



AGENDA
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT

November 16, 2005

7:30 A.M. 🖱 NOTE TIME

Meeting Room
Town Administrative Offices
91 Ashfield Road
Atherton, California

Special Meeting

8:00 A.M. ROLL CALL Janz, Marsala, Carlson, Conwell, McKeithen

8:02 A.M. PUBLIC COMMENTS

8:05 A.M. CLOSED SESSION

8:05 A.M. A. CONFERENCE WITH LABOR NEGOTIATOR – Labor negotiations pursuant to Government Code Section 54957.6

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

Employee Organization: Atherton Police Officers Association (APOA)

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

Employee Organization: Teamsters Local Union 856

Non-management Miscellaneous Employees

Agency Negotiator: James H. Robinson, City Manager

Employee Organization: Management Employees

RECONVENE TO OPEN SESSION

Report of action taken.

ADJOURN

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

☛ Please contact the City Clerk's Office at 650.752.0500 with any questions

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



AGENDA
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT

November 16, 2005

6:00 P.M.

Meeting Room
Town Administrative Offices

91 Ashfield Road
Atherton, California

Special Meeting

- 6:00 P.M. ROLL CALL Janz, Marsala, Carlson, Conwell, McKeithen**
- 6:02 P.M. PUBLIC COMMENTS**
- 6:05 P.M. CLOSED SESSION**
- 6:05 P.M. A. CONFERENCE WITH LABOR NEGOTIATOR – Labor negotiations
pursuant to Government Code Section 54957.6**
- Agency Negotiator: James H. Robinson, City Manager**
Employee Organization: Management Employees
- B. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Pursuant to Government Code Section 54957.6 (f)**
- City Attorney**
- C. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION
Pending litigation pursuant to Government Code Sections 54956.9(a):
San Mateo County Superior Court Cast No. CIV440523 – Town of
Atherton v. Vivek Ranadive**
- D. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED
LITIGATION
Initiation of litigation pursuant to Government Code Section 54956.9(c):**
- 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
November 16, 2005
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, Marsala, Carlson, Conwell, McKeithen
- 7:05 P.M. 3. **PRESENTATIONS**
- a. Annual Red Ribbon Week Presentation
 - b. Annual Tree Awards – Atherton Tree Committee
 - c. America Recycles Day Proclamation
- 7:30 P.M. 4. **COUNCIL REPORTS**
- 7:40 P.M. 5. **PUBLIC COMMENTS** (only for items which are not on the agenda – limit of three minutes per person)
- 7:50 P.M. 6. **STAFF REPORTS**
- 8:00 P.M. 7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT**
(Directed by Resolution Nos. 99-6 and 02-31)
- Holbrook-Palmer Park Foundation and Atherton Dames**
- 8:10 P.M. **CONSENT CALENDAR** (Items 8 - 23)

(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 REGULAR AND SPECIAL MEETINGS OF OCTOBER 19, 2005
9. APPROVAL OF BILLS AND CLAIMS FOR OCTOBER 2005 IN THE AMOUNT OF \$ 1,536,988
10. ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR OCTOBER 2005
11. ACCEPT ANNUAL FINANCIAL STATEMENTS AND AUDIT REPORT FOR THE YEAR ENDED JUNE 30, 2005
12. ADOPTION OF RESOLUTION APPROVING THE FIRST AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT FOR THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY (SBWMA)

Recommendation: Adopt the Resolution approving the First Amended and Restated Joint Exercise of Powers Agreement for the South Bayside Waste Management Authority.

13. AMENDMENT TO NARCOTICS TASK FORCE AGREEMENT

Recommendation: Authorize the Mayor to sign the updated Joint Powers Agreement in order to continue participation in the San Mateo County Narcotics Task Force.

14. ADOPTION OF RESOLUTION AND AMENDMENT TO JOINT POWERS AGREEMENT PROVIDING FOR THE TERMINATION OF THE CRIMINAL JUSTICE COUNCIL OF SAN MATEO COUNTY

Recommendation: Adopt the Resolution authorizing the execution of an amendment to the Joint Powers Agreement Establishing the Criminal Justice Council of San Mateo County, which amendment would disband the Criminal Justice Council.

15. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$12,267.00 FOR THE 2004 STREET RECONSTRUCTION -PHASE 1, PROJECT NO. 03-011

Recommendation: Accept the work, authorize the recording of a Notice of Completion and approve contract change orders in the amount of \$12,267.00 for the 2004 Street Reconstruction - Phase 1, Project No. 03-011.

16. DECLARATION OF SURPLUS PROPERTY

Recommendation: Declare specific Town property as surplus and authorize the City Manager, or his designee, to dispose of identified property.

17. ACCEPT QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDED SEPTEMBER 30, 2005

18. SECOND READING AND ADOPTION OF ANIMAL CONTROL ORDINANCE REVISION

Recommendation: Hold second reading and adopt revisions to Chapter 6.04 of the Atherton Municipal Code (Section 6.04.010 and following) to conform with recent amendments to the San Mateo County Animal Control Ordinance.

19. APPOINTMENT OF REPRESENTATIVE TO THE SAN MATEO COUNTY MOSQUITO ABATMENT DISTRICT BOARD OF TRUSTEES

Recommendation: Accept Screening Committee recommendation to reappoint Doris Kellett to the San Mateo County Mosquito Abatement District Board of Trustees, for a term of four years.

20. ADOPTION OF A RESOLUTION ADOPTING SALARIES AND BENEFITS FOR MANAGEMENT STAFF FOR FISCAL YEARS 2005-06 THROUGH 2007-08

Recommendation: Adopt a resolution adopting salaries and benefits for Management Staff for Fiscal Years 2005-06 through 2007-08.

21. ADOPTION OF A RESOLUTION IN SUPPORT OF INSTALLATION OF FOUR QUADRANT GATES AT CALTRAIN RAILROAD CROSSINGS AS RECOMMENDED BY THE CALTRAIN CORRIDOR COMMITTEE

Recommendation: Adopt a Resolution in support of four-quadrant gates at both Caltrain railroad crossings, Fair Oaks Lane and Watkins Avenue.

22. ADOPTION OF A RESOLUTION APPROVING AN AMENDMENT TO THE CITY MANAGER EMPLOYMENT AGREEMENT

Recommendation: Adopt a Resolution approving the Third Amendment to the City Manager Employment Agreement

23. SCHOOL RESOURCE OFFICER AGREEMENT WITH THE SEQUOIA UNION HIGH SCHOOL DISTRICT

Recommendation: Authorize the Mayor to sign the updated agreement with the Sequoia Union High School District to continue the School Resource Officer Program at Menlo-Atherton High School.

PUBLIC HEARINGS NONE

REGULAR AGENDA (Items 24 - 29)

- 8:15 P.M. 24. DISCUSSION AND POSSIBLE DIRECTION TO STAFF RELATED TO MENLO COLLEGE FIELD USE ISSUES (Continued from the City Council Meeting of October 19, 2005)**

Recommendation: Continue the discussion to the City Council Meeting of December 14, 2005.

- 8:20 P.M. 25. REPORT ON POTABILITY OF WELL WATER IN HOLBROOK-PALMER PARK**

- 8:35 P.M. 26. REPORT AND DIRECTION TO STAFF REGARDING TOWN OF ATHERTON DRAINAGE POLICY**

- 9:00 P.M. 27. APPROVAL OF A “NO PARKING” SIGN ON VICTORIA DRIVE NEAR MENLO COLLEGE (Oral Report)**

- 9:15 P.M. 28. DISCUSSION AND CONSIDERATION OF PROPOSAL TO DEVELOP SENIOR HOUSING WITHIN THE TOWN OF ATHERTON (Oral Presentation)**

- 9:35 P.M. 29. SET DATE FOR TOWN MEETING ON EMERGENCY PREPAREDNESS**

Recommendation: Discuss and consider setting a date for a Town-wide emergency preparedness training event.

- 9:40 P.M. 30. PUBLIC COMMENTS**

- 9:45 P.M. 31. ADJOURNMENT**

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

October 19, 2005

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
William R. Conwell
Charles E. Marsala
Kathy McKeithen

PUBLIC COMMENTS

None

CLOSED SESSION

- A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION**
Pursuant to Government Code Section 54957.6 (f)

City Manager

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

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

Employee Organization: Atherton Police Officers Association (APOA)

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

**Employee Organization: Teamsters Local Union 856
Non-management Miscellaneous Employees**

**Agency Negotiator: James H. Robinson, City Manager
Employee Organization: Management Employees**

RECONVENE TO OPEN SESSION

Report of action taken.

City Attorney Marc Hynes reported with regard to Item A, Public Employee Performance Evaluation, the City Manager, direction was given to the City Attorney to prepare an agreement to be placed on the City Council agenda for November 16, 2005. Item B, Conference with Labor Negotiator, the conference was conducted and no reportable action was taken.

ADJOURN

The meeting was adjourned at 7:05 p.m.

Respectfully submitted,

**William R. Conwell
Mayor**

**Minutes Prepared by:
Kathi Hamilton**



DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON
CHANNEL DRAINAGE DISTRICT
October 19, 2005
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

Mayor Conwell called the meeting to order at 7:11 p.m.

1. **PLEDGE OF ALLEGIANCE**

ROLL CALL

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

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

3. **PRESENTATIONS**

4. **COUNCIL REPORTS**

- Council Member Janz attended the Caltrain Corridor Subcommittee meeting on October 4, 2005. Additionally, he attended the October 6th Transportation Authority meeting where plans for correcting the “hold-out” conditions for the Atherton Train Station were 85% completed. Caltrain was trying to slow down the construction by using the Dumbarton rail extension issue to delay the project. The Transportation Authority scheduled the issue for the next meeting.
- Vice Mayor Marsala announced that the Holbrook-Palmer Park Foundation and Atherton Dames were holding their annual Town BBQ on October 23, 2005, starting at 4 p.m. Bob Francheschini was heading the event. The Arts Committee had a great turnout for its Artists Reception with 18 artists’ work. He attended a fundraiser for Katrina victims along with Council Member Janz. The Menlo Park Fire Protection District firefighters who helped in New Orleans were in attendance and had many good suggestions, one of which was the use of satellite phones when power went out. The Governor signed SB 203 that dedicated funds for Holbrook-

Palmer Park. City Manager Robinson negotiated \$200,000 a year for Atherton if the measure passed next November. The League of California Cities endorsed Proposition 76 that prevented the state from spending more in good years than it could not continue in lean years. Vice Mayor Marsala met with the Beverly Hills Planning Commission and staff and learned about construction and financing infrastructure in small cities and attended disaster planning and grant writing sessions. The Waste Reduction Committee met. In the fall, the committee would advise residents on ways to stay in compliance with state law. He attended a dedication for Coach Parks at Menlo-Atherton High School. He and Council Member McKeithen met with Sequoia School District officials regarding plans/issues for the school. Selby Lane School test scores hit 709, up from 575 over the past four years.

- **Council Member Carlson** attended the General Plan Committee meeting on October 5, 2005, where the Noise Ordinance discussion was continued pending the outcome of the Special Events School Guidelines on that evening's agenda. On October 11, the Transportation Committee met, and two items were on the Consent Calendar dealing with "No Parking" signs and crosswalks. The Finance Committee met that morning and discussed road impact fees, excavation fees, possible business license fees, and a community survey regarding the Police Department. That afternoon, the Buildings and Facilities Committee met with an update on the Holbrook-Palmer Park Foundation.
- **Council Member McKeithen** reported that the Atherton Channel work was almost completed for a cost of \$415,000. Phase 2 was scheduled to begin in a couple years and then work would begin on the Marsh Road walls. The Office of Emergency Services met on September 22, 2005, and discussed disaster preparedness. Atherton was working on its disaster preparedness mitigation. A Golden Guardian exercise (potential bio-nuclear-terrorism attack) was scheduled in Northern California; one in the Oakland/Alameda area, and the other in the Roseville/Sacramento area on November 15, 2005. The Finance Committee was looking into an independent company to perform the Police Department survey. The Audit Committee reviewed the financial statements for 2004/05, and the Town received an unqualified audit for the 5th year in a row. Discussion regarding a Town Fraud Policy also took place. She believed any fraud investigation within the Town should be conducted by an outside source. Scott Morrow, the health officer for San Mateo County, reported that fluoridation for Bear Creek Reservoir water was delayed because of a nationwide shortage of fluoride. Council Member McKeithen met with Menlo-Atherton High School representatives regarding special events school guidelines and a tentative solution was reached.
- **Mayor Conwell** spoke regarding a letter received from Up Geo-Technology regarding drainage which was scheduled for discussion on that evening's agenda. Construction parking issues were an ongoing concern. He held a meeting attended by City Manager Jim Robinson, City Attorney Marc Hynes, and Vice Mayor Marsala. The item was scheduled for discussion later in the meeting. Regarding undergrounding of utilities, Vice Mayor Marsala noted that Palo Alto's program included the use of city funds which were repaid when the homes were sold. Atherton did not have enough reserves to fund such a program. City Manager Jim Robinson said the Town had received some communication from P.G.& E. on what

projects would or would not qualify for Program 20A funds and the item would be scheduled for a future agenda.

5. **PUBLIC COMMENTS**

Jerry Carlson, Atherton, spoke regarding the Selby Lane School and distributed a brochure and fact sheet to the Council. The Caltrain Corridor Subcommittee passed a resolution endorsing the four-quadrant gate concept. With regard to the evening's agenda, he expressed concern for agenda items scheduled after 11:00 p.m.

Gertrude Blue, Flood Circle, urged the Council to review and revisit the Building Code and spoke regarding construction at 77 Flood Circle and the effects/impacts to her property.

Janis Ross, Greenoaks, asked the Council to address/revisit the regulations governing groundwater use in Lindenwood and Atherton. An enormous amount of groundwater was being pumped from a neighbor's home into the storm drain.

Council Member McKeithen had observed the site and viewed the water pouring out of the pipe; however, the City Manager had taken a picture the day before and the water was a mere drip. Approximately, one million gallons of water had been pumped into the drain that went into the Atherton Channel. A Redwood City study indicated the aquifer was a slowly rechargeable aquifer that was possibly being depleted.

John Sisson, Atherton, spoke regarding potable water at the Holbrook-Palmer Park well. Additionally, he remarked 20 years ago, the Council at the time was asked to make a donation for a particular disaster, the Town made no policy issue or decision, but the outcome was that charity was a very personal thing and, as individuals, there were many opportunities to make contributions.

6. **STAFF REPORTS**

- City Attorney Marc Hynes reported out of Closed Session as follows:

A. **PUBLIC EMPLOYEE PERFORMANCE EVALUATION**
Pursuant to Government Code Section 54957.6 (f)

City Manager

Direction was given to the City Attorney to prepare an agreement to be placed on the City Council agenda of November 16, 2005.

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

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

Employee Organization: Atherton Police Officers Association (APOA)

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

**Employee Organization: Teamsters Local Union 856
Non-management Miscellaneous Employees**

**Agency Negotiator: James H. Robinson, City Manager
Employee Organization: Management Employees**

Conference with the labor negotiator was conducted and no reportable action was taken.

- **City Manager Jim Robinson received a 30-day notice from BFI/Allied advising a change in service delivery days that affected approximately, 70 to 80% of Atherton residents. The changes were being made in response to customer complaints and to better accommodate the needs of the Town.**
- **In response to Council Member McKeithen, Deputy Town Planner Lisa Costa Sanders said a consultant had begun work on the Town's disaster preparedness mitigation plan and would take approximately two months to complete.**

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

Crime Prevention Task Force

Sandy Levison from the Crime Prevention Task Force reported the Task Force was started in 1978 in response to budget cuts brought about by the passage of Proposition 13. The Task Force was made up of a group of volunteers who supported the Police Department on an as-needed basis.

CONSENT CALENDAR (Items 8 - 15)

Regarding Item No. 15, after discussion, the temporary "No Parking" sign for Victoria Drive remained on the Consent Calendar and the item was scheduled for the City Council Meeting of November 16, 2005. In response to Council Member McKeithen, staff responded as follows:

Item No. 10, expenditures were greater than the same period last year due to three paydays in September rather than October.

Item No. 11, the condition of the bicycles would not bring in much revenue; therefore, the recommendation was to donate them.

Item No. 13, the City Attorney had approved the agreement as to form.

MOTION - to approve the Consent Calendar as presented with the understanding that parking issue on Victoria Drive would be reviewed next month.

M/S McKeithen/Carlson

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

8. **APPROVED MINUTES OF REGULAR AND SPECIAL MEETINGS OF SEPTEMBER 21, 2005**
9. **APPROVED BILLS AND CLAIMS FOR SEPTEMBER 2005 IN THE AMOUNT OF \$ 963,723**
10. **ACCEPTED MONTHLY FINANCIAL REPORT FOR SEPTEMBER 2005**
11. **DECLARATION OF SURPLUS BICYCLES**

Recommendation: Declared specific Town property as surplus and authorized the City Manager, or his designee, to dispose of identified property.

12. **APPROVED CONCEPT PLAN FOR EXTENDING AND RESURFACING THE WALKING PATH AT HOLBROOK-PALMER PARK; AND APPROVED USE OF STATE ROBERTI-Z'BERG-HARRIS FUNDS**

Recommendation: Approved the attached concept plan for extending the walking path at Holbrook-Palmer Park behind the Playschool, Carriage House and Corporation Yard and approved application for State Department of Parks Roberti-Z'Berg-Harris grant funds for the project.

13. **APPROVED AN ENCROACHMENT AGREEMENT WITH MENLO SCHOOL FOR IN-STREET LIGHTED CROSSWALKS ON ALEJANDRA AVENUE**

Recommendation: Approved an encroachment agreement with Menlo School to install in-street lighted crosswalks on Alejandra Avenue between the school campus and playing fields.

14. **APPROVED FOUR CROSSWALK SIGNS ON WATKINS AVENUE**

Recommendation: Approved installation of crosswalk signs on Watkins Avenue at McCormick Lane and Burns Avenue.

15. **APPROVED A TEMPORARY NO PARKING SIGN ON VICTORIA DRIVE NEAR MENLO COLLEGE**

Recommendation: Approved installation of a temporary No Parking sign on Victoria Drive near Menlo College.

PUBLIC HEARINGS (Items 16, 17)

16. **REQUEST FOR RECONSIDERATION OF CITY COUNCIL DECISION TO GRANT AN APPEAL REGARDING 40, 50 AND 60 ASHFIELD ROAD (ASSESSOR'S PARCEL NUMBERS 060-323-290, 060-323-210, AND 060-323-220)**

Recommendation: Conduct the public hearing and approve the reconsideration request, thereby approving the Exception Review for three proposed new residences at 40, 50 and 60 Ashfield Road in Atherton.

Deputy Town Planner Lisa Costa Sanders presented the staff report. Per Council direction from the last meeting, the developer had made significant changes to 40 Ashfield Road, a Spanish style house with stucco finish and tile roof. He made smaller changes to 50 and 60 Ashfield Road. The developer had met with adjacent neighbors who gave positive responses to the improved designs. Staff recommended that Council reconsider its decision and approve the Exception Request for the three homes based on the conditions contained in the Exception Certificate.

Council Member McKeithen thanked the developer for making the changes and meeting with the neighbors who were delighted with the changes.

Mayor Conwell opened the public hearing. No one came forward to speak and the Mayor closed the public hearing.

Vice Mayor Marsala also thanked the developers and the Building Department for solving the issues.

Council Member McKeithen said sometimes letting the community work things out was the best approach and should happen more often.

MOTION - to find that the proposed homes are compatible with the surrounding homes' visual character and that the proposed landscaping will not substantially decrease the privacy of the neighbors; that the approval for the Exception Review would not be contrary to the purpose and intent of the General Plan and Zoning title; further to move that the City Council reconsider its decision to grant the appeal and approve the Exception for the reasons outlined in the staff report with conditions stated in the draft Exception Review Certificate.

M/S Marsala/McKeithen

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

17. CONTINUANCE OF HERITAGE ARTIFACT PRESERVATION URGENCY ORDINANCE

Recommendation: Conduct a public hearing to consider adopting the proposed interim ordinance extending the urgency measures adopted by the City Council on April 20, 2005, requiring a Conditional Use Permit to alter historical artifacts in the Town. Interim regulations will require a Conditional Use Permit to remove, alter, or demolish any historical item.

Deputy Town Planner Lisa Costa Sanders presented the staff report. The next step in the process was to hold a Town-wide meeting to get input from the community as to what types of preservation measures would be appropriate for the Town. Staff was

requesting the Council to extend the moratorium to protect the artifacts while the community outreach continued.

Mayor Conwell opened the public hearing. No one came forward to speak and the Mayor closed the public hearing.

MOTION - to adopt the interim ordinance, Ordinance No. 05-560 "AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON EXTENDING REGULATIONS ON THE ALTERATION OF HISTORIC ARTIFACTS PENDING CONTEMPLATED GENERAL PLAN AND ZONING AMENDMENTS RELATING TO SAID ARTIFACTS," extending the urgency measures adopted by the City Council on April 20, 2005, for the period of one year and requiring a Conditional Use Permit to alter historical artifacts in the Town

Council Member Janz noted Council received a letter from Jan and Neil Rasmussen concerning the issue. He clarified the item before the Council that evening was a temporary measure to protect the artifacts until an appropriate ordinance was created.

M/S McKeithen/Janz

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

REGULAR AGENDA (Items 18 - 28)

18. **DISCUSSION AND POSSIBLE DIRECTION TO STAFF RELATED TO MENLO COLLEGE FIELD USE ISSUES (Continued from the City Council Meeting of September 21, 2005)**

Recommendation: Continue discussion to the November 16, 2005, City Council meeting.

MOTION -- to continue the discussion to the City Council meeting of November 16, 2005.

M/S Carlson/Janz

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

19. **CONSIDERATION OF VOTING STATUS OF RESIDENT MEMBERS OF TOWN COMMITTEES AND CONFORMANCE OF COMMITTEE NAMES (Continued from the City Council Meeting of September 21, 2005)**

Recommendation: Consider approving revisions relating to City Council Rules of Procedure.

Council Member Carlson stated there was no clear policy as to when resident advisors should or should not vote on matters before certain committees. The measure would codify that resident advisors may vote on committees of which they are members.

Council Member McKeithen agreed and stated other issues to be reviewed, were: 1) time limits on construction; 2) abandoned construction buildings; 3) interim plantings; 4) effect on trees; and 5) basement depth/basement size. All of the issues had been outlined in letters from residents and should be addressed by the General Plan Committee.

Council Member Janz also raised the issue of house size and that perhaps the time had come to revisit limitations on size.

Vice Mayor Marsala suggested using the Atherton Train Station parking lot for construction parking and shuttling workers to construction sites. In Beverly Hills, construction hours were extending from 5 to 6 p.m., and construction time was shortened by 12 to 17%. Additionally, he suggested encouraging contractors to recess the fences allowing more room for cars to park perpendicular to the site.

Council Member Carlson said there were many stages of construction. Once the outside of the structure was completed, noise went away but parking remained an issue. He suggested extending the hours of construction when activity moved inside the site. Parking enforcement was the main issue.

Council Member McKeithen wanted enforcement of existing regulations and the water discharge issue dealt with that evening. On the south side of Camino al Lago, there was a water discharge of 100 yards from Linda Vista down to Monte Vista and one-half the length of Monte Vista on the west side. Town policy did not permit concentrated runoff to be directed off the property to either the street right-of-way or an abutting property. Another discharge occurred on Park Lane.

Building Official Mike Hood stated the general policy was to keep drainage on site during construction. Any discharge offsite was handled with an Encroachment Permit.

MOTION – to refer the review of the Construction Regulations and Parking Ordinance to the the General Plan Committee meeting of November 2, 2005, and to direct staff to prepare a referral staff report that includes all the issues raised by Council Members.

John Ruggiero, Atherton, spoke regarding construction parking. Additionally, he asked whether lunch wagons had Town business licenses.

Building Official Hood said all new construction sites were required to file a parking and operation plan. Each site was handled individually to find the best alternative.

Council Member McKeithen said, as much as possible, license numbers were reported to the Town to determine whether a business license was issued.

Discussion continued regarding the home on the corner of Park Lane/Santiago. Because the project was in litigation, the 180 days between inspections would lapse and

the permit could then be declared expired. A new permit would require a parking and operation plan. However, there were several projects that were “grandfathered” and did not have to file a plan.

M/S Carlson/Janz

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

Council Member Carlson stated one purpose of the General Plan Committee was to seek the input of the public through a public hearing. He suggested staff develop an agenda to be reviewed by the two City Council Members who sat on the General Plan Committee for comment, place an ad in *The Almanac* announcing the meeting, and notify the Contractors’ network.

21. CONSIDERATION AND APPROVAL OF GUIDELINES FOR NON-SCHOOL RELATED SPECIAL EVENTS HELD AT PRIVATE AND PUBLIC SCHOOLS WITHIN THE TOWN OF ATHERTON

Recommendation: Consider and, if appropriate, approve School Event Guidelines for special events held at private and public schools within the Town of Atherton.

City Manager Jim Robinson presented the staff report. A meeting was held with Menlo-Atherton High School (M-A) and attended by Vice Mayor Marsala, Council Member McKeithen, Police Chief Bob Brennan, Phil Lively, Superintendent Pat Gemma, and Principal Norm Estrada. Strengthening the Guidelines for non-school related outdoor events regarding hours and noise was resolved by changing the hours to 9 a.m. until 6 p.m. on Saturdays and 10 a.m. until 5 p.m. on Sundays. The school district had a concern regarding the 9 p.m. cutoff for indoor activities. The purpose that evening was to review the guidelines and, if appropriate, make any necessary changes.

Council Member McKeithen said that M-A was requesting an exclusion letter from the Town for swim meets that began before 9 a.m. on Saturdays because lighting was used but not amplified sound. Regarding Item 4, neighbors did not want any lighting, shielded or not. Another consideration was when the new performing arts building was completed, there would be an additional 200 parking spaces on campus.

Deputy Town Planner Lisa Costa Sanders clarified that in general, no lighting was allowed for outdoor events; however, ancillary lighting was sometimes used for special night fundraising walks, etc.

Discussion continued regarding the change in hours and whether 9 a.m./10 a.m. start times would include setup time.

Henry Ilg, Atherton, spoke regarding picnics held at Menlo College and his concern for the noise, smells from the barbeques, and lack of supervision for the events.

Joe O’Brien, Menlo College, noted the picnics started at 11 a. m. or noon and ended at 4 p.m. A possible solution would be to move the barbeques to the center of campus.

He agreed to meet with Mr. Ilg to discuss the issues. He expressed concern for the 9 a.m. start time for field activities because there was not enough time for field prep etc. Additionally, he was concerned with the 9 p.m. ending time for indoor activities. Discussion continued. Any exceptions would be considered on a case-by-case basis.

David McAdoo, Menlo School, said in trying to be sensitive to neighbors' concerns for noise, the school decided not to have any coach/player interaction on the field before the opening time, whatever time that was. Additionally, many of the theatre productions did not end until 9:30 p.m. or later, and he was concerned about requesting too many exceptions.

Council discussion continued. The guidelines were not meant to be too restrictive; however, the intent was to provide guidance and ability to control noise.

City Attorney Marc Hynes clarified the City Manager prepared the guidelines that were then approved by the Council.

MOTION – to approve the Guidelines for Non-School Related Events with the addition that field use and outdoor functions shall be limited to 9 a.m. - 6 p.m. on Saturdays and 10 a.m. - 5 p.m. on Sundays with the exception of non-coach/player interactions.

M/S McKeithen/Carlson

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

22. FIRST READING AND INTRODUCTION OF ANIMAL CONTROL ORDINANCE REVISION

Recommendation: Introduce for first reading revisions to Chapter 6.04 of the Atherton Municipal Code (Section 6.04.010 and following) to conform with recent amendments to the San Mateo County Animal Control Ordinance.

City Attorney Marc Hynes presented the staff report. San Mateo County and its contract agents provided animal control services for the Town. When the County revised its regulations, all the agencies that were using its services needed to revise their regulations. Some revisions were small; however, substantive changes related to ongoing experience with dangerous/vicious animals. Most of the changes were good ones. The intent of that evening's action was to introduce the ordinance for a first reading.

Council Member McKeithen said page 16, section 13, stated the owner could request a hearing under section 6.04.095 subsections (a) – (g) and queried why subsection (h) was not included.

City Attorney Hynes said that subsection (a) – (g) talked about how the hearing would be conducted and what the hearing officer could do within 5 working days, etc. Subsection (h) discussed what the hearing officer was able to do once the animal was determined to be dangerous or vicious. There would not be a problem with the County by adding subsection (h) to Atherton's ordinance.

MOTION - to introduce for first reading, “AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON AMENDING CHAPTER 6.04 – OF THE ATHERTON MUNICIPAL CODE TO CONFORM WITH AMENDMENTS TO SAN MATEO COUNTY ORDINANCE REVISIONS”

M/S McKeithen/Carlson

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

23. CONSIDERATION AND POSSIBLE DIRECTION TO STAFF REGARDING THE REPORT ON WATER WELL IN HOLBROOK-PALMER PARK

Building Official Mike Hood presented the staff report. At its last meeting, the Council directed staff to look into the viability of the Holbrook-Palmer Park well providing an emergency source of water. The water, at the depth to which the well was drilled, was acceptably potable. Generally throughout the Town, there were three levels of aquifer, and the top level had a very high percentage of dissolved solids. The deeper one went the cleaner more potable the water became. The well had been tested at 125 gallons a minute and was determined to be an adequate well. The well was exclusively used for irrigation at the present time; however, in an emergency, the well could be used for potable water. In the circumstance of no electricity, the Town had one generator mounted on a trailer to supply power.

Staff was directed to retest the water before the next meeting relative to its “drinkability” and whether there were any adverse effects of drinking the well water.

Council accepted the report and no further action was taken.

24. CONSIDERATION AND POSSIBLE DIRECTION TO STAFF REGARDING TOWN OF ATHERTON DRAINAGE POLICY

Building Official Mike Hood presented the staff report. The main issue regarding disposal of drainage waters was twofold: 1) to take the rainwater and return it to the ground, which generally recharged the aquifer; and 2) to drastically slow down the time for the rainwater to flow to the Atherton Channel. In the past, the Town was primarily one-acre parcels with moderately sized homes. In the last 10 years, development was for considerably larger homes and considerably larger impervious area. If nothing were done, the Atherton Channel could not handle the flow. The Town required the design of detention facilities for a storm event that had the frequency occurrence of 1 in 25 years, or 2 inches of rainfall in a 24-hour period. The main criterion was to slow the water down. The flow into the Atherton Channel during a rainfall event was actually less than it had historically been. Rainwater went into storage tanks, French drains, or percolation beds; and as it flowed off the property, it followed the historic drainage paths. County and state guidelines also limited the quality of the water mainly dealing with siltation.

Council Member McKeithen read a letter into the record from Mrs. McClure. She had lived on her property for 40 years and never had a problem; however, after

French drains were installed above her property, she had a large amount of water under her home. She hired a specialist and must use large sump pumps continuously to drain the water. Council Member McKeithen noted Portola Valley had its own geotechnical engineer and required a drainage bond. When a particular construction site presented issues to surrounding properties, an independent person did an assessment that was charged against the bond. She believed the Town needed the involvement of experts and should not rely upon the developers.

In response to Council Member Carlson, City Attorney Marc Hynes said Chapter 8.54 of the Atherton Municipal Code contained the regulations that governed grading, erosion, and sediment control and provided recourse for the Town if drainage plans turned out to be faulty. Provisions in the nuisance/abatement ordinance also provided recourse.

Building Official Hood said the area from Atherton Avenue to Stockbridge, from Alameda De Las Pulgas west, had an extremely high groundwater level. The historic groundwater level was rising in that area. The water had to follow its historic drainage path. The water was typically coming from the larger impervious area developments. Historic rainfall was 15 to 20 inches a year. When people irrigate their lawns, the annual rainfall was raised for that property to 150 inches a year. The goal was to keep the water from flooding the channel.

Council discussion took place regarding: 1) whether the Town had the authority to require a bond that paid the cost of a consultant that the Town retained to make an assessment; 2) whether the Town should have its own soil engineer and drainage planner develop the plan for the site; or 3) whether the property owner should develop the plan and submit it to the Town.

Craig Johnson, Walsh Road, spoke regarding his family's property and the new development above his, the King property.

Rexford Up, consultant, held several degrees and licenses in soil and engineering geology. He was retained by the uphill property owner from Mrs. McClure to resolve the drainage issue. The bedrock in that part of Atherton, the Whiskey Hill formation, was very tight sandstone/clay stone and was impermeable to water percolating down into it; therefore, water soaked out laterally and ended up on Mrs. McClure's property. Mr. Johnson was experiencing the same type of problem from the King property above his. Mr. Up reviewed the soil reports for both problem properties and neither addressed the issue of percolating the water down into the ground. He believed the areas where the potential problem existed could be delineated on a map and a soil engineer could be required to address the issue of water retention. A system was designed for the property above Mrs. McClure to ensure water from it would not end up on her property.

After discussion, Council determined two issues needed immediate attention: 1) Mr. Johnson's issue, an adjoining property with a system that was not going to work; and 2) authorizing a consultant to work with the Building Department to define the areas

needing special studies and systems. A third issue, how to deal with water draining from properties with basements, could be taken up at a later time. A plan was needed on how to proceed and whether the Town could require percolation studies in the interim. A discussion with the City Attorney concluded existing authority provided the ability to do so.

Direction was given to staff to retain appropriate experts to identify the high-risk areas and to recommend what measures should be required in those areas in terms of inspection, planning, and installing the appropriate system for water retention.

City Manager Jim Robinson said staff could solicit Request for Proposals (RFPs) and make a recommendation to the Council.

Mr. Up said the challenge for creating an RFP would be the development of the scope of work. He was willing to work with staff to develop the RFP to hire a consultant to perform a peer review.

Council discussion ensued regarding the pumping of water from a site when constructing a basement. An alternative to pumping the water down the street was to pump water out of one well and inject it elsewhere on the property. Another alternative might be to pump the water into a truck and haul it away.

Mayor Conwell called for a recess at 11:05 p.m. The meeting was reconvened at 11:15 p.m.

A discussion took place regarding 222 Greenoaks where water was being pumped down the street. Staff was asked to monitor the site to ensure the pumping did not continue beyond another week and report to Council when it stopped. Additionally, staff was asked for an analysis of the pros and cons for the various alternatives of pumping water for basement construction.

Staff was directed to report back to the Council at its next meeting how many instances occurred within the past two years of pumping water down the street, where the locations were, what alternatives were available, and what costs were associated with the alternatives. Staff was requested to prepare a map of the area west of the Alameda to depict how much land was affected by rising groundwater.

24. DISCUSSION AND CONSIDERATION OF PROPOSAL TO DEVELOP SENIOR HOUSING WITHIN THE TOWN ATHERTON

MOTION – to continue the item to a date uncertain

M/S Carlson/Janz

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

26. CITY COUNCIL AUTHORIZATION FOR DONATION TO HURRICANE KATRINA DISASTER RELIEF

Recommendation: Discuss and consider providing assistance to the hurricane Katrina disaster relief effort.

Mayor Conwell talked with citizens of Atherton and their general attitude was not in favor of spending Town funds for disaster relief effort.

Vice Mayor Marsala read a letter into record from Margaret Winters requesting the Town help a community in Louisiana. The Cities of San Carlos and Palo Alto had adopted towns. Another letter suggested supporting the Katrina relief effort. Vice Mayor Marsala suggested making a Town donation equivalent to \$2 per household would be a goodwill gesture.

Council Member McKeithen did not think it was appropriate for the Town to donate Town funds. Individuals should make their own contributions.

Council Member Janz noted that Palo Alto and San Carlos were not using city money. People were encouraged to send money to a relief fund or participate with groups who were sending goods. He did not have a problem selecting a Town and encouraging residents to donate to that effort.

Council Member Carlson said every cause was a worthy cause. Historically, the City Council had taken the position not to make a judgment and had left the decision up to individuals. He concurred.

MOTION – to name a Town in Louisiana and encourage residents to support relief efforts in this emergency

The motion died for lack of a second.

Council Member Janz encouraged individuals to help the earthquake victims in Pakistan.

27. CONSIDERATION OF SPECIAL MEETING FOR SELECTION OF MAYOR AND VICE MAYOR

Recommendation: Discuss and consider holding a Special Meeting for the purpose of selecting the Mayor and Vice Mayor.

Vice Mayor Marsala read a letter into the record from Betty Ogawa, Holbrook-Palmer Park Foundation Board of Directors. She believed a Special meeting for selecting the Mayor and Vice Mayor would provide an opportunity to honor the outgoing mayor and bring together those who worked on behalf of the Town on committees, commissions, and organizations. Vice Mayor Marsala thought a separate meeting would provide an opportunity for the Council to interact with residents and get to know committee/commission members. Other cities typically held special meetings for this event.

Council Member Carlson noted Atherton's practice had not been to have receptions for the outgoing/incoming mayors. If the goal were to have more interaction between the Council and members of committee/commissions, perhaps a roundtable meeting in the spring would be more appropriate.

The Mayor and other Council Members concurred with Council Member Carlson's comments and suggested a reception could be held after a roundtable meeting.

No action taken.

28. TOWN EMERGENCY PREPAREDNESS PLAN

Recommendation: Receive oral report from Town Police Department regarding the Town's Emergency Preparedness Plan

Police Sergeant Eric Grimm, provided materials for Council's review. He said 12 residents participated and were certified in Community Emergency Response Training (CERT). If Council and staff were interested in training, a half-day session would provide a good understanding of how the State Emergency Management System worked.

Staff was directed to schedule a half-day session for disaster/emergency training on a Saturday in mid-January in the Pavilion at Holbrook-Palmer Park. Additionally, committees/commissions, ACIL members, and residents were to be invited.

Discussion ensued regarding the different training opportunities for schools and businesses, as well.

Police Chief Bob Brennan said Sergeant Grimm had been involved with disaster preparedness for the past five years. High interest occurred when emergencies happened but faded quickly once the immediate emergency/disaster passed.

Sergeant Grimm said by the Corporation Yard, a building contained disaster supplies set aside for first responders until federal help arrived. A limited amount of supplies existed for residents. Residents were asked to store food and water for a period of time in the event they were cut off from supplies.

Council Member McKeithen asked whether training addressed the issue that so many police officers did not live locally and the issue of people hurting their own people, i.e., looting, etc.

Sergeant Grimm said the issue was worrisome. Typically, most of the Town's crime problems occurred with outsiders coming inside. The Town worked well with its neighbors and participated in mutual aid regularly. In the event of a disaster, those police officers living across bridges would not be available and one of the reasons CERT training was critical. The first step was to call the County and then the region

for assistance. Prioritization became critical and the Standardized Emergency Management System was followed.

In response to Vice Mayor Marsala, Sergeant Grimm said the best form of communication was the radio system. Cell phones might or might not work. Ham radio operators were called upon when communications became an issue. Additionally, OASIS was a satellite communications system to talk with county and state emergency centers. A microwave system also was available in the remote event the radios were not operational.

29. PUBLIC COMMENTS

30. ADJOURNMENT

Mayor Conwell adjourned the meeting at 12:10 a.m.

Respectfully submitted by:

Linda Kelly, Acting City Clerk

**Minutes Prepared by:
Kathi Hamilton**

TOWN OF ATHERTON
CLAIMS LIST
 October 2005

Payroll Checks	6769 - 6843	\$ 31,415
Electronic Transfers		296,098
A/P Checks	20731 – 20939	1,209,475
TOTAL		\$ 1,536,988

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 6769 - 6843 (payroll) and 20731 - 20939 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$1,536,988; are true and correct, and that there are sufficient funds for payment.

James H. Robinson
City Manager

The above claims, check numbers 6769 - 6843 (payroll) and 20731 - 20939 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$1,536,988; are true and correct, and are authorized for payment.

William R. Conwell
Mayor, Town of Atherton

SOURCE OF FUNDS

101	General Fund	\$711,444
105	Tennis Fund	144
201	Special Parcel Tax	369,157
202	Transportation	
203	Gas Tax Fund	23,107
210	Road Construction Impact Fees	235,043
211	Park Grants Fund	10,350
213	Library Special Revenue Fund	1,685
401	General Capital Projects	
402	Storm Drainage	
403	Atherton Channel District	179,696
406	Facilities Construction	
610	Vehicle Replacement	
611	Computer Maint. & Replacement	1,577
612	Administrative Services	3,214
715	Evans Estate	160
740	Tree Committee	1,411
TOTAL		\$1,536,988



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: JOHN P. JOHNS, FINANCE DIRECTOR

DATE: FOR THE CITY COUNCIL MEETING OF NOVEMBER 16, 2005

SUBJECT: MONTHLY FINANCIAL REPORT, OCTOBER 2005

RECOMMENDATION:

Receive the Monthly Financial Report for October 2005.

INTRODUCTION:

The attached schedules show revenues and expenditures and fund balances for all funds as of October 31, 2005.

HIGHLIGHTS

General Fund expenditures for the four months ended October 31, 2005, have amounted to \$2,593,425, or 30% of the \$8,701,010 budgeted for the fiscal year. For the four months ended October 31, 2005, General Fund revenues amounted to \$1,556,526, or 18% of the \$8,720,458 estimated for the year.

By comparison, General Fund expenditures amounted to 29% of appropriations for the four months ended October 31, 2004. Additionally, General Fund revenues amounted to 13% of estimated revenues for the four months ending October 31, 2004.

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 October 31st, 2005

Fund	Revenue Source	2005-06 Estimate	Current Period Revenues	Year to Date Revenues	% Received
	Property Tax	\$ 3,651,651	223,201	223,201	6%
	Sales and Use Tax	126,000	5,500	46,765	37%
	Other Taxes	830,760	4,261	155,082	19%
	Licenses & Permits	1,839,879	140,184	832,424	45%
	Fines & Forfeitures	35,000	8,020	17,989	51%
	Revenue from Other Agencies	303,166	9,007	99,891	33%
	Charges for Services	336,208	27,362	154,521	46%
	Investment & Rental Income	291,633	5,312	20,876	7%
	Other Revenues	5,000	967	5,777	116%
	Total General Fund Revenues	7,419,297	423,814	1,556,526	21%
	Interfund (Operating) Transfers In	1,301,161	-	-	0%
101	General Fund Total	8,720,458	423,814	1,556,526	18%
	Special Revenue Funds:				
105	Tennis	7,000	-	300	4%
201	Special Parcel Tax	1,858,000	-	-	0%
202	Transportation	180,000	16,117	63,364	35%
203	Street Improvement (Gas Tax)	172,376	-	35,780	21%
209	Law Enforcement	100,000	-	-	0%
210	Road Construction Impact Fees	1,158,328	90,575	291,166	25%
211	State Park Grants Fund	197,399	-	-	0%
213	Library	200,000	-	-	0%
	Total	3,873,103	106,692	390,610	10%
	Capital Project Funds:				
401	Capital Improvement	-	-	-	
402	Storm Drainage	-	-	-	
403	Channel Drainage District	50,665	3,181	3,181	6%
406	Facilities Construction	-	-	-	
	Total	50,665	3,181	3,181	6%
	Internal Service Funds:				
610	Vehicle Replacement	97,980	-	-	
611	Information Technology	101,621	-	-	0%
612	Administrative Services	294,389	-	-	0%
614	Workers Compensation Insurance	-	-	-	
	Total	493,990	-	-	0%
	Trust and Agency Funds:				
715	Evans Creative Design	13,200	-	-	0%
740	Tree Committee	-	-	4,200	
	Total	13,200	-	4,200	32%
	Total Revenues	13,151,416	533,687	1,954,517	15%

TOWN OF ATHERTON
Expenditure Summary
For the Month Ended October 31st, 2005

Fund	Description Department	2005-06 Budget	Current Period Expenditures	Year to Date Expenditures	% Spent
101	General Fund				
	11 City Council	\$ 20,535	\$ 197	\$ 4,512	22%
	12 City Manager	475,598	31,088	135,481	28%
	16 City Attorney	180,255	10,687	37,999	21%
	18 Finance	460,667	26,057	123,389	27%
	25 Building	1,042,371	61,052	292,741	28%
	40 Police	4,521,000	310,531	1,401,240	31%
	50 Public Works	1,900,584	142,903	598,063	31%
	Contingency	100,000	-	-	0%
	Total General Fund Expenditures	<u>8,701,010</u>	<u>582,515</u>	<u>2,593,425</u>	<u>30%</u>
	Interfund (Operating) Transfers Out	-	-	-	0%
101	General Fund Total	<u>\$ 8,701,010</u>	<u>\$ 582,515</u>	<u>\$ 2,593,425</u>	<u>30%</u>
Special Revenue Funds:					
105	Tennis	25,011	984	5,756	
201	Special Parcel Tax	1,832,077	369,157	401,834	22%
202	Transportation	323,420	-	-	0%
203	Street Improvement (Gas Tax)	150,000	23,107	23,107	15%
209	Law Enforcement	100,000	-	-	0%
210	Road Impact Fees	1,598,671	235,043	235,043	15%
211	State Park Grants	196,736	10,350	10,350	5%
213	Library Fund	71,045	2,587	7,937	11%
	Total	<u>4,296,960</u>	<u>641,228</u>	<u>684,027</u>	<u>16%</u>
Capital Project Funds:					
401	Capital Improvement	282,896	-	-	0%
402	Storm Drainage	21,394	-	-	0%
403	Channel Drainage District	425,300	179,696	291,043	68%
	Total	<u>729,590</u>	<u>179,696</u>	<u>291,043</u>	<u>40%</u>
Internal Service Funds:					
610	Vehicle Replacement	76,000	-	62,055	82%
611	Information Technology	112,622	1,577	8,332	7%
612	Administrative Services	317,139	11,235	172,467	54%
614	Workers Compensation Insurance	-	-	-	
	Total	<u>505,761</u>	<u>12,812</u>	<u>242,854</u>	<u>48%</u>
Trust and Agency Funds:					
715	Evans Creative Design	11,200	160	570	5%
740	Tree Committee	-	1,411	1,711	
	Total	<u>11,200</u>	<u>1,571</u>	<u>2,281</u>	<u>20%</u>
	Total Expenditures	<u>14,244,521</u>	<u>1,417,822</u>	<u>3,813,630</u>	<u>27%</u>

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

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	6,621,177	1,556,526	-	2,593,425	5,584,278
	Special Revenue Funds:					
105	Tennis	18,867	300		5,756	13,411
201	Special Municipal Tax	771,127	-		401,834	369,293
202	Transportation	192,634	63,364		-	255,998
203	Street Improvement (Gas Tax)	44,285	35,780		23,107	56,958
209	Law Enforcement	23,327	-		-	23,327
210	Road Construction Impact Fees	540,861	291,166		235,043	596,984
211	State Park Grants	(663)	-		10,350	(11,013)
213	Library Special Revenue Fund	1,288,869	-		7,937	1,280,932
	Sub Total	<u>2,879,307</u>	<u>390,610</u>	<u>-</u>	<u>684,027</u>	<u>2,585,890</u>
	Capital Projects Funds:					
401	Capital Improvement	282,896	-		-	282,896
402	Storm Drainage	26,831	-		-	26,831
403	Channel Drainage District	442,754	3,181		291,043	154,892
404	Park Playground Improvement	1,309	-		-	1,309
405	Middlefield Road Grants	-	-		-	-
406	Facilities Construction	65,382	-		-	65,382
	Sub Total	<u>819,172</u>	<u>3,181</u>	<u>-</u>	<u>291,043</u>	<u>531,310</u>
	Internal Service Fund					
610	Vehicle Replacement	355,952	-		62,055	293,897
611	Information Technology	54,801	-		8,332	46,469
612	Administrative Services	13,725	-		172,467	(158,742)
614	Workers Compensation Insurance	-	-		-	-
	Sub Total	<u>424,478</u>	<u>-</u>	<u>-</u>	<u>242,854</u>	<u>181,624</u>
	Trust and Agency Funds					
715	Evans Creative Design	113,488	-	-	570	112,918
740	Tree Committee	1,949	-	4,200	1,711	238
	Sub Total	<u>115,437</u>	<u>-</u>	<u>4,200</u>	<u>2,281</u>	<u>113,156</u>
	Grand Total	<u>\$ 10,859,571</u>	<u>\$ 1,950,317</u>	<u>\$ 4,200</u>	<u>\$ 3,813,630</u>	<u>\$ 8,996,258</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 CITY COUNCIL MEETING OF NOVEMBER 16, 2005

SUBJECT: FY 2004-05 AUDITED FINANCIAL STATEMENTS

RECOMMENDATION:

Accept the basic financial statements and independent auditors report for the year ended June 30, 2005

DISCUSSION:

Transmitted herewith is the Town of Atherton's basic financial statements and independent auditors report thereto for the year ended June 30, 2005.

This report is the second year for which the Town has presented its financial statements in accordance with the new financial reporting model as prescribed by Governmental Accounting Standards Board Statement Number 34. As such, the format and content of this report differs from that of previous years in the following respects:

- The financial statements are preceded by a management discussion and analysis. This section provides an overview of the financial statements themselves as well as pertinent analysis of events that have occurred in the past year or are expected to occur in future years that have a bearing on the Town's financial position.
- The financial statements provide a set of consolidated schedules that depict the financial position of the Town as a whole under the full accrual basis.

- The financial statements provide schedules that reconcile the consolidated statements under the full accrual method of reporting with the fund-level statements that are presented under the modified accrual basis of reporting.

In FY 2004-05, pursuant to the requirements of GASB 34, the Town performed a comprehensive accounting of its infrastructure assets (roads, and drainage systems). As a result of this accounting, the financial statements reflect an increase in the Town's net assets of approximately \$25 million. While the accounting for infrastructure assets has resulted in a substantial increase in the recorded value of the Town's financial resources, it should be noted that these assets are not available for financing either current operations or capital improvements. Instead, the purpose of recording infrastructure assets on the financial statements is to demonstrate the cumulative effect of the Town's investment in its infrastructure and to provide an indication as to how the Town's investment in such assets changes from year to year.

As is consistent with each of the previous four years, the auditors have expressed an opinion that the Town has reported the results of its activities for the year ended June 30, 2005, and its financial position as of June 30, 2005, fairly and in conformity with generally accepted governmental accounting principles in all material respects.

In FY 2004-05, the auditors have issued a management letter recommending improvements as follows:

- Adopt a formal policy related to fraud; and,
- More thoroughly document the Town's procedures related to the bank reconciliation process.

In response to the recommendations of the auditors, the Finance Director and City Manager have presented a recommended fraud policy and a revised set of bank reconciliation procedures. These policies and procedures will be presented to the City Council during the special meeting of December 14, 2005.

FISCAL IMPACT

None

Prepared by:

Approved by:

John P. Johns
Finance Director

James H. Robinson
City Manager

Town of Atherton

Atherton, California

*Basic Financial Statements and
Independent Auditors' Report*

For the year ended June 30, 2005

Town of Atherton

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INDEPENDENT AUDITORS' REPORT

To the Honorable Mayor and Members of the City Council
of the Town of Atherton
Atherton, California

We have audited the accompanying financial statements of governmental activities, each major fund, and the aggregate remaining fund information of the Town of Atherton, California (Town), as of and for the year ended June 30, 2005, which collectively comprise the Town's basic financial statements as listed in the table of contents. These financial statements are the responsibility of the Town's management. Our responsibility is to express an opinion on these basic financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards in the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the basic financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall basic financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, such basic financial statements referred to above present fairly, in all material respects, the financial position of the governmental activities, each major fund, and the aggregate remaining fund information of the Town as of June 30, 2005, and the respective changes in financial position and cash flows, where applicable, thereof for the year then ended in conformity with generally accepted accounting principles in the United States.

As described in Note 1 to the basic financial statements, the Town adopted the infrastructure section of the Governmental Accounting Standards Board No. 34, *Basic Financial Statements and Management's Discussion and Analysis for State and Local Governments* and adopted Government Accounting Standards Board No. 40, *Deposit and Investment Risk Disclosures, an amendment of GASB Statement No. 3*

The accompanying Required Supplementary Information, such as management's discussion and analysis, budgetary comparison information and other information as listed in the table of contents is not a required part of the basic financial statements but is supplementary information required by the Governmental Accounting Standards Board. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the Required Supplementary Information. However, we did not audit the information and express no opinion on it.

To the Honorable Mayor and Members of the City Council
of the Town of Atherton
Atherton, California
Page 2

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the Town's basic financial statements. The accompanying supplementary information is presented for purpose of additional analysis and is not a required part of the basic financial statements. The supplementary information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

Capricci & Carlson

Oakland, California
August 26, 2005

MANAGEMENT'S DISCUSSION AND ANALYSIS

As management of the Town of Atherton, we offer readers of the Town of Atherton's financial statements this narrative and analysis of the financial activities of the Town of Atherton for the fiscal year ended June 30, 2005. We encourage readers to consider the information presented here.

Financial Highlights

- The assets of the Town of Atherton exceeded its liabilities at the close of the most recent fiscal year by \$38,974,700 (net assets). Of this amount, \$6,889,391 (unrestricted net assets) may be used to meet the Town's ongoing obligations to citizens and creditors.
- The Town's total net assets increased by \$950,551. Page 21 of the basic financial statements provides a reconciliation between the increase in fund balance as reported on the governmental funds statements of revenues, expenditures and changes in fund balance with the government-wide statement of activities and changes in net assets.
- As of the close of the current fiscal year, the Town of Atherton's governmental funds reported combined ending fund balances of \$12,202,162, an increase of \$2,424,755 in comparison with the prior year. Approximately one-third of this total amount, \$4,489,970, is available for spending at the Town's discretion (unreserved fund balance).
- At the end of the current fiscal year, unreserved fund balance for the General Fund was \$2,970,328, or 38 percent of total general fund expenditures.

Overview of the Financial Statements

This discussion and analysis is intended to serve as an introduction to the Town of Atherton's basic financial statements. The Town of Atherton's basic financial statements comprise three components: 1) government-wide financial statements, 2) fund financial statements and 3) notes to the financial statements. This report also contains supplementary information in a separate section.

Government-wide financial statements. The *government-wide financial statements* are designed to provide readers with a broad overview of the Town of Atherton's finances, in a manner similar to a private-sector business.

The *statement of net assets* presents information on all of the Town of Atherton's assets and liabilities; the difference between the two reports is *net assets*. Over time, increases or decreases in net assets may serve as a useful indicator of whether the financial position of the Town of Atherton is improving or deteriorating.

The *statement of activities* shows how the Town's net assets changed during the most recent fiscal year. All changes in net assets are reported as soon as the underlying event giving rise to the change occurs, *regardless of the timing of related cash flows*. Thus, revenues and expenses are reported in this statement for some items that will only result in cash flows in future fiscal periods (e.g., uncollected taxes and earned but unused vacation leave).

The government-wide financial statements are intended to distinguish functions of the Town of Atherton that are principally supported by taxes and intergovernmental revenues (*governmental activities*) from other functions that are intended to recover all or a significant portion of their costs through user fees and charges (*business-type activities*). The governmental activities of the Town of Atherton include general government, public works administration, parks and recreation, police, parks maintenance, library maintenance, and

streets and public facilities. At present the town does not provide municipal services for any business-type activities (such as utilities).

The government-wide financial statements include not only the Town of Atherton itself (known as the *primary government*), but also the Atherton Channel District, a legally separate special purpose district. The Atherton Channel District, although legally separate, functions for all practical purposes as a department of the Town of Atherton, and therefore has been included as an integral part of the primary government.

The government-wide financial statements can be found on pages 14 through 15 of this report.

Fund financial statements. A *fund* is a grouping of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives. The Town of Atherton, like other state and local governments, uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. All of the funds of the Town of Atherton can be divided into three categories: governmental, proprietary, and fiduciary funds.

Governmental funds. *Governmental funds* are used to account for essentially the same functions reported as *governmental activities* in the government-wide financial statements. However, unlike the government-wide financial statements, governmental fund financial statements focus on *near-term inflows and outflows of spendable resources*, as well as on *balances of spendable resources* available at the end of the fiscal year. Such information may be useful in evaluating a government's near-term financing requirements.

Because the focus of governmental funds is narrower than that of the government-wide financial statements, it is useful to compare the information presented for *governmental funds* with similar information presented for *governmental activities* in the government-wide financial statements. By doing so, readers may better understand the long-term impact of the government's near-term financing decisions. Both the governmental fund balance sheet and the governmental fund statement of revenues, expenditures, and changes in fund balances provide a reconciliation to facilitate this comparison between *governmental funds* and *governmental activities*.

The Town of Atherton maintains sixteen individual governmental funds. Information is presented separately in the government fund balance sheet and in the governmental fund statement of revenues, expenditures, and changes in fund balances for the general fund and the special tax special revenue fund, both of which are considered to be major funds. Data from the other governmental funds are combined into a single, aggregated presentation. Individual fund data for each of these non-major governmental funds is provided in the Required Supplementary Information.

The Town of Atherton adopts an annual appropriated budget for its general fund and special tax special revenue fund. A budgetary comparison statement has been provided for the general fund and the special tax special revenue fund to demonstrate compliance with this budget.

The basic governmental fund financial statements can be found on pages 20 through 23 of this report.

Proprietary funds. The Town of Atherton maintains one type of proprietary fund type, internal service funds. *Internal service funds* are an accounting device used to accumulate and allocate costs internally among the Town of Atherton's various functions. The Town of Atherton uses internal service funds to account for its fleet of vehicles, management information systems, and certain administrative services activities. Because each of these services predominantly benefit governmental rather than business-type functions, they have been included within *governmental activities* in the government-wide financial statements. Internal service funds are combined into a single, aggregated presentation in the proprietary fund financial statements. Individual fund data for the internal service funds is provided in the form of *combining statements* elsewhere in this report.

The basic proprietary fund financial statements can be found on pages 26 through 28 of this report.

Fiduciary funds. Fiduciary funds are used to account for resources held for the benefit of parties outside the government. Fiduciary funds are *not* reflected in the government-wide financial statement because the resources of those funds are *not* available to support the Town of Atherton’s own programs. The accounting used for fiduciary funds is much like that used for proprietary funds.

The basic fiduciary fund financial statements can be found on page 30 of this report.

Notes to the financial statements. The notes provide additional information that is essential to a full understanding of the data provided in the government-wide and fund financial statements. The notes to the financial statements can be found on pages 31 through 49 of this report.

Other information. In addition to the basic financial statements and accompanying notes, this report also presents certain *required supplementary information* concerning the Town of Atherton’s progress in funding its obligation to provide pension benefits to its employees. Required supplementary information can be found on pages 52 through 54 of this report.

Government-Wide Financial Analysis

As noted earlier, net assets may serve over time as a useful indicator of a government’s financial position. In the case of the Town of Atherton, assets exceeded liabilities by \$38,974,700 at the close of the most recent fiscal year.

The largest portion of the Town of Atherton’s net assets consists of investments in capital assets (68 percent). An additional portion of the Town of Atherton’s net assets (13 percent) represents resources that are subject to external restrictions on how they may be used. The remaining balance of *unrestricted net assets* (\$6,889,391) may be used to meet the Town’s ongoing obligations to citizens and creditors.

Town of Atherton’s Net Assets

NET ASSETS	
Invested in capital assets, net of related debt	\$ 26,883,252
Restricted for:	
Capital projects	966,030
Debt service	582,680
Special projects	3,653,347
Unrestricted	6,889,391
Total net assets	\$ 38,974,700

At the end of the current fiscal year, the Town of Atherton is able to report positive balances in all three categories of net assets, both for the government as a whole, as well as for its separate governmental activities. The same situation held true for the prior fiscal year.

Governmental activities. Governmental activities increased the Town of Atherton’s net assets by \$950,551. The increase in net assets was due to a combination of factors including efforts to broaden the Town’s revenue base, and cost reduction initiatives implemented in response to uncertainties over the renewal of the Atherton parcel tax.

Financial Analysis of the Town's Government-Wide Financial Statements

The following table provides a comparison of revenues, expenditures, assets, liabilities and net assets for all governmental-type activities for the fiscal years ended June 30, 2004 and 2005.

Town of Atherton				
Comparative Analysis of Revenues, Expenditures, Assets, Liabilities, and Net Assets				
For the Years Ended June 30, 2004 and 2005				
	2005	2004	Variance \$	% Change
Revenues	\$ 11,498,603	\$ 10,237,823	\$ 1,260,780	12%
Expenditures	\$ 10,548,052	\$ 7,003,329	\$ 3,544,723	51%
Assets	\$ 40,664,572	\$ 15,158,447	\$ 25,506,125	168%
Liabilities	\$ 1,689,872	\$ 1,560,744	\$ 129,128	8%
Net Assets	\$ 38,974,700	\$ 13,597,703	\$ 25,376,997	187%

Total assets and total fund equity increased by 168% and 187% respectively. The reason for the substantial increase in total assets and fund equity was the Town's implementation of the infrastructure asset accounting requirements of GASB 34. As indicated in note 11 to the financial statements, the implementation of GASB 34 resulted in an adjustment to the Town's investment in fixed assets (net of accumulated depreciation) of \$24,426,446. Additionally, due to the uncertainty over whether the electorate would approve a renewal of Atherton's Special Municipal Tax the Town elected to defer expenditures on capital projects. As a result, the Town's cash and investments increased by approximately \$2.3 million (21 percent) over the previous fiscal year.

As noted earlier, the Town of Atherton uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements.

Governmental funds. The focus of the Town of Atherton's *governmental funds* is to provide information on near-term inflows, outflows, and balances of *spendable* resources. Such information is useful in assessing the Town of Atherton's financing requirements. In particular, *unreserved fund balance* may serve as a useful measure of a government's net resources available for spending at the end of the fiscal year.

As of the end of the current fiscal year, the Town of Atherton's governmental funds reported combined ending fund balances of \$12,202,162 an increase of \$1,090,218 in comparison with the prior year. Thirty seven percent of this total amount (\$4,489,970) constitutes *unreserved fund balance*, which is available for spending at the government's discretion. The remainder of fund balance is reserved to indicate that is not available for new spending because it has already been committed:

- To liquidate contracts and purchase orders of the prior period \$(738,206)
- To provide for a contingency for economic uncertainty \$(3,572,680)
- To provide for a reserve for future building inspections \$(987,269)
- For capital and special projects \$(2,414,037)

The general fund is the chief operating fund of the Town of Atherton. At the end of the current fiscal year, unreserved fund balance of the general fund was \$2,970,328, while total fund balance reached \$7,582,785. As a measure of the general fund's liquidity, it may be useful to compare both unreserved fund balance and total fund balance to total fund expenditures. For the year ended June 30, 2005 total general fund balance represents 98 percent of FY 2005 expenditures.

The fund balance of the general fund increased by \$1,525,407 for the 12 months ended June 30, 2005. Key factors in this growth are as follows:

- A refund of excess property tax contributions to the Educational Revenue Augmentation Fund by the San Mateo County Controller in the amount of \$330,000 resulting from excess contributions withheld by the Controller in previous fiscal years;
- An exceptionally strong year in residential construction;
- A \$200,000 favorable variance in real property transfer taxes resulting from higher than expected real estate sales within Atherton;
- A conservative approach in estimating revenues at the beginning of FY 2004-05;
- An increase in investment income resulting from improved yields on fixed-income securities as well as a continued improvement in the Town's cash position; and,
- Aggressive cost-containment efforts including the decision not to fill certain administrative and public safety positions that had been vacated as a means of offsetting rising health insurance and pension costs.

General Fund Budgetary Highlights

Differences between the original budget and the final amended budget were relatively minor: a \$60,149 reduction in estimated revenues combined with an increase in appropriations of \$40,636.

During the year, however, revenues exceeded budgetary estimates by \$1,358,804 (a favorable variance of 20 percent of estimated revenues) and expenditures were less than appropriations, by \$94,482 (a favorable variance of 1.3 percent of general fund appropriations).

Capital Assets

The Town of Atherton's investment in capital assets for its governmental activities as of June 30, 2005, amounts to \$3,969,306 (net of accumulated depreciation). This investment in capital assets includes land, building, computers, a telecommunications system, improvements, machinery, equipment, park facilities, a corporation yard, and roads. The total increase in the Town of Atherton's investment in capital assets for the current fiscal year was \$1,004,446 (all of which were for governmental activities).

Major capital asset events during the current fiscal year included the following:

- Construction began and was completed on the new corporation yard (the cost of which was \$629,114);
- A variety of street construction projects completed at a cost of \$715,967;

- Construction in progress as of the end of the current fiscal year had reached \$1,034,000; and, various building and system additions and improvements were completed in the period ending June 30, 2005 at a cost of approximately \$143,000.

Town of Atherton's Capital Assets

	<u>July 1, 2004</u>	<u>Additions</u>	<u>Retirements</u>	<u>Adjustments</u>	<u>June 30, 2005</u>
Capital assets, not being depreciated:					
Land	\$ 690,884	\$ -	\$ -	\$ -	\$ 690,884
Construction in progress	1,034,000	30,258	-	(1,034,000)	30,258
Total nondepreciable assets	<u>1,724,884</u>	<u>30,258</u>	<u>-</u>	<u>(1,034,000)</u>	<u>721,142</u>
Capital assets, being depreciated					
Buildings	1,620,166	47,928	-	-	1,668,094
Other improvements	618,127	-	-	-	618,127
Vehicles	525,098	56,774	(82,410)	-	499,462
Equipment - computer	65,332	5,340	-	(25,687)	44,985
Equipment - furniture/equipment	387,927	-	-	31,167	419,094
Infrastructure	715,967	-	-	45,328,664	46,044,631
Total depreciable assets	<u>3,932,617</u>	<u>140,300</u>	<u>(82,410)</u>	<u>45,334,144</u>	<u>49,294,393</u>
Accumulated depreciation:					
Buildings	(584,381)	(36,792)	-	-	(621,173)
Other improvements	(466,663)	(21,978)	-	-	(488,641)
Vehicles	(275,031)	(72,193)	60,594	-	(286,630)
Equipment - computer	(342,070)	(6,045)	-	334,305	(13,810)
Equipment - furniture/equipment	4,538	(23,446)	-	(337,598)	(356,506)
Infrastructure	(24,588)	(1,470,530)	-	(19,870,405)	(21,365,523)
Total accumulated depreciation	<u>(1,688,195)</u>	<u>(1,630,984)</u>	<u>60,594</u>	<u>(19,873,698)</u>	<u>(23,132,283)</u>
Depreciable assets, net	<u>2,244,422</u>	<u>(1,490,684)</u>	<u>(21,816)</u>	<u>25,460,446</u>	<u>26,162,110</u>
Governmental activities capital assets, net	<u>\$ 3,969,306</u>	<u>\$ (1,460,426)</u>	<u>\$ (21,816)</u>	<u>\$ 24,426,446</u>	<u>\$ 26,883,252</u>

Additional information on the Town of Atherton's capital assets can be found in Note 4 of this report.

Economic Factors Affecting Subsequent Years

In June of 2005 the residents of Atherton approved Measure W, thereby renewing the Atherton Special Tax for an additional five years. The maximum tax levy approved by the electorate was consistent with the amounts that were in effect during the previous four fiscal years and is expected to generate \$1.865 million in additional funds annually for the five years ended June 30, 2010. Of this amount, the Town expects to expend approximately \$1 million annually for infrastructure maintenance and improvements and to expend the balance on current operations.

- The assessed value of real and personal property will increase by 15.5 percent in calendar year 2005. Since the budget was adopted prior to the release of the San Mateo County Assessor's FY 2005-06 tax roll, and since the Town had adopted a much more conservative estimate of tax roll growth, property tax revenue in FY 2005-06 will amount to approximately \$300,000 higher than had been budgeted.

- In FY 2004-05 the Town Council approved a 15 percent increase in the road impact fee as well as a surcharge on excavation permits. The changes are intended to ensure that the Town has sufficient funds to offset the deterioration on the Town's streets caused by residential construction. The impact fees approved by Council are expected to generate an additional \$700,000 annually.
- The permitted value of residential renovation and construction is expected to exceed \$100 million for the fifth consecutive year. As a result, the Building Department is expected to be fully self-supporting at current permit fee levels.
- Pension expenses for municipal employees will amount to 18 percent of covered payroll for miscellaneous employees and 35 percent for safety employees.
- Employee salary and benefit expenses will increase at levels consistent with expected changes in the consumer price index during the past year (approximately 2 percent).

All of these factors were considered in preparing the Town of Atherton's budget for Fiscal Year 2004-05.

This financial report is designed to provide a general overview of the Town of Atherton's finances. Questions concerning any of the information provided in this report or requests for additional financial information should be addressed to the Atherton Finance Department, 91 Ashfield Road, Atherton, California 94027.

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BASIC FINANCIAL STATEMENTS

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GOVERNMENT-WIDE FINANCIAL STATEMENTS

Town of Atherton
Statement of Net Assets
June 30, 2005

	<u>Governmental Activities</u>
ASSETS	
Cash and investments in treasury	\$ 13,331,466
Receivables:	
Accounts	350,357
Interest	94,687
Miscellaneous	4,810
Capital assets:	
Non-depreciable	721,142
Depreciable, net	<u>26,162,110</u>
Total capital assets:	<u>26,883,252</u>
Total assets	<u>40,664,572</u>
LIABILITIES	
Accounts payable	220,368
Accrued payroll	307,992
Deposit payable	588,832
Compensated absences payable, due in more than one year	<u>572,680</u>
Total liabilities	<u>1,689,872</u>
NET ASSETS	
Invested in capital assets, net of related debt	26,883,252
Restricted for:	
Capital projects	804,546
Debt service	582,680
Special projects	3,814,831
Unrestricted	<u>6,889,391</u>
Total net assets	<u>\$ 38,974,700</u>

Town of Atherton
Statement of Activities and Changes in Net Assets
For the year ended June 30, 2005

Functions/Programs	Expenses	Program Revenues			Total	Net (Expense)
		Charges for Services	Operating Grants and Contributions	Capital Grants and Contributions		Revenue and Changes in Net Assets
						Governmental Activities
Primary government:						
Governmental activities:						
General government	\$ 2,586,214	\$ 2,529,869	\$ 342,634	\$ -	\$ 2,872,503	\$ 286,289
Public works administration	873,579	-	-	-	-	(873,579)
Parks and recreation	2,069	-	-	-	-	(2,069)
Police	4,188,146	63,363	-	-	63,363	(4,124,783)
Parks maintenance	1,514	-	-	-	-	(1,514)
Library maintenance	26,734	-	-	-	-	(26,734)
Streets and public facilities	2,869,796	599,606	211,912	-	811,518	(2,058,278)
Total governmental activities	\$ 10,548,052	\$ 3,192,838	\$ 554,546	\$ -	\$ 3,747,384	(6,800,668)
General revenues:						
Taxes:						
Property taxes						5,890,317
Sales taxes						411,042
Motor vehicle fee taxes						241,486
Other taxes						732,848
Total taxes						7,275,693
Investment earnings						270,586
Miscellaneous						204,940
Total general revenues						7,751,219
Change in net assets						950,551
Net assets - beginning of year, as restated (Note 12)						38,024,149
Net assets - end of year						\$ 38,974,700

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FUND FINANCIAL STATEMENTS

Governmental Fund Financial Statements

Proprietary Fund Financial Statements

Fiduciary Fund Financial Statements

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GOVERNMENTAL FUND FINANCIAL STATEMENTS

The General Fund - This Fund accounts for all general revenues of the Town did not specifically levied or collected for other Town funds and the related expenditures. The General Fund accounts for all financial resources of a governmental unit which are not accounted for in other funds.

Special Tax - This Fund is used to account for parcel tax assessments received from property owners to be used for the maintenance of streets and public facilities.

Town of Atherton
Balance Sheet
Governmental Funds
June 30, 2005

	Major Funds		Non-Major	Total
	General	Special Tax Special Revenue	Governmental Funds	
ASSETS				
Cash and investments in treasury	\$ 8,465,702	\$ 1,138,560	\$ 3,222,952	\$ 12,827,214
Receivables:				
Accounts	80,416	-	269,941	350,357
Interest	59,183	-	35,504	94,687
Miscellaneous	4,810	-	-	4,810
Due from other funds	15,312	-	-	15,312
Total assets	\$ 8,625,423	\$ 1,138,560	\$ 3,528,397	\$ 13,292,380
LIABILITIES AND FUND BALANCES				
Liabilities:				
Accounts payable	\$ 149,404	\$ 25,817	\$ 6,451	\$ 181,672
Accrued payroll	304,402	-	-	304,402
Deposit payable	588,832	-	-	588,832
Due to other funds	-	-	15,312	15,312
Total liabilities	1,042,638	25,817	21,763	1,090,218
Fund Balances:				
Reserved for:				
Encumbrances	52,508	-	685,698	738,206
Special projects	-	-	2,117,104	2,117,104
Capital projects	-	-	296,933	296,933
Contingency	3,572,680	-	-	3,572,680
Future building inspection	987,269	-	-	987,269
Unreserved:				
Designated:				
Insurance	500,000	-	-	500,000
Undesignated, reported in:				
General fund	2,470,328	-	-	2,470,328
Special revenue funds	-	1,112,743	-	1,112,743
Capital project funds	-	-	406,899	406,899
Total fund balances	7,582,785	1,112,743	3,506,634	12,202,162
Total liabilities and fund balances	\$ 8,625,423	\$ 1,138,560	\$ 3,528,397	\$ 13,292,380

See accompanying Notes to Basic Financial Statements.

Town of Atherton
Reconciliation of the Governmental Funds Balance Sheet
to the Government-Wide Statement of Net Assets
June 30, 2005

Total Fund Balances - Total Governmental Funds \$ 12,202,162

Amounts reported for governmental activities in the Statement of Net Assets were reported differently because:

Capital assets used in governmental activities were not current financial resources and therefore were not reported in the Governmental Funds Balance Sheet.

Non depreciable assets (Land and construction in progress)	721,142
Depreciable buildings, property, equipment and infrastructure, net	25,918,103
Total capital assets	26,639,245

Internal service funds were used by management to charge the costs of certain activities to individual funds. The assets and liabilities of the internal service funds were included in governmental activities in the Government-Wide Statement of Net Assets. 705,973

Compensated absence Payable were not due and payable in the current period. Therefore, they were not reported in the Governmental Funds Balance Sheet. The long-term liabilities were adjusted as follows:

Total compensated absences	(572,680)
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Net Assets of Governmental Activities \$ 38,974,700

Town of Atherton
Statement of Revenues, Expenditures and Changes in Fund Balances
Governmental Funds
For the year ended June 30, 2005

	Major Funds		Non-Major Governmental Funds	Total
	General	Special Tax Special Revenue		
REVENUES:				
Property taxes	\$ 3,834,377	\$ -	\$ 208,326	\$ 4,042,703
Special assessments	-	1,874,750	-	1,874,750
Sales taxes	175,992	-	-	175,992
Measure A grants	-	-	235,049	235,049
Other taxes	974,334	-	-	974,334
Permits and licenses	2,026,648	-	-	2,026,648
Fines and forfeitures	57,908	-	-	57,908
From other agencies	249,255	-	386,628	635,883
Service charges	319,495	-	12,044	331,539
Use of money and property	270,426	-	15,909	286,335
Road impact fees	-	-	599,606	599,606
Other revenue	54,782	-	203,074	257,856
Total revenues	7,963,217	1,874,750	1,660,636	11,498,603
EXPENDITURES:				
Current:				
General government	1,104,775	-	-	1,104,775
Public works administration	914,854	-	-	914,854
Parks and recreation	-	-	2,069	2,069
Police	4,054,754	-	99,352	4,154,106
Parks maintenance	-	-	1,514	1,514
Library maintenance	-	-	26,734	26,734
Streets and public facilities	1,664,589	858,030	347,177	2,869,796
Total expenditures	7,738,972	858,030	476,846	9,073,848
REVENUES OVER (UNDER) EXPENDITURES	224,245	1,016,720	1,183,790	2,424,755
OTHER FINANCING SOURCES (USES):				
Transfers in	1,301,162	-	-	1,301,162
Transfers (out)	-	(867,200)	(433,962)	(1,301,162)
Total other financing sources (uses)	1,301,162	(867,200)	(433,962)	-
REVENUES AND OTHER FINANCING SOURCES OVER (UNDER) EXPENDITURES AND OTHER FINANCING USES	1,525,407	149,520	749,828	2,424,755
FUND BALANCES:				
Beginning of year	6,057,378	963,223	2,756,806	9,777,407
End of year	\$ 7,582,785	\$ 1,112,743	\$ 3,506,634	\$ 12,202,162

See accompanying Notes to Basic Financial Statements.

Town of Atherton

Reconciliation of the Governmental Funds Statement of Revenues, Expenditures, and Changes in Fund Balances to the Government-Wide Statement of Activities and Changes in Net Assets For the year ended June 30, 2005

Net Change in Fund Balances - Total Governmental Funds	\$ 2,424,755
Governmental activities in the Statement of Activities and changes in Net Assets were reported differently because:	
Governmental funds report capital outlay as expenditures. However, in the Government-Wide Statement of Activities and Changes in Net Assets, the cost of those assets is allocated over their estimated useful lives as depreciation expense. This is the amount of capital assets recorded in the current period net of internal service fund capital asset additions of \$62,114	78,186
Depreciation expense on capital assets is reported in the Government-Wide Statement of Activities and Changes in Net Assets, but it does not require the use of current financial resources. Therefore, depreciation expense was not reported as expenditures in governmental funds.	(1,552,746)
Payroll expense on compensated absences is reported in the Government-Wide Statement of Activities and Changes in Net Assets, but it does not require the use of current financial resources. Therefore, compensated absences expense was not reported as expenditures in governmental funds.	(10,888)
Internal service funds are used by management to charge the costs of certain activities, such as insurance and fleet management, to individual funds. The net revenue of the internal service funds was reported with governmental activities.	<u>11,244</u>
Change in Net Assets of Governmental Activities	<u>\$ 950,551</u>

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PROPRIETARY FUND FINANCIAL STATEMENTS

Internal Service Fund - This fund is used to account for special activities and services performed by a designated Town department for other departments on a cost reimbursement basis.

Town of Atherton
Statement of Net Assets
Proprietary Funds
June 30, 2005

	Governmental Activities Internal Service Funds
ASSETS	
Current assets:	
Cash and investments	\$ 504,252
Noncurrent assets:	
Capital assets:	
Depreciable	544,447
Accumulated depreciation	(300,440)
Total assets	<u>748,259</u>
LIABILITIES	
Current liabilities:	
Accounts payable	38,696
Accrued Payroll	3,590
Total liabilities	<u>42,286</u>
NET ASSETS	
Invested in capital assets, net of related debt	244,007
Unrestricted	461,966
Total net assets	<u>\$ 705,973</u>

See accompanying Notes to Basic Financial Statements.

Town of Atherton
Statement of Revenues, Expenses, and Changes in Net Assets
Proprietary Funds
For the year ended June 30, 2005

	Governmental Activities Internal Service Funds
OPERATING REVENUES:	
Service charges	\$ 468,567
Total operating revenues	<u>468,567</u>
OPERATING EXPENSES:	
Risk management	272,514
Depreciation	78,238
Supplies and maintenance	<u>96,275</u>
Total operating expenses	<u>447,027</u>
OPERATING INCOME (LOSS)	<u>21,540</u>
NONOPERATING REVENUES (EXPENSES):	
Loss on retirement of vehicles	<u>(10,296)</u>
Total nonoperating revenues (expenses)	<u>(10,296)</u>
Change in net assets	11,244
NET ASSETS:	
Beginning of the year	<u>694,729</u>
End of the year	<u>\$ 705,973</u>

See accompanying Notes to Basic Financial Statements.

Town of Atherton
Statement of Cash Flows
Proprietary Funds
For the year ended June 30, 2005

	Governmental Activities Internal Service Funds
CASH FLOWS FROM OPERATING ACTIVITIES:	
Cash received from customers/other funds	\$ 468,567
Cash payments to suppliers for goods and services	(334,105)
Net cash provided (used) by operating activities	<u>134,462</u>
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES:	
Acquisition or disposal of fixed assts	(50,591)
Net cash provided (used) by capital and related financing activates	<u>(50,591)</u>
Net increase (decrease) in cash and cash equivalents	83,871
CASH AND CASH EQUIVALENTS:	
Beginning of year	420,381
End of year	<u>\$ 504,252</u>
RECONCILIATION OF OPERATING INCOME TO NET	
CASH PROVIDED BY OPERATING ACTIVITIES:	
Operating income (loss)	\$ 21,540
Adjustments to reconcile operating income (loss) to net cash provided (used) by operating activities:	
Depreciation	78,238
Changes in assets and liabilities:	
Accounts payable	31,094
Accrued payroll	3,590
Total adjustments	<u>112,922</u>
Net cash provided (used) by operating activities	<u>\$ 134,462</u>

FIDUCIARY FUND FINANCIAL STATEMENTS

Agency Funds are custodial in nature (assets equal liabilities) and do not involve measurement of results of operations. They are used to account for assets held in an agency capacity for others and therefore cannot be used to support the Town's programs.

Town of Atherton
Statement of Fiduciary Net Assets
Fiduciary Funds
June 30, 2005

	Agency Funds
ASSETS	
Cash and investments	\$ 123,672
Interest Receivable	1,877
Total assets	\$ 125,549
LIABILITIES	
Accounts payable	\$ 580
Deposits payable	124,969
Total liabilities	\$ 125,549

Town of Atherton
Notes to Basic Financial Statements
For the year ended June 30, 2005

1. SIGNIFICANT ACCOUNTING POLICIES

The basic financial statements of the Town of Atherton, California, (Town) have been prepared in conformity with generally accepted accounting principles (GAAP) as applied to governmental agencies. The Governmental Accounting Standards Boards (GASB) is the accepted standard setting body for establishing governmental accounting and financial reporting principles. The more significant of the Town's accounting policies are described below.

A. Financial Reporting Entity

The Town was incorporated in 1923 and is situated between the cities of Menlo Park and Redwood City on the Peninsula of the San Francisco Bay Area. The Town operates under the Mayor-Council-Manager form of government created by charter in 1923 and provides the following services: public safety (police), public works and streets, park services, and general administration services.

The Town is governed by a five-member council elected by Town residents. The Town is legally separate and fiscally independent, which means it can issue debt, set and modify budgets and fees and sue or be sued. The accompanying basic financial statements include the financial activities of the Town, the primary government, and its component units.

Component units are legally separate organizations for which the elected officials of the primary government are financially accountable. In addition, component units can be other organizations for which the primary government's exclusion would cause the reporting entity's financial statements to be misleading or incomplete.

The following is a brief review of the blended component unit included in the accompanying basic financial statements of the Town in which the Council functions as the governing board:

The Atherton Channel District (District) was established to assist in the maintenance and rehabilitation of the areas within the Town determined to be in the flood plain of the local stream. The District has all accounting and administrative functions performed by Town staff and the District receives advances from the Town to finance operations. The financial activities of the District have been included in the Atherton Channel District Capital Projects Fund in the accompanying basic financial statements.

The above component unit is included in the Town's basic financial statements using the blended method since the governing body of this component unit is substantially the same as the governing body of the Town and this component unit provides services entirely to the Town. Discretely presented component units are reported in a separate column in the basic financial statements to emphasize that they are legally separate from the Town. The Town does not have any component units that are discretely presented. Financial information for the component unit may be obtained from the Town's Finance Department.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2005

1. SIGNIFICANT ACCOUNTING POLICIES, Continued

B. Basis of Accounting and Measurement Focus

The accounts of the Town are organized on the basis of funds, each of which is considered a separate accounting entity. The operations of each fund are accounted for with a separate set of self-balancing accounts that comprise its assets, liabilities, fund equity, revenues, and expenditures or expenses, as appropriate. Government resources are allocated to and accounted for in individual funds based upon the purposes for which they are to be spent and the means by which spending activities are controlled.

Government-Wide Financial Statements

The Town's government-wide financial statements include a Statement of Net Assets and a Statement of Activities and Changes in Net Assets. These statements present summaries of the governmental activities for the Town, the primary government, accompanied by a total column. Fiduciary activities of the Town are not included in these statements.

These financial statements are presented on an "economic resources" measurement focus and the accrual basis of accounting. Accordingly, all of the Town's assets and liabilities, including capital assets and related current year infrastructure asset additions and long-term liabilities, are included in the accompanying Statement of Net Assets. The Statement of Activities presents changes in net assets. Under the accrual basis of accounting, revenues are recognized in the period in which they are earned while expenses are recognized in the period in which the liability is incurred.

Certain types of transactions are reported as program revenues for the Town and are presented in the following three categories:

- Charges for services
- Operating grants and contributions
- Capital grants and contributions

Certain eliminations have been made as prescribed by GASB Statement No. 34 in regards to interfund activities, payables and receivables. All internal balances in the Statement of Net Assets have been eliminated. The following interfund activities have been eliminated:

- Due to/from other funds
- Transfers in/out

The Town applies all applicable GASB pronouncements (including all NCGA Statements and Interpretations currently in effect) as well as the following pronouncements issued on or before November 30, 1989, unless those pronouncements conflict with or contradict GASB pronouncements: Financial Accounting Standards Board (FASB) and Statements Interpretations, Accounting Principles Board (APB) opinions, and Accounting Research Bulletins (ARB) of the Committee on Accounting Procedure.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2005

1. SIGNIFICANT ACCOUNTING POLICIES, Continued

B. Basis Accounting and Measurement Focus, Continued

Governmental Fund Financial Statements

Governmental fund financial statements include a Balance Sheet and a Statement of Revenues, Expenditures and Changes in Fund Balances for all major governmental funds and non-major funds aggregated. An accompanying schedule is presented to reconcile and explain the differences in net assets as presented in these statements to the net assets presented in the government-wide financial statements. The Town has presented all major funds that met the applicable criteria.

All governmental funds are accounted for on a spending or “*current financial resources*” measurement focus. Accordingly, only current assets and current liabilities generally are included on the balance sheets. The Statement of Revenues, Expenditures and Changes in Fund Balances present increases (revenues and other financial sources) and decreases (expenditures and other financial uses) in net current assets. Under the modified accrual basis of accounting, revenues are recognized in the accounting period in which they become both measurable and available to finance expenditures of the current period.

Revenues are recorded when received in cash, except those revenues subject to accrual (generally 60 days after year-end) are recognized when due. The primary revenue sources, which have been treated as susceptible to accrual by the Town, are property taxes, charges for services, federal and state grants, sales tax, and interest. Expenditures are recognized in the accounting period in which the related fund liability is incurred.

Deferred revenues arise when potential revenues do not meet both the “measurable” and “available” criteria for recognition in the current period. Deferred revenues also arise when the government receives resources before it has a legal claim to them, as when grant monies are received prior to incurring qualifying expenditures. In subsequent periods when both revenue recognition criteria are met or when the government has a legal claim to the resources, the deferred revenue is removed from the balance sheet and revenue is recognized.

The Reconciliation of the Fund Financial Statements to the Government-Wide Financial Statements is provided to explain the differences created by the integrated approach of GASB Statement No. 34.

Proprietary Fund Financial Statements

Proprietary fund financial statements include a Statement of Net Assets, a Statement of Revenues, Expenses and Change in Net Assets, and a Statement of Cash Flows for all proprietary funds.

The Town’s proprietary funds represent Internal Service funds of which have been combined with the governmental activities in the government-wide financial statements.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2005

1. SIGNIFICANT ACCOUNTING POLICIES, Continued

B. Basis Accounting and Measurement Focus, Continued

Proprietary Fund Financial Statements, Continued

Proprietary funds are accounted for using the “*economic resources*” measurement focus and the accrual basis of accounting. Accordingly, all assets and liabilities (whether current or noncurrent) are included on the Statement of Net Assets.

The Statement of Revenues, Expenses and Changes in Net Assets presents increases (revenues) and decreases (expenses) in total net assets. Under the accrual basis of accounting, revenues are recognized in the period in which they are earned while expenses are recognized in the period in which the liability is incurred.

Operating revenues in the proprietary funds are those revenues that are generated from the primary operations of the fund. All other revenues are reported as nonoperating revenues. Operating expenses are those expenses that are essential to the primary operations of the fund. All other expenses are reported as nonoperating expenses.

Fiduciary Fund Financial Statements

Fiduciary fund financial statements normally include a Statement of Net Assets and a Statement of Changes in Fiduciary Net Assets. The Town's fiduciary funds represent agency funds. Agency funds are custodial in nature (assets equal liabilities) and do not involve measurement of results of operations. As a result, a statement of Changes in Fiduciary Net Assets is not presented in this report.

C. Recognition of Interest Liability

In the government-wide financial statements, interest payable of long-term debt is recognized as the liability is incurred for governmental fund types and business type activities.

In the fund financial statements, proprietary fund types recognize the interest payable when the liability is incurred.

D. Use of Restricted and Unrestricted Net Assets

When an expense is incurred for purposes for which both restricted and unrestricted net assets are available, the Town's policy is to apply restricted net assets first.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2005

1. SIGNIFICANT ACCOUNTING POLICIES, Continued

E. Cash, Cash Equivalents and Investments

The Town pools cash and investments from all sources, for the purpose of increasing income through investment activities. Interest income on investments is allocated on the basis of average month-end cash and investment balances in each fund. Cash and cash equivalents represent cash and investments and restricted cash and investments with an original maturity term of three months or less. Pooled cash and investments allocated to proprietary fund types are considered cash and cash equivalents since specific investments held in the Town's pooled cash and investments are not allocated to each fund.

The Town invests in the California Local Agency Investment Fund ("LAIF"), which is part of the Pooled Money Investment Account operated by the California State Treasurer. LAIF funds are invested in high quality money market securities and are managed to insure the safety of the portfolio. A portion of LAIF's investments are in structured notes and asset-backed securities. As of June 30, 2005 LAIF had invested 2.406% of its funds in such securities.

The Town also invests in the San Mateo County Investment Fund ("SMCPIF"), which is part of the Pooled Money Investment Account operated by the San Mateo County Treasurer. SMCPIF funds are invested in high quality money market securities and are managed to insure the safety of the portfolio.

LAIF and SMCPIF determines fair value on its investment portfolio based on market quotations for these securities where market quotations are readily available, and on amortized cost or best estimate for those securities where market value is not readily available.

In accordance with GASB Statement No. 31, highly liquid money market investments with maturities of one year or less at time of purchase are stated at amortized cost. All other investments are stated at fair value. Market value is used as fair value for those securities for which market quotations are readily available.

In accordance with GASB Statement No. 40, *Deposit and Investment Disclosures (Amendment of GASB No. 3)*, certain disclosure requirements, if applicable, for Deposits and Investment Risks are specified in the following areas:

- Interest Rate Risk
- Credit Risk
 - Overall
 - Custodial Credit Risk
 - Concentrations of Credit Risk
- Foreign Currency Risk

In addition, other disclosures are specified including use of certain methods to present deposits and investments, highly sensitive investments, credit quality at year-end and other disclosures.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2005

1. SIGNIFICANT ACCOUNTING POLICIES, Continued

F. Capital Assets

Capital assets are valued at historical cost or estimated historical cost if actual historical cost was not available. Donated fixed assets are valued at their estimated fair market value on the date donated. Town policy has set the capitalization threshold for reporting capital assets at \$5,000. Depreciation is recorded on a straight-line basis over estimated useful lives of the assets as follows:

Buildings	40 Years
Improvements other than buildings	20 years
Machinery and equipment	5-20 years
Infrastructure	20-50 years

Assets are grouped by asset type into one of the following accounts - land, land improvements, infrastructure assets (e.g., roads, bridges, sidewalks, and similar items), buildings (and improvements), machinery and equipment, lease improvements, software, and construction in progress.

GASB Statement No. 34 requires the inclusion of infrastructure capital assets in local governments' basic financial statements. In accordance with Statement No. 34, the Town has included the value of all infrastructure in the basic financial statements.

The Town defines infrastructure as the basic physical assets that allow the Town to function. The assets include streets, sewer, and park lands. Each major infrastructure system can be divided into subsystems. For example the street system can be subdivided into pavement, curb and gutters, sidewalks, medians, streetlights, landscaping and land. These subsystems were not delineated in the basic financial statements. The appropriate operating department maintains information regarding the subsystems.

For all infrastructure systems, the Town elected to use the Basic Approach as defined by GASB Statement No. 34 for infrastructure reporting. Estimated historical costs were developed in one of three ways: (1) historical records; (2) standard unit costs appropriate for the construction/acquisition date; or (3) present cost indexed by a reciprocal factor of the price increase from the construction/acquisition date to the current date. The accumulated depreciation, defined as the total depreciation from the date of construction/acquisition to the current date on a straight line, unrecovered cost method was computed using industry accepted life expectancies for each infrastructure subsystem. The book value was then computed by deducting the accumulated depreciation from the estimated historical cost.

G. Compensated Absences

Government-Wide Financial Statements

For governmental and business-type activities, compensated absences are recorded as incurred and the related expenses and liabilities are reported.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2005

1. SIGNIFICANT ACCOUNTING POLICIES, Continued

Fund Financial Statements

In governmental funds, compensated absences are recorded as expenditures in the years paid, as it is the Town's policy to liquidate any unpaid compensated absences at June 30 from future resources, rather than currently available financial resources.

H. Property Taxes

San Mateo County assesses properties, bills and collects property taxes for the Town. Secured and unsecured taxes are levied on the preceding March 1. Secured tax is due in two installments on November 1 and February 1. If unpaid, such taxes become delinquent on December 10 and April 10, respectively, and a 10% penalty attaches to any delinquent payments. Unsecured tax is due as of January 1 lien date and becomes delinquent if unpaid on August 31. A 10% penalty attaches to delinquent unsecured tax. If unsecured tax remains unpaid on October 31, an additional 1.5% attaches to it on the first day of each month until paid. The term "unsecured" refers to taxes on property not secured by liens on real property.

Property tax revenues are recorded when they become measurable and available. Available means due, or past due, and receivable within the current period and collected no longer than 90 days after the close of the current period.

Property taxes levied are recorded as revenue when received, in the fiscal year of the levy, because of the adoption of the "alternate method of property tax distribution," known as the Teeter Plan, by the Town and County. The Teeter Plan authorizes the Auditor/Controller of the County to allocate 100% of the secured property taxes billed, but not yet paid.

I. Post Employment Benefits Other Than Pensions

The Town provides post-retirement health care benefits to all employee groups with 20 years of service as required by current association and management agreements. The Town records premium payments on a "pay-as-you-go" basis.

J. Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires Town management to make estimates and assumptions that affect certain amounts and disclosures. Accordingly, actual results could differ from those estimates.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2005

1. SIGNIFICANT ACCOUNTING POLICIES, Continued

K. Net Assets

Government-Wide Financial Statements

In the government-wide financial statements, net assets are classified in the following categories:

Invested in Capital Assets, Net of Related Debt – This amount consists of capital assets net of accumulated depreciation and reduced by outstanding debt that attributed to the acquisition, construction, or improvement of the assets.

Restricted Net Assets – This amount is restricted by external creditors, grantors, contributors, or laws or regulations of other governments.

Unrestricted Net Assets – This amount is all net assets that do not meet the definition of “invested in capital assets, net of related debt” or “restricted net assets.”

Fund Financial Statements

Reservation of fund balances of governmental funds and retained earnings of proprietary funds are created to either satisfy legal covenants, including State laws, that require a portion of the fund equity be segregated or identify the portion of the fund equity not available for future expenditures.

L. GASB Statement No. 34 (Inclusion of Infrastructure)

In 2004, the Town implemented GASB Statement No. 34 but elected to defer the inclusion of all prior period infrastructure capital assets in accordance with GASB Statement No. 34. GASB Statement No. 34 permits the Town to defer infrastructure assets acquired prior to the year of implementation for a period not to exceed 4 years after the date of implementation of GASB Statement No. 34. Only the infrastructure which resulted from current year activities was included in the prior year basic financial statements.

In 2005, the Town elected to complete the implementation of GASB Statement No. 34 by including the infrastructure assets acquired prior to fiscal year 2004.

M. Implementation of New GASB Pronouncements

In 2005, the Town adopted new accounting standards in order to conform to the following Governmental Accounting Standards Board Statements:

- Statement No. 40, *Deposit and Investment Risk Disclosures, an amendment of GASB Statement No. 3*

GASB Statement No. 40 updates the custodial credit risk disclosure requirements of Statement No. 3 and establishes more comprehensive disclosure requirements addressing other common risks of deposits and investments of state and local governments, such as credit risk, concentration of credit risk, interest rate risk, and foreign currency risk.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2005

2. CASH AND INVESTMENTS

The Town maintains a cash and investment pool, which includes cash balances and authorized investments of all funds, which the Town invests to enhance interest earnings. The pooled interest earned is allocated to the funds quarterly, based on average daily cash and investment balances in these funds.

A. Cash Deposits

At June 30, 2005, the carrying amount of the Town's deposits was \$162,103. Bank balances before reconciling items were \$228,209 at that date, the total amount of which was collateralized or insured with securities held by the pledging financial institutions in the Town's name as discussed below.

The California Government Code requires California banks and savings and loan associations to secure the Town's cash deposits by pledging securities as collateral. This Code states that collateral pledged in this manner shall have the effect of perfecting a security interest in such collateral superior to those of a general creditor. Thus, collateral for cash deposits is considered to be held in the Town's name.

According to California law, the market value of pledged securities with banking institutions must equal at least 110% of the Town's cash deposits. California law also allows institutions to secure Town deposits by pledging first trust deed mortgage notes having a value of 150% of the Town's total cash deposits. The Town may waive collateral requirements for cash deposits, which are fully insured up to \$100,000 by the Federal Deposit Insurance Corporation. The Town, however, has not waived the collateralization requirements.

The Town follows the practice of pooling cash and investments of all funds, except for funds required to be held by fiscal agents under the provisions of bond indentures. Interest income earned on pooled cash and investments is allocated on a quarterly basis to the various funds based on average daily cash and investment balances. Interest income from cash and investments with fiscal agents is credited directly to the related fund.

B. Investments

The Town is authorized by State statutes and in accordance with the Town's Investment Policy (Policy) to invest in the following:

- San Mateo County Investment Pool Fund (SMCPIF)
- State Local Agency Investment Fund (LAIF)
- Insured and/or collateralized certificates of deposit

The Policy, in addition to State statutes, establishes that funds on deposit in banks must be federally insured or collateralized and investments shall (1) have maximum maturity not to exceed five years, (2) be laddered and based on cash flow forecasts; and (3) be subject to limitations to a certain percent of the portfolio for each of the authorized investments. The Town's investments comply with the established policy.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2005

2. CASH AND INVESTMENTS, Continued

B. Investments, Continued

In accordance with GASB Statement No. 31, *Accounting and Financial Reporting for Certain Investments and for External Pools*, investments were stated at fair value using the aggregate method in all funds and component units, resulting in the following investment income:

Realized gain/(loss) on matured/sold investments	\$ -
Unrealized gain/(loss) in changes in fair value of investments	<u>(74,408)</u>
Net gain/(loss)	(74,408)
Interest income	<u>344,994</u>
Total investment income	<u><u>\$ 270,586</u></u>

The calculation of realized gains and losses is independent of a calculation of the net change in the fair value of investments. Realized gains and losses on investments that had been held in more than one fiscal year that matured or were called/sold in the current year were included as a change in the fair value of investments reported in the prior year(s) and the current year.

The Town's portfolio value fluctuates in an inverse relationship to any change in interest rate. Accordingly, if interest rates rise, the portfolio value will decline. If interest rates fall, the portfolio value will rise.

In accordance with GASB Statement No. 31, the portfolio, for year-end reporting purposes, is treated as if it were all sold. Therefore, fund balance reflects the portfolio's change in value. These portfolio value changes are unrealized unless sold. The Town's policy is to buy and hold investments until their maturity dates.

C. Summary of Cash and Investments

The following is a summary of cash and investments at June 30, 2005:

	Government- Wide	Fiduciary Funds	
	Governmental Activities	Statement of Net Assets	Total
Cash and investments	<u>\$ 13,331,466</u>	<u>\$ 123,672</u>	<u>\$ 13,455,138</u>

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2005

2. CASH AND INVESTMENTS, Continued

Deposits and investments were categorized as follows at June 30, 2005:

	Credit Quality Ratings	Fair Value	Days to Maturity
Town Treasury Deposits:			
Deposits	Not Rated	\$ 162,103	N/A
Petty cash	Not Rated	700	N/A
Total City treasury deposits		<u>162,803</u>	
Town Treasury Investments:			
San Mateo County Investment Pool Funds	Not Rated	8,891,290	N/A
Local Agency Investment Funds	Not Rated	4,401,045	184
Total Town treasury investments		<u>13,292,335</u>	
Total cash and investments		<u>\$ 13,455,138</u>	

D. Risk Disclosures

Interest Rate Risk. As a means of limiting its exposure to fair value losses arising from rising interest rates, the Town's investment policy requires that at least 30% of the Town's investment portfolio mature in less than one year. Additional limitations are that the average maturity of the investment portfolio will not exceed three years, and no investment will have a maturity of more than five years from its date of purchase. The Town has no other risk or exposure which require disclosure.

E. Investments in Local Agency Investment Funds

The Town's investments with the Local Agency Investment Fund (LAIF), a State of California investment pool, at June 30, 2005, included a portion of the pool funds invested in Structured Notes and Asset-Backed Securities. These investments included the following:

Structured Notes are debt securities (other than asset-backed securities) whose cash flow characteristics (coupon rate, redemption amount, or stated maturity) depend upon one or more indices and/or that have embedded forwards or options.

Asset-Backed Securities, the bulk of which are mortgage-backed securities, entitle their purchasers to receive a share of the cash flows from a pool of assets such as principal and interest repayments from a pool of mortgages (such as Collateralized Mortgage Obligations) or credit card receivables.

As of June 30, 2005, the Town had \$4,401,045 invested in LAIF, which had invested 2.406% of the pool investment funds in Structured Notes and Asset-Backed Securities. The Town valued its investments in LAIF as of June 30, 2005, by multiplying its account balance with LAIF by a fair value factor determined by LAIF. This fair value factor was determined by dividing all LAIF participants' total aggregate fair value by total aggregate amortized cost resulting in a factor of .9977475530.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2005

2. CASH AND INVESTMENTS, Continued

F. Investments in San Mateo County Pooled Investment Fund

The Town invests in the San Mateo County Pooled Investment Fund (SMCPIF), an external investment pool. The pool determines fair value on its investment portfolio based on market quotations for those securities where market quotations are readily available and based on amortized cost or best estimate for those securities where market value is not readily available.

As of June 30, 2005, the Town had \$8,891,290 invested in SMCPIF. The Town valued its investments in SMCPIF as of June 30, 2005, by multiplying its account balance with SMCPIF by a fair value factor determined by SMCPIF. This fair value factor was determined by dividing all SMCPIF participants' total aggregate fair value by total aggregate amortized cost resulting in a factor of .9928010.

G. Summary of Investments to Maturity

Investments held in the Town grouped by maturity date at June 30, 2005 were as follows:

<u>Maturity</u>	
Current to one year	\$ 13,292,335
Total	\$ 13,292,335

3. RECEIVABLES

Government-Wide and Fund Financial Statements

At June 30, 2005, the Government-Wide and Fund Financial Statements show the following receivables:

Accounts Receivable

As of June 30, 2005, accounts receivable consists of the following items:

Property tax	\$ 232,725
Measure A sales tax	15,941
Franchise fee	26,255
Grants	54,000
Other accounts receivable	<u>21,436</u>
Total accounts receivable	\$ 350,357

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2005

4. CAPITAL ASSETS

In accordance with GASB Statement No. 34 the Town has reported all capital assets including infrastructure acquired in the current year in the Government-Wide Statement of Net Assets. The Town has elected to use the basic approach as defined by GASB Statement No. 34 for all infrastructure reporting, whereby depreciation expense and accumulated depreciation have been recorded.

Capital assets include land, buildings, and equipment used in Town operations. Infrastructure includes roads, bridges, curbs, sidewalks, drainage systems, street and traffic lights, park improvements and other improvements used by all citizens.

A. Government-Wide Financial Statements

The following is a summary of capital assets for governmental activities:

	Balance July 1, 2004	Additions	Retirements	Inventory Adjustments	Balance June 30, 2005
Governmental Activities:					
Capital assets, not being depreciated:					
Land	\$ 690,884	\$ -	\$ -	\$ -	\$ 690,884
Construction in progress	1,034,000	30,258	-	(1,034,000)	30,258
Total nondepreciable assets	<u>1,724,884</u>	<u>30,258</u>	<u>-</u>	<u>(1,034,000)</u>	<u>721,142</u>
Capital assets, being depreciated:					
Buildings	1,620,166	47,928	-	-	1,668,094
Other improvements	618,127	-	-	-	618,127
Vehicles	525,098	56,774	(82,410)	-	499,462
Equipment - computer	65,332	5,340	-	(25,687)	44,985
Equipment - furniture/equipment	387,927	-	-	31,167	419,094
Infrastructure	715,967	-	-	45,328,664	46,044,631
Total depreciable assets	<u>3,932,617</u>	<u>140,300</u>	<u>(82,410)</u>	<u>45,334,144</u>	<u>49,294,393</u>
Accumulated Depreciation:					
Buildings	(584,381)	(36,792)	-	-	(621,173)
Other improvements	(466,663)	(21,978)	-	-	(488,641)
Vehicles	(275,031)	(72,193)	60,594	-	(286,630)
Equipment - computer	(342,070)	(6,045)	-	334,305	(13,810)
Equipment - furniture/equipment	4,538	(23,446)	-	(337,598)	(356,506)
Infrastructure	(24,588)	(1,470,530)	-	(19,870,405)	(21,365,523)
Total accumulated depreciation	<u>(1,688,195)</u>	<u>(1,630,984)</u>	<u>60,594</u>	<u>(19,873,698)</u>	<u>(23,132,283)</u>
Depreciable assets, net	<u>2,244,422</u>	<u>(1,490,684)</u>	<u>(21,816)</u>	<u>25,460,446</u>	<u>26,162,110</u>
Governmental activities capital assets, net	<u><u>\$ 3,969,306</u></u>	<u><u>\$ (1,460,426)</u></u>	<u><u>\$ (21,816)</u></u>	<u><u>\$ 24,426,446</u></u>	<u><u>\$ 26,883,252</u></u>

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2005

4. CAPITAL ASSETS, Continued

Governmental activities depreciation expenses for capital assets for the year ended June 30, 2005 were as follows:

General Government	\$ 1,499,716
Public Works Administration	40,941
Police	<u>90,327</u>
Total depreciation expense	<u><u>\$ 1,630,984</u></u>

5. COMPENSATED ABSENCES

The Town's compensated absences consist of accrued vacation pay, floating holiday pay for all regular employees and paid time off and floating holiday pay for management employees. Some employees are allowed to accrue compensatory time. The total amount of the accrued liability is recorded in the Government-wide Financial Statements and charges for compensated absences expense is charged to the various program activities.

Summary of changes in compensated absences for the year ended June 30, 2005, was as follows:

	Balance <u>July 1, 2004</u>	<u>Additions</u>	<u>Retirements</u>	Balance <u>June 30, 2005</u>
Governmental Activities	\$ 561,792	\$ 50,460	\$ (39,572)	\$ 572,680
Total	<u><u>\$ 561,792</u></u>	<u><u>\$ 50,460</u></u>	<u><u>\$ (39,572)</u></u>	<u><u>\$ 572,680</u></u>

6. INTERFUND TRANSACTIONS

A. Due To/From Other Funds

At June 30, 2005, the Town had the following short-term receivables and payables:

		Due From Other Funds	
		<u>General Fund</u>	<u>Total</u>
Due To Other Funds	Governmental Funds		
	Non-major Governmental Funds	\$ 15,312	\$ 15,312
	Total	<u><u>\$ 15,312</u></u>	<u><u>\$ 15,312</u></u>

The Town has recorded due from/due to all funds requiring cash at June 30, 2005. The short-term loans will be repaid during fiscal year 2006.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2005

6. INTERFUND TRANSACTIONS, Continued

B. Interfund Transfers

Transfers during the fiscal year ended June 30, 2005, comprised the following:

		Transfers Out		
		Governmental Funds		
		Special Tax Special Revenue	Non-major Governmental Funds	Total
Transfers In	Governmental Funds			
	General Fund	\$ 867,200	\$ 433,962	\$ 1,301,162
	Total	\$ 867,200	\$ 433,962	\$ 1,301,162

7. EMPLOYEE RETIREMENT PLANS

Plan Description - The Town contributes to the California Public Employees Retirement System (PERS), an agent multiple-employer public employee defined benefit pension plan. PERS provides retirement and disability benefits, annual cost-of-living adjustments and death benefits to plan members and beneficiaries. PERS acts as a common investment and administrative agent for participating public entities within the State of California. Benefit provisions and all other requirements are established by state statute and Town ordinance. Copies of PERS' annual financial report may be obtained from their Executive Office located at 400 P Street, Sacramento, CA 95814.

Funding Policy - Active plan members are required by state statute to contribute 7% for miscellaneous and 9% for safety employees of their annual covered salary. The Town makes the contributions required of Town employees on their behalf and for their account, which amounted to \$330,041 for the year ended June 30, 2005.

The Town, as employer, is required to contribute an actuarially determined payment that is reflected as a percentage of annual covered payroll for miscellaneous and safety employees. The Contribution rate for fiscal 2005 was 10.864% for miscellaneous and 30.666% for safety employees.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2005

7. EMPLOYEE RETIREMENT PLANS, Continued

Annual Pension Cost - For fiscal year 2005 the Town's annual pension costs of \$818,899 for PERS was equal to the Town's required contribution. The required contribution was determined as a part of the June 30, 2003, actuarial valuation using the entry age method. The actuarial assumptions included (a) 7.75% investment rate of return (net of administrative expenses), (b) projected salary increases that range from 3.25% to 14.45% for miscellaneous and 3.25% to 13.15% for safety employees depending on age, service, and type of employment, and (c) 3.25% per year cost-of-living adjustments for retirees. Both (a) and (b) included an inflation component of 3.0%. The actuarial value of PERS assets was determined using techniques that smooth the effects of short-term volatility in the market value of investments over a three year period. The average remaining amortization period at June 30, 2003, was 17 years for miscellaneous and 17 years for safety employees for prior and current service unfunded liabilities.

THREE YEAR TREND INFORMATION FOR PERS

Fiscal Year	Annual Pension Cost (APC)	Percentage of APC Contributed	Net Pension Obligation
6/30/2003	\$ 250,541	100%	\$ -
6/30/2004	451,373	100%	-
6/30/2005	818,899	100%	-

8. RISK MANAGEMENT

A. Risk Pool

The Town belongs to ABAG Plan Corporation, which covers general liability claims in an amount up to \$5,000,000. The Town has a deductible or uninsured liability of up to \$25,000 per claim. Once the Town's deductible is met, ABAG Plan becomes responsible for payment of all claims up to the limit. Other coverage includes Risk Property Coverage of \$1,000,000,000 for property and \$100,000,000 for boiler and machinery with a deductible of \$5,000 for property damage and \$10,000 for auto/vehicle damage, and Public Official Bond insurance of \$1,000,000 with a deductible of \$5,000. During the fiscal year ended June 30, 2005, the Town contributed \$108,041 for current year coverage and received a refund of \$0 of prior year excess contributions.

The Cities Group covers workers' compensation claims up to \$750,000 each and has coverage above that limit to a maximum of \$12,400,000. The Town has no deductible for the claims. During the fiscal year ended June 30, 2005, the Town contributed \$ 77,764 for current year coverage.

Each risk pool is governed by a board consisting of representatives from member municipalities. The board controls the operations of each risk pool, including selection of management and approval of operating budgets, independent of any influence by member municipalities beyond their representation on the board. The Town's contributions to each risk pool equal the ratio of the Town's payroll to the total payrolls of all entities participating in the same layer of each program, in each program year. Actual surpluses or losses are shared according to a formula developed from overall loss costs and spread to member entities on a percentage basis after a retrospective rating.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2005

8. RISK MANAGEMENT, Continued

B. Liability for Uninsured Claims

Municipalities are required to record their liability for uninsured claims and to reflect the current portion of this liability as an expenditure in their financial statements. As discussed above, the Town has coverage for such claims, but it has retained the risk for the deductible, or uninsured portion of these claims. The Town includes its claims liability amount as part of accounts payable, since the amount is considered a current liability. The Town's liability for uninsured claims based on claims experience was computed as follows:

	Liability Balance July 1	Current Year Claims and Changes in Estimates	Claims Payments for Current and Prior Fiscal Years	Liability Balance June 30
2002-03	\$ 53,492	\$ -	\$ (53,492)	\$ -
2003-04	-	101,052	(47,087)	53,965
2004-05	53,965	53,500	(41,390)	66,075

9. JOINT VENTURES

The Town participates in several active joint ventures through formally organized and separate entities established under the Joint Exercise of Powers Act of the State of California. As separate legal entities, these entities exercise full powers and authorities within the scope of the related Joint Powers Agreements (JPA), including selection of management and approval of operating budgets, independent of any influence by each member beyond representation on each Board. Obligations and liabilities of these joint ventures are not the Town's responsibility, and the Town does not have an equity interest in the assets of each joint venture except upon dissolution.

A. Town/County Association of Governments (C/CAG)

C/CAG was established under a 1990 Joint Exercise of Powers Agreement between the Town, the County and a majority of cities and towns within the County for the purpose of developing State mandated plans. Members of C/CAG pay their pro rata share of the total annual contributions required based on the member's 1990 population. Financial statements for C/CAG may be obtained by mailing a request to the Town of San Carlos, 666 Elm Street, San Carlos, California 94070.

B. South Bayside Waste Management Authority (Authority)

The Authority is a joint powers agreement formed on October 13, 1999 for the purpose of joint ownership, financing and administration of the San Carlos Transfer Station and the San Mateo Recyclery; and the planning, administration, review, monitoring and enforcement and reporting of solid waste and recyclable material within the Authorities service area.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2005

9. JOINT VENTURES, Continued

B. South Bayside Waste Management Authority (Authority), Continued

Members of the Authority include 11 municipalities located on the mid and lower Peninsula as well as certain unincorporated areas within the County. The Authority is controlled by a 12-member board consisting of one representative from each community. Through the operation of franchise agreements, BFI Waste Systems of North America Inc. provides refuse and recyclable materials collection and disposal services for the benefit of the residents and businesses of each member agency.

C. Alcohol Violation Temporary Housing Authority (AVTHA)

AVTHA was established between the County and most of the cities and towns in the County to provide temporary housing and counseling to persons accused of alcohol related law violations. AVTHA contracts with an operator to provide such services. The costs of operating the temporary housing are allocated to each member based on alcohol related arrests occurring within each member's jurisdiction. Financial statements for AVTHA may be obtained by mailing a request to the Redwood City, 801 Marshall Street, Suite 600, Redwood City, California 94063.

D. Library Joint Powers Agreement

In December 1998, the Town joined with the County and ten other municipalities in the County to Coordinate and expand library services throughout the County, including those in the Town.

Property tax revenues in excess of the JPA's costs of maintaining the library are remitted to the Town and are deposited into the Library special revenue fund. Expenditure of Library Special Revenue funds are subject to the approval of the Library JPA.

10. COMMITMENTS AND CONTINGENCIES

The Town is subject to litigation arising in the normal course of business. In the opinion of the Town Attorney there is no pending litigation which is likely to have a material adverse effect on the financial position of the Town.

Town of Atherton
Notes to Basic Financial Statements, Continued
For the year ended June 30, 2005

11. RESTATEMENT OF PRIOR PERIOD BALANCES

A. Statements

During the fiscal year 2005, the Town completed its implementation of GASB Statement No. 34 which resulted in the following adjustment.

	Net Assets as Previously Reported	GASB 34 Adjustments Capital Assets, Net	Net Assets as Restated
Net assets	<u>\$ 13,597,703</u>	<u>\$ 24,426,446</u>	<u>\$ 38,024,149</u>

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REQUIRED SUPPLEMENTARY INFORMATION

Town of Atherton
Required Supplementary Information
For the year ended June 30, 2005

The most recent information available from the Public Employee Retirement System follows.

PUBLIC EMPLOYEE RETIREMENT SYSTEM
SCHEDULE OF FUNDING PROGRESS

SAFETY PLAN

<u>Valuation Date</u>	<u>Entry Age Accrued Liability</u>	<u>Value of Assets</u>	<u>Unfunded (Overfunded) Liability</u>	<u>Funded Ratio</u>	<u>Annual Covered Payroll</u>	<u>Unfunded (Overfunded) Liability as % of Payroll</u>
2001	\$ 12,591,251	\$ 13,113,182	\$ (521,931)	104.1%	\$ 1,499,735	(34.80)%
2002	13,981,721	12,469,898	1,511,823	89.2%	1,609,221	93.95%
CalPERS Risk Pool Information (See note below)						
2003	4,270,573,982	3,577,742,166	692,831,816	83.8%	476,089,674	145.53%

MISCELLANEOUS PLAN

<u>Valuation Date</u>	<u>Entry Age Accrued Liability</u>	<u>Value of Assets</u>	<u>Unfunded (Overfunded) Liability</u>	<u>Funded Ratio</u>	<u>Annual Covered Payroll</u>	<u>Unfunded (Overfunded) Liability as % of Payroll</u>
2001	\$ 4,437,505	\$ 5,444,094	\$ (1,006,589)	122.7%	\$ 1,683,469	(59.79)%
2002	5,175,328	5,236,789	(61,461)	101.2%	2,155,176	(2.85)%
CalPERS Risk Pool Information (See note below)						
2003	2,596,966,545	2,372,879,034	224,087,511	91.4%	725,020,458	30.91%

As of the actuarial valuation date of June 30, 2003, the Town's miscellaneous plan became part of a CalPERS Risk Pool for employers with less than 100 active plan members. The schedule of funding progress for miscellaneous employees presented above for June 30, 2003, is for the whole pool and not that of the Town individually.

Town of Atherton
Required Supplementary Information
For the year ended June 30, 2005

Statement of Revenues, Expenditures and Changes in Fund Balance - Budget and Actual - Major Fund
General Fund

	Budgeted Amounts		Actual	Variance with Final Budget
	Original	Final		
REVENUES:				
Property taxes	\$ 3,035,934	\$ 3,205,983	\$ 3,834,377	\$ 628,394
Sales taxes	200,640	151,029	175,992	24,963
Other taxes	882,115	755,615	974,334	218,719
Permits and licenses	1,541,673	1,541,673	2,026,648	484,975
Fines and forfeitures	70,000	58,802	57,908	(894)
From other agencies	139,000	141,878	249,255	107,377
Services charges	445,900	409,477	319,495	(89,982)
Use of money and property	346,300	330,017	270,426	(59,591)
Other revenue	3,000	9,939	54,782	44,843
Total revenues	6,664,562	6,604,413	7,963,217	1,358,804
EXPENDITURES:				
Current:				
General government	2,030,630	2,019,475	1,104,775	914,700
Public works administration	1,759,627	1,746,311	914,854	831,457
Police	3,629,233	3,613,068	4,054,754	(441,686)
Streets and public facilities	-	-	1,664,589	(1,664,589)
Total expenditures	7,419,490	7,378,854	7,738,972	(360,118)
REVENUES OVER (UNDER) EXPENDITURES	(754,928)	(774,441)	224,245	998,686
OTHER FINANCING SOURCES (USES):				
Transfers in	973,560	973,560	1,301,162	327,602
Total other financing sources (uses)	973,560	973,560	1,301,162	327,602
REVENUES AND OTHER FINANCING SOURCES OVER (UNDER) EXPENDITURES AND OTHER FINANCING USES	\$ 218,632	\$ 199,119	1,525,407	\$ 1,326,288
FUND BALANCE:				
Beginning of year			6,057,378	
End of year			\$ 7,582,785	

Town of Atherton
Required Supplementary Information
For the year ended June 30, 2005

Statement of Revenues, Expenditures and Changes in Fund Balance - Budget and Actual - Major Fund
Special Tax Fund

	Budgeted Amounts		Actual	Variance with Final Budget
	Original	Final		
REVENUES:				
Special assessments	\$ 1,770,000	\$ 1,858,000	\$ 1,874,750	\$ 16,750
Total revenues	<u>1,770,000</u>	<u>1,858,000</u>	<u>1,874,750</u>	<u>16,750</u>
EXPENDITURES:				
Current:				
Streets and public facilities	1,037,167	1,037,167	858,030	179,137
Total expenditures	<u>1,037,167</u>	<u>1,037,167</u>	<u>858,030</u>	<u>179,137</u>
REVENUES OVER (UNDER) EXPENDITURES	<u>732,833</u>	<u>820,833</u>	<u>1,016,720</u>	<u>195,887</u>
OTHER FINANCING SOURCES (USES):				
Transfers (out)	(222,629)	(222,629)	(867,200)	(644,571)
Total other financing sources (uses)	<u>(222,629)</u>	<u>(222,629)</u>	<u>(867,200)</u>	<u>(644,571)</u>
REVENUES AND OTHER FINANCING SOURCES OVER (UNDER) EXPENDITURES AND OTHER FINANCING USES	<u>\$ 510,204</u>	<u>\$ 598,204</u>	149,520	<u>\$ (448,684)</u>
FUND BALANCE:				
Beginning of year			<u>963,223</u>	
End of year			<u>\$ 1,112,743</u>	

SUPPLEMENTARY INFORMATION

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NON-MAJOR GOVERNMENTAL FUNDS

Town of Atherton
Combining Balance Sheet
Non-Major Governmental Funds
June 30, 2005

	Special Revenue				
	Tennis	Transportation	Gas Tax	Supplement Law Enforcement Services	Police on the Street
ASSETS					
Cash and investments in treasury	\$ 21,842	\$ 314,744	\$ 34,414	\$ 11,153	\$ 4,455
Receivables (net of allowances):					
Accounts	-	15,941	-	-	-
Interest	-	-	-	-	-
Total assets	\$ 21,842	\$ 330,685	\$ 34,414	\$ 11,153	\$ 4,455
LIABILITIES AND FUND BALANCE					
Liabilities:					
Accounts payable	\$ -	\$ -	\$ -	\$ -	\$ -
Due to other funds	-	-	-	-	-
Total liabilities	-	-	-	-	-
Fund Balance:					
Reserved:					
Encumbrances	-	-	-	-	-
Special projects	21,842	330,685	34,414	11,153	4,455
Capital projects	-	-	-	-	-
Undesignated	-	-	-	-	-
Total fund balance	21,842	330,685	34,414	11,153	4,455
Total liabilities and fund balance	\$ 21,842	\$ 330,685	\$ 34,414	\$ 11,153	\$ 4,455

Special Revenue				Capital Project				
COPS Grant	Road Construction	State Park Grants	Library	General Fund Project	Storm Drainage	Channel Drainage District	Park Playground Improvement	Releaf Grant
\$ 13,758	\$ 832,050	\$ -	\$ 1,192,440	\$ 253,970	\$ 45,262	\$ 433,482	\$ -	\$ -
-	-	54,000	200,000	-	-	-	-	-
-	-	-	23,667	-	-	11,837	-	-
<u>\$ 13,758</u>	<u>\$ 832,050</u>	<u>\$ 54,000</u>	<u>\$ 1,416,107</u>	<u>\$ 253,970</u>	<u>\$ 45,262</u>	<u>\$ 445,319</u>	<u>\$ -</u>	<u>\$ -</u>
\$ -	\$ -	\$ -	\$ 1,064	\$ -	\$ -	\$ 5,387	\$ -	\$ -
-	-	15,312	-	-	-	-	-	-
-	-	15,312	1,064	-	-	5,387	-	-
-	584,984	-	-	2,299	-	98,415	-	-
13,758	247,066	38,688	1,415,043	-	-	-	-	-
-	-	-	-	251,671	45,262	-	-	-
-	-	-	-	-	-	341,517	-	-
<u>13,758</u>	<u>832,050</u>	<u>38,688</u>	<u>1,415,043</u>	<u>253,970</u>	<u>45,262</u>	<u>439,932</u>	<u>-</u>	<u>-</u>
<u>\$ 13,758</u>	<u>\$ 832,050</u>	<u>\$ 54,000</u>	<u>\$ 1,416,107</u>	<u>\$ 253,970</u>	<u>\$ 45,262</u>	<u>\$ 445,319</u>	<u>\$ -</u>	<u>\$ -</u>

(Continued)

Town of Atherton
Combining Balance Sheet
Non-Major Governmental Funds, Continued
June 30, 2005

	<u>Capital Projects</u>	Total
	Facilities Construction	Non-Major Governmental Funds
ASSETS		
Cash and investments in treasury	\$ 65,382	\$ 3,222,952
Receivables (net of allowances):		
Accounts	-	269,941
Interest	-	35,504
Total assets	<u>\$ 65,382</u>	<u>\$ 3,528,397</u>
LIABILITIES AND FUND BALANCE		
Liabilities:		
Accounts payable	\$ -	\$ 6,451
Due to other funds	-	15,312
Total liabilities	<u>-</u>	<u>21,763</u>
Fund Balance:		
Reserved:		
Encumbrances	-	685,698
Special projects	-	2,117,104
Capital projects	-	296,933
Undesignated	65,382	406,899
Total fund balance	<u>65,382</u>	<u>3,506,634</u>
Total liabilities and fund balance	<u>\$ 65,382</u>	<u>\$ 3,528,397</u>

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Town of Atherton

Combining Statement of Revenues, Expenditures and Changes in Fund Balances

Non-Major Governmental Funds

For the year ended June 30, 2005

	Special Revenue				
	Tennis	Transportation	Gas Tax	Supplemental Law Enforcement Services	Police on the Street
REVENUES:					
Property taxes	\$ -	\$ -	\$ -	\$ -	\$ -
Measure A grants	-	235,049	-	-	-
From other agencies	-	-	177,292	-	-
Service charges	12,044	-	-	-	-
Use of money and property	-	-	-	-	-
Road impact fees	-	-	-	-	-
Other revenues	-	-	-	-	-
Total revenues	12,044	235,049	177,292	-	-
EXPENDITURES:					
Current:					
Parks and Recreation	2,069	-	-	-	-
Police	-	-	-	-	-
Park maintenance	-	-	-	-	-
Library maintenance	-	-	-	-	-
Streets and public facilities	-	26,000	87,979	-	-
Total expenditures	2,069	26,000	87,979	-	-
REVENUES OVER (UNDER) EXPENDITURES	9,975	209,049	89,313	-	-
OTHER FINANCING SOURCES (USES):					
Operating transfers out	-	(24,000)	(100,000)	-	-
Total other financing sources (uses)	-	(24,000)	(100,000)	-	-
REVENUES AND OTHER FINANCING SOURCES OVER (UNDER) EXPENDITURES AND OTHER FINANCING USES	9,975	185,049	(10,687)	-	-
FUND BALANCES:					
Beginning of year	11,867	145,636	45,101	11,153	4,455
End of year	\$ 21,842	\$ 330,685	\$ 34,414	\$ 11,153	\$ 4,455

Special Revenue				Capital Projects				
COPS Grant	Road Construction	State Parks Grant	Library	General Fund Project	Storm Drainage	Channel Drainage District	Park Playground Improvement	Releaf Grant
\$ -	\$ -	\$ -	\$ 161,484	\$ -	\$ -	\$ 46,842	\$ -	\$ -
-	-	-	-	-	-	-	-	-
100,936	-	108,400	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-
-	-	-	1,306	-	-	14,603	-	-
-	599,606	-	-	-	-	-	-	-
-	-	-	203,074	-	-	-	-	-
100,936	599,606	108,400	365,864	-	-	61,445	-	-
-	-	-	-	-	-	-	-	-
99,352	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	1,514
-	-	-	26,734	-	-	-	-	-
-	95,014	64,049	-	48,926	2,963	20,937	1,309	-
99,352	95,014	64,049	26,734	48,926	2,963	20,937	1,309	1,514
1,584	504,592	44,351	339,130	(48,926)	(2,963)	40,508	(1,309)	(1,514)
-	(304,962)	-	-	-	-	(5,000)	-	-
-	(304,962)	-	-	-	-	(5,000)	-	-
1,584	199,630	44,351	339,130	(48,926)	(2,963)	35,508	(1,309)	(1,514)
12,174	632,420	(5,663)	1,075,913	302,896	48,225	404,424	1,309	1,514
\$ 13,758	\$ 832,050	\$ 38,688	\$ 1,415,043	\$ 253,970	\$ 45,262	\$ 439,932	\$ -	\$ -

Town of Atherton

Combining Statement of Revenues, Expenditures and Changes in Fund Balances

Non-Major Governmental Funds, Continued

For the year ended June 30, 2005

	<u>Capital Projects</u>	
	Facilities Construction	Total Non-Major Governmental Funds
REVENUES:		
Property taxes	\$ -	\$ 208,326
Measure A grants	-	235,049
From other agencies	-	386,628
Service charges	-	12,044
Use of money and property	-	15,909
Road impact fees	-	599,606
Other revenues	-	203,074
Total revenues	<u>-</u>	<u>1,660,636</u>
EXPENDITURES:		
Current:		
Parks and recreation	-	2,069
Police	-	99,352
Park maintenance	-	1,514
Library maintenance	-	26,734
Streets and public facilities	-	347,177
Total expenditures	<u>-</u>	<u>476,846</u>
REVENUES OVER (UNDER) EXPENDITURES	<u>-</u>	<u>1,183,790</u>
OTHER FINANCING SOURCES (USES):		
Operating transfers out	-	(433,962)
Total other financing sources (uses)	<u>-</u>	<u>(433,962)</u>
REVENUES AND OTHER FINANCING SOURCES OVER (UNDER) EXPENDITURES AND OTHER FINANCING USES	-	749,828
FUND BALANCES:		
Beginning of year	<u>65,382</u>	<u>2,756,806</u>
End of year	<u>\$ 65,382</u>	<u>\$ 3,506,634</u>

FIDUCIARY FUND FINANCIAL STATEMENTS

Town of Atherton
Statement of Fiduciary Net Assets
Fiduciary Funds - Agency Funds
June 30, 2005

	Evans Creative Design Fund	MA Little League	H-P Park Improvement Fund	Tree Committee	Total
ASSETS					
Cash and investments	\$ 113,204	\$ -	\$ 5,851	\$ 4,617	\$ 123,672
Interest Receivable	1,877	-	-	-	1,877
Total assets	\$ 115,081	\$ -	\$ 5,851	\$ 4,617	\$ 125,549
LIABILITIES					
Accounts payable	\$ -	\$ -	\$ -	\$ 580	\$ 580
Deposits payable	115,081	-	5,851	4,037	124,969
Total liabilities	\$ 115,081	\$ -	\$ 5,851	\$ 4,617	\$ 125,549

Town of Atherton
Statement of Changes in Assets and Liabilities
Fiduciary Funds - Agency Funds
For the year ended June 30, 2005

	Balance July 1, 2004	Additions	Deductions	Balance June 30, 2005
<u>Evans Creative Design Fund</u>				
Assets:				
Cash and investments	\$ 119,887	\$ 6,139	\$ (12,822)	\$ 113,204
Interest receivable	-	1,877	-	1,877
Total assets	\$ 119,887	\$ 8,016	\$ (12,822)	\$ 115,081
Liabilities:				
Accounts payable	\$ 2,668	\$ 8,948	\$ (11,616)	\$ -
Deposits payable	117,219	7,416	(9,554)	115,081
Total liabilities	\$ 119,887	\$ 16,364	\$ (21,170)	\$ 115,081
<u>MA Little League</u>				
Assets:				
Cash and investments	\$ 3,024	\$ -	\$ (3,024)	\$ -
Total assets	\$ 3,024	\$ -	\$ (3,024)	\$ -
Liabilities:				
Deposit payable	\$ 3,024	\$ -	\$ (3,024)	\$ -
Total liabilities	\$ 3,024	\$ -	\$ (3,024)	\$ -
<u>H-P Park Improvement Fund</u>				
Assets:				
Cash and investments	\$ 5,851	\$ -	\$ -	\$ 5,851
Total assets	\$ 5,851	\$ -	\$ -	\$ 5,851
Liabilities:				
Deposits payable	\$ 5,851	\$ -	\$ -	\$ 5,851
Total liabilities	\$ 5,851	\$ -	\$ -	\$ 5,851

(Continued)

Town of Atherton
Statement of Changes in Assets and Liabilities
Fiduciary Funds - Agency funds, Continued
For the year ended June 30, 2005

	Balance July 1, 2004	Additions	Deductions	Balance June 30, 2005
<u>Tree Committee</u>				
Assets:				
Cash and investments	\$ -	\$ 7,712	\$ (3,095)	\$ 4,617
Total assets	\$ -	\$ 7,712	\$ (3,095)	\$ 4,617
Liabilities:				
Accounts Payable	\$ -	\$ 580	\$ -	\$ 580
Deposits payable	-	4,617	(580)	4,037
Total liabilities	\$ -	\$ 4,617	\$ (580)	\$ 4,617
<u>All Agency Funds</u>				
Assets:				
Cash and investments	\$ 128,762	\$ 13,851	\$ (18,941)	\$ 123,672
Interest receivable	-	1,877	-	1,877
Total assets	\$ 128,762	\$ 15,728	\$ (18,941)	\$ 125,549
Liabilities:				
Accounts payable	\$ 2,668	\$ 9,528	\$ (11,616)	\$ 580
Deposits payable	126,094	12,033	(13,158)	124,969
Total liabilities	\$ 128,762	\$ 21,561	\$ (24,774)	\$ 125,549

(Concluded)



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

DATE: FOR THE CITY COUNCIL MEETING OF NOVEMBER 16, 2005

SUBJECT: FIRST AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT FOR THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY

RECOMMENDATION:

Adopt the attached Resolution approving the First Amended and Restated Joint Exercise of Powers Agreement for the South Bayside Waste Management Authority.

INTRODUCTION:

The SBWMA was formed by a Joint Exercise of Powers (JPA) Agreement, effective December 9, 1999, by twelve (12) local agencies that include the Town of Atherton, City of Belmont, City of Burlingame, City of East Palo Alto, City of Foster City, Town of Hillsborough, City of Menlo Park, City of Redwood City, City of San Carlos, City of San Mateo, West Bay Sanitary District, and the County of San Mateo (the Member Agencies).

These Member Agencies were all founding members of the SBWMA and all came on board as equity members (there are no Non Equity members). Prior to December 9, 1999, all of the same agencies were part of a prior JPA, the South Bayside Transfer Station Authority (SBTSA), a JPA formed in June 1982.

The SBTSA members had contracted with Browning & Ferris Industries of California, Inc., (BFI) to have collected Solid Waste be processed through the Transfer Station built by BFI in San Carlos. In 1999, the SBTSA exercised an option to acquire the Transfer Station and related buildings such as the Recyclery, including the real property on which they are located (the Facilities). The SBWMA

was then formed, issued revenue bonds in early 2000, and followed through in place as the successor to SBTSA to acquire the Facilities from BFI.

The SBWMA now owns the Facilities and operates the Transfer Station and Recyclery through an Operating Agreement with BFI (now known as BFI Waste Systems of North America, Inc., a Delaware corporation (Allied Waste)). That Agreement, which started March 1, 2005, has now been extended by the SBWMA through December 31, 2010.

The SBWMA recently entered into a Disposal Agreement with Browning-Ferris Industries of California, Inc., which owns and operates the landfill at Ox Mountain. The term of that Agreement runs to December 31, 2019.

All of the Member Agencies have individual Collection Agreements with BFI for Solid Waste, Recyclable and Plant Material collection. Those Collection Agreements were likewise recently extended with BFI through December 31, 2010.

ANALYSIS:

The operation of the SBWMA has become a full-time activity. For that reason, it has been determined by the SBWMA Board to employ a full-time Executive Director. Recruitment for that position is now underway.

The SBWMA Board determined on September 22, 2005, to recommend to the JPA's Member Agencies to amend the JPA Agreement to make provisions for the Executive Director in a First Amended and Restated Joint Exercise of Power Agreement, attached as **Attachment B** to this staff report (the Amended JPA Agreement).

The changes in the JPA Agreement are recommended as follows:

1. Composition of the Board. In Section 8.1, the Board remains composed of non-elected persons from the staff of Member Agencies. The language clarifies from which positions a Member Agency may select its Board member. The changes limit the ability for the Board member to select a "designee" to only the listed positions that are eligible for the Board. The reason for this change is that the Board experience to date has seen too many different persons representing a Member and some of those persons did not have real authority to act on behalf of the Member.
2. Section 7.1.1 was added removing from the Board of Director's powers the ability to do certain things without the two-thirds approval of the Member Agencies. These actions include:
 - (a) acquisition of real property;
 - (b) disposal of real property;
 - (c) entering into or amending franchise agreements for operation of the Facilities;

(d) issuance or refinancing of bonds.

These limitations leave the most important decisions with the greatest structural and/or financial implications to the elected officials who govern each of the Member Agencies. It then leaves to the SBWMA Board the powers for operating Facilities and performing the other functions of the JPA.

3. Section 8.5, dealing with the chairperson of the SBWMA, has been revised:
 - (a) with the Executive Director coming on board, all of the “executive duties” of the Chair have been eliminated;
 - (b) the San Carlos City Manager has, by agreement of the Member Agencies, been the Chair of the SBTSA since 1982. It was felt this tradition was no longer needed and that the chair should be selected (annually) by the Board from the Members at large.
4. Section 8.7 - Finance Director. This has been a paid, part-time contracted position because of the work involved. Reference to “without compensation” is being deleted, as it is not consistent with the way this position has actually been handled.
5. Section 8.10 - Executive Director, with a list of typical executive duties, is added.

The above are the major changes. Other “cleanup language” changes are shown in the attached Exhibit A by strike outs and/or underline. None are substantive.

Under the SBWMA existing JPA Agreement, Section 10.8, it takes a two-thirds vote of all of the Member Agencies to amend the JPA Agreement. The amendments to the JPA Agreement will not take effect until they have been approved by two-thirds of the Members of the JPA.

CONCLUSION:

Staff feels the amendments to the Joint Powers Agreement are appropriate and necessary to provide a stable future for the Authority.

ALTERNATIVES:

The First Amended and Restated Joint Exercise of Powers Agreement will become effective once two-thirds of the member agencies (eight members agencies) act on the item. If the Council wishes to further modify the document, direction should be provided to the City Manager for consideration at the next available SBWMA Board meeting.

FISCAL IMPACT:

No fiscal impact to member agencies (Town of Atherton) with the recommended changes to the Joint Powers Agreement.

FORMAL MOTION:

I move that the City Council adopt the Resolution approving the First Amended and Restated Joint Exercise of Powers Agreement for the South Bayside Waste Management Authority.

Prepared by:

Approved by:

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

James H. Robinson
City Manager

Attachments:

1. Draft Resolution
2. First Amended and Restated Joint Exercise of Powers Agreement (with edit formatting)

First Amended and Restated
Joint Exercise of Powers Agreement
South Bayside Waste Management Authority

This First Amended and Restated Joint Exercise of Powers Agreement is entered into this ___ of _____ 2005, pursuant to the provisions of the Joint Exercise of Powers Act (Title 1, Division 7, Article 1, §6500 et seq. of the California Government Code) relating to the joint exercise of powers among the County of San Mateo and those cities, and towns listed in Exhibit A and B, hereafter collectively called "Agencies."

RECITALS

A. WHEREAS the Agencies heretofore entered into a Joint Exercise of Powers Agreement on December 9, 1999 (the JPA Agreement). The JPA Agreement was first amended on June 4, 2002 to modify the definition of the Fiscal Year.

B. WHEREAS the Agencies are responsible for the health and safety of the citizens within their geographic boundaries; and

C. WHEREAS the Agencies regulate Solid Waste, Recyclable Material, and Plant Material, Collection in areas under their jurisdiction and award Franchises for Collection to private organization(s), herein called "Collector(s)"; and

D. WHEREAS the Agencies find it in their mutual economic interest to address Solid Waste and Recycling issues on a regional level; and that the costs for planning and implementing Solid Waste and Recycling Programs will be based on a fair and equitable allocation system that considers the relative benefits to each Agency and the additional cost of services provided to each Agency, and;

E. WHEREAS the Agencies have used and are committed to owning and using certain regional Facilities located in the City of San Carlos, which are part of the San Mateo County Integrated Waste Management Plan, as approved by the California Integrated Waste Management Board; and

F. WHEREAS the ownership and use of these regional Solid Waste Facilities provides economic benefits to the ratepayers of the Agencies; and

G. WHEREAS the California Integrated Waste Management Act (CIWMA)(California Public Resources Code, §40000 et seq.) requires that the Agencies reduce by fifty (50) percent the amount of Solid Waste they landfill by the end of the year 2000; and

H. WHEREAS the CIWMA requires that the Agencies prepare, adopt, and implement source reduction and recycling elements to meet the fifty (50) percent reduction goal; and

I. WHEREAS the Agencies intend to coordinate their efforts to produce and share Solid Waste, Recyclable Material and Plant Material reports, including program and operational information derived from the operation of regional Facilities, as required by California Public Resources Code, §40000 et seq.; and

J. WHEREAS each Agency has the authority to regulate their Solid Waste, Recyclable Material, and Plant Material, stream, including the Collection, Transfer, Transportation, and Processing thereof, and has the authority to establish rates for the conduct of such functions; and

K. WHEREAS Solid Waste from each Agency is landfilled at the Ox Mountain Sanitary Landfill located off State Highway 92, approximately two miles east of Half Moon Bay; and

L. WHEREAS in the absence of a regional Solid Waste Transfer Facility, Solid Waste Collectors would individually have to travel to Ox Mountain to dispose of Solid Waste, which

would increase (a) driving distances and times, (b) the size and cost of the Collection vehicles, (c) traffic and congestion on the highways, and (d) the wear and tear on the highways; altogether which would increase the costs to Solid Waste Collection ratepayers; and

M. WHEREAS each Agency has been a member of the South Bayside Waste Management Authority (SBWMA) under a Joint Exercise of Powers Agreement dated December 9, 1999, and has since enjoyed the benefits of such membership, and in accordance with the terms of that agreement has directed its Solid Waste to be Processed at the regional Facility; and

N. WHEREAS modifying the method of Solid Waste, Recyclable Material, and Plant Material, Collection, Transfer and Transportation Processing and Disposal could cause disruptions in service to the ratepayers; and

O. WHEREAS California Government Code §6500 et seq. (Joint Exercise of Powers Act) permits two or more public agencies to create joint powers authorities for the purposes cited herein, and permits the agencies to exercise jointly any power that the public agencies could exercise separately, and further grants certain additional powers to such joint powers authorities; and

P. WHEREAS the Agencies' use of regional Solid Waste, Recyclable Material and Plant Material Collection and Processing Facilities under the SBWMA provides a proven history of economic and environmental benefits to its users; and

Q. WHEREAS the parties to this Agreement wish to continue to possess ownership over these regional Solid Waste Facilities; and

R. WHEREAS each Agency has the individual power to plan, acquire, construct, manage, regulate, operate, and control Facilities and operations for the Collection, Transfer, and Transportation, Processing, and Disposal of Solid Waste, Recyclable Material, and Plant Material generated within its jurisdictional boundaries, as well as to create and issue Franchise agreements for such activities; and

S. WHEREAS the Agencies have issued Revenue Bonds to pay for the purchase of these Facilities in March 2000;

NOW, THEREFORE BE IT RESOLVED that the Agencies do hereby establish the South Bayside Waste Management Authority for the purpose of owning, financing, administering, and operating regional Facilities and for administering rates for Solid Waste and diversion programs and do hereby agree as follows:

ARTICLE 1. DEFINITIONS

1.1 Definitions. Unless the context otherwise requires, capitalized terms used in this Agreement will have the meanings specified in Exhibit C to this Agreement, which is attached hereto and incorporated by reference.

ARTICLE 2. PURPOSE

2.1 Purpose. This Agreement is entered into pursuant to the Act to provide for the exercise of powers as provided therein, and to provide for the joint exercise of certain powers common to the Agencies. The purpose of this Agreement is to provide for the joint ownership, financing, administration, and operation of the Facilities, and for the joint planning, adoption, financing, administration, management, review, monitoring, enforcement, and reporting of Solid Waste, Recyclable Material, and Plant Material Collection activities in the Service Area. By entering

this joint powers authority, the Agencies earn economic benefits not realized when using alternate means of Transferring and Transportation Processing of Solid Waste, Recyclable Material and Plant Materials and Disposal of Solid Waste. Further, the establishment of this joint powers authority provides for the economic viability and utilization requirement of the Facilities.

ARTICLE 3. CREATION OF AUTHORITY

3.1 Creation. Pursuant to the Act, the Agencies hereby create and establish a public entity to be known as the “South Bayside Waste Management Authority” (SBWMA).

3.2 Separate Entity. The SBWMA shall be a public entity separate from the Agencies, and separate from the SBTSA.

3.3 Assets, Rights, and Liabilities. The assets, rights, debts, liabilities, and obligations of the SBWMA shall not constitute assets, rights, debts, liabilities, or obligations of any of the Agencies or the SBWMA. However, nothing in this Agreement shall prevent any Agency from separately contracting for, or assuming responsibility for, specific debts, liabilities, or obligations of the SBWMA, provided that both the Board and that Agency approve such contract or assumption.

ARTICLE 4. TERM

4.1 Effective Date. This First Amended Agreement shall be dated as of, and become effective on, the date of its execution by the last of the Founding Members (Effective Date).

4.2 Term. This Agreement shall continue at least until December 31, 2019, or such further period of time necessary to repay any revenue bonds issued by the SBWMA, and thereafter shall continue until terminated or dissolved by a vote taken in accordance with Section 10.8 of this Agreement. However, in no event shall the Members vote to terminate or dissolve the SBWMA if its termination or dissolution would conflict with or violate the terms or conditions of any bonds, financial instruments, or related documentation by or on behalf of the SBWMA, including, without limitation, indentures, resolutions, and letter of credit agreements.

ARTICLE 5. BOUNDARIES

5.1 Service Area. The SBWMA shall exercise its powers within its Service Area boundaries, as they may change from time to time. The Service Area shall be the consolidated boundaries of the Agencies as defined in Exhibit C. If an Agency withdraws from the SBWMA, the boundary of the SBWMA shall be modified to exclude the area of the withdrawing Agency. Such withdrawal and redrawing of boundaries shall not prevent any Facilities from being located outside of the boundary of the SBWMA.

ARTICLE 6. MEMBERSHIP REQUIREMENTS OF SBWMA

6.1 Required Powers. Each Member of the SBWMA must at all times have the following powers:

- a. The authority to grant Solid Waste Collection Franchises.
- b. The authority, commitment, and agreement to direct the flow of Solid Waste, Recycling and Plant Material generated within the Member’s respective jurisdiction to those Facilities specified by the SBWMA, except as provided in Sections 2.08 and 2.09 of the Uniform Franchise Agreement, Exhibit D hereto, for a period of time which shall minimally be until December 31, 2019, or such

further period of time necessary to repay any revenue bonds issued by the SBWMA .

- c. The authority to set rates sufficient to provide for the financing and operation of the SBWMA Facilities.
- d. The authority, by law, to enter into this Joint Powers Agreement (JPA).

6.2 Founding Members. A Founding Member of the SBWMA shall be one who has joined on the formation of the SBWMA December 9, 1999. Founding Members are listed as such in Exhibit A and B hereto.

6.3 Membership. A Member shall, on joining the SBWMA, elect whether to be an Equity Member or a Non Equity Member.

- a. An Equity Member shall have all of the rights and liabilities of a Member of the SBWMA. An Equity Member shall be a Founding Member who, on joining, elects to be an Equity Member, and shall include a New Member who agrees to pay the equity equalizing fees and payments imposed as a condition of membership. Only an Equity Member shall have the right to vote on any matter before the Board and on any matter to be voted on by a Member except as provided in Section 6.3(b).
- b. A Non Equity Member shall not be required to pay an equity equalizing payment, and shall not have the rights and liabilities of Equity Members, particularly under Section 15 Withdrawal and Section 16 on Termination of the JPA. The Non Equity Member shall, however, direct its flow of Solid Waste, Recyclable Material and Plant Material to the Facilities subject to the exception in Exhibit D hereto, and comply with the terms of the JPA with respect to the flow of Solid Waste, Recyclable Material and Plant Material. The Non Equity Member shall be entitled to participate in Board Meetings and activities, and receive all notices and information. However, it shall not be entitled to vote on any matter before the Board, or on any other matter unless the right to vote is expressly provided for the Non Equity Member.
- c. Exhibit A hereto shall designate Equity Members and Exhibit B shall designate Non Equity Members.

6.4 All Members. Equity Members and Non-Equity Members shall, during the term of this Agreement, equally have the right to direct the flow of Solid Waste, Recyclable Material and Plant Material to the Facilities. With respect to the Uniform Franchise Agreement all Equity and Non-Equity Members shall have the right to participate in Board deliberations and negotiations and to vote on all matters, including rates, that are contained therein.

ARTICLE 7. POWERS

7.1 SBWMA Powers The SBWMA is authorized, but is in no way required, to act in its own name on any or all of the following matters, as each Member could act separately, and as it deems in the best interest of its Members, to the extent permitted by any and all applicable laws, codes, ordinances, resolutions and regulations:

- a. Acquire, construct, finance, refinance, operate, regulate, and maintain Facilities.
- b. Acquire, improve, hold, lease, and dispose of real and personal property of all types.

- c. Enter into agreements to operate Solid Waste, Recyclable Material, and Plant Material Transfer, Transport and Processing Facilities.
- d. Plan, study, and recommend proper and appropriate Solid Waste Recyclable Material and Plant Material Transfer, Transport and Processing management practices. Research and study issues related to Solid Waste generation, Collection, Transfer, Processing, Diversion, and Disposal, including but not limited to source reduction, re-use, Recycling, and recovery.
- e. Resolve disputes between the public and any entities providing Solid Waste, Recycling Material and Plant Material Transfer, Transportation and Processing services.
- f. Plan, design, and implement programs that address CIWMA transfer, processing and diversion requirements.
- g. Educate the public as to Solid Waste, Diversion and Recycling matters.
- h. Provide for or enter into agreements to provide for financial, engineering, legal, audit, and any other professional services supporting any of the SBWMA's programs including, but not limited to, Solid Waste, Recyclable Material and Plant Material Transfer, Transport and Processing Facility operations and Disposal. Such agreements can be made with any Person, including any Member.
- i. Apply for, accept, and receive grants, gifts, donations, advances, and contributions.
- j. Hire agents and employees.
- k. Sue and be sued in its own name.
- l. Incur and discharge debts, liabilities, and obligations.
- m. Issue bonds or notes and associated covenants, for designated purposes, subject to the provisions and limitations of the California Government Code.
- n. Issue and receive loans.
- o. Establish rates and fees at Solid Waste, Recyclable Material and Plant Material Transfer, Transport and Processing Facilities.
- p. Require Members to pass-through the cost of the SBWMA's operations to the rates assessed on Facility users.
- q. Adopt, as authorized by California law, ordinances and resolutions necessary to carry out the purposes of this Agreement.
- r. Enter into Franchise Agreements for use of the Transfer Station and pay a Franchise fee.
- s. Require Members to direct all of their Solid Waste, Recyclable Materials and Plant Materials generated and Collected by Collectors within their respective boundaries to the Facilities, except as provided in Exhibit D hereto.

7.1.1 The following powers require the approval of two-thirds of the Members as would be required under Article 17 for an amendment to this JPA Agreement:

- a. Acquisition of real property
- b. Disposal or transfer of any interest in real property
- c. Entering into or amending Franchise Agreements for the operation of the Facilities
- d. Issuance of bonds or notes, or the refinance of such bonds or notes.

ARTICLE 8. GOVERNANCE

8.1 Board of Directors The SBWMA shall be governed and administered by a Board of Directors composed of one Director from each Member. The Board shall exercise all powers and authority on behalf of the SBWMA. Each Member must select its Director or the Director's designee alternate from among the following positions:

- a. County, District, City, or Town Manager or the equivalent position
- b. County, District, City, or Town Assistant Manager or the equivalent position
- c. Finance Director or Assistant Finance Director or the equivalent position
- d. Public Works Director or Assistant Public Works Director or Environmental Programs Manager or the equivalent position.

8.2 Tenure. Each Director shall hold office from the first meeting of the Board after appointment by the Member until his or her successor is selected by the Member.

8.3 Compensation Directors shall receive no compensation from the SBWMA for serving on the Board. The SBWMA may reimburse Directors for reasonable expenses necessarily incurred on the Board's behalf, with prior approval of the Board.

8.4 Member Mergers. If any Member merges with another public entity, the successor public entity shall have one (1) Director position on the Board.

8.5 Chair. The Board shall annually select a Chair, by a vote taken in accordance with Section 10.8 of this Agreement, who shall serve without compensation at the pleasure of the Board. The duties of the Chair include, but are not limited to the following:

- a. Conducts Board meetings.
- b. Review and set meeting agendas with the Executive Director.
- c. Signs any and all SBWMA official documents.

8.6 Vice Chair. The Board shall annually select a Vice Chair, by a vote taken in accordance with Section 10.8 of this Agreement, who serves without compensation at the pleasure of the Board. The Vice Chair shall act in the absence of the Chair, with full powers of the Chair.

8.7 Finance Director. The Board shall select, by a vote taken in accordance with Section 10.8 of this Agreement, a Finance Director from one of the Members to be Finance Director for the SBWMA, who serves at the pleasure of the Board. The duties of the Finance Director include, but are not limited to the following, all in accordance with prudent financial management and California law, including but not limited to California Government Code §6505 et seq.:

- a. Reports to the Chair on any and all SBWMA financial matters.
- b. Serves as the SBWMA's treasurer and controller.
- c. Receives and accounts for any and all SBWMA revenues.
- d. Makes any and all SBWMA investments using sound and prudent investment practices.
- e. Disburses and accounts for any and all SBWMA funds.
- f. Issues or causes to be issued all Revenue Bond payments, according to the payment schedule as part of the Revenue Bonds.

- g. Maintains any and all reserves, as may be required by the Revenue Bonds or any other instruments.
- h. Prepares, within one hundred twenty (120) days after the close of each Fiscal Year, an annual financial report reflecting SBWMA financial activity, including activity associated with the operations of the Facilities, whether such operation is performed by the SBWMA directly or is contracted.
- i. Prepares other financial statements and reports for the SBWMA, as needed.
- j. Causes the annual financial report to be audited by an independent Certified Public Accountant (CPA) currently licensed to practice in the State of California.
- k. Presents the audit report, including the associated management letter, to the Board at the first scheduled Board meeting subsequent to the release of the audit report.

8.8 Other Officers. The Board may create or eliminate other officers not specifically mentioned in Sections 8.5–8.7 of this Agreement from time to time, as the Board deems necessary, upon majority vote. Such officers shall serve without compensation.

8.9 Employee Status. None of the officers, agents, or employees employed or hired by the SBWMA shall by reason thereof become officers, agents, or employees of any Member. The SBWMA may contract with any Member for any services, upon a vote in accordance with Section 10.8 of this Agreement; however, none of the Persons whose services are supplied by a Member shall by reason thereof become an employee of the SBWMA.

8.10 Executive Director. The position of Executive Director is created. The Executive Director is appointed by the Board and serves at the will of the Board. The duties of the Executive director include, but are not limited to the following:

- a. Administers any and all meeting agendas, including compliance with noticing requirements and meeting locations, as provided under California Government Code §54950-54962 (Brown Act).
- b. Causes accurate minutes and records to be taken of all meetings in accordance with California law, including but not limited to California Government Code §54957.2 et seq.
- c. Has authority to appoint, remove, promote, demote, supervise and determine compensation of any and all SBWMA employees in accordance with Board approved salary ranges.
- d. Manages any and all SBWMA contracts or agreements, including but not limited to, the Facilities operating agreement.
- e. Approves any and all SBWMA payments in conformance with Board approved appropriations.
- f. Attends all Board meetings.
- g. Prepares and submits to the Board an annual budget.
- h. Performs such other duties as the Board shall require.

8.10.1 The Executive Director shall be bonded with a corporate surety to be approved by the Board.

8.10.2 The Executive Director shall receive such compensation as the Board shall from time to time determine.

ARTICLE 9. VACANCIES

9.1 Director Vacancies. Should a vacancy occur on the Board due to the separation from service by a Director from a Member, the person who is acting in the capacity of the former Director with the Member shall temporarily assume the duties of the former Director until such time as the Member appoints a permanent Director. Such temporary Director shall have the full powers and authority of a permanent Director.

9.2 Officer Vacancies. Should a vacancy occur among any officer authorized in Article 8 of this Agreement, the Board shall elect a new officer at its next scheduled Board meeting.

ARTICLE 10. MEETINGS

10.1 Regular Meetings The Board shall schedule by Resolution regular monthly meetings during each Fiscal Year.

10.2 Special Meetings Special meetings of the Board may be called in accordance with provisions of the California Government Code §54956.

10.3 Notice of Meetings All meetings of the Board shall be held subject to the provisions of California Government Code §54950-54962 (Brown Act) and other applicable laws of the State of California.

10.4 Meeting Location. All meetings of the Board must be held within the Service Area at a location determined by the Chair, except that the Board may hold a special meeting outside the Service Area upon an affirmative vote in accordance with Section 10.8 of this Agreement.

10.5 Minutes The Chair shall cause the taking and keeping of minutes of all Board meetings. Promptly after each meeting, the Chair shall cause a copy of the minutes to be forwarded to each Director, either electronically or in paper form.

10.6 Quorum A majority of the Directors shall constitute a quorum for the transaction of business of the Board, except that Directors constituting less than a quorum may adjourn any meeting.

10.7 Voting Rights. Each Member is entitled to cast one vote on any matter presented to the Board for a vote.

10.8 Voting Requirement. The vote of two thirds (2/3) of the Directors present shall constitute the act of the Board, unless otherwise provided in this Agreement.

10.9 Conduct of Meetings. Meetings of the Board shall be conducted by the Chair, or in the Chair's absence by the Vice Chair. In the absence of both the Chair and the Vice Chair, meetings shall be conducting by the Director in attendance who represents the largest Member, by population.

ARTICLE 11. BYLAWS

11.1 Bylaws. The Board from time to time may adopt and amend bylaws for the conduct of its affairs, provided that they are consistent with this Agreement and are necessary and appropriate in order to carry out the SBWMA's purpose.

ARTICLE 12. FUNDING

12.1 Debts and Liabilities. The SBWMA's debts, liabilities, and obligations shall not be debts, liabilities, or obligations of any of the Members, and each Member's obligation hereunder is expressly limited only to the appropriation and contribution of such funds as may be levied pursuant to this Agreement or as the Members hereto may agree.

12.2 SBWMA Activities. Unless otherwise authorized by the Board, all costs associated with SBWMA activities shall be paid by the Facilities' users. The SBWMA shall be solely

responsible for determining the amount of any charge to recover these pass-through costs. The Members hereby agree to pass any such charge as approved by the SBWMA, to users as part of the Solid Waste, Recyclable Material and Plant Material and Transfer and Transport and Processing rate, without reduction, limitation, offset, or adjustment of any kind.

12.3 SBWMA Records and Accounts. The Finance Director shall maintain accurate and correct books of account showing in detail revenues and expenditures, together with supporting documentation including, but not limited to, receipts, invoices, and vouchers for SBWMA financial transactions.

12.4 Facilities Records and Accounts. The Finance Director shall maintain or cause to be maintained accurate and correct books of account of the Facilities' operations showing in detail revenues and expenditures, together with supporting documentation including, but not limited to, receipts, invoices, and vouchers.

12.5 Revenue Bond Payments. The revenue stream pledged to the Revenue Bonds may in no way be used for any purpose other than to make payment on the indebtedness associated with those bonds. Such revenues are not in any way considered revenues to the Agencies, and may not be used for any other purpose unless and until such Revenue Bonds are defeased or repaid in full.

12.6 Franchise Fee Payments. Monthly, SBWMA shall distribute to the City of San Carlos, from funds received from Contractor, one twelfth (1/12th) of the annual franchise fee agreed to by the SBWMA and the City of San Carlos for the operation of the Facilities.

12.7 Priority of Distribution of Funds Received by SBWMA. Monthly, the SBWMA shall receive funds from the Contractor of the Facilities under Section 6.04 of the Agreement for the Operation of the South Bayside Waste Management Authority's Transfer Station and Recyclery. The SBWMA shall distribute the funds received in accordance with the following priority:

- a. Debt Service Payments.
- b. Contributions to Reserves.
- c. Management Costs.
- d. Payment of Franchise Fees to the City of San Carlos.
- e. Such other distribution as authorized by the Board.

ARTICLE 13. SBWMA ADMINISTRATION POWERS

13.1 Assertion of Authority. The Members shall not engage in any action that would duplicate, circumvent, by-pass, or supersede the SBWMA's powers, as expressed in this Agreement.

13.2 Facility Operator. The Members agree that the SBWMA shall have sole authority to operate or contract for the operation of the Facilities, and have sole authority to direct the delivery of all or a portion of each Member's Solid Waste, Recyclable Material, and Plant Material to the Facilities, except as provided in Exhibit D hereto. No Member shall take any action in any manner, inconsistent with the terms of this Agreement.

13.3 Operating Records. The SBWMA will cause the Facilities' Contractor to maintain accurate, timely, and complete records of operations at the Facilities, as necessary to comply with any CIWMA or other State requirements, or this Agreement.

13.4 Operations Reporting. The SBWMA shall cause the Facilities' Contractor to compile information and report on any of its Facilities operations, in accordance with the CIWMA and this Agreement.

13.5 Solid Waste Reporting. The SBWMA shall cause the Facilities' Contractor to compile and report to the CIWMA and other State of California agencies data on Solid Waste accepted at the Facilities, all on behalf of the Members.

13.6 Require Compliance with Laws. The SBWMA shall require the Facilities Contractor to operate said Facilities in compliance with all Federal, State, and local laws, Environmental Laws, guidelines, and regulations, as may exist, or as may exist from time to time.

13.7 Bond Payment Review. The SBWMA shall at least annually review the Revenue Bond payment history and payment projections to the end of bond repayment.

13.8 Bond Management. The SBWMA shall periodically consider defeasing the Revenue Bonds and refinancing any existing debt to the economic benefit of the Members, as market conditions allow.

13.9 Bond Reserves The SBWMA shall maintain at least the minimum reserve fund requirements specified in the Revenue Bond covenants.

13.10 Asset Reserves. The SBWMA shall establish and maintain an asset replacement reserve fund at a level at least adequate to finance appropriate and ordinary asset replacement at the Facilities.

13.11 Annual Inspection. At least annually, the SBWMA shall inspect or cause to be inspected by a qualified and licensed civil engineer all of its Facilities, including all property, land, equipment, and other items owned by the SBWMA.

13.12 Attributing Solid Waste. The SBWMA shall establish a fair and equitable method of attributing Solid Waste, Recyclable Materials and Plant Materials to the Members that are delivered to the Facilities.

13.13 Miscellaneous. The SBWMA may operate programs, conduct analyses, and perform studies from time to time, all in support of the purposes under this Agreement, as the Board so approves.

13.14 Member Cooperation. Members agree to cooperate in the accumulation of information supporting goals approved by the Board, as provided in this Agreement.

ARTICLE 14. PENALTIES

14.1 Apportionment of Penalties. Any penalties assessed by regulatory authorities against the SBWMA shall be paid by the SBWMA.

ARTICLE 15. WITHDRAWAL FROM SBWMA

15.1 Withdrawal Conditions. A Member may not withdraw from the SBWMA unless and until that Member achieves the following:

- a. The liquidation in full of its proportion of any and all existing debts, obligations, and liabilities incurred, earned, or expected to be earned by the date of withdrawal, including but not limited to the Revenue Bonds, as determined by the Board.
- b. The provision to the SBWMA of a written notice of intent to withdraw from the SBWMA at least six (6) months prior to the end of the current Rate Year, specifying the date on which the Member intends to withdraw.
- c. The approval of such withdrawal by a 4/5 affirmative vote of Equity Members.

ARTICLE 16. TERMINATION

16.1 Termination Requirements. This Agreement may only be terminated by consent of all Equity Members, and upon full and complete liquidation of all liabilities, including, but not limited to, the Revenue Bonds. Upon the date of termination (hereinafter “Termination Date”), payment of any and all obligations and division of any and all assets of the SBWMA shall be conducted subject to the then-applicable requirements of the law (currently California Government Code §6511 et seq.), pursuant to the following:

- a. In the event of termination of the SBWMA where there is a successor public entity that will conduct all of the activities of the SBWMA and will assume all of its obligations, any and all SBWMA assets and liabilities remaining upon termination of the SBWMA shall be transferred to the successor public agency.
- b. If there is no successor public agency that would conduct the SBWMA’s activities, all assets and liabilities shall be apportioned to each Member in proportion to the contribution of each current Member’s ratepayers’ total contribution during the Term of this Agreement. A reference to ratepayers’ contribution means payment of Collection fees under each jurisdiction’s respective Uniform Franchise Agreement.
- c. If there is a successor public agency that would conduct some of the SBWMA’s activities, then the Board shall allocate the SBWMA’s assets and liabilities between the successor public agency and the Members. In this case, the Members’ portion of the allocation shall be allocated based on Section 16.1(b).
- d. In the event the SBWMA is terminated under circumstances falling within (b) or (c) above, all decisions of the Board with regard to determinations of amounts to be transferred to the Members or any successor shall be final.
- e. The obligations of the SBWMA terminate on the Termination Date, and each Member shall pay all amounts owed to the SBWMA prior to that date. In the event of default by a Member with regard to payment of amounts due, the obligation to pay all sums due to the SBWMA shall survive and remain in full force after the Termination Date.
- f. By unanimous agreement of Equity Members, Equity Members may dispose of, divide, distribute, or return assets on a basis different from that established in this Section 16.1.

ARTICLE 17. AMENDMENTS

17.1 Amendment Requirements. Subject to all legal obligations of the SBWMA, this Agreement may be amended by one or more supplemental agreements executed by a vote of two thirds (2/3) of all Equity and Non-Equity Members of the SBWMA.

17.2 Signature Requirements. Signatures shall not be required on any effective amendment by those Members, if any, whose Directors did not approve the amendment; however, such Members shall nonetheless be bound by the amendment as if it were approved by all Members.

ARTICLE 18. FILINGS

18.1 Filing with Secretary of State. The Chair shall cause to be filed all required notices with the California Secretary of State, in accordance with California Government Codes §6503.5 and 53051.

ARTICLE 19. NOTICES

19.1 Notices to Agencies. All notices to the Agencies shall be deemed to have been given to the Agencies when mailed, postage prepaid by United States mail, or when hand delivered to the governing body of each Agency during usual business hours at the principal office, or to the person apparently in charge of that office.

19.2 Notices to SBWMA. All notices to the SBWMA shall be deemed to have been given to the SBWMA when mailed, postage prepaid by United States mail, or when hand delivered to each of the Chair, Vice Chair, and Finance Director of the SBWMA during usual business hours at the principal office, or to the Person apparently in charge of that office.

ARTICLE 20. SUCCESSORS AND ASSIGNMENTS

20.1 Assignments. This Agreement shall be binding upon and shall inure to the benefit of the successors of any Member. No Member may assign any right or obligation hereunder without the written consent of all other Members.

ARTICLE 21. SEVERABILITY

21.1 Severability If any provision of this Agreement or its application to any Person or circumstances is held invalid or illegal by a final judgment of a court of law in the State of California, the remainder of this Agreement and the application of the provision to other Persons or circumstances shall not be affected.

ARTICLE 22. ARTICLE HEADINGS

22.1 Headings. All section headings contained in this Agreement are for convenience and reference only. They are not intended to define or limit the scope of any provision of this Agreement.

THEREFORE THE AGENCIES LISTED IN EXHIBITS A AND B HERETO AND EXECUTING THIS AGREEMENT BY SIGNING EITHER AS AN EQUITY MEMBER IN EXHIBIT A OR NON EQUITY MEMBER IN EXHIBIT B HEREBY ENTER INTO THIS AGREEMENT.

**EXHIBIT A
EQUITY MEMBERS**

TOWN OF ATHERTON

BY:
TITLE:

CITY OF BELMONT

BY:
TITLE:

CITY OF BURLINGAME

BY:
TITLE:

CITY OF EAST PALO ALTO

BY:
TITLE:

CITY OF FOSTER CITY

BY:
TITLE:

TOWN OF HILLSBOROUGH

BY:
TITLE:

CITY OF MENLO PARK

BY:
TITLE:

CITY OF REDWOOD CITY

BY:
TITLE:

CITY OF SAN CARLOS

BY:
TITLE:

CITY OF SAN MATEO

BY:
TITLE:

WEST BAY SANITARY DISTRICT

BY:
TITLE:

COUNTY OF SAN MATEO

BY:
TITLE:

EXHIBIT B
NON EQUITY MEMBERS

NONE

EXHIBIT C
DEFINITIONS

Unless the context otherwise requires, capitalized terms used in this Agreement will have the meanings specified below in this Exhibit C.

Act

“Act” means the California Joint Exercise of Powers Act (California Government Code Section 6500 et. seq.).

Agency/Agencies

“Agency/Agencies” means the public entities which are or have been Members of the SBTSA and/or the SBWMA.

Agreement

“Agreement” means this joint exercise of powers agreement, as it may be amended from time to time.

Board

“Board” means the governing Board of Directors of the SBWMA, comprising one Director from each of the Members, as described in Article 8 of this Agreement.

Chair

“Chair” means the SBWMA Chair of the Board, as described in Section 8.5 of this Agreement.

CIWMA

“CIWMA” means the California Integrated Waste Management Act of 1989 (California Public Resources Code, §40000 et seq.), and all regulations adopted under that legislation, as that legislation and those regulations may be amended from time to time.

CIWMA Board

“CIWMA” means the California Integrated Waste Management Board, created under the provisions of the CIWMA, whose duties include implementing the CIWMA.

Collect/Collection

“Collect/Collection” means to take physical possession, transport and remove Solid Waste, Recyclable Materials and Plant Materials within and from the Service Area.

Collector

“Collector” means a private organization which holds a franchise from an Agency for Solid Waste Collection.

Contractor

“Contractor” shall mean the entity the SBWMA contracts with to operate the Facilities.

County

“County” means the County of San Mateo, California.

Director

“Director” means the appointed representative from each Member who serves on the governing Board of Directors.

Disposal

“Disposal” means the ultimate disposition of Solid Waste received by Collector at a landfill in Full Regulatory Compliance.

Diversion

“Diversion” means the separation of materials from the overall Solid Waste stream and whose disposition is for reuse or Recycling and not landfill disposal.

Effective Date

“Effective Date” means the effective date of this Agreement, which is December 9, 1999, as provided in Section 4.1.

Environmental Laws

“Environmental Laws” means all federal and state statutes; and all county, local, and Agency ordinances concerning public health, safety, and the environment including, by way of example and not limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 USC §9601 et seq.; the Resource Conservation and Recovery Act, 42 USC §6902 et seq.; the Federal Clean Water Act, 33 USC §1251 et seq.; the Toxic Substances Control Act, 15 USC §1601 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the California Toxic Substances Control Act, California Health and Safety Code §25300 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the California Integrated Waste Management Act, California Public Resources Code §40000 et seq., as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

Executive Director

“Executive Director” means the person appointed by the Board as the executive officer and director of the SBWMA.

Facility/Facilities

“Facility/Facilities” means any plant or site, existing or planned, owned or leased, and constructed, maintained, operated, or used for purposes of performing under this Agreement. As of the Effective Date, the Facilities are: the San Carlos Transfer Station and the San Mateo Recyclery, located at 225, 229, and 333 Shoreway Road, in San Carlos, California.

Fiscal Year

“Fiscal Year” means the period commencing on each July 1 and ending on the following June 30.

Founding Member

“Founding Member” means any one of the public entities listed in Exhibit A and B attached hereto.

Franchise

“Franchise” means the special right granted by the Agencies to operate a public utility for Solid Waste Collection and Processing services within the Service Area.

Full Regulatory Compliance

“Full Regulatory Compliance” means compliance with all applicable permits for a Facility such that the Contractor will at all times maintain the ability to fully comply with its obligations under this Agreement.

Legislation

“Legislation” means any code, ordinance, resolution, or any other forms or enactment of the Agencies or any Member which now exists or which may hereafter be adopted which constitutes law or regulation.

Member

“Member” means any one of the public entities listed in Exhibit A (Equity Members) or Exhibit B (Non Equity Members) attached hereto, and any public entity that becomes a New Member in accordance with Section 6.3 of this Agreement.

Person

“Person” means any individual, firm, association, organization, partnership, corporation, business trust, joint venture, special purpose district, town, city, county, state, or the United States.

Plant Materials

“Plant Materials” means a subset of Recyclable Materials consisting of grass cuttings, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees (not more than six [6] inches in diameter), and similar organic materials generated at residential commercial, industrial and institutional properties within the Service Area, separated and set out for Collection, processing, and Recycling. Plant Materials does not include materials not normally produced from gardens or landscapes, such as, but not limited to, palm fronds, brick, rock, gravel, large quantities of dirt, concrete, sod, non-organic wastes and oil. Diseased plants and trees are also excluded from Plant Materials.

Process/Processing

“Process/Processing” means the Recycling, reuse, reformation, reconstituting, or otherwise manipulation of Solid Waste in preparation for its ultimate use or disposal.

Rate Year

“Rate Year” means the period commencing on January 1 and ending on the following December 31.

Recyclable Materials

“Recyclable Materials” means discarded materials that are re-used, re-manufactured or processed.

Recycling

“Recycling” means the process of collecting, sorting, cleansing, treating and reconstituting discarded materials which meet the quality standards necessary to be re-used, re-manufactured or processed. The Collection, transportation or disposal of Solid Waste not intended for, or capable of, reuse is not Recycling.

Revenue Bonds

“Revenue Bonds” means those certain revenue bonds titled “South Bayside Waste Management Authority (San Mateo County, California) Solid Waste System Revenue Bonds, Series 2000,” and issued in the amount of \$20,090,000 on March 1, 2000.

SBWMA

“SBWMA” means the South Bayside Waste Management Authority, a joint powers authority created under Government Code §6500 et seq. by this Agreement.

SBTSA

“SBTSA” means the South Bayside Transfer Station Authority, a joint powers authority created in 1982.

Service Area

“Service Area” means the collective territory within, and, if applicable, outside the Member’s boundaries with respect to which the Member exercises franchising authority for the Collection of Solid Waste, Recyclable Materials, and Plant Materials which territory is shown on a map on file in the office of the Chair, to which reference is hereby made for the description of said area.

Solid Waste

“Solid Waste” means all putrescible and nonputrescible solid, semisolid, and liquid wastes, as defined in California Public Resources Code S40191, as that section may be amended from time to time. For the purposes of this Agreement, “Solid Waste” does not include abandoned vehicles and parts thereof, Hazardous Waste or low-level radioactive waste, medical waste, Recyclable Materials, or Plant Materials.

Term

“Term” means the period of time specified in Article 4 of this Agreement.

Transfer

“Transfer” means the process of transferring Solid Waste from collection vehicles to transfer vehicles.

Transport

“Transport” means the transportation of Solid Waste in either collection or transfer vehicles.

Uniform Franchise Agreement

“Uniform Franchise Agreement” means the franchise agreement negotiated by the SBWMA with BFI Waste Systems of North American, Inc. or its successor, for the Collection of Solid Waste, Recyclable Materials and Plant Materials in each Agency, as amended.

Exhibit D

Exceptions to the SBWMA power to direct Members' Solid Waste, Recyclable Materials and Plant Materials to the Facilities.

The following sections are excerpts from the Uniform Collection Agreement adopted by SBWMA member entities and details the exceptions to the SBWMA's power to direct Members' Solid Waste, Recyclable Materials and Plant Materials to the Facilities:

2.07 Scope of Franchise. Subject to Section 2.08, the Franchise granted to Contractor shall be exclusive for all Solid Waste, residential Recyclable Materials and residential Plant Materials generated in the Service Area, except where otherwise precluded by Federal, State and local laws and regulations or where other current programs provide for Collection and handling of Household Hazardous Waste.

2.08 Limitations to Scope. The Agreement for the Collection, transportation, processing, and Disposal of Solid Waste, residential Recyclable Materials, and residential Plant Materials granted to Contractor shall be exclusive except as to the following materials listed in this Section. The award of this Agreement shall not preclude the categories of Solid Waste, Recyclable Materials and Plant Materials listed below from being delivered to and Collected and transported by others provided that nothing in this Agreement is intended to or shall be construed to excuse any Person from obtaining any authorization from Agency which is otherwise required by law:

- A. Other recyclers shall maintain the right to charge a fee, to Collect without a fee, to accept donated Recyclable Materials and to pay the service recipient for Recyclable Materials for the Collection of Source Separated Recyclable Materials and Plant Materials from commercial, industrial, multi-family and institutional generators located in the Service Area. For the purposes of this Agreement, Source Separated loads are loads that consist of less than 10% by weight or volume of Solid Waste, whichever is less. It will be the responsibility of Contractor to provide enforcement of this provision. If Contractor can document that other recyclers are servicing Collection Containers that contain less than 90% Source Separated Recyclable Materials or Plant Materials, it shall report the location and the name of the recycler to the Agency and the SBWMA, along with Contractor's evidence of the violation of the exclusiveness of this Agreement.
- B. Solid Waste, Recyclable Materials and Plant Materials, which are removed from any Premises by the Waste Generator, and which are transported personally by the Owner or occupant of such Premises (or by his or her employees or a contractor whose removal of the Solid Waste, Recyclable Materials and/or Plant Materials are incidental to the service being performed
- C. Recyclable Materials and Plant Materials which are Source Separated at any Premises by the Waste Generator and donated to youth, civic, or charitable organizations;

- D. Containers delivered for Recycling under the California Beverage Container Recycling Litter Reduction Act, Section 14500, et. seq. California Public Resources Code;
- E. Plant Materials removed from a Premises by a gardening, landscaping, or tree trimming contractor as an incidental part of a total service offered by that contractor rather than as a hauling service and for no additional or separate fee;
- F. Non-putrescible Waste from roll-off/debris boxes;
- G. Animal waste and remains from slaughterhouse or butcher shops for use as tallow;
- H. By-products of sewage treatment, including sludge, sludge ash, grit and screenings; and,

Hazardous Waste and Designated Waste regardless of its source.

This grant to Contractor of an exclusive right and privilege to Collect, transport, or process and dispose of Solid Waste, certain residential Recyclable Materials, and certain residential Plant Materials shall be interpreted to be consistent with state and federal laws, now and during the term of the Agreement, and the scope of this exclusive right shall be limited by applicable state and federal laws with regard to the matters contained in this Agreement.. In the event that future interpretations of current law or new laws, regulations, interpretations or trends limit the ability of Agency to lawfully provide for the scope of services as specifically set forth herein, Contractor agrees that the scope of the Agreement will be limited to those services and materials which may be lawfully provided and that Agency shall not be responsible for any lost profits or losses claimed by Contractor to arise out of limitations of the scope of the Agreement set forth herein. In such an event, it shall be the responsibility of Contractor to minimize the financial impact to other services being provided as much as possible.

2.09 Additional Services and Modifications to Service

2.09.1 General. Agency may direct Contractor to perform additional services (including new diversion programs, billing services, etc.) or modify the manner in which it performs existing services. Pilot programs and innovative services which may entail new Collection methods, targeted routing, different kinds of services and/or new requirements for Waste Generators are included among the kinds of changes which Agency may direct. Contractor shall be entitled to an adjustment in its compensation in accordance with Article 6 for providing such additional or modified services.

2.09.2 New Diversion Programs. Contractor shall present, within 30 days of a request to do so by Agency, a proposal to provide additional or expanded diversion services. At a minimum, the proposal shall contain a complete description of the following:

- A. Collection methodology to be employed (equipment, manpower, etc.).
- B. Equipment to be utilized (vehicle number, types, capacity, age, etc.)

- C. Labor requirements (number of employees by classification).
- D. Type of materials containers to be utilized.
- E. Provision for program publicity/education/marketing.
- F. Estimate of the tonnage to be diverted and the methodology for determining that diverted tonnage.
- G. Five-year projection of the financial results of the program's operations in a balance sheet and operating statement format including documentation of the key assumptions underlying the projections and the support for those assumptions, giving full effect to the savings or costs to existing services.

2.09.3 Agency's Right to Permit Others to Provide Services. Contractor acknowledges and agrees that Agency may permit other Persons besides Contractor to provide additional Solid Waste services not otherwise contemplated under Section 2.07 and 2.08 of this Agreement. If Contractor and Agency cannot agree on terms and conditions of such services in one hundred twenty (120) days from the date when Agency first requests a proposal from Contractor to perform such services, Contractor acknowledges and agrees that Agency may permit Persons other than Contractor to provide such services.

RESOLUTION No. 05-__

A RESOLUTION OF THE TOWN OF ATHERTON APPROVING THE FIRST AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT FOR THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY

WHEREAS, the Joint Exercise of Powers Agreement (JPA) for the South Bayside Waste Management Authority (SBWMA) was entered into on December 9, 1999; and

WHEREAS, the member agencies amended the JPA on June 4, 2002, to change the definition of "Fiscal Year"; and

WHEREAS, the SBWMA Board recommends member agencies approve the First Amended and Restated Joint Exercise of Powers Agreement to establish the position of Executive Director, include items that require member agency approval, clarify member agency staff positions for Board membership, and to have the Board annually select the Chair.

NOW, THEREFORE, BE IT RESOLVED that the Town of Atherton City Council agrees to approve the First Amended and Restated Joint Powers Agreement for the South Bayside Waste Management Authority.

* * * * *

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 16th day of November, 2005, by the following vote:

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

William R. Conwell, Mayor
Town of Atherton

ATTEST:

APPROVED AS TO FORM:

Linda Kelly, Acting City Clerk

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



Town of Atherton

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

FROM: POLICE CHIEF ROBERT J. BRENNAN

DATE: FOR THE CITY COUNCIL MEETING OF OVEMBER 16, 2005

SUBJECT: SAN MATEO COUNTY NARCOTICS TASK FORCE JPA AMENDMENT

RECOMMENDATION:

Staff recommends that the Mayor sign the updated Joint Powers Agreement in order to continue our participation in the San Mateo County Narcotics Task Force.

INTRODUCTION:

The San Mateo County Narcotics Task Force has been in existence for over 20 years. The task force was formed to address narcotics trafficking within the entire jurisdiction contained within its boundaries and borders. In order to establish a task force of this kind, a Joint Powers Agreement was written and a Joint Powers Board was established on March 26, 1985. This proposed amendment is only the second since its inception.

ANALYSIS:

The substantive changes contained in the amendment do not affect the operation of the task force, its member cities, or its tasks and resulting goals derived from its inception. The changes include dates for budget preparation, dates of intended withdrawal from the task force, and insurance limits. The City Attorney has reviewed the attachment and finds it serves the interest of Atherton as it is currently written and proposed.

FISCAL IMPACT:

The proposed amendment will not change the population-based formula of how contributions from individual member cities are calculated to support the task force. There should not be any significant costs associated with the signing of the amendment.

Prepared by:

Approved by:

Robert J. Brennan
Chief of Police

James H. Robinson
City Manager

Attachment

SECOND AMENDMENT TO JOINT POWERS AGREEMENT
ESTABLISHING THE
SAN MATEO COUNTY NARCOTICS TASK FORCE

THIS AMENDMENT to the agreement dated March 26, 1985, by and between the COUNTY OF SAN MATEO, hereinafter referred to as "County," and the signatories to said agreement, hereinafter referred to as "City" or "Cities";

WITNESSETH:

WHEREAS, the parties have entered into a Joint Powers Agreement dated March 26, 1985, (Resolution No. 46673) which created the SAN MATEO COUNTY NARCOTICS TASK FORCE; and

WHEREAS, that Joint Powers Agreement was first amended on February 23, 1988 (Resolution No. 50097)

WHEREAS, it has become apparent that certain changes should now be made to the Joint Powers Agreement, and it is therefore the intention of the parties to further amend said agreement;

NOW, THEREFORE, IT IS HEREIN AGREED:

1. The Introductory paragraph of the joint powers agreement is hereby amended to read as follows:

"THIS AGREEMENT by and between the COUNTY OF SAN MATEO (hereinafter referred to as the "County") and those cities and law enforcement agencies within the County of San Mateo who become signatories to this agreement (hereinafter referred to as "the Cities" or "City" as the context requires), is made in light of the following recitals:"

2. Section 6 of the joint powers agreement is hereby amended to read as follows:

6. Budget. Narcotics Task Force Staff shall prepare and submit to the Board each year a proposed operating budget, setting forth anticipated expenses, financing sources and proposed service levels necessary to carry out the purposes of this agreement. The Board shall review the proposed budget, modify as needed, and approve the Task Force's budget prior to the commencement of the new fiscal year. The fiscal year for the Narcotics Task Force shall be from July 1 of each year to June 30 of the following year unless the Board decides otherwise. Immediately after approving the annual budget, the Board shall recommend the budget to the governing body of the County and each of the Cities for the purposes of securing from each of them contributions and/or appropriations in accordance with each party's obligation as set forth in Section 7 below. It is expressly agreed and understood that the Board has no authority to bind any governing board to make the recommended contribution and/or appropriation and that this decision rests solely with each governing body. The County shall notify each party of its yearly contribution, and each party shall deposit its monetary contribution to the budget with the County within 60 days after notification of the amount.

3. Section 13 of the joint powers agreement is hereby amended to read as follows:

13. Withdrawal. Any party may withdraw from this agreement by filing written notice of intention to do so with the Chairman of the governing board by April 30 of each year. The rights and obligations of such party shall terminate at the end of the fiscal year in which such notice is given. The withdrawal of party from this agreement shall in no way affect the rights and obligations of the remaining party unless the withdrawal is by the County in which event this Agreement shall terminate. If a party withdraws from this agreement, such party shall not

be entitled to the return of any funds contributed to the Narcotics Task Force nor to the return in cash or in kind of any materials or supplies (other than vehicles or communication equipment) until termination of this agreement. If a party withdraws from this agreement, its employees shall cease working for the Narcotics Task Force on the effective date of such a party's withdrawal. If a party fails to make its contribution of either personnel or money in accordance with Section 7 of this agreement, it will be deemed to have withdrawn as of the end of the fiscal year in which it last made its contribution.

4. Section 20 of the joint powers agreement is hereby amended to read as follows:

20. Insurance. The County shall continue to add the Narcotics Task Force to its excess liability insurance coverage and shall maintain such coverage in full force and effect during the life of this agreement. Said excess liability insurance coverage has a self-insured retention by the County. County shall provide for the defense of any claims or litigation against the Narcotics Task Force or its permanently assigned personnel within the self-insured retention. Permanently assigned personnel are those persons working under the supervision and direction of the Commander. Legal representation for any such claims or litigation will ordinarily be provided by the office of the County Counsel.

Any out-of-pocket expenses or loss by way of judgment or settlement, arising out of the acts or omissions of the Narcotics Task Force and its permanently assigned personnel within the limits of the County's self-insured retention, shall be shared by the parties in accordance with the following formula:

Fifty percent (50%) to be paid by the County and Fifty percent (50%) to be paid by the Cities in accordance with the formula set forth in

section 7(b). Expenses shall not include salaries or office expenses of any County employees, including any attorneys from the office of the County Counsel.

5. Except as noted herein, all other provisions of the March 26, 1985 Joint Powers Agreement and the February 23, 1988 First Amendment thereto shall remain in full force and effect.

6. This Second Amendment may be executed in counterparts, and it shall be effective when each of the parties have executed the agreement.

IN WITNESS WHEREOF, the parties hereto by their duly authorized representatives have affixed their hands on this _____ day of _____, 2005.

COUNTY OF SAN MATEO

ATTEST:

By: _____
President, Board of Supervisors

Clerk of the Board

TOWN OF ATHERTON

ATTEST:

By: _____
Mayor

Clerk of Town Council

CITY OF BELMONT

ATTEST:

By: _____
Mayor

Clerk of City Council

CITY OF BRISBANE

ATTEST:

By: _____
Mayor

Clerk of City Council

CITY OF BURLINGAME

ATTEST:

By: _____
Mayor

Clerk of City Council

CITY OF COLMA

ATTEST:

By: _____
Mayor

Clerk of Town Council

CITY OF DALY CITY

ATTEST:

By: _____
Mayor

Clerk of City Council

CITY OF EAST PALO ALTO

ATTEST:

By: _____
Mayor

Clerk of City Council

CITY OF FOSTER CITY

ATTEST:

By: _____
Mayor

Clerk of City Council

CITY OF HALF MOON BAY

ATTEST:

By: _____
Mayor

Clerk of City Council

CITY OF HILLSBOROUGH

ATTEST:

By: _____
Mayor

Clerk of City Council

CITY OF MENLO PARK

ATTEST:

By: _____
Mayor

Clerk of City Council

CITY OF MILLBRAE

ATTEST:

By: _____
Mayor

Clerk of City Council

CITY OF PACIFICA

ATTEST:

By: _____
Mayor

Clerk of City Council

TOWN OF PORTOLA VALLEY

ATTEST:

By: _____
Mayor

Clerk of Town Council

CITY OF REDWOOD CITY

ATTEST:

By: _____
Mayor

Clerk of City Council

CITY OF SAN BRUNO

ATTEST:

By: _____
Mayor

Clerk of City Council

CITY OF SAN CARLOS

ATTEST:

By: _____
Mayor

Clerk of City Council

CITY OF SAN MATEO

ATTEST:

By: _____
Mayor

Clerk of City Council

CITY OF SOUTH SAN FRANCISCO

ATTEST:

By: _____
Mayor

Clerk of City Council

TOWN OF WOODSIDE

ATTEST:

By: _____
Mayor

Clerk of Town Council

BROADMOOR POLICE
PROTECTION DISTRICT

ATTEST:

By: _____
Commissioner



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE CITY COUNCIL MEETING OF NOVEMBER 16, 2005

SUBJECT: TERMINATION OF CRIMINAL JUSTICE COUNCIL

RECOMMENDATION:

Adopt a resolution authorizing the execution of an amendment to the Joint Powers Agreement Establishing the Criminal Justice Council of San Mateo County, which amendment would disband the Criminal Justice Council.

BACKGROUND:

In 1971, the county and the cities entered into a Joint Powers Agreement to establish the Criminal Justice Council of San Mateo County, the purpose of which was to administer programs and funding issued by the State Office of Criminal Justice Planning under the Federal Crime Control Act of 1973. The Council has functioned effectively for more than thirty years. However, the funding for said programs no longer exists; and, therefore, there are no programs to be administered by the Criminal Justice Council. Therefore, the governing body of the Criminal Justice Council has recommended that the JPA should be terminated and the Criminal Justice Council of San Mateo County should be disbanded.

ANALYSIS:

The JPA provides that upon termination of the Council, property and surplus money of the Criminal Justice Council shall, subject to the provisions of any federal or state grant agreement, be returned to the parties in the same proportions in which such parties made contributions to the Council. The JPA provides that the agreement may be amended at

any time by the written agreement by and between the County and those signatory city governments representing collectively fifty percent (50%) of the total population within the County.

The parties have agreed that the best course of action is to terminate the Joint Powers Agreement that established the Criminal Justice Council, to disband the Council, and to return the surplus funds pursuant to the formula set forth in the agreement.

Attachments: Amendment
Resolution

RESOLUTION 05-

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
AUTHORIZING EXECUTION OF AN AMENDMENT TO THE JOINT POWERS
AGREEMENT ESTABLISHING THE CRIMINAL JUSTICE COUNCIL OF SAN
MATEO COUNTY, TERMINATING THE JOINT POWERS AGREEMENT**

WHEREAS, the County of San Mateo and the cities in the county have entered into a Joint Powers Agreement (hereafter, "JPA") establishing the Criminal Justice Council of San Mateo County, the purpose of which is to administer programs and funding issued by the State Office of Criminal Justice Planning under the Federal Crime Control Act of 1973; and

WHEREAS, the funding for said programs no longer exists, and therefore there are no programs to be administered by the Criminal Justice Council; and

WHEREAS, the governing body of the Criminal Justice Council has recommended that the JPA should be terminated and that the Criminal Justice Council of San Mateo County should be disbanded, and all parties have agreed to terminate the Joint Powers Agreement that established the Criminal Justice Council; and

WHEREAS, this Council has been presented for its consideration and execution an amendment to the Joint Powers Agreement, which amendment would enable the termination of the Criminal Justice Council, reference to which is hereby made for further particulars; and

WHEREAS, this Council has examined and approved said Amendment as to both form and content and desires to enter into the same.

NOW THEREFORE, BE IT RESOLVED by the City Council of the Town of Atherton that the Mayor is hereby authorized and directed to execute said Amendment to the Joint Powers Agreement Establishing the Criminal Justice Council for and on behalf of the City of Atherton, which amendment shall terminate the agreement, and the Clerk shall attest his signature thereto.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the 16th day of November, 2005, by the following vote.

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

William R. Conwell
Mayor, Town of Atherton

ATTEST:

Linda Kelly, Acting City Clerk

APPROVED AS TO FORM:

/s/ Marc Hynes
Marc Hynes, City Attorney

**AMENDMENT TO THE JOINT EXERCISE OF POWERS AGREEMENT
CREATING THE CRIMINAL JUSTICE COUNCIL OF SAN MATEO COUNTY
(TERMINATION OF JOINT POWERS AGREEMENT)**

WHEREAS, the parties have entered into a Joint Powers Agreement (hereafter, “JPA) establishing the Criminal Justice Council of San Mateo County; and

WHEREAS, Recital A and § I of the JPA specify that the purpose of the Criminal Justice Council is to administer programs and funding issued by the State Office of Criminal Justice Planning under the Federal Crime Control Act of 1973; and

WHEREAS, consistent with Recital B of the JPA, the State Office has designated the geographical area of the County of San Mateo as “Region H” for the purpose of administering said programs and funding; and

WHEREAS, the funding for said programs no longer exists, and therefore there are no programs to be administered by the Criminal Justice Council; and

WHEREAS, § II of the JPA provides that the Criminal Justice Council is governed by a governing body, whose membership is set forth in the JPA, and said governing body has recommended that the JPA should be terminated and the Criminal Justice Council of San Mateo County should be disbanded; and

WHEREAS, § VI.F. of the JPA provides that upon termination of the Council, property and surplus money of the Criminal Justice Council shall, subject to the provisions of any federal or state grant agreement, be returned to the parties in the same proportions in which such parties made contributions to the Council; and

WHEREAS, § XI of the JPA provides that the agreement may be amended at any time by the written agreement by and between the County and those signatory city governments representing collectively fifty percent (50%) of the total population within Region H; and

WHEREAS, the parties, therefore, wish to terminate the Joint Powers Agreement that established the Criminal Justice Council.

NOW THEREFORE IT IS AGREED AS FOLLOWS:

1. The Joint Powers Agreement establishing the Criminal Justice Council of San Mateo County is hereby terminated.
2. This termination will be effective upon the execution of this amendment by written agreement by and between the County and those signatory city governments representing collectively fifty percent (50%) of the total population within Region H.
3. This amendment may be executed in counterparts.
4. Upon termination of the Joint Powers Agreement, the property and surplus money of the Criminal Justice Council shall, subject to the provisions of any federal or state grant agreement, be returned to the parties in the same proportions in which such parties made contributions to the Council in FY 2004-2005.
5. Each member of the Criminal Justice Council shall complete and execute the necessary Conflict of Interest Form 700 for leaving office.

Agreed this _____ day of _____, 2005

Town of Atherton

By

William R. Conwell, Mayor

APPROVED AS TO FORM

Marc G. Hynes
Marc G. Hynes, City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF NOVEMBER 16, 2005

**SUBJECT: ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE
OF COMPLETION AND APPROVAL OF CONTRACT CHANGE
ORDERS IN THE AMOUNT OF \$12,267.00 FOR THE 2004 STREET
RECONSTRUCTION -PHASE 1, PROJECT NUMBER 03-011.**

RECOMMENDATION:

Accept the work, authorize recording of a Notice of Completion and approve contract change orders in the amount of \$12,267.00 for the 2004 Street Reconstruction - Phase 1, Project Number 03-011.

INTRODUCTION:

The Council awarded a contract in June 2004 to G. Bortolotto & Company for the 2004 Street Reconstruction – Phase I project. The authorized contract amount was \$655,605.48, with a \$65,560.45 construction contingency, for a total authorized amount of \$721,166.03. Work under the contract has been completed.

ANALYSIS:

The original contract price was for \$655,605.48, with a \$65,560.45 construction contingency, for a total authorized amount of \$721,166.03. There was one field directive change order totaling \$12,267.00. On the remainder of the project, quantities were less than the bid estimate, resulting in a decrease in cost. The contract changes were as follow:

- | | |
|--|---------------------|
| 1. Original Contract | \$655,605.48 |
| 2. Additional Grinding and Patches at Oak Grove Avenue | \$12,267.00 |
| 3. Quantity Changes | <u>\$(8,748.84)</u> |

TOTAL \$ 659,123.64

FISCAL IMPACT:

Funding for this project in the amount of \$788,000 in Parcel Tax funds was included in the FY 2003/04 budget. The final cost of this segment of work is \$659,123.64, less than the budget estimate.

CONCLUSION:

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

Prepared by:

Approved by:

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

James H. Robinson
City Manager

Attachment: Notice of Completion
Certificate of Completion

RECORD REQUESTED BY:

TOWN OF ATHERTON
AND WHEN RECORDED MAIL TO:

CITY CLERK, TOWN OF ATHERTON

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

No fee pursuant to Government Code Section 6103

SPACE ABOVE THIS LINE FOR RECORDER'S USE

TOWN OF ATHERTON
NOTICE OF COMPLETION

2004 STREET RECONSTRUCTION PROJECT – PHASE I
PROJECT NO. 03-011
ATHERTON, CALIFORNIA

NOTICE IS HEREBY GIVEN THAT Duncan L. Jones, Engineer of Work for the Town of Atherton, County of San Mateo, California, on the Seventh day of November, 2005, did file with the City Clerk of said Town a Certificate of Completion, for the work described in the construction contract awarded to G. Bortolotto & Company, Inc. on the Sixteenth day of June, 2004, said contract being executed on the Seventeenth day of June, 2004.

That said work and improvements were accepted as completed on the Fourth day of November, 2005, and that acceptance for completion of said work was ordered by Motion of the City Council of said Town, adopted on the Sixteenth day of November, 2005, and that the name of the surety on the Contractor's bond for performance, labor and materials on said project is Travelers Casualty & Surety Company of America.

That said work and improvements consisted of layout of work, removal and replacement of asphalt concrete pavement on Greenoaks Drive (approximately 2,400 linear feet), Acorn Way, Deodora Drive, Larch Drive, Gresham Lane cul-de-sac (approximately 170 linear feet), Stockbridge Avenue cul-de-sac and Tallwood cul-de-sac, replacement of concrete valley gutter and installation of rolled curbs as described in the plans and specification approved by the City Council of the Town of Atherton pursuant to motion, adopted the twenty-first day of April, 2004.

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

BY: _____
City Engineer

Date

ATTEST: _____
City Clerk

Date

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

(Date and Place) (Signature)

CERTIFICATE OF COMPLETION

TOWN OF ATHERTON

PROJECT NAME: 2004 STREET RECONSTRUCTION PROJECT – PHASE I
PROJECT NUMBER: 03-011
LOCATION: Various

NOTICE IS HEREBY GIVEN:

1. That on November 4, 2005, the Public Works project known as 2004 Street Reconstruction Project – Phase I was completed in accordance with the plans and specifications as required by the Town of Atherton.

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

Town of Atherton
91 Ashfield Road
Atherton, California 94027.

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

G. Bortolotto & Company, Inc.
580 Bragato Road
San Carlos, CA 94070-6227

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

Travelers Casualty & Surety Company of America
560 San Antonio Road
Palo Alto, CA 94306

5. Layout of work, removal and replacement of asphalt concrete pavement on Greenoaks Drive (approximately 2,400 linear feet), Acorn Way, Deodora Drive, Larch Drive, Gresham Lane cul-de-sac (approximately 170 linear feet), Stockbridge Avenue cul-de-sac and Tallwood cul-de-sac, replacement of concrete valley gutter, and installation of rolled curbs as more particularly described in plans and specification and approved by the City Council of the Town of Atherton pursuant to Motion, adopted the twenty-first day of April, 2004.

BY:

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

Date

ATTEST:

Linda Kelly
Acting City Clerk

Date



Town of Atherton

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

FROM: POLICE CHIEF ROBERT J. BRENNAN

DATE: FOR THE CITY COUNCIL MEETING OF NOVEMBER 16, 2005

SUBJECT: DECLARATION OF SURPLUS PROPERTY

RECOMMENDATION:

The City Council declare specific Town property as surplus and authorize the City Manager, or his designee, to dispose of identified property.

INTRODUCTION:

Periodically, the Town disposes of Town-owned property that is no longer needed. The Council is being requested at this time to declare the items described in Exhibit A as surplus.

ANALYSIS:

The disposal of surplus property is a routine procedure that all municipalities routinely conduct. The items in Exhibit A were purchased for use within the Atherton Police Department. These items are no longer needed and/or have surpassed their useful life. In this particular case, the Police Department requests authorization to sell these items on the Internet (EBay) to generate funds for the Town. This request includes opening an EBay account, listing the items for sale, and shipping the items to the purchasers. All proceeds will be presented to the Finance Director for deposit. Other police departments across the nation are successfully liquidating their surplus property in this fashion. Staff will report to Council on the success of this new endeavor of surplus property disposal.

CONCLUSION:

The approval of this request will facilitate the disposal of surplus property and generate funds for the Town.

FISCAL IMPACT:

None.

Prepared by:

Approved by:

Robert Brennan
Chief of Police

James H. Robinson
City Manager

Attachments: Exhibit A

Appendix A

10 Riot Helmets

8 Safariland Holsters (9mm)

5 small frame pancake holsters

5 paintball guns and accessories

7 paintball protective masks

26 gas masks with carrying bags.



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: JOHN P. JOHNS, FINANCE DIRECTOR

DATE: FOR THE CITY COUNCIL MEETING OF NOVEMBER 16, 2005

**SUBJECT: QUARTERLY INVESTMENT REPORT, FOR THE QUARTER ENDED
SEPTEMBER 30, 2005**

RECOMMENDATION:

Note, receipt and file.

INTRODUCTION:

This is the quarterly status report of the Town's investments in the Local Agency Investment Fund (LAIF) and the San Mateo County Investment Pool (SMCIP) for the quarter ending September 30, 2005.

DISCUSSION:

As of September 30, 2005, the Town had a total investment of **\$13,010,282**. The total interest earning for the quarter ending June 30, 2005, amounted to **\$106,642**. The funds are invested in the San Mateo County Investment Pool (SMCIP) and the Local Agency Investment Fund (LAIF).

During the fourth quarter of FY 2004-05, interest earnings on funds invested with LAIF amounted to an annual rate of 3.18 percent of the average daily cash balance of funds invested. This compares to an annual interest earnings of 3.24 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 September 30, 2005, the County's investment pool carried investments with a total value at cost of \$2 billion and an average duration of 1.3 years. The Town's investment with the San Mateo County Investment Pool as of June 30, amounted to \$8,308,825, or 64 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 September 30, 2005.

Investment in LAIF: Local Agency Investment Fund (LAIF) is created and managed by the California State Treasurer as part of the Treasurer's Pooled Money Investment Account (PMIA). According to the State Treasurer, 2,733 local government agencies and special districts participate in LAIF with total investments amounting to approximately \$18.3 billion or roughly 34 percent of the \$52.3 billion that the State Treasurer manages in the PMIA. (Since LAIF investments are combined with PMIA, the Treasurer does not report the results for LAIF separately).

The Town's investment with LAIF as of June 30, 2005, amounted to \$4,701,457, or 36 percent of the Town's total investment holdings.

The average duration to maturity of PMIA as of August 31, 2005 (the most recent date available of the pooled money investment report is available) was 183 days. Attachment 2 to this report provides a summary of investment holdings for the PMIA as of August 31, 2005.

FISCAL IMPACT:

Informational only.

Prepared by:

Approved by:

John P. Johns
Finance Director

James H. Robinson
City Manager

ATTACHMENTS:

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

Attachment 1

COUNTY OF SAN MATEO
ESTIMATED SUMMARY OF POOL EARNINGS
FOR THE 1ST QUARTER ENDED SEPTEMBER 30, 2005

	<u>09/30/05</u>	<u>Gross</u>
	<u>Par Value</u>	<u>Earnings</u>
<u>Fixed Income Investments</u>		
U S Treasury Notes	\$400,000,000	\$2,177,809
Corporate Notes	\$232,000,000	\$1,760,577
Asset Backed Securities	\$11,000,000	\$18,037
Federal Agencies	\$305,000,000	\$1,871,518
Floating Rate Securities	\$132,000,000	\$351,650
<u>Short Term Investments</u>		
Repurchase Agreements	\$104,000,000	\$9,389
Corporate Notes	\$67,000,000	\$507,883
Federal Agencies	\$275,000,000	\$1,342,804
Floating Rate Securities	\$92,000,000	\$178,860
Commercial Paper	\$300,000,000	\$79,000
Certificate of Deposit	\$25,000,000	\$208,885
LAIF	\$37,000,000	\$293,618
SUBTOTAL - ACCRUED INCOME	\$1,980,000,000	\$8,795,730
<u>Realized Gain/Loss & Interest Received</u>		
Repurchase Agreements		\$1,866,749
U S Treasury Notes		\$373,936
Corporate Notes		\$890,137
Asset Backed Securities		\$283
Federal Agencies		\$2,278,480
Floating Rate Securities		\$1,342,387
Commercial Paper		\$1,399,284
LAIF		\$3,539
Securities Lending Income		\$100,841
GROSS POOL RATE/EARNINGS*	3.32%	<u>\$17,049,346</u>

<u>POOL BREAKDOWN</u>	<u>Pool 1</u>	<u>Pool 2</u>	<u>Pool 3</u>	<u>TOTAL</u>
Average Balance	315,815,000	355,563,931	1,367,805,018	2,039,183,950
Gross Earnings	2,640,487	2,972,823	11,436,036	17,049,346
Admin Fees	(99,503)	(112,027)	(430,952)	(642,483)
Bank Fees	(62,889)	(41,913)		(104,782)
Net Earnings	<u>2,478,115</u>	<u>2,818,883</u>	<u>11,005,084</u>	<u>16,302,081</u>
Net Earnings %	3.11%	3.15%	3.19%	3.17%

Earnings %'s are based on Q1 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

PHIL ANGELIDES
TREASURER
STATE OF CALIFORNIA

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

TYPE OF SECURITY	August 31, 2005		
	AMOUNT	PERCENT OF PORTFOLIO	DIFFERENCE IN PERCENT OF PORTFOLIO FROM PRIOR MONTH
Government			
Bills	\$ 2,968,395	5.80	+1.30
Bonds	0	0.00	0.00
Notes	4,021,727	7.85	-0.18
Strips	0	0.00	0.00
Total Government	\$ 6,990,122	13.65	+1.12
Federal Agency Coupons	\$ 7,410,440	14.47	+0.99
Certificates of Deposit	10,370,119	20.26	-0.35
Bank Notes	900,000	1.76	-0.71
Bankers' Acceptances	0	0.00	0
Repurchases	0	0.00	0
Federal Agency Discount Notes	6,417,348	12.53	-1.27
Time Deposits	7,355,495	14.36	+0.59
GNMAs	312	0.00	0
Commercial Paper	5,483,959	10.71	+0.58
FHLMC/Remics	502,969	0.98	-0.01
Corporate Bonds	1,083,884	2.13	-0.27
AB 55 Loans	5,087,167	9.93	+0.11
GF Loans	0	0.00	0
Reversed Repurchases	(397,475)	(0.78)	+0.78
Total (All Types)	\$ 51,204,340	100.00	

INVESTMENT ACTIVITY

	AUGUST 2005		JULY 2005	
	NUMBER	AMOUNT	NUMBER	AMOUNT
Pooled Money	448	\$ 21,682,046	428	\$ 18,728,973
Other	6	144,281	12	133,941
Time Deposits	150	3,549,500	146	4,221,190
Totals	604	\$ 25,375,827	586	\$ 23,084,104
PMIA Monthly Average Effective Yield	3.179		3.083	
Year to Date Yield Last Day of Month	3.130		3.083	



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 NOVEMBER 16, 2005

SUBJECT: ANIMAL CONTROL ORDINANCE

RECOMMENDATION:

Adopt revisions to Chapter 6.04 of the Atherton Municipal Code (Section 6.04.010 and following) to conform with recent amendments to the San Mateo County Animal Control Ordinance.

BACKGROUND:

The City Council has considered revisions to Chapter 6.04 of the Atherton Municipal Code and introduced the Ordinance at its regular meeting on October 19, 2005. A slight revision was made to Section 6.04.150 which appears in Section 13 of the Ordinance. A reference to the provisions of Section 64.04.095 pursuant to which a hearing may be requested has been revised from subparagraphs (a) – (g) to subparagraphs (a) to (h).

A simple majority vote is required to adopt the Ordinance which will then take effect 30 days from and after its adoption.

FISCAL IMPACT:

None.

Respectfully,

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



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 NOVEMBER 16, 2005

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The City Council has considered revisions to Chapter 6.04 of the Atherton Municipal Code and introduced the Ordinance at its regular meeting on October 19, 2005. A slight revision was made to Section 6.04.150 which appears in Section 13 of the Ordinance. A reference to the provisions of Section 64.04.095 pursuant to which a hearing may be requested has been revised from subparagraphs (a) – (g) to subparagraphs (a) to (h).

A simple majority vote is required to adopt the Ordinance which will then take effect 30 days from and after its adoption.

FISCAL IMPACT:

None.

Respectfully,

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



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF NOVEMBER 16, 2005

**SUBJECT: APPOINTMENT OF REPRESENTATIVE TO THE SAN MATEO
COUNTY MOSQUITO ABATEMENT DISTRICT BOARD OF TRUSTEES**

RECOMMENDATION:

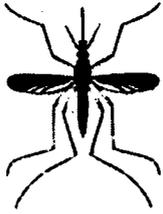
Accept Screening Committee recommendation to reappoint Doris Kellett to the San Mateo County Mosquito Abatement District Board of Trustees for a term of four years.

BACKGROUND:

The San Mateo County Mosquito Abatement District has notified the Town that the current term of office for Doris Kellett, Atherton representative to the Board of Trustees, is due to expire on December 31, 2005.

Staff contacted the Council Screening Committee, consisting of Mayor Conwell and Vice Mayor Marsala, regarding the appointment. The Screening Committee recommends that Atherton resident Doris Kellett be re-appointed to a four-year term on the San Mateo County Mosquito Abatement District Board of Trustees.

Attachment



**SAN MATEO COUNTY
MOSQUITO ABATEMENT DISTRICT
1351 Rollins Road
Burlingame, California 94010-2409
(650) 344-8592
FAX (650) 344-3843
www.smcmad.org**

October 3, 2005

Town Council
Town of Atherton
91 Ashfield Rd
Atherton, CA 94027

Honorable Members of the Council:

The current term of office for Doris Kellett, representative to the Board of Trustees of this District from the Town of Atherton will expire on December 31, 2005.

It is kindly requested that the appointment or new appointment, be made for the ensuing term of January 1, 2006 through December 31, 2007 or through December 31, 2009, according to the 1987 California Health and Safety Code, Article 3. Section 2245c:

“The first term of any member shall not exceed two years. Each subsequent consecutive reappointment, if any, may be for a term of two or four years, at the discretion of the appointing power”.

The common law incompatibility of office doctrine was addressed in SB 1574, Beverly, and now a City Council member may be appointed to the Board of Trustees.

Once an appointment is made, please forward a letter to that fact indicating the term length. Thank you for your attention to this request.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Karen Williams'.

Karen Williams
Finance Administrator
Clerk of the Board

cc: Doris Kellett, Town of Atherton



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF NOVEMBER 16, 2005

SUBJECT: ADOPTION OF A RESOLUTION ADOPTING SALARIES AND BENEFITS FOR MANAGEMENT STAFF FOR FISCAL YEARS 2005-06 THROUGH 2007-08

RECOMMENDATION:

Adopt a resolution adopting salaries and benefits for Management Staff for Fiscal Years 2005-06 through 2007-08

BACKGROUND:

As Council is aware, it is the Town's practice to specify the salaries and benefits for Management personnel in a Management Resolution. The last resolution was adopted in 2002 and covered the Fiscal Years 2002-03 and 2003-04. No increases in salary ranges or benefits for Management personnel occurred during Fiscal Year 2004-05.

The attached draft Resolution is a three year agreement covering the period of July 1, 2005 through June 30, 2008. The significant changes from the last Management Resolution are as follows:

- a. The 70th percentile for salary is provided for in each of the three years, with the highest and lowest salaries removed from the survey array for purposes of the 70th percentile calculation.
- b. Administrative Leave is added, allowing for 40 hours of additional leave each year, in recognition of the extra hours required and meetings attended by Management employees outside of normal working hours. A maximum accrual of 60 hours is allowed. No cash out of this leave would be allowed.
- c. The auto allowance for the Public Works Director/City Engineer and the Planning Administrator/Building Official is increased from \$200 to \$300.

The attached draft resolution has the changes highlighted in shaded text.

FISCAL IMPACT:

The fiscal impact of these changes is \$32,711 for Fiscal Year 2005-06. Sufficient funds exist in the current budget to cover this cost.

Attachment

RESOLUTION NO. 05-

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
ADOPTING SALARIES AND BENEFITS FOR MANAGEMENT STAFF
FOR FISCAL YEAR 2005-06 THROUGH 2007-08**

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

WHEREAS, the City Council has determined that it is in the best interests of the Town to bring uniformity to the salaries and benefits of Management employees in the form of a resolution, and

WHEREAS, Attachment A to this Resolution specifies terms and conditions of employment for Management employees for the Fiscal Years 2005-06 through 2007-08.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the Town of Atherton that the salaries and benefits of the Management Employees of the Town of Atherton shall be as stated in Attachment A.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the 16th day of November, 2005, by the following vote.

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

William R. Conwell, Mayor
Town of Atherton

ATTEST:

Linda Kelly, Acting City Clerk

APPROVED AS TO FORM:

/s/ Marc Hynes

Marc Hynes, City Attorney

ATTACHMENT A

The purpose of this Management Resolution is to provide salary and benefit information for Management Employees of the Town of Atherton in one document rather than in multiple, individual agreements with various employees.

1. **TERM:** The term of this Resolution is July 1, 2005 through June 30, 2008 (Fiscal Years 2005-06, 2006-07 and 2007-08).

2. **COVERED CLASSIFICATIONS:**

Assistant Finance Director	Planning Administrator/Building Official
Assistant to the City Manager	Police Chief
Associate Engineer	Police Lieutenant
City Clerk*	Public Works Director
Finance Director	Public Works Superintendent
Park Program Manager	

*The City Clerk position was not budgeted for the 2005-06 Fiscal Year.

3. **SALARY:** The Atherton City Council recognizes the importance of maintaining a competitive salary and benefit package for its management employees. In order for this to be possible, it is necessary to establish a list of those municipalities that should be used as benchmark agencies. The following agencies are hereby used as a benchmark for management employees' salaries and benefits: Menlo Park, Hillsborough, Millbrae, San Carlos, Los Gatos, Belmont, Brisbane, San Bruno, Los Altos, Woodside, and Saratoga, with the exception of the Police Lieutenant position, which shall be benchmarked against those agencies utilized as benchmarks in the Atherton Police Officers Association Memorandum of Understanding (MOU).

For the term of this Resolution, July 1, 2005 through June 30, 2008, the City Council authorizes compensation of management employees at the 70th percentile for salary and Public Employees Retirement System (PERS) contribution as compared to like positions with the benchmark agencies. The salary ranges for the first year of this Resolution are as shown in Exhibit "A" – Town of Atherton Management Salary Schedule - Fiscal Year 2005-06. The salary ranges for the second and third years of this Resolution shall be calculated using the benchmark agencies for comparator positions with salaries effective July 1, 2006, and July 1, 2007, utilizing those salary adjustments that are made public by August 15, 2006, and August 15, 2007, respectively. Any 70th percentile calculation made pursuant to this Resolution shall have the highest and lowest salaries in the survey array removed.

Due to the unique duties of the Park Program Manager position and the inability to locate comparator positions, the salary for this position will not be set at the 70th percentile as described above. Instead, the salary for the Park Program Administrator position will be set at 1% above the Public Works Supervisor position for each Fiscal Year covered by this Resolution, in order to maintain internal equity. In order to establish internal equity for the positions of Assistant to the City Manager and City Clerk, these positions' salary ranges shall match that of the Assistant Finance Director for each Fiscal Year covered by this Resolution.

- 4. **OVERTIME:** All management employees are exempt from overtime compensation in accordance with the provisions of the Fair Labor Standards Act. No management employee is entitled to receive overtime compensation.
- 5. **HOLIDAYS:** The following holidays will be observed by all Management employees:

January 1	New Year's Day
Third Monday in January	Martin Luther King, Jr. Day
Third Monday in February	President's Day
Last Monday in May	Memorial Day
July 4	Independence Day
First Monday in September	Labor Day
Second Monday in October	Columbus Day
November 11	Veterans' Day
Fourth Thursday in November	Thanksgiving Day
Fourth Friday in November	Day after Thanksgiving Day
December 25	Christmas Day

In addition, a personal holiday on a date to be determined by the employee subject to the approval of the City Manager. This holiday will be credited to the employee each January.

If any of the holidays falls on a Saturday, the Friday preceding shall be observed as the holiday. If the holiday falls on a Sunday, the following Monday shall be observed as the holiday.

- 6. **VACATION LEAVE:** Except as limited by this section, all Management employees shall accrue Vacation Leave at the following rates:

- Less than three years of service – 80 hours per year.
- Three years of service to eight years of service – 120 hours per year.
- Eight years of service and above – 160 hours per year.

For purposes of this resolution, "years of service" shall include full-time employment with the Town of Atherton, plus full-time service with other public or private agencies prior to Town employment. Full-time years of service with other agencies shall be credited on a two-

for-one basis as follows: credit for one year of service for every two years of service outside the Town. Partial years shall not be rounded up to the next year. Employees covered by this provision include all current Management employees and all Management employees hired during the term of this Management Resolution.

The maximum vacation accrual is 800 hours. Vacation accrual in excess of the maximum allowed will be liquidated by monetary payment during the month of November. Those employees with vacation balances in excess of the maximum accrual stated herein at the time this Resolution is adopted, are required to meet with the City Manager to arrange a schedule for liquidation or use of the excess time.

7. ADMINISTRATIVE LEAVE: In recognition of the hours required to accomplish the requirements of each Management position, including attendance at numerous meetings outside normal working hours, each Management employee shall be granted forty (40) hours of Administrative Leave per fiscal year. Management employees may accumulate a maximum of 60 hours of Administrative Leave. No cash out of Administrative Leave shall be allowed.

8. SICK LEAVE: The Town shall provide each Management employee in paid status with paid sick leave at the rate of 3.69 hours per pay period. There is no cap on the hours of sick leave accrual.

An employee may only use sick leave that has accrued prior to the current pay period. Sick leave is not cashed out upon separation. Probationary employees can earn and use sick leave.

Sick Leave shall be allowed and used in cases of actual personal sickness or disability, medical or dental treatment, or as authorized for other health-related reasons. Up to six (6) days per year of sick leave may be used in cases of actual sickness or disability, medical or dental treatment of members of the employee's immediate family, or as otherwise provided by law. The City Manager may require an employee who uses sick leave to provide an original doctor's certificate to support the sick leave claimed. An employee who claims sick leave of three consecutive days or more may be required to submit a statement from a physician that the employee is fit to return to work with or without reasonable accommodation.

Unless he or she has submitted a doctor's note stating the length of absence, each employee on sick leave shall personally call in each day prior to the beginning of scheduled work hours to his or her immediate supervisor stating the following:

1. Non-detailed nature of the illness;
2. Estimated length of absence; and
3. Any necessary information about work which needs attention during the employee's absence.

Award for Non-Use

Provided that the following conditions are met, regular full-time employees may receive two hours of vacation leave on December 31 of any calendar year for every eight hours of sick leave earned but not used during that calendar year:

1. The employee must have completed one year of service by December 31 of the calendar year;
2. The employee must have received a satisfactory overall rating on his/her most recent performance review for work done during that calendar year; and
3. The employee only earns the Award for Non-Use to the extent that the Award does not exceed the vacation accrual cap.

Sick leave is not diminished as a result of an Award for Non-Use.

- 9. BEREAVEMENT LEAVE:** Management employees shall be allowed paid leave for not more than five working days when absent because a death has occurred in his/her immediate family. For the purpose of bereavement leave, members of the immediate family include mother, stepmother, father, stepfather, mother-in-law, father-in-law, child, grandparent, grandchild of the employee, or spouse, brother, stepbrother, sister, stepsister, cohabitant or dependent of the employee. Bereavement Leave because of a death of someone who is not a member of the employee's immediate family is limited to one day per request. Bereavement Leave cannot be accumulated and is not part of the sick leave benefit. Bereavement Leave cannot be used on a Town holiday.

In order to receive Bereavement Leave, a Management employee must make a written request to the City Manager that identifies the relationship of the deceased to the employee.

- 10. MILITARY LEAVE:** Military leave of absence shall be granted and compensated in accordance with all applicable laws upon satisfactory proof of the need to report to active duty. Management employees must give the City Manager advance notice, to the greatest extent possible, when military duty is scheduled.
- 11. LEAVE FOR PREGNANCY DISABILITY:** A pregnant Management employee shall be entitled to an unpaid leave of absence for the duration of disability due to pregnancy to a maximum of four months. The employee may use her accumulated sick or vacation leave for all or part of the leave. The employee's request for Pregnancy Disability Leave must be supported by a physician's statement that sets forth the anticipated duration of the disability.
- 12. FAMILY AND MEDICAL ACT LEAVE:** Provided that the Town's workforce consists of at least 50 full-time employees, leave of absence shall be granted in accordance with the State and Federal Family and Medical Leave Acts.

13. JURY DUTY: A Management employee required to report for jury duty or to answer a subpoena as a witness shall be granted a leave of absence with pay from his/her assigned duties until released by the court, provided the employee remits to the Town all fees received for such duties, other than mileage or subsistence allowances, as soon as the employee receives such fees. The employee must report to work for any portion of the work day that the employee is not required to be absent due to jury duty or to answer a subpoena.

14. LEAVE WITHOUT PAY: Upon the written request of a management employee and recommendation of the Department Head (if applicable), the City Manager may grant a leave of absence without pay for good cause shown in cases of personal emergency or when such absences would not be contrary to the best interest of the Town.

The City Manager may grant a leave of absence without pay for a period not to exceed one year, during which time no benefits and no seniority credit will accrue. Upon expiration of an approved leave, or within five working days after written notice to return to duty, the employee shall be reinstated in the position held at the time the leave was granted. An employee's failure to report promptly at the expiration of a leave, or within five working days after notice to report to duty, may be deemed notice of resignation and/or cause for disciplinary action.

During unpaid leaves of absence, the employee may elect to use accrued vacation time.

15. BENEFITS PROGRAMS: The following benefits are provided to Management employees. Benefits are not vested and are subject to change or to being discontinued.

A. HEALTH/DENTAL/VISION INSURANCE: The Town of Atherton currently contracts with the Public Employees Retirement System for health insurance benefits. The Town will pay the full cost of the health insurance for the employee and his/her family for any health plan currently offered through PERS. Health insurance offered by PERS commences on the first day of the month following employment, and remains in effect for one month after one terminates employment with the Town. The City Manager may contract with different health care insurers/providers, with City Council approval, at the beginning of a calendar year, as long as the new contract does not reduce the level of benefits.

Exempt from the Management health insurance program is the Police Lieutenant, who is covered by the cafeteria benefit plan as stated in the Atherton Police Officers Association (APOA) MOU. The Police Lieutenant shall be entitled to 80% of any unused portion of his allocated cafeteria plan amount, subject to appropriate tax withholding as provided for in the APOA MOU.

The Town will pay the full cost of the employee's and his/her family dental and vision insurance with insurers/providers as determined by the City Council based upon a recommendation of the City Manager.

B. LIFE INSURANCE: The Town will provide management employees with Town-paid life and accidental death and dismemberment insurance policies in the following amounts:

Police Chief, Police Lieutenant: \$140,000

Finance Director,
Planning Administrator/Building Official,
Public Works Director: \$100,000

Assistant Finance Director,
Assistant to the City Manager,
City Clerk,
Park Program Administrator,
Public Works Superintendent: \$75,000

C. EMPLOYEE ASSISTANCE PLAN: The Town will continue its program for psychological counseling to employees and dependents, with total Town expenditures not to exceed \$3,000 in any fiscal year, for payment of professional psychological counseling fees. Employee family groups are entitled to attend up to six sessions each year when he/she/they determine(s) that psychological counseling is needed to ensure continued good mental health.

D. LONG TERM DISABILITY INSURANCE (LTD): Coverage for this insurance is 67% of monthly earnings to a maximum of \$6,000.00. This insurance becomes effective the first day of the month following date of employment subject to the terms and provisions contained in the policy. The waiting period following a disability is sixty (60) days. An employee does not accrue sick or vacation leave while on Long Term Disability Leave.

E. DEFERRED COMPENSATION: Management employees are eligible to participate in the ICMA Retirement Corporation 457-Deferred Compensation Plans offered by the Town..

F. SHORT TERM DISABILITY INSURANCE (STD): Short Term Disability Insurance can only be utilized after an employee has exhausted all of his/her available sick leave. The benefit is an amount equal to 70% of the employee's weekly earnings to a maximum of \$500.00 per week.

G. FLEXIBLE SPENDING PLAN: Full-time management may enroll in this plan and take advantage of tax benefits as they pertain to medical and dependent care. Employees enroll upon employment and once a year thereafter in the month of January.

H. PUBLIC EMPLOYEES' RETIREMENT SYSTEM: All full-time management employees are covered by California's PERS in lieu of Social Security coverage. The Town pays both the employer's and the employee's portion of PERS under the 2% @55 program for non-sworn management employees and 3% @50 program, as of July 1, 2002, (calculated at single-highest year) for sworn management employees.

16. PERFORMANCE REVIEWS: All management employees shall have their performance reviewed at least once prior to the end of the fiscal year in June. These reviews provide a planned and orderly means to evaluate individual performance in the areas of program responsibility, management of personnel, accountability, and teamwork with other staff members.

17. AUTOMOBILE PROVISION/MILEAGE REIMBURSEMENT: The City Council recognizes different needs of management employees regarding automobile use. All management employees will be compensated for mileage at the current Internal Revenue Service rate in the performance of his/her job except for the following positions as provided herein:

- a. Police Chief - Provision of an automobile to take home
- b. Police Lieutenant - Provision of an automobile to take home
- c. Planning Administrator/Building Official - \$300/month
- d. Public Works Director - \$300/month
- e. Public Works Superintendent - Provision of an automobile during work hours

The specific policy for use of Town-owned automobiles will be established by the City Manager.

18. EDUCATIONAL REIMBURSEMENT: The Town shall establish a \$2,000 annual educational reimbursement plan for Management employees. A Management employee who successfully completes courses that have been approved by the City Manager may receive up to \$600 reimbursement for each fiscal year of the term of this MOU until the funds are depleted. At the end of the fiscal year, any unused amount in the plan shall be distributed to Management participants in the plan during that year on an equal basis provided that such additional payments to participants shall be based on actual expenditures incurred by the participants.

19. UNIFORM ALLOWANCE: The positions of Police Chief and Police Lieutenant shall receive a uniform allowance in the amount of \$675 per fiscal year, payable in equal amounts of \$168.75 on the first payday at the beginning of each quarter. The amount advanced is subject to all withholding taxes, but is not dependent on remaining in service for the entire quarter. Positions covered by this allowance are required to purchase and maintain uniforms in accordance with Atherton Police Department Rules and Regulations.

20. SAFETY SHOE ALLOWANCE: The position of Public Works Superintendent shall receive a safety shoe allowance of \$200 per fiscal year. On presentation of appropriate receipts, the Town shall reimburse the Public Works Superintendent for up to \$200 per fiscal year toward the cost of no more than one pair of OSHA approved safety shoes/boots per year. Shoe repair is reimbursable under this provision. Shoes/boots purchased under this provision are for the exclusive use of the employee.

21. FLEXIBLE SCHEDULING: At the request of the Department Head and following review and approval by the City Manager, a flexible work schedule may be implemented for Management employees covered by this Resolution. The City Manager's evaluation shall give consideration to the needs of the Department/Employee as well as the desire of the City Council to continue to provide all Town services on a schedule that is conducive to providing uninterrupted service to its residents throughout the week.

Each flexible schedule approved shall be evaluated by the City Manager no later than six months following its implementation. The purpose of the evaluation will be to determine if it is in the best interests of the Town of Atherton to continue the flexible schedule, or any modifications to the schedule that would be necessitated by the City Manager's evaluation.

22. MILITARY BUY-BACK OF SERVICE CREDIT: Eligible management employees are able to participate in the Military Buy Back of Service Credit program available through the Public Employees Retirement System (PERS).

23. The provisions of this Management Resolution supercede and terminate any and all prior or existing MOUs, understandings, rules, policies, agreements, resolutions or correspondence, whether formal or informal, regarding the compensation, benefits and terms and conditions of employment, to the extent that those items are inconsistent with the terms of this Management Resolution. Existing MOUs, understandings, rules, policies, agreements, resolutions or correspondence that do not conflict with the matters set forth herein remain in effect.

**TOWN OF ATHERTON
MANAGEMENT SALARY SCHEDULE
Fiscal Year 2005-06**

<u>Position</u>	<u>Bottom Step</u>	<u>Top Step</u>
Assistant Finance Director	6,827	8,031
Assistant to the City Manager	6,827-	8,031
Associate Engineer*	6,482	7,626
City Clerk**	6,827-	8,031
Finance Director	9,514	11,193
Park Program Manager	5,448	6,409
Planning Administrator/ Building Official	9,494	11,169
Police Chief	10,203	12,003
Police Lieutenant	8,211	9,660
Public Works Director	10,182	11,979
Public Works Superintendent	7,396	8,701

*The Associate Engineer position is funded through the Parcel Tax.

**The City Clerk position was not budgeted for the 2005-06 Fiscal Year.



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF NOVEMBER 16, 2005

SUBJECT: ADOPTION OF A RESOLUTION IN SUPPORT OF INSTALLATION OF FOUR-QUADRANT GATES AT CALTRAIN RAILROAD CROSSINGS

RECOMMENDATION:

Consider adopting a Resolution in support of four-quadrant gates at both Caltrain railroad crossings, Fair Oaks Lane and Watkins Avenue.

BACKGROUND:

The Caltrain Subcommittee has been investigating new federal regulations that allow municipalities to create Quiet Zones along rail corridors. These zones require the railroad operators to cease sounding horns, except in case of emergencies, at crossings within the zone. A requirement of each Quiet Zone is that the safety of the crossing be improved such that it will be at least as safe after the implementation of the Quiet Zone as it was before.

One standard method for accomplishing this is by the addition of four-quadrant gates. There are other methods, but they are not applicable to Atherton's crossings. The Federal Railroad Administration (FRA) developed a method where the safety with and without sounding horns, and with the addition of four-quadrant gates, can be calculated. The safety of the Atherton crossings after the addition of four-quadrant gates would be dramatically improved.

ANALYSIS:

Because of the safety benefits of four-quadrant gates, the Caltrain Subcommittee recommends that four-quadrant gates should be installed to improve safety whether or not a Quiet Zone is implemented. Once four-quadrant gates are installed, the Town can apply to the FRA for approval of a Quiet Zone through Atherton.

FISCAL IMPACT:

Four-quadrant gates are estimated to cost \$250,000 per crossing, or \$500,000 for both Atherton crossings. The Caltrain Subcommittee recommends that the Town evaluate potential local funding for one-half of the amount and seek funding for the other half from outside agencies or grant programs. This funding can be included in the Town budget when the other source of funding is secured.

Attachments: Resolution

RESOLUTION No. 05-___

WHEREAS, the Town of Atherton Caltrain Corridor Subcommittee Agenda proposes that the Atherton City Council approve the support of the installation of four quadrant gates at the two Atherton street crossings – Fair Oaks and Watkins; and

WHEREAS, the Town of Atherton proposes to evaluate sources of potential funding in the amount of \$250,000 to support one-half the cost of the installation

NOW, THEREFORE, be it resolved that the City Council of the Town of Atherton supports the installation of four Quadrant gates at the Fair Oaks and Watkins Street crossings and commits to seek local funding in the amount of \$250,000 contingent upon the availability of funding the balance of the cost from other entities.

* * * * *

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 16th day of November, 2005, by the following vote:

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

William R. Conwell, Mayor

ATTEST:

APPROVED AS TO FORM:

Linda Kelly, Acting City Clerk

/s/ Marc Hynes

Marc G. Hynes, City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: CITY COUNCIL MEETING OF NOVEMBER 16, 2005

**SUBJECT: THIRD AMENDMENT TO EMPLOYMENT AGREEMENT BETWEEN
THE TOWN OF ATHERTON AND JAMES H. ROBINSON**

Recommendation:

Adopt a Resolution approving an amendment to Employee Agreement and authorize the Mayor to execute a third amendment to the employment agreement between the Town and James H. Robinson, City Manager.

Background:

Attached is the third amendment to the employment agreement between the City Manager and the Town. The amendment revises the agreement by increasing the City Manager's salary from the present \$156,301.00 per year to \$162,943.68 per year, effective July 1, 2005. Additionally, a provision for administrative leave is added.

Fiscal Impact:

The increase envisioned by the amendment is within the Town's adopted budget.

Respectfully,

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

Attachment

RESOLUTION NO. 05-__

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
APPROVING THE THIRD AMENDMENT TO EMPLOYEMENT AGREEMENT
BETWEEN THE TOWN OF ATHERTON AND JAMES H. ROBINSON**

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

RESOLVED, that the Third Amendment to the Employment Agreement between the Town of Atherton and James H. Robinson as set forth in the Exhibit to the Staff Report from the City Attorney for the City Council Meeting of November 16, 2005 is hereby approved.

RESOLVED FURTHER, that the Mayor of the Town of Atherton is authorized to execute the agreement on behalf of the Town.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the Town of Atherton that the Resolution shall be effective immediately upon adoption.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the 16th day of November 2005, by the following vote.

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

William R. Conwell
Mayor, Town of Atherton

ATTEST:

Linda Kelly, Acting City Clerk

APPROVED AS TO FORM:

/s/ Marc Hynes
Marc Hynes, City Attorney

THIRD AMENDMENT TO
EMPLOYMENT AGREEMENT

BETWEEN

THE TOWN OF ATHERTON AND JAMES H. ROBINSON

This Third Amendment to the Agreement dated May 25, 2001, between the TOWN OF ATHERTON, a municipal corporation of the State of California, ("Town") and JAMES H. ROBINSON ("City Manager") is hereby amended by revising paragraph 4.A. and adding a new subparagraph E to paragraph 4. to read as follows:

4. Compensation and Benefits.

A. Base Salary: During the term of this Agreement City Manager shall be paid a salary at the rate of \$162,943.68 per year, effective July 1, 2005, or at such salary as may be approved by the City Council of the Town by resolution from time to time.

E. Administrative Leave: The City Manager shall be granted forty (40) hours of Administrative Leave per fiscal year. The City Manager may accumulate a maximum of 60 hours of Administrative Leave. No cash out of Administrative Leave shall be allowed.

All other provisions of the agreement between the Town of Atherton and James H. Robinson dated May 25, 2001, as amended, shall continue to remain in effect.

TOWN OF ATHERTON

Dated: _____, 2005.

By _____
William R. Conwell, Mayor

Dated: _____, 2005.

James H. Robinson, City Manager

ATTEST:

Linda Kelly, Acting City Clerk

APPROVED AS TO FORM:

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



Town of Atherton

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

FROM: CHIEF ROBERT J. BRENNAN

DATE: FOR THE CITY COUNCIL MEETING OF NOVEMBER 16, 2005

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

RECOMMENDATION:

Staff recommends that Council authorize the City Manager to sign the updated agreement with the Sequoia Union High school District to continue the School Resource Officer Program at Menlo-Atherton High School.

INTRODUCTION:

The School Resource Officer Program (SRO) is back in its fifth year at Menlo-Atherton High School after a two-year absence in 1999 through summer 2001. The program has proven to lessen violent crime on campus, provide better communications with the Police Department, high school administration, staff, and students. It also provides an on-campus resource to incorporate the elements and the philosophy of Community Policing. These elements include community partnerships and problem solving. It is only over the last three years that the Town of Atherton has received any payment from the District even though the program had been in place for many years. The charging for police services began as the economy took a downturn in 2001. The Police Department staffing had been cut and revenues were down. In order to continue the program, an arrangement was made with the former Sequoia Union High School District Superintendent to pay half of the SRO's salary to include benefits. It was fortunate that the District's willingness to pay also coincided with a three-year Federal "Cops in Schools" grant the Police Department had applied for and received. The ending date of the grant was the end of the academic year 2004-2005.

ANALYSIS:

Since there are four high schools in the District that all have separate agreements, the superintendent wanted consistency in not only cost, but also services provided by each Police/Sheriff's Department that was on campus. All four executives met with the superintendent and came to an agreement on costs and service levels. The agreement was that the District would

pay half of a top step Officer's salary for a nine month period. A written contract was presented to and agreed upon by the District that outlined services the Police Department would provide during the Officer's time on campus. Since the total salary and benefits were provided by either the grant or the District and covered the assigned Sergeant's salary and benefits for the last three years, the Town of Atherton will have to cover half the cost plus 3 months that school is out of session. If the decision was made not to provide an SRO, the Atherton Police Department would still have the responsibility for all police services on campus without the benefit of any contribution or cost sharing by the District. The new agreement drafted by Redwood City was given to the Atherton City Attorney for approval, and changes to make the contract Atherton specific are presented as an attachment.

FISCAL IMPACT:

The FY 2005-06 budget includes a revenue estimate of \$55,000 as reimbursement for the Menlo-Atherton School Resource Officer program from Sequoia USD. Approval of this agreement will result in a payment of \$51,926, or approximately \$3,000 less than estimated for the fiscal year.

Prepared by:

Approved by:

Robert J. Brennan
Police Chief

James H. Robinson
City Manager

Attachments

1. Agreement
2. SRO Annual Report



Atherton P.D.-MAHS School Safety Collaborative

September 2005

Volume 1, Number 1

Crime Reports:

- 2 Assaults with Deadly Weapons. One with a handgun and one with physical force likely to cause Great Bodily Injury.
- 3 Strong-arm robberies.
- 5 Disturbances and fights.
- 1 Battery on a person.
- 1 Auto Burglary.
- 5 Petty Thefts.
- 1 Act of Vandalism.

Contact

Sgt. Mike Guerra,
Ed.D.

322-5311 x 5123

mguerra@seq.org

Crime at M-A

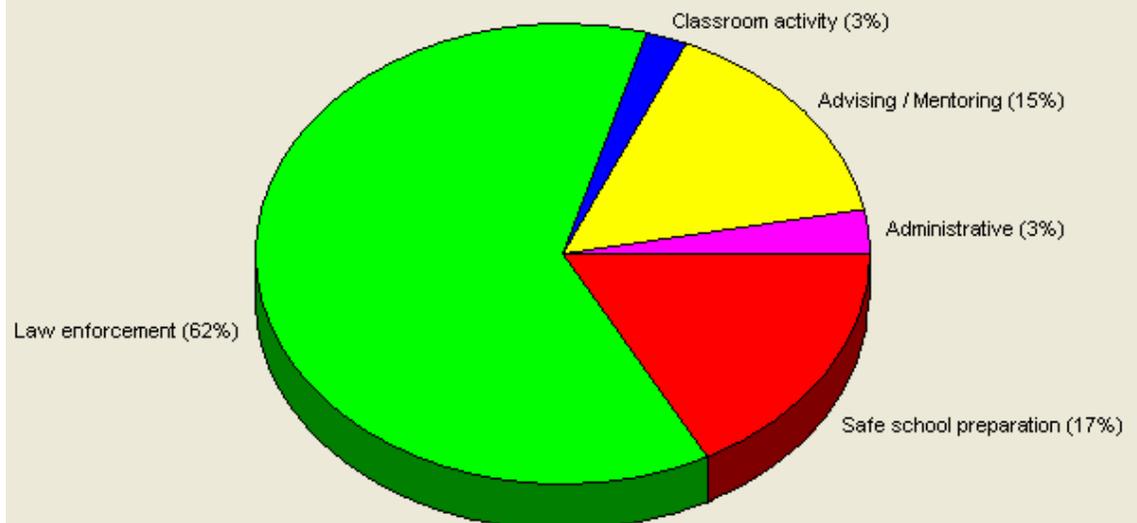
The number of crime reports has more than doubled from those reported last year within the same time frame. Last year 8 crimes were reported and this year the total was 18. In addition, the crimes are more serious such as a series of strong-arm robberies in the boy's restrooms committed by students against students. There was also an incident involving a former student, three non-students and an M-A student where one of the non-students chased the student across the student parking lot at the end of school threatening to use a handgun that the victim saw in his possession. Thanks to the help of AVP Judy Duran, we were able to apprehend those responsible for the robberies and also three of the four suspects in the assault with a gun case.

SRO Activities

The highlights of time spent on SRO related activities include teaching in the driver's safety classes and monitoring school dances on campus. In addition, the SRO taught a 24-hour School Security Officer course for the Sequoia district.

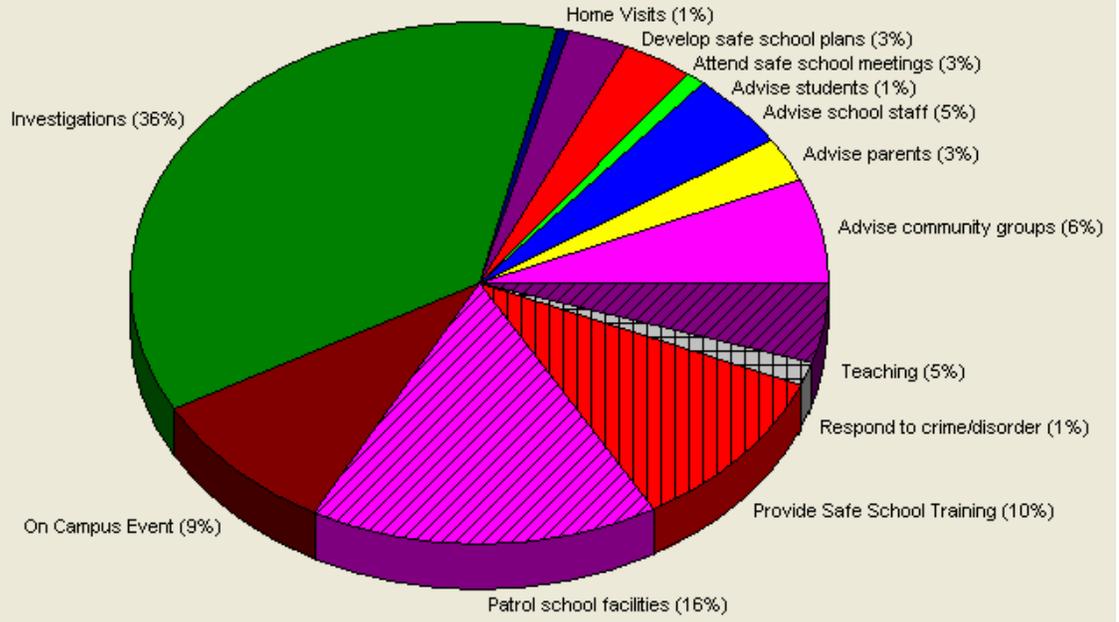
Number of Hours on Activities: 236.15

Hours on Activities by Activity Category



Number of Hours on Activities: 336.15

Hours on Activities by Activity Name



Menlo-Atherton High School SRO Partnership

End of Year Report

2004-2005 Academic Year

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

Overview

The School Resource Officer (SRO) Program at Menlo-Atherton High School (M-A) continues to evolve following a process that began with the start of the 2003-2004 academic year. As mentioned in last year's annual report, this evolutionary process was initiated by Chief Bob Brennan following his return from a Chief Executive Officer Safe Schools Forum through the National Center for Missing and Exploited Children, which is a component of the Federal Comprehensive School Safety Leadership Initiative. Before comparing the data collected from the 2003-04 and 2004-05 academic school years in relationship to the mission and goals of the comprehensive SRO program, it would be useful to review the mission and goals of the program. The mission of the SRO program continues to focus on fostering a collaborative interagency partnership where leadership and resources target issues related to creating and maintaining a safe school environment. The goals of this mission are:

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

Comparing 2002-2003, 2003-2004, and 2004-2005 Academic Years

One of the important elements for determining the effectiveness of any program is to compare what is occurring now with what has occurred in the past. Unfortunately, evaluating the effectiveness of SRO programs, such as ours, is problematic. At the present time, no reliable research study has been conducted in the United States to investigate the effectiveness of SRO programs on school campuses. The only reliable

data that exists today continues to be anecdotal. This anecdotal evidence suggests that we think SRO programs help create and maintain a safe school environment. Some of those comments made to me this year indicate:

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

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

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

Table 1

From the data and percentages in Table 1, an inference can be drawn that there has been a steady increase in the number of police reports being generated at M-A over the last three academic years. In the 2004-05 academic year there was an increase of 65% from the year before, and a 135% increase from 2002-03 to 2004-05. While these figures are statistically significant, it is also equally important to consider the scope of the SRO's activities at M-A when evaluating this program since the mission itself has evolved from

one that was participative to one where active collaboration by all stakeholders at all organizational and community levels is essential for the program's success.

2003-2004 SRO Activities

Beginning with the 2003-2004 academic year, I started using the School COP software program to collect data and record my activities. This was the first year that this data was collected at M-A. I will present the data in four charts in two sets. One for the 2003-04 academic year and a second set for the 2004-05 year. The first chart in each set will depict generalized categories and the second chart in each set will depict a breakdown of the activities in each category. Chart 2 below depicts my activities by categories in simple percentages for 2003-04.

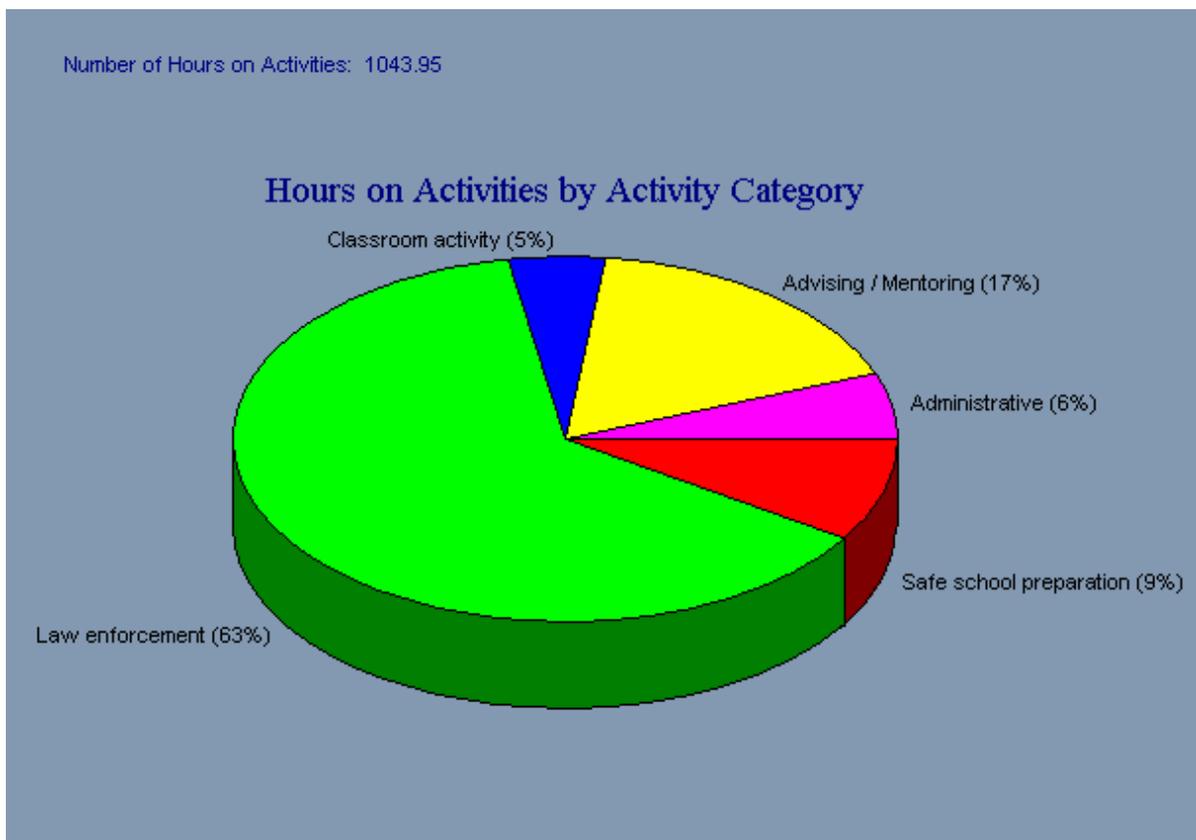


Chart 2 2003-2004 Academic Year

As you can see in Chart 2, 63% of my time is spent on law enforcement, which includes campus patrol and investigating incidents. My next largest block of time (17%) is spent on counseling students, parents, and staff. This means that approximately 80% of my time is spent on counseling and law enforcement. The remaining 20% encompasses classroom teaching, training, court, grant writing, etc. As I mentioned before, Chart 3 will depict the time spent on activities within each category for 2003-04. When you examine Chart 3, you will see that there are several categories where the percentage of time is less than one-percent. This does not mean no time was spent doing

this activity. Instead, it means less than 1% of my overall time was devoted to these categories.

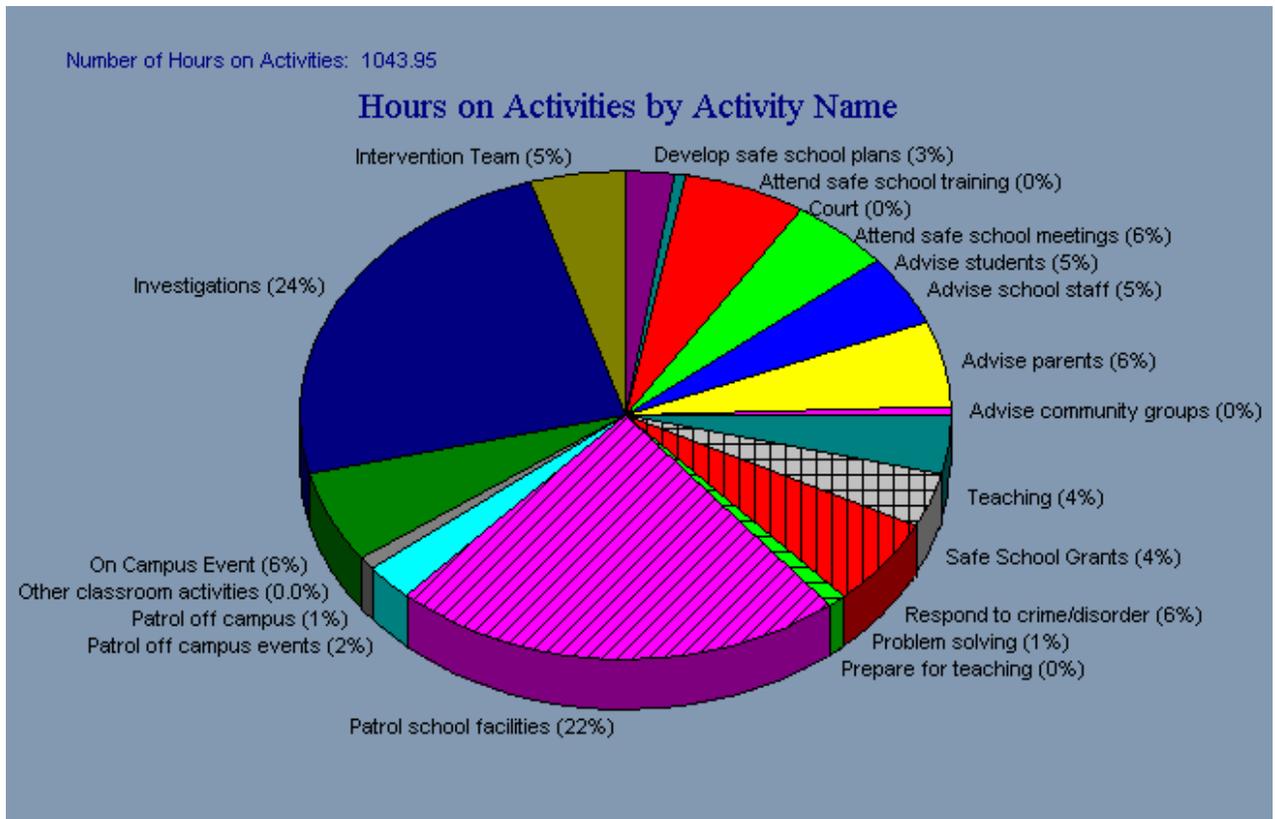


Chart 3 2003-04 Academic Year

2004-2005 SRO Activities

As mentioned above, I have been using the School COP software program to collect data and record my activities. Through data analysis, I found I was unable to separate data into academic year categories using the software program; consequently, the data depicted in the charts below will represent total activities for both the 2003-04 and 2004-05 academic years. While this does place limitations on data analysis, the charts are still useful since they can be used to show changes in the overall calculated percentages for the two years. Like Charts 2 and 3 above, the first chart in each set will depict generalized categories and the second chart in each set will depict a breakdown of the activities in each category. Chart 4 below depicts my activities by categories in simple percentages for 2004-05.

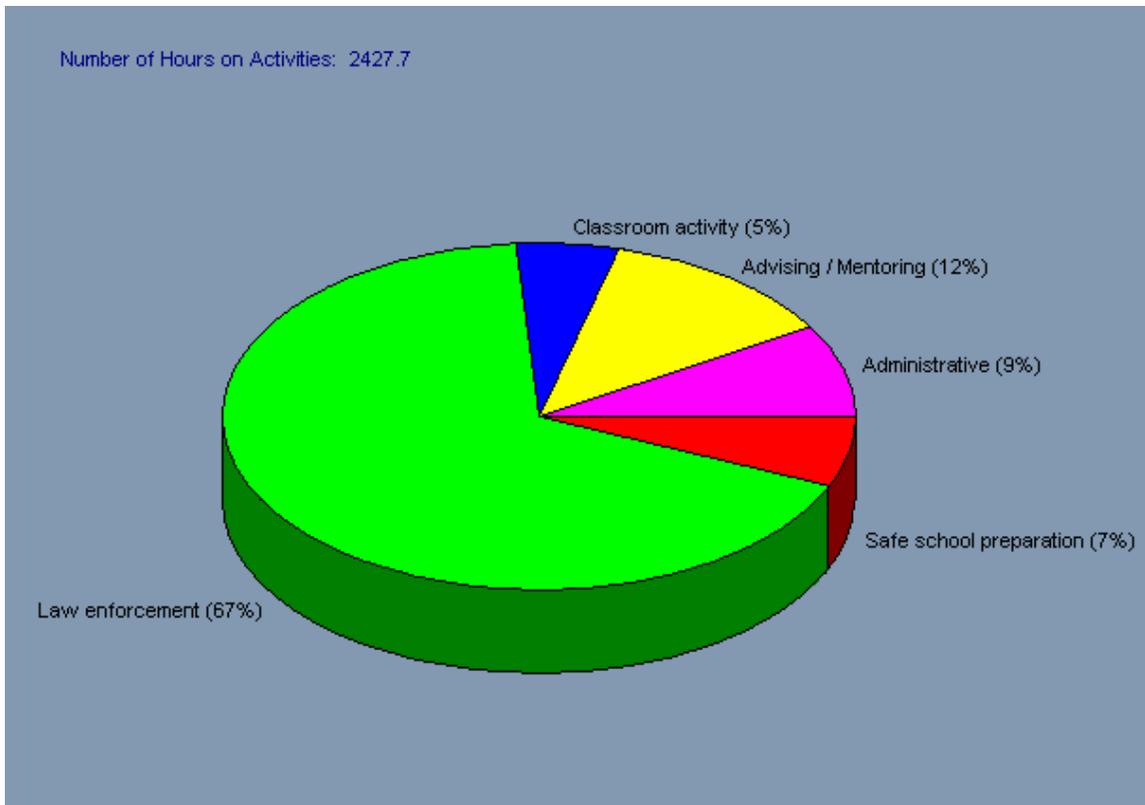


Chart 4 2004-05 Academic Year

As you can see in Chart 4, 67% of my time is spent on law enforcement, which includes campus patrol and investigating incidents. My next largest block of time (12%) is spent on counseling students, parents, and staff. This means that approximately 80% of my time is spent on counseling and law enforcement. It also means that, at minimum, there has been a 5% increase in law enforcement associated activity and a 5% drop in activity associated with advising and mentoring in 2004-05. The remaining 20% encompasses classroom teaching, training, court, grant writing, etc.; which indicates activity levels in these areas has remained constant. As I mentioned before, Chart 5 will depict the time spent on activities within each category for 2004-05.

When you examine Chart 5, you will note that I added an additional activity category called “expulsion hearings” since these hearings required a significant amount of measurable time. The largest blocks of time continue to be investigations and patrolling school facilities, which alone requires 53% of my time.

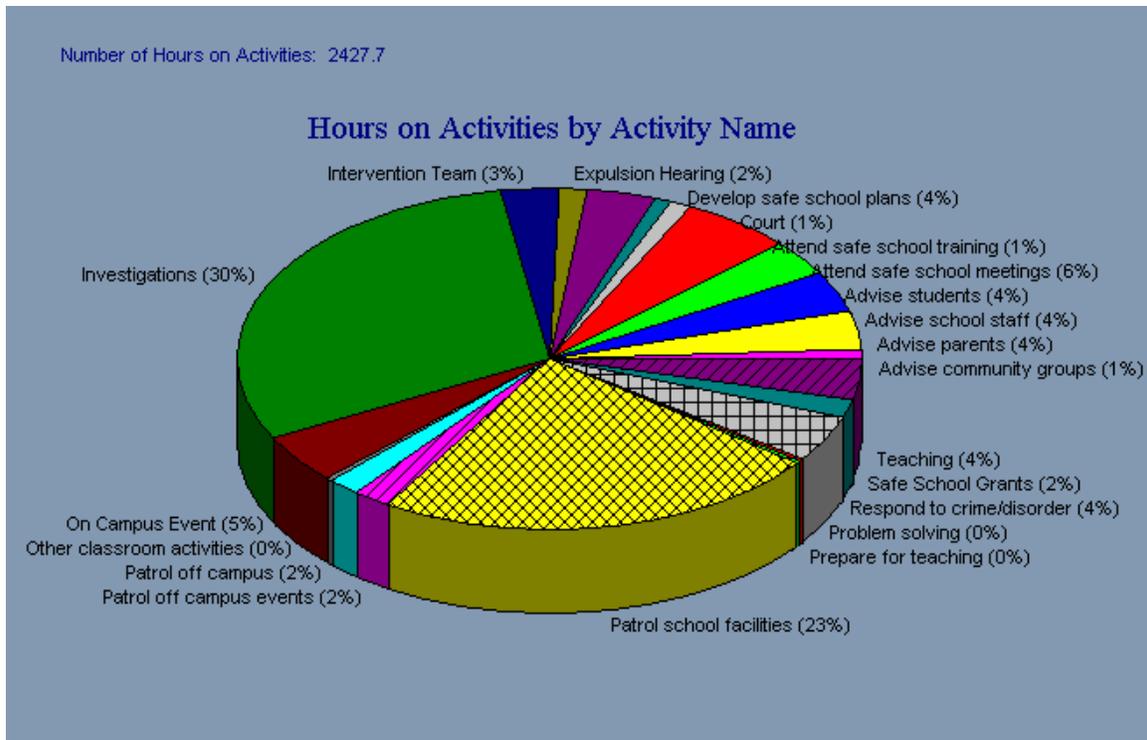


Chart 5 2004-05 Academic Year

Community Projects & Programs

In collaboration with MAHS Principal Norm Estrada, AVPs Matthew Zito and Judy Duran, the Campus Supervisors, students and staff; several small-scale initiatives were piloted to increase the safety and security on the MAHS campus. For instance, the threshold for what forms and levels of misconduct will be tolerated by staff was set much lower than in the past. The result was an increase in the number of police reports, which is indicated in Table 1. At first glance, this may seem to represent that we are limited to being reactive and putting out fires and not addressing the underlying causes of misconduct and crime on the M-A campus. This is not the case. While our current effort increases workloads in the form of detentions suspensions, expulsions, and crime reports in the short-term; the anticipated long-term effect will be that students will follow rules they perceive to be of minor importance such as, being tardy or truant. Following the “broken window” theory which is supported by research over the years, addressing minor violations at lower levels helps decrease the amount of minor conduct violations as well as more serious offenses such as, batteries and threats.

Ravenswood Bus Stop (City of Menlo Park):

This is the primary bus stop for students who live in Redwood City, east Menlo Park, and East Palo Alto. As we know from past reports and the media, there are rivalries between students who live in these neighborhoods, which often results in violence. Consequently, there are frequent exchanges of hateful language and physical fights. Additionally, the SAMTRANS bus schedule creates a situation where students hang

around for up to one hour waiting for their bus in an open area with almost no cover from the weather. In addition, even if they wait for the bus, they often cannot get on the bus because it fills to capacity very quickly with students. The result is that there are often students who have to wait for the next bus, which can be up to an hour away. Besides the limited number of busses on the route, there was also a problem where one of the drivers allowed students to routinely sneak on without paying. AVP Matthew Zito discovered this situation when a student told him he was waiting for the “free” bus.

To manage this problem, we first started having one of the campus supervisors station themselves at the bus stop at the end of the school day. We also involved the transit police who patrolled the stop from time to time at the end of school. In addition, if we sensed the school climate for the day was unusually tense, we would have extra staff members at the location. This strategy helped to prevent tension and crime, but has not solved the problem. Throughout the year, there were a number of fights at the bus stop and a number of fights on the busses themselves after they continued along their route. We have also asked Menlo Park PD to help with this problem and they have responded by occasionally providing extra patrols along with sending a patrol unit when we have intelligence that something is going to happen at the bus stop.

1st. Church of Christ Scientist, Menlo Park:

A church located on the southwest corner of Middlefield Road and Ravenswood Avenue had experienced a significant level of vandalism in the form of gang related graffiti and by students urinating on the walls of the church during the 2003-04 academic year. Besides the vandalism, there was also quite a bit of littering by students either hanging out on church grounds or when they were waiting for the bus. The SAMTRANS bus stop is located on Ravenswood in front of the church.

To reduce the level of vandalism and litter, school staff and I increased our visibility and patrol of the area beginning in 2003-04. My time is included above in Chart 3 under the off-campus patrol heading. Officer Yoakum took this on as a beat project when he was assigned to dayshift patrol. He almost single-handily reduced criminal activity and loitering at the church to zero. Thanks to his hard work along with school staff, problems at the church were extremely rare during the 2004-05 year.

“Wannabe” Gangs on Campus:

There continues to be significant misconduct and criminal activity on campus that is caused by students who want to be associated with the Norteno and Surreno criminal street gangs. These two groups are comprised of those who would like to be known as Surenos (blue) and those who would like to be known as Nortenos (red). Those wearing predominately red clothing outnumber those who wear predominately blue clothing by approximately 4:1. Their actions continue to account for nearly all of the reports of violence on campus. As a result of gang-type activity, two M-A teachers chose to place themselves in harms way during fist fights between reds and blues. Unfortunately, the teachers were not trained to deal with violent confrontations and issues surfaced as a result of their actions including accusations that a teacher harbors and favors “blue” students.

Our short-term strategy continues to be to strictly enforce student conduct codes such as; tardiness, fighting, creating a disturbance on campus, and truancy through high visibility. In addition, we do not allow any student groups to claim territory on campus through passive intimidation or any form of bullying. This year we are going to try and obtain a grant to help identify and implement long-term sustainable strategies that include managing gang issues on campus.

School Community Policing Partnership Grant:

This year, M-A had an opportunity to apply for a grant to work with a law enforcement partner to deal with school crime and safety issues as part of a joint funding effort between the California Department of Education and the Office of the Attorney General. The competitive grant was worth up to \$325,000 over three years. We formed a collaborative partnership between the staff, students, parents, law enforcement and the community to develop our grant application. The grant application was developed over a five-month period and was submitted on time. Unfortunately, we were not selected to advance past the first-round of screening.

Our grant writing team has already begun planning for the next grant application opportunity, which will be awarded in the 2005-06 academic year.

Intramural Soccer & Basketball Program:

In spite of the success of this program in the 2003-04 academic year, the program was not continued in the 2004-05 year due to staffing issues. Coach Earl Locke plans to have this program in the 2005-06 year.

Safe Prom/Every 15 Minutes:

This program was introduced to the M-A Student leadership Classes to see if they were interested in bringing this program to M-A. The leadership classes discussed the topic and decided that they did not have the resources to devote to this project during the 2004-05 year. This topic will be revisited in the 2005-06 year.

Night Basketball and Football Games:

In the past, there have been fights during and after these events regardless of whether or not the games were at home or away. Security at these events within the Sequoia High School District were traditionally managed by the police jurisdiction where the event was being held. This year, the SROs at Woodside, Sequoia, Carlmont and Menlo-Atherton decided to work together on this problem. We developed a strategy where the SRO from the visiting team would help the SRO at the home team school. This means that when M-A's boy's basketball teams play Woodside at night, I would help provide security at the game along with the Sheriff's deputies and vice versa when Woodside plays at M-A.

Truancy Abatement:

One of the key problems for M-A this year was that the school was identified as a Performance Improvement (PI) school because student achievement scores for some groups were below standard. One reason for these low test scores was that students were

habitually truant. At the beginning of the 2004-05 academic year, San Mateo Co. Juvenile Judge Marta Diaz began organizing a countywide effort to combat truancy in San Mateo County. At the present time, this strategy is still under development. To try and manage this problem at M-A, we implemented a preventative-accountability intervention process modeled after what Redwood City PD has been using successfully at Sequoia High School. Using this process, habitual truancy cases can be brought before the traffic court instead of the criminal court, which saves time, money, and resources. In addition, Mike Garcia who is the Community Liaison contact for M-A and who is responsible for truancy abatement, asked me to accompany him on home visits in Menlo Park, East Palo Alto, Redwood City and even San Mateo. We tried to schedule every Tuesday morning as a time for home visits; however, with the increased number of crime reports and investigations along with the unavoidable scheduling conflicts, this strategy did not work well for us. This year we are going to try and have a printed home visit check list that we can work off whenever scheduling permits.

Dances – Events on Campus at Night:

Over the course of this school year, there have been frequent acts of both misconduct and criminal activity in the form of fights, alcohol-drug intoxication, bullying, and attacks against other students. In one instance, a student had his jaw broken after a school dance when a group of males who most likely attended the dance attacked him while he was still on campus. In another instance, at International Night, a fight broke out between two groups of students and family members. Besides the criminal activity and misconduct at these functions, there is also a contributing factor that occurs after the events. At the end of these nighttime events, large numbers of students hang out on campus waiting for transportation for up to one hour or more. One strategy under consideration is to end these night functions earlier so that students can either walk home or have easier access to public and private transportation.

Classroom Presentations:

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

PAS Device – AED Training:

One strategy that was used this year to help prevent alcohol abuse before campus sponsored events and to identify alcohol related misconduct during events was the school's use of a PAS (preliminary alcohol screening) device. AVP Judy Duran was certified as a PAS coordinator through Fremont PD when she worked for the Fremont High School District. She has been using her PAS device at events to prevent and control alcohol and drug related misconduct. To increase this level of prevention, Officer Mills trained several staff members on how to administer an alcohol-screening test using the school's PAS device. We will have another training session for staff this upcoming school year

Last year M-A received an AED device from the Atherton PAL, which is placed in the administration office on campus. To date, it has not been deployed on campus. Our

Department has sponsored training for this device and Officer DeVlught has been the instructor.

Concluding Comments

After reviewing the data collected over the last three years and reviewing the activities and projects that we worked on in the 2004-05 academic year, I discovered a few key points. Based on the objective data, it may seem that crime has significantly increased on campus. However, there were two brand new administrative vice-principals and a new principal at M-A for 2004-5. Their approach was different than past administrations that I've worked with. This new administrative team was the first group of administrators that I've work with who were not afraid to tackle the tough issues and to try and improve the school's climate through education, mentoring, and accountability. As a result, much of my time was spent on traditional law enforcement activities; specifically, order maintenance through proactive patrol on campus and criminal investigations.

In the 2004-05 academic year our team at M-A is planning to not only continue our current efforts, but to also collaboratively gather data and identify underlying issues that we can use to develop and implement long-term sustainable strategies for effectively managing a safe school climate and culture at M-A.



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE CITY COUNCIL MEETING OF NOVEMBER 16, 2005

SUBJECT: DISCUSSION AND POSSIBLE DIRECTION TO STAFF RELATED TO MENLO COLLEGE FIELD USE ISSUES (Continued from the City Council Meetings of July, 20, 2005, September 21, 2005, and October 19, 2005)

RECOMMENDATION:

Continue discussion to the December 14, 2005, City Council meeting.

BACKGROUND:

At its July 20, 2005, meeting, the City Council requested that Menlo College and Menlo School meet, try to resolve the remaining issues, and provide a progress report before the September 21, 2005 City Council meeting. The residents of Brittany Meadows and Menlo College have requested that this item be continued to the December 14, 2005, City Council meeting,



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: MICHAEL A. HOOD, BUILDING OFFICIAL

DATE: FOR THE MEETING OF NOVEMBER 16, 2005

SUBJECT: WELL WATER IN HOLBROOK-PALMER PARK

RECOMMENDATION:

The well water at Holbrook-Palmer Park was tested for immediate toxicity, with the results showing that the water is suitable for short-term emergency drinking purposes.

ANALYSIS:

Staff hired Catalyst Environmental, Inc., who collected samples and had laboratory tests run. The short-term toxicity of the well water shows that it is drinkable in an emergency. The long-term effects of the metals in the water are still being tested. The results will be available to be reported at the Council meeting.

FISCAL IMPACT:

Park staff is investigating the costs to install either a generator hookup for the existing pump, or to install a manual pump on the existing well, or to install a separate well with a manual pump.

Prepared by:

Approved by:

Michael A. Hood
Building Official

James H. Robinson
City Manager

Attachments: Water Analysis

Steven Tyler

From: Joe Berkshire [joeb@catenv.com]
Sent: Wednesday, November 09, 2005 9:38 PM
To: Steven Tyler
Subject: ANALYSIS

Good morning Steve.

I faxed over the results of the analyses that the labs have finished so far. I faxed the results to 650-752-0541. The attachment explains those results. The water looks ok for emergency drinking purposes. The big risk is coliform contamination and that test came up negative (good). You do not want to see any coliform in drinking water. If this was a drinking water well you would have to test for this twice per year.

The other results I am waiting for are for chronic (or long term effects). This is the metals. Some of the metals are done; but I still need to look at.

I should have a final report done by Friday or Monday morning, depending on when I get the last of the results from the tests.

Call me with any questions that you have, 650-642-5714, I am available anytime after 6:30 AM.

Best Regards,

JOE BERKSHIRE
CATALYST ENVIRONMENTAL
650-642-5714



November 9, 2005

Mr. Steven Tyler
Town of Atherton
91 Ashfield Road
Atherton, CA 94027

Re: Potability of Well Water at Holbook Palmer Park

Dear Mr. Tyler,

The well water sample was taken by Catalyst Environmental on November 3, 2005 at approximately 9:15 AM. The sample was taken from the sink on the outside of the maintenance shed. The water ran from the faucet for at least two minutes before the sample was taken.

The following analysis has been completed so far on the well water sample at Holbook Palmer Park.

Cyanide and Total Coliform Bacteria have been completed. These two analyses show the acute or immediate toxicity of the water.

Cyanide can be extremely toxic. The result for cyanide in the well water is **negative** (none detected).

The Total Coliform analysis is used check for coliform and fecal contamination. The result for coliform is that coliform is **absent**.

It is recommended that the Total Coliform analysis be performed twice a year.

From the results of above, the well water is not acutely toxic and would be suitable for emergency drinking purposes.

I will prepare a final report once the rest of the tests are finished.

The tests remaining are for establishing chronic toxicity and a baseline to compare for future analysis.

Regards,

Joseph Berkshire, Project Manager
Catalyst Environmental



**SCIENTIFIC ENVIRONMENTAL
LABORATORIES, INC.**

Catalyst Environmental
823 9th Ave.
San Mateo, CA 94402

Mr. Joe Berkshire

Released : 11-7-05
Lab ID : 057048
Received : 11-3-05
Collected : 11-3-05
Sampler : Joe
Analyst : SF
Analyzed : 11-3-05
Matrix : Liquid
Project : Park

Source : Well Water

<u>Analysis</u>	<u>Result</u>	<u>EPA #</u>
Total Coliform Bacteria (cfu/100ml)	Absent	9222B

SF:dc



Shui Fong
Director, Water Laboratory

State Certified Water Laboratory for Chemical and Biological Examination
924 Industrial Avenue Palo Alto, CA 94303 650 856-6011 FAX 650 856-4281

Entech Analytical Labs, Inc.

3334 Victor Court, Santa Clara, CA 95054

Phone: (408) 588-0200

Fax: (408) 588-0201

Catalyst Environmental
823 9th Ave.
San Mateo, CA 94402
Attn: Joe Berkshire

Date Received: 11/3/2005 2:48:21 PM

Project ID: Park

Project Name: Park

Certificate of Analysis - Data Report

Sample Collected by: Client

Lab #: 46130-001 Sample ID: A Matrix: Liquid Sample Date: 11/3/2005 9:20 AM

EPA 120.1									
Parameter	Result	Qual	D/P-F	Detection Limit	Units	Prep Date	Prep Batch	Analysis Date	Conductivity QC Batch
Conductance	800		1.0	1.0	µmhos/cm	N/A	N/A	11/7/2005	WCND051107

Analyzed by: Jisiderio

Reviewed by: ladinb

EPA 245.1									
Parameter	Result	Qual	D/P-F	Detection Limit	Units	Prep Date	Prep Batch	Analysis Date	Mercury QC Batch
Mercury	0.0027		1.0	0.0002	mg/L	11/7/2005	WHG051107	11/7/2005	WHG051107

Analyzed by: RWipfler

Reviewed by: dqueja

EPA 335.2									
Parameter	Result	Qual	D/P-F	Detection Limit	Units	Prep Date	Prep Batch	Analysis Date	Cyanide, Total QC Batch
Cyanide, total	ND		1.0	0.020	mg/L	N/A	N/A	11/7/2005	WCN051107

Analyzed by: Hainb

Reviewed by: Jisiderio

EPA 376.2									
Parameter	Result	Qual	D/P-F	Detection Limit	Units	Prep Date	Prep Batch	Analysis Date	Sulfide QC Batch
Sulfide	ND		1.0	0.10	mg/L	N/A	N/A	11/3/2005	WSULF051103

Analyzed by: Jisiderio

Reviewed by: dqueja

EPA 3010A EPA 6010B EPA 200.7									
Parameter	Result	Qual	D/P-F	Detection Limit	Units	Prep Date	Prep Batch	Analysis Date	Metals QC Batch
Antimony	ND		1.0	0.010	mg/L	11/3/2005	WM051103B	11/4/2005	WM051103B
Arsenic	ND		1.0	0.010	mg/L	11/3/2005	WM051103B	11/4/2005	WM051103B
Barium	0.11		1.0	0.0050	mg/L	11/3/2005	WM051103B	11/4/2005	WM051103B
Beryllium	ND		1.0	0.0050	mg/L	11/3/2005	WM051103B	11/4/2005	WM051103B
Cadmium	ND		1.0	0.0020	mg/L	11/3/2005	WM051103B	11/4/2005	WM051103B
Chromium	ND		1.0	0.0050	mg/L	11/3/2005	WM051103B	11/4/2005	WM051103B
Cobalt	ND		1.0	0.0050	mg/L	11/3/2005	WM051103B	11/4/2005	WM051103B
Copper	0.0080		1.0	0.0050	mg/L	11/3/2005	WM051103B	11/4/2005	WM051103B
Lead	ND		1.0	0.0050	mg/L	11/3/2005	WM051103B	11/4/2005	WM051103B
Molybdenum	0.0090		1.0	0.0050	mg/L	11/3/2005	WM051103B	11/4/2005	WM051103B
Nickel	ND		1.0	0.0050	mg/L	11/3/2005	WM051103B	11/4/2005	WM051103B
Selenium	ND		1.0	0.020	mg/L	11/3/2005	WM051103B	11/4/2005	WM051103B
Silver	ND		1.0	0.0050	mg/L	11/3/2005	WM051103B	11/4/2005	WM051103B
Thallium	ND		1.0	0.020	mg/L	11/3/2005	WM051103B	11/4/2005	WM051103B
Vanadium	ND		1.0	0.0050	mg/L	11/3/2005	WM051103B	11/4/2005	WM051103B
Zinc	0.020		1.0	0.010	mg/L	11/3/2005	WM051103B	11/4/2005	WM051103B

Analyzed by: Hainb

Reviewed by: dqueja

Detection Limit = Detection Limit for Reporting.

ND = Not Detected at or above the Detection Limit.

TOTAL P. 02



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 NOVEMBER 16, 2005

SUBJECT: REPORT ON TOWN DRAINAGE POLICY

At the last City Council meeting, staff was directed to retain appropriate experts to study and identify high-risk drainage areas within the Town. Staff is currently obtaining proposals for this and other related services. A contract should be executed within 30 days and the report available within 60 days.

Staff was also asked to report on the number of instances in which groundwater was pumped from excavation wells and into the Town drainage facilities. Staff knows of two instances: 1) 222 Greenoaks Drive and 2) 285 Catalpa Drive. Both cases involved the pumping of groundwater to facilitate the construction of basement construction.

Attached is a map showing general groundwater levels; staff will be available at the City Council meeting to answer any additional questions you might have.

Prepared by:

Approved by:

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Attachment



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF NOVEMBER 16, 2005

SUBJECT: SET DATE FOR TOWN MEETING ON EMERGENCY PREPAREDNESS

RECOMMENDATION:

Discuss and consider setting a date for a Town-wide emergency preparedness training event.

BACKGROUND:

At the City Council meeting of October 19, 2005, Sgt. Eric Grimm provided Council with a brief overview of the Town's Emergency Preparedness Plan. At that meeting, staff was directed to schedule a half-day session for disaster/emergency preparedness training on a Saturday in mid-January 2006 to be held at the Pavilion. All commissions and committees as well as all civic and homeowners groups would be invited. The event would also be publicized inviting all residents.

The following dates are available in the Pavilion:

- Saturday, January 14 – available all day and evening
- Saturday, January 21 – available all day only; not evening
- Saturday, January 28 - available all day and evening

Staff is recommending either the 21st or 28th of January in order to allow for time to advertise in the January (Winter) issue of the *Athertonian*.

Park staff indicated that the Pavilion may have some renovation taking place as early as January; however, the building will still be usable for a Town training event.