



AGENDA
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT

May 17, 2006

5:00 P.M.  NOTE TIME

Meeting Room

Town Administrative Offices

91 Ashfield Road

Atherton, California

Special Meeting

5:00 P.M. ROLL CALL Janz, J. Carlson, A. Carlson, Marsala, McKeithen

5:02 P.M. PUBLIC COMMENTS

REGULAR AGENDA

5:05 P.M. 1. CONSIDERATION AND DIRECTION TO STAFF REGARDING A DRAFT ATHERTON POLICE SERVICES SURVEY FROM GODBE RESEARCH

Recommendation: It is recommended that the City Council review the draft Atherton Police Services Survey and give direction to Godbe Research

5:45 P.M. 2. 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*

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MAY 17, 2006
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6:00 P.M. ROLL CALL Janz, J. Carlson, A. Carlson, Marsala, McKeithen

6:02 P.M. PUBLIC COMMENTS

6:05 P.M. CLOSED SESSION

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

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

One (1) potential case

RECONVENE TO OPEN SESSION

Report of action taken.

ADJOURN

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AGENDA
Town of Atherton
CITY COUNCIL/ATHERTON
CHANNEL DRAINAGE DISTRICT
May 17, 2006
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

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

- 7:00 P.M. 1. **PLEDGE OF ALLEGIANCE**
- 7:03 P.M. 2. **ROLL CALL** Janz, J. Carlson, A. Carlson, Marsala, McKeithen
- 7:05 P.M. 3. **PRESENTATION**
- A. Swearing in of new Police Officer Nicholas Hillard
 Oath of Office Administered by Police Chief Bob Brennan
- B. Recognition of Outgoing Committee Members
- 7:20 P.M. 4. **COUNCIL REPORTS**
- 7:30 P.M. 5. **PUBLIC COMMENTS** (only for items which are not on the agenda –
 limit of three minutes per person)
- 7:40 P.M. 6. **STAFF REPORTS**
- 7:50 P.M. 7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT**
 (Directed by Resolution Nos. 99-6 and 02-31)
- 8:00 P.M. **CONSENT CALENDAR** (Items 8 - 17)

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

8. **APPROVAL OF MINUTES OF THE SPECIAL MEETING OF APRIL 5, 2006, AND THE SPECIAL CLOSED SESSION AND REGULAR MEETING OF APRIL 19, 2006**
9. **APPROVAL OF BILLS AND CLAIMS FOR APRIL 2006 IN THE AMOUNT OF \$684,346**
10. **ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR APRIL 2006**
11. **ACCEPTANCE OF QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDED MARCH 31, 2006**
12. **APPROVAL OF PLANS AND SPECIFICATIONS AND AUTHORIZATION TO ADVERTISE STREET RECONSTRUCTION PHASE 3, PROJECT NO. 05-005**

Recommendation: Approve the plans and specifications and authorize advertisement for bids for the Street Reconstruction Phase 3 Project, Project No. 05-005.

13. **AWARD OF CONTRACT FOR TREE MAINTENANCE, PROJECT NO. 05-004**

Recommendation: Award a contract for the 2006 Tree Maintenance Project, Project No. 05-004, to Tru-Green Landcare, the low bidder on the May 5, 2006 bids, for \$50,000, and to authorize the Mayor to sign the contract on behalf of the Town.

14. **APPROVAL OF PLANS AND SPECIFICATIONS AND AUTHORIZATION TO ADVERTISE FOR VALPARAISO AVENUE RECONSTRUCTION PROJECT, PROJECT NO. 05-003**

Recommendation: Approve the plans and specifications and authorize advertisement for bids for the Valparaiso Avenue Reconstruction Project, Project No. 05-003.

15. **FIRST READING AND INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 2.37 OF THE ATHERTON MUNICIPAL CODE BY REVISING SECTION 2.37.020 TO INCREASE THE TERM OF OFFICE FOR CERTAIN MEMBERS OF THE GENERAL PLAN COMMITTEE**

Recommendation: Waive reading of the Ordinance beyond the title and introduce an Ordinance to extend the term of membership on the General Plan Committee to a four-year term for members who are not members of the City Council or Planning Commission.

16. ADOPT A RESOLUTION ADOPTING A NEGATIVE DELCARATION FOR THE HOLBROOK-PALMER PARK ACCESS TRAIL AND BRIDGE PROJECT

Recommendation: Adopt a resolution adopting a Negative Declaration (Environmental Document) for the Holbrook-Palmer Access Trail and Bridge Project

17. APPOINTMENT TO THE GENERAL PLAN COMMITTEE

Recommendation: Accept the City Council Selection Committee recommendation to appoint Todd Beardsley to a full four-year term on the General Plan Committee to be effective through 2010.

PUBLIC HEARINGS

8:05 P.M. 18. FROM THE GENERAL PLAN COMMITTEE AND PLANNING COMMISSION – FIRST READING AND INTRODUCTION OF AN ORDINANCE AMENDING ATHERTON MUNICIPAL CODE SECTION 17.36.195 REGULATING RETAINING WALLS

Recommendation: Staff recommends that the City Council conduct the public hearing, waive reading of the ordinance beyond the title, and introduce an Ordinance based on the following finding for the reasons outlined in the staff report: The proposed ordinance amendment is required to achieve the objectives of the Zoning Plan and the General Plan.

REGULAR AGENDA (Items 19 - 28)

8:25 P.M. 19. DISCUSSION AND POSSIBLE ACTION – CREATION OF CODE ENFORCEMENT OFFICER POSITION – PRESENTATION TO COUNCIL

Recommendation: The City Council hear the presentation from CSG regarding a proposal for providing an evaluation of Atherton code enforcement needs and providing contract code enforcement services on an experimental basis for the Town of Atherton.

8:45 P.M. 20. CONSIDERATION OF A REQUEST TO REDUCE SOLAR PANEL FEES TO ENCOURAGE SOLAR INSTALLATION

9: 00 P.M. 21. ADOPTION OF A RESOLUTION TO APPROVE REVISIONS TO GUIDELINES: CONSTRUCTION, OPERATIONS AND PARKING PLANS (COP Plans)

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

- 9:15 P.M. 22. SECOND READING AND ADOPTION OF AN ORDINANCE REGARDING TIME LIMITS FOR COMPLETION OF CONSTRUCTION**

Recommendation: Adopt an Ordinance establishing time limits for completion of construction projects.

- 9:30 P.M. 23. FIRST READING AND INTRODUCTION OF AN ORDINANCE ADDING ATHERTON MUNICIPAL CODE SECTION 15.40.157 REGARDING CONSTRUCTION SITE SCREENING**

Recommendation: Conduct the hearing, waive reading of the Ordinance beyond the title, and introduce the Ordinance based on the following finding for the reason outlined in the staff report: The proposed Ordinance is required to achieve the objectives of the Zoning Plan and the General Plan.

- 9:45 P.M. 24. APPROVAL OF PROFESSIONAL SERVICES AGREEMENT WITH BKF ENGINEERS FOR DRAINAGE STUDY**

Recommendation: Consider approval and authorize the Mayor to sign a professional services agreement with BKF Engineers for review of the Town's drainage policy.

- 10:00 P.M. 25. RED LIGHT VIOLATION CAMERAS**

Recommendation: Staff recommends the Town enter into a trial agreement with Redflex Traffic Systems for three signal-controlled intersections within the jurisdiction of Atherton. Further, if the trial proves viable, staff recommends approval of a contract with Redflex for the permanent installation at the recommended locations.

- 10:15 P.M. 26. AMENDMENT TO HERITAGE TREE ORDINANCE – MODIFY PENALTY PROVISIONS – FIRST READING (Continued from the meeting of April 19, 2006)**

Recommendation: Consider an amendment to the penalty provisions of the Heritage Tree Ordinance to set out certain remedies related to planting of replacement trees where a heritage tree has been removed in violation of Town regulations.

10:30 P.M. 27. CONSIDERATION AND DIRECTION TO STAFF REGARDING RESIDENT AWARENESS AND EMERGENCY PREPAREDNESS (Continued from the meeting of April 19, 2006)

Recommendation: It has been requested that the City Council hold a study session to review the Town's emergency plan and efforts for resident awareness.

10:45 P.M. 28. CONSIDER REQUEST FROM POP WARNER FOOTBALL FOR AN EXEMPTION OF THE SPECIAL EVENTS GUIDELINES AND GIVE APPROPRIATE DIRECTION TO STAFF

11:00 P.M. 29. PUBLIC COMMENTS

11:05 P.M. 30. ADJOURNMENT

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

April 5, 2006

5:30 P.M.

Meeting Room
Town Administrative Offices

91 Ashfield Road
Atherton, California

Special Meeting

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

ROLL CALL

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

ABSENT: Kathy McKeithen (Excused)

REGULAR AGENDA

- 1. CONSIDERATION AND APPOINTMENT OF A SUBCOMMITTEE OF THE COUNCIL TO LIAISON WITH THE SEQUOIA UNION HIGH SCHOOL DISTRICT BOARD ON ISSUES RELATED TO THE TOWN OF ATHERTON AND THE MENLO ATHERTON HIGH SCHOOL**

MOTION – to create an Ad Hoc Subcommittee of the Council to liaison with the Sequoia Union High School District Board on issues related to the Town of Atherton and the Menlo-Atherton High School; further, Mayor Marsala and Vice Mayor Alan Carlson were appointed to the subcommittee.

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

- 2. APPROVAL OF THE PROPOSAL FROM GODBE ASSOCIATES AND AUTHORIZE THE MAYOR TO EXECUTE A CONTRACT FOR AN ATHERTON POLICE SERVICES STUDY IN THE AMOUNT OF \$20,985**

MOTION – to approve the proposal from Godbe Associates and to authorize the Mayor to execute a contract for an Atherton Police Services Study in the amount of \$20.985

M/S J.Carlson/Janz

Ayes: 4 Noes: 0 Absent: 1 (McKeithen) Abstain: 0

3. PUBLIC COMMENTS

4. ADJOURN

The meeting was adjourned by Mayor Marsala at 6:00 p.m.

Respectfully submitted,

**Kathi Hamilton
Acting City Clerk**



DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
April 19 2006
6:00 P.M.
Meeting Room
Town Administrative Offices
91 Ashfield Road
Atherton, California
Special Meeting

The meeting was called to order at 6:10 p.m.

ROLL CALL

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

PUBLIC COMMENTS

There were no public comments.

CLOSED SESSION

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

Three (3) potential cases.

B. LIABILITY CLAIM – pursuant to Government Code Section 54956.95

Claimant: Quincy Sanders
Agency Claimed Against: Town of Atherton Police Department

RECONVENE TO OPEN SESSION

Report of action taken.

City Attorney Marc Hynes reported out of Closed Session that there was no reportable action taken with regarding to Item A, Conference with Legal Counsel. With respect to Item B, direction was given to the City Attorney regarding the Liability Claim.

ADJOURN

The Special Meeting adjourned at 7:00 p.m.

Respectfully submitted,

**Charles E. Marsala
Mayor**

Minutes Prepared by:

Kathi Hamilton



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

REGULAR MEETING

Mayor Marsala called the meeting to order at 7:12 p.m.

1. **PLEDGE OF ALLEGIANCE**

ROLL CALL

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

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

3. **PRESENTATION**

A. **Proclamation – West Nile Virus Awareness Week**

Mayor Marsala presented the Proclamation to Bob Gay, District Manager for the San Mateo County Mosquito Abatement District.

B. **Proclamation – Voter Education Month**

Mayor Marsala presented the proclamation to Kathi Hamilton, Acting City Clerk.

C. **Proclamation – Arbor Day**

Mayor Marsala presented the Proclamation to Kathy Hughes Anderson, Town Arborist.

D. Presentation – SBWMA RFP Process – Tracy Swanborn

Tracy Swanborn, Consultant, Hilton Farnkopf & Hobson, LLC., presented an overview of the SBWMA Contractor Selection Process and briefly explained the four phases of the process.

4. COUNCIL REPORTS

- Council Member Janz gave an update on HEART, the San Mateo County Housing Endowment and Regional Trust. Some of the subcommittees were exploring legislative options to help fund housing in the County. Senator Torlickson sponsored a bill that would charge an extra \$1 a page on recording fees, which would generate \$1 million in San Mateo County. He attended the Progress Seminar in Monterey. A topic of interest was the urbanization of agricultural land in the Central Valley and the concern that more and more of America's food came from overseas. The Association of Bay Area Governments (ABAG) General Assembly meeting was scheduled for the next day.
- Council Member Jerry Carlson also attended the Progress Seminar and found it a good opportunity to meet and interact with officials throughout the County. He attended the San Francisco Airport Roundtable meeting and took a tour of the Noise Abatement Center. The center received 640 phone calls, 142 from Atherton, during the month of February.
- Vice Mayor Carlson attended the April 5th General Plan Committee meeting. An update on the Historic Preservation ordinance was presented. The Transportation Committee met on April 11. The Town had \$848,000 in the P. G. & E. fund for undergrounding utilities. Staff would prepare a recommendation for expanding an existing project. An additional \$300,000 was expected over the next five years. The Buildings and Facilities Committee met that day. An assessment of facility needs would come before the Council in the future. The City Attorney, City Manager, Mayor and Vice Mayor Carlson met with representative from Menlo-Atherton High School regarding the performing arts center. The meeting was good first step.
- Council Member McKeithen had nothing to report.
- Mayor Marsala attended the New Resident's reception given by the Atherton Dames and the Atherton Civic Interest League (ACIL). The Dames were raising funds for a matching grant for the new entrance to Holbrook-Palmer Park. The Easter Egg Hunt was a huge success with approximately 500 participants. He attended a meeting of the Grand Blvd. Task Force, a committee studying how to develop El Camino Real in a coordinated manner. Mayor Marsala referred to a study done in the 1960s which indicated residents believed something should be allocated in the budget for the park. He asked the Finance Committee to review it at its upcoming meeting.

5. PUBLIC COMMENTS

There were no public comments.

6. STAFF REPORTS

- **City Manager Jim Robinson received a banner request for the May 18, 2006, ACIL meeting. Normally, banners were restricted to Town-sponsored events. Since the meeting was focused on a disaster preparedness event and the ACIL would not be identified on the banner, he approved the request.**
- **City Attorney Marc Hynes reported out of the Closed Session as follows:**
 - A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Initiation of litigation pursuant to subsection (c) of Government Code Section 54956.9:

Three (3) potential cases.

No reportable action.
 - B. LIABILITY CLAIM – pursuant to Government Code Section 54956.95**

Claimant: Quincy Sanders
Agency Claimed Against: Town of Atherton Police Department

Direction was given to the City Attorney.
- **Public Works Director Duncan Jones met that morning with other public works officials from cities in the County, the County, representatives from the Sheriff’s office, as well as members of the Menlo Park Fire Protection District. The group was preparing a draft of the Public Works Mutual Aide Annex to the Emergency Operations Plan of the County.**

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

Menlo Park Fire Protection District

Harold Schapelhouman, Deputy Chief, Menlo Park Fire Protection District, explained procedures regarding how the District would interface with the Town’s Emergency Operation Center (EOC) during an emergency. Advanced planning, establishing thresholds/triggers for events, stockpiling supplies, and training the public were “best practices” in case of an emergency. All agencies needed to work together with more collaboration.

CONSENT CALENDAR (Items 8 - 11)

The Council had questions and concerns regarding Item No. 11 Council Member McKeithen expressed concern that nothing was in the contract that provided for a cost reassessment. She queried whether anyone verified that the utility lines were as

represented. She believed she did not have enough facts to approve the adjustments and needed to know more about the legal ramifications.

In response to Council Member Jerry Carlson, City Attorney Marc Hynes said if the utility lines were not put in deep enough, the Town could file a claim against P. G. & E. if the Town could prove the lines were improperly done. Council Member Carlson requested that the next Finance Committee agenda include an item on Road Impact Fees.

Public Works Director Duncan Jones said he met with the utility companies once a year to discuss upcoming projects. P. G. & E. had verbally approved the location of the lines on Selby Lane.

Vice Mayor Carlson stated if P. G. & E. misrepresented to the Town that the lines were deep enough, the Town needed to file a claim. In the future, staff needed to get information/representations in writing.

Discussion continued regarding whether the Town should pursue a claim against P. G. & E. and/or approve the adjustments to the contract so the project could go forward. The price of asphalt, whether it would go up or down, was taken into consideration in contemplating delaying the project.

John Rugeiro, Atherton, said signage for the project had been posted last year.

Council decided to remove the item from the Consent Agenda and place it at the end of the Regular Agenda for further discussion.

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

M/S Janz/J.Carlson

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

8. APPROVED MINUTES OF THE SPECIAL CLOSED SESSION AND REGULAR MEETING OF MARCH 15, 2006 AND THE SPECIAL CLOSED SESSION MEETING OF MARCH 30, 2006
9. APPROVED BILLS AND CLAIMS FOR MARCH 2006 IN THE AMOUNT OF \$ 1,069,460
10. ACCEPTED OF MONTHLY FINANCIAL REPORT FOR MARCH 2006
11. ~~APPROVAL OF AN INCREASE IN THE CONTRACT WITH INTERSTATE GRADING AND PAVING, INC, FOR SELBY LANE RECONSTRUCTION, PROJECT NO. 04-004 (Removed and placed at the end of the Regular Agenda.)~~

PUBLIC HEARINGS NONE

REGULAR AGENDA (Items 12 - 23)

12. PARK LANE COMMUNITY POLICING REPORT

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

Police Chief Bob Brennan presented the staff report. Officer Tony Dennis had done a combination of education and enforcement in the Park Lane area. He also visited construction sites on Broadacres Road and Tallwood Court after receiving complaints from some of the neighbors, and those sites were brought into compliance. Staff would report to Council on a periodic basis in the future.

In response to Council Member McKeithen, City Manager Jim Robinson said 13 written citations were issued for speed, 1 of which was for 50 MPH. There were 63 written warnings issued for speed at 30 MPH, but less than 40 MPH. Only two contractors were issued warnings.

Police Chief Brennan said the standard in police work was that officers did not issue tickets unless the driver was going at least 10 miles over the speed limit. Officer Dennis issued tickets at 15 miles over the speed limit.

Council Member McKeithen noted that the encroachment issue on Broadacres Road and Tallwood Court resulted in a fine and spoke to the need for a code enforcement officer.

Discussion continued on the types and occurrences of Vehicle Code violations in the area, construction-related violations, continued enforcement, and the number of construction projects nearing completion or starting.

Direction was given to staff to continue proactive enforcement and to return to Council in 60 days with a progress report. Additionally, staff was requested to report citations by the various construction sites.

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

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

City Attorney Marc Hynes presented the staff report. He met with City Manager Jim Robinson, Building Official Mike Hood, Police Chief Bob Brennan, Council Member Jerry Carlson, and Herman Christensen to review the Guidelines. Subsequently, Mr. Christensen submitted a letter with further observations/suggestions. City Attorney

Hynes reviewed the revisions which were highlighted in bold in the revised Guidelines. Strikeouts were eliminated. Discussion ensued regarding the elimination of Item No. 12, which designated the Chief of Police as the enforcement official. The discussion centered on reinstating Item No. 12 with the City Manager (or his designee) as the enforcement official and implementing a reporting procedure.

Vice Mayor Carlson suggested using a report format similar to the reports received by the Transportation Committee. He further suggested the Police Department and City Manager needed to return at the next meeting with the format for a report with a reasonable approach that satisfied the concerns of the Council.

Council Member Janz stated the language in Item 1a needed to be expanded to say, “offsite parking, with regard to a flag lot, would need to be on the road that the lot connected to, on either side of the driveway.”

In response to Council Member Janz, City Attorney Hynes said a building permit could not be delayed based upon too many construction sites. However, No. 11 of the Guidelines gave the Building Official the ability, based upon overly impacted roads, to impose other parking remedies, e.g., shuttles.

Council Member McKeithen said a statement should be added that said, “To the extent that there was not sufficient area onsite or legal area offsite to park, the responsibility of finding alternative legal locations to park vehicles was the responsibility of the construction contractor.” The statement could be incorporated into Item 11.

In response to Council Member McKeithen regarding Item 1e, City Manager Robinson said the best solution was to have compliance without having to impose penalties, and the Building Department had the responsibility to ensure the area was rocked.

Building Official Hood said the Construction Operation and Parking Plans (COP Plans) would be more formal than in the past and a pre-inspection would take place. A checklist could be included.

A discussion ensued regarding Item 2 and what type of construction signs should be posted. The pros and cons of requiring the posting of COP Plans and the Guidelines were debated.

Council Member Janz suggested the last sentence in Item 10 should read, “The contractor shall be responsible for ensuring parking areas used for the construction site are maintained and kept clean and clear of litter.”

Loren Gruner, Walnut Avenue, understood that the Guidelines were intended to inform every one of the rules; however, there were parts of the Town where things worked well.

Amanda Miller, Walnut Avenue, appreciated Mr. Christensen's modifications. She was concerned that the increased enforcement created an unfair higher standard for subsequent construction. She thought the community should be considerate of getting things done in a reasonable manner rather than formalizing everything.

Jeff Wise, Linden Avenue, said from a construction perspective, parking availability constantly fluctuated; there were times when very little space was available, and other times parking was sufficient. He believed posting a generalized sign was better than posting the COP Plans. Additionally, you only here when things went wrong, not when they were going right.

Direction was given to staff to incorporate the suggested revisions/additions into the Guidelines and return the item to the May 17, 2006, Council meeting for adoption. Additionally, Council requested a provision be added that staff report to Council on how the Guidelines were working six months after implementation of the new guidelines.

14. GENERAL PLAN RECOMMENDATION - INTRODUCTION OF AN ORDINANCE REGARDING TIME LIMITS FOR COMPLETION OF CONSTRUCTION

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

Deputy Town Planner Lisa Costa Sanders presented the staff report. The General Plan Committee discussed the item. Staff researched ordinances from other communities: Hillsborough, Belvedere, and Tiburon. Using these as a guide, Atherton's ordinance established timelines based upon the size of the construction project. Penalties were established which needed to be significant to get attention but contained a maximum. The General Plan Committee was concerned about collecting a bond or deposit upfront for every single project; therefore, the point at which a deposit was required was at the point of nearing completion and the timeline was about to expire and equaled the penalty amount. The appeal process began with the Planning Commission and contained very specific grounds.

Mayor Marsala thought a provision for weather delays needed to be taken into consideration, perhaps in the area of grounds for appeal.

City Attorney Marc Hynes said that Section 15.40.210 B appeared to be written as to what "can" be included as grounds for appeal; however, the language really said what "cannot" be used. After a brief discussion, a decision to strike the entire section was made, leaving the grounds for appeal up to the Planning Commission.

Council Member Carlson wanted a provision added that prohibited someone from getting a second building permit (when time was running out to finish a project) to add another three years to complete the project. Additionally, he did not want additional

permits (for a second structure) to be added to the end of the original permit, which would effectively extend the original timeline.

City Attorney Hynes said language could be added to Section 15.40.180 that said the time runs 12 months from the issuance of the “original” building permit and “cannot be subsequently increased for a building permit on the same project.”

A discussion took place regarding various scenarios. Building Official Mike Hood noted that 90% of projects were completed within the timelines.

Council Member Janz noted language in Section 15.40.210 C needed to be changed in the second to the last sentence to say, “the documentary and other evidence shall demonstrate that construction delays resulted....”

Council Member McKeithen said in Section 15.40.180, the first time limit should read, “2000 square feet or less.”

Amanda Miller, Walnut Avenue, was building a house to the point of gaining a temporary occupancy permit and then intended to finish the house over the next several years. She was concerned with the possibility of a \$250,000 penalty.

Herman Christensen, Park Lane, believed the time limit for the top category should be reduced from 36 to 30 months. The penalty of a \$250,000 maximum for a \$4million house was a small amount comparatively. He worried that some people would find it easier to pay the penalty to get the extra time. A penalty as a percentage, i.e., a ¼ % a day, would significantly increase the “pain” of not completing a project on time.

John Ruggeiro, Atherton, spoke regarding a nearby home where construction had been abandoned on an accessory structure.

Mayor Marsala said the situation could be handled as a nuisance.

Council Member McKeithen asked whether consideration was given to making the timelines rolling timelines. She was concerned that with just adding one square foot to a 2,000 square foot structure, an additional year was gained to complete the project. Additionally, she noted that the square footage was never verified after construction.

Deputy Town Planner Costa Sanders said the General Plan Committee wanted to simplify the categories for ease of enforcement. A rolling timeline would be more difficult to tract.

MOTION – to introduce an ordinance, as modified, for first reading, “AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ESTABLISHING TIME LIMITS FOR COMPLETION OF CONSTRUCTION AND AMENDING CIVIL PENALTY PROVISIONS AND RENUMBERING CODE SECTION PERTAINING TO VIOLATIONS OF CHAPTER 15.40 PERTAINING TO CONSTRUCTION REGULATIONS

15. UPDATE FROM THE GENERAL PLAN COMMITTEE REGARDING FLOOR AREA RATIO (FAR) OF UNDERGROUND GARAGES WHEN CALCULATING THE TOTAL FAR OF THE HOME

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

Deputy Town Planner Lisa Costa Sanders presented the staff report. The General Plan Committee recommended that below grade garages be calculated in total floor area. Currently, the entire basement area was exempt from floor area ratio (FAR). The Committee was concerned with the visual impact of the retaining wall and large, sweeping driveways. The Committee also recommended a depth limit for basements of 14' below the average natural grade. The Committee did not reach consensus on limiting area for basements: should part be included in the floor area, should all of it be included in the floor area, and the size of light wells. Staff was looking for direction from Council and whether the basement area should be further limited.

Vice Mayor Alan Carlson said the rationale for including underground garages in the FAR was to limit the size/mass of the building seen on the lot. The Committee had difficulty reaching consensus due to the variety of policy issues.

Council Member McKeithen did not think the Council had the right to limit the FAR unless there was a viable goal.

Discussion centered on whether underground garages should be allowed at all, the visual impacts of retaining walls and driveways, the impacts of the walls interfering with the tree root systems, and/or counting the underground garage in the FAR.

Amanda Miller, Walnut Avenue, suggested phasing in the changes over time. She said some people design carports missing one side, which did not count in the FAR, and then build on top of them.

Paul Wythes, Park Lane, suggested not allowing underground garages at all.

Loren Gruner, Walnut Avenue, said basements were part of the house in most other areas of the country. She presented pictures of a home to show how light wells worked in basements. Consideration needed to be given to those who might use underground garages for their car collections, etc.

John Thomas, Sabella Lane, spoke regarding drainage issues with basements and underground garages.

Jeff Wise, Atherton, spoke regarding screening retaining walls. He did not think Council needed to prohibit underground garages altogether. There was a need to

address the issue esthetically. Increasing the setback for the retaining wall for the underground driveway would discourage but not prohibit one.

Paul Wythes, Park Lane, thought people with car collections should find places outside of Atherton to “garage” them or build garages above ground.

Marian Oster, Flood Circle, said years ago, the FAR was lowered to 18% and basements would not count in the FAR because they were below ground. One way to solve the issue was to eliminate underground garages.

City Manger Jim Robinson said Silicon Valley Association of Realtors submitted a letter, which was placed before the Council. Their opinion was that basements should not be treated as living space for the purpose of FAR calculations.

Council Member McKeithen thought the best solution was to eliminate underground garages based upon ecology as well as the visual impacts.

MOTION – to refer to the Planning Commission Meeting of May 24, 2006, to consider eliminating underground garages in basements and restricting the height of basements to 14 feet

Vice Mayor Carlson clarified the item was being referred to the Planning Commission to develop an ordinance and the item would be returned to Council. He was undecided on the issue but was in favor of referring the item to the Planning Commission.

Council Member Janz agreed. He was not totally sure he was against garages in basements but was in favor of referring the item. He thought there should be an exemption for slopes because it did not create the same effect.

M/S McKeithen/J.Carlson

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

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

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

City Manager Jim Robinson presented the staff report. Five options were outlined in the report. As part of looking at the cost, staff looked at two firms that provided services on a contract basis. Each alternative had advantages and disadvantages. There were a variety of issues that current staff was involved in with code enforcement, e.g., the Town Arborist, Building Inspectors, Public Works street issues, etc. The cost estimates outlined for each alternative represented no greater than a half-time person. The option of using a consultant firm gave the Town an opportunity to explore what the needs were and perhaps develop a process to identify those needs. City Manager Robinson said regardless of whether enforcement was provided through an employee or a contract, the service could be provided by no more than a half-time

person. He suggested an experimental process whereby a contractor could assess what the needs were and provide code enforcement training.

Council Member McKeithen wanted more information in order to make a more informed decision. She thought the work of the code enforcement person would be that of an ombudsman, an intake person, who then followed up. She wanted to know whether any adjoining communities wanted to partner with the Town and what the cost would be. She also suggested that the contracting company CSG make a presentation to the Council.

City Manager Robinson said CSG provided a program for a six-month trial period in three phases: organizing, implementing and over the long-term did the code enforcement. Another proposal was received from Neil Martin and Associates who could also evaluate the need and recommend the best approach.

Mayor Marsala said the Town needed to determine what to enforce. He thought the best approach was to use a contract person to keep pension costs down.

Vice Mayor Alan Carlson said the fundamental question was what kind of Town was desired. Enforcement, currently, was on a complaint basis. He wanted to know how many complaints the Town received on a monthly basis. If the Town switched from a complaint basis to a proactive approach, guidance for a code enforcement officer was needed on what he/she needed to enforce. He did not think staff should be added lightly.

Council Member Jerry Carlson believed enforcement needed more focus, there was a need for a data base for complaints, and the need to adopt the concept of intelligent enforcement. He favored the idea of an outside expert assessing what needed to be done. He agreed with Council Member McKeithen that more information was needed. Additionally, a sum of money should be allocated in the budget that was entitled, "Enforcement," and would be available for whatever type of solution was decided.

Council Member Janz did not believe a decision had to be made that evening on what style of enforcement was needed. Having someone come in to explain how other communities handled enforcement issues and to assess the Town's issues was preferred.

City Manager Robinson said staff could return with a couple of proposals and address the issues of what the Town's policy would be, what the cost would be, and what the needs were. The advantage of a contract person, initially, was an opportunity to evaluate the situation.

Council Member McKeithen said the consensus from last meeting resulted in two main issues that pointed to the need for a code enforcement officer: quality of life and safety.

Mayor Marsala said Council needed to determine the level of enforcement. Areas, such as Lindenwood, with a great deal of vegetation in the right-of-way, could be changed dramatically.

Direction was given to staff to invite a company with code compliance expertise for a presentation at the City Council Meeting of May 17, 2006. Further, staff would return with an estimate of the number of code enforcement issues handled in a month.

Mayor Marsala called for a recess at 11:45 p.m. The meeting was reconvened at 11:55 p.m.

17. ADOPTION OF A RESOLUTION TO APPROVE EXPENSE REIMBURSEMENT POLICY (AB 1234)

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

MOTION – to adopt Resolution No. 06-02, A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON SPECIFYING OFFICIAL FUNCTIONS FOR WHICH REIMBURSEMENT OF COSTS OF ATTENDANCE IS AUTHORIZED AND APPROVING A REIMBURSEMENT POLICY FOR REASONABLE AND NECESSARY EXPENSES

M/S McKeithen/Janz

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

18. APPOINTMENT OF COMMISSION / COMMITTEE MEMBERS

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

Mayor Marsala presented the City Council Screening Committee's recommendations for appointments to the General Plan Committee.

MOTION – to accept the recommendation of the City Council Screening Committee to appoint Elizabeth Lewis and Randy Lamb to the General Plan Committee; Further, to extend the term of the General Plan Committee from the current two-year term to a four-year term and to direct staff to ask the new appointees whether they agreed to accept the longer term.

M/S McKeithen/Janz

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

19. APPROVAL OF PROFESSIONAL SERVICES AGREEMENT FOR DRAINAGE STUDY

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

replacement tree make sure the replacement tree survives. City Attorney Hynes outlined the existing code Section 8.10.060.

After a brief discussion, Council requested the item be returned to the Council Meeting of May 17, 2006.

By consensus of the Council, the item was continued to the Council Meeting of May 17, 2006.

21. CONSIDERATION OF SETTING A DATE FOR A SPECIAL STUDY SESSION REGARDING THE DEVELOPMENT OF GOALS AND OBJECTIVES FOR THE TOWN

Recommendation: Select a date for a special meeting of the City Council to consider goals and objectives.

Council set June 14, 2006, at 6:00 p.m. as a Special Meeting to consider goals and objectives for the Town.

City Manager Jim Robinson agreed to provide Council with a list of suggested goals/objectives with the understanding that Council could add any other items for consideration before the meeting of June 14.

22. CONSIDER SETTING A DATE FOR A POSSIBLE SPECIAL MEETING TO CONSIDER THE DRAFT FISCAL YEAR 2006-2007 OPERATING AND CAPITAL BUDGET

Recommendation: Select a date for a Special Meeting for a Study Session and consideration of the Draft FY 2006-07 Operating and Capital Budget.

Council set June 14, 2006, at 6:00 p.m. as a Special Meeting to consider the Draft Fiscal Year 2006-2007 Operating and Capital Budget.

23. CONSIDERATION AND DIRECTION TO STAFF REGARDING RESIDENT AWARENESS AND EMERGENCY PREPAREDNESS

Recommendation: It has been requested that the City Council hold a study session to review the Town's emergency plan and efforts for resident awareness.

Vice Mayor Alan Carlson said the Town's emergency action plan was drafted in March of 1999 and was reactive as opposed to proactive. Council's role in an emergency had never been defined. There were a host of issues the Council had never considered, e.g., legal liabilities. He suggested appointing a Council subcommittee for disaster preparedness to develop a plan.

City Manager Robinson said the plan created in 1999 was in the process of being revised. The revisions would make the plan in conformance with SIMS, which contained the federal regulations and was scheduled to be completed in July.

Council Member McKeithen said Peter Carpenter and group were working on an inter-jurisdictional approach to handle an emergency. Also, a committee of residents was formed, under the auspices of Bob Jenkins and the ACIL, to form a community/grass root approach and would ultimately work closely with the fire district. The Police Department wanted some oversight; a hands-on approach for what was happening at the grassroots level, whom to contact, what jurisdictions had resource officers, what supplies were necessary, etc. Sgt. Grimm had been invited to attend the meetings. Council should also be given regular reports.

Mayor Marsala thought Council needed to know what Council's role was in order not to be a hindrance to staff.

Vice Mayor Alan Carlson believed that Council needed to fundamentally examine its role in an emergency and should not abdicate its responsibilities. Council should have a leadership role because public safety was at the heart of what Council was elected to do.

City Manager Robinson noted the spring *Athertonian* included information on upcoming CERT classes to encourage residents to participate. The important thing was to make people aware of what they could do to be prepared.

Richard Moore, ACIL, invited Council to attend the upcoming ACIL annual meeting, being held in conjunction with the Atherton Disaster Preparedness Committee on May 18. The meeting was planned to develop community awareness, neighbor helping neighbor, in the event of a disaster/emergency.

By consensus, the Council continued the item to the meeting of May 17, 2006.

11. **APPROVAL OF AN INCREASE IN THE CONTRACT WITH INTERSTATE GRADING AND PAVING, INC, FOR SELBY LANE RECONSTRUCTION, PROJECT NO. 04-004 (Removed from the Consent Agenda and placed at the end of the Regular Agenda for discussion.)**

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

Council Member McKeithen thought the Town needed to go forward and approve the increase in the contract and direct staff, particularly the City Attorney, to pursue any rights the Town might have to recover the costs either from P. G. & E. or the contractor.

MOTION – to approve an increase in the contract with Interstate Grading and Paving, Inc. Further, direction was given to staff to pursue recovering the increased costs from P. G.& E. and/or any other responsible party.

M/S McKeithen/J.Carlson

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

Public Works Director Duncan Jones responded to Mayor Marsala that staff would be checking the elevations to ensure utility lines were not in the way, or request written confirmation of such, on all future projects.

24. PUBLIC COMMENTS

There were no public comments.

25. ADJOURNMENT

Mayor Marsala adjourned the meeting at 12:44 a.m.

Respectfully submitted,

**Kathi Hamilton
Acting City Clerk**

TOWN OF ATHERTON
CLAIMS LIST
 April 2006

Payroll Checks	7672 - 7745	\$ 26,919
Electronic Transfers		317,218
A/P Checks	21793 – 21937	340,209
TOTAL		\$ 684,346

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 7672 - 7745 (payroll) and 21793 - 21937 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$684,346; are true and correct, and that there are sufficient funds for payment.

James H. Robinson
City Manager

The above claims, check numbers 7672 - 7745 (payroll) and 21793 - 21937 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$684,346; are true and correct, and are authorized for payment.

Charles Marsala
Mayor, Town of Atherton

SOURCE OF FUNDS

101	General Fund	657,645
105	Tennis Fund	
201	Special Parcel Tax	
202	Transportation	
203	Gas Tax Fund	
210	Road Construction Impact Fees	
211	Park Grants Fund	10,003
213	Library Special Revenue Fund	1,101
401	General Capital Projects	
402	Storm Drainage	
403	Atherton Channel District	1,128
406	Facilities Construction	
610	Vehicle Replacement	
611	Computer Maint. & Replacement	10,463
612	Administrative Services	4,007
715	Evans Estate	
740	Tree Committee	
TOTAL		\$684,346



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: JOHN P. JOHNS, FINANCE DIRECTOR

DATE: FOR THE MEETING OF MAY 17, 2006

SUBJECT: MONTHLY FINANCIAL REPORT, APRIL 2006

RECOMMENDATION:

Receive the Monthly Financial Report for April 2006.

INTRODUCTION:

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

HIGHLIGHTS

General Fund expenditures for the ten months ended April 30, 2006, have amounted to \$6,632,266, or 76% of the \$8,701,010 budgeted for the fiscal year. For the ten months ended April 30, 2006, General Fund revenues amounted to \$7,736,417, or 89% of the \$8,720,458 estimated for the year.

By comparison, General Fund expenditures amounted to 79% of appropriations for the ten months ended April 30, 2005. Additionally, General Fund revenues amounted to 87% of estimated revenues for the ten months ending April 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 April 30th, 2006

Fund	Revenue Source	2005-06 Estimate	Current Period Revenues	Year to Date Revenues	% Received
	Property Tax	\$ 3,651,651	1,039,177	3,660,709	100%
	Sales and Use Tax	126,000	11,074	144,916	115%
	Other Taxes	830,760	432,247	1,134,382	137%
	Licenses & Permits	1,839,879	106,492	1,399,705	76%
	Fines & Forfeitures	35,000	5,554	46,822	134%
	Revenue from Other Agencies	303,166	-	182,848	60%
	Charges for Services	336,208	21,411	260,015	77%
	Investment & Rental Income	291,633	2,623	211,442	73%
	Other Revenues	5,000	6,959	43,578	872%
	Total General Fund Revenues	7,419,297	1,625,537	7,084,417	95%
	Interfund (Operating) Transfers In	1,301,161	-	652,000	50%
101	General Fund Total	8,720,458	1,625,537	7,736,417	89%
	Special Revenue Funds:				
105	Tennis	7,000	-	5,024	72%
201	Special Parcel Tax	1,858,000	441,864	1,658,575	89%
202	Transportation	180,000	16,030	200,388	111%
203	Street Improvement (Gas Tax)	172,376	19,927	134,022	78%
209	Law Enforcement	100,000	-	100,868	101%
210	Road Construction Impact Fees	1,158,328	39,112	828,527	72%
211	State Park Grants Fund	197,399	-	13,600	0%
213	Library	200,000	-	97,101	49%
	Total	3,873,103	516,933	3,038,105	78%
	Capital Project Funds:				
401	Capital Improvement	-	-	2,213	
402	Storm Drainage	-	-	379	
403	Channel Drainage District	50,665	14,059	51,528	102%
406	Facilities Construction	-	-	570	
	Total	50,665	14,059	54,690	108%
	Internal Service Funds:				
610	Vehicle Replacement	97,980	-	50,349	
611	Information Technology	101,621	-	52,959	52%
612	Administrative Services	294,389	-	151,645	52%
614	Workers Compensation Insurance	-	-	-	
	Total	493,990	-	254,953	52%
	Trust and Agency Funds:				
715	Evans Creative Design	13,200	-	2,430	18%
740	Tree Committee	-	-	7,500	
	Total	13,200	-	9,930	75%
	Total Revenues	13,151,416	2,156,529	11,094,095	84%

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

Fund	Description Department	2005-06 Budget	Current Period Expenditures	Year to Date Expenditures	% Spent
101	General Fund				
	11 City Council	\$ 20,535	\$ 1,459	\$ 10,621	52%
	12 City Manager	475,598	24,881	333,334	70%
	16 City Attorney	180,255	16,986	121,013	67%
	18 Finance	460,667	28,236	344,229	75%
	25 Building	1,042,371	80,147	800,692	77%
	40 Police	4,521,000	316,868	3,478,729	77%
	50 Public Works	1,900,584	163,439	1,543,648	81%
	Contingency	100,000	-	-	0%
	Total General Fund Expenditures	<u>8,701,010</u>	<u>632,016</u>	<u>6,632,266</u>	<u>76%</u>
	Interfund (Operating) Transfers Out	-	-	-	0%
101	General Fund Total	<u>\$ 8,701,010</u>	<u>\$ 632,016</u>	<u>\$ 6,632,266</u>	<u>76%</u>
Special Revenue Funds:					
105	Tennis	25,011	749	12,038	
201	Special Parcel Tax	1,832,077	-	1,481,594	81%
202	Transportation	323,420	-	28,400	9%
203	Street Improvement (Gas Tax)	150,000	142	73,249	49%
209	Law Enforcement	100,000	12,061	79,251	79%
210	Road Impact Fees	1,598,671	-	459,026	29%
211	State Park Grants	196,736	10,003	20,353	10%
213	Library Fund	71,045	1,243	23,989	34%
	Total	<u>4,296,960</u>	<u>24,198</u>	<u>2,177,900</u>	<u>51%</u>
Capital Project Funds:					
401	Capital Improvement	282,896	-	-	0%
402	Storm Drainage	21,394	-	2,563	12%
403	Channel Drainage District	425,300	1,128	410,085	96%
	Total	<u>729,590</u>	<u>1,128</u>	<u>412,648</u>	<u>57%</u>
Internal Service Funds:					
610	Vehicle Replacement	76,000	-	81,543	107%
611	Information Technology	112,622	10,463	94,919	84%
612	Administrative Services	317,139	12,644	253,218	80%
614	Workers Compensation Insurance	-	-	-	
	Total	<u>505,761</u>	<u>23,107</u>	<u>429,680</u>	<u>85%</u>
Trust and Agency Funds:					
715	Evans Creative Design	11,200	-	1,010	9%
740	Tree Committee	-	-	2,568	
	Total	<u>11,200</u>	<u>-</u>	<u>3,578</u>	<u>32%</u>
	Total Expenditures	<u>14,244,521</u>	<u>680,449</u>	<u>9,656,072</u>	<u>68%</u>

TOWN OF ATHERTON
Budget Summary
Fiscal Year 2005-06
As of April 30th, 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	7,084,417	652,000	6,632,266	8,686,936
	Special Revenue Funds:					
105	Tennis	21,841	5,024		12,038	14,827
201	Special Municipal Tax	1,112,743	1,658,575		1,481,594	1,289,724
202	Transportation	330,685	200,388		28,400	502,673
203	Street Improvement (Gas Tax)	34,413	134,022		73,249	95,186
209	Law Enforcement	13,758	100,868		79,251	35,375
210	Road Construction Impact Fees	832,049	828,527		459,026	1,201,550
211	State Park Grants	38,688	-		20,353	18,335
213	Library Special Revenue Fund	1,415,042	97,101		23,989	1,488,154
	Sub Total	<u>3,799,219</u>	<u>3,024,505</u>	<u>-</u>	<u>2,177,900</u>	<u>4,645,824</u>
	Capital Projects Funds:					
401	Capital Improvement	253,970	2,213		-	256,183
402	Storm Drainage	45,262	-		2,563	42,699
403	Channel Drainage District	439,931	51,528		410,085	81,374
406	Facilities Construction	65,382	570		-	65,952
	Sub Total	<u>804,545</u>	<u>54,311</u>	<u>-</u>	<u>412,648</u>	<u>446,208</u>
	Internal Service Fund					
610	Vehicle Replacement	412,904	50,349		81,543	381,710
611	Information Technology	133,100	52,959		94,919	91,140
612	Administrative Services	140,976	151,645		253,218	39,403
614	Workers Compensation Insurance	10,871	-		-	10,871
	Sub Total	<u>697,851</u>	<u>254,953</u>	<u>-</u>	<u>429,680</u>	<u>523,124</u>
	Trust and Agency Funds					
715	Evans Creative Design	113,488	2,430		1,010	114,908
740	Tree Committee	1,949	-		2,568	(619)
	Sub Total	<u>115,437</u>	<u>2,430</u>	<u>-</u>	<u>3,578</u>	<u>114,289</u>
	Grand Total	<u>\$ 12,999,837</u>	<u>\$ 10,420,616</u>	<u>\$ 652,000</u>	<u>\$ 9,656,072</u>	<u>\$ 14,416,381</u>



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: JOHN P. JOHNS, FINANCE DIRECTOR

DATE: FOR THE MEETING OF MAY 17, 2006

**SUBJECT: QUARTERLY INVESTMENT REPORT, FOR THE QUARTER ENDED
MARCH 31, 2006**

RECOMMENDATION:

Note, receipt and file.

INTRODUCTION:

This is the quarterly status report of the Town's investments in the Local Agency Investment Fund (LAIF) and the San Mateo County Investment Pool (SMCIP) for the quarter ending March 31, 2006.

DISCUSSION

As of March 31, 2006, the Town had a total investment of **\$13,754,139**. The total interest earning for the quarter ending March 31, 2006, amounted to **\$122,380**. The funds are invested in the San Mateo County Investment Pool (SMCIP) and the Local Agency Investment Fund (LAIF).

During the third quarter of FY 2005-06, interest earnings on funds invested with LAIF amounted to an annual rate of 4.03 percent of the average daily cash balance of funds invested. This compares to an annual interest earnings of 3.5 percent of the average daily cash balance of funds invested with San Mateo County Investment Pool.

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

Investment at SMCIP: San Mateo County Investment Pool is created and managed by the County Treasurer. As of March 31, 2006, the County's investment pool carried investments with a total value at cost of \$2.2 billion and an average duration of 1.3 years. The Town's investment with the San Mateo County Investment Pool as of March 31, 2006, amounted to \$9,889,280, or 71 percent of the Town's total investment holdings.

Attachment 1 to this staff report provides a summary of the investment earnings and investment holdings for the San Mateo County Investment Pool as of March 31, 2006.

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 \$15.6 billion, or roughly 30 percent of the \$52 billion that the State Treasurer manages in the PMIA. (Since LAIF investments are combined with PMIA, the Treasurer does not report the results for LAIF separately).

The Town's investment with LAIF as of March 31, 2006, amounted to \$3,864,859, or 29 percent of the Town's total investment holdings.

The average duration to maturity of PMIA as of March 31, 2006, was 181 days. Attachment 2 to this report provides a summary of investment holdings for the PMIA as of March 31, 2006.

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 Market Valuation

Attachment 1

**COUNTY OF SAN MATEO
ESTIMATED SUMMARY OF POOL EARNINGS
FOR THE 3RD QUARTER ENDED MARCH 31, 2006**

	<u>03/31/06 Par Value</u>	<u>Gross Earnings</u>
<u>Fixed Income Investments</u>		
U S Treasury Notes	\$500,000,000	\$2,540,624
Federal Agencies	\$300,000,000	\$2,278,135
Corporate Notes	\$197,000,000	\$1,456,949
Floating Rate Securities	\$194,000,000	\$1,014,933
Asset Backed Securities	\$11,000,000	\$21,212
<u>Short Term Investments</u>		
Federal Agencies	\$360,000,000	\$2,300,971
Corporate Notes	\$47,000,000	\$356,211
Floating Rate Securities	\$54,000,000	\$143,889
Commercial Paper	\$447,000,000	\$472,679
Certificate of Deposit	\$73,000,000	\$447,405
LAIF	\$37,000,000	\$361,793
SUBTOTAL - ACCRUED INCOME	\$2,220,000,000	\$11,394,801
<u>Realized Gain/Loss & Interest Received</u>		
U S Treasury Notes & Cash Equivalents		\$4,351,433
Federal Agencies		\$1,262,183
Corporate Notes		\$592,771
Floating Rate Securities		\$2,247,044
Asset Backed Securities		\$92,640
Securities Lending Income		\$133,672
GROSS POOL RATE/EARNINGS*	3.61%	\$20,074,544

<u>POOL BREAKDOWN</u>	<u>Pool 1</u>	<u>Pool 2</u>	<u>Pool 3</u>	<u>TOTAL</u>
Average Balance	391,105,210	484,990,998	1,380,508,626	2,256,604,834
Gross Earnings	3,479,235	4,314,434	12,280,874	20,074,544
Admin Fees	(120,546)	(149,484)	(425,499)	(695,529)
Bank Fees	(8,189)	(5,459)		(13,648)
Net Earnings	3,350,500	4,159,491	11,855,375	19,365,367
Net Earnings %	3.47%	3.48%	3.48%	3.48%

Earnings %'s are based on Q3 05-06 average daily balance of investment pools.
Pool 1 and Pool 2 are charged with bank fees associated with their disbursement/depository activity.

Attachment 2

State of California Pooled Money Investment Account Market Valuation 3/31/2006				
Description	Carrying Cost Plus		Fair Value	Accrued Interest
	Accrued Interest	Purch.		
United States Treasury:				
Bills	\$ 2,211,692,263.23	\$ 2,229,629,888.38	\$ 2,230,018,000.00	NA
Notes	\$ 3,416,271,696.92	\$ 3,416,150,149.96	\$ 3,405,932,750.00	\$ 23,245,315.50
Federal Agency:				
SBA	\$ 734,688,918.84	\$ 734,555,872.53	\$ 728,034,178.41	\$ 5,615,608.66
MBS	\$ 722,746,975.18	\$ 722,746,975.18	\$ 691,976,738.16	\$ 3,175,222.37
Bonds	\$ 8,757,621,505.11	\$ 8,756,354,213.64	\$ 8,695,762,406.21	\$ 59,101,730.27
Floater	\$ -	\$ -	\$ -	\$ -
Discount Notes	\$ 3,854,367,090.37	\$ 3,905,955,569.47	\$ 3,905,962,500.00	NA
FHLMC PC	\$ 1,360,564.52	\$ 1,360,564.52	\$ 1,416,630.92	\$ 21,957.75
GNMA	\$ 251,000.96	\$ 251,000.96	\$ 277,207.15	\$ 2,498.83
Bankers Acceptances	\$ -	\$ -	\$ -	NA
Bank Notes	\$ 1,424,997,882.18	\$ 1,424,997,882.18	\$ 1,424,380,386.00	\$ 8,417,270.84
CDs	\$ 8,575,071,546.50	\$ 8,575,071,546.50	\$ 8,570,502,157.40	\$ 69,220,739.61
Commercial Paper	\$ 6,122,914,553.83	\$ 6,152,131,455.98	\$ 6,151,464,486.40	NA
Corporate:				
Floater	\$ 154,388,691.13	\$ 154,388,691.13	\$ 154,275,469.10	\$ 880,513.42
Bonds	\$ 664,895,029.20	\$ 664,828,820.86	\$ 654,086,933.07	\$ 6,019,721.90
Repurchase Agreements	\$ -	\$ -	\$ -	NA
Reverse Repurchase	\$ -	\$ -	\$ -	\$ -
Time Deposits	\$ 7,833,995,000.00	\$ 7,833,995,000.00	\$ 7,833,995,000.00	NA
AB 55 & GF Loans	\$ 7,070,656,416.25	\$ 7,070,656,416.25	\$ 7,070,656,416.25	NA
TOTAL	\$ 51,545,919,134.22	\$ 51,643,074,047.54	\$ 51,518,741,259.07	\$ 175,700,579.15

Fair Value Including Accrued Interest

\$ 51,694,441,838.22



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 MAY 17, 2006

**SUBJECT: APPROVAL OF PLANS AND SPECIFICATIONS AND
AUTHORIZATION TO ADVERTISE STREET RECONSTRUCTION
PHASE 3 PROJECT NO. 05-005**

RECOMMENDATION:

Approve the plans and specifications and authorize advertisement for bids for the Street Reconstruction Phase 3 Project, Project No. 05-005.

INTRODUCTION:

The FY 2005-06 adopted Capital Improvement Program includes funds for constructing the Street Reconstruction Phase 3 project. The need for this project resulted from the pavement condition surveys conducted in the summer of 2005.

ANALYSIS:

The Town hired EIS, Inc., using a Metropolitan Transportation Commission grant to survey all the streets in Atherton. The report recommends that all streets with a Pavement Condition Index (PCI) between 0 and 25 should be reconstructed. In addition, an additional segment of Austin Avenue is included for reconstruction with the adjacent failed section. The streets to be included in Phase 3 are:

Austin Ave (Atherton Ave to Almendral Avenue)	Barry Lane cul-de-sac (66- 86)	Camino al Lago (Alameda de las Pulgas to Barney Ave)
Redwood Way	Normandy Lane	Bermetta Way
Watkins Avenue (El Camino Real to Tracks)		

The Street Reconstruction Phase 3 Project is budgeted for construction in Fiscal Year 2005-06. Staff prepared the design for the project. The plans and specifications are ready to be advertised for construction.

FISCAL IMPACT:

The Engineer's Estimate for the Street Reconstruction Phase 3 Project is \$836,423.50. In addition, a 10% construction contingency of \$83,423.50 would bring the total estimate to \$919,847. Eight hundred thousand dollars (\$64,500 from Parcel Tax funds, \$105,500 from Measure A funds, and \$630,000 in Road Impact Fee funds) is budgeted for the project in FY 2005-06. The additional funds, to cover increases in asphalt prices since the project was originally budgeted, will need to be allocated from Parcel Tax funds. The project is scheduled to receive bids in June and award the contract at the June 21, 2006, City Council meeting. The precise allocation required to cover the bid price and construction contingency will be determined after the bid and presented at the June City Council meeting.

Prepared by:

Approved by:

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: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF MAY 17, 2006

**SUBJECT: AWARD OF CONTRACT FOR TREE MAINTENANCE, PROJECT
NO. 05-004**

RECOMMENDATION:

Award a contract for the 2006 Tree Maintenance Project, Project No. 05-004, to Tru-Green Landcare, the low bidder on the May 5, 2006 bids, for \$50,000, and to authorize the Mayor to sign the contract on behalf of the Town.

INTRODUCTION:

This project is for an annual tree trimming contract. The contractor bid an hourly crew rate to provide routine pruning, hazardous tree removal, and storm damage cleanup of Town trees, up to the contract limit of \$50,000.

ANALYSIS:

Four bids were received for the 2006 Tree Maintenance Project as follows:

<u>Firm</u>	<u>Crew Hours</u>	<u>Crew Rate</u>	<u>Total</u>
Davey Tree Experts	342.0	\$146.02	\$50,000.00
Arborwell	384.61	\$130.00	\$50,000.00
Professional Tree Care	423.75	\$118.00	\$50,000.00
Tru-Green Landcare	427.35	\$117.00	\$50,000.00

The winning bidder gave us the greatest number of crew hours for the \$50,000 contract price. A crew hour consists of two tree workers, a high lift truck, and a chipper for one hour.

FISCAL IMPACT:

\$51,500 in street/park funds are budgeted for this project in FY 2005-06. Bids were received for the project on May 5, 2006. Tru-Green Landcare was the low bidder at \$117 per crew hour, which gives the town 427.35 crew hours for a total of \$50,000.00.

Prepared By:

Approved by:

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: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF MAY 17, 2006

**SUBJECT: APPROVAL OF PLANS AND SPECIFICATIONS AND
AUTHORIZATION TO ADVERTISE THE VALPARAISO AVENUE
RECONSTRUCTION PROJECT NUMER 05-003**

RECOMMENDATION:

Approve the plans and specifications and authorize advertisement for bids for the Valparaiso Avenue Reconstruction Project, Project No. 05-003.

INTRODUCTION:

The FY 2006-07 adopted Capital Improvement Program includes funds for reconstructing Valparaiso Avenue. The need for this project resulted from the failure of the pavement due to traffic, especially recent construction projects in the vicinity.

ANALYSIS:

Valparaiso Avenue has experienced pavement decay since it was last overlaid decades ago. Heavy traffic, including construction traffic at the private schools on Valparaiso Avenue and the residential construction in the area, has contributed to the deterioration of the roadway. Valparaiso Avenue has been overlaid several times since its original construction. This time it will be reconstructed with a full depth section of new asphalt.

Staff evaluated using dig-outs and overlay but determined that the Atherton portion of the project needs to be reconstructed for several reasons:

1. The multiple overlays of old pavement would eventually fail one or two layers down, causing delamination and potholes in the new overlay.
2. To prevent the cracks at the many utility and drainage trenches from cracking through the new surface.

3. Staff also was concerned that by the time the digouts could be performed, other areas of the aging pavement would fail.

For the Atherton side of Valparaiso Avenue, the project will include complete milling of the old asphalt to a depth of twelve inches, with an additional six inches of scarification and stabilization of the existing subgrade. A full depth asphalt pavement twelve inches thick will be placed, matching the existing pavement at the City Limits.

The City of Menlo Park has determined that they will continue to dig out failed areas of pavement. They have requested that Atherton include dig-outs for their side within our contract, and they will reimburse for the actual cost and provide inspection of the construction. This work is included in the plans to be approved. An agreement has been prepared by Menlo Park agreeing to reimburse the Town of Atherton.

The Valparaiso Avenue Reconstruction project is budgeted for construction in FY 2006-07. A federal Surface Transportation Program (STP) grant has been obtained to supplement funding by the Town. Staff prepared the design for the project. The Valparaiso Avenue Reconstruction Project plans and specifications are ready to be advertised for construction. Construction is expected to begin in early July 2006.

An additional federal STP grant has been obtained, as a joint effort between Menlo Park and Atherton, for 50% of the cost to overlay and re-stripe the entire street once the reconstruction and dig-outs are completed. This grant will be available for construction in 2007. The surface layer of the reconstruction of the Atherton side and the overlay of the digouts on the Menlo Park side have been deferred to next year to use the new grant funds.

FISCAL IMPACT:

The Engineer's Estimate for the Valparaiso Avenue Reconstruction Project is \$1,338,560, including an estimated \$108,000 for the Menlo Park side dig-outs. \$1,350,000 (\$708,000 from the Parcel Tax Funds, \$370,000 from Measure A funds, \$200,000 in Road Impact funds, and a \$72,000 Surface Transportation Program (STP) grant) is budgeted for the project in FY 2006-07. An agreement with Menlo Park will reimburse Atherton for the actual cost of construction on the Menlo Park side of the street. The project is scheduled to receive bids in June and award the contract at the June 21, 2006 City Council meeting.

Prepared by:

Approved by:

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

James H. Robinson
City Manager

Attachments: Agreement with Menlo Park

AGREEMENT
BETWEEN THE CITY OF MENLO PARK
AND THE TOWN OF ATHERTON
FOR
RESURFACING VALPARAISO AVENUE BETWEEN
EL CAMINO REAL AND MENLO PARK/COUNTY LINE AT NORTH LEMON AVENUE

This Agreement, entered into this ____ day of _____, 2006 by and between the City of Menlo Park, a Municipal Corporation of the State of California, hereinafter called "MENLO PARK" and The Town of Atherton, a Municipal Corporation of the State of California hereinafter called "ATHERTON";

WITNESSETH:

WHEREAS, ATHERTON will resurface Valparaiso Avenue between El Camino Real and the Menlo Park/County limit line beyond North Lemon Avenue as part of ATHERTON'S street resurfacing program for FY 2006-07; and

WHEREAS, a portion of Valparaiso Avenue between El Camino Real and the Menlo Park/County limit beyond North Lemon Avenue falls within the jurisdictions of ATHERTON and MENLO PARK; and

WHEREAS, MENLO PARK and ATHERTON have decided to apply jointly for federal Surface Transportation Program (STP) funding for the resurfacing of Valparaiso Avenue between El Camino Real and the Menlo Park/San Mateo County limit line beyond North Lemon Avenue; and

WHEREAS, the parties have agreed to have ATHERTON act as the lead agency in applying for the STP grant and also retain a contractor to resurface Valparaiso Avenue as described above under the terms of the STP grant; and

WHEREAS, additional non-participating STP work involving pavement section repairs on the Menlo Park side of Valparaiso Avenue shall be included in the construction contract; and

WHEREAS, MENLO PARK shall bear 100% of the non-participating STP work on the Menlo Park side of Valparaiso Avenue, which work is estimated at \$108,000; and

WHEREAS, the itemized list of work to be performed as part of this project is shown on Exhibit "A-1" attached;

NOW, THEREFORE, IT IS HEREBY AGREED by the parties hereto, as follows:

1. ATHERTON will act as the lead agency in applying for the federal Surface Transportation Program (STP) funds, and ATHERTON will include in the STP application, and the ensuing construction contract of the work described in Exhibit A-1 incorporated by this reference to pave MENLO PARK'S portion of Valparaiso Avenue as more particularly shown in Exhibit "A-2" incorporated by this reference.
2. The parties agree that the funds received from the STP application shall be applied the to the construction work on Valparaiso Avenue proportionately by value of work within each jurisdiction as calculated on Exhibit A-2 incorporated by this reference.
3. ATHERTON agrees to notify MENLO PARK of the successful bidder awarded the construction contract.
4. MENLO PARK shall have the option to exclude MENLO PARK'S portion of the work specified herein from ATHERTON'S contract upon notification of the bid results. If MENLO PARK elects to exercise said option, MENLO PARK shall notify ATHERTON in writing within five (5) working days from notification by ATHERTON of the bid results.
5. Upon the expiration of the notification period described in paragraph 4 above, ATHERTON will award the contract to the lowest responsible bidder for the complete construction project, including adjustment of manholes.

MENLO PARK agrees to reimburse ATHERTON for the total cost incurred by ATHERTON for performing the work requested by MENLO PARK less MENLO PARK'S share of the federal STP grant. The estimated cost for MENLO PARK's work is **FOUR HUNDRED AND FOUR**

THOUSAND FOUR HUNDRED FIFTY SEVEN DOLLARS (\$404,457). Details of the cost estimate and how payment due ATHERTON is determined are shown on Exhibit "A-1". It is understood that the total sum to be reimbursed to ATHERTON shall be determined from the actual STP federal grant awarded the project, and actual cost incurred by ATHERTON as determined from the successful contractor's bid price. It is also agreed that ATHERTON shall transmit to MENLO PARK a copy of the Bid Summary, and progress payments for the actual amount of work completed by the contractor and the value thereof for payment. ATHERTON shall submit progress invoices to MENLO PARK for payment based on actual progress payments made to the project contractor less any retention ATHERTON may withhold from the contractor. Upon receipt of an invoice, MENLO PARK agrees to reimburse ATHERTON within ten (10) working days from the date of receipt of said invoice.

6. No change orders for MENLO PARK's portion of the work will be added without MENLO PARK's written consent.
7. MENLO PARK shall inspect and approve the Valparaiso Avenue paving work, and all work shall conform to the approved plans, details and specifications.
8. It is understood and MENLO PARK agrees that upon completion of the work specified under this agreement, and mutual acceptance by the parties hereto, maintenance responsibilities for the improvements within MENLO PARK, and installed under this agreement shall vest in MENLO PARK.
8. MENLO PARK shall indemnify and hold harmless ATHERTON from all claims, suits, or action of every name, kind and description, arising out of or relating to the matters covered by this agreement to the extent such claims, suits or actions are due to the negligence or willful misconduct of MENLO PARK or MENLO PARK's failure to perform obligations required of MENLO PARK under this Agreement.

ATHERTON shall indemnify and hold harmless MENLO PARK from all claims, suits or action of every name, kind and description, arising out of or relating to the matters covered by this agreement to the extent such claims, suits or actions are due to the negligence or willful

misconduct of ATHERTON or ATHERTON's failure to perform obligations required of ATHERTON under this Agreement.

The duty to indemnify and hold harmless includes duties to defend as set forth in Section 2778 of the California Civil Code.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers on the day and year first above written.

**THE TOWN OF ATHERTON
A Municipal Corporation**

By _____
James H. Robinson, City Manager

Approved as to Form:

BY: _____
Marc G. Hynes, City Attorney

"CITY"

**CITY OF MENLO PARK
A Municipal Corporation**

By _____
David Boesch, City Manager

Approved as to Form:

Attachments: Exhibit A-1
Exhibit A-2



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: FOR THE CITY COUNCIL MEETING OF MAY 17, 2006

**SUBJECT: EXTENSION OF TERMS OF GENERAL PLAN COMMITTEE
MEMBERS OTHER THAN PLANNING COMMISSION OR
CITY COUNCIL MEMBERS**

RECOMMENDATION

Waive reading of ordinance beyond the title and introduce an ordinance amending Section 2.37.020 of the Atherton Municipal Code to extend the term of membership on the General Plan Committee to a four-year term for members who are not members of the City Council or Planning Commission.

BACKGROUND

Section 2.37.020 of the Atherton Municipal Code presently limits members of the General Plan Committee who are not members of the City Council or the Planning Commission to one full two-year term. This amendment to Section 2.37.020 would extend the two-year term to a four-year term.

FISCAL IMPACT

None.

Prepared by:

Approved by:

Marc G. Hynes
City Attorney

James H. Robinson
City Manager

Attachment

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
AMENDING CHAPTER 2.37 OF THE ATHERTON MUNICIPAL CODE BY REVISING
SECTION 2.37.020 TO INCREASE THE TERM OF OFFICE FOR CERTAIN
MEMBERS OF THE GENERAL PLAN COMMITTEE

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

SECTION 1: Amendment of Code. Chapter 2.37 of the Atherton Municipal Code is hereby amended by revising Section 2.37.020 "Term of office" to read as follows:

"2.37.020 Term of office.

Members of the committee who are not members of the City Council or Planning Commission shall serve consecutively for no more than one full four-year term."

SECTION 2: Continued Effect of Chapter 2.37. Except as amended, all other provisions of Chapter 2.37 shall continue to remain in effect.

SECTION 3: This Ordinance shall be posted in at least three public places according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

Introduced this _____ day of _____, 2006.

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

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

Mayor, Town of Atherton

ATTEST:

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF MAY 17, 2006

**SUBJECT: ADOPT A RESOLUTION ADOPTING A NEGATIVE DECLARATION
FOR THE HOLBROOK-PALMER PARK ACCESS TRAIL AND BRIDGE
PROJECT**

RECOMMENDATION:

Adopt a resolution adopting a Negative Declaration (Environmental Document) for the Holbrook-Palmer Access Trail and Bridge Project

BACKGROUND:

An application for Recreational Trails Program grant funds for this project was submitted to the California Department of Parks and Recreation on September 30, 2004. After providing additional information, the project was recommended for approval on July 13, 2005, conditioned on completion of three items:

1. Compliance with the National Environmental Policy Act (NEPA) and documentation,
2. Completion of the National Historic Preservation Act of 1966 process and documentation, and
3. Listing of the project on either the State Transportation Improvement Plan (STIP) or a local Transportation Improvement Plan (TIP), as applicable.

Items 2 and 3 have been completed. The State Historic Preservation Office (SHPO) approved the project on May 3, 2006, and the Metropolitan Transportation Commission (MTC) has included the project on their TIP.

For Item 1, a Biological Assessment was conducted by H.T. Harvey and an Archaeological Assessment was conducted by Laura Jones in February 2006. Neal Martin and Associates prepared an Initial Study and Draft Negative Declaration (IS/DND) on April 5 2006. The IS/DND was circulated for thirty days for comments, with the comment period closing on May 10, 2006.

ANALYSIS:

Two comment letters were received:

1. California Public Utilities Commission - cautioning that the safety of the rail corridor be kept in mind. Staff notes that a field review with Kevin Boles of CPUC staff was conducted on July 14, 2004. Mr. Boles recommended improvements across the tracks, which is the reason why this project extends across the Caltrain tracks. Caltrain also attended the field review meeting and agreed to assist with this project.
2. California Department of Fish and Game - requesting an environmental filing fee, but having no comments on the substance of the IS/DND.

Neither comment letter affected the content of the IS/DND; therefore, it is appropriate to adopt the Final Negative Declaration. The Final Negative Declaration will satisfy Item 1 of the Department of Parks and Recreation grant conditions. A Notice of Determination will be filed with the San Mateo County Clerk to record the City Council's determination decision.

FISCAL IMPACT:

A \$1,275.00 environmental filing fee is required to file the Notice of Determination. This fee will be paid from the Public Works Departments Operations CIP Support fund. The Public Works Operations budget is sufficiently under budget to cover this fee.

Prepared by:

Approved by:

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

James H. Robinson
City Manager

Attachments: Resolution
Negative Declaration
Comment letters (2)
Notice of Intent
Notice of Completion

RESOLUTION 06-

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
ADOPTING A NEGATIVE DECLARATION FOR THE HOLBROOK-PALMER
PARK ACCESS TRAIL AND BRIDGE PROJECT**

WHEREAS, the Town of Atherton proposes the construction of a trail/pathway connecting existing shoulder pathways on Watkins Avenue east and west of the Caltrain railroad tracks and construction of a prefabricated pedestrian bridge over Atherton Channel to connect the Watkins Avenue pathway to the Holbrook-Palmer walking path (the Proposed Project); and

WHEREAS, an Initial Study and Draft Negative Declaration for the Proposed Project was prepared pursuant to the California Environmental Quality Act (CEQA) and the National Environmental Protection Act for the Town by Neal Martin & Associates; and

WHEREAS, the Initial Study and Draft Negative Declaration were circulated for public review by the California State Clearinghouse during the public review period of April 11, 2006 to May 10, 2006; and

WHEREAS, all comments on the Initial Study and Draft Negative Declaration were appended to that document as required by CEQA; and

WHEREAS, the City Council has considered the Initial Study and Draft Negative Declaration, and the comments on the document in making its decision on the Proposed Project.

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

1. That the Negative Declaration is hereby adopted by the City Council.
2. That the Proposed Project is approved and the Director of Public Works is authorized to proceed with its implementation.

* * * * *

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 ____ day of _____, 2006, by the following vote:

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

Holbrook-Palmer Park Access Trail and Bridge Project

Initial Study and Draft Negative Declaration

Prepared for the Town of Atherton
Planning Department
91 Ashfield Road
Atherton, CA 94027

Prepared by Neal Martin and Associates
610 Elm Street
San Carlos, CA 94070
(650) 802-4330

April 5, 2006

DRAFT
NEGATIVE DECLARATION
Holbrook-Palmer Park Access Trail and Bridge Project

Date _____

Town of Atherton, San Mateo County

NAME OF PROJECT/DESCRIPTION

Holbrook-Palmer Park Access Trail and Bridge Project

The project involves construction of a trail/pathway connecting existing shoulder pathways, east and west of the railroad tracks and construction on Watkins Avenue of a pre-fabricated pedestrian bridge over Atherton Channel to connect the Watkins Avenue pathway to the Holbrook-Palmer Park walking path.

PROJECT PROPONENT

Town of Atherton
91 Ashfield Road
Atherton, CA 94027

PROJECT LOCATION

Watkins Avenue at the Caltrain Railroad Tracks and Holbrook-Palmer Park
Atherton, CA 94027

FINDING

It is hereby found, that the above named project will not have a significant effect on the environment.

INITIAL STUDY

An initial study of this project was undertaken and prepared in accordance with the Town's environmental guidelines for the purpose of ascertaining whether this project might have a significant effect on the environment. A copy of the initial study is on file with the Town of Atherton, Building Department, 91 Ashfield Road, Atherton, CA 94027 and by reference incorporated herein. Such initial study documents reasons to support the above finding.

Neal J. Martin
Town Planner

ENVIRONMENTAL CHECKLIST FORM

- 1. Project Title: Holbrook-Palmer Park Access Trail and Bridge Project
- 2. Lead Agency Name and Address: Town of Atherton
91 Ashfield Road
Atherton, CA 94027
- 3. Contact Person and Phone Number: Duncan Jones
Director of Public Works
(650) 752-0532
- 4. Project Location: Watkins Avenue at Caltrain Railroad Tracks and Holbrook-Palmer Park
- 5. Project Sponsor's Name and Address: Town of Atherton
91 Ashfield Road
Atherton, CA 94027
- 6. General Plan Designation: Parks and Open Space
- 7. Zoning: POS (Parks and Open Space District)
- 8. Description of Project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary). The project involves construction of a trail/pathway connecting existing shoulder pathways, east and west of the railroad tracks on Watkins Avenue and construction of a pre-fabricated pedestrian bridge over Atherton Channel to connect the Watkins Avenue pathway to the Holbrook-Palmer Park walking path.
- 9. Surrounding land uses and setting: The site is located at the southwest corner of Holbrook-Palmer Park. Atherton Channel is a concrete lined drainage in this area. The Caltrain Railroad tracks cross Watkins Avenue at the site. Single family residential uses are located in the vicinity.
- 10. Other public agencies whose approval is required (e.g. permits, financing approval, or participation agreement): CA Department of Parks and Recreation

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agricultural Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology/Soils |
| <input type="checkbox"/> Hazards & Dangerous Materials | <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Land Use/Planning |
| <input type="checkbox"/> Mineeral Resources | <input type="checkbox"/> Noise | <input type="checkbox"/> Population/Housing |
| <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Utilities/Services Systems | <input type="checkbox"/> Mandatory Findings of Significance | |

PROJECT DESCRIPTION

Project Location

The proposed project site is located within the Town of Atherton, San Mateo County, CA. The Town of Atherton is approximately 30 miles south of San Francisco; other neighboring urban areas include Palo Alto, Menlo Park and Redwood City. The property is located at Holbrook-Palmer Park at Watkins Avenue at Caltrain Railroad Tracks.

Existing Site Conditions

The pedestrian bridge portion of the project is proposed to be located in the southwest corner of Holbrook-Palmer Park across Atherton Channel. This reach of Atherton Channel is a concrete-lined, steeply banked, straight channel. The top of the bank on the southeast side of the channel is dominated by landscaping beds containing wood chips, with a few small planted trees associated with Holbrook-Palmer Park. Land further east within the park consists of an extensive lawn. The northwest side of the channel contains a chain-link fence and a narrow paved footpath along Watkins Avenue, with residential development northwest of Watkins Avenue.

The pedestrian pathway portion of the project is proposed to be located along the northeast shoulder of Watkins Avenue. This portion of the shoulder transitions from an existing asphalt paved path east of the Peninsula Corridor Joint Powers Board (Caltrain) Railroad tracks to the Watkins Avenue roadway crossing of the tracks without provisions for pedestrians. To the west of the tracks the shoulder consists of an unimproved area of compacted soil, gravel and weeds up to the asphalt driveway of an adjoining residence.

Project Description

The project involves construction of a trail/pathway connection from the termination of an existing pathway on the northeast side of Watkins Avenue east of the railroad tracks to the shoulder pathway west of the railroad tracks. A pre-fabricated pedestrian bridge would be installed over the Atherton Channel to connect from the Watkins Avenue trail/pathway to the existing Holbrook-Palmer walking path. Retaining walls will be constructed adjacent to the trail/pathway to raise the grade above the creek bank elevation to the track crossing elevation. The retaining wall foundations and bridge abutments will be outside the top of bank of the Atherton Channel.

DETERMINATION (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a significant effect(s) on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on the attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.



Signature

4/7/2006

Date

Neal J. Martin, City Planner
Printed Name

Town of Atherton
For

EVALUATION OF ENVIRONMENTAL IMPACTS

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact	Source	
I. AESTHETIC - Would the project:						
a)	Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	20
b)	Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5
c)	Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	20
d)	Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16

AESTHETIC DESCRIPTION

a-d) **No Impact** - The project is not located in a major viewshed, therefore, would not have a substantial adverse effect on a scenic vista. The project is not located within a state scenic highway. The project would not substantially degrade the existing visual character or quality of the site. It would not create a new source of light or glare.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact	Source
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II. AGRICULTURE RESOURCES - In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

a)	Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5
b)	Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	28
c)	Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5

AGRICULTURAL RESOURCES DESCRIPTION

a-c) **No Impact** - There are no agricultural zones in the project vicinity.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact	Source
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III. AIR QUALITY - Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a)	Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	26d
b)	Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	26d
c)	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	26d
d)	Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	27e
e)	Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	27e

AIR QUALITY DESCRIPTION

- a-b) **No Impact** - The proposed project would involve localized impacts from dust generated by the construction work. Fine particulate matter (PM) is the pollutant of greatest concern with respect to construction activities. These emissions would be avoided by covering loaded trucks, sweeping paved surfaces and similar techniques as required by Town ordinances.
- c-e) **No Impact** - The proposed project would not alter air movement, moisture, or temperature, or cause a temperature change. It would not expose sensitive receptors to substantial pollutant concentrations. It would not create objectionable odors affecting a substantial number of people.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact	Source
IV.	BIOLOGICAL RESOURCES - Would the project:				
a)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	38
Have a substantial adverse effect on either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Services?					
b)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	38
Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Services?					
c)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	38
Have a substantial adverse effect on federally protected wetland as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?					
d)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	38
Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?					
e)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5 & 6
Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?					
f)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5
Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or state habitat conservation plan?					

BIOLOGICAL RESOURCES DESCRIPTION

- a-c) **No Impact** - A site assessment for special-status species was conducted by H. T. Harvey and Associates and the results were reported in a letter to Neal Martin, Town Planner dated February 22, 2006. In the assessment, it was concluded that "Due to the urban context of the site; the long history of site disturbance associated with residential development, Watkins Avenue, the railroad, and the park; and the lack of any well-developed riparian vegetation or high-quality aquatic habitat within the channel, there is a low probability that the project will adversely affect any special-status species. No special-status plant species are expected to occur in the project area due to the disturbed/landscaped nature of the project site. Furthermore, because no riparian vegetation is present along the channel and the project will occur entirely above the top of the bank of the channel, no impacts to regulated habitats (e.g. Waters of the U.S. regulated by the U.S. Army Corps of Engineers or riparian habitats regulated by the California Department of Fish and Game (CDFG) are anticipated."

In addition, the assessment includes a discussion of the federally threatened California red-legged frog (*Rana aurora draytonii*) that is known to occur within the Atherton Channel approximately 2.5 miles upstream from the footbridge project site. In the assessment, it was concluded that "there is no reasonable expectation that the project will impact red-legged frogs, and it is our opinion that no further measures (e.g. pre-construction surveys or construction monitoring) should be necessary to avoid impacts to this species." Therefore, the project would result in no impacts to candidate, sensitive, or special-status species, their habitats, riparian habitat, or other sensitive natural community. In addition, the project would not occur on or affect any federally protected wetland.

- d) **Less than Significant Impact** - The site assessment conducted by H. T. Harvey and Associates includes a discussion of potential impacts to migratory birds. In the assessment, it was concluded that "Any impacts of the project on nesting birds on or near the site would not be significant under CEQA, in our opinion, as such impacts would affect only a very small proportion of the regional population for any one species...Although this impact is not significant under CEQA due to the local and regional abundance of the species in question and the low magnitude of the potential impact, we recommend that the following measures be implemented to reduce the risk of a violation of the MBTA (Federal Migratory Bird Treaty Act) and the California Fish and Game Code."

Improvement Measures

Biological - 1: Avoidance - Avoid nesting-season construction. Construction should be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors, in the San Francisco Bay area extends from February 1 through August 31.

Biological - 2: Pre-construction/Pre-disturbance Surveys - If it is not possible to schedule construction between September and January, then pre-construction surveys for nesting birds should be conducted by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey should be conducted no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other potential nesting habitats (e.g. shrubs or artificial structures such as bridges) in and immediately adjacent to the impact areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist, in consultation with CDFG, will determine the extent of a construction-free buffer zone to be established around the nest typically 250 feet to ensure that no nests of species protected by MBTA or State Code will be disturbed during project implementation.

- e & f) **No Impact** - There is no habitat conservation plan or natural community conservation plan existing in the project area.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact	Source	
V. CULTURAL RESOURCES - Would the project:						
a)	Cause a substantial adverse change in the significance of a historical resource as defined in code 14064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	35
b)	Cause a substantial adverse change in the significance of an architectural resource pursuant to 14064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	20
c)	Directly or indirectly destroy a unique paleontological resource or site or unique geologic features?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	39
d)	Disturb any human remains, including those interred outside formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	21

CULTURAL RESOURCES

a-d **No Impact** - There are no known historical, archeological, or paleontological resources or unique geologic features at or near the project site. An Archaeological Assessment was conducted of the project site by Laura Jones, Ph.D. and the results were reported in a letter to Duncan Jones, Director of Public Works and Neal Martin, Town Planner, dated February 24, 2006. In the letter, Ms. Jones concluded "the lack of any evidence on the surface suggests in fact a low probability of finds during installation of the bridge." There are unlikely to be any human remains, including those interred outside formal cemeteries, at the project site. Therefore, no significant impacts to these resources are anticipated to occur upon implementation of the proposed project.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact	Source
VI. GEOLOGY AND SOILS - Would the project:					
a) Expose people or structures to potential substantial adverse effects, including the risk or loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5,23
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5,23
ii) Strong seismic ground shaking.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5,23
iii) Seismic-related ground failure,	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5,23
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5,23
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	23
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	23
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where an swers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17

Geology and Soils Description

- a) **No Impact** - According to the Atherton General Plan, the project site does not lie within any Alquist Priolo Special Study Zones, areas designated by the State as active faults. Therefore, the proposed project would not expose people to potential impacts involving surface rupture.

The project site is located in a seismically active region which has experienced many strong earthquakes. The site is shown on the Atherton General Plan as being approximately 2.5 miles east of the San Andreas fault. While there are no known active or potentially active faults within the Town of Atherton, it is subject to periodic, very strong earthquakes which originate either on the San Andreas or from the Hayward and Calaveras faults in the East Bay. The project site has the potential for seismic ground shaking and has experienced such hazards during the 1906 and 1989 earthquakes. The existing improvements could be disrupted by strong seismic activity, however, this potential impact is avoided by design in accordance with the Seismic Engineering Standards for the Bay Area Region.

The proposed project would neither result in nor expose people to potential impacts involving a seiche, tsunami, or volcanic hazard. USGS studies indicate that the Project Area has no susceptibility to seiches or tsunamis.

Impacts from landslides or mudflows would not occur because the project is located on relatively flat land.

- b) **No Impact** - The project has the potential for soil erosion and loss of topsoil. However, construction proposed as part of the project including revegetation with trees, shrubs and grasses will reduce the impact to less than significant.
- c-d) **No Impact** - The potential for subsidence, liquefaction or damage from expansive soils would be avoided through appropriate design in accordance with the accepted Engineering Standards.
- e) **No Impact** - Septic tank/drain field wastewater disposal is not required as part of this project.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact	Source
VII. HAZARDS AND HAZARDOUS MATERIALS - Would the project:					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16
b) Emit hazardous emissions to handle hazardous or acutely hazardous materials, substances or waste within one-quarter mile of the existing proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16
c) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	List per CAGC 65962.5
d) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	15
e) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	20
f) Impair implementation of or physical interference with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	13
g) Expose people or structures to a significant risk of loss, injury or death involving wild land fires, including where wild lands are adjacent to urbanized areas or where residences are intermixed with wild lands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5

HAZARDS AND HAZARDOUS MATERIALS DESCRIPTION

- a-c) **No Impact** - The proposed project would not utilize hazardous materials or generate hazardous waste. Construction activities would involve the standard use of fuels and lubricants for construction equipment, but would similarly not be expected to utilize hazardous materials or generate hazardous waste. Therefore, the proposed project would not be expected to pose any risk of accidental explosion or release of hazardous substances.
- d-f,h) **No Impact** - There are no hazardous materials or wastes known to currently exist on the subject property and approval of the proposed project would not result in a change in existing land use. The proposed project site, therefore, would not be anticipated to involve the exposure of people to existing sources of potential health hazards or substantially increase fire hazards.
- g) **No Impact** - The project would not interfere with any emergency response or evacuation plans.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact	Source	
VIII. HYDROLOGY AND WATER QUALITY -						
Would the project:						
a)	Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	4
b)	Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No ground water withdrawal proposal
c)	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16
d)	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate of amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16
e)	Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16
f)	Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16
g)	Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	8

- | | | | | | | |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|----|
| h) | Place within a 100-year flood hazard area structures which would impede or redirect flood flows? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 8 |
| i) | Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 8 |
| j) | Inundation by seiche, tsunami, or mudflow? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 23 |

HYDROLOGY AND WATER

- a-j) **No Impact** - No wastewater would be generated as part of the project. The project would not involve depletion of ground water supplies, would not alter the existing drainage pattern and would not contribute runoff which would result in the placement of housing or structures within the 100-year flood hazard area nor would it impede or redirect flood flows. The project does not involve levees or dams. The project site does not lie within the 100-year flood plain. The project area is not subject to inundation by seiche, tsunami, or mudflow and there are no nearby dams. The project plans include paving the site so the erosion potential is reduced to a no impact level.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact	Source	
IX	LAND USE AND PLANNING - Would the project:					
a)	Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5
b)	Conflict with any applicable land use plan, policy, or regulation of any agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5
c)	Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5

LAND USE AND PLANNING

- a) **No Impact** - Approval of the proposed project would not change the existing land use. Since there are no changes in land use on the project site, the project would neither disrupt nor divide the physical arrangements of the area.
- b) **No Impact** - The proposed project would conform to the adopted Atherton General Plan.
- c) **No Impact** - There is no habitat conservation plan or natural community conservation plan in effect within the proposed project area.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact	Source
X. MINERAL RESOURCES - Would the project:					
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	23
b) Result in the loss of availability of a locally - important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	23

MINERAL RESOURCES DESCRIPTION

a-b) **No Impact** - The project site is located in an urban, developed area; therefore, no significant mineral deposits would be expected to occur within the vicinity.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact	Source
XI. NOISE - Would the project result in:					
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5,21
b) Exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	21
c) A substantial permanent increase in ambient noise level in the project vicinity above the levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	21
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	27f
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	15, 21
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	15

NOISE DESCRIPTION

- (a-c, e-f) **No impact** - Implementation of the proposed project would result in intermittent short-term noise impacts resulting from construction activities. Construction activities would be limited to the day-time hours; however, since the proposed development would be required to comply with the Town of Atherton Noise Ordinance, impacts will be short term and less than significant.
- d) **Less Than Significant Impact** - The project would result in intermittent short-term noise impacts resulting from construction removal activities. Noise from construction activities would increase the ambient noise level in the neighborhood. Construction activities would be limited to day-time hours however, residents in the immediate vicinity would be effected by noise on a short-term basis. These noise impacts would not be considered significant, however, since the proposed project would be required to comply with the Town of Atherton's Noise Ordinance. Upon completion of the construction activities, ambient noise levels would return to existing levels.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact	Source
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XII. POPULATION AND HOUSING - Would the project:

- | | | | | | | |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|---|
| a) | Reduce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 5 |
| b) | Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 5 |
| c) | Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 5 |

POPULATION AND HOUSING DESCRIPTION

- a-c) **No Impact** - The project would not affect population growth or exceed regional or local population projections.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact	Source
XIII. PUBLIC SERVICES - Would the project:					
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable services ratios, response times or other performance objectives for any of the public services.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5
i. Fire protection	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	9
ii. Police protection	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	13
iii. Schools	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	14
iv. Parks	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	36
v. Other Public Facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	21

PUBLIC SERVICES DESCRIPTION

- a) **No Impact** - Since the proposed project would not increase population, the demand for other governmental services would not be affected as a result of the proposed project.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact	Source
XIV RECREATION - Would the project:					
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	36
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	20

RECREATION DESCRIPTION

a-b) **No Impact** - The proposed project would not increase the demand for neighborhood or regional parks or other recreational facilities because it would not affect population growth or distribution.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact	Source	
XV. TRANSPORTATION/TRAFFIC - Would the project:						
a)	Cause an increase in traffic, which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	21
b)	Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	10
c)	Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	15
d)	Substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	10
e)	Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	10
f)	Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	10
g)	Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g. bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5

TRANSPORTATION/TRAFFIC DESCRIPTION

a-b) **No Impact** - The proposed project would not cause an increase in traffic nor would it change the level of service standard on any adjoining street. The project would not change air traffic patterns, increase hazards, results in inadequate emergency access, result in inadequate parking nor conflict with adopted alternative transportation plans.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact	Source
XVI. UTILITIES & SERVICE SYSTEMS - Would the project:					
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	4
b) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	10
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	10
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	10
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	10
g) Comply with federal, state and local statutes and regulations related to solid waste.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5

**UTILITIES & SERVICES SYSTEMS
DESCRIPTION**

- a-g) **No Impact** - The proposed project would not result in a need for new systems or supplies or substantial alterations to power and natural gas, communications, water treatment or distribution facilities, sewer, storm water drainage, solid waste disposal or water supplies, which will continue to be provided by the existing services providers.

Issues	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact	Source
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XVII. MANDATORY FINDINGS OF SIGNIFICANCE

a)	Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or a wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history of pre-history?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	21
b)	Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	21
c)	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	21

MANDATORY FINDINGS OF SIGNIFICANT DESCRIPTION

- a) **No Impact** - The project would not degrade the quality of the environment. The project would not substantially reduce the habitat of a fish or wildlife species or cause such species to drop below self-sustaining levels. The project would not reduce the number or restrict the range of a rare or endangered plant or animal. Historic or prehistoric resources are not present in the project vicinity.
- b) **No Impact** - The project does not have impacts that are individually limited, but cumulatively considerable.
- c) **No Impact** - The proposed project would not have environmental effects that would cause substantial adverse effects on human beings either directly or indirectly.

SOURCES

1. California Environmental Quality Act (CEQA)
2. State Planning and Zoning Law
3. Subdivision Map Act
4. National Pollution Discharge Elimination System (NPDES) Permit
5. General Plan
6. Municipal Zoning Code
7. Specific Plan
8. Composite Flood Hazard Areas - HUD National Flood Insurance Program
9. Menlo Park Fire Protection District
10. City Engineer
11. City Planner
12. Geologic Consultant
13. Police Department
14. School District
15. Airport Land Use Committee Plans
16. Project Plans and Reports
17. Soils Report
18. Environmental Impact Report
19. Environmental Checklist
20. Field Inspection
21. Experience with other projects of this size and nature
22. Aerial Photography
23. USGS Data Contribution
24. USGS Quadrangle Maps
25. San Mateo County Rare and Endangered Species Maps
26. Federal Environmental Standards
 - a) Water Quality Standards 40 CFR 120
 - b) Low-Noise Emission Standards 40 CFR 203
 - c) General Effluent Guidelines & Standards 40 CFR 401
 - d) National Primary & Secondary Ambient Air Quality Standards 40 CFR 50
27. State Federal Environmental Standards
 - e) Ambient Air Quality Standards
 - f) Noise Levels for Construction Equipment
28. Williamson Act Maps
29. Bay Area Air Pollution Control District Air Pollution Isopleth Maps
30. California Natural Areas Coordinating Council Maps
31. Census
32. City Geological Map
33. Phase 1 Preliminary Environmental Site Assessment
34. Traffic Statement
35. Historical Resource Inventory
36. Parks and Recreation Department
37. Draft Housing Element
38. Site Assessment for Special-Status Species
39. Archeological Assessment

SOURCES

1. California Environmental Quality Act (CEQA)
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36. Parks and Recreation Department
37. Draft Housing Element
38. Site Assessment for Special-Status Species
39. Archeological Assessment

IMPROVEMENT MEASURES

Improvement Measures

Biological - 1: Avoidance - Avoid nesting-season construction. Construction should be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors, in the San Francisco Bay area extends from February 1 through August 31.

Biological - 2: Pre-construction/Pre-disturbance Surveys - If it is not possible to schedule construction between September and January, then pre-construction surveys for nesting birds should be conducted by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey should be conducted no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other potential nesting habitats (e.g. shrubs or artificial structures such as bridges) in and immediately adjacent to the impact areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist, in consultation with CDFG, will determine the extent of a construction-free buffer zone to be established around the nest typically 250 feet to ensure that no nests of species protected by MBTA or State Code will be disturbed during project implementation.

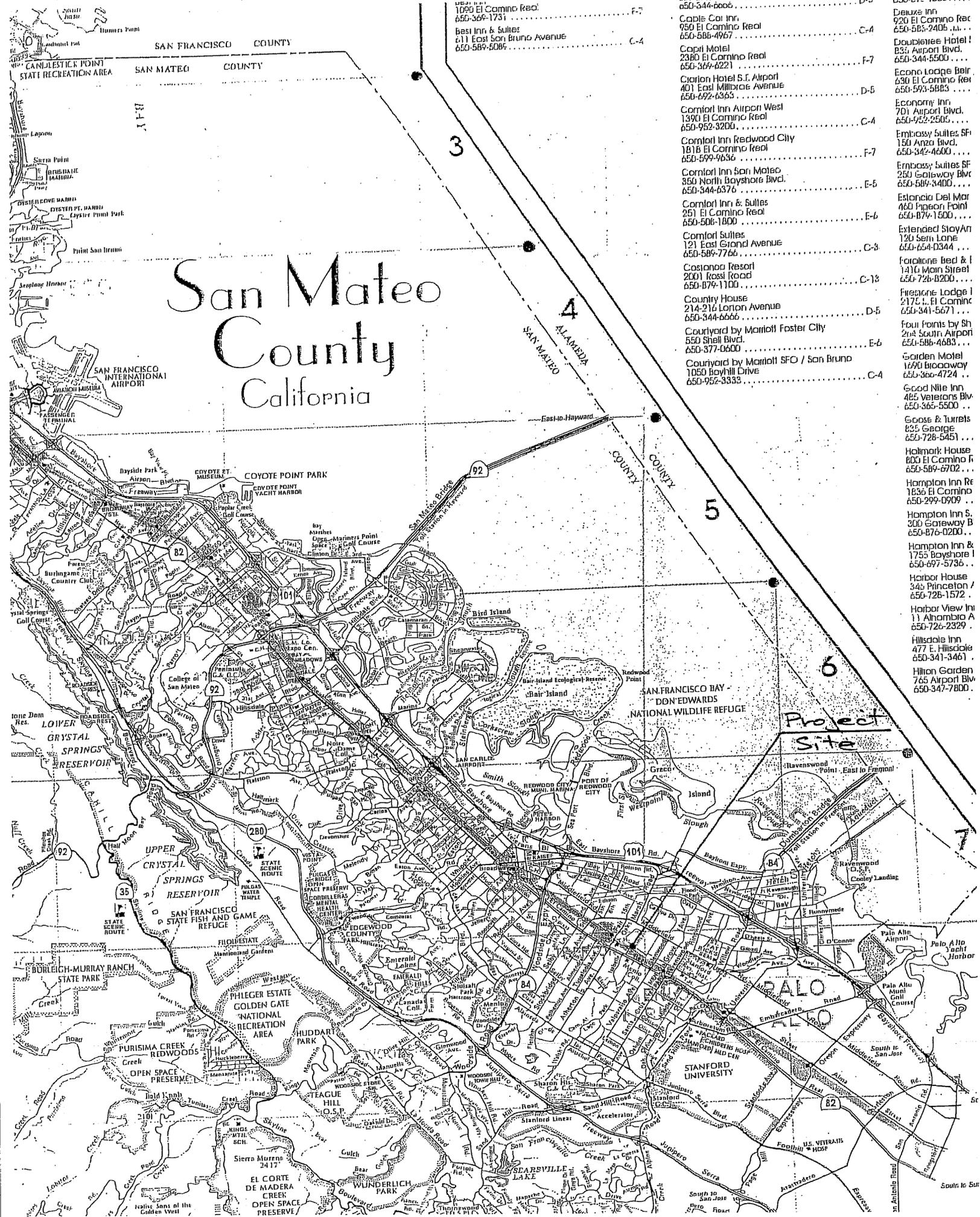
LIST OF PREPARERS

Neal J. Martin, AICP
Neal Martin and Associates

ATTACHMENTS

1. Project Plans, Holbrook-Palmer Park Atherton Channel Trail and Bridge, September 2004.
2. Rottenborn, Stephen C., Ph.D., H.T. Harvey and Associates, *Special-Status Species Site Assessment, Atherton Channel Bridge, Atherton, California (HTH #2643-01)*, February 22,
3. Jones, Laura, Ph.D., Consulting Archaeologist and Cultural Resources Planner, *Archaeological Assessment for Atherton Bridge Project*, February 24, 2006.

San Mateo County California

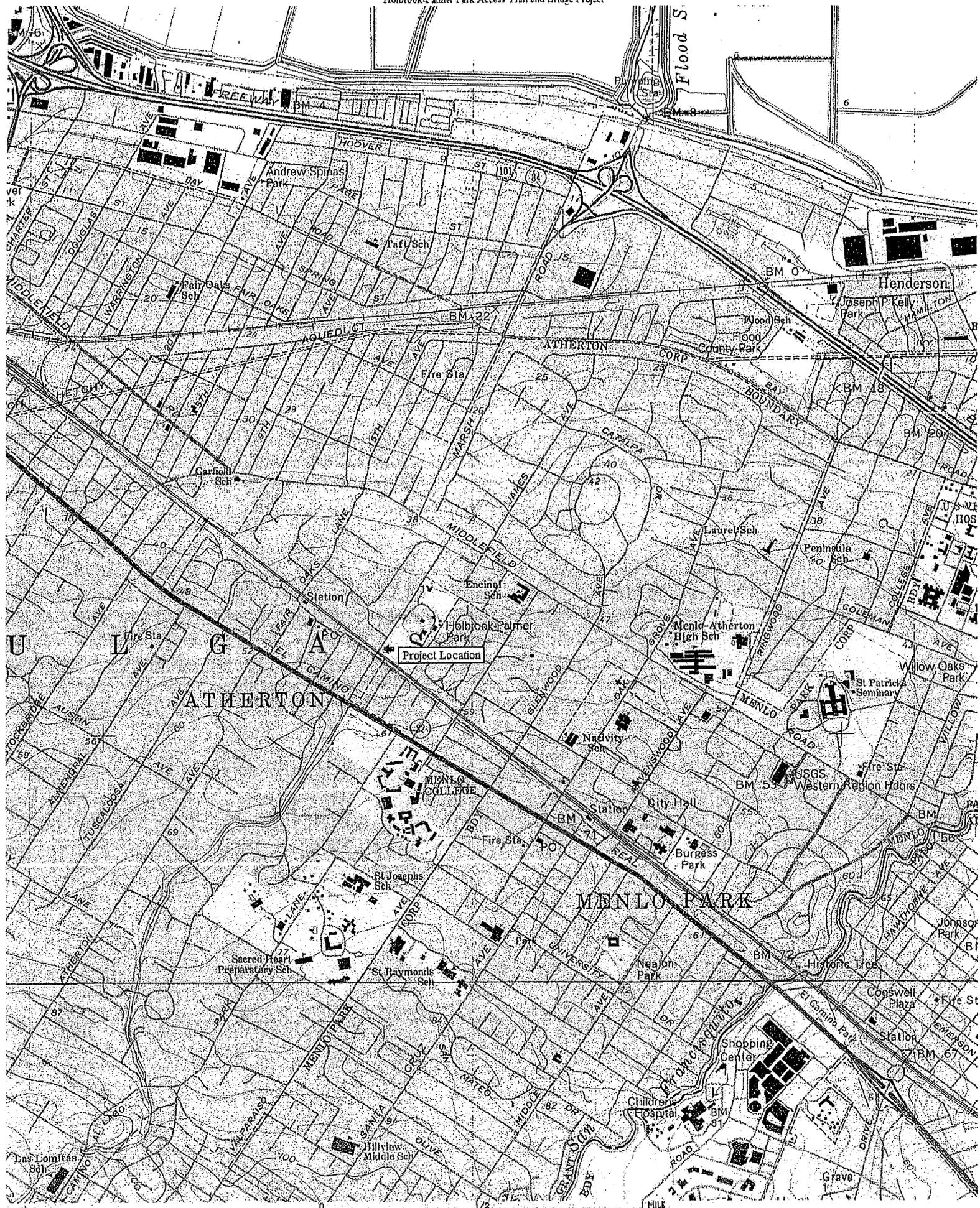


1099 El Camino Real
650-369-1731 F-7
Best Inn & Suites
611 East San Bruno Avenue
650-589-6084 C-4

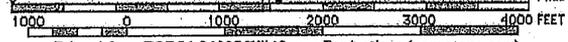
650-344-6006 D-5
Cable Car Inn
950 El Camino Real
650-586-4967 C-4
Capri Motel
2380 El Camino Real
650-369-6221 F-7
Clarion Hotel S.F. Airport
401 East Millbrae Avenue
650-692-6363 D-5
Comfort Inn Airport West
1390 El Camino Real
650-952-3200 C-4
Comfort Inn Redwood City
1818 El Camino Real
650-599-9636 F-7
Comfort Inn San Mateo
350 North Bayshore Blvd.
650-344-6376 E-5
Comfort Inn & Suites
251 El Camino Real
650-506-1800 E-6
Comfort Suites
121 East Grand Avenue
650-589-7766 C-3
Costanoa Resort
2001 Ross Road
650-879-1100 C-18
Country House
214-216 Lorton Avenue
650-344-6666 D-5
Courtyard by Marriott Foster City
650-377-0600 E-6
Courtyard by Marriott SFO / San Bruno
1050 Bayhill Drive
650-952-3333 C-4

650-673-9303
Deuxe Inn
920 El Camino Real
650-563-2405
Doubletree Hotel
835 Airport Blvd.
650-344-5500
Econo Lodge Bell
630 El Camino Real
650-593-5883
Economy Inn
701 Airport Blvd.
650-952-2505
Embassy Suites SF
150 Arza Blvd.
650-342-4600
Embassy Suites SF
250 Gateway Blvd.
650-589-3400
Estancia Del Mar
460 Pipeline Point
650-879-1500
Extended Stay
120 Sem Lane
650-654-0344
Fairlane Bed & Bk
1410 Main Street
650-726-8200
Firestone Lodge
2175 L. El Camino
650-341-5671
Four Points by SH
204 South Airport
650-586-4683
Golden Motel
1670 Broadway
650-360-4724
Good Nile Inn
485 Veterans Blvd.
650-365-5500
Goose & Turkeys
825 George
650-728-5451
Holmark House
800 El Camino Real
650-589-6702
Hampton Inn Redwood City
1636 El Camino Real
650-299-0909
Hampton Inn SFO
300 Gateway Blvd.
650-876-0200
Hampton Inn & Suites
1755 Bayshore Blvd.
650-697-5736
Harbor House
348 Pincinnon
650-726-1572
Harbor View Inn
11 Alhambra Ave.
650-726-2329
Hillsdale Inn
477 E. Hillsdale
650-341-3461
Hilton Garden
765 Airport Blvd.
650-347-7800

Project Site



TN* MN
15°





H. T. HARVEY & ASSOCIATES
ECOLOGICAL CONSULTANTS

22 February 2006

Mr. Neal Martin
Neal Martin & Associates
610 Elm Street, Suite 202
San Carlos, CA 94070

Subject: Special-Status Species Site Assessment
Atherton Channel Bridge, Atherton, California (HTH #2643-01)

Dear Mr. Martin:

Per your request, H.T. Harvey and Associates has conducted a site assessment for special-status species at the site of a proposed footbridge over the Atherton Channel in Atherton, California. Per the plans you provided; the footings for the bridge would be constructed above the top of the channel bank, and a prefabricated bridge would be placed across the footings, spanning the Atherton Channel. The footbridge will connect a trail along Watkins Avenue with Holbrook-Palmer Park.

Methods

H.T. Harvey and Associates herpetologist Jeff Wilkinson, Ph.D., visited the project site on 17 February 2006, and I visited the site on 21 February 2006. Both observers conducted reconnaissance-level surveys of the immediate project site and surrounding areas for habitat that could support special-status species. Dr. Wilkinson inspected Atherton Channel both upstream and downstream from the project site for special-status species habitat.

Project Site Description

The reach of Atherton Channel at the project site is a concrete-lined, steeply banked, straight channel, which contained shallow flow at the time of our site visits. The top of the bank on the southeast side of the channel is dominated by landscaping beds containing wood chips, with a few small planted trees associated with Holbrook-Palmer Park; land further east within the park consists of an extensive lawn. The northwest side of the channel contains a chain-link fence and a narrow paved footpath along Watkins Avenue, with residential development northwest of Watkins Avenue. Southern Pacific Railroad tracks are located just upstream from the project site. The Atherton Channel runs underground, below residential areas, from El Camino Real to these railroad tracks. Southwest of (upstream from) El Camino Real, the channel daylights, but for over a mile it consists of a concrete lined, steeply banked channel that is bordered on both sides by housing development.

Potential for Impacts to Special-Status Species

Due to the urban context of the site; the long history of site disturbance associated with residential development, Watkins Avenue, the railroad, and the park; and the lack of any well-developed riparian vegetation or high-quality aquatic habitat within the channel, there is a low probability that the project will adversely affect any special-status species. No special-status plant species are expected to occur in the project area due to the disturbed/landscaped nature of the project site. Furthermore, because no riparian vegetation is present along the channel, and the project will occur entirely above the top of the bank of the channel, no impacts to regulated habitats (e.g., Waters of the U.S. regulated by the U.S. Army Corps of Engineers or riparian habitats regulated by the California Department of Fish and Game [CDFG]) are anticipated.

Only one special-status wildlife species, the Cooper's Hawk (*Accipiter cooperii*), may breed in the site vicinity. This species, which is considered a species of special concern by the CDFG, is a fairly common resident of suburban habitats around the San Francisco Bay area. Due to the absence of large trees suitable for nesting within the immediate project area, no direct impacts to Cooper's Hawks or their nests are expected to occur as a result of the project. However, the trees within the residential areas on the northwest side of Watkins Avenue, and the larger trees within Holbrook-Palmer Park, provide potential nest sites for this species, and construction conducted during the breeding season could result in disturbance of an active Cooper's Hawk nest. The project would cause the disturbance of at most one pair of this species, and given this species' regional abundance, the disturbance of a single pair or nest would not be considered a significant impact under the California Environmental Quality Act (CEQA). However, this and other migratory birds are protected by state and federal laws, as described below under *Impacts to Migratory Birds*.

The federally threatened California red-legged frog (*Rana aurora draytonii*) is known to occur within the Atherton Channel between I-280 and the Alameda de Las Pulgas. At this location, approximately 2.5 miles upstream from the footbridge project site, the channel is not concrete-lined and contains plunge-pools that provide refugia for frogs. In contrast, the portion of Atherton Channel at and near the footbridge project site is not suitable habitat for red-legged frogs because it lacks the necessary upland and aquatic features such as refuge sites (downed woody debris, rodent burrows, etc.), perching spots (bank shallow enough to sit on, rootballs, etc.), riparian vegetation, emergent vegetation, and pooling that are utilized by California red-legged frogs. Furthermore, the long reach of shallow, concrete-lined channel between the project site and areas of red-legged frog occurrence upstream, combined with the long reach between El Camino Real and the project site in which the channel flows underground, makes it highly improbable that a red-legged frog from upstream areas would disperse down to the project site. Even in the highly unlikely event that a frog is washed down to the site, it would be even more unlikely that a frog would remain at the site given the lack of pools and suitable vegetative cover, or be able to climb to the top of the steep, concrete bank to construction areas. Therefore, there is no reasonable expectation that the project will impact red-

legged frogs, and it is our opinion that no further measures (e.g., pre-construction surveys or construction monitoring) should be necessary to avoid impacts to this species.

Although special-status species such as the Sharp-shinned Hawk (*Accipiter striatus*), Merlin (*Falco columbarius*), and California Yellow Warbler (*Dendroica petechia brewsteri*), all of which are considered state species of special concern, may forage in the site vicinity during the nonbreeding season, these species are not expected to breed in the vicinity, and will not be impacted by the project. No other special-status species are expected to occur in the project area.

Impacts to Migratory Birds

Any impacts of the project on nesting birds on or near the site would not be significant under CEQA, in our opinion, as such impacts would affect only a very small proportion of the regional population for any one species. However, several species of birds may nest, either in trees or on artificial structures such as bridges, close enough to the site to be potentially disturbed by project activities. The vast majority of the birds that occur on the site are protected under the Federal Migratory Bird Treaty Act (MBTA) and California State Fish and Game Code.

The federal Migratory Bird Treaty Act (MBTA; 16 U.S.C., §703, Supp. I, 1989) prohibits killing, possessing, or trading in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment, a violation of the MBTA.

Migratory birds are also protected in and by the state of California. The State Fish and Game Code §3503 (and other sections and subsections) emulates the MBTA and protects birds' nests and eggs from all forms of take. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered "take" by the CDFG and would constitute a significant impact. Raptors (*i.e.*, eagles, hawks, and owls) and their nests are specifically protected in California under Fish and Game Code Section 3503.5. Section 3503.5 states that it is "unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto."

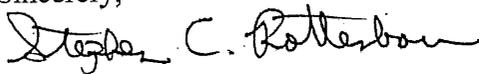
Project construction has the potential to take nests, eggs, young or individuals of these protected species. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to the abandonment of nests. Although this impact is not significant under CEQA due to the local and regional abundance of the species in question and the low magnitude of the potential impact, we recommend that the following measures be implemented to reduce the risk of a violation of the MBTA and the California Fish and Game Code.

Measure 1. Avoidance. Avoid nesting-season construction. Construction should be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors, in the San Francisco Bay area extends from February 1 through August 31.

Measure 2. Pre-construction/Pre-disturbance Surveys. If it is not possible to schedule construction between September and January, then pre-construction surveys for nesting birds should be conducted by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey should be conducted no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other potential nesting habitats (*e.g.*, shrubs or artificial structures such as bridges) in and immediately adjacent to the impact areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist, in consultation with CDFG, will determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that no nests of species protected by the MBTA or State Code will be disturbed during project implementation.

Please feel free to contact me at grottenborn@harveyecology.com or (408) 448-9450 x 220 with any questions you may have regarding our report. Thank you for contacting H.T. Harvey & Associates regarding this project.

Sincerely,



Stephen C. Rottenborn, Ph.D.
Senior Associate Ecologist

February 24, 2006

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

Neal Martin
Neal Martin & Associates
610 Elm Street, Suite 202
San Carlos, CA 94070

RE: Archaeological Assessment for Atherton Bridge Project

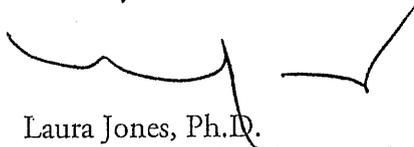
I have reviewed the results of the literature search provided by the Northwest Information Center, and following their recommendation have conducted a field reconnaissance survey of the proposed project site. I visited the site on February 22. While access to the channelized stream was blocked by fencing, there is a large area of bare earth in the vicinity and surface visibility was excellent in the adjacent area (within Holbrook Palmer Park).

I closely examined soils in an area approximately 100 feet wide along the pedestrian path leading to the proposed site for the new bridge. I noted a few pieces of broken bottle glass and plastic, but no signs of prehistoric Native American occupation (e.g. shell, modified bone, charcoal or flaked stone) and no evidence for historic structures (e.g. nails, window glass, brick fragments, ceramic sherds).

While the Northwest Information Center described the site as "moderately" sensitive, the lack of any evidence on the surface suggests in fact a low probability of finds during the installation of the bridge. Moreover, the construction impacts are limited to the near-surface and are not expected to exceed two feet in depth. Therefore, I do not believe it is necessary to engage a full-time archaeological monitor for the project. I concur with the Northwest Information Center's advice that a qualified archaeologist be consulted if unanticipated finds are made during construction, and that any such finds should be recorded with the Northwest Information Center, using the standard State Record forms.

Please let me know if I can be of further assistance with the project.

Sincerely,



Laura Jones, Ph.D.
Consulting Archaeologist and Cultural Resources Planner



DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>

POST OFFICE BOX 47
YOUNTVILLE, CALIFORNIA 94599
(707) 944-5500



May 8, 2006

Mr. Duncan Jones
Town of Atherton
91 Ashfield Road
Atherton, CA 94027

Dear Mr. Jones:

Holbrook – Palmer Park Access Trail and Bridge Project
SCH # 2006042050
Atherton, San Mateo County

The Department of Fish and Game (DFG) has reviewed the document for the subject project. Please be advised this project may result in changes to fish and wildlife resources as described in the California Code of Regulations, Title 14, Section 753.5(d)(1)(A)-(G). Therefore, if you are preparing an Environmental Impact Report or an Initial Study and Negative Declaration for this project, a de minimis determination is not appropriate, and an environmental filing fee as required under Fish and Game Code Section 711.4(d) should be paid to the San Mateo County Clerk on or before filing of the Notice of Determination for this project.

Please note that the above comment is only in regard to the need to pay the environmental filing fee and is not a comment by DFG on the significance of project impacts or any proposed mitigation measures.

If you have any questions, please contact Mr. Dave Johnston, Environmental Scientist, at (831) 466-0234; or Mr. Scott Wilson, Habitat Conservation Supervisor, at (707) 944-5584.

Sincerely,

Robert W. Floerke
Regional Manager
Central Coast Region

cc: State Clearinghouse

Conserving California's Wildlife Since 1870



PUBLIC UTILITIES COMMISSION

605 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-8298

May 4, 2006

Duncan Jones
Town of Atherton
91 Ashfield Road
Atherton, CA 94027

Dear Mr. Jones:

Re: SCH# 2006042050; Holbrook-Palmer Park Access Trail & Bridge Project

As the state agency responsible for rail safety within California, we recommend that any development projects planned adjacent to or near the rail corridor in the County be planned with the safety of the rail corridor in mind. New developments may increase traffic volumes not only on streets and at intersections, but also at at-grade highway-rail crossings. This includes considering pedestrian circulation patterns/destinations with respect to railroad right-of-way.

Safety factors to consider include, but are not limited to, the planning for grade separations for major thoroughfares, improvements to existing at-grade highway-rail crossings due to increase in traffic volumes and appropriate fencing to limit the access of trespassers onto the railroad right-of-way.

The above-mentioned safety improvements should be considered when approval is sought for the new development. Working with Commission staff early in the conceptual design phase will help improve the safety to motorists and pedestrians in the County.

If you have any questions in this matter, please call me at (415) 703-2795.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kevin Boles".

Kevin Boles
Utilities Engineer
Rail Crossings Engineering Section
Consumer Protection and Safety Division

cc: Dick Dahllof, Caltrain



Town of Atherton

Town Administrative Offices
91 Ashfield Road
Atherton, California 94027
650-752-0500
Fax 650-688-6528

NOTICE OF INTENT TO ADOPT A NEGATIVE DECLARATION HOLBROOK-PALMER PARK ACCESS TRAIL AND BRIDGE PROJECT

NOTICE IS HEREBY GIVEN that the Atherton City Council will consider adopting a Negative Declaration (Environmental Document) for the installation of a prefabricated pedestrian bridge across the Atherton Channel and construction of a trail/pathway along the northeast shoulder of Watkins Avenue in the vicinity of the Caltrain railroad pursuant to Atherton Municipal Code Chapter 15.32.

Description: The project involves construction of trail/pathway connecting existing shoulder pathways on Watkins Avenue east and west of the Caltrain railroad tracks and construction of a prefabricated pedestrian bridge over Atherton Channel to connect the Watkins Avenue pathway to the Holbrook-Palmer walking path. The project is located in the southwest corner of Holbrook-Palmer Park adjacent to the railroad tracks and Watkins Avenue.

NOTICE IS HEREBY GIVEN that an Initial Study and draft Negative Declaration (Environmental Document) have been prepared for the above described project pursuant to the provisions of the California Environmental Quality Act. A copy of these documents is available for public review at the Atherton Town Hall, 91 Ashfield Road, Atherton, CA beginning April 11, 2006. The public review period is from April 11, 2006 to May 10, 2006. Comments on the Environmental Document may be made in writing and delivered to the address below prior to the close of business on May 10, 2006:

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

NOTICE IS FURTHER GIVEN that said Initial Study and draft Negative Declaration is set for adoption by the Atherton City Council on May 17, 2006.

IF YOU CHALLENGE the Environmental Document in court, you may be limited to raising only those issues you or someone else raised in written correspondence delivered to the Atherton City Council prior to May 10, 2006.

For further particulars, reference is made to the project file.

Date Posted: April 11, 2006

ATHERTON DIRECTOR OF PUBLIC WORKS

Form A

Notice of Completion & Environmental Document Transmittal

SCH # _____

Mail to: State Clearinghouse, PO Box 3044, Sacramento, CA 95812-3044 916/445-0613

Project Title: Holbrook-Palmer Park Access Trail and Bridge Project

Lead Agency: Town of Atherton Contact Person: Duncan Jones

Street Address: 91 Ashfield Road Phone: (650) 752-0532

City: Atherton, CA Zip: 94027 County: San Mateo

Project Location:

County: San Mateo City/Nearest Community: Town of Atherton

Cross Streets: Watkins Ave./Station Lane Zip Code: 94027 Total Acres: 0.025

Assessor's Parcel No. 061-310-100 Section: _____ Twp. _____ Range: _____ Base: _____

Within 2 Miles: State Hwy #: U.S. 101 Waterways: Atherton Channel Railways: Caltrain Schools: Menlo-Atherton, Laurel, Hillview, Menlo School, Sacred Heart, Encinal, Sanfield

Document Type:

- CEQA: NOP Supplement/Subsequent EIR NEPA: NOI Other: Joint Document
- Early Cons (Prior SCH No.) _____ EA Final Document
- Neg Dec Other _____ Draft EIS Other _____
- Draft EIR FONSI

Local Action Type:

- General Plan Update Specific Plan Rezone Annexation
- General Plan Amendment Master Plan Prezone Redevelopment
- General Plan Element Planned Unit Development Use Permit Coastal Permit
- Community Plan Site Plan Land Division (Subdivision, etc.) Other Construction

Development Type:

- Residential: Units _____ Acres _____ Water Facilities: Type _____ MGD _____
- Office: Sq.ft. _____ Acres _____ Employees _____ Transportation: Type _____
- Commercial: Sq.ft. _____ Acres _____ Employees _____ Mining: Mineral _____
- Industrial: Sq.ft. _____ Acres _____ Employees _____ Power: Type _____ Watts _____
- Educational _____ Waste Treatment: Type _____
- Recreational Town Park Hazardous Waste: Type _____
- Other: _____

Funding (approx.): Federal \$ 104,800 State \$ _____ Total \$ 26,200

Project Issues Discussed in Document:

- Aesthetic/Visual Flood Plain/Flooding Schools/Universities Water Quality
- Agricultural Land Forest Land/Fire Hazard Septic Systems Water Supply/Groundwater
- Air Quality Geologic/Seismic Sewer Capacity Wetland/Riparian
- Archeological/Historical Minerals Soil Erosion/Compaction/Grading Wildlife
- Coastal Zone Noise Solid Waste Growth Inducing
- Drainage/Absorption Population/Housing Balance Toxic/Hazardous Landuse
- Economic/Jobs Public Services/Facilities Traffic/Circulation Cumulative Effects
- Fiscal Recreation/Parks Vegetation Other _____

Present Land Use/Zoning/General Plan Designation:

Park/POS (Parks and Open Space District / Parks and Open Space)

Project Description:

Construction of a trail/pathway connecting existing shoulder pathways, east and west of the railroad tracks on Watkins Avenue and construction of a pre-fabricated pedestrian bridge over Atherton Channel to connect the Watkins Avenue pathway to the Holbrook-Palmer Park walking path.

Revised 3-31-99

Reviewing Agencies Checklist

Form A, continued

KEY

- S** = Document sent by lead agency
- X** = Document sent by SCH
- ✓ = Suggested distribution

- ___ Resources Agency
- ___ Boating & Waterways
- ___ Coastal Commission
- ___ Coastal Conservancy
- ___ Colorado River Board
- ___ Conservation
- ✓ Fish & Game
- ___ Forestry & Fire Protection
- ___ Office of Historic Preservation
- ✓ Parks & Recreation
- ___ Reclamation Board
- ___ S.F. Bay Conservation & Development Commission
- ___ Water Resources (DWR)

Business, Transportation & Housing

- ___ Aeronautics
- ___ California Highway Patrol
- ___ CALTRANS District # _____
- ___ Department of Transportation Planning (headquarters)
- ___ Housing & Community Development

Food & Agriculture

Health & Welfare

- ___ Health Services _____

State & Consumer Services

- ___ General Services
- ___ OLA (Schools)

Environmental Protection Agency

- ___ Air Resources Board
- ___ California Waste Management Board
- ___ SWRCB: Clean Water Grants
- ___ SWRCB: Delta Unit
- ___ SWRCB: Water Quality
- ___ SWRCB: Water Rights
- ✓ Regional WQCB # 2 (San Francisco Bay)

Youth & Adult Corrections

- ___ Corrections

Independent Commissions & Offices

- ___ Energy Commission
- ___ Native American Heritage Commission
- ___ Public Utilities Commission
- ___ Santa Monica Mountains Conservancy
- ___ State Lands Commission
- ___ Tahoe Regional Planning Agency

- ___ Other _____

Public Review Period (to be filled in by lead agency)

Starting Date April 11, 2006

Ending Date May 10, 2006

Signature *Neal Martin*
Neal T. Martin

Date April 7, 2006

Lead Agency (Complete if applicable):

Consulting Firm: Neal Martin & Associates
 Address: 610 Elm St., Suite 202
 City/State/Zip: San Carlos, CA 94070
 Contact: Neal Martin/Lisa Costa-Sanders
 Phone: (650) 802-4330

For SCH Use Only:

Date Received at SCH _____
 Date Review Starts _____
 Date to Agencies _____
 Date to SCH _____
 Clearance Date _____

Notes:

Applicant: _____
 Address: _____
 City/State/Zip: _____
 Phone: (____) _____



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF MAY 17, 2006

SUBJECT: APPOINTMENT TO THE GENERAL PLAN COMMITTEE

RECOMMENDATION:

Accept the City Council Selection Committee recommendation to appoint Todd Beardsley to a full four-year term on the General Plan Committee to be effective through April 30, 2010.

BACKGROUND:

Todd Beardsley was appointed to serve a less-than two-year term on the General Plan Committee effective November 17, 2006. His term expired on April 30, 2006. Mr. Beardsley has expressed an interest in serving a full term on the General Plan Committee.

Membership on the General Plan Committee consists of two Council Members, two Planning Commissioners, and up to five residents (public members). Currently, the Committee has four resident members. If Mr. Beardsley is appointed, he will fill the final resident member slot on the General Plan Committee.



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: THE HONORABLE MAYOR AND CITY COUNCIL

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

DATE: FOR THE CITY COUNCIL MEETING OF MAY 17, 2006

SUBJECT: ORDINANCE AMENDING ATHERTON MUNICIPAL CODE SECTION 17.36.195 REGULATING RETAINING WALLS

RECOMMENDATION

Staff recommends that the City Council conduct the public hearing and adopt the attached Ordinance based on the following finding for the reasons outlined in this staff report: The proposed amendment is required to achieve the objectives of the Zoning Plan and the General Plan.

BACKGROUND

The City Council discussed fence height and grading issues at the February 15, 2006, meeting. Council provided direction to staff to prepare draft modifications to the Municipal Code to regulate the height of retaining walls. At the March 15, 2006, meeting, the Council requested the General Plan Committee review the item. The General Plan Committee reviewed this item at its April 5, 2006, meeting and forwarded its recommendation to the Planning Commission. The Planning Commission, at its April 26, 2006, meeting, recommended that the City Council adopt the attached Ordinance amendment.

ANALYSIS

In response to direction from the General Plan Committee and Planning Commission, staff has prepared the attached Ordinance to further regulate the height of retaining walls. The maximum height of retaining walls is currently limited to "six feet solid wall construction," except for basements and underground driveway approaches. The Planning Commission determined that this existing language is sufficient to restrict the height of retaining walls.

The General Plan Committee had recommended that the height of retaining walls be limited to six feet measured above the natural grade on the property on which it stands. In discussing this proposed language, the Planning Commission expressed concern that if the property was graded down, the resulting height of a retaining wall could be much higher than the current six feet limitation as it would be measured from natural grade.

The Planning Commission concurred with the General Plan Committee's recommendation to add a limitation that retaining walls be located no closer than 20 feet from one another on the same property and to include a provision to exceed the 6 foot height limit or separation requirement upon the issuance of a Conditional Use Permit.

The Planning Commission recommends the following modification to section 17.36.195 regulating retaining walls (new language shown in **bold**, deleted language shown in ~~strikethrough~~);

17.36.195 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.

Retaining walls shall be constructed no closer than twenty (20) feet from one another on the same property. Provided, however, that upon a proper showing a conditional use permit may be issued to authorize retaining walls:

- a. **In excess of the six foot height limit;**
- b. **Located less than twenty (20) feet from other retaining walls on the same property.**

CONCLUSION:

It is Planning staff's professional opinion that the proposed Ordinance Amendment is consistent with the General Plan and will achieve the desired result of limiting the height of retaining walls.

ALTERNATIVES:

The Council could amend the draft Ordinance.

FISCAL IMPACT:

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

ENVIRONMENTAL IMPACT:

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

Prepared by:

Approved by:

Lisa Costa Sanders
Town Planner

James H. Robinson
City Manager

Deputy

Attachment:

1. Draft Ordinance



Town of Atherton

Town Administrative Offices
91 Ashfield Road
Atherton, California 94027
650-752-0500
Fax 650-688-6528

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Atherton City Council will hold a public hearing to review an Ordinance amending Atherton Municipal Code Chapter 17.36.195.

Description: An Ordinance amending Atherton Municipal Code Chapter 17.36.195 regulating Retaining walls.

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

NOTICE IS FURTHER GIVEN that said item is set for hearing by the City Council at its regular meeting on May 17, 2006, at 7:00 P.M. in the Town Hall of the Town of Atherton, at which time and place all persons interested may appear and show cause, if they have any, why the Ordinance should not be approved.

IF YOU CHALLENGE the Ordinance in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing.

For further particulars, reference is made to the ordinance on file.

Any attendee who wishes accommodation for a disability should contact the City Clerk at (650) 752-0500 at least 48 hours prior to the meeting.

Date Posted: May 5, 2006

ATHERTON CITY COUNCIL

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

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
AMENDING SECTION 17.36.195 OF THE ATHERTON MUNICIPAL CODE
REGULATING RETAINING WALLS WITHIN
THE TOWN OF ATHERTON.**

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

SECTION 1: Amendment of Code. Section 17.36.195 of the Atherton Municipal Code pertaining to retaining walls is hereby amended to read as follows:

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. **Retaining walls shall be constructed no closer than twenty (20) feet from one another on the same property. Provided, however, that upon a proper showing a conditional use permit may be issued to authorize retaining walls:**

- a. **In excess of the six foot height limit;**
- b. **Located less than twenty (20) feet from other retaining walls on the same property.**

SECTION 2: CEQA Exemption. This ordinance is categorically exempt from the provisions of Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code (California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines Section 15305, minor alterations and land use limitations of the CEQA Guidelines as an action that assures the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. The City Council further finds that adoption of this ordinance does not require review under the California Environmental Quality Act (CEQA) because it is not a project (CEQA guidelines section 15378), and there is not possibility that the ordinance may have a significant effect on the environment (CEQA guidelines section 15.61.b).

SECTION 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.

* * * * *

Introduced this ___ day of _____, 2006.

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

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

Charles Marsala, MAYOR
Town of Atherton

ATTEST:

Kathi Hamilton,
Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF MAY 17, 2006

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

RECOMMENDATION:

The City Council hear the presentation from CSG regarding a proposal for providing an evaluation of Atherton code enforcement needs and providing contract code enforcement services on an experimental basis for the Town of Atherton.

BACKGROUND:

The City Council, at its meeting of April 19, 2006, considered several alternatives (see attached report) for the provision of code enforcement services to the Town of Atherton. The City Council directed staff to invite a company with code compliance expertise for a presentation at our May 17, 2006, meeting. The City Council also wanted to address the desired level of effort for code enforcement and what direction the City Council would provide in determining priorities for Code Enforcement.

Gordon Siebert, of CSG, will attend and provide the presentation. Gordon is a principal with CSG and also provides contract city engineering services

CSG submitted the attached proposal to provide code enforcement on an experimental or ongoing basis or both. CSG currently provides code enforcement services to the cities of Monte Sereno, Pinole, and Pittsburg California. Monte Sereno is probably most comparable to Atherton. CSG currently provides a contract Code Enforcement Officer one day a week to the city of Monte Sereno.

FISCAL IMPACT:

It was estimated by CSG that the initial evaluation would cost approximately \$5,000.



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF APRIL 19, 2006

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

RECOMMENDATION:

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

BACKGROUND:

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

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

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

The Atherton staff currently involved in Code Enforcement activities, include the Town Arborist, Police Officers, Street Superintendent, Public Works Superintendent, Building Official, and many others. The Police Chief, Finance Director and City Manager, along with their support staff, are also involved with Code Enforcement. Ultimately the City Attorney is also involved in the compliance side of Code Enforcement. Since the Code Enforcement services cross so many departmental lines and involve so many staff, it is difficult to

analyze the cost associated with this option. An advantage of continuing to utilize existing staff is that there are no new costs of providing Code Enforcement. It is possible that the Town could assign an existing staff member to utilize ½ of their time dedicated solely to code enforcement. This could include a Police Officer at \$60.00 an hour, or a Town Arborist at \$47.00 per hour, or a Community Service Officer at \$34.00 per hour. The disadvantage of this option is the emphasis on Code Enforcement can be constantly diluted as the demands on their other staff assignments increase or decrease. These positions may also not have the adequate training or understanding of the many Code Issues within the Town of Atherton. This could be remedied by additional training.

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

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

3. Contract with an Individual:

This option has many of the advantages and disadvantages associated with option # 2. It does however eliminate the employee status and allow for a greater flexibility for possible recruitment or reduction in service. If an individual contractor provides similar services to another agency, this option may not have some of the inherent risks of the part-time employee who may wish to expand hours or move on to greener pastures. The cost would vary upon the individual selected but would generally cost in the \$44.00 per hour to \$65.00 range for an annual cost of between \$45,760 and \$67,600.

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

Cost estimates would vary based on the position utilized by the Town or City for providing Code Compliance Services. For example, Hillsborough utilizes staff within its Police Department and Woodside utilizes a third of an Assistant Planner. The advantages include an opportunity for cost sharing and eliminating

the responsibility for recruitment and retention issues for the Town of Atherton. The disadvantages may be balancing and competing with needs between the two cities. These concerns could be addressed in an agreement with a minimum number of hours of service. The Town staff has not approached any contiguous or prospective cities, but if the City Council would like to explore this option, staff can make those inquiries.

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

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

CONCLUSION:

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

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



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: MICHAEL A. HOOD, BUILDING OFFICIAL

DATE: FOR THE CITY COUNCIL MEETING OF MAY 17, 2006

SUBJECT: SOLAR PANEL FEES

Mr. Kurt Newick is requesting the City Council reduce the building inspection permit fee schedule to encourage solar installation. Currently, a solar permit for the installation of a \$27,000 system would cost \$970.49. The breakdown of the fee is as follows:

Building permit	411.45
Plan check fee	267.44
Earthquake Tax	2.70
Road Impact Fee	191.70
Business License	97.20
Total	<hr/> 970.49

A typical solar installation requires about 1.5 hours of plan checking and about 1.0 hours of inspection time. Currently, the cost of an inspector or plan checker, including support personnel and Town overhead, is approximately \$100.00 per hour.

The attached list shows solar permits and the associated fees that have been issued in the last 30 years. Most permits have been issued for swimming pool solar water heating. Also attached is a summary of permit fees collected for cities within San Mateo and Santa Clara Counties.

At the direction of the City Council, staff will provide additional information or make appropriate changes to the Town's fee resolution.

Prepared by:

Approved by:

Michael A. Hood
Building Official

James H. Robinson
City Manager

Attachments



Loma Prieta Chapter

March 22, 2006

Re: Request a review of permit fees for rooftop photovoltaic (PV) solar panels

Dear Jim Robinson (city manager):

Mayor Charles Marsala wanted me to contact you to request that Atherton consider changing the permit fees for solar energy systems. He will be putting this issue on the city council agenda sometime in April 2006.

We are writing to inform you that Atherton might be inadvertently stifling its own supply of renewable energy. Our study on solar permit fees in 40 jurisdictions (in San Benito, San Mateo, and Santa Clara counties) indicates that Atherton is one of the eight most expensive for homeowners who wish to install rooftop solar panels (see the comparative chart on the next page). For a 3kW solar panel system valued at \$27,000 before the California Energy Commission rebate, your staff informed us that Atherton charges \$970.45 for the permit as of Summer 2005, compared to \$50 in Portola Valley. (This assumes a professionally installed system that is mounted flush to the roof, is 320 square feet, and has a weight load of 3 pounds per square foot.)

The importance of renewable, locally produced energy is self-evident in light of recent events. Consider PG&E's 71% increase in natural gas rates as of October 1, 2005, California's rolling blackouts in 2001, etc. California generally, and our region specifically, faces rising energy demand, diminishing in-state/regional generation, and increasing dependence on fossil fuel imports from unstable sources. Citizens are increasingly aware that rooftop solar panels are an obvious means to alleviate these problems. A Field Research Institute poll of 954 Californians done in June 2005 found that 77% support increasing the state's investment in solar energy.

Several municipalities in our region are contributing their part to promote the installation of solar systems. Palo Alto, San Jose, and Saratoga issue solar permits over-the-counter, and are among nine jurisdictions in our survey with fees under \$300. At least a dozen cities are taking action to lower solar permit fees to make them more affordable including: San Carlos (was \$922, now \$0), Los Altos Hills (was \$340, now \$0), Campbell (was \$687, now \$311), Los Gatos (was \$890 proposed fee \$428), Los Altos (was \$869, now \$250), South San Francisco (was \$825, proposed fee \$300), Morgan Hill (was \$1,188, now \$300), Burlingame (was \$1,022 proposed fee \$300), San Mateo City (was \$1,280 proposed \$219), Cupertino (was \$1,002, on 4/4/06 council will consider change), Milpitas (was \$680, now \$141), San Juan Bautista (was \$867, now \$404). We ask that you consider the recommendations in our study to reduce permit fees and permitting delays—not just for solar contractors and customers, but for the city itself.

You can download a full copy of the study from:

http://lomaprieta.sierraclub.org/global_warming/pv_permit_study.pdf

A web site has more details: http://lomaprieta.sierraclub.org/global_warming/gwec.htm

NOTE: click on "interest around the CA bay area" for the solar permit fee update status

Our recommendations in brief are as follows:

- Reduce solar permit fees to \$300 or less for standard residential PV installations because this will encourage more solar power.
- Use the flat-fee method instead of the valuation-based method to assess solar permit fees (this provides a financial incentive for citizens to install larger systems).
- Send relevant staff to a one-day solar workshop to learn how to process solar applications and inspect solar installations more efficiently. (reword prior sentence to come from a position of respect for their permitting/inspection expertise). Organizations that sponsor these workshops include solar contractors/manufacturers, building departments, the International Association of Electrical Inspectors (IAEI), and the International Code Council (ICC).
- Revise permit fees downward to account for the new California Solar Rights Act, which makes prohibitions based on aesthetic concerns illegal.

We appreciate your consideration of our request and welcome the opportunity to meet with you to discuss implementation of our recommendations. If you have any questions about the report, please feel free to contact me (408-370-9636) or Stan Van Velsor (650-390-8441). I look forward to commenting on this issue in April 2006 at the City Council meeting.

Your attention to this matter is sincerely appreciated.

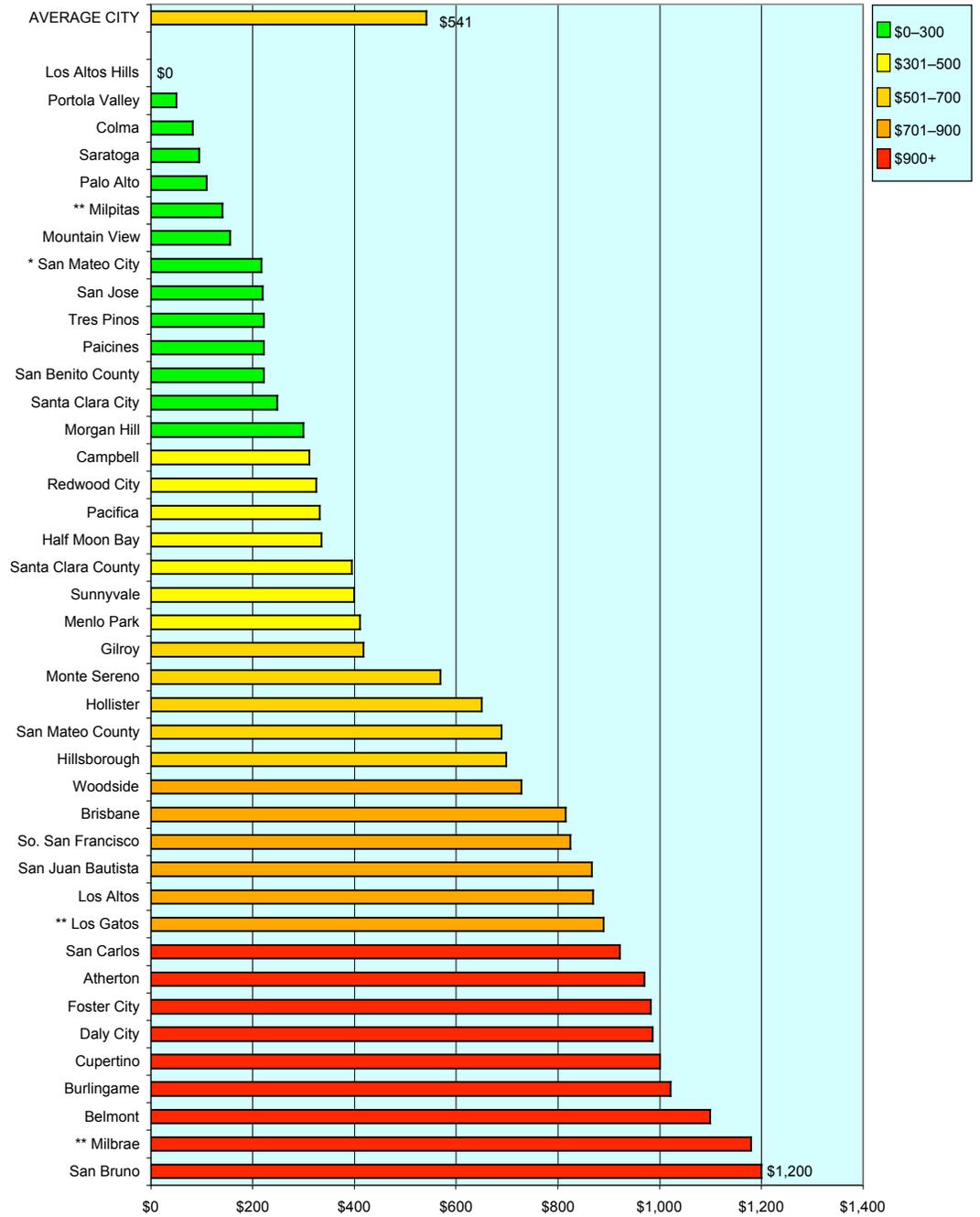
Sincerely,

Kurt Newick
Global Warming & Energy Committee Chairman

Sierra Club, Loma Prieta Chapter
3921 E. Bayshore Road
Palo Alto, CA 94303

cc: Charles Marsala, Mayor
Mike Hood, Head Building Official

PV Permit Fees in Silicon Valley as of 02/03/2006





Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: FOR THE CITY COUNCIL MEETING OF MAY 17, 2006

**SUBJECT: RESCIND RESOLUTION NO. 03-28 AND ADOPTION OF A
RESOLUTION TO APPROVE REVISIONS TO GUIDELINES:
CONSTRUCTION, OPERATIONS AND PARKING PLANS (COP
PLANS)**

RECOMMENDATION:

Consider revised Guidelines for Construction, Operation and Parking Plans and if desired, rescind Resolution No. 03-28 and adopt a resolution approving the revised Guidelines.

BACKGROUND:

On December 17, 2003, the City Council adopted Guidelines for Construction, Operation and Parking Plans in conformance with provisions of Section 15.40.152 of the Atherton Municipal Code. Now that the Town has had some experience with these, revisions have been proposed. At its April 19, 2006, meeting, Council requested further revisions which are included in the attached Guidelines. The attached Resolution would rescind Resolution No. 03-28 and adopt the revised Guidelines. If the City Council is satisfied with these revisions, they may be adopted as written.

FISCAL IMPACT:

Additional costs of enforcement.

Prepared By:

Approved By:

Marc G. Hynes
City Attorney

James H. Robinson
City Manager

Attachments

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

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

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

1. **Parking Area for Construction Personnel.** All construction parking shall be located on-site where possible or within the public right-of-way. Parking shall be located and conducted in a safe manner that affords a minimum disruption to the neighbors and neighborhood.
 - a. Parking in the public right-of-way shall be only in front of the construction site and on the same side of the street as the construction site. For construction projects in excess of 2000 square feet on properties with less than 70' of street frontage, parking on the public right of way shall be allowed for a distance of 66 feet exclusive of driveways on either side of the front of the property under construction.
 - b. Street parking spaces shall be delineated on the COP Plan. Parked vehicles shall not obstruct the paved roadway.
 - c. The COP Plan shall provide a sufficient area to accommodate the number of construction personnel anticipated to be working on the project. Clearly designated parking for the planned number of construction related spaces shall be indicated on the COP Plan with a minimum number of ten for projects over 2000 square feet.
 - d. Parking spaces shall be located perpendicular to the adjacent street whenever possible. Whenever a wall, fence, or hedge is located on the front property line and is scheduled for removal during the course of construction, it shall be removed at the start of construction in order to maximize the number of perpendicular parking spaces.
 - e. The construction parking area shall be located outside of any tree protection fencing area. The construction parking area shall be rocked, with a rocked access drive.
 - f. All construction personnel shall park in the construction parking area when at the job site.
 - g. The City Manager or City Manager's designee may provide written permission for construction personnel parking in the public right-of-way only during such times as finish landscaping or other similar circumstance prevent(s) use of the on-site construction parking area.
2. **Signs.** At the discretion of the City Manager or City Manager's designee, to protect health and safety, or in the event the contractor fails to properly implement the COP Plan, the City Manager or City Manager's designee may require the contractor to post signs on and

along streets at 100 foot intervals for a distance of 500 feet on both sides of the street from the construction project notifying that parking is prohibited except for residents and their guests as authorized by California Vehicle Code Section 22507. Further to the provisions of Section 5.40.155 of the Atherton Municipal Code, signs advising of times and days when construction is prohibited along with a copy of these Guidelines and the Parking Plan appropriately weather proofed shall be posted at locations on the property which shall be visible to persons on the property as well as to persons on the street. The contractor shall pay for the cost of the signs.

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

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

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

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

7. **Cleanup Area.** When on-site cleaning of equipment is required for concrete forms and trucks, paint brushes, plastering tools and other similar equipment, a clean-up area shall be specified on the COP Plan and posted with a sign. This area shall not be located beneath any tree canopy or in any proposed planting area. Runoff from the clean-up area shall be contained and the waste material disposed of using "Best Management Practices" as described by the Building Official.

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

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

- a. Construction, deliveries and servicing of any item (i.e., debris box, sanitary sewer facilities, etc.) on the site shall only **be** permitted Monday through Friday, 8:00 a.m. to 5:00 p.m.
- b. No work of any nature including but not limited to hauling or heavy equipment shall be permitted on Saturdays, Sundays, or Holidays.
- c. Construction parking on-site shall be utilized before parking on the public right-of-way in front of the site.
- d. A sign shall be posted at the front of the construction site stating that all construction vehicles shall park on the construction site if space is available.

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

11. **Building Official Review and Approval of COP Plan.** The Building Official will determine the number of construction parking spaces that can be clearly delineated on the COP Plan, which preferably will maximize the use of on-site areas for construction parking. When there are multiple construction sites located in the same general area, the Building Official will ensure the collective plans will allow for safe use of the public streets in the area including driveway entrances. Where the construction site does not have space for required construction parking, the contractor shall provide adequate parking off-site and make arrangements for workers to come to and from the site. The Building Official will provide a copy of the approved COP Plan to the Chief of Police.

12. **Enforcement.** The City Manager or City Manager's designee will enforce these guidelines. Reports on repeated violations on the same site will be provided to the City Council.

13. **Reports.** Six months following implementation of these guidelines the Building Official shall report to the City Council on the effect and operation of these guidelines.



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: CITY COUNCIL MEETING OF MAY 17, 2006

SUBJECT: ADOPTION OF THE CONSTRUCTION TIME LIMIT ORDINANCE

RECOMMENDATION

Adopt ordinance pertaining to time limits for completion of construction.

BACKGROUND

At its regular meeting on April 19, 2006, the City Council introduced, for first reading, an ordinance amending Chapter 15.40 of the Atherton Municipal Code pertaining to establishing time limits for completion of construction in the Town. At the time of first reading, provisions restricting the grounds for an appeal were deleted. Accordingly, Section 15.40.210 now contains only subsections A and B. Subsection B was formerly Subsection C. It has been re-designated. A clerical correction was made in section 15.40.220(b) in line four where reference is made to "**the said property**" rather than "**the subject property**." This avoids the line reading "...shall become a lien against the subject property and shall be subject to the same penalties" It now reads: "...shall become a lien against the said property and shall be subject to the same penalties"

FISCAL IMPACT.

Costs of enforcement which should be recovered in whole or part by the penalties imposed.

Prepared by:

Approved by:

Marc G. Hynes
City Attorney

James H. Robinson
City Manager

Attachment

ORDINANCE NO. _____

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

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

SECTION 1: Findings..

The City Council of the Town of Atherton finds that:

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

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

"15.40.160 Application.

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

"15.40.170 Construction completion.

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

"15.40.180 Time limits.

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

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

"15.40.190 Penalties.

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

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

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

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

"15.40.200 Deposit.

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

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

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

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

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

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

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

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

"15.40.210 Appeal.

A. A penalty imposed pursuant to Sections 15.40.160 through 15.40.220 may be appealed to the Planning Commission on the grounds that the property owner was unable to comply with the applicable time limit for reasons beyond the control of the property owner and the owner's representatives. There shall be no right to appeal until construction is completed.. Any person aggrieved by the decision of the Planning Commission on the appeal may appeal to the Atherton City Council. The provisions of Chapter 17.64 of the Atherton Municipal Code shall apply to the appeal process.

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

"15.40.220 Enforcement.

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

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

SECTION 3: Amendment of Code.

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

"15.40.230. Violations.

B. As part of a civil action brought by the town, a court may assess against any person who commits, allows, or maintains

a violation of any provisions of this chapter a civil penalty in an amount not to exceed Five Thousand dollars (\$5,000.00) per violation. The civil penalty is separate and distinct from penalties imposed pursuant to Sections 15.40.160 through 15.40.220 above."

SECTION 4: This ordinance is categorically exempt from the provisions of Chapter 3 (commencing with Section 21100 of Division 13 of the Public Resources Code (California Environmental Quality Act (CEQA)) pursuant to the State CEQA Guidelines Section 15305, minor alterations and land use limitations of the CEQA Guidelines as an action that assures the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. The City Council further finds that adoption of this ordinance does not require review under the California Environmental Quality Act (CEQA) because it is not a project (CEQA Guidelines section 15378), and there is no possibility that the ordinance may have a significant effect on the environment (CEQA Guidelines section 15061.b).

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

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

Introduced this 19th day of April, 2006.

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

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

Mayor, Town of Atherton

ATTEST:

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

DATE: FOR THE CITY COUNCIL MEETING OF MAY 17, 2006

**SUBJECT: ORDINANCE ADDING ATHERTON MUNICIPAL CODE SECTION 15.40.157
REGARDING CONSTRUCTION SITE SCREENING**

RECOMMENDATION

Staff recommends that the City Council conduct the hearing and adopt the attached Ordinance based on the following finding for the reasons outlined in this staff report: The proposed Ordinance is required to achieve the objectives of the Zoning Plan and the General Plan.

BACKGROUND

The City Council, at its March 15, 2006, meeting, requested the General Plan Committee consider requirements to screen construction sites. The General Plan Committee discussed this item at its April 5, 2006, meeting and recommended the City Council consider the attached Ordinance.

ANALYSIS

In discussing the requirement to screen construction sites, Committee members noted that some construction sites are within properties that have an existing perimeter solid wall, significant landscaping (solid hedge), or flag lot. Rather than require temporary screening of all construction sites, the Committee recommends that any site that is visible from the public right-of-way be adequately screened from view. This could be achieved by building a permanent solid fence/wall or installing a temporary construction fence with a fabric screen or wood slats.

The General Plan Committee recommends the following language be added to chapter 15.40 Construction Regulations as follows;

15.40.157 Screening

Any construction site project that is visible from the public right-of-way shall be adequately screened to the satisfaction of the Building Official. Screening shall consist of materials approved by the Building official and identified on approved building plans. Screening shall be installed prior to start of construction.

CONCLUSION:

It is Planning staff's professional opinion that the proposed Ordinance Amendment is consistent with the General Plan and will achieve the desired result of screening construction sites.

ALTERNATIVES:

The Council could amend the draft Ordinance.

FISCAL IMPACT:

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

ENVIRONMENTAL IMPACT:

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

Prepared by:

Approved by:

Lisa Costa Sanders,
Deputy Town Planner

James H. Robinson
City Manager

Attachment:

1. Draft Ordinance



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: MICHAEL A. HOOD, BUILDING OFFICIAL

DATE: FOR THE CITY COUNCIL MEETING OF MAY 17, 2006

**SUBJECT: APPROVAL OF PROFESSIONAL SERVICES AGREEMENT
WITH BKF ENGINEERING FOR DRAINAGE STUDY**

At the meeting of April 19, 2006, the City Council received and accepted a bid from BKF Engineers for a proposal to review the Town's drainage policy. Attached is a professional services agreement that details the services to be provided. At this time it would be appropriate to authorize the Mayor to sign the professional services agreement. The total contract amount is to not exceed \$132,900.

Prepared by:

Approved by:

Michael A. Hood
Building Official

James H. Robinson
City Manager

PROFESSIONAL SERVICES AGREEMENT FOR
Review of Town's Drainage Criteria

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

1. Project Designation. The Consultant is retained by the City to perform engineering services in connection with the project designated as Review of Town's Drainage Criteria.

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

3. Time for Performance. Work under this contract shall commence upon the giving of written notice by the City to the Consultant to proceed. Consultant receipt of a Purchase Order shall constitute said notice. Consultant shall perform all services and provide all work product required pursuant to this agreement within 180 calendar days from the date written notice is given to proceed, unless an extension of such time is granted in writing by the City.

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

a. Payment for the work provided by Consultant shall be made as provided on Exhibit "B" attached hereto, provided that the total amount of payment to Consultant shall not exceed \$ 132,900 without express written modification of the agreement signed by the City.

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

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

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

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

5. Ownership and Use of Documents. All documents, drawings, specifications and other materials produced by the Consultant in connection with the services rendered under this

agreement shall be the property of the City whether the project for which they are made is executed or not. The Consultant shall be permitted to retain copies, including reproducible copies, of drawings and specifications for information, reference and use in connection with Consultant's endeavors.

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

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

8. Insurance. The Consultant shall secure and maintain in force throughout the duration of this contract comprehensive general liability insurance with a minimum coverage of \$500,000 per occurrence and \$1,000,000 aggregate for personal injury, and \$500,000 per occurrence/aggregate for property damage. Said general liability policy shall name the Town of Atherton as an additional named insured and shall include a provision prohibiting cancellation of said policy except upon thirty (30) days prior written notice to the City. Certificates of coverage as required by this section shall be delivered to the City within fifteen (15) days of execution of this agreement.

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

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

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

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

13. Termination.

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

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

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

Michael Hood, Building Official
91 Ashfield Road
Atherton, CA 94027

Notices to Consultant shall be sent to the following address:

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

DATED this _____ day of _____, 200_.

Town of Atherton

Consultant

By _____
Charles E. Marsala
Mayor

By _____

EXHIBIT "B"

PAYMENT

1. Consultant shall be paid up to \$132,900 as per Exhibit B-1 to complete the scope of work as outline in Exhibit "A".
2. The consultant may submit vouchers to the City once per month during the progress of the work for partial payment for project completed to date, up to 85% of total project costs. Such vouchers will be checked by the City, and upon approval thereof, payment will be made to the Consultant in the amount approved.
3. Final payment of any balance due the Consultant of the total contract price earned will be made promptly upon its ascertainment and verification by the City after the completion of the work under this agreement and its acceptance by the City.



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 CITY COUNCIL MEETING OF MAY 17, 2006

SUBJECT: RED LIGHT VIOLATION CAMERAS

RECOMMENDATION:

It is the recommendation of Staff that the Town of Atherton enter into a trial agreement with Redflex Traffic Systems for three signal-controlled intersections within the jurisdiction of Atherton. This trial would be of no cost to the Town and would assess if its Red Light Camera Enforcement Program is a viable alternative. It is also recommended that if the trial proves viable, a contract be signed with Redflex for the permanent installation at the recommended locations. The Redflex system is currently in use by the City of San Mateo. Staff has received favorable feedback as to performance.

INTRODUCTION:

During the last several months, the Police Department has been discussing the installation of a Red Light Enforcement Camera System with Redflex Traffic Systems and American Traffic Solutions, also known as ATS. This system works in conjunction with the signal lights located at controlled intersections of which we have three in Atherton. We have a major intersection at El Camino Real and Fair Oaks Lane/Atherton Avenue. This intersection has three lanes of traffic in the north and southbound direction with commute congestion entering from Fair Oaks in the morning and Atherton Avenue in the afternoon. Middlefield Road is a major thoroughfare that carries diverted traffic from El Camino Real and the commute traffic from Highway 101. Within the jurisdiction of Atherton, there are two signal-controlled intersections along Middlefield Road. They are located at Marsh Road and Oak Grove Avenue. The volume and concentration of vehicles at all three intersections is greatly increased during commute times. It is estimated that Middlefield Road carries 20,000 vehicles a day through Atherton and El Camino Real in the area of five times that amount.

Red-light cameras and automated enforcement programs work by detecting a motor vehicle that passes over a sensor in the pavement after the signal has turned red. The sensors are connected to

computers in high-speed cameras, which take photographs of the violation as the vehicle passes through the intersection. This system would also be able to target “No Right Turn on Red” violations. Law enforcement officials review the photograph and a citation is mailed to the registered owner of the vehicle. The owner can challenge the citation if he or she was not the driver at the time of the violation, or name the individual who was driving at the time.

ANALYSIS:

The objectives of red light cameras are to stop red light-running, reduce crashes, save lives, prevent injuries, and respond to community concerns about drivers who break traffic laws. For many localities, using red light cameras have seen violations and crashes dramatically reduced. Red light cameras are being used to enforce traffic laws and save lives in about 70 communities in the United States. San Francisco and Los Angeles realized a 68% and 92% reduction in violations, respectively. The Charlotte, North Carolina program cut red light-running by more than 70% during the first year of operation. Crashes were reduced by 10% throughout the city. Fairness is a critical ingredient to any automated enforcement system. Motorists should be made aware of the system through extensive public education campaigns, and signs notifying them that red light cameras are in use. An engineering review should take place before the installation of the cameras. Engineering and law enforcement officials should review citations after the program begins to identify traffic engineering elements and operational compliance issues that need to be addressed.

Phase one of the implementation is to have Redflex Traffic Systems set up a trial run at each intersection. Each approach (i.e. S/B Middlefield @ Oak Grove) will be monitored for a 12-hour period and the video will be reviewed for the number of violations at each location. In order for the system to pay for itself, each approach (or direction at an intersection) will have to demonstrate at least 1.5 violations per day. It is the recommendation of ATS that the number of 8 to 10 violations per day is necessary to sustain a viable program. If any of the intersections falls short of the required amount of violations, there is no obligation on behalf of the Town to enter into an agreement for that particular intersection.

If a particular location is found to be viable and the Town wishes to continue, a 5-year contractual agreement with Redflex Traffic Systems that outlines roles, responsibilities and obligations will need to be approved and signed.

FISCAL IMPACT:

The Town of Atherton would receive about \$132.10 per paid violation. The fee for the camera system at each approach is \$5,000-6,000 a month. It will take 45 paid violations per month or 1.5 per day to pay for each approach. The recommended level of 8 to 10 violations per day is the number of infractions to make the program viable. If the intersection was to have 10 additional violations per-day above the sustained 1.5 per 24 hours, the town could expect \$1321 a day, per paid violation, per approach.

If the 12-hour trial period results in the required violations to sustain the program, and the Town chooses not to implement the program, a fee of \$500 per intersection will be charged by ATS. If the criterion is not met, there is no cost to the Town for the trial. Redflex does not charge such a fee. Should a contract be ultimately signed with Redflex, the Town will never have to pay more than we collect in fines, which is known as cost neutrality.

Prepared by:

Approved by:

Robert J. Brennan
Chief of Police

James H. Robinson
City Manager

Attachments

1. Contracts
2. Redflex Letter of Intent

May 17, 2006

Ray Torrez
Customer Service Manager
Redflex Traffic Systems
8359 Elk Grove Florin Rd #103/PMb 119
Sacramento, Ca 95829

Dear Mr. Torrez,

The Atherton Police Department is eager to initiate a successful Red Light Camera program within the Town. We would like Redflex Traffic Systems to promptly begin an intersection traffic analysis study of the intersections of:

S/B and N/B Middlefield Road @ Oak Grove Avenue
W/B Marsh Road @ Middlefield Road
S/B and N/B El Camino Real (SR-82) at Atherton Avenue/Fair Oaks Lane

If the study determines that red light camera enforcement is viable for these locations, we intend to recommend Redflex to the Atherton City Council as the solution providers for the project.

The department is looking forward to this endeavor and we look forward to working with Redflex on the development and implementation of this important community safety program.

Sincerely,

Robert J. Brennan
Chief of Police



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: FOR THE CITY COUNCIL MEETING OF MAY 17, 2006

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

RECOMMENDATION

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

BACKGROUND

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

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

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

FISCAL IMPACT

None.

Prepared By:

Approved By:

City Attorney

City Manager

ORDINANCE NO. _____

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

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

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

"8.10.060 Violations; Penalties and Remedies.

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

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

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

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

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

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

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

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

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

SECTION 2: That the City Council hereby declares that it would have passed this Ordinance word by word, sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions of this Ordinance are severable and, if for any reason any sentence, paragraph or section of this Ordinance shall be held invalid, such decision shall not affect the validity of the remaining parts of this Ordinance.

SECTION 3: This Ordinance shall be posted in at least three public places according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

SECTION 4: This ordinance is categorically exempt from the provisions of Chapter 3 (commencing with Section 21100) of Division 13 of the public Resources Code (California Environmental Quality Act (CEQA)) pursuant to the State CEQA Guidelines Section 15305, minor alterations and land use limitations of the CEQA Guidelines as an action that assures the

maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. The City Council further finds that adoption of this ordinance does not require review under the California Environmental Quality Act (CEQA) because it is not a project (CEQA guidelines section 15378), and there is no possibility that the ordinance may have a significant effect on the environment (CEQA guidelines section 15061.b).

Introduced this 17th day of May, 2006.

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

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

Mayor, Town of Atherton

ATTEST:

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney

Existing Code

8.10.060 Violation—Penalty.

A. Any person causing a heritage tree to be removed or damaged in violation of this chapter shall submit a fee as determined by city council resolution to be deposited into a fund for the planting and maintenance of community trees, as a civil penalty in addition to the penalties as outlined in Chapter 1.20.

B. As part of a civil action brought by the town, a court may assess against any person who commits, allows, or maintains violation of any provision of this chapter a civil penalty in an amount not to exceed five thousand dollars per violation. Where the violation has resulted in removal of a tree, the civil penalty shall be in an amount not to exceed five thousand dollars per tree unlawfully removed, or the replacement value of each such tree, whichever amount is higher. Such amount shall be payable to the town as described in subsection A of this section. Replacement value for the purposes of this section shall be determined utilizing the most recent edition of the Guide for Plant Appraisal. A civil action may be commenced to abate, enjoin, or otherwise compel the cessation of violation of any provision in this chapter. In a civil action brought pursuant to this chapter in which the town prevails, the court may award to the town all costs of investigation and preparation for trial, the costs of trial, reasonable expenses including overhead and administrative costs incurred in prosecuting the action, and reasonable attorney fees.

C. Upon any guilty plea or judgment or conviction, in any criminal proceeding brought for the violation of this chapter, the defendant is entitled by law to probation, then the court may require the payment to the town of the costs and expenses as described above and the code provision incorporated by reference as one of the conditions of such probation. (Ord. 533 § 4, 2002; Ord. 490 § 16, 1996; Ord. 484 § 1(D) (part), 1994; Ord. 444 § 5, 1989)



Item
Alan B. Carlson
Vice Mayor
Town of Atherton

91 Ashfield Road
Atherton, CA 94027

Office Telephone: (408) 998-4150
Office Facsimile: (408) 288-5686

April 10, 2006

Charles E. Marsala
Mayor
Town of Atherton
91 Ashfield Road
Atherton, CA 94027

Dear Mayor Marsala:

On January 21, 2006, the Town held an emergency preparedness meeting to which the residents of the Town were invited through articles in the Athertonian and other news media. Unfortunately, the meeting was poorly attended, an issue to which I will return below. In any event, the presentation by Sergeant Grimm of our Police Department was excellent and gave me much to consider as a member of the City Council. In particular, the meeting raised for me the issue of the Council's oversight responsibilities prior to the occurrence of an emergency as well as during and after such has occurred. With respect to these issues, serious concerns are raised which should be addressed by the Council, including the extent to which the City Council is prepared for an emergency of the magnitude that might cause activation of the Town's emergency plan as well as those of governmental entities above it.

Subsequent to the January 21, 2006 meeting, and as a first step in understanding the issues involved, I requested from the City Manager a copy of the emergency plan of the Town. I have now had the opportunity to review the plan and study its proposed operation. Essentially, the Town's plan is two plans. First is the San Mateo County emergency plan, which is a voluminous document by which county-wide and more local emergencies are to be handled using County resources and through which to draw upon resources at higher levels. Second is the Town's emergency plan, last updated by its terms in March 1999, which can be viewed as the first level of response, and which is intended to integrate into the broader County plan. Depending upon the nature of the emergency, and if entirely local to the Town in nature, the Town's plan is the only one that may be activated in given circumstances.

In reviewing the emergency plans of both the Town and County, I was struck by two points. First, the City Council has a definite role and responsibility under the Town's emergency plan, one that I believe has not been well defined and considered by the Council. Second, the plans are "emergency action plans," more appropriately "reaction" plans. They are not "emergency awareness and preparedness plans," plans intended to prepare the public and

Charles E. Marsala
April 10, 2006
Page 2

residents for emergencies before they occur. In this latter area, I believe there is much that the Council should consider, and should decide as to what undertakings in this area are appropriate. Given the size of the Town, I think more can be done in this area than would otherwise be possible in a much larger city.

That the City Council has a clear role in response to events which might occur within or affecting the Town under its emergency plan is clear from the plan itself. A specific "policy advisory" with a checklist of action items and responsibilities for the Council is found within the plan. (pp. 59-60) Further, the plan is specific as to the responsibilities of the Council in an emergency. As stated in the management section of the plan:

The members of Town Council will form a Policy/Advisory Group to proclaim and/or ratify a declaration of local emergency, approve emergency orders, serve as Town policy officials, and provide a forum for input from the public.

(p. 4) The plan designates the City Manager as the "director of emergency services" and provides that he reports to and is to "conduct periodic briefing sessions with the Town Council." (p. 5, 11) That the enumerated responsibilities of the City Council have attached to them clear liability issues and implications is revealed by the City Attorney's responsibilities, in part to "[a]dvice the Town Council . . . on areas of legal responsibility and identify potential liabilities." (p. 26)

In view of the above, the City Council is a part of the Town's emergency plan, and has a role in the reaction to events which might cause the plan to be implemented. As a consequence, the Council should thoroughly understand the nature of that role and be prepared to assume it. To do so, I believe a study session should be held to explore the responsibilities of this role and how is it to be executed and interface in conjunction with others in the Town's administration who have likewise been given specific roles and responsibilities by the plan. It is better to sort out these roles and responsibilities, and to be sure all understand their function within the plan, before the occurrence of an emergency as opposed to during such.

As stated above, the Town's emergency plan is a "reaction" plan, not an "awareness and preparedness" plan by which residents become and are prepared for an emergency. Given the limited size of our community, I believe more can and should be done in this area. Clearly, given the poor resident attendance at the January 21, 2006 emergency preparedness meeting, this does not now appear to be an issue of priority with residents. As a City Council, we should attempt to make it such. As a starting point, the Town does not have a plan, one that is formalized, to make its residents aware of what emergencies may impact them, what that impact would be, and how they should prepare for such. In December 2004, the Town mailed residents a "Pocket Guide to Emergency Preparedness" and the Fall 2005



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF MAY 17, 2006

SUBJECT: CONSIDER REQUEST FROM POP WARNER FOOTBALL FOR AN EXEMPTION OF THE SPECIAL EVENTS GUIDELINES AND GIVE APPROPRIATE DIRECTION STAFF

RECOMMENDATION:

Consider request from Pop Warner Football for an exemption of the Special Events Guidelines and give appropriate direction to staff

BACKGROUND:

In September of 2005, the City Council adopted Special Events Guidelines regulating Special Events held at private and public schools within the Town of Atherton . These guidelines are attached. The Guidelines restricted Field Use and Outdoor functions to the hours of 8:00 a.m. until 7:00 p.m. Field use on Saturdays was limited to the hours of 9:00 a.m. until 6:00 p.m. and 10:00 a.m. until 5:00 p.m. on Sundays excluding non-coach/player interactions.

This past week, the Town received a request from Pop Warner Football for an exemption to the Special Events Guidelines. Their “required” field use would, at a minimum, require a Special Events Permit because the proposed use in August, September, and October would exceed the approved hours within the guidelines.

The adopted ordinance requires a Special Event Permit for non-school related events that are planned to occur outside of the School Event Guidelines. There are several options to deal with the request from Pop Warner Football.

1. The City Manager can require a Special Events Permit for each practice and or game that exceeds the guidelines.
2. The City Council can consider an exemption to the guidelines for Pop Warner Football.
3. As provided for in section 17.38.060 the Ordinance dealing with Special Events, the City Manager can refer the request to the Planning Commission for a Public Hearing.

Attachments

City of Atherton:

RECEIVED
TOWN OF ATHERTON

We have recently been made aware of a School Events Guideline Policy that was adopted by the Town of Atherton. Neither the Menlo-Atherton Pop Warner football organization nor any of its coaches or board members (many of whom are residents of Atherton) were notified of a Public hearing to consider these guidelines. Given that they have already been adopted, we would like to request a special events permit or an exemption of the field use guidelines for MA high school that would allow us to use the field as described below. Some of these times fall within the current guidelines and others are outside the guidelines.

MAY 11 A 9:09

It should be noted that we have respectfully used the MA High School field for the past 7 years and we are not asking for any use that falls outside of what has been the norm for the last 7 years. It is important for you to consider that the field at MA is the ONLY option for this youth organization. Without the special events permit or an exemption from the guidelines the program will most likely cease to exist. Our field use requirements are necessary to comply with the regional Peninsula, Pop Warner rules, regulations and schedules:

We need the field from 5:30-8:30 August 1st-August 31st, Monday through Friday for pre-season practices.

In September, we need the field Wednesday, Thursday and Friday 5:30-8:30 for practices, but the finishing time becomes earlier as the month progresses as darkness falls earlier.

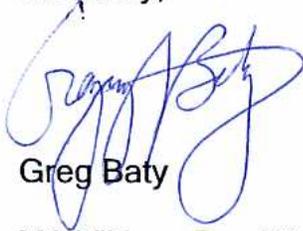
In October and the first part of November, we need the field Wednesday, Thursday and Friday 5:00-8:00 again, with the finishing time earlier as the months progress and sunset comes earlier.

We will also need the field for 4-5 Sundays in the time frame of the last weekend of August through the beginning of November. We cannot pick the home dates for our field and we rely on the organization to schedule our dates. On Sundays, our first game starts at 8:00 AM with 5 or 6 games throughout the day ending no later than 7:00 PM.

We have done many things to reduce the impact we make on our neighbors, from limiting the use of the PA system, to alerting the police department as to our schedule. We are willing to work with our neighbors even further by using low-shrill whistles and anything else that makes sense. The one thing that does not make sense is for us to close the doors to our program because we do not have access to a field. Unlike any other sport in our community, this program brings kids of all different socio-economic backgrounds together in a wonderful team environment; it would be a shame to shut it down. All of the area Pop Warner football teams have similar schedules and play at High School football fields that are also contiguous with residential neighborhoods.

Thank you for your attention to this matter,

Sincerely,

A handwritten signature in blue ink, appearing to read "Greg Baty". The signature is stylized with large, sweeping loops and a prominent initial "G".

Greg Baty

MA Vikings Pop Warner
Board member, Coach, and Atherton Resident

ORDINANCE NO. 559

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF
ATHERTON REPEALING CHAPTER 8.52 AND ADDING CHAPTER
17.38 OF THE ATHERTON MUNICIPAL CODE REGULATING
SPECIAL EVENTS WITHIN THE TOWN OF ATHERTON**

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

SECTION 1: Chapter 8.52 is hereby entirely repealed.

SECTION 2: Chapter 17.38 is hereby added as follows:

17.38 SPECIAL EVENTS

17.38.010 Title.

This chapter shall be known as the "Special Event Ordinance" and may be so cited.

17.38.020 Purpose and intent.

- A. The purpose of this chapter is to insure the comfort, safety and general welfare of the Town citizens by controlling the number of special events and impacts of such events on the community and by providing a simplified permit process. It is also the purpose of this chapter to defray the costs of processing applications for these events.
- B. The intent of this chapter is to protect the residents from excessive noise, traffic and other intrusions upon their privacy.

17.38.030 Definitions.

A "special event" is an activity sponsored by one or more organizations, individuals, or other entities, held at one or more locations within the Town of Atherton to which the general public is invited.

17.38.040 Permit required.

- A. All special events held in the public right-of-way shall obtain a special event permit. Activities include, but are not limited to; processions such as: walks, road races, bicycle rides, skate-a-thons and similar activities.
- B. A special event permit is required for any special event held on private property, occurring on two or more consecutive days where members of the general public are invited. Activities requiring a permit include, but are not limited to the following;
 - 1. Motion picture filming;
 - 2. House and garden tours;
 - 3. Fundraisers

4. Auctions;
 5. Antique shows;
 6. Concerts;
 7. Other similar activities.
- C. The following provisions shall apply to special events held at private and public schools and country clubs:
1. A permit is not required for on-site school-related events. Responsible parties shall notify the Town of school events that may result in additional traffic or parking.
 2. A permit is not required for non-school-related events held at schools and country clubs that meet the School Event Guidelines as prepared by the City Manager and accepted by the City Council. Responsible parties shall notify the Town of events that may result in additional traffic or parking.
 3. A special event permit is required for non-school-related events that are planned to occur outside of the School Event guidelines.
- D. Open house tours for the purpose of selling property under the regular course of a real estate transaction shall be exempt.

17.38.050 Application submittal requirements.

The following items and information shall be submitted to the City Manager or designee:

- A. Completed application (application form supplied by the town) submitted to the Town at least two months prior to the event;
- B. Detailed description of the event;
- C. Contact person available prior to and during the event;
- D. Application fee, (as set by resolution of the city council);
- E. The anticipated number of attendees and number of vehicle trips per day;
- F. An on- and off-site parking plan including the placement of barricades, etc;
- G. A deposit as determined by the Police Chief for the funding of any additional security measures not provided by the applicant;
- H. A hold harmless agreement, naming the Town, its employees and agents; and certificate of insurance, naming the Town as additional insured. A form of hold harmless agreement, and insurance in the amount of \$2,000,000 and insurance provider shall be reviewed and approved by the City Attorney.

17.38.060 Permit issuance.

- A. The City Manager or designee may issue a special event permit when in the opinion of the City Manager or designee the event meets all of the requirements of this code and the Atherton General Plan. The City Manager or designee may refer items to the Planning Commission when, in his or her opinion, the public interest would be better served by the Planning Commission conducting a public hearing. The City Manager or designee shall issue, deny or refer a special event permit within thirty (30) days of receipt of a completed application. If the event will not be in conformance with either this code or the Atherton General Plan the application shall be denied.

- B. If a special event permit is issued by the City Manager or designee, such official may impose any reasonable conditions to insure the event will have a minimal impact on the community. Such conditions may include, but are not limited to, any of the following:
1. Adequate arrangements to prevent:
 - a. Violation of Chapter 8.16 Noise Control,
 - b. Violation of Chapter 8.20 Nuisance Abatement,
 - c. Amplified sound,
 - d. Violation of any traffic laws,
 - e. Violation of any other section of this code;
 2. Posting of docents at key/dangerous locations;
 3. Events, including setup and tear down, will be done during daylight hours if feasible;
 4. Signs on public property shall be kept to a minimum and shall not be displayed for longer than one hour prior to or after the end of the event;
 5. Other materials or mitigation measures deemed necessary by the City Manager or designee;
 6. Parking barricades shall be set back a minimum distance as required by the City Manager or his or her designee to insure site distance clearance from special event site driveways and neighboring driveways.

17.38.070 Permit requirements.

- A. All special events held on private property shall be limited to no more than two consecutive weeks, including no more than two consecutive weekends. Any event for a longer period of time requires a Conditional Use Permit from the Planning Commission.
- B. All special events shall be publicly noticed at least ten days prior to the issuance of a permit, pursuant to the process outlined in State Planning and Zoning Law section 65091, with a five hundred foot radius notification. However, if the event is not conducted on a single site, or is to be conducted within the public right-of-way, the applicant shall pay for the cost associated with the publication of the notice in a newspaper of general circulation at least ten days prior to issuance of a permit.
- C. The applicant shall execute an agreement acknowledging obligations to comply with all required conditions of the special event permit.
- D. No more than two special event permits shall be issued in a twelve-month period for special events on any private residential property.

17.38.080 Permit revocation.

A special event permit may be revoked by the City Manager or his or her designee in the event of any violation of the special events permit or this code.

17.38.090 Violation as a public nuisance.

Each violation of this chapter is a misdemeanor and shall constitute a public nuisance and be subject to abatement as such.

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 affect and be in force from and after 30 days after its passage and adoption.

* * * * *

Introduced this 20th day of July, 2005.

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the 21st day of September, 2005, by the following vote

AYES:	5	COUNCILMEMBERS:	Janz, Marsala, Carlson, Conwell, McKeithen
NOES:	0	COUNCILMEMBERS	None
ABSTAIN:	0	COUNCILMEMBERS	None
ABSENT:	0	COUNCILMEMBERS	None

/s/ William R. Conwell

William R. Conwell, Mayor
Town of Atherton

ATTEST

/s/ Linda Kelly

Linda Kelly, Acting City Clerk

APPROVED AS TO FORM:

/s/ Marc G. Hynes

Marc G. Hynes, City Attorney

SCHOOL EVENT GUIDELINES

GUIDELINES FOR SPECIAL EVENTS HELD AT PRIVATE AND PUBLIC SCHOOLS WITHIN THE TOWN OF ATHERTON

The Town of Atherton requests public and private schools enforce the following special events guidelines with regards to non-school-related special events held on school property within the Town of Atherton;

1. Field use and outdoor functions shall be limited to the hours of 8:00 a.m. until 7:00 p.m. unless further limited by the school. Field use shall include setup, breakdown, warm-up, and practice sessions. Field use and outdoor functions shall be limited to the hours of 9:00 a.m. until 6:00 p.m. on Saturdays and 10:00 a.m. until 5:00 p.m. on Sundays, excluding non-coach/player interactions.
2. Indoor activities shall cease at 9:00 p.m.
3. No amplified noise equipment shall be used in conjunction with any outdoor activity.
4. Any lighting associated with field or outdoor functions use shall be shielded or downlit so the source of light shall not shine onto adjacent properties.

A responsible school contact person shall be made available to immediately enforce any violation of the above-listed guidelines.

Any non-school-related event that is planned to occur outside of the above-listed guidelines (i.e.; earlier/later than the specified hours, use of amplified noise, spill overlighting) would be required to obtain a special events permit pursuant to section 17.38 of the Atherton Municipal Code.