries for calculation purposes).

The attached Memorandum provides a summary of the Final Offer which is incorporated into the attached MOU.

FISCAL IMPACT

The fiscal impact for FY 2005-2006 represents a 3.76% increase in salary and benefits for APOA employees. These adjustments represent a total dollar cost of \$124,041, and no adjustment is required in the existing 2005 -2006 Budget to accommodate these changes.

Attachments:

Memo regarding 2005 POA Negotiations
Proposed Memorandum of Understanding (with changes highlighted in shaded text)

MEMORANDUM OF UNDERSTANDING BETWEEN

THE TOWN OF ATHERTON AND THE

ATHERTON POLICE OFFICERS' ASSOCIATION

FOR THE PERIOD July 1, 2005 THROUGH June 30, 2008

This Memorandum of Understanding (hereinafter referred to as "MOU") is made this fifteenth day of February, 2006, by the Town of Atherton (hereinafter "Town" or "Employer"), and the Atherton Police Officers' Association (hereinafter "Association" or "Employee Organization"). The use of the terms "Memorandum of Understanding," "MOU," and "Agreement" is to be construed to mean the same as the term "Memorandum of Understanding" contained in Section 3505.1 of the California Government Code, commonly known as the Meyers-Milias-Brown Act.

**ARTICLE I
TERM OF MEMORANDUM**

Section 1: Term

The term of this MOU shall be July 1, 2005 through June 30, 2008. This MOU shall apply to employees within job classifications covered by this MOU and in the Town's active employment on the effective date of this Agreement and thereafter.

Section 2: Successor MOU

Ninety (90) days prior to the termination of this MOU, the Association or Town shall notify the other party in writing if it wishes to modify the MOU. In the event that such notice is given, negotiations shall begin as soon as possible after the notice but not later than May 1, 2008, unless mutually agreed upon otherwise. This Agreement shall remain in full force and be effective during the period of negotiations and until ten days following written notice of termination of this Agreement provided to the other party.

**ARTICLE II
RECOGNITION**

Pursuant to Ordinance Number 377 of the Town of Atherton, and provisions of the applicable state law, the Atherton Police Officers' Association is recognized as the exclusive representative for the purpose of meeting and conferring on matters within the scope of representation for employees assigned to the classifications listed in Article IV, Section 1 of this MOU. The classifications listed in Article IV, Section 1 and subsequent additions thereto or deletions therefrom shall constitute appropriate units.

**ARTICLE III
PURPOSE**

The purpose of this Agreement is: to promote and provide harmonious relations, cooperation and understanding between the Town and the Employees covered herein; to provide an orderly and equitable means of resolving differences which may arise under this Agreement, and to set forth the full agreements of the parties reached as a result of meeting and conferring in good faith regarding wages, hours and other terms and conditions of employment of the employees represented by the Atherton Police Officers' Association.

**ARTICLE IV
WAGES AND BENEFITS**

Section 1: Wages

A. Monthly salary ranges for full-time employees shall be increased effective July 1, 2005. These ranges incorporate the following increases: Police Officer 2.7%, Police Sergeant 1.8%, Dispatcher 4.9%, and CSO 3.5%.

<u>Job Classification</u>	<u>Step A</u>	<u>Step B</u>	<u>Step C</u>	<u>Step D</u>
POLICE-CIVILIAN				
Police Dispatcher	\$4,934.90	\$5,159.22	\$5,404.90	\$5,675.14
Communications Supervisor	\$6,264.98	\$6,549.75	\$6,861.65	\$7,204.73
Community Service Officer	\$4,027.03	\$4,210.08	\$4,410.56	\$4,631.09
Police Trainee	-	-	-	\$4143.00

POLICE-SWORN

Police Officer (80 hrs)	\$5,598.44	\$5,852.92	\$6,131.63	\$6,438.21
Sergeant (80hrs)	\$6,844.50	\$7,155.61	\$7,496.35	\$7,871.17
Police Officer (84 hrs)	\$5,883.34	\$6,150.76	\$6,443.66	\$6,765.84
Sergeant (84hrs)	\$7,188.03	\$7,514.76	\$7,872.61	\$8,266.24

A. Employees may progress from Step A to Step B six (6) months after their hire date or date of entry into the job classification provided they have received a

satisfactory performance evaluation conducted by the Town. Employees may progress from Step B to Step C twelve (12) months after the date of entry into Step B, provided they have received a satisfactory performance evaluation conducted by the Town. Employees may progress to Steps D on the anniversary date following their entry into Step C. Progression to Step D is based upon such factors as experience, certifications, etc., and a satisfactory performance evaluation conducted by the Town. Progression between Steps is not automatic, but depends upon an evaluation of performance.

- B. Changes between ranges and/or steps shall be made at the beginning of the pay period immediately following the employee's anniversary date.
- C. Sergeants exercise supervisory responsibilities and are considered supervisory employees within the meaning of the Town's municipal code.

The Association and the Town agree that all positions covered under this MOU will be compensated at the 70th percentile utilizing the following benchmark agencies: Palo Alto, Redwood City, Menlo Park, San Mateo County Sheriff's Department, Hillsborough, Millbrae, San Carlos, Los Gatos, Belmont, Brisbane, San Bruno, and Los Altos. The "compensation" used for this comparison includes base salary, assignment pay, the value of PERS EPMC (employer paid member contribution), and the employer cost of the following benefits: health, vision, dental, clothing, deferred compensation, life insurance, LTD, career incentive, and holiday pay, as reported by the Employee Relations Service on their Web Site of municipal compensation for Bay Area cities. For purposes of the 70th percentile calculation, the top and bottom salaries in the ranking of comparator positions in the comparator agencies shall be eliminated. The "compensation" used for this comparison expressly excludes the value of a PERS retirement benefit.

The Town will implement salary increases during the term of this MOU as follows:

Fiscal Years 2006-07, 2007-08,: In June 2006, and 2007, , the Town will conduct a compensation survey of the benchmark agencies using the applicable compensation comparison on salaries and benefits that have been set by June 15 of that year, for implementation no later than July 1 of that given year. Salaries will then be adjusted as may be necessary, based upon the survey of benchmark agencies, to bring total compensation for each classification up to the 70% percentile. Any such salary increases will be effective on the first pay period that begins on or after July 1, 2006, and July 1, 2007, respectively. As the new salaries are established in 2006 and 2007, an updated salary schedule shall be developed and considered an appendix to this MOU. A copy will be provided to the POA.

~~Employees in sworn police classifications assigned to work as detectives or K-9 officers shall receive a 5% increase in their normal step rate for such assignments that are~~

~~scheduled for three (3) consecutive shifts or more. Officers are assigned as detectives or K-9 officers at the discretion of the Chief of Police. Employees may be returned to their original assignments at any time at the discretion of the Chief of Police and such return shall not be considered "punitive action" nor subject to any appeal. Employees in sworn police classifications assigned to work as K-9 officers shall be compensated for off duty K-9 care as follows: The Town and the Association agree that the amount of off duty compensable working time attributable to all ordinary aspects of canine care (including without limitation, handling, caring, feeding, exercising, grooming, kennel cleaning, cleaning of Town vehicles, and ordinary transport to a veterinarian) by employees assigned to K-9 duty is seven (7) hours per week. Both the Town and the K-9 officers agree that this 5% differential is fair compensation for the duties of caring for the dog outside of work hours. This agreement is made pursuant Fair Labor Standards Act regulation 29 CFR § 785.23. If and when an employee assigned to K-9 duty performs any extraordinary work involving the animal, the employee shall report such work immediately to the Chief of Police in writing and in no event less than 24 hours after completing such work. "Extraordinary work" includes, but is not limited to, unanticipated trips for emergency veterinarian care and any work which causes a substantial increase in work time beyond the agreed-upon hours necessary for routine care as identified above.~~

- ~~D. Employees may progress from Step A to Step B six (6) months after their hire date or date of entry into the job classification provided they have received a satisfactory performance evaluation conducted by the Town. Employees may progress from Step B to Step C twelve (12) months after the date of entry into Step B provided they have received a satisfactory performance evaluation conducted by the Town. Employees may progress to Steps D and Step E on the anniversary date following their entry into Step C and D respectively. Progression to Steps D and E is based upon such factors as experience, certifications, etc., and a satisfactory performance evaluation conducted by the Town. Progression between Steps is not automatic, but depends upon an evaluation of performance.~~
- ~~E. Changes between ranges and/or steps shall be made at the beginning of the pay period nearest to the above dates.~~
- ~~F. Sergeants exercise supervisory responsibilities and are considered supervisory employees within the meaning of the Town's municipal code.~~

This paragraph was moved to Sect. 31 and the detective assignment and the K-9 officer provisions separated.

Section 2: P.O.S.T. Certificate

Any officer receiving an intermediate P.O.S.T. certificate shall receive an incentive of two and one-half percent (2.5%) in wages above the base salary. Any officer receiving an Advanced P.O.S.T. certificate shall receive an incentive of five percent (5%) in wages above the base salary.

Section 3: Per Diem Expense

The Town shall provide suitable lodging or reimburse expenses incurred pursuant to current reimbursement rates for employees assigned to mutual aid, riot or civil demonstrations, or training where employees are required to remain overnight. The Town shall provide meals or reimburse for meals pursuant to current reimbursement rates for employees assigned to mutual aid and/or training.

Section 4: Insurance Coverage

- A. Each active employee shall be eligible to participate in a Cafeteria Plan as follows, to be used for that employee's (and his/her dependents, if any) monthly health, vision, dental insurance and flexible spending plan costs:
- | | |
|-------------------------|--------------------|
| 1. Single Employee | \$178.00 per month |
| 2. Employee Plus One | \$366.00 per month |
| 3. Employee Plus Family | \$496.00 per month |
- B. If any employee expends less than the total of his/her allocated cafeteria plan amount described in Section A above, such employee shall be entitled to eighty percent (80%) of such unused amount in cash each quarter, subject to appropriate tax withholding upon providing evidence that the employee has health, vision and dental insurance coverage elsewhere. Any coverage not provided elsewhere must be carried by the employee for the employee as a minimum. This coverage must stay in effect at all times or, at a minimum, the employee must take basic insurance coverage for him/herself. The balance of such unused amount shall revert to the Town's General Fund.
- C. Effective January 1, 2006, the Town-paid medical premium cap will be increased to an amount which reflects 80% of the Blue Shield HMO rate for 3+ party, 2 party and 1 party plans. Employees selecting a health plan whose premium exceeds the above stated amounts will be required to pay the difference. In addition, the Town will pay for 80% of the Dental and Vision plan costs. Effective January 1, 2007, the Town-paid medical premium cap is to increase to an amount which reflects 85% of the then-prevailing Blue Shield HMO rate for 3+ party, 2 party and 1 party plans. Employees selecting a health plan whose premium exceeds the above stated amounts will be required to pay the difference. In addition, the Town will pay for 85% of the Dental and Vision plan costs. Effective January 1, 2008, the Town-paid medical premium cap is to increase to an amount which reflects 90% of the then-prevailing Blue Shield HMO rate for 3+ party, 2 party and 1 party plans. An employee whose health plan premium

exceeds the above stated amounts will be required to pay the difference. In addition, the Town will pay for 90% of the Dental and Vision plan costs.

As the Town's new contribution rates are established in 2007 and 2008, an updated medical contribution schedule shall be developed and considered an appendix to this MOU. A copy will be provided to the POA.

An employee who elects no medical coverage through the Town will receive \$300 per month, paid quarterly.

- G. The Town shall establish a flexible spending plan under Internal Revenue Code section 125, which shall include dependent care provisions under Internal Revenue Code section 129. Employees may participate in the flexible spending plan according to its terms as may be in effect from time to time, and those employees who are participating shall be responsible for their monthly participation fee.
- E. During the second year of the agreement, the parties agree that upon request, they will meet to explore alternate medical plans. During this same time period, the parties will explore the creation of a Retirement Medical Health Savings Plan.
- F. Each employee who has retired from the employment of the Town while in a job classification covered by this MOU shall receive a Town contribution of Sixteen Dollars (\$16.00) per month for health insurance under PERS health plan.

Employees having retired or retiring from the employment of the Town while in a job classification covered by this MOU with twenty (20) or more years of employment service with the Town shall receive \$200.00 per month for health coverage so long as such retired employee maintains PERS health insurance. Such \$200.00 per month payment shall be the total payment for such retired employees except that for each additional full year of employment service with the Town beyond twenty (20) years of employment, the retired employee shall receive an additional \$10.00 per month for each such full year of employment.

For employees retiring on or after December 1, 2005 with 20 or more years of service, the additional monthly amount will be \$20.00, instead of \$10.00 as indicated in the paragraph above.

Employees having retired or retiring on disability from the employment of the Town while in a job classification covered by this MOU, and said disability arising from employment with the Town, shall receive \$200.00 per month for health coverage so long as such retired employee maintains PERS health insurance and for such period of time as the individual is totally disabled from employment as determined by the City Manager with recourse to the grievance procedure. Such \$200.00 per month payment shall be the total payment for such retired employee.

Notwithstanding the foregoing or type of retirement, the total monthly payment from the Town shall not exceed the actual cost of PERS health insurance obtained by the retired employee. As a condition of the foregoing, retired employees shall provide the Town with proof of PERS insurance coverage and a continuation thereof in a form satisfactory to the Town at such times as it might request such. The retiree medical benefit provided for by this section may not be resumed when a retired employee discontinues PERS health insurance coverage.

There is no intent to vest any payment or benefit, medical or otherwise, in any employee retired from the employment of the Town or who might retire from the employment of the Town in the future. No level of medical benefit is intended to be guaranteed to any such retired employee.

Section 5: Working In A Higher Classification

Upon specific assignments by the Department Head or his designated representative, an employee may be required to perform duties of a higher classification. Such assignments shall be made only to existing authorized positions, which are not actively occupied due to the temporary absence of the regularly appointed employee. Such assignments shall not be made to vacant positions except in accordance with the rules pertaining to temporary or provisional appointments.

Employees specifically assigned to duties of a higher classification shall be compensated at the rate five (5) percent over their regular rate of pay, provided however, that the employee shall not receive any additional compensation unless the assignment is scheduled for three (3) consecutive full shifts or longer. In the event such assignment is for such period of time specified, the employee shall be compensated at the appropriate rate retroactive to the first work day of the assignment and thereafter. Employees may be returned to their original assignment at any time at the discretion of the Chief of Police, and such return shall not be considered punitive action nor subject to any appeal.

Section 6: Life Insurance

The Town shall provide a life insurance plan in the amount of \$50,000 for Police-Civilian classifications and \$50,000 for Police-Sworn classifications with the premium for said insurance to be paid solely by the Town if allowable by the Provider of said insurance plan currently in effect with the Town. Employees may purchase supplemental insurance up to \$100,000 at their own cost using the Town's Provider in accordance with conditions established by the Provider. Such additional premiums may be paid through payroll deduction. The Town does not guarantee that the Provider will offer such supplemental insurance program.

Section 7: Uniform Allowance

Payment of uniform allowance shall be in equal amounts of \$168.75 for Police-Sworn classifications and \$118.75 for Police-Civilian classifications on the first payday at the beginning of each quarter.

The amount advanced is subject to all withholding taxes, but is not dependent on remaining in service for the entire quarter. Employees are required to purchase and maintain uniforms in accordance with Departmental Rules and Regulations. The Town shall repair or replace uniforms damaged in the line of duty. The determination by the Town as to whether an item shall be repaired or replaced shall be based on what makes the uniform most presentable, not what is least expensive.

Each full-time new employee hired after June 15, 2000 will be given uniforms consistent with the uniforms needed for the applicable position. New Police Officers will be given the following uniforms and equipment:

- 4 Uniform Shirts (Short or long sleeved – at least one long)
- 3 Uniform Pants
- 1 Uniform Jacket
- 10 Atherton Police Department shoulder patches
- 1 Nameplate
- 1 Black basketweave belt
- 1 Uniform tie and tiebar
- 1 pair shoes or boots
- 1 Uniform hat
- All leather gear except firearm holster and chemical agent holder
 - Sam Browne
 - Belt keepers
 - Handcuffs and case
 - Baton ring
 - Magazine pouch

New Dispatchers will be given the following uniforms and equipment:

- 4 Uniform shirts (Short or long sleeved – at least one long)
- 3 Uniform pants
- 1 Uniform tie and tie clip
- 1 Uniform jacket or sweater
- 10 Atherton Police Department shoulder patches
- 1 Nameplate
- 1 Blackweave belt

Each current full-time employee as of June 1, 2000 will be given a one-time payment of \$250 for uniforms. New full-time employees hired after June 1, 2000 will not be eligible for clothing allowance until the beginning of the first quarter after they have been with the Department for one year.

Section 8: Compensation Insurance

Each employee shall continue to be covered under a Workers' Compensation Program as required by State law.

Section 9: Retirement

- A. Effective on July 1, 2002, sworn officers were covered by the Public Employee Retirement System, 3% at 50 Plan. The Town will continue to pay for 5.0% of the 9.0% employee contribution required by PERS. The remaining 4.0% shall be paid for by each individual employee.
- B. The Town shall provide the PERS 1959 Survivor Benefits at a rate of \$3.50 per month per employee. Employee cost of \$2.00 per month shall be paid through employee payroll deduction.
- C. Sworn police officers shall be entitled to have their retirement benefits calculated on the basis of their single highest salary year.
- D. Nonsworn employees covered by this agreement will continue to be covered by the Public Employee Retirement System, 2% at 55 Plan. The Town will continue to pay for 5.0% of the 7.0% employee contribution required by PERS. The remaining 2.0% shall be paid for by each individual employee.
- E. The Town will provide for unused sick leave to be credited toward PERS service time at retirement.

Section 10: Deferred Compensation Plan

The Town shall provide non-sworn employees covered by this MOU with a contribution of 2% of their base salary to the ICMA Retirement Corporation's Deferred Compensation Program effective with the first payroll after July 1, 2000. This contribution is contingent upon a matching contribution by the employee.

Section 11: Physical Agility Testing Requirement

All sworn police officer applicants and promotional applicants must successfully pass a physical agility test as required by the Chief of Police. Physical agility testing for all existing employees, other than promotional applicants will be voluntary.

Section 12: Sick Leave

Sick leave shall be accumulated at a rate of 3.69 hours biweekly pay period. Sick leave shall be accumulated to a maximum of one thousand (1000) hours.

Employees using less than 32 hours sick leave per calendar year are eligible to participate in a sick leave incentive program in which sick leave may be converted to vacation time during the following calendar year. Employees with less than five (5) years continuous service cannot participate in the program. Employees with more than five (5) years but less than ten (10) years continuous service may receive one (1) hour vacation time for each eight (8) hours sick leave not used during the previous year. Employees with more than ten (10) years continuous service may receive two (2)

hours vacation time for each eight (8) hours of sick leave not used during the previous calendar year. All vacation time credit will be rounded to the nearest whole hour.

Section 13: Probationary Period

Employees shall serve an eighteen (18) month probationary period upon hire and a one (1) year probationary period after promotion to a higher job classification.

Section 14: Holidays

The Town's designated holidays are as follows:

January 1
February 12
Third Monday of February
Last Monday of May
July 4
First Monday of September
Second Monday of October
November 11
Thanksgiving Day
December 25

A personal holiday as determined by the employee subject to approval of the Chief of Police or his/her designee.

~~Employees who are required to work on a holiday shall be entitled to a compensatory day off or time and one-half (1.5) pay in lieu of a compensatory day off.~~

All eligible employees shall receive eight (8) hours of compensation (pay or credited time) on the above designated holidays. An employee who is regularly scheduled to work on a holiday shall be paid for the hours worked on the holiday at his/her regular rate of pay. In addition, such employee shall be credited on an hour for hour basis with additional holiday time in his/her holiday bank, equal to the number of hours he/she is regularly scheduled to work minus the eight (8) hours provided above. As an alternative to this holiday time credit, an employee may elect to receive holiday in lieu pay which is calculated at the rate of one and one half times his/her regular rate of pay, for hours worked on the holiday. **To reflect current practice.**

Section 15: Vacation

Vacation shall be accrued, per the biweekly pay period, at the following rates:

Less than five years continuous service -- 3.08 hours.

More than five years, less than ten years -- 4.62 hours

More than ten years continuous service -- 6.15 hours

~~Employees with more than ten (10) years continuous service may opt to have the Town buy back one (1) week of vacation time at two percent (2%) of his/her salary. Employees desiring to implement this option must submit his/her request at the time of vacation sign-up for the upcoming year.~~

Employees with more than ten (10) years continuous service may opt to have the Town buy back vacation time on an hour-for-hour basis. An employee desiring to implement this option must submit his/her request at the time of vacation sign-up for the upcoming year. To be eligible to sell back vacation time, an employee must have a minimum balance in excess of one half of their annual vacation accrual, after any buy back.

Section 16: Off-Duty Court Time Reimbursement

Court time shall be paid at time and one-half (1.5) with a three (3) hour minimum. Court time continuing for more than four (4) hours may be paid at time and one-half (1.5) or by compensatory time off at a rate of time and one-half (1.5) at the option of the employee.

Two (2) hours of court time shall also be paid at straight time when employees receive less than twelve (12) hours cancellation of said mandated court appearance by the Town or, District Attorney, or Municipal/Superior Court systems.

Section 17: Bereavement Leave

All employees covered by this MOU shall be allowed paid leave for not more than three (3) working days when absent because a death has occurred in the immediate family. For the purpose of Bereavement Leave, members of the immediate family include mother, stepmother, father, stepfather, mother-in-law, father-in-law, child, grandmother, grandfather, grandchild of the employee, spouse, brother, stepbrother, sister, stepsister, cohabitant, or dependent of the employee. Bereavement Leave, due to the death of someone who is not a member of the employee's immediate family, is limited to one day per request. Bereavement Leave cannot be accumulated and is not part of the sick leave benefit.

In order to receive Bereavement Leave, an employee must make a written or verbal request to the appropriate Department Head identifying the relationship of the deceased individual to the employee. The Department Head will forward his/her recommendation regarding the leave to the City Manager for a final decision as soon as practical.

Section 18: Overtime Pay

Overtime for sworn officers shall be and one-half (1.5) the hourly rate or by compensatory time off at time and one-half (1.5), at the option of the employee, for hours worked in excess of 171 hours in the 28-day work period. Dispatchers assigned to twelve (12) hour shift schedules shall be paid overtime at the rate of time and one-half (1.5) the hourly rate for hours worked in excess of twelve (12) hours in a workday and forty (40) hours in their assigned work week, or by compensatory time off for such at time and one-half (1.5), at the option of the employee. All other civilian employees shall be paid overtime for hours actually worked in excess of the employee's regularly scheduled workday. Time spent in either paid or unpaid leave does not count towards overtime.

Section 19: Long Term Disability

The Town will continue existing coverage under its disability insurance policy for covered employees. In the event of disability, either service related or not service related, employee compensation from the disability insurance and the Town shall not exceed one hundred percent (100%) of the actual salary to be paid to the employee at the time of the disability. Any funds more than one hundred percent (100%) shall be reimbursed to the Town.

Section 20: Paychecks

Paychecks shall be issued to employees biweekly. Employees may file with the Town appropriate written instruction for the mailing of their paychecks, or for the direct deposit of their paychecks, if available.

Section 21: Compensatory Time

As used in this MOU, the term "compensatory time" means time accrued at time and one-half (1.5) in lieu of pay for time spent over and above normal duty time and may be taken at the convenience of the duty schedule. A maximum of sixty (60) hours of compensatory time may be accrued; compensatory time earned after that amount will be paid at the overtime rate.

Section 22: Employee Assistance Program

The Town shall establish a program for psychological counseling to employees and their dependents, with total Town expenditures not to exceed \$3,000 for payment of professional psychological counseling fees. Employee family groups are entitled to attend up to six (6) sessions with the Town sponsored counselors during the term of this agreement when he/she/they determine(s) that psychological counseling is needed to ensure continued good mental health. In addition, the Town shall provide a stress awareness seminar for all employees under the Employees Assistance Program during this contract period.

Section 23: Bilingual Pay

Any employee capable of speaking Spanish at a fluency level satisfactory to the Town shall receive \$100.00 per month as a full-time agent in addition to any other compensation to which the employee is otherwise entitled.

Section 24: Educational Reimbursement

The Town shall establish a \$2,000.00 annual educational reimbursement plan. Employees who successfully complete courses, approved by the Chief of Police, in law enforcement or a degree program may receive up to \$400.00 reimbursement each year of the MOU until funds are depleted. At the end of the calendar year, any unused amount in the plan shall be distributed to participants in the plan during that year on an equal basis provided that such additional payments to participants shall be based on actual expenditures incurred by the participants.

Section 25: Drug/Alcohol Screening/Testing

A policy on Alcohol and Drug Abuse as outlined in Memorandum #44 of the Rules and Regulations of the Atherton Police Department shall be utilized for both pre-employment applicants and employees covered within this contract.

Section 26: PERS/Social Security Contingency

If at any time during the life of this Agreement, the Town becomes required by law to make all new employees part of the Social Security System, then all new employees so required will become members of the PERS/Social Security Retirement System.

Section 27: Physical Fitness Program

During the course of this Agreement, a physical fitness incentive program shall be instituted after the Town and Association agree upon the program's content.

Section 28: Hepatitis B Vaccinations

Hepatitis B vaccinations will be provided to all bargaining unit employees in accordance with applicable law.

Section 29: Alternative Scheduling

Police-Sworn Uniformed Personnel Assigned to Patrol: Sworn uniformed personnel assigned to patrol will be assigned a "12 Plan" work schedule based upon twelve (12) hour workdays and a twenty-eight (28) day work cycle with a "four-on three-off, three-on four-off" format within each two week period pursuant to the Department's shift rotation policy.

No officer working a twelve (12) hour shift shall be permitted to work more than sixteen (16) consecutive hours. The only exception to this condition may be extenuating circumstances due to disasters or other emergencies, which require prolonged working hours for personnel.

All time worked during the regularly scheduled shift will be paid at the employee's regular hourly rate. Time worked in excess of the regularly scheduled shift will be paid at time and one half of the employee's hourly salary. Briefing time will be included as part of the twelve (12) hour shift.

Each officer must have a minimum of eight (8) hours "off-time" between regularly scheduled shifts. The only exception to this condition may be extenuating circumstances due to disaster or other emergencies, which require prolonged working hours for personnel. Court appearances and the like are not part of the regularly scheduled shift.

Issues such as late calls and reports, dispatcher relief, watch coverage, comp-time off, shift exchanges, meal relief and breaks shall be handled at the direction and discretion of the team Sergeant.

This schedule consists of 171 work hours in accordance with 207(k) during each twenty-eight (28) day cycle.

Police-Civilian Dispatchers: Police-civilian dispatchers will be assigned a "12 Plan" work schedule based upon twelve (12) hour workdays and a twenty-eight (28) day work cycle with a "four-on three-off, three-on four-off" format within each two week period pursuant to the Department's shift rotation policy.

No dispatcher working a twelve (12) hour shift shall be permitted to work more than sixteen (16) consecutive hours. The only exception to this condition may be extenuating circumstances due to disasters or other emergencies, which require prolonged working hours for personnel.

The first twelve (12) hours worked during the regularly scheduled shift will be paid at the employee's regular hourly rate, and time worked in excess of twelve (12) hours during the regularly scheduled shift or in excess forty (40) hours in the assigned work week shall be compensated as provided in Article IV, Section 18. Each employee will have an individually assigned regular workweek. Briefing time will be included as part of the twelve (12) hour shift.

Each dispatcher must have a minimum of eight (8) hours "off-time" between regularly scheduled shifts. The only exception to this condition may be extenuating circumstances due to disaster or other emergencies, which require prolonged working hours for personnel.

If dispatch is returned to an eight (8) hour shift schedule during the term of this MOU, the parties shall meet to agree upon a revision of the Police Dispatcher salary ranges to maintain employees' gross income under existing twelve (12) hour shift scheduling.

Issues such as late calls and reports, dispatcher relief, watch coverage, comp-time off, shift exchanges, meal relief and breaks shall be handled at the direction and discretion of the team Sergeant.

Schedule Implementation: Shift changes will occur on the first day of the first pay period of January, May, and September.

Holidays earned, vacation days earned, and sick days earned are based upon eight (8) hour days.

Shift scheduling may be altered or changed by the Chief of Police should working conditions, staffing, workload, and/or an emergency so require. Should the Chief desire to effect such a change, the Chief shall give advance written notice to the APOA of the proposed change(s), the reason(s) therefor, the proposed revised schedule(s), and shall provide a reasonable opportunity to discuss such change(s) prior to implementation, provided however that the foregoing provisions do not apply to normal shift rotations.

Should the Town reinstate specialty units, the Town and representatives of the Police Officers' Association will meet and confer regarding differential pay for these assignments.

Section 30: Field Training/ Communications Training Officer Pay

An employee, when qualified as a Field Training Officer or a Communications Training Officer, and when assigned by the Police Chief or his designated representative as a Field Training Officer or a Communications Training Officer, shall receive FTO/CTO pay in addition to regular pay in an amount equal to 5% of the employee's base salary for each full ~~week~~ **shift** the employee is so assigned to provide training.

Section 31: Assignment Pay

- A. An employee when qualified and assigned by the Chief or his/her designated representative to act in the capacity of School Resource Officer, REACT Officer or Motorcycle Officer shall receive assignment pay in addition to regular pay in an amount equal to 5% of the employee's base salary for **each full shift** ~~week~~ the employee is so assigned. In the event that grant funding for any of these special assignments is reduced or discontinued, at its discretion, the Town may eliminate such assignment and the corresponding assignment pay.
- B. Employees in sworn police classifications assigned to work as detectives shall receive a 5% increase in their normal step rate for such assignment. Officers are assigned as detectives at the discretion of the Chief of Police. Employees may be returned to their original assignments at any time at the discretion of the Chief of Police and such return shall not be considered "punitive action" nor subject to any appeal.
- C. Employees in sworn police classifications assigned to work as K-9 officers shall receive a 5% increase in their normal step rate for such assignment. Officers are assigned as K-9 officers at the discretion of the Chief of Police. Employees may be returned to their original assignments at any time at the discretion of the Chief of Police and such return shall not be considered "punitive action" nor subject to any appeal. Employees in sworn police classifications assigned to work as K-9 officers shall be compensated for off-duty K-9 care as follows: The Town and the Association agree that the amount of off-duty

compensable working time attributable to all ordinary aspects of canine care (including without limitation, handling, caring, feeding, exercising, grooming, kennel cleaning, cleaning of Town vehicles, and ordinary transport to a veterinarian) by employees assigned to K-9 duty is seven (7) hours per week. Both the Town and the K-9 officers agree that this 5% differential is fair compensation for the duties of caring for the dog outside of work hours. This agreement is made pursuant Fair Labor Standards Act regulation 29 CFR § 785.23. If and when an employee assigned to K-9 duty performs any extraordinary work involving the animal, the employee shall report such work immediately to the Chief of Police in writing and in no event less than 24 hours after completing such work. "Extraordinary work" includes, but is not limited to, unanticipated trips for emergency veterinarian care and any work which causes a substantial increase in work time beyond the agreed-upon hours necessary for routine care as identified above.

ARTICLE V NON-DISCRIMINATION

The parties agree that they, and each of them, shall not discriminate against any employee or organization member because of race, color, creed, sex, national origin, political affiliation, any other unlawful basis or because of membership in the Association or any activities on behalf of the Association.

ARTICLE VI GRIEVANCE PROCEDURE

Section 1: Periodic Conferences

The City Manager and/or Chief of Police shall periodically meet with the President of the Association and other representatives of the Association the President may desire for the purpose of informal discussions pertaining to topics of interest to either the Town or Association.

Section 2. Grievance Steps

Any dispute between the Town and an employee, or between the Town and the Association, regarding the interpretation or application of this MOU shall be considered a grievance. An employee may file a grievance on his/her own behalf, or by the President of the Association, or his/her designated representative.

Step 1. An employee must present the grievance in writing, either directly or through his/her Association representative, to the immediate supervisor within the ten (10) days following the event or events on which the grievance is based. The immediate supervisor shall make whatever investigation is necessary to obtain facts pertaining to the grievance. Within five

(5) days after receiving the grievance, the immediate supervisor shall give the employee a reply.

Step 2. If the employee desires to appeal the grievance to Step 2, the appeal shall be in writing and presented to the Chief or the designated representative of the Chief within five (5) days following the receipt of the immediate supervisor's reply. The Chief may refer the grievance to the appropriate supervisor.

The written appeal shall contain a complete statement of the grievance, the alleged facts upon which the grievance is based, the reasons for the appeal, the remedy requested, and the sections of the Agreement claimed to have been violated. The grievance shall be signed and dated by the employee. The Chief, or appropriate supervisor to whom the grievance has been referred, may arrange a meeting between himself, the employee, the appropriate Association representative and the immediate supervisor, in an attempt to resolve the grievance. In any event, the Chief, or his designated representative, shall give a written decision to the employee within ten (10) days following the receipt of the written appeal to Step 2.

Step 3. If the employee desires to appeal the grievance to Step 3, the employee shall present a written appeal to the City Manager within five (5) days following receipt of the written decision of Step 2.

Within fourteen (14) days after the receipt of the appeal to Step 3, the City Manager shall hold a meeting with the employee, the appropriate Association representative, the Chief, or the appropriate supervisor to discuss the matter. A written decision shall be given to the employee or the appropriate Association representative within ten (10) days following the meeting.

Step 4. If the grievance has been properly processed through the previous steps of the procedure and is not resolved, the employee or the appropriate Association representative may present the grievance to a Fact-Finding Panel as described below. The employee or the appropriate Association representative shall notify the City Manager, in writing, within ten (10) days following the receipt of the written answer at Step 3.

The Fact-Finding Panel shall consist of three members: one member appointed by the City Manager, one member appointed by the Atherton Police Officers' Association, and the third member shall be selected and mutually agreed upon by the other two appointed members of the Fact-Finding Panel.

The Fact-Finding Panel shall hold a hearing on the issue or issues submitted, or as determined by the Fact-Finding Panel if the parties have not mutually agreed upon the issue or issues. The hearing should occur within thirty (30) days, but not more than forty-five (45) days after the selection date of the third member. Each party will prepare a statement of the issue or issues, as well as a position statement thereon, and submit such to the Fact-Finding Panel and other party at least five (5) days prior to the hearing before the Panel.

The hearing of the Fact-Finding Panel shall be informal. Hearsay evidence is admissible, but hearsay alone will not support an allegation. Witnesses shall be sworn and testimony given under oath. A complete record stenographic of the proceedings will be made.

The Panel should render its decision within seven (7) days, but not more than fourteen (14) days after the conclusion of the hearing. The Panel decision shall be sent to the City Manager and the employee or appropriate representative of the Association.

Each party shall bear its own respective attorney fees and costs. The fees of the third member of the Panel, as well as the cost of the stenographic record of the hearing, shall be equally divided between and paid by the Town and Association.

Step 5. The City Manager shall present the opinion of the Fact-Finding Panel for a decision to the City Council at its next regular session. The City Council shall render in closed session a final decision by adopting, rejecting or modifying the decision of the Fact-Finding Panel.

Section 3: General Provisions

Although grievances may be processed during normally scheduled working hours, the Association agrees that the time spent by its designated Association representative shall be kept to a reasonable minimum and that no Association representative shall be entitled to any additional compensation or premium pay for any time spent in processing grievances outside such representative's regularly scheduled hours. The Association also agrees that it will not process grievances during periods of overtime.

Any grievance not filed or appealed within the time limits specified shall be considered settled on the basis of the last disposition given. In the event the grievance is not answered within the time limits set forth herein, either the employee or the appropriate Association representative may appeal the grievance to the next higher step within the time limits provided.

All time limits herein refer to calendar days. Any of the time limits specified in Steps 1-5 may be extended by written mutual agreement of the parties.

Copies of the resolution of all grievances, including the grievance, shall be sent to the President of the Association.

It is understood and agreed that whenever a provision in this Article refers to an employee filing a grievance, the Association may file such grievance, either on the employee's behalf or on behalf of the Association. In such an event, the processing of the grievance shall comply with all other provisions of the grievance procedure Article.

ARTICLE VII DISCIPLINE

Employees other than probationary employees, as defined in Article IV, Section 14 herein, shall only be disciplined in accordance with the procedures set forth in Sections 3 and 4 of the Atherton Police Manual and the Public Safety Officers Procedural Bill of Rights Government Code Sections 3300 et seq.

The parties agree that the probationary period is part of the selection process, and that satisfactory performance and demonstration of possession of the necessary job dimensions during the probationary period is an integral part of that process.

ARTICLE VIII LEAVES OF ABSENCE

The Chief of Police, or his designated representative, may grant an employee a leave of absence without pay or benefits, for good and sufficient reason. Such leaves may be extended by written request of the employee, subject to approval of the Chief of Police or his designated representative. Written request for an extension of leave of absence should be submitted prior to the expiration of the leave.

Any leave granted pursuant to the provisions contained herein may be canceled by the Chief of Police by notice in writing, mailed to the employee at the employee's address on file in the records of the Police Department, or such other address as the employee may designate. Such notice shall be by registered mail, return receipt requested, and shall be mailed not later than thirty (30) days prior to the effective date of cancellation of the leave.

Each employee who is granted a leave pursuant to the provisions of this Article may, upon return from leave, elect one of the following options:

Accept a vacant position in the classification held at the time the leave commenced; or

Accept a vacant position in the lower classification for which he is qualified. In such an event, the employee shall have upgrade rights to the classification from which he elects reduction; or

1. Replace the least senior employee in the classification held at the time the leave commenced; or
2. Request an extension of leave of absence, as provided in "A" above, without pay or benefits for a period not to exceed six (6) months.

Employees who have been separated from service with the Town for failure to return from leave or failure to report, and whose failure is determined by the Chief of Police or his representative to be the result of extenuating circumstances beyond their control, shall be reinstated.

**ARTICLE IX
AUTHORIZED REPRESENTATIVES**

For the purpose of administering the terms and conditions of the various Ordinances, Resolutions, Rules and Regulations adopted pursuant to this Agreement:

Management's principal authorized agent shall be the City Manager, or his/her duly authorized representative except where a particular management representative is otherwise designated.

The Employee Organization's principal authorized agent shall be the President of the Atherton Police Officers' Association, or his/her duly authorized representative.

**ARTICLE X
WEAPONS**

Town will provide a weapon to each officer and reserve officer, with said weapon meeting the criteria established under the Rules and Regulation Manual of the Atherton Police Department. If any weapon used by an officer is damaged "in the line of duty," it shall be the responsibility of the Town to repair or replace such weapon. Prior to the issuance of any new or damaged weapon, the Town shall have the weapon serviced, checked and turned by a competent gunsmith.

**ARTICLE XI
LAYOFF AND RECALL**

Although not limited to the following, layoffs shall ordinarily be for lack of work and/or lack of funds. In the event of layoffs, the Town shall provide laid off employees a written explanation of reasonable purpose for said layoff. If it is determined that layoffs are necessary, employees shall be laid off in the following order:

Temporary employees, seasonal employees, provisional employees of less than one year.
Reserve Officers are not included in this description.

Part-time employees, who are defined as employees hired to work less than twenty (20) hours per week. Reserve Officers are not included in this description.

Probationary employees; and

Permanent full-time employees. When layoffs are determined, the order of layoffs shall be by seniority within classification. When seniority by classification is identical for two employees, seniority within the department shall determine senior employee. Those with the least time in classification/department shall be laid off first. An employee in a higher

classification may take a position in a lower classification, i.e., Sergeant to Patrolman. Time in the higher classification shall count toward seniority in the lower classification.

Dispatchers are considered to be a separate classification not lower than Patrolman.

Employees who are laid off shall be placed on a recall list for a period of one year. If there is a recall, employees who are still on the recall list shall be recalled in the inverse order of their layoff, provided they are presently qualified to perform the work in the job classification to which they are recalled without further training.

If an employee is recalled to a position in a lower paid job classification, he/she shall have the right to return to the job classification he/she held prior to being laid off in the event it subsequently becomes available, providing he/she continues to meet all qualifications for that position. If an employee is recalled to a lower rated job classification, the employee shall have the right to refuse recall and remain on the recall list. The Town shall not hire new employees in covered positions as long as there are still employees on the recall list who are presently qualified to perform the work in the affected job classification and are willing to be recalled to said classification.

Employees who are eligible for recall shall be given fourteen (14) calendar days notice of recall. Such notice shall be sent to the employee by certified mail with a copy to the Association, to the address listed on the recall list. Employee must notify the Town in writing of his intention to return to work within three (3) working days after receipt of notice of recall. The Town shall be deemed to have fulfilled its obligations by mailing the recall notice by certified mail, return receipt, to the mailing address provided by the employee, it being the sole obligation and responsibility of the employee to provide the City Manager with his latest mailing address.

Each employee who receives notice of layoff will be required to take a medical examination provided by the Town before he can be included on a recall eligibility list. This exam will determine ability to perform those tasks described within the police manual.

If recall occurs after a three-month (3) period, an additional medical examination will be required following the procedures set forth in Article XII or this MOU.

Length of service as pertaining to this section shall be determined by computing total continuous service starting from the first day of service in classifications covered by the MOU.

ARTICLE XII MEDICAL PHYSICAL EXAMINATION OF EMPLOYEES

Section 1: Examinations

The Town of Atherton will require a physical examination of each officer upon his entry into the Police Department. In addition, an officer may be required to undergo physical examination(s) during their employment with the Town, as requested by the Chief of Police. The following procedures shall be followed with respect to all officer medical examinations:

Standards of each examination shall be the same for all officers.

The physical examination may be conducted by an employee's private physician at the employee's expense or a physical examination conducted by the departmental physical at the Town's expense.

The physician conducting the examination shall furnish to the Town of Atherton a fitness for duty report, including any functional limitations of the officer. No medical information beyond the physician's fitness for duty report, including any functional limitations, shall be provided to the Town unless the officer has executed a written authorization which conforms to the requirements of the California Confidentiality of Medical Records Act.

Section 2: **Failure of Examination**

Any officer who fails to pass a physical exam may, at his/her option, have a review of his/her case in the following manner:

He/she may employ a qualified medical examiner of his/her own choosing and at his/her own expense for the purpose of producing a physical examination for the same purpose as the physical examination made by the medical examiner employed by the Town. The qualified medical examiner shall provide the Town with a completed P.O.S.T. Form 3253 (Medical Examination Report).

The medical examiner chosen by the officer shall furnish to the Town a fitness for duty report, including any functional limitations of the officer. No medical information shall be provided to the Town unless the officer has executed a written authorization, which conforms to the requirements of the California Confidentiality of Medical Records Act. In the event that such findings verify the findings of the medical examiner employed by the Town, no further review of the case shall be afforded.

In the event that the findings of the medical examiner chosen by the officer shall disagree with the finding of the medical examiner employed by the Town, the Town will, at the request of the officer, ask that the two medical examiners agree upon and appoint a third qualified and disinterested medical examiner, preferably a specialist, for the purpose of making a further physical examination of the officer.

The disinterested medical examiner shall then make a further medical examination of the officer in question and the case shall be settled on the bases of his findings.

The expense of employing the disinterested medical examiner shall be borne by the Town in the event that the findings of the disinterested medical examiner verify the findings of the medical examiner employed by the officer, and shall be borne by the officer in the event that the findings of the disinterested medical examiner verify the finding of the medical examiner of the Town. Copies of the disinterested medical examiner's report shall be furnished to the Town and to the officer.

In the event that medical examiner employed by the officer or the disinterested medical examiner verifies the findings of the medical examiner employed by the Town, the officer shall be immediately placed on a forced leave of absence. Such leave of absence may be subject to the Labor Code Section 4850, or other applicable state or federal law. However, should an officer be released from his/her duties for any medical or medical-related reason without pay, the Town agrees that during the leave of absence, health and dental benefits paid by the Town will continue. The officer has the right to first use up his accumulated sick leave and vacation, if any.

Within one (1) year from the date he/she is placed on the forced leave of absence, and whether or not he uses any of his accumulated sick leave and vacation, if any, the officer can be reinstated if he/she passes a subsequent physical examination given by a medical examiner appointed by the Town. Any expense in connection with this reinstatement physical examination shall be borne by the officer.

Medical examinations shall be scheduled with the interest of the employee in mind. The employee's hours of sleep and days off will be considered in this scheduling. Where the employee, due to his/her shift, must take his/her physical examination of his/her own time, he/she will be compensated in accordance with overtime rules as stated in Article 4, Section 18.

Section 3: Authorization Form

Medical information beyond a physician's fitness for duty report, including any functional limitations, shall be provided to the Town only if the officer has executed a written authorization in the following form which conforms to the requirements of the California Confidentiality of Medical Records Act:

AUTHORIZATION BY EMPLOYEE FOR RELEASE OF MEDICAL INFORMATION

I acknowledge that the Town of Atherton is concerned about my ability to perform my duties and fulfill my responsibilities as a Police Officer. I further acknowledge that I have been requested by the Town to submit to a fitness for duty physical examination to be administered by _____, a medical doctor chosen by either the Town or myself to conduct the departmental physical at the Town's expense.

I hereby authorize _____ to disclose all pertinent medical information and all laboratory results to the Town for review. The release by the physician of the information and results, and the utilization of the information and results by the Town, shall be for the limited purpose of providing the Town an opportunity to evaluate my suitability for continuing with the Police Department. The physician is only authorized to release the information and results for a period of up to and including 120 days from the date indicated below.

4. Duty Baton with rubber grommet.
5. Holsters for Town-owned Pistols.
6. Rain coats and pants; hat covers.
7. Flashlight

Town shall repair or replace uniforms and equipment items damaged in the line of duty. The determination by the Town as to whether an item shall be repaired or replaced shall be based on what makes the uniform most presentable, not what is least expensive.

The Town is responsible for maintaining, repairing or replacing the following safety items: 1, 2, 3, 4, 5, 6, and 7; however, if the damage to one of these items is the direct result of negligent conduct by an employee, the employee shall be responsible for and pay for the undepreciated value of the item. For the purposes of this section, value shall be determined under cost accounting principles using sum-of-the-year's digits depreciation, and the items shall have no salvage value. Depreciation life shall be determined by the Internal Revenue Service Standards. Whenever an employee is provided with a previously used, rather than a new piece of equipment, it shall be considered as already completely depreciated.

ARTICLE XV AMERICANS WITH DISABILITIES ACT

The Association and Town agree that the provisions of this Agreement shall be interpreted and applied by both parties in a manner consistent with the Americans With Disabilities Act.

ARTICLE XVI SEPARABILITY

Notwithstanding any other provision in the Agreement to the contrary, in the event any article, or subsection thereof, of this Agreement shall be declared invalid by any court of competent jurisdiction, or by any applicable state or federal law or regulation, or should a decision by any court of competent jurisdiction, or any applicable state or federal law or regulation diminish the benefits provided by this Agreement, or impose additional obligations on the Town, the parties shall meet and confer on the article or subsections thereof affected. In such an event, all other provisions of this Agreement not affected shall continue in full force and effect.

ARTICLE XVII FULL UNDERSTANDING, MODIFICATION AND WAIVER

- A. This Agreement sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any and all prior or existing Memoranda of Understanding, Understandings, and Agreements, regarding the matters set forth herein, whether formal or informal are hereby superseded and terminated in their entirety.

- B. It is the intent of the parties that Ordinances, Resolutions, Rules and Regulations enacted pursuant to this Agreement be administered and observed in good faith.
- C. During the term of this Agreement, the parties shall meet and confer at the request of either party pertaining to matters not covered herein and within the scope of representation of the APOA.
- D. To the extent that any of the provisions of the MOU will have any retroactive effect upon final ratification of the MOU by the APOA and final adoption of the MOU by the Town Council, such retroactive effect will only apply to those employees covered by the MOU who are actively employed by the Town on the date of the aforementioned final actions of the parties.

This Agreement is subject to approval by the City Council of the Town of Atherton and the appropriate representative of the Atherton Police Officers' Association.

FOR THE TOWN OF ATHERTON

FOR THE ATHERTON POLICE OFFICERS' ASSOCIATION

 City Manager

 President, Atherton Police Officers' Association

 President, Teamsters' Local 856

Town of Atherton
2005 POA Negotiations
Town Final Offer - *Revised*
1/12/06

1. Term 3 years (7/1/05 – 6/30/08)

2. Salaries Continue use of 70th Percentile formula - with high and low removed & with clarifications as previously proposed by the Town (8/12/05 proposal). Therefore, the following salary increases will be provided for year 1:

Police Officer	2.7%
Police Sergeant	1.8%
Dispatcher	4.9%
CSO	3.5%
Comm. Supervisor	0.0%

3. Medical

Revise medical structure - Effective January, 06 the Town's contribution will be set at 80% of the Blue Shield rate. In addition, the Town will pay for 80% of the Dental and Vision plan costs (assuming a new MOU has been adopted). Effective January 2007, the Town will increase its contribution to an amount that reflects 85% of the Blue Shield rates, as well as 85% of the dental and vision rates. Effective January 2008, the Town will increase its contribution to an amount that reflects 90% of the Blue Shield rates, as well as 90% of the dental and vision rates. An employee who elects no medical coverage through the Town will receive \$300 per month, paid quarterly.

In addition, the parties agree to explore alternative medical plans during the second year of the MOU.

4. Retirement The Town's contract with PERS will be changed to provide for unused sick leave to be credited toward service time at retirement.

5. Retirement Medical The current provision will be changed to provide that employees retiring on or after 12/1/05 with 20 or more years of service will receive \$200 per month toward medical, and for service beyond 20 years, retirees shall receive \$20 per month for each such full year of employment.

6. Specialty Pay Amend this section to add the following positions, each of which will receive a 5% differential when working in these assignments:
 - * School Resource Officer
 - * REACT Officer
 - * Motorcycle Officer

Also, add a provision that specifies that such pay may be discontinued if grant funding for the assignment is reduced or eliminated.

Town of Atherton
2005 POA Negotiations

7. Retirement During the second year of the MOU, the parties will explore the creation of a Retirement Medical Health Savings Plan.
8. Bilingual Pay Increasing the dollar amount to \$100.00 per month.
9. Retroactivity The first year's wage increase will be made retroactively, subject to an agreement being reached and ratified by the Association prior to 5:00pm on 1/27/06.
10. Housekeeping Amend the MOU to reflect the clean up items raised by the Town in its August 12, 2005 proposal.