



AGENDA
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT

October 19, 2005

5:30 P.M. . 🖱 NOTE TIME

Meeting Room
Town Administrative Offices
91 Ashfield Road
Atherton, California

Special Meeting

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

5:32 P.M. PUBLIC COMMENTS

5:35 P.M. CLOSED SESSION

5:35 P.M. 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.

ADJOURN

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

September 21, 2005

5:30 p.m.

Meeting Room
Town Administrative Offices

91 Ashfield Road
Atherton, California

Special Meeting

The meeting was called to order at 5:37 p.m.

ROLL CALL

PRESENT: James R. Janz (Arrived at 5:55 p.m.)
Alan B. Carlson
William R. Conwell
Charles E. Marsala
Kathy McKeithen

PUBLIC COMMENTS

Dan Rubin, Fletcher Drive, Atherton, stated his concerns with mountain lion sightings at Fletcher and Ridgeview and his disappointment with the response from the Police Department. He displayed photos which he stated showed evidence of mountain lions. Mayor Conwell asked Mr. Rubin to put his concerns in writing and stated he would be provided with a response.

CLOSED SESSION

- 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**

**B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
SIGNIFICANT EXPOSURE TO LITIGATION PURSUANT TO
SUBDIVISION (b) of SECTION 54956.9:**

1 potential case

RECONVENE TO OPEN SESSION

Report of action taken.

City Attorney Marc Hynes reported during open session that discussion was held and no reportable action was taken by Council regarding the first two items listed under Item A, Atherton Police Officers Association and Non-management Miscellaneous Employees. The third item under Item A, Employee Organization: Management Employees, and Item B, Anticipated Litigation, were continued to the end of the Regular City Council Meeting at which time, the Closed Session was reconvened at 12:00 a.m. Discussion was held and no reportable action was taken on Item A, Employee Organization: Management Employees, and Item B, Anticipated Litigation.

ADJOURN

The Continued Special meeting was adjourned at 12:45 a.m.

Respectfully submitted,

**William R. Conwell
Mayor**

Minutes Prepared by:

Kathi Hamilton



DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON
CHANNEL DRAINAGE DISTRICT
September 21, 2005
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

Mayor Conwell called the meeting to order at 7:08 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**

Proclamation: Pollution Prevention Week – September 19-25, 2005

Mayor Conwell presented the Proclamation declaring September 19 through September 25, 2005, Pollution Prevention Week.

4. **COUNCIL REPORTS**

- **Council Member Janz reported that the design of the “Non-Hold-Out” Station was 95% completed and only signoffs remained. He and representatives from other cities (Burlingame, Menlo Park, etc.) were working on a proposal to help Caltrain increase its revenues and find other sources of funding in hopes of regaining train service. Santa Clara was proposing a ¼-cent sales tax increase for next year’s ballot, mostly to fund a Bay Area Rapid Transit (BART) connection to San Jose. Council Member Janz’ group suggested part of that revenue to be designated to support Caltrain. Those cities that would not benefit from a BART extension were urged to support the proposal since the tax was countywide and needed 2/3 vote to**

pass. Council Member Janz noted a program on, “Green Building, Reducing the Environmental Impact of Large Homes,” was being held on October 12, 2005, at 7 p.m. at Holbrook-Palmer Park.

- Vice Mayor Marsala attended the Lindenwood Homes’ Association meeting last Sunday. The Atherton Arts Committee was hosting an Artists Reception on Friday, September 23, from 4 to 8 p.m. Sixteen artists were participating. The Tennis Committee scheduled a fundraiser for October 1, from 3 to 5 p.m., to raise money to repair the courts. Mayor Conwell and Vice Mayor Marsala would be representing the Town at the League of Cities meeting, October 6 to 8, in San Francisco. Vice Mayor Marsala was lobbying for a proposed ballot measure, a 1/8-cent sales tax to support parks countywide that would result in \$200,000 for Atherton. He met with City Manager Jim Robinson, Police Chief Bob Brennan, and Sergeant Eric Grimm and toured Town facilities to ascertain where supplies were for a first response to a disaster. The Town was part of rollup system of mutual support that began on the local level and rolled up to the county, region, and the state. A fundraiser, sponsored by Jan Zones, was being held on October 2, from 5 to 7 p.m., for the Salvation Army to benefit the hurricane relief efforts. Vice Mayor Marsala received a request for the Town to consider contributing as a Town to the relief efforts. He noted there were several pamphlets available on how, as individuals, to be prepared for the first 72 hours after a disaster.
- Council Member Carlson attended the Buildings/Facilities Subcommittee meeting and noted an item was on the evening’s agenda regarding the Holbrook-Palmer Park Pavilion. He attended the Audit Committee meeting yesterday. The Town, once again, received an unqualified audit, and the Town was in a strong financial position.
- Council Member McKeithen also attended the Audit Committee meeting. The Town would receive an additional \$300,000 in property taxes due to an increase of 15% in property valuation. The Town’s assets were valued at more than \$49 million; however, the assets were not necessarily available to run the Town. The Town also met GASB 34 and 40 a year early. The auditors recommended adopting a fraud policy and strengthening the bank reconciliation policy. Regarding the program on “green building,” Atherton consumed more electricity and natural gas per household than any other household in San Mateo County, more that 3.5 times what a home in Menlo Park consumed. Council Member McKeithen received an update on the Upper Atherton Channel project. The pool at the bottom of the drop structure was completed, the frog pond was almost done, and no red-legged frogs were found in the area. The project was on target for completion and cost. The Office of Emergency Services (OES) meeting would be held September 22, at 5:30 p.m. Scott Morrow announced one human case of West Nile Virus was reported in San Mateo County; however, the report indicated the virus was contracted out of state. Council Member McKeithen had discussed drainage issues with residents. Problems had occurred with the use of English/French drains and other drainage policies in the Town. She requested the issue be scheduled for the October 19 City Council meeting.
- Mayor Conwell said he received a request to underground more P. G. & E. utilities. He asked the City Manager to contact the City of Palo Alto regarding a creative scheme to assess each home which did not become payable until the transfer of

ownership. City Manager Jim Robinson said the Town had a limited amount of dollars and several requests to use Rule 20A funds. He suggested putting the item on a future agenda in order for Council to prioritize the next undergrounding project. Mayor Conwell noted that Peter Carpenter, President of the Menlo Fire Protection District, was spearheading a meeting within the next week with five local mayors regarding emergency services. Mayor Conwell believed the Town had a provision in its Municipal Code that prevented the Town from making a donation unless it benefited the Town directly. City Attorney Marc Hynes clarified there was a state prohibition against making a gift of public funds. A determination had been made that donations given to other cities in the United States was an appropriate expenditure of public funds. Mayor Conwell recalled a previous Council being prevented from making a donation for the homeless. City Manager Robinson said many counties within the nine Bay Area counties had contributed into a fund to assist the homeless, and many cities had contributed to those funds. If the Council desired to donate, many organizations existed for that purpose. Mayor Cowell asked the City Attorney to research the issue and that the item be placed on the October 19 City Council agenda.

5. PUBLIC COMMENTS

Bob Jenkins, Atherton, spoke regarding disaster response. He distributed material to the Council regarding various disaster preparedness activities/plans/classes.

Steve Kennedy, spoke regarding a video production about suburban forest fire safety and the environment. Additionally, he noted he was a candidate for the Menlo Park Fire Protection District Board of Directors.

John Ruggiero, Atherton, asked for clarification on an item on the Special Meeting Agenda.

City Manager Jim Robinson said that he and Mr. Jory were negotiating on behalf of the Town.

Jim Dobbie, Atherton, spoke regarding his concern with the large amount of water pumping in the Lindenwood area. He asked whether a monitoring system could be put in place.

Public Works Director Duncan Jones said no harm occurred to adjacent properties because the influence only went about 15 feet from the excavation. Additionally, a requirement to filter the water ensured only crystal clear water went into the Atherton Channel.

City Manager Jim Robinson suggested having a representative from Cal Water attend a City Council meeting to discuss the impacts and concerns. The item was scheduled for the October 19 City Council Meeting.

Council Member Carlson said 8 to 10 years ago there was an issue about the number of wells being drilled. A study concluded that the number of wells had no effect.

John Sisson, Atherton, asked whether the well that supplied Holbrook-Palmer Park was drinkable.

Vice Mayor Marsala said no. The water was acceptable for swimming pools but was not drinkable. He believed the calcium deposits prevented the water from being made drinkable.

John Ruggiero believed the water was very drinkable and should be made available in case of emergencies.

City Manager Jim Robinson said the issue would be addressed with the previous item in October.

Bob Jenkins, spoke regarding the Atherton Civic Interest League's (ACIL), campaign for membership. He distributed a handout and requested: 1) to insert a membership solicitation envelope in the Atherton Handbook for distribution to new residents; 2) to erect yard signs in Directors' homes that promote joining the ACIL; 3) to erect a banner on Middlefield and Marsh Roads that promotes joining the ACIL; and 4) to include the membership solicitation letter/envelope in the fall *Athertonian*.

Mayor Conwell explained the Town had a policy that only allowed banners for events that related to the Town.

City Attorney Marc Hynes stated there was nothing prohibiting the erection of signs on private property. The Town policy for banners had been in existence for many years, required that any other organization requesting a banner had to be a Town-sponsored organization, and he did not advise "bending" the rules.

6. STAFF REPORTS

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

Discussion was held and no reportable action was taken.

Agency Negotiator: James H. Robinson, City Manager
Employee Organization: Teamsters Local Union 856
Non-management Miscellaneous Employees

Discussion was held and no reportable action was taken.

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

Item continued to the end of the Regular City Council Agenda

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

1 potential case

Item continued to the end of the Regular City Council agenda.

- **City Manager Jim Robinson referred to the letter from Peter Carpenter from the Menlo Fire Protection District regarding a Committee of Mayors and noted the fire chief also wanted to set up a similar committee at the staff level. Council Member McKeithen was the Town’s representative to the OES and City Manager Robinson was on the committee. Efforts to identify locations for storage of water and securing contracts to deliver and make water available in the event of a disaster were ongoing. A new CERT training class started last Thursday, 42 people were enrolled, and 7 were Atherton residents. Additionally, he noted Linda Kelly’s birthday was that day.**

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

Lindenwood Homes’ Association

Philip Lively, President, Lindenwood Homes’ Association, noted the Lindenwood Homes’ Association was established in 1945 for the properties being developed in the area known as the Flood Estate. Sixty years later, there were 479 homes in the area, 288 of which belonged to the Association. Mr. Lively reported on the many changes, activities, and dynamics which occurred in the neighborhood.

CONSENT CALENDAR (Items 8 - 18)

In response to Council questions, the following items were clarified:

Item No. 14: Instruction signs were installed on the exit doors of the elevator by staff.

Item No. 15: The Atherton Dames were donating the proceeds from their Kitchen Tour, approximately \$26,200, accounting for the local matching funds.

Item No. 17: The Traffic Safety Committee should be changed to Transportation Committee.

Item No. 18 was removed from the agenda to be returned to Closed Session.

MOTION - to approve the Consent Calendar as presented with the exception of Item No. 18 that was removed from the agenda to be returned to Closed Session.

M/S McKeithen/Marsala

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

8. **APPROVAL OF MINUTES OF REGULAR AND SPECIAL MEETINGS OF JULY 20, 2005, AND THE SPECIAL MEETING OF AUGUST 15, 2005**
9. **APPROVED BILLS AND CLAIMS FOR JULY 2005 IN THE AMOUNT OF \$933,712**
10. **APPROVED BILLS AND CLAIMS FOR AUGUST 2005 IN THE AMOUNT OF \$800,944**
11. **ACCEPTED MONTHLY FINANCIAL REPORT FOR JULY 2005**
12. **ACCEPTED MONTHLY FINANCIAL REPORT FOR AUGUST 2005**
13. **ACCEPTED QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDED JUNE 30, 2005**
14. **ACCEPTED WORK, AUTHORIZED RECORDATION OF NOTICE OF COMPLETION, AND APPROVED FINAL CHANGE ORDERS IN THE AMOUNT OF \$13,427.30 FOR THE HOLBROOK-PALMER PARK MAIN HOUSE WHEELCHAIR LIFT, PROJECT NUMBER 03-009**

Recommendation: Accepted work, authorized recordation of a Notice of Completion, and approved contract change orders in the amount of \$13,427.30 for the Holbrook-Palmer Park Main House Wheelchair Lift Project No. 03-009.

15. **ADOPTED A RESOLUTION APPROVING GRANT FUNDS FOR THE CALIFORNIA RIVER PARKWAYS GRANT PROGRAM UNDER THE WATER SECURITY, CLEAN DRINKING WATER, COASTAL AND BEACH PROTECTION ACT OF 2002 (PROPOSITION 50) FOR THE ATHERTON CHANNEL RESTORATION AND PATHWAY PROJECT AT HOLBROOK-PALMER PARK**

Recommendation: Adopted a Resolution No. 05- authorizing staff to submit an application for a California River Parkways Program grant to restore and expand the Atherton Channel adjacent to the Holbrook-Palmer Park south meadow and create a new pathway.

16. **ACCEPTED WORK, APPROVED FINAL CHANGE ORDERS AND AUTHORIZED A RECORDATION OF A NOTICE OF COMPLETION FOR THE 2005 CAPE SEAL PROJECT, PROJECT NUMBER 04-005**

Recommendation: Accepted work, authorized recordation of a Notice of Completion and approved contract change orders in the amount of \$5,631.85, for a final project cost of \$261,159.20, for the Town Cape Seal Project, Project Number 04-005.

17. ACCEPTED ATHERTON TRAFFIC ENFORCEMENT PLAN THAT WAS APPROVED BY THE TRANSPORTATION COMMITTEE APRIL 12, 2005

Recommendation: Received and filed the recent analysis of the Atherton Traffic Enforcement Plan adopted in 1997.

~~**18. ADOPTION OF A RESOLUTION APPROVING AN AMENDMENT TO THE CITY MANAGER EMPLOYMENT AGREEMENT (Removed to be returned to Closed Session)**~~

~~**Recommendation:** Adopt a Resolution to approve the Third Amendment to the City Manager Employment Agreement.~~

PUBLIC HEARINGS (Item 19)

19. APPEAL OF PLANNING COMMISSION DECISION REGARDING 40, 50 AND 60 ASHFIELD ROAD (ASSESSOR'S PARCEL NUMBERS 060-323-290, 060-323-210, AND 060-323-220)

Recommendation: Open public hearing, hear testimony, and close the public hearing.

Deputy Town Planner Lisa Costa Sanders presented the staff report. At its July 27, 2005, meeting, the Planning Commission voted 3 to 1 to approve the Exception Review request subject to the conditions listed in the Exception Review Certificate contained in Council's packet. Since that meeting, an appeal signed by 12 neighboring residents was filed on August 1, 2005. The three proposed new homes at 40, 50, and 60 Ashfield Road were each two stories in height, with a detached garage at the rear of the property, and met the requirements of the R-1B zoning district. The developer had worked with the Town Arborist to prepare a revised landscape-screening plan that met the Town's objectives. The appeal asserted there were four items in which the appellants believed the Planning Commission erred and were listed in the staff report. The appellants' concerns centered on neighborhood compatibility, specifically the size of the homes and consistency/compatibility with the existing homes. The appellants had four suggested conditions for Council's consideration: 1) reducing the house size; 2) requiring the homes to comply with the setbacks of the original lot lines; 3) requiring additional screening; and 4) requiring the developer to fix the existing fencing. Staff recommended that Council deny the appeal and thereby approve the Exception Request to allow the three homes.

Mayor Conwell opened the public hearing.

Paul Quinlan, Maple Avenue, spoke regarding Section 17.54.010 of the Atherton Municipal Code which indicated that prior to issuing a Building Permit, the design,

site plan, and surrounding landscaping should be reviewed. The Planning Commission/Council had the ability to impose reasonable conditions to protect, among others, the general welfare and convenience. He believed the three homes were too big, were too similar in profile from the front, and did not comply with the rear lot lines. He encouraged Council to consider reducing the size of the homes and making the rear lot lines conform to the original setbacks.

Brian Kelly, Jr., Kelly Gordon Development Corp., stated all three homes were very different, utilized different exterior materials, and had different rooflines. There were a number of homes in the neighborhood that were 3,500 square feet. In working with the Town Arborist, the landscape screening concerns of the neighbors had been implemented in a landscape-screening plan. He believed the three homes were compatible with the neighborhood and met the four requirements of the Exception Review.

In response to Council, City Attorney Marc Hynes clarified the Exception Review was required because the lots were undersized and had been previously used as one lot and the homes were two story.

Patricia Engasser, Ashfield Road, spoke regarding the Planning Commission decision which she believed was not an actual representation of the Commission's concern for the project, her concerns that the neighbors were not sufficiently notified initially, and that approvals were given without neighborhood input. The homes were not that different architecturally, would change the flavor of the neighborhood, and the impacts to her single-story home next door were significant.

In response to Council Member Carlson, City Attorney Hynes said it was within the Council's purview to make a final decision that evening. Unless there was something within the testimony that evening, or from Council's own view of the rendering of the houses, or from personal investigation, the staff report advised there really was no basis for agreeing to make the homes smaller.

Council Member Carlson clarified if Council denied the appeal, the appellants could file a challenge in court. If Council granted the appeal, the property owner could likewise file a challenge.

City Attorney Hynes explained a challenge would be based on abuse of discretion, to be proved by the plaintiff, and the court would determine whether there was substantial evidence in the record to support the determinations/findings.

Julie Quinlan, Maple Avenue, was troubled by the discussion. The task was daunting; however, under an Exception Review, Council was obligated to follow the Municipal Code that required a design review. The difference with the three homes was they were right next to one another, looked substantially the same, were being built at the same time, and could not be compared to a single home on one lot.

Jim Dobbie, Atherton, Planning Commission member, voted against the project. Other members of the Commission were also concerned; however, they were unsure of their authority and believed the rules were too vague.

Jack Ringham, Atherton, stated his subjective opinion was the three homes looked like high-end, “cookie-cutter” tract homes with some modifications.

Brian Kelly, Sr., Kelly Gordon Development Corp., said, in terms of compatibility, Council should think in terms of: a) the homes were 35 feet wide; b) there was 40 feet between the houses; and c) the homes sat 40 to 60 feet back from the street and were screened by existing trees. The homes, from a streetscape standpoint, were not large houses. The homes met all the design criteria established by the Town of Atherton.

Discussion centered on the footprint of the homes and that they looked too similar.

Mayor Conwell closed the public hearing.

Council Member Carlson said a decision would not be easy; however, one should be made. He believed reducing the side setbacks would be arbitrary because they would become different from all other similar lots in the Town. If the side setback could not be reduced, the frontage remained essentially the same. The three bare schematics did not give a true picture of how the homes would look on the lot from the street. He believed the subjective factor of analyzing/changing the structure of the house then became arbitrary.

Council Member McKeithen said Council needed to represent the community. Staff and developers did not live in Town and would not have to live with the results. The reality was there were three undersized lots, a street that slanted and caused the three homes to appear the same distance from the street, and very large houses being built (much larger than the 17.8 percent ratio on Ashfield Road and the 19.9 percent on Maple Avenue). The ratio was 25 to 28 percent. Council Member McKeithen was troubled with neighborhood compatibility. She believed one of the homes should be smaller by approximately 500 feet and made to look more different. The three homes did not meet the standards of the community.

Council Member Janz said the homes were large; however, “big” was already in Atherton. The lots were small for Atherton but were 1/3 of an acre. Eventually, all the older, smaller homes would be replaced with the newer larger ones. The three lots became subject to the review process by happenstance and individually/separately would not be subject to an Exception Review. Because of the setbacks, he did not believe they would look like they were in a row and that they looked different enough from one another. The looks of the neighborhood would change over time.

Vice Mayor Marsala was more concerned that the homes looked too similar than with their size.

Mayor Conwell said although he believed people should be able to build a home that fell within the confines of legality, he felt deeply for the community. By approving the appeal, perhaps the builders could come back with something more acceptable to the community.

MOTION -- to grant the appeal and direct the developers to further differentiate among the external looks of the three homes to be more acceptable/compatible with the existing neighborhood.

Council Member Carlson believed the motion was arbitrary and lacked guidance.

Council Member Janz thought the motion was too vague.

City Attorney Hynes recommended that Council direct preparation and adopt formal findings that could be used in case of litigation. After discussion, Council chose not to do so.

M/S McKeithen/Marsala Ayes: 3 Noes: 2 (Carlson/Janz) Absent: 0 Abstain: 0

Mayor Conwell called a recess at 10:07 p.m. The meeting reconvened at 10:15 p.m.

REGULAR AGENDA (Items 20-26)

20. DISCUSSION AND POSSIBLE DIRECTION TO STAFF RELATED TO MENLO COLLEGE FIELD USE ISSUES (Continued from the City Council Meeting of July 20, 2005)

Recommendation: Review the Menlo School/Menlo College Progress Report and give appropriate direction to staff.

City Manager Jim Robinson noted at the last Council meeting, representatives of Menlo School and Menlo College were asked to meet with the neighbors and report back to Council. A meeting was held with the neighbors on Brittany Meadows, and representatives of Menlo College prepared a progress report that was contained in the staff report. Representatives from Menlo College were not present that evening and requested the Council accept the report. They intended to meet with the neighbors at least one more time and all would return to the City Council Meeting of October 19, 2005. City Manager Robinson distributed an email that identified the remaining issues to be addressed, namely the starting times and activities on Sundays.

BY CONSENSUS: Council accepted the progress report, and the item was continued to the City Council Meeting of October 19, 2005.

21. SECOND READING AND ADOPTION OF SPECIAL EVENT ORDINANCE

Recommendation: Hold the second reading, receive public comment, and adopt the Ordinance repealing Chapter 8.52 and adding Chapter 17.38 of the Atherton Municipal Code relating to Special Event requirements within the Town of Atherton.

Deputy Town Planner Lisa Costa Sanders presented the staff report. The ordinance was introduced at the City Council Meeting of July 20, 2005. Council directed staff to incorporate two changes: 1) increase liability insurance to \$2 million; and 2) permit City Manager discretion to exempt activities that might occur on cul-de-sacs. Staff researched information regarding availability of Associated Bay Area Governments (ABAG) insurance policy which was contained in Council's packet. Staff presumed with the availability of ABAG insurance, the item regarding City Manager discretion was not needed.

City Attorney Marc Hynes clarified private citizens were able to acquire insurance from ABAG that was made available through another company which provided special event insurance ranging in cost from \$85 to \$335.

A discussion ensued as to whether the insurance was needed for an event on private property or only on public/Town property. Council Member Janz wanted the need for insurance to apply in either case.

After a discussion regarding concerns with the School Guidelines, a determination was made that any changes to the School Guidelines could be made without affecting adoption of the ordinance that evening.

Corrine Zaro, Oak Grove Avenue, was a longtime resident with five children who graduated from Menlo-Atherton High School. She understood the issues and noise related to living near the school; however, over the last two years, the noise had become very intrusive, beginning at 7 a.m. and ending at 5:30 p.m., on both Saturdays and Sundays. She believed a change in the type of speakers was the main cause. She asked the Council for help to rectify the situation.

Harriet Tuchman, Maple Leaf Way, was also a longtime resident who lived nearby the high school and agreed with the previous speaker's comments. During the last two years, the noise had increased to the point she could hear what was being said, word for word, inside her home.

Christopher Dueker, Ringwood Avenue, raised a concern that the noise ordinance and other laws were not being enforced by the Police Department, namely the "No Parking" regulations on Ringwood Avenue. He also stated a noise complaint had not been addressed.

Police Chief Bob Brennan clarified that particular portion of Ringwood Avenue was part of the County. Additionally, he noted Vehicle Code violations could be enforced

throughout the state, but Municipal Code violations such as parking were enforced by the local jurisdiction.

City Attorney Marc Hynes stated a short-form agreement might be possible with the County for that particular area.

Mel Britton, Toyon, agreed with the previous speakers. When making a noise complaint to the Police Department, he was told the school was exempt, which he thought was an error.

City Attorney Hynes clarified the school district was exempt from all the local ordinances except building and zoning codes. If, however, schools decided to exempt classroom activity from the codes, they were permitted to do so. A non-classroom activity would still be subject to the zoning and building codes. The purpose for putting the Special Event regulations in the zoning code was to provide some controls.

City Manager Jim Robinson said staff had had meetings with the Menlo-Atherton staff regarding the new theatre, noise issues, parking issues, and issues related to the school resource officer. Once the School Guidelines were in place, reviewing them with the school made sense.

Carol Smith, Oak Grove Avenue, believed starting an event at 7:30 a.m. on the weekend was unconscionable. Conversations with Mr. Estrada over the past two years had not produced any results. She suggested changing the times on weekends to 10:00 a.m. to 5 p.m. and that enforcement was paramount.

Curt Schulze, Toyon, said his home backed the fire road. He reminded the Council that noise was not the only issue; vandalism occurred and was not controlled.

Marina Boudart, Oak Grove, spoke regarding the increased noise.

David Muller, Stockbridge Avenue, spoke regarding the need to repeal Chapter 8.52 in conjunction with adopting the new ordinance as it was too broad and intrusive. He urged Council to repeal Chapter 8.52 that evening regardless of whether they adopted the new ordinance.

Marguerette Paponis, Atherton, read a letter into the record which recommended that a Special Event permit be awarded only after the property owners within a 500-foot radius were given a 60-day notice that a major event was planned in their area. Additionally, she inquired whether noise meters were still being used and whether officers were trained.

Police Chief Brennan responded yes.

Jeff Ward, Atherton, asked for clarification regarding the need for insurance on private property.

Mayor Conwell stated the Town presumed home owners' policies would suffice.

Council Member McKeithen stated the only issue remaining was with regard to the School Guidelines. She believed the times for non-school related events should comply with the Town's noise ordinance, 10:00 a.m. to 5:00 p.m.

Council Member Carlson recommended that Council adopt the ordinance as written.

Council Member Janz noted the insurance requirement came into play only if a permit was needed and clarified that insurance was required whether the event was on public or private property. Additionally, he clarified that school-related events did not have to comply with the guidelines and could begin at 7:00 a.m. with amplified sound.

MOTION: to adopt Ordinance No. 559, "AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON REPEALING CHAPTER 8.52 AND ADDING CHAPTER 17.38 OF THE ATHERTON MUNICIPAL CODE REGULATING SPECIAL EVENTS WITHIN THE TOWN OF ATHERTON."

A discussion ensued regarding the applicability of the 60-day advance request for a permit. City Manager Robinson said relative to the School Guidelines for Non-Related School Events, the Town needed to work with the schools to get their buy-in on implementing the guidelines.

M/S Marsala/McKeithen

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

Mayor Conwell called a recess at 11:23 p.m. The meeting was reconvened at 11:34 p.m.

22. HISTORIC ARTIFACT INVENTORY – STATUS REPORT

Recommendation: Receive status report and provide direction to staff for continued public outreach and the preparation of a final Study, Inventory, and possible preparation of a draft Ordinance.

Laura Jones, consultant, provided a brief overview. Significant artifacts were found and would be described in detail in the inventory. Public outreach and a community meeting were conducted. Everyone, whether they chose to participate in the inventory or not, respected the value of the artifacts to the Town. Ms. Jones responded to Council questions.

In response to Vice Mayor Marsala, Ms. Jones stated in 75 to 100 years, homes being built currently would look historic. However, she was recommending specific criteria related to the first two periods, the Gilded Age and the Country Place Eras, which were increasingly rare in Atherton. Pursuant to Council's direction, she concentrated on the historic estates of Atherton and stopped with the big subdivisions. She was proposing criteria for acquiring future artifacts.

William Grindley, Atherton, commended Dr. Laura Jones for her work. He noted that approximately half of the 50 objects that were inventoried existed in the public domain. Another 20 to 25 were surveyed on private property in which the property owner gave consent. He raised a concern with the scope of Ms. Jones' contract regarding a draft historic ordinance.

Council accepted the report and took no further action.

23. CONSIDERATION OF VOTING STATUS OF RESIDENT MEMBERS OF TOWN COMMITTEES AND CONFORMANCE OF COMMITTEE NAMES

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

MOTION – to continue the item to the City Council Meeting of October 19, 2005.

M/S McKeithen/Carlson

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

24. APPROVAL OF FACILITY IMPROVEMENTS TO THE JENNINGS PAVILION AT HOLBROOK-PALMER PARK; APPROVAL OF USE OF STATE PER CAPITA PROGRAM GRANT FUNDS; AND APPROVAL TO REQUEST PROPOSALS FOR ARCHITECTURAL DESIGN SERVICES

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

Public Works Director Duncan Jones presented the staff report. The Pavilion was in need of new carpeting and additional floor space to remain competitive. The proposal was to move the doors on all four sides out to the exterior walls, resulting in their replacement. In addition, the lighting was inadequate and a new system with a lighting control panel was proposed. An additional proposal to expand the size of the Pavilion by adding a sunroom to the north side was recommended to occur as Phase 2 with the hiring of an architect to investigate the aesthetics and costs. Staff was recommending the approval of Phase 1 at the current time.

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

M/S McKeithen/Carlson

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

Discussion was held and no reportable actions were taken on Item A, Employee Organization: Management Employees, and Item B, Anticipated Litigation.

The Special Meeting adjourned at 12:45 a.m.

Respectfully submitted,

Linda Kelly, Acting City Clerk

Minutes Prepared By:

Kathi Hamilton

TOWN OF ATHERTON
CLAIMS LIST
September 2005

Payroll Checks	6563 - 6714	\$ 46,347
Electronic Transfers		355,167
A/P Checks	20528 – 20729	562,209
TOTAL		\$ 963,723

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 6563 - 6714 (payroll) and 20528 – 20729 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$963,723; are true and correct, and that there are sufficient funds for payment.

James H. Robinson
City Manager

The above claims, check numbers 6563 - 6714 (payroll) and 20528 - 20729 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$963,723; are true and correct, and are authorized for payment.

William R. Conwell
Mayor, Town of Atherton

SOURCE OF FUNDS

101	General Fund	\$833,938
105	Tennis Fund	
201	Special Parcel Tax	
202	Transportation	
203	Gas Tax Fund	
210	Road Construction Impact Fees	20,000
211	Park Grants Fund	
213	Library Special Revenue Fund	1,391
401	General Capital Projects	
402	Storm Drainage	
403	Atherton Channel District	
406	Facilities Construction	81,743
610	Vehicle Replacement	16,267
611	Computer Maint. & Replacement	3,498
612	Administrative Services	5,777
614	Workers Compensation Insurance	
715	Evans Estate	409
740	Tree Committee	700
TOTAL		\$963,723



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: JOHN P. JOHNS, FINANCE DIRECTOR

DATE: FOR THE MEETING OF OCTOBER 19, 2005

SUBJECT: MONTHLY FINANCIAL REPORT, SEPTEMBER 2005

RECOMMENDATION:

Receive the Monthly Financial Report for September 2005.

INTRODUCTION:

The attached schedules show revenues and expenditures and fund balance for all funds as of September 30, 2005.

HIGHLIGHTS:

General Fund expenditures for the three months ended September 30, 2005, have amounted to \$828,457, or 23% of the \$8,701,010 budgeted for the fiscal year. For the month ended September 30, 2005, General Fund revenues amounted to \$1,122,352, or 15% of the \$8,720,458 estimated for the year.

By comparison, General Fund expenditures amounted to 18% of budgeted expenditures for the three months ended September 30, 2004. Additionally, General Fund revenues amounted to 10% of estimated revenues for the three months ending September 30, 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 September 30th, 2005

Fund	Revenue Source	2005-06 Estimate	Current Period Revenues	Year to Date Revenues	% Received
	Property Tax	\$ 3,651,651	-	-	0%
	Sales and Use Tax	126,000	16,872	41,265	33%
	Other Taxes	830,760	23,047	150,821	18%
	Licenses & Permits	1,839,879	55,545	691,241	38%
	Fines & Forfeitures	35,000	6,810	8,433	24%
	Revenue from Other Agencies	303,166	17,459	90,884	30%
	Charges for Services	336,208	44,709	119,334	35%
	Investment & Rental Income	291,633	7,879	15,564	5%
	Other Revenues	5,000	1,170	4,810	96%
	Total General Fund Revenues	7,419,297	173,491	1,122,352	15%
	Interfund (Operating) Transfers In	1,301,161	-	-	0%
101	General Fund Total	8,720,458	173,491	1,122,352	13%
	Special Revenue Funds:				
105	Tennis	7,000	-	300	4%
201	Special Parcel Tax	1,858,000	-	-	0%
202	Transportation	180,000	26,168	63,364	35%
203	Street Improvement (Gas Tax)	172,376	9,527	35,780	21%
209	Law Enforcement	100,000	-	-	0%
210	Road Construction Impact Fees	1,158,328	10,661	291,166	25%
211	State Park Grants Fund	197,399	-	-	0%
213	Library	200,000	-	-	0%
	Total	3,873,103	46,356	390,610	10%
	Capital Project Funds:				
401	Capital Improvement	-	-	-	
402	Storm Drainage	-	-	-	
403	Channel Drainage District	50,665	-	-	0%
406	Facilities Construction	-	-	-	
	Total	50,665	-	-	0%
	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	219,847	1,517,162	12%

TOWN OF ATHERTON
Expenditure Summary
For the Month Ended September 30th, 2005

Fund	Description Department	2005-06 Budget	Current Period Expenditures	Year to Date Expenditures	% Spent
101	General Fund				
	11 City Council	\$ 20,535	\$ 1,795	\$ 4,315	21%
	12 City Manager	475,598	42,116	104,393	22%
	16 City Attorney	180,255	10,000	27,313	15%
	18 Finance	460,667	46,603	97,327	21%
	25 Building	1,042,371	88,923	231,689	22%
	40 Police	4,521,000	461,164	1,090,196	24%
	50 Public Works	1,900,584	177,856	455,160	24%
	Contingency	100,000	-	-	0%
	Total General Fund Expenditures	<u>8,701,010</u>	<u>828,457</u>	<u>2,010,393</u>	<u>23%</u>
	Interfund (Operating) Transfers Out	-	-	-	0%
101	General Fund Total	<u>\$ 8,701,010</u>	<u>\$ 828,457</u>	<u>\$ 2,010,393</u>	<u>23%</u>
Special Revenue Funds:					
105	Tennis	25,011	1,689	4,773	
201	Special Parcel Tax	1,832,077	-	32,677	2%
202	Transportation	323,420	-	-	0%
203	Street Improvement (Gas Tax)	150,000	-	-	0%
209	Law Enforcement	100,000	-	-	0%
210	Road Impact Fees	1,598,671	-	-	0%
211	State Park Grants	196,736	-	-	0%
213	Library Fund	71,045	1,607	5,350	8%
	Total	<u>4,296,960</u>	<u>3,296</u>	<u>42,800</u>	<u>1%</u>
Capital Project Funds:					
401	Capital Improvement	282,896	-	-	0%
402	Storm Drainage	21,394	-	-	0%
403	Channel Drainage District	425,300	81,743	111,347	26%
	Total	<u>729,590</u>	<u>81,743</u>	<u>111,347</u>	<u>15%</u>
Internal Service Funds:					
610	Vehicle Replacement	76,000	16,267	62,055	82%
611	Information Technology	112,622	3,498	6,755	6%
612	Administrative Services	317,139	17,286	161,232	51%
614	Workers Compensation Insurance	-	-	-	
	Total	<u>505,761</u>	<u>37,051</u>	<u>230,042</u>	<u>45%</u>
Trust and Agency Funds:					
715	Evans Creative Design	11,200	409	409	4%
740	Tree Committee	-	300	300	
	Total	<u>11,200</u>	<u>709</u>	<u>709</u>	<u>6%</u>
	Total Expenditures	<u>14,244,521</u>	<u>951,256</u>	<u>2,395,291</u>	<u>17%</u>

TOWN OF ATHERTON
Budget Summary
Fiscal Year 2005-06
As of September 30th, 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	1,122,352	-	2,010,393	5,733,136
	Special Revenue Funds:					
105	Tennis	18,867	300		4,773	14,394
201	Special Municipal Tax	771,127	-		32,677	738,450
202	Transportation	192,634	63,364		-	255,998
203	Street Improvement (Gas Tax)	44,285	35,780		-	80,065
209	Law Enforcement	23,327	-		-	23,327
210	Road Construction Impact Fees	540,861	291,166		-	832,027
211	State Park Grants	(663)	-		-	(663)
213	Library Special Revenue Fund	1,288,869	-		5,350	1,283,519
	Sub Total	<u>2,879,307</u>	<u>390,610</u>	<u>-</u>	<u>42,800</u>	<u>3,227,117</u>
	Capital Projects Funds:					
401	Capital Improvement	282,896	-		-	282,896
402	Storm Drainage	26,831	-		-	26,831
403	Channel Drainage District	442,754	-		111,347	331,407
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>-</u>	<u>-</u>	<u>111,347</u>	<u>707,825</u>
	Internal Service Fund					
610	Vehicle Replacement	355,952	-		62,055	293,897
611	Information Technology	54,801	-		6,755	48,046
612	Administrative Services	13,725	-		161,232	(147,507)
614	Workers Compensation Insurance	-	-		-	-
	Sub Total	<u>424,478</u>	<u>-</u>	<u>-</u>	<u>230,042</u>	<u>194,436</u>
	Trust and Agency Funds					
715	Evans Creative Design	113,488	-		409	113,079
740	Tree Committee	1,949	-		-	1,949
	Sub Total	<u>115,437</u>	<u>-</u>	<u>-</u>	<u>409</u>	<u>115,028</u>
	Grand Total	<u>\$ 10,859,571</u>	<u>\$ 1,512,962</u>	<u>\$ -</u>	<u>\$ 2,394,991</u>	<u>\$ 9,977,542</u>



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: ROBERT BRENNAN, CHIEF OF POLICE

DATE: FOR THE CITY COUNCIL MEETING OF OCTOBER 19, 2005

SUBJECT: DECLARATION OF SURPLUS BICYCLES

RECOMMENDATION:

Staff recommends that the City Council declares specific Town property as surplus and authorizes the City Manager, or his designee, to dispose of identified property.

INTRODUCTION:

Periodically, the Town disposes of recovered property that has not been claimed. 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 conduct. All attempts to locate the rightful owners have been exhausted, and the required waiting period has passed. In the particular case of these bicycles (Exhibit A), The Police Department desires to donate this property to the Salvation Army who will collect the bicycles for their charitable causes.

CONCLUSION:

The approval of this request will facilitate the disposal of surplus property and benefit a nonprofit organization.

FISCAL IMPACT:

None.

Prepared by:

Approved by:

Robert Brennan
Chief of Police

James H. Robinson
City Manager

Attachments: Exhibit A

Case	Bike	Serial #
03-799	Blue Pacific Conquest	6TT00772
03-592	Black & White Pyramid	S98100759
03-592	Gray	H0455639
03-592	Blue & Black Motive Ground Pounder	D19C11929
03-592	White & Purple Equalizer	MC94337053
02-660	Green Huffy	59900053284
02-660	Black GT Talera	SY4C30
02-731	Silver Rock Hopper	
02-731	Red Children's Bike	
02-523	Blue Spice Girl's	26599161106
02-891	White & Pink Murray	49090072684
03-1052	Blue Ballistic	99TD226900
03-775	Blue Palomar GT	POGM70681
02-663	Black & Red MGX	ACJJ30789
03-518	Black & Red Magna	00TD046969
03-454	Red & Black Pacific	
03-231	Yellow Calif Go Ped Scooter	PM-03442
03-37	Red Boy's	L011213800
04-1005	Silver & Wood Sharper Image Scooter	
04-745	Black Giant Option	G07V2012
04-924	Black	33313-9324216HC
04-575	Green GT Auto Stream	MT81001793
04-575	Blue & Yellow Co Pilot trailer	
04-44	Yellow & Red Huffy	SNP3126299
04-225	Green Free spirit Blaze	M0K0416855
04-126	Pink & black Schwinn	LT060289
04-126	Purple & Black Schwinn	HK102697
04-602	Black Quaser	CS02054623
03-403	Black Trek Antelope	T0F49075

03-403	White Rockhopper	SPA084935
04-675	Silver	06TD337381
02-929	Red & Black Hard Rock	9K548643
02-410	Silver & Black Hardrock	M8JI76581
04-114	Silver Cypress	
03-261	Blue Fuji League	FL405425



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF OCTOBER 19, 2005

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

RECOMMENDATION:

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

BACKGROUND:

The Landscape Master Plan for Holbrook-Palmer Park included an element to complete the walking path behind the Playschool, Carriage House and Corporation Yard so that path users will no longer need to walk in the roadway in front of these buildings to walk completely around the park. The conceptual plan includes open connections from the path to the roadway between the Carriage House and the Corporation Yard for security, as envisioned by the Landscape Master Plan. Fence modifications to open this corridor and enclose the Corporation Yard are included in the plan.

The Town received notice in July of 2001 that a grant under the Roberti-Z'Berg-Harris Urban Open Space and Recreation Grant Program of the Safe Neighborhoods, Clean Water, Clean Air and Coastal Protection Bond Act of 2000 had been set aside for the Town. A contract for the funds was executed with the state in July of 2002. The Town has until June of 2009 to perform a

contract to use the grant funds. The grant funds require a 30% match, of which one-third must be from private donations.

ANALYSIS:

The Park and Recreation Commission considered this item at its September 7, 2005, meeting. Staff was directed to prepare a conceptual plan in more detail than that shown on the Landscape Master Plan. The Commission considered the conceptual plan prepared by staff at its October 5, 2005, meeting, including a site visit. At both meetings, the neighboring residents of Felton Gables and the Playschool were invited to give their comments. The Felton Gables' neighbors who attended were in support of the project but requested that the space between the path and their rear fences be at least ten feet and include landscape screening. The Commission directed staff to revise the plan to provide this clearance and recommended that the revised plan be approved by the City Council before proceeding with final design.

The next steps in the project sequence, after approval by Council, will be to prepare a survey of the path corridor and prepare final design plans, specifications, and cost estimate. The final plans and cost estimate will be prepared by spring of 2006 for inclusion in the 2006-07 budget, and a bid package will be prepared for construction in the summer of 2006. The landscape screening will be placed with donated plant materials after path construction is completed in the fall of 2006.

FISCAL IMPACT:

The grant amount is for \$21,910 and requires a 30% match, of which one-third must be from private donations. The total project amount must be at least \$31,300 in order to fully use the grant funds. The private match amount of \$3,130 has been secured by private donations from the Holbrook-Palmer Park Foundation and the Atherton Dames. The remaining match amount of \$6,260, and any amounts necessary above the grant and donations to complete the project, would need to be budgeted from Parcel Tax funds in the 2006-07 budget.

The current preliminary estimate for this project, including slurry sealing the existing pathway throughout the park, is \$33,500. This will fully utilize both the state grant and the private match, and require a Town contribution of approximately \$8,500. A final cost estimate will be brought to the City Council for budgeting next spring, and the project bid package will be brought to City Council for approval when the project is designed and ready for bidding next summer.

Prepared by:

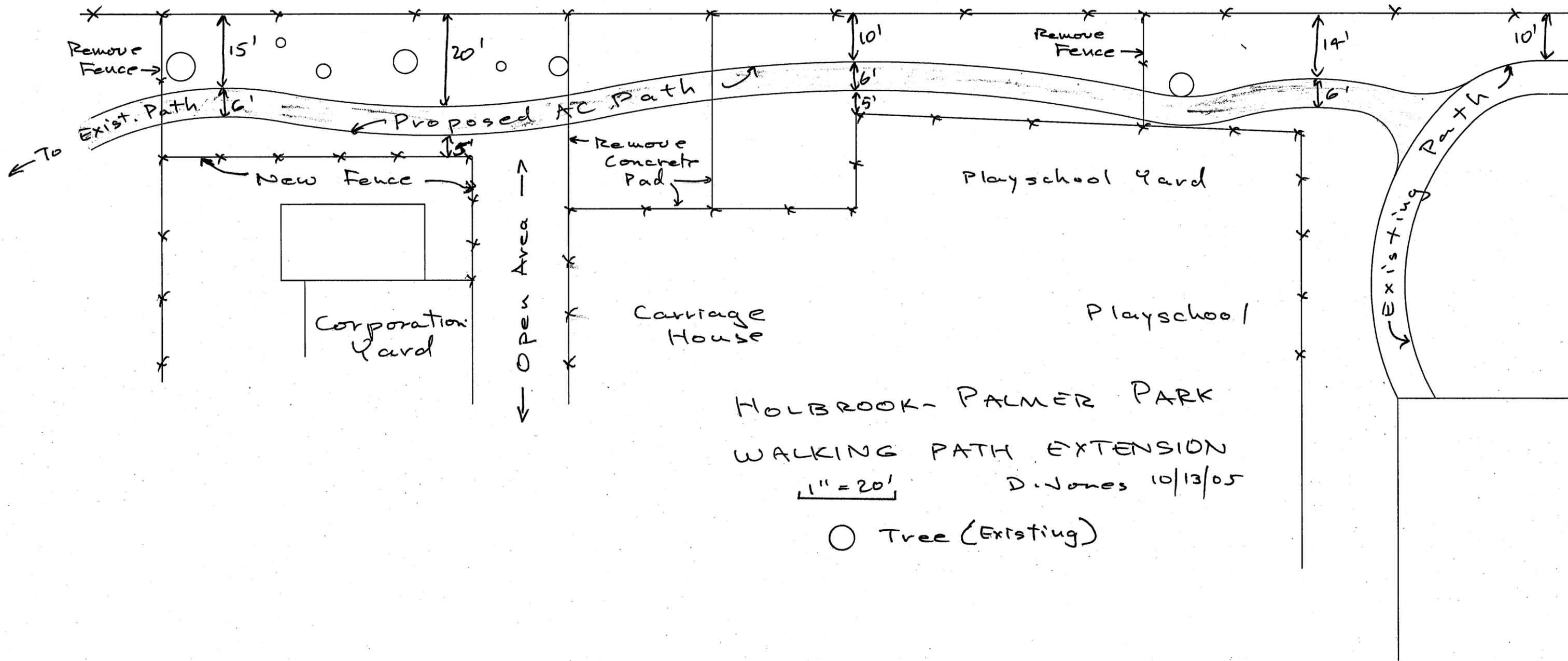
Approved by:

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

James H. Robinson
City Manager

Attachments: Conceptual Plan

Felton Gables





Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF OCTOBER 19, 2005

**SUBJECT: APPROVAL OF ENCROACHMENT AGREEMENT WITH MENLO SCHOOL
FOR IN-STREET LIGHTED CROSSWALKS ON ALEJANDRA AVENUE**

RECOMMENDATION:

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

BACKGROUND:

Menlo School requests permission to install in-street lighted crosswalks on Alejandra Avenue to improve safety for its students. The Transportation Subcommittee considered this item at its July 2005 meeting and recommended that an encroachment agreement be approved by City Council.

ANALYSIS:

Menlo School has agreed to pay for installation and maintenance of the lighted crosswalks.

FISCAL IMPACT:

The Town will inspect the lighted crosswalk installation for the standard encroachment permit fee.

Prepared by:

Approved by:

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

James H. Robinson
City Manager

Attachment: Encroachment Agreement

RECORDING REQUESTED BY

Town of Atherton

WHEN RECORDED MAIL TO:

Town of Atherton
Public Works Department
93 Station Lane
Atherton, CA 94027

**REVOCABLE ENCROACHMENT PERMIT
FOR FACILITIES**

THE TOWN OF ATHERTON, a municipal corporation ("Town"), pursuant to Chapter 12.06 of the Atherton Municipal Code, hereby grants to MENLO SCHOOL and MENLO SCHOOL AND COLLEGE SUPPORTING CHARITY ("MSCSC"), ("Permittee"), a revocable encroachment permit to allow certain facilities to be installed in City's right-of-way as described in Exhibit A attached here and incorporated by this reference.

The conditions of this encroachment permit are as follows:

1. The authorized encroachments are described in Exhibit A and as shown on the plans, a copy of which are on file in the offices of Town.
2. Permittee shall indemnify, defend and hold Town harmless from and against any and all claims, demands, costs, expenses, and liabilities arising from or in any manner related to the issuance of the encroachment permit and the construction of improvements by Permittee within the public right-of-way.
3. Permittee shall at all times maintain in full force and effect a policy of general liability insurance providing coverage to Town of not less than two million dollars (\$2,000,000.00) against the liabilities referred to in paragraph 2 of this permit. Such policy shall expressly provide that coverage thereunder shall be primary with respect to any other liability insurance maintained by Town and shall not be reduced or cancelled without at least twenty (20) days prior written notice to Town. The obligation of Permittee to indemnify and defend Town shall not be limited to the amount of such insurance coverage therein.
4. This permit shall constitute a covenant running with the land which shall be binding upon the successors and assigns of Permittee, including all future owners of the property or any interest therein.
5. This permit shall not constitute the transfer or relinquishment of any ownership interest held by Town in the public right-of-way nor shall this permit confer any vested or proprietary rights upon the holder of the permit beyond the right to utilize the encroachment area in the manner authorized by the permit and subject to all of the conditions set forth herein.
6. This permit may be revoked by the City Manager upon any violation of the conditions of the permit or if it becomes necessary for Town to utilize any portion or all of the encroachment area to prevent, correct or abate a safety or health hazard or any existing or threatened hazard to the condition or maintenance of the public street or any utilities installed therein, or if the Town otherwise requires use of any portion or all of the encroachment area. In the absence of emergency, Town shall provide at least ninety (90) days written notice of revocation during which time Permittee shall at Permittee's own expense, remove such portion or all of the private improvements constructed within the public right-of-way as may be directed by the Director of Public Works.
7. In the event Town reconstructs the property upon which the encroachments are authorized, permittee agrees to remove and if it wishes continued use of said encroachments to reconstruct them at Permittee's expense.

Dated: _____

TOWN OF ATHERTON

By: _____

City Manager

The undersigned hereby accepts the foregoing encroachment permit and agrees to observe or perform all of the conditions set forth therein.

PERMITTEE

Dated: _____

STATE OF CALIFORNIA
COUNTY OF _____

On this _____ day of _____, 20__, before me, the undersigned Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF OCTOBER 19, 2005

SUBJECT: APPROVAL OF FOUR CROSSWALK SIGNS ON WATKINS AVENUE

RECOMMENDATION:

Approve installation of crosswalk signs on Watkins Avenue at McCormick Lane and Burns Avenue.

BACKGROUND:

A resident requested that the Town install standard crosswalk signs on Watkins Avenue to improve safety and reduce speeds. The Transportation Subcommittee considered this item at its October 2005 meeting and recommended that the City Council approve the installation of the signs by Public Works.

ANALYSIS:

The crosswalks that lead to the walking path fronting Holbrook-Palmer Park are frequently used. The Police Department reports that Watkins Avenue has higher speeds because it is a long straight street. Public Works and Police recommend these signs to improve safety and to help reduce vehicle speeds.

FISCAL IMPACT:

Public Works will install four signs at a cost of approximately \$500 plus labor to install the poles.

Prepared by:

Approved by:

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

James H. Robinson
City Manager

Attachment: Resident Letter

ITEM 5.5

DATE: September 15, 2005
TO: Town of Atherton Traffic Committee
FROM: Elizabeth (Moore) Hammack
SUBJECT: Proposal to Increase Pedestrian & Traffic Safety on Watkins Avenue between the Railroad Tracks and Middlefield Road

RECEIVED
TOWN
2005 SEP 23 A 8:52

PURPOSE:

- To provide additional safety measures for those pedestrians utilizing the pathway on Watkins Avenue to gain access to and from Holbrook-Palmer Park to and from surrounding neighborhoods.
- Additional emphasis for vehicles using Watkins Avenue to maintain posted speed limit.

AREA DESCRIPTION:

- Watkins Avenue is located between El Camino Real and Middlefield Road is single lane roadway in each direction approximately 3/8 of mile long. The roadway system has Burns, McCormick & Railroad Avenues intersecting on its North side. Those three intersecting streets have STOP SIGNS to interrupt vehicles entering onto Watkins Avenue.
- Holbrook-Palmer Park, a large public park is located adjacent to Watkins Avenue with two access entry points for users off of Watkins Avenue.
- On the Southside of the roadway between the railroad tracks and Middlefield Road is walking path with a raised curb separating it from the roadway itself. The walking path connects into a pedestrian and bicycle system on Middlefield Road allowing for pedestrians & bicyclists to use both streets as a method to traverse the general area and gain access to Holbrook-Palmer Park.
- Watkins Avenue is posted at Twenty-Five miles per hour traffic for vehicles and motorcyclists, and has a newly installed electronic vehicle speed indicator near the Holbrook-Palmer Park easterly access to advise users of their speed.

NOTED PROBLEMS:

- A vast majority of the vehicles that use Watkins Avenue during peak commute hours do so to gain access to major traffic systems of Middlefield Road & El Camino in the immediate area and Bayshore Highway off of Marsh Road and are not considered local neighborhood traffic.

- Neighborhood intersecting streets lack pedestrian safety access onto the designated pathway on the Southside of Watkins Avenue for users of Holbrook-Palmer Park and area schools.
- Vehicles have an uninterrupted roadway system between the railroad and Middlefield Road, and potentially have the opportunity of driving over posted speed limit.
- There is a limited illumination of the existing walking path and intersecting neighborhood streets for pedestrian traffic during evening and nighttime hours.

PROPOSAL:

- ✓ • Paint or repaint pedestrian crosswalks with white reflecting paint off of Burns & McCormick Avenues onto Watkins Avenue and onto its existing pathway system.
- ✓ • If access is not already available, cut the existing raise curb system for the pathway system to line-up with pedestrian crosswalks off of Burns and McCormick Avenues.
- • Placement of advanced advisory warning signs for vehicles of the pedestrian crosswalks for both West and East bound traffic.
 - Placement signs prior to Holbrook-Palmer Park alerting motorists of pending pedestrian and vehicle traffic existing and entering the park.
- ✓ • Placement of small plastic signs mounted in the middle of the road at the proposed crosswalks indicating pedestrian crossing, similar those used at Middlefield Road and Watkins Avenue.
- ✓ • Concerted effort by police during peak hours to enforce existing posted speed limit.
- ✓ • Police Department Traffic Division provides before and after traffic & speed surveys to determine the effectiveness of the new signage additions, and supply monthly written reports to the Traffic Committee of enforcement activities and existing traffic volumes and average speed off vehicles using Watkins Avenue.
- To promote the above safety measures advise the Atherton community and local schools through the town and park newsletters of the new pedestrian protection measures taken by the town.

COSTS ESTIMATE:

- Signage: four pedestrian crosswalk signs, mounting poles & labor = \$200
- Signage: two park users warning signs, mounting poles & labor = \$100

- Painting of crosswalks with reflecting paint at Watkins & McCormick and Watkins & Burns Avenues, paint and labor = \$100
- If needed cutting of asphalt raise curb for crosswalk access, labor only = \$50
- Police activities costs contributed to this effort adsorbed within their existing enforcement budget = \$0
- Signage: Two plastic road signs similar to those used at Watkins and Middlefield Road to indicate pedestrian walk way-mounted in the middle of roadway, signs & labor = \$100

CONCLUSION:

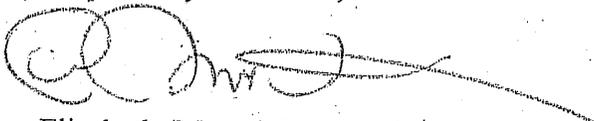
My family has lived on the corner of Burns and Watkins Avenues at 199 Burns Avenue for nearly fifty years. We have seen the traffic on Watkins Avenue increase dramatically over these years and have been victims of numerous accidents (and near-accidents) caused by out of control speeding vehicles on Watkins Avenue smashing through our concrete fencing over the last ten years. We experienced 2 such incidents in the last 6 months.

My father who retired after twenty-eight years of service to the Town of Atherton as its Police Chief, later on as City Manager, and is living with us at 199 Burns, assisted me in preparing these suggestions. We also have discussed these suggestions with Sergeant Steve Snider, Atherton's Police Traffic Supervisor before they were put to pencil and paper.

In addition, my three-year-old daughter and one-year son have begun to utilize the park resources by being escorted on foot by either their grandparents or my husband and myself. Also, my daughter is currently attending pre-school at the Park's Playschool. We love Atherton only want to be positive about suggesting measures to assist adding value to our community pedestrian usage of our neighborhood roadways.

Thank you for your time and consideration of this matter. Please do not hesitate to call me if you have any questions. Could this matter be placed on the agenda for your October 11th meeting? My father and I currently plan to attend your October 11th committee meeting to further emphasize our safety suggestions.

Respectfully Submitted,



Elizabeth (Moore) Hammack
 199 Burns Avenue, Atherton, CA 94027
 (650) 324-7926 Home
 (650) 326-6480 x447 Work



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF OCTOBER 19, 2005

**SUBJECT: APPROVAL OF A TEMPORARY NO PARKING SIGN ON VICTORIA
DRIVE NEAR MENLO COLLEGE**

RECOMMENDATION:

Approve installation of a temporary No Parking sign on Victoria Drive near Menlo College.

BACKGROUND:

Residents of Victoria Manor requested that the Town reinstall a "Resident Parking Only" sign on Victoria Drive to prevent Menlo College students and others from parking at the end of Victoria Drive, blocking driveways and creating an unsafe condition. The Transportation Subcommittee considered this item at its October 2005 meeting and recommended that the City Council approve the installation of a temporary "No Parking" sign for an initial period while staff checks with residents to determine whether the permanent signs should be "No Parking" or "Permit Parking Only" signs (similar to those on McBain Avenue and Alejandra Avenue).

ANALYSIS:

The residents of Victoria Manor, through their Homeowners' Association, requested a "Resident Parking Only" sign on Victoria Drive. At the Transportation Subcommittee, they indicated a willingness to have "No Parking" signs posted instead. However, the residents at the Menlo College end of the street, where the sign would be placed, were not present at the meeting. The Subcommittee felt that some action was warranted immediately by the installation of a temporary sign while a permanent solution is investigated.

FISCAL IMPACT:

Public Works will post a temporary “No Parking” sign using an inexpensive plastic sign on a reusable barricade, so the only cost will be a small amount of labor to place the sign.

Prepared by:

Approved by:

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

James H. Robinson
City Manager

Attachment: Resident Letter

Item: 5.4

Victoria Manor Homeowners

atherton, california 94027

September 16, 2005

Town of Atherton Planning Commission
83 Ashfield Road
Atherton, CA 94027

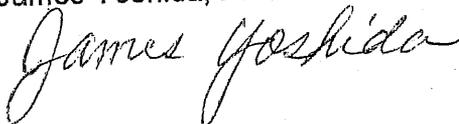
We, the undersigned board members of the Victoria Manor Homeowners would like to investigate the possibility of posting a "resident parking only" sign along Victoria Drive. It is our hope, thereby, to eliminate the all-day parking of Menlo School and Menlo College students and the attendant traffic along our three cul-de-sac streets. Menlo School has been most cooperative in helping us in this endeavor, but our combined best efforts seem not to be able to ameliorate the situation.

Some of our neighbors remember such a sign posted on Victoria some years ago. We assume such a sign would be similar to the sign presently posted on McBain Avenue. (See attached photo.)

We are unclear as to the particulars of how the reposting of the sign is to be implemented and what restrictions and/or procedures such a posting might place on our residents. We would, therefore, like to be placed on the agenda of your next scheduled business meeting so that we can ask questions and clarify our thoughts in this matter.

Thanking you in advance for you consideration,

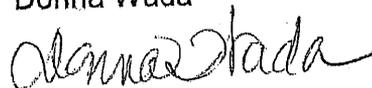
James Yoshida, President



Laura Boat



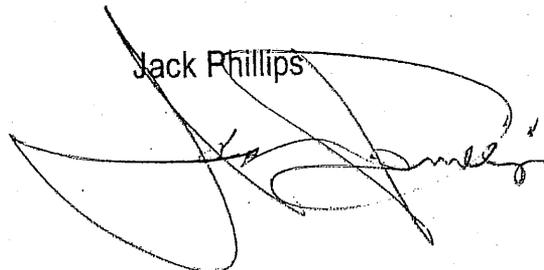
Donna Wada



Brett Miller



Jack Phillips



PERMIT
PARKING ONLY
MAC BAIN AVENUE
AND HOWARD WAY
RESIDENTS AND
GUESTS ONLY

VIOLATORS WILL BE CITED

ATHERTON MC 10.04.020

BY AUTHORITY 22507 CVC



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

DATE: FOR THE CITY COUNCIL MEETING OF OCTOBER 19, 2005

**SUBJECT: REQUEST FOR RECONSIDERATION OF THE DECISION TO GRANT AN
APPEAL OF AN EXCEPTION REVIEW AT 40, 50 and 60 ASHFIELD ROAD
(APN 060-323-290, 060-323-210 and 060-323-220)**

RECOMMENDATION:

Staff recommends that the City Council 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 based on the following findings for the reasons outlined in this staff report:

1. The exception request is compatible with the surrounding neighborhood's visual character.
2. The landscaping and exception sought will not substantially decrease the privacy of neighbors.
3. The applicant shall not increase the degree of nonconformity as defined in Section 17.44.050 of the Atherton Municipal Code.
4. The exception requested is consistent with the General Plan, the purposes of that plan, and the Atherton Municipal Code Zoning Title.

INTRODUCTION:

The Planning Commission, at its July 27, 2005, meeting, voted 3-1 to approve the Exception Review subject to the conditions contained in the attached Exception Review Certificate. An appeal of that decision was filed on August 1, 2005.

The City Council, at its September 21, 2005, meeting, granted the appeal and directed the developer to further differentiate among the external looks of the three houses to make them more acceptable/compatible with the existing neighborhood.

The applicant is requesting the City Council reconsider its decision to grant the appeal and approve the Exception Review for three new residences.

ANALYSIS:

Since the City Council meeting, the applicant has revised the front elevations and modified the exterior colors and materials for the three new residences. The applicant has met with the surrounding neighbors to review the revised plans.

The applicant is proposing to substantially change the proposed exterior elevation of 40 Ashfield and has made some minor improvements to the facades of 50 and 60 Ashfield.

Specifically, at 40 Ashfield, the applicant proposes a Spanish style house with a tile roof and a two-story turret element. The front windows are proposed with an arch shape, with a new decorative window proposed above the front entry. The house is proposed to be stucco, painted a light terra cotta color. The site plan also includes new decorative entry columns flanking the driveway.

At 50 Ashfield, a Craftsman style house with wood stained shingles is proposed. The trim will be painted white with large white tapered columns at the front entry. The design has been modified to better reflect the Craftsman style architecture. The roof is proposed with composition in brown tones.

At 60 Ashfield, a Colonial style house with a large front porch is proposed. The house is proposed to be finished in lap siding and painted a light tan with white trim, black shutters and a black front door. The roof material will be composition in a charcoal blend color.

Staff is supportive of the proposed changes to the facades of the three homes. Staff feels these changes are an improvement and will better blend in with the existing neighborhood. The variation in design features, building materials, and colors will help distinguish these new homes.

CONCLUSION:

It is Planning Staff's professional opinion that the revised house designs meet the intent of the City Council direction to the applicant to further differentiate among the external looks of the three houses. Staff further believes that the revised house designs are compatible with the surrounding neighborhood's visual character, that the proposed landscaping will not substantially decrease the privacy of neighbors, and that approval of the Exception Review would not be contrary to the purpose and intent of the General Plan and the Zoning Title.

ALTERNATIVES:

The Council could deny the reconsideration request and thereby deny the Exception Review, or could further condition the approval of the Exception Review.

FISCAL IMPACT:

All costs covering the processing of this application are paid for by the appellants.

ENVIRONMENTAL IMPACT:

The proposal has been determined to be Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA guidelines section 15303, Class 3(a) that provides an exemption for up to three single family residences in a residential zone in an urbanized area.

FORMAL MOTION:

I move that the City Council find that the proposed homes are compatible with the surrounding neighborhood's visual character, that the proposed landscaping will not substantially decrease the privacy of neighbors, and that the approval of the Exception Review would not be contrary to the purpose and intent of the General Plan and the Zoning Title.

I further 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 the conditions stated in the Draft Exception Review Certificate.

Prepared by:

Approved by:

Lisa Costa Sanders
Deputy Town Planner

James H. Robinson,
City Manager

Attachments:

1. Exception Review Certificate
2. Letter from Brian Kelly Jr. dated September 26, 2005
3. 40, 50, 60 Ashfield – site plan, floor plan and elevations

Draft
TOWN OF ATHERTON
CITY COUNCIL
EXCEPTION REVIEW CERTIFICATE

THIS IS TO CERTIFY THAT the Atherton City Council at a regular meeting thereof, held on Wednesday, October 19, 2005, did approve an Exception Review in accordance with an application by B.K. Development Corp. and Kelly Gordon Development Corp. pursuant to Atherton Municipal Code Chapter 17.54 to allow the construction of three new houses at 40, 50 and 60 Ashfield Road in Atherton, (Assessor's Parcel Number 060-323-290, 060-323-210 and 060-323-220). The Exception Review was approved subject to the following conditions:

1. The proposed houses shall be constructed and the landscaping installed substantially as indicated on the elevations and site plan submitted as part of this application. Any substantive changes to the plans shall be reviewed by the Planning Commission.
2. The sizes of the trees and shrubs shown on the Landscape Plans for the proposed houses shall be increased to the sizes listed below.
 - a. Trees shall be a minimum 24" box size.
 - b. Shrubs shall be a minimum 15 gallon size.
 - c. The two transplanted Japanese maples shall be replaced if they do not survive.
3. Landscape screening shall be to the satisfaction of the Town Arborist with the intent of screening to match or exceed pre-existing condition.
4. Perimeter fencing shall be provided during construction to provide safety for the neighborhood and the site.
5. Fencing shall be installed around all heritage trees during construction.

Michael Hood,
Zoning and Building Official

Effective Date: _____
Atherton, CA



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

DATE: FOR THE CITY COUNCIL MEETING OF OCTOBER 19, 2005

SUBJECT: INTERIM ORDINANCE REGARDING HISTORICAL ARTIFACTS

RECOMMENDATION:

It is recommended that the City Council conduct a public hearing to consider adopting the attached 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.

BACKGROUND:

At the regular meeting of the City Council on March 16, 2005, an inventory of artifacts from the Flood Estate was presented to the City Council, along with the request that the Town consider taking action to protect and preserve these items. The City Council directed the General Plan Committee to study the issue and to make recommendations for the protection and preservation of these items.

At the April 20, 2005, City Council meeting, the City Council adopted the effective Urgency Ordinance for a 45-day time period requiring a Conditional Use Permit to remove, alter, or demolish items described in Exhibit A. The Council further requested staff recommend measures for the long-term preservation of Town-wide artifacts.

At the May 18, 2005, City Council meeting, the City Council extended the Urgency Ordinance for a period of six months. This Ordinance expires on November 18, 2005.

At the September 21, 2005, City Council meeting, the Council accepted the status report on the historical artifact process.

ANALYSIS:

The Town has contracted with a Historical Consultant to inventory the historical artifacts and prepare a report. The consultant has completed the inventory process and is nearing completion of the report. Once the report is completed, staff will work with the consultant to develop recommended measures for preservation of the historical artifacts. Interested members of the public have recommended that a town-wide meeting be held to discuss the preservation measures prior to action by the City Council.

Staff needs additional time to complete the above described process and recommends the City Council extend the Urgency Ordinance for a period of twelve months. It is anticipated that recommended preservation measures will be ready for Council review within the next three to four months. It should be noted that this is the last opportunity to extend the Urgency Ordinance.

The interim ordinance extension requires a 4/5ths vote of the Council and would be effective immediately.

FISCAL IMPACT:

None.

Prepared by:

Approved by:

Lisa Costa Sanders
Deputy Town Planner

James H. Robinson
City Manager

Attachments:

1. Draft Extended Interim Ordinance

ORDINANCE NO. _____

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

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

SECTION 1: The City Council hereby finds and determines that there is a current and immediate threat to the public health, safety, or welfare and that the approval of permits for alterations of certain historic artifacts is required to further the purpose and intent of existing General Plan provisions and contemplated General Plan and zoning amendments that the Planning Commission and City Council will be considering related to the protection of certain artifacts as more completely described below. The City Council finds that said artifacts may be historical resources as envisioned by Section 21084.1 of the Public Resources Code.

SECTION 2: The City Council is considering this matter in furtherance of the Town's conservation policies to protect scenic resources and significant archaeological resources. The Council finds that the time required to properly review and consider this matter along with the necessary time required for implementation of any amendments to the Town's General Plan and/or Zoning Ordinances requires the extension of a moratorium prohibiting any uses that may be in conflict with the protections of artifacts envisioned by the proposed amendments under study which will assure appropriate environmental analysis under the provisions of Public Resources Code section 21084.1.

SECTION 3: Any of the items described in Exhibit A attached here and incorporated by this reference shall be considered accessory structures and shall not be moved, altered, or demolished without a conditional use permit obtained in compliance with the provisions of Chapter 17.52 of the Atherton Municipal Code, and appropriate environmental analysis pursuant to Public Resources Code Section 21084.1.

SECTION 4: This ordinance is categorically exempt from the provisions of Chapter 3 (commencing with Section 21100) of Division 13 of the public Resources Code (California Environmental Quality Act (CEQA)) pursuant to the State CEQA Guidelines Section 15305, minor alterations and land use limitations of the CEQA Guidelines as an action that assures the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

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

SECTION 6: This Ordinance shall be posted in at least three public places according to law and shall take effect and be in force immediately from the date of adoption, for a period of 12 months.

* * * * *

I hereby certify that the foregoing urgency ordinance was adopted at a regular meeting of the City Council of the Town of Atherton held on October 19, 2005, by the following vote:

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

William R. Conwell, Mayor

ATTEST:

Linda Kelly, Acting City Clerk

APPROVED AS TO FORM:

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

EXHIBIT A

ARTIFACTS IN THE TOWN OF ATHERTON

197 Glenwood Avenue – Fence, located at the corner of Middlefield and Glenwood.
400 Selby Lane – Wall and gates
420 Selby Lane – Wall and gates
81 Atherton Avenue – low stucco wall
133 Atherton Avenue – gates
101 Fair Oaks – gates
66 Acacia – street lights
127 Catalpa – street lights
42 Flood Circle – street lights, fountain, granite base
82 Flood Circle – street lights, urn, chandeliers
One Toyon – street lights
51 Laburnum – street lights, urns
79 Flood Circle – street light
38 Flood Circle -marble statue, metal bases
48 Linden Avenue – granite bench
55 Flood Circle – wall and steps, urns
43 Flood Circle – urns, wall, light fixture
One Juniper – urn
42 Catalpa – urn
130 Greenoaks – lamp posts
74 Juniper – concrete bench
60 Flood Circle – concrete wall
Train Station
Lindenwood wall and gates at James and Linden Avenue
One Flood Circle – street lights
Acacia/Flood Circle – street light
Flood/Juniper – bronze statue on a granite base
Catalpa/Acacia – metal urn
Gates at Lloyd Park on Fair Oaks
Maple Manor entrance gates
Oak Grove – brick columns and gates
Inglewood Drive – cement column
Stockbridge and Selby at Serrano – brick columns with street lights
Stockbridge and Selby at Austin – brick columns with street lights
Gresham Lane – fences
Lane Place at Middlefield – brick fences
Jennings Lane at Middlefield road – brick fence
Holbrook Palmer Park – “Diana” statue, fountain, cement column, sofas, chairs, mirror

This list was provided by the Atherton Heritage Association and may not be a complete listing of all historic artifacts within the 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 CITY COUNCIL MEETING OF OCTOBER 19, 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 and September 21, 2005)

RECOMMENDATION:

Continue discussion to the November 16, 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 have requested that this item be continued to the November 16, 2005, City Council meeting.



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: FOR THE MEETING OF OCTOBER 19, 2005

**SUBJECT: VOTING MEMBERS OF CITY COUNCIL COMMITTEES (CONTINUED
FROM THE MEETING OF SEPTEMBER 21, 2005)**

RECOMMENDATION:

Consider approving revisions to paragraph 9 pertaining to City Council Committees -- City Council Rules of Procedure.

BACKGROUND:

The attached revisions to paragraph 9 of the City Council Rules of Procedure (Exhibit "A") follow City Council direction to review existing Town committees and to bring them within a uniform scheme. All members of a committee were to be authorized to vote on matters being considered by the committee. For ease of review, any language which I propose to be deleted in paragraph 9 is shown by ~~strikeout~~ and added language is shown in **bold**. Because subparagraph 9.4 has been so completely revised, almost all of the paragraph is set out in **bold**.

Paragraph 9 of the City Council Rules of Procedure provides for appointment of Council Members to serve on various committees along with provisions for appointment of other individuals to those committees. The existing paragraph 9 is attached for reference as Exhibit "B."

As presently written, paragraph 9 includes the City Planning Commission, General Plan Committee, and Parks and Recreation Commission. These commissions have been created by ordinance. Membership, term of office, and meeting times and locations are described in the ordinances which have created them. Accordingly, they are not a part of paragraph 9 as revised.

The Planning Commission is the subject of Chapter 3.26 of the Atherton Municipal Code; the General Plan Committee is the subject of Chapter 2.37 of the Municipal Code and the Parks and Recreation Commission is the subject of Chapter 2.40 of the Atherton Municipal Code. Copies of these chapters are attached as Exhibit "C."

The Assistant to the City Manager has prepared a matrix (attached as Exhibit "D") showing the existing committees and commissions, along with the basis of their creation. As may be seen from the matrix, circumstances surrounding the creation of the committees vary. The Arts Committee was created by Resolution No. 98-06. This resolution sets out requirements for committee membership and terms. The function and purpose of the committee is described in some detail on page 2 of the resolution. (Exhibit "E".)

Because there are no Council Members appointed to the Arts Committee, I have not included it in the revisions to paragraph 9. Should the City Council desire to bring the Arts Committee within the uniform scheme, a further revision may be made to paragraph 9 with appropriate revisions to Resolution No. 98-06 relative to committee membership and terms, by-laws, and meetings. The City Council may also wish to review the functions and responsibilities of the Arts Committee to determine if any modification is appropriate.

The functions and purposes of all City Council committees could be set forth in one resolution. In view of the possible length of that document, I do not recommend including its provisions in the City Council Rules of Procedure. Functions and responsibilities of those committees created by Council Minute action as described in Exhibit "D" may be set out in the respective Minutes. However, with respect to the Budget and Finance Committee, Transportation Committee, and Screening Committee, I am not aware of any language describing their functions and responsibilities. This can be developed and reviewed and approved by the City Council at a subsequent meeting.

The proposed revisions to paragraph 9 deal with council-appointed committees, on which City Council Members serve. Accordingly, the Arts Committee (#1 on Exhibit "D"), Crime Prevention Task Force (#7 on Exhibit "D"), Tennis Committee (#11 on Exhibit "D"), and Tree Committee (#13 on Exhibit "D") are not presently included. Should the Council wish to bring some or all of these committees within the uniform scheme, paragraph 9 can be revised to that effect.

Whether voting or not, a committee is "standing" as opposed to "ad hoc" depending primarily upon the fact that it has continuing jurisdiction over a particular subject matter, that its meeting schedule has been fixed by formal action of the legislative body that created it, and the length of time it has been in existence. As may be seen, the majority of the committees are standing committees. The Caltrain Corridor Ad Hoc Subcommittee has been created for a discrete purpose, although in view of the complexity of the Cal Train issues, it is likely to become a standing committee. On recognition of the work which is yet to be done, the Council may wish to add the Caltrain Corridor Committee as a standing committee. In subsection 9.4, its alphabetical precedence would follow the Buildings and Facilities Committee and would proceed the Transportation Committee.

As written, subparagraph 9.2 sets all terms of memberships at one year concurrent with the term of the two City Council Members on the committee. Assuming the Council adopts the revision, it is recommended that the action provide that existing committee memberships will remain through and including December 2005 or until the members' successors are appointed and assume office.

The proposed revisions confirm that non-city council members of the committees will have a right to a vote on items being considered by those committees. As part of the "Station Lane Compromise," a provision is added to provide that any decision of a City Council committee may be brought before the full City Council by a committee council member. Pending such final determination, any such decision is suspended.

FISCAL IMPACT: None.

Prepared by:

Approved by:

/s/ Marc Hynes
Marc G. Hynes
City Attorney

James H. Robinson
City Manager

Attachments: Exhibit A, Revisions to paragraph 9, City Council Committees, City Council Rules of Procedure
Exhibit B, Existing paragraph 9 of City Council Rules of Procedure
Exhibit C, Pages 27 through 30 of the Atherton Municipal Code
Exhibit D, Matrix of Council Committees
Exhibit E, Resolution No. 98-06

EXHIBIT "A" TO CITY COUNCIL STAFF REPORT

9. City Council Commissions and Committees

9.1 **Establishment. Mayor/Council Committee.** At the regular meeting in ~~December~~, **January**, the Mayor shall appoint Council Members to serve on various **standing and ad hoc** committees which require a Council representative for a one year term.

9.2 [Former 9.4] **Appointment of Non-Voting Citizen Members to Subcommittees of City Council Committees.** City Council Members on City Council-appointed subcommittees shall have the authority to appoint one or more non-voting resident advisors **members** to the subcommittee. **All appointed members shall be registered voters in the Town of Atherton.** If Council Members are unable to agree upon the appointment of any particular resident advisor **member**, that issue will be brought before the entire City Council for final determination. ~~Resident Advisors~~ **Appointed members** serve a one year term concurrent with the Council Members' term on the subcommittee.

9.3 [Former 9.2] ~~Citizen Commissions and Committees. Commissions and Committees shall be created~~ **and members appointed thereto** in accordance with ~~the Atherton Municipal Code~~ **these rules and regulations.**

9.4 [Former 9.3] Committees of City Council.

a. **Standing Committees:** Any ~~subcommittee or~~ standing committee of the Council shall be subject to the same rules of procedure as the City Council. Each standing committee is comprised of two Council Members appointed by the Mayor, and is staffed by the appropriate staff members. The standing committees are:

1. **Atherton Channel Drainage District Committee.** Consisting of three members including two Council Members, and one resident of the Town. The committee meets on an as needed basis in the City Council Chambers.

2. **Audit Committee.** Consisting of seven members, including two Council Members of the Finance Committee, and five residents of the Town. The committee meets quarterly in the Conference Room of the Town Administrative Offices.

3. **Budget and Finance Committee.** Consisting of two Council Members. The Members also serve on the Audit Committee. The committee meets on an as needed basis in the Conference Room of the Town Administrative Offices.

4. Buildings and Facilities Committee. Consisting of two Council Members. The committee meets on an as needed basis in the Conference Room of the Town Administrative Offices.

5. Transportation Committee. Consisting of five members including two Council Members and three residents of the Town. The committee meets quarterly on the second Tuesday of the month at 6:00 p.m. in the City Council Chambers.

6. Screening Committee. Consisting of two Council Members. The committee meets on an as needed basis in the Conference Room of the Town Administrative Offices.

7. Waste Reduction and Recycling Committee. Consisting of five members including two Council Members and three residents of the Town. The committee also includes the City Manager, Town Arborist, a SBWMA representative, and a representative of the franchise waste hauler. The committee meets quarterly on the first Wednesday of the month at 10:00 a.m. in the Conference Room of the Town Administrative Offices.

b. Ad Hoc Committees. Any ad hoc committee of the Council shall be subject to the same rules of procedure as the City Council. Each ad hoc committee is comprised of two Council Members appointed by the Mayor, and is staffed by the appropriate staff members. The ad hoc committees are:

1. Cal Train Corridor Committee. Consisting of thirteen members including two Council Members and up to eleven residents of the Town. The committee meets on the first Tuesday of each month at 7:00 p.m. in the City Council Chambers.

9.4 9.5 City Council Review of City Council Committee Decisions. City Council Members on City Council-appointed committees may bring any decision of the committee to the full City Council for final determination. Pending such action by the full City Council, any such decision shall be suspended.

EXHIBIT "B"
Existing Paragraph 9

9. Commissions and Committees

9.1 Mayor/Council Committee At the regular meeting in December, the Mayor shall appoint Councilmembers to serve on various committees which require a Council representative.

9.2 Citizen Commissions and Committees Commissions and Committees shall be created/appointed in accordance with the Atherton Municipal Code.

9.3 Subcommittees of City Council Any subcommittee or committee of the Council shall be subject to the same rules of procedure as the City Council. Each subcommittee is comprised of two Councilmembers appointed by the Mayor, and is staffed by the appropriate staff members. The standing Council subcommittees are:

- (1) Transportation Committee, which meets quarterly, at 6:00 p.m., in Council Chambers, 94 Ashfield Road, Atherton.
- (2) General Plan Committee, which meets quarterly, at 6:00 p.m. in Council Chambers, 94 Ashfield Road, Atherton.
- (3) Waste Reduction and Recycling Committee, which meets quarterly in the Administrative Offices, 91 Ashfield Road, Atherton.
- (4) Budget and Finance Committee, which meets on an as-needed basis in the Administrative Offices, 91 Ashfield Road, Atherton.
- (5) Atherton Channel Drainage District Committee, which meets on an as-needed basis in the Council Chambers, 94 Ashfield Road, Atherton.
- (6) Buildings and Facilities Committee which meets on an as-needed basis in the Administrative Offices, 91 Ashfield Road., Atherton.
- (7) Screening Committee which meets on an as-needed basis in the Administrative Offices, 91 Ashfield Road., Atherton.

9.4 Appointment of Non-Voting Citizen Members to Subcommittees City Councilmembers on City Council appointed committees shall have the authority to appoint one or more non-voting resident advisors to the subcommittee. If Councilmembers are unable to agree upon the appointment of any particular resident advisor, that issue will be brought before the entire City Council for final determination. Advisors serve a one year term concurrent with the Councilmembers' term on the subcommittee.

TOWN OF ATHERTON COMMISSIONS, COMMITTEES AND SUBCOMMITTEES

	Commission/Committee	Authority	Membership	Term	Voting Status
1	Arts Committee	Resolution No. 98-06	Up to 10 members, appointed by Council	Indefinite terms	All members are voting members
2	Atherton Channel Drainage District Committee (a Subcommittee of the City Council per Atherton City Council Rules of Procedure, 9.3)	City Council Minute Action – January 16, 2002	2 Council Members, appointed by Council, plus currently 1 resident advisor.	Council Members serve a 1-year term, appointed by Council; resident advisors serve a 1-year term concurrent with the Council Members' term on the subcommittee.	Both Council Members are voting members. The resident advisor is a non-voting member per Atherton City Council Rules of Procedure 9.4.
3	Audit Committee	City Council Minute Action - May 17, 2000	7 members, including the 2 Council Members of the Finance Committee, and 5 residents of the Town, appointed by Council. Resident membership was increased to 6 on April 21, 2004 and April 20, 2005.	Three-year terms	All members are voting members
4	Budget and Finance Committee (also known as Finance Subcommittee) (a Subcommittee of the City Council per Atherton City Council Rules of Procedure, 9.3)	City Council action – date unknown	2 Council Members appointed by Council. The Members also serve on the Audit Committee.	Council Members serve a 1-year term, appointed by Council.	Both Council Members, which make up the total committee membership, are voting members.
5	Buildings and Facilities Subcommittee (a Subcommittee of the City Council per Atherton City Council Rules of Procedure, 9.3)	City Council Minute Action – January 16, 2002	2 Council Members, appointed by Council.	Council Members serve a 1-year term, appointed by Council.	Both Council Members, which make up the total committee membership, are voting members.
6	Caltrain Corridor Ad Hoc Subcommittee	City Council Minute Action – November 19, 2003	Up to 2 Council Members and approximately 11 residents, appointed by Council.	Indefinite terms	All members are voting members.

	Commission/Committee	Authority	Membership	Term	Voting Status
7	Crime Prevention Task Force	Started by a group of concerned residents in 1978, during the "neighborhood watch" era.	Currently 4 resident members; no formal appointment process.	Indefinite terms	Receive direction from Police Department management.
8	General Plan Committee (a Subcommittee of the City Council per Atherton City Council Rules of Procedure, 9.3)	Municipal Code Section 2.37	2 Council Members, appointed by Council; 2 Planning Commissioners, appointed by the Planning Commission; and up to 5 residents appointed by Council.* * In practice, in recent years, the General Plan committee has had only 4 residents appointed by Council.	Resident members who are not Planning Commissioners may serve for no more than one full two-year term.	All members are voting members
9	Park and Recreation Commission	Municipal Code Section 2.40 Resolution No. 95-3	7 residents, appointed by Council, 1 of which is the Atherton Dames representative and another 1 of which is the Holbrook-Palmer Park Foundation representative.	Four-year terms (no more than 2 full consecutive terms); Dames and Foundation representatives each serve 2-year terms, no more than 2 full consecutive terms.	All members are voting members. (Resolution No. 95-3 added the Foundation and Dames representatives and designated them as voting members).
10	Planning Commission	California Government Code Section 65100; Atherton Municipal Code Section 2.36	5 residents appointed by Council.	Four-year terms (no more than 2 full consecutive terms).	All members are voting members.
11	Tennis Committee	Citizen-formed committee of tennis players. Date formed unknown. Some consider it a "subcommittee" of the Park and Recreation Commission.	Number of members fluctuates.	Indefinite	Unknown

	Commission/Committee	Authority	Membership	Term	Voting Status
12	<p>Transportation Committee (also known as Transportation and Traffic Subcommittee)</p> <p>(a Subcommittee of the City Council per Atherton City Council Rules of Procedure, 9.3)</p>	Created by Council – date unknown.	2 Members of the Council, appointed by the Council, plus resident advisors (currently 3).	Council Members serve a 1-year term, appointed by Council; resident advisors serve a 1- year term concurrent with the Council Members’ term on the subcommittee.	Resident members are non-voting members, per Atherton City Council Rules of Procedure 9.4
13	Tree Committee	Established in 1989 as the Atherton Tree Committee Task Force by former Mayor Malcolm Dudley. Not established by Municipal Code, resolution or minute action.	Currently 8 resident members; no formal appointment process for resident members.	Indefinite	Not a formal voting process.
14	<p>Screening Committee</p> <p>(a Subcommittee of the City Council per Atherton City Council Rules of Procedure, 9.3)</p>	Established by Council action, date unknown.	2 Members of the Council, appointed by the Council.	Council Members serve a 1-year term, appointed by Council.	Both Council Members, which make up the total committee membership, are voting members. They vote, or come to a consensus, to recommend residents for commission and committee appointments for full Council consideration.
15	<p>Waste Reduction and Recycling Committee</p> <p>(a Subcommittee of the City Council per Atherton City Council Rules of Procedure, 9.3)</p>	The Atherton Civic Interest League (ACIL) began a “recycling task force” in 1994 which evolved into a Town committee in 1998, in conjunction with AB939 compliance (state recycling/diversion law).	2 Members of the Council, appointed by the Council, plus 3 resident members, along with staff: City Manager, Town Arborist, an SBWMA representative, and an Allied Waste (solid waste franchise) representative. No formal appointment process for resident members.	Indefinite	It is unclear if they take formal votes.

EXHIBIT "E"

RESOLUTION 98-6

**RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
ESTABLISHING AN ARTS COMMITTEE AND
DESIGNATING ITS FUNCTIONS**

WHEREAS, the City Council desires to create an Arts Committee to assist in the formulation and implementation of Town arts policies and programs; and,

WHEREAS, the City Council desires to create such a committee in order to evaluate the performance and benefit accruing as a result of such a committee;

NOW, THEREFORE, THE CITY COUNCIL OF THE TOWN OF ATHERTON RESOLVES AS FOLLOWS:

SECTION 1. CREATION OF COMMITTEE. The City Council hereby creates the Arts Committee of the Town of Atherton. The Arts Committee shall continue in existence for an indefinite time.

SECTION 2. COMMITTEE MEMBERSHIP. The Arts Committee shall consist of up to, but not exceeding, ten (10) members appointed by the City Council. Every person appointed to the Arts Committee shall, at the time of his or her appointment, be a registered voter of the Town and shall maintain his or her principal place of residence within the Town. Should any person so appointed cease to be an elector of the Town or cease to maintain his or her principal place of residence within the Town, that person shall be ineligible to continue to serve as a member of the Committee.

The members of the Arts Committee shall have a demonstrated interest in the arts and in the art program in the Town. Strong consideration shall be given applications with a background in the arts.

SECTION 3. TERMS; BY-LAWS; MEETINGS. Each member of the Arts Committee shall serve at the pleasure of the City Council for an indefinite term. The Arts Committee shall prepare and recommend to the City Council, for adoption, by-laws for the conduct of business by the Committee. All meetings of the Committee shall be in accordance with the by-laws adopted by the Committee and with the Ralph M. Brown Act.

SECTION 4. FUNCTIONS AND RESPONSIBILITIES. The function and purpose of the Arts Committee is to assist the City Council and the Park and Recreation Department in matters that pertain to arts programs, classes, workshops, performances and other arts activities, as may be directed by the City Council. In order to carry out its function, the Arts Committee will do the following:

- A. Study, evaluate and recommend Town policies relating to arts activities such as, but not limited to:
 - 1. Facilities Use Policy
 - 2. Guidelines for Co-sponsorship of Arts Groups
 - 3. Fees and Charges
 - 4. License Agreements
- B. Provide a forum for citizen comments on needs, current services, facilities, and then report said citizen comments and the Arts Committee recommendations to the Park and Recreation Commission and City Council.
- C. Review the annual budget of the Park and Recreation Department that relates to the arts, as submitted to the Council by the City Manager, and make recommendations concerning the budget to the Park and Recreation Commission.
- D. Review and report on other specific service areas as requested by the City Council or City Manager.
- E. Review those portions of Master Plans of park or facility development or expansion which relate to the arts, for adequacy, appearance and other appropriate criteria, in an attempt to ensure good design and then make recommendations to the Park and Recreation Commission.
- F. Attend appropriate meetings, workshops and conferences, and represent the Town when requested by the City Council and/or City Manager.
- G. Prepare an annual Arts Committee work program for Park and Recreation Commission and City Council review and approval.
- H. Review and make recommendations regarding co-sponsored and directly funded groups in the area of arts.
- I. Suggest and help secure outside funding sources for the arts.
- J. Study the Regional and State Arts Master Plans and make recommendations thereon to the Park and Recreation Commission and the City Council.
- K. Examine alternatives for the yearly art event.
- L. Study and make recommendations regarding the establishment of a Fund for the Arts.
- M. Make recommendations regarding a public/private partnership for the arts.

NOW THEREFORE BE IT RESOLVED that Resolution 96-2 is hereby repealed.

* * * * *

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 March 18, 1998 by the following roll call vote:

<i>AYES:</i>	<i>5</i>	<i>COUNCILMEMBERS: Dudley, Chapman, Conwell, Fisher, Huber</i>
<i>NOES:</i>	<i>0</i>	<i>COUNCILMEMBERS: None</i>
<i>ABSENT:</i>	<i>0</i>	<i>COUNCILMEMBERS: None</i>
<i>ABSTAIN:</i>	<i>0</i>	<i>COUNCILMEMBERS: None</i>

Malcolm H. Dudley, MAYOR

ATTEST:

Susan P. Jankowski, City Clerk



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 OCTOBER 19, 2005 (Continued from the City Council Meeting of September 21, 2005)

SUBJECT: DISCUSSION AND CONSIDERATION OF EXISTING CONSTRUCTION REGULATIONS AND PARKING WITHIN THE TOWN OF ATHERTON

RECOMMENDATION:

Consider and give direction to staff regarding the existing construction regulations and parking within the Town of Atherton.

BACKGROUND:

The City Council adopted Ordinance No. 546 on January 21, 2004, providing amendments to the Atherton Municipal Code relating to construction regulations and parking within the Town of Atherton. It had been requested that a discussion of the current construction parking regulations be revisited and direction be given to staff.

Attachments: Ordinance No. 546

ORDINANCE NO. 546

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

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

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

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

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

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

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

15.40.040 Construction vehicle parking.

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

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

15.40.110 Definitions.

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

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

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

15.40.152 Construction, operation, and parking plan.

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

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

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

* * * * *

Introduced this 17th day of December, 2003

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

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

s/Kathy McKeithen
Kathy McKeithen, Mayor
Town of Atherton

ATTEST

s/Sharon Barker
Sharon Barker, City Clerk

APPROVED AS TO FORM:

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



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE CITY COUNCIL MEETING OF OCTOBER 19, 2005

SUBJECT: CONSIDERATION AND APPROVAL OF SCHOOL GUIDELINES FOR SPECIAL EVENTS HELD AT PRIVATE AND PUBLIC SCHOOLS WITHIN THE TOWN OF ATHERTON

RECOMMENDATION:

The City Council consider and, if appropriate, approve School Event Guidelines for non-school related special events held at private and public schools within the Town of Atherton.

BACKGROUND:

At its September 21, 2005, meeting, the City Council adopted an ordinance regulating special events within the Town of Atherton. The City Council also considered School Event Guidelines for non-school related events held at private and public schools but withheld approval and deferred to the October 19, 2005, meeting .

A meeting was held this past week with representatives of the M-A High School regarding the guidelines. The superintendent and principal expressed a willingness to comply with the Guidelines and also agreed that Item No. 1 could be modified to accommodate a limitation of 9:00 a.m. to 6:00 p.m. on Saturdays and 10:00 a.m. to 5:00 p.m. on Sundays. The superintendent did request that the City Council consider some modification of Item No. 2 that restricts indoor activities to 9:00 p.m. Attached is the original draft of the School Event Guidelines for non-school related special events.

Attachment: School Event Guidelines

SCHOOL EVENT GUIDELINES

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

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

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

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

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



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: CITY COUNCIL MEETING OF OCTOBER 19, 2005

SUBJECT: ANIMAL CONTROL ORDINANCE

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.

BACKGROUND:

Animal control services for the Town are provided by San Mateo County and its contract agents. Because of this, provisions in the Atherton Municipal Code regarding animal control conform to the San Mateo County Ordinance. As the county ordinance is revised from time to time, Town ordinances must be similarly changed.

San Mateo County has recently revised its regulations. A number of the revisions involve technical name changes (see, for example, Section 6.04.010(A), (E) and (F) in Section 1 of the accompanying ordinance as well as Section 6.04.150 in Section 13, Section 6.04.170 in Section 14, and Section 6.04.180 in Section 15.

Substantive changes to the animal control ordinance involve the treatment of dangerous and vicious animals. These include revisions to the definition regarding dangerous and vicious animals, respectively, appearing in subsections D and K of Section 6.04.010 of the Atherton Municipal Code (Section 1 of the enclosed ordinance).

Section 3 of the enclosed ordinance contains a new section (6.04.080) which extensively revises requirements for dangerous animal permits. Section 4 adopts a new Section 6.04.085 regarding

the procedures to be followed in declaring an animal vicious. Section 5 adds a new Section 6.04.090 regarding issuance of permits for dangerous animals. A detailed hearing procedure is introduced in a new Section 6.04.095 which appears in Section 6 of the ordinance. In addition, significant conditions may be imposed on dangerous animal permits (see Section 6.04.095(1, 3, i – v)). Please note that Section 6.04.085D envisions payment of a fee where an interested person desires to appeal a determination when an animal is vicious. Similarly, subsection (f) of Section 6.04.095 (Section 6 of the ordinance) envisions payment by an animal owner for costs of a hearing not to exceed \$350.00. Both of these provisions are currently being reviewed by County Counsel relative to their enforceability. Although under review, the County Counsel recommends that the fee language be adopted as presently set forth. The amount of the fee described in Section 6.04.085 (d) has not yet been set. Because of this and because Section 6.04.095(f) provides that the hearing officer can eliminate the \$350.00 fee, if a determination is made that either of the fees described above are not appropriate, there will be no requirement to make any revisions to the ordinance. The fees will simply not be imposed.

Section 6.04.100 appearing in Section 7 of the enclosed ordinance continues extensive requirements for keeping animals for whom a dangerous animal permit has been issued. This includes having the animal microchipped and registered with the animal control program (see Section 6.04.100(i)). No more than two dangerous animals may be kept at any one household per (Section 6.04.100 (l)). Dangerous animals which have been so designated as a result of aggression against humans may not be kept on property nor a household where a juvenile (under age 18) resides. (Section 6.04.100 (m)).

Section 11 (Atherton Municipal Code Section 6.04.130) and Section 12 (Atherton Municipal Code Section 6.04.140) of the ordinance adopt extensively re-written regulations regarding revocation or modification of dangerous animal permits with related hearing procedures and the impoundment of animals.

As before, the majority of penalties for violations of the animal control ordinance are infractions. A misdemeanor penalty is imposed for keeping a vicious animal or failing to properly restrain a dangerous animal. (See Section 6.04.085(a) -- Section 4 of the ordinance -- and Section 6.04.100 (a) -- Section 7 of the ordinance).

FISCAL IMPACT:

None.

Respectfully,

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

Attachment

Deletions in ~~strikeout~~ additions in **bold**
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
AMENDING CHAPTER 6.04 -- ANIMAL CONTROL -- OF THE ATHERTON MUNICIPAL
CODE TO CONFORM WITH AMENDMENTS TO SAN MATEO COUNTY ORDINANCE
REVISIONS

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

SECTION 1: Section 6.04.010 of the Atherton Municipal Code is hereby amended by revising subsections A, B, D, E, F, I, and adding new subsections J, K and L to read as follows:

"6.04.010 Definitions.

For the purposes of this chapter:

A. "Animal control officer" means that person designated as the **Animal Control Program Manager** of the division of animal control services for the town and ~~his~~ duly authorized officers or deputies, as well as the **President Executive Director** of the county's contract agent **for the County of San Mateo ("County")** and ~~his~~ duly authorized officer or deputies.

B. "Animal control program" means that program within the division of animal control services of the **Environmental Services Agency** (~~department of community services~~) of the county, or the county's designated contract agency or both, which is specifically charged with regulating and enforcing laws dealing with animal control within its jurisdiction.

D. "Dangerous animal" means any animal, except a trained dog assisting a peace officer engaged in law enforcement duties, which **because of its disposition, behavior, training or other characteristic constitutes a danger to persons or property**, or which demonstrates any or all of the following behavior:

~~(a)~~ 1. **Any** attack, ~~without provocation or other behavior~~ which requires a defensive action by any person to prevent **bodily** injury or property damage or that results in an injury to a person or property; ~~or~~

2. ~~(b)~~ Any **aggressive attack or other** behavior ~~without provocation~~, that constitutes a **physical substantial** threat of bodily harm to a person **or animal** where such attack, injury or behavior occurs in a place where such

person **or** animal is conducting himself ~~such person is conducting himself or itself~~ peaceably and lawfully; or

~~3. 2.-(e)~~ An attack, without provocation, on another animal or livestock which occurs off of the property of the owner of the attacking animal;

~~3.——A violation of running or being at large off of the animal owner's property and harassment or molestation of person(s):~~

~~4.——An animal that creates a danger or constitutes a menace to the public's health and safety due to its training or the inherent nature of the animal;~~

4. Any animal that has been deemed by another governmental jurisdiction as "potentially dangerous," "dangerous," "vicious," or any other similar designation.

~~5.——A dog which has scars or wounds which are attributable to fights or altercations with another animal.~~

- E. "Director of ~~community~~ **Environmental Services Agency**" means that person so designated by the governing body of the county.
- F. "Dog Licensing program" means that program within the ~~division~~ **Division of animal control Revenue Services of the Employee and Public Services Agency of county** which is specifically charged with regulating, ~~enforcing~~ and selling dog **animal licenses and registrations** in the county.
- I. "Owner" means that person **18 years of age or over who holds the license to the animal concerned or if the animal is not licensed, that person 18 years of age or over** legally entitled to possession of the animal concerned **and who has primary responsibility for the care of the animal** ~~or a member of the household or business where such animal is being kept or a designated agent of the person legally entitled to possession.~~
- J.——"Peaceably and lawfully" means a person is upon the private property of an owner of the animal when he is on such property in the performance of any duty imposed upon him by the laws of this state or any city or county, or by the laws or postal regulations of the United States, or when he is on such property upon invitation by the owner or his/her designee, expressed or implied.
- J. "**Severe injury**" means any physical injury directly caused by an animal attack that consists of muscle tears, multiple punctures, broken bones or disfiguring lacerations, or which requires multiple sutures or corrective or cosmetic surgery.

- K. "Vicious Animal" means any animal, except a trained dog assisting a peace officer engaged in law enforcement duties, which meets any or all of the following criteria:**
- (1) Any animal previously designated as "dangerous," that after investigation by an Animal Control Officer and/or Peace Officer is found under conditions which constitute a violation of this chapter or applicable dangerous animal permit and which demonstrates a significant danger to the public health or safety;**
 - (2) Any animal seized under section 599aa of the Penal Code and/or upon the sustaining of a conviction of the owner or caretaker under subdivision (a) of the Section 597.5 of the Penal Code;**
 - (3) Any animal which inflicts severe injury on or kills a human being or another animal;**
 - (4) Any animal which has engaged in any aggressive behavior which demonstrates that the animal represents a clear and present substantial danger to the public health or safety and that due to substantial risk to the public health or safety it is unlikely that the animal could be safely maintained under a dangerous animal permit.**
- L. "Wolf Hybrid" means any offspring of domestic dogs bred to wild canids (e.g., wolves or coyotes) and their subsequent generations."**

SECTION 2: Subsection 6.04.020 B of the Atherton Municipal Code is hereby amended to read as follows:

~~"6.04.020 B. Scope of Authority of Animal Control Officers. Animal control officers apportioned pursuant to California Civil Code Section 607f shall have authority to issue notices to appear in court pursuant to Chapter 5c (commencing with Section 853.5 of Title 3 of Part 2 of the Penal Code of the state) for violations of state and local animal control laws. This authority is based on Section 607g of the California Civil Code.~~ **Humane Officers qualified and appointed pursuant to California Corporations Code 14502, who are employees of any public pound, society for prevention of cruelty to animals or humane society which has contracted with the County to provide animal control services, shall have the authority to issue notices to appear in court pursuant to chapter 5c (commencing with section 853.5 of title 3 of part 2 of the Penal. Code of the State of California) for violations of state and local animal control laws. This authority is based on section 14503 of the Corporations Code. Animal Control Officers shall have the authority provided by state law including but not limited to that described by Penal Code Section 830.9."**

SECTION 3: Section 6.04.400 ~~.080~~ of the Atherton Municipal Code is hereby deleted in its entirety. A new Section 6.04.400 **.080** is added to read as follows:

"6.04.080 Dangerous animal permit required.

(a) No person shall knowingly keep, have, maintain, sell, trade or let for hire an animal designated under the provisions of this chapter as dangerous without obtaining a Dangerous Animal Permit from the Animal Control Officer. The animal owner shall comply with all conditions of the Dangerous Animal Permit including but not limited to all requirements of Section 6.04.100 of this Chapter. Any animal which is determined to be dangerous under this chapter and for which a permit has not been obtained shall be surrendered to an Animal Control Officer for appropriate disposition including humane destruction.

(b) If an Animal Control Officer or Peace officer has investigated and determined that an animal is dangerous, the Animal Control Officer and/or Peace Officer shall deliver written notice of such determination to the owner of the animal. Should the animal pose a threat to the public health and safety, an Animal Control Officer may immediately impound the animal.

(c) If, after investigation by an Animal Control officer or Peace officer, that officer determines that probable cause does not exist to believe the animal is dangerous, any interested person may appeal that determination by submitting within five (5) calendar days of the decision a written request to the Animal Control Officer or Peace Officer for a hearing and paying the required fee. The hearing shall be conducted according to the procedures set forth in Section 6.04.095 of this chapter.

(d) In determining whether or not an animal shall be declared dangerous, the Animal Control Officer, Peace Officer or Hearing Officer appointed pursuant to section 6.04.095, may consider, as a mitigating factor or factors, whether, at the time of the injury, attack or molestation, the person or animal suffering the injury, attack or molestation:

(1) Provoked, tormented, teased, abused or assaulted the animal thereby causing or contributing to the alleged behaviors;

(2) Committed a willful trespass or other tort upon the private property of the owner or caretaker of the animal;

(3) Threatened or committed an unjustified attack or assault against the owner, caretaker or person in control of the animal;

(4) Or any other mitigating factors deemed appropriate for consideration by the Animal Control Officer, Peace Officer or Hearing Officer.

(e) Upon receipt of written or oral notification by the Animal Control Officer and/or Peace Officer that an animal is dangerous as defined in this Chapter, the owner shall submit an application for a Dangerous Animal Permit to the Animal Control Officer within five (5) calendar days. The application for a permit shall contain the name of the applicant, applicant's address, the applicant's home and business phone numbers, the address and description of the proposed location of where the animal will be kept, if different from applicant's, a complete description and a photograph of the animal. The permit shall contain all of the requirements of Section 6.04.100 and any additional conditions or requirements deemed necessary by the Animal Control Officer or Peace Officer to protect the public health or safety.

(f) Should the owner of the animal wish to contest the dangerous animal designation, the owner may request a hearing, to be conducted according to the procedures set forth in Section 6.04.095 of this Chapter. The owner shall submit a written request for a Dangerous Animal Hearing to the Animal Control Officer and/or Peace Officer within five (5) calendar days of written notification by the Animal Control Officer and/or Peace Officer that the animal has been declared dangerous. Should the owner not submit a request for a hearing within five (5) calendar days of notification, the hearing process shall be deemed waived by the owner, and the dangerous animal declaration will be considered final by the County Director of the Environmental Services Agency, or the Town. In that event, the County Director of the Environmental Services Agency or the Town may allow the dangerous animal permit to be issued without a hearing. Unless a dangerous animal permit is immediately obtained, the animal shall be impounded at the owner's expense pending appropriate disposition as determined by the Animal Control Officer and/or Peace Officer."

SECTION 4. A new Section 6.04.085 is hereby added to Chapter 6.04 to read as follows:

"6.04.085 Declaration of vicious animals.

(a) No person shall keep, have, maintain, sell, trade or let for hire an animal which has been designated as vicious pursuant to this Chapter.

(b) If an Animal Control Officer and/or Peace Officer has investigated and determined that an animal is vicious, the Animal Control Officer and/or Peace Officer shall deliver to the owner of the animal written notice of that determination. The Animal Control Officer and/or Peace Officer shall immediately impound or cause to be impounded the animal and shall cause the animal to be humanely destroyed unless the owner requests a hearing under subsection (c) of this section.

(c) If the owner of the animal disputes the designation of an animal as a vicious animal by the Animal Control Officer and/or Peace Officer he may submit a written request for a hearing to the Animal Control Officer and/or Peace Officer within five (5) calendar days of notification. Such hearing shall be conducted according to the procedures set forth in Section 6.04.095 of this Chapter. Failure of the owner to request a hearing shall result in the animal being declared vicious and humanely destroyed. The vicious animal declaration will be considered final by the County Director of the Environmental Services Agency, or the Town.

(d) If, after investigation by an Animal Control Officer or Peace Officer, that officer determines that probable cause does not exist to believe that the animal is vicious, any interested person may appeal that determination by submitting within five (5) calendar days of the decision a written request to the Animal Control Officer or Peace Officer for a hearing and paying the required fee.

(e) In determining whether or not an animal shall be declared vicious, the Animal Control Officer, Peace Officer or Hearing Officer may consider, as a mitigating factor or factors, whether at the time of the injury, attack or behavior, the person or animal suffering the injury, attack or behavior for which the animal is being determined vicious:

(1) Provoked, tormented, teased, abused or assaulted the animal thereby causing or contributing to the alleged behavior;

(2) Committed a willful trespass or other tort upon the private property of the owner or caretaker of the animal;

(3) Threatened or committed an unjustified attack or assault against the owner, caretaker or person in control of the animal.

(4) Or any other mitigating factors deemed appropriate for consideration by the Animal Control Officer, Peace Officer or Hearing Officer."

SECTION 5. Section 6.04.090 of the Atherton Municipal Code is hereby deleted. A new Section 6.04.090 is added to read as follows:

"6.04.090 Issuance of permit for dangerous animal.

(a) No permit obtained under this section is transferable. If the owner's address or the location where the animal is kept changes or the owner transfers ownership of the animal, the permit shall become null and void and an application for a new permit must be submitted to the Animal Control Officer.

(b) A permit issued under this chapter is subject to renewal and approval each year and is subject to conditions and requirements existing as of the date of renewal. The permittee shall pay an annual fee for this permit pursuant to the procedures established by the Division of Animal Control Services. If permittee fails to file an application for renewal or pay the permit fee prior to the permit anniversary date the permit shall automatically become void. The fee for such permit shall be as set forth in section 6.04.240. This fee shall not be refundable.

(c) If the owner or permittee has a history of multiple violations of this Chapter 6.04 or of the conditions of any previously issued dangerous animal permit, the Animal Control Officer or Hearing Officer may deny the permit and impound the animal for appropriate disposition as determined by the Animal Control Officer or Hearing Officer."

SECTION 6. Section 6.04.095 is hereby added to Chapter 6.04 of the Atherton Municipal Code to read as follows:

"6.04.095 Hearing procedures.

(a) The hearing pursuant to this section shall be conducted by a hearing officer or designated representative appointed by the Director of the Environmental Services Agency. The hearings shall be scheduled no less than five (5) working days and no more than fifteen (15) working days from the receipt of the request for the hearing unless agreed upon by the involved Animal Control Officer or Peace Officer and the animal owner. A hearing may be continued if the Hearing Officer deems it necessary and proper or if the owner, or Animal Control Officer and/or Peace Officer shows good cause.

(b) The hearing shall be conducted in an informal manner consistent with due process of law. Both the owner of the animal and Animal Control Officer and/or Peace Officer may be represented by counsel. The parties may present relevant evidence and call and cross-examine witnesses. The strict rules of evidence shall not be applicable. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. The hearing shall be tape-recorded and all documentary evidence submitted at the hearing shall be preserved. Any party may arrange for a court reporter to be present. Any party desiring the presence of a court reporter shall make all necessary arrangements and shall be responsible for payment of all costs.

(c) The Hearing Officer may exclude disorderly or disruptive persons from the hearing or make other orders as necessary to ensure the fair and orderly conduct of the hearing.

(d) The Hearing Officer may decide all issues for or against the owner of the animal should the owner fail to appear at the hearing.

(e) Within five (5) working days of the hearing, the Hearing Officer or designated representative shall render a brief written decision, which decision shall be final at the administrative level. The written decision shall be mailed to the parties by certified mail and include a declaration or proof of mailing which includes the date on which the decision was mailed to the parties.

(f) Unless the hearing officer for good cause otherwise determines, the owner of the animal is liable for all costs related to such hearing not to exceed three-hundred and fifty dollars (\$350).

(g) The failure to conduct a hearing required by this section shall have no bearing on any criminal prosecution for violation of any provisions of this chapter.

(h) In the case of animals determined by an Animal Control Officer or Peace Officer to be dangerous or vicious, the hearing officer may decide any or all of the following:

1) That the animal be designated “vicious” and the owner of the animal lose all rights of ownership and control of the animal and the animal shall be humanely destroyed. An animal designated as vicious will be held at the animal shelter for a minimum of five (5) calendar days from the date of the hearing officer's decision, after which time it may be humanely destroyed without further notice to the Owner;

2) That the animal be designated “dangerous” and the owner must apply for and obtain a dangerous animal permit as provided by this chapter within five calendar days of receipt of the decision letter in order to maintain the animal and the owner must comply with all mandatory dangerous animal permit rules and regulations as defined in Section 6.04.100;

3) That the dangerous animal permit shall contain additional permit conditions to supplement the mandatory dangerous animal permit rules and regulations as defined in Section 6.04.100, including, but not limited to, the following:

i) That the owner keep the animal muzzled at all times when the animal is off the owner’s property;

ii) That the owner prove financial responsibility by posting a bond or certificate of insurance for an amount of \$1,000,000 per animal as determined by the Hearing Officer;

iii) That the owner provide private behavioral and obedience training to the animal, at the owner’s expense and within the time set forth by the Hearing Officer following the issuance of a dangerous animal permit. Proof of participation, a report of behavioral assessment, and/or a certificate of satisfactory completion from an animal behaviorist or organization approved by the Hearing Officer shall be provided to the Animal Control Officer within seven calendar days following any required training;

iv) That the owner comply with any other permit requirement the Hearing Officer deems necessary to protect the public health or safety;

v) That the owner reimburse the victim for the victim's medical expenses or the victim animal's veterinary expenses;

vi) Pursuant to section 6.04.130 of this Chapter, that the dangerous animal permit be modified as ordered by the Hearing Officer, or revoked and the animal humanely destroyed."

SECTION 7. Section 6.04.100 of the Atherton Municipal Code is deleted, A new Section 6.04.100 is added to read as follows:

"6.04.100 Mandatory dangerous animal permit requirements.

Any owner of a dangerous animal shall insure compliance with the following rules and regulations which shall be mandatory requirements for any dangerous animal permit:

(a) When the animal is off the property of its owner, the owner must ensure that the animal is restrained with a leash not to exceed four (4) feet in length and having a minimum tensile strength of 300 pounds and shall be under the direct control and supervision of the owner or a person of such age, size and strength as can easily control such animal. Extraordinary care shall be taken by the owner to ensure that such restraint is sufficient to control the animal in a manner which it will not endanger other persons or animals.

(b) The owner shall maintain the animal so that it is not a threat to any mail carrier, sanitation worker, meter person, or other person who has the lawful right to enter the property.

(c) The owner shall ensure that the animal is not kept upon any unenclosed premise unless it is leashed and controlled by a person capable of controlling such animal. The owner shall ensure that the animal is not tethered, tied or staked at any unenclosed premise. The owner shall ensure that the animal is not kept in a house or structure when the windows or doors are open or screen doors are the only obstacle preventing the animal from exiting the structure.

(d) The owner shall ensure that the animal is kept in a fenced yard, kennel, run or enclosure approved by the

Animal Control Officer or Peace Officer. The owner shall ensure that all structures used to confine the animals are locked with a key or combination lock when such animals are within the structure. The owner shall regularly inspect the fenced yard, kennel, run or enclosure to ensure that it is secure to maintain the animal.

(e) The owner shall open premises upon which an animal is maintained at any reasonable hour for inspection by the Animal Control Officer or Peace Officer and said premises shall be surrendered for inspection by the owner upon the request of the Animal Control Officer or Peace Officer. The owner shall pay a fee for the costs incurred by County for the inspection or reinspection of property. Such fee shall be set forth in section 6.04.240.

(f) The owner of the dangerous animal shall post the entrances to the property where the animal is kept with a legible sign conspicuous to the public warning persons of the presence of a dangerous animal. The owner of the dangerous animal shall obtain an approved sign from the Animal Control Program for a non-refundable fee and shall surrender such sign in the event of the revocation of the permit, death of animal, or approved relocation of the animal, or upon any other reasonable demand by an Animal Control Officer.

(g) The owner of any dangerous animal must advise all members who reside in the same household and on the same premises of the conditions established by the permit for keeping or maintaining said dangerous animal.

(h) The owner shall strictly comply with all local and state laws regarding the care, use, control and maintenance of animals.

(i) In addition to a license, the owner shall ensure that the animal shall at all times wear a separate tag issued by the Division of Animal Control Services which designates it as a dangerous animal. The owner shall ensure that the dangerous animal be microchipped and registered with the Animal Control Program for a fee specified by Section 6.04.240 within thirty (30) calendar

days from the date the permit was issued. The animal owner shall be responsible for payment of said fee which shall be utilized by the Animal Control Program to offset the cost of the chip and to maintain the registration program.

(j) The owner shall have the animal spayed or neutered by a licensed veterinarian, at the owner's expense, within fifteen (15) calendar days from the date the permit was issued. The owner shall present written proof to the Animal Control Officer that the surgery was performed. In the event an animal cannot be safely spayed or neutered due to medical reasons, the owner shall present written proof from a licensed practicing veterinarian to the Animal Control Officer that said animal cannot be spayed or neutered.

(k) The owner may not sell, transfer or otherwise dispose of such animal to another County or City without notifying Animal Control at least twenty-four (24) hours before such sale, transfer or disposal. Animal Control will notify the proper authorities of the jurisdiction to which the dangerous animal is transferred. Should the owner of a dangerous animal wish to transfer ownership of the animal to another individual within San Mateo County, the new owner must submit to a property inspection, apply for and obtain a new dangerous animal permit, pay all requisite fees, and comply with all provisions of this chapter and the requirements of the permit.

(l) No more than two dangerous animals may be kept at any one household.

(m) The owner shall not allow any animal designated "dangerous" as the result of aggression against human(s) to be kept on property or within a household in which a juvenile person under the age of eighteen resides.

(n) The owner of a dangerous animal must notify the Animal Control Officer of the animal's death within twenty-four (24) hours and shall produce the animal's body for verification upon request. The owner of a dangerous animal must notify the Animal Control Officer immediately in the event the animal becomes

lost or stolen.

(o) The owner must pay all permit and property inspection fees as described in section 6.04.240 of this chapter.

(p) The owner shall comply with any other permit conditions or requirements imposed pursuant to section 6.04.095 or 6.04.100."

SECTION 8. Section 6.04.110 of the Atherton Municipal Code is hereby revoked. A new Section 6.04.110 is added to the Atherton Municipal Code to read as follows:

"6.04.110 Misdemeanor violations.

(a) A person violating any provision of this Chapter shall be guilty of an infraction except as otherwise specifically provided.

(b) A person violating any provision of subsection (a) of section 6.04.100 or subsection (a) of section 6.04.085 of this Chapter shall be guilty of a misdemeanor."

SECTION 9. A new Section 6.04.115 is hereby added to the Atherton Municipal Code to read as follows:

"6.04.115 Possession of Animals after Revocation of Dangerous Animal Permit or Vicious Declaration.

No person who has been determined to be in possession or ownership of a vicious animal or a dangerous animal for which a permit has been revoked under this Chapter shall be granted any dangerous animal permit for a period of three years following such determination or revocation."

SECTION 10. A new Section 6.04.125 is hereby added to the Atherton Municipal Code to read as follows:

"Section 6.04.125. Inspection fee.

A fee shall be charged for the costs incurred by County for the inspection or reinspection of property. The fee charged shall be paid by the owner or person who has custody of the animal. Such fee shall be set forth in section 6.04.240."

SECTION 11. Section 6.04.130 of the Atherton Municipal Code is hereby revoked.
A new Section 6.04.130-is hereby added to the Atherton Municipal Code to read as follows:

"6.04.130 Revocation or modification of permit.

(a) Subject to the provision of subsection (b), any permit issued pursuant to this section may be revoked or modified by the inclusion of additional requirements or otherwise, if the Animal Control Officer has reasonable cause to believe any of the following to be true:

(1) The dangerous animal owner or any person the owner has allowed to have possession of the animal has violated any local animal ordinances, or is in violation of any zoning, health and safety or building ordinance or Penal Code section relating to the keeping, care or use of any animals;

(2) The owner or any person the owner has allowed to have possession of the animal has violated any rules, regulations or conditions of this Chapter including but not limited to dangerous animal permit conditions, or any requirement imposed by the Animal Control Officer, Peace Officer or Hearing Officer as necessary to insure the animal will not endanger the peace, health or safety of any person or property; or

(3) The owner has changed the location of his residence or his place of business or sells, assigns, transfers, donates, leases, or otherwise disposes of the animal for which the permit was issued.

(b) In the event that it is reasonably necessary to protect against a threat to the health or safety of the public, or of any animal, the Animal Control Officer or Peace Officer may impound or cause to be impounded the animal while an investigation is taking place.

(c) If, after investigation, the Animal Control Officer or Peace Officer concludes that it is probable that one or more of the above grounds for revocation or modification of the permit has occurred, it shall cause written notice thereof to be transmitted to the owner. Said notice shall specify the grounds of revocation or modification of the permit. Should the owner of the animal wish to contest the revocation or modification of the permit, (s)he may request a hearing to be held before a hearing officer not previously involved with the

permit issuance or investigation, as designated by the Director of the Environmental Services Agency within five (5) calendar days of receiving the notice of intent to modify or revoke permit. Said hearing date shall be not less than five (5) working days or more than 15 working days subsequent to the date the request for hearing is received. The hearing shall be conducted as set forth in section 6.04.095 of this Chapter. After the hearing, the Officer conducting the hearing may modify the terms of the permit or revoke the permit depending upon the permittee's ability to comply with the requirements of this Chapter and to control the animal so that the health, safety and property of the public are protected.

(d) Upon written or oral notification by the Animal Control Officer, or Hearing Officer if a hearing was held, of any modifications to a dangerous animal permit, the owner shall immediately comply with such modified permit requirements.

(e) Upon written or oral notification by the Animal Control Officer, or Hearing Officer if a hearing was held, of the revocation of a permit for a dangerous animal, the owner of such animal shall within two (2) calendar days of such notification surrender said animal to an Animal Control Officer to be humanely destroyed or provide written proof to an Animal Control Officer in the form of declaration(s) under penalty of perjury that such animal has been permanently removed from the County of San Mateo and declaring the new location or new address where the animal is to be kept."

SECTION 12. Section 6.04.140 of the Atherton Municipal Code is hereby revoked. A new Section 6.04.140 of the Atherton Municipal Code is hereby added to read as follows:

"6.04.140 "Animals to be impounded.

(a) Every animal kept or found by an Animal Control Officer or Peace Officer under conditions which constitute a violation of this Chapter or other state or local law may be impounded or caused to be impounded by an Animal Control Officer or Peace Officer. The animal's owner shall be charged with all costs incurred or fees applicable with respect to such impoundment.

(b) When the Animal Control Officer or Peace Officer

has reasonable cause to believe that any animal is dangerous or vicious the Animal Control Officer or Peace Officer may also impound or cause to be impounded the animal and keep it for such period not to exceed fifteen (15) days in order to observe, examine and determine whether or not such animal is dangerous or vicious.

(c) Any animal subject to dangerous or vicious animal proceedings may be impounded at the discretion of the Animal Control Officer or Peace Officer pending notice, hearings and determinations hereunder and until any required permit is obtained.

(d) Except as otherwise provided in this Chapter or state law, an impounded animal may be redeemed by the owner, after payment of the required fees and charges and compliance with licensing requirements. In the event such animal is not so redeemed within the time set forth by state law, it may be disposed of in the manner determined by an Animal Control Officer."

SECTION 13. Section 6.04.150 of the Atherton Municipal Code is hereby amended to read as follows:

"6.04.150 Notice of impounded animals.

Within twenty-four (24) hours of the impoundment of any animal, the Animal Control Officer shall mail a written notice thereof to the place of business or residence of the owner of the animal if known. **In the event the animal may not be redeemed as provided by subsection (d) of section 6.04.140, the owner may request a hearing under section 6.04.095, subsections (a) – (g) of this Chapter or applicable state law.** The Animal Control Officer shall maintain records of said impoundment pursuant to section 6.04.170."

SECTION 14. Section 6.04.170 of the Atherton Municipal Code is hereby amended to read as follows:

"6.04.170 Record of impounded animals.

The Animal Control ~~shelter~~ Program shall keep a record of all animals impounded, which record shall include a description of the animal, the date of its receipt, the date and manner of disposal, the name of the person redeeming or purchasing, and the fees and charges and proceeds of sales received on account thereof, and such additional

matters as may be necessary and incidental to implementing this ordinance. Said records shall be kept for ~~five~~ four years."

SECTION 15. Section 6.04.180 of the Atherton Municipal Code is hereby amended to read as follows:

"6.04.180. Redemption.

Except as otherwise provided by this ordinance or by any other law, the owner or person entitled to the control or custody of any animal impounded may, at any time before the sale or other disposition thereof, redeem the same by paying all proper fees assessed by ~~the~~ Animal Control Services. Animal Control ~~program~~ Services shall issue to the owner duplicate receipts for the amount of the fee paid."

SECTION 16. Section 6.04.190 of the Atherton Municipal Code is hereby revoked.

SECTION 17. That the City Council hereby declares that it would have passed this Ordinance word by word, sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions of this Ordinance are severable and, if for any reason any sentence, paragraph or section of this Ordinance shall be held invalid, such decision shall not affect the validity of the remaining parts of this Ordinance.

SECTION 18: This Ordinance shall be posted in at least three public places according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

Introduced this day of , 2005.

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

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

William R. Conwell, Mayor
Town of Atherton

ATTEST:

Linda Kelly, Acting City Clerk

APPROVED AS TO FORM:

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



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: MICHAEL A. HOOD, BUILDING OFFICIAL

DATE: FOR THE CITY COUNCIL MEETING OF OCTOBER 19, 2005

SUBJECT: WATER WELL IN HOLBROOK-PALMER PARK

STATUS:

At the last City Council meeting, a question was asked regarding the ability of the Holbrook-Palmer Park water well serving as an emergency source of water during a natural disaster such as an earthquake.

Attached is a well report that was prepared in 1991. It appears that the current well was drilled in 1972, is 280 feet deep, and has been flow-tested at 125 gallons per minute. Water quality varies with depth; the deeper water is better. At the 240 foot to 280 foot level, total dissolved solids (TDS) are 300 and the hardness is between 50 and 100. The water is classified as hard because of the concentrations of dissolved calcium and magnesium carbonates.

In an emergency, the well could easily be used as a source of drinking water; but because of the hardness, it is not recommended for long-term consumption. Staff will proceed to retest and update the report from 1991.

Prepared by:

Approved by:

Michael A. Hood
Building Official

James H. Robinson
City Manager

Attachments

Source: Holbrook-Palmer Ather. City Park, 280' Lab No.: LW04TP91
 County: San Mateo State: CA Date: 4/23/91
 Map: Palo Alto, 7.5 min Long.: 122°11.36' Lat.: 37° 27.83'
 T & R: 005S/003W-28R01/m Discharge: 125 g/min
 Point of Collection: hose from well, pumped 2 min prior to coll'n, 4" dia
 Field Crew: HO, TSP, PL, MH Analyst: T.S. Presser, P. Lamothe
 Temp.: 16° C Field pH: 7.81 Filter: 0.1 Spec. Cond. (μ S): 300

	mg/L	meq/L		mg/L	meq/L
SiO ₂	9.3		B	<0.1	
H			OH		
Na	11	0.479	HCO ₃ [†]	96	1.573
K	<3		CO ₃		
Ca	25	1.248	SO ₄	17	0.354
Mg	5.1	0.420	F	<0.1	
NH ₄ (N) *	<0.01		Cl	13	0.367
Al (Tot)	<0.05		Br		
Ba			I		
Cd	<0.05		NO ₂ (N)		
Co	<0.02		NO ₃ (N) *	1.0	
Cr	<0.02		PO ₄ (P) *	0.05	
Cu	<0.01		H ₂ S *		
Fe(Tot)	<0.01				
Fe(II) *	<0.01		Sulfide*	<0.02	
Li	<0.01		Dis. O ₂ *	10	
Mn	.051		TDS (calc)	181	
Mo	<0.04		δ D-H ₂ O	-81.8	
Ni	<0.05		δ ¹⁸ O-H ₂ O	-10.7	
Pb	<0.1		Al (Mono)		
Sr			Hg		
V	<0.01		* = Field determination		
Zn	0.026		† = Total alkalinity as Bicarb.		
Cation meq/L: 2.147			Anion meq/L: 2.294		
Charge Balance (‡): -6.62					

Chemical Data Summary
of Groundwater Samples from
Atherton, CA

	LW02TP91	LW03TP91	LW04TP91
Well Description	Shallow 20 to 110 ft	Intermediate 40 to 248 ft	Deep 240 to 280 ft
Spec. Cond.	2200	980	300
TDS	1394	627	181
Hardness	634	321	83.5
Water type	CaNaMg - HCO ₃	ca - HCO ₃	Ca - HCO ₃
Bicarbonate	673	322	96
$\delta D-H_2O$	-59.5	-40.2	-81.8
$\delta^{18}O-H_2O$	-7.9	-5.6	-10.7
B	0.52	0.17	< 0.1
Mn	0.013	0.039	0.051
Zn	0.043	0.027	0.026

Hole #3

Location--Holbrook-Palmer Atherton City Park (see map).

Depth--280 ft total depth and ID of steel casing is 4 in which extends to a depth of 275 ft. A 1 1/4 in PVP "drop pipe" is inside the casing and the pipe enlarges to a 2 1/2 in diameter at depths below 120 ft to 240 ft (see Fig. 3.1).

Pump is 20 hp with 125 g/m capacity and located at the bottom of the hole (280 ft below the surface) and therefore samples all water bearing strata above that depth, but primarily below 200 ft.

Geologic log--figure 3.2 shows the stratigraphy from the ground surface to a depth of 215 feet. Note gravel layers at:

11-14 ft (gravel)
 21-24
 29-35
 59-61
 89-91 (sand)
 101-106
 121-122
 152-157
 174-178
 187-189
 200-210 - *highest*

The layers are separated by yellow or blue clay layers (lenses?) which make up most of the stratigraphy.

My understanding from talking to the H-P Park Superintendent, Joe Mercer, is that the hole was originally drilled in 1972 and that the new submersible was installed in 1990 (see Fig. 3.3).

Pumping prior to sampling--200 gal at 125 g/m or about 2 minutes. Hose shot 50 feet in air.

Table 1. Locations of water samples

<u>Hole #</u>	<u>TR System</u>	<u>Lat.</u>	<u>Long.</u>
1	005S/003W-27B01/m	37°28.43'	122°10.46'
2	005S/003W-33A01/m	37°27.55'	122°11.35'
3	005S/003W-28R01/m	37°27.83'	122°11.36'

cc: P. Lamothe
 G. Bertoldi
 E. Brabb
 B. Sikora
 V. Langenheim



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 OCTOBER 19, 2005

SUBJECT: TOWN POLICY ON DRAINAGE

Storm water runoff within the Town is regulated by both the Town and the County. The main objective of the Town regulations is to limit the amount of peak flow that enters the Atherton Channel during a storm event. The main objective of the County regulations is to limit the amount of silt and debris entering the Bay, in other words, to improve water quality.

Since the late nineties, it became apparent that the Atherton Channel was flowing at peak capacity during a storm event that had a frequency of occurring once in 25 years. That storm event would deliver 2 inches of rain water in a 24-hour time period. The general trend in construction within the Town was to demolish a home and replace it with a much larger home. It became obvious that the Atherton Channel would not be able to handle the volume of flow coming from sites that were generating more and more runoff.

Since the late nineties, storm water mitigation has been required for the construction of any building or tennis court that exceeded 1000 square feet in area. Typically, the mitigation involved the installation of gravel detention trenches or underground tanks for the storage of rain water during a storm event. After the storm passed, the detention trenches or tanks would slowly release the stored water.

The effect of the Town requirement for storm water mitigation has been dramatic. While the size of homes has substantially increased, the peak flow entering the Atherton Channel has actually been reduced.

The County requirements of maintaining water quality are accomplished in the same manner. Rain water is kept from moving off site too rapidly. This keeps the water from picking up and transporting silt and debris that would eventually enter the Bay.

The application of state law requires storm water to follow its historic path. To accomplish this, detention trenches are generally placed down-slope or at the bottom of hillside lots. Also, rain water has not been allowed to drain into the streets. However, the Building Official and Public Works Director allow this practice when there is an overall benefit to the Town.

Storm water detention is more problematic in the area west of the Alameda between Atherton Avenue and Stockbridge Avenue. Here, very high ground water slows the infiltration and dispersion rates of detention trenches. Staff works with the design engineers to come up with the best installation.

Attached is the Grading and Drainage Criteria that is given to a building permit applicant or design engineer.

Prepared by:

Approved by:

Michael A. Hood
Building Official

James H. Robinson
City Manager

Attachment

Town of Atherton

Grading and Drainage Criteria

The Site Drainage Criteria applicable to residential building projects in the Town of Atherton follows a policy that is focused on requiring the project to show how the runoff from the site's impervious areas (roofs, hard-paved surfaces, driveways, etc.) are being handled. The Town's policy is that there be no increase in runoff from new development. **The Town does not permit concentrated runoff to be directed off of a property, to either the street right-of-way or to an abutting property, regardless of the existence of any natural drainage way, and regardless of the percentage of the tributary drainage basin that a building site may represent.** The site drainage improvements should be sized for all of the planned future development of the site. The drainage from new development (which includes subsequent phased development) must be mitigated to historic runoff rates.

The Town does not permit "hard line" piping and/or pumping of site drainage off of the property. Developed flows that have been discharged or migrate off of private property and into the right-of-way have frequently become public nuisances or will add to an existing substandard drainage condition. Due to the virtually flat grades along many of the property frontages in Atherton, such drainage patterns will lead to a condition of ponding along the abutting street frontage that is unacceptable to the Town.

The manner in which site drainage is handled must: 1) not direct concentrated flows onto an adjacent property or out to the street right-of-way; 2) not direct surface drainage water towards heritage trees, where their health would be adversely affected; 3) drain to percolation trenches or beds at a maximum depth of 8 feet below natural grade, not closer than 10 feet to a property line, nor located too close to a heritage tree (since the saturated ground conditions raise issue #2 again). **In addition, any new structure with a roofed area greater than 1000 square feet must account for the runoff from that new roofed area. No deduction in roofed area is given for previously demolished structures. The runoff from the roof a new structure must drain to an underground detention/retention system.**

The Town's Municipal Code establishes the "design storm" as the 25-year hydrologic storm event. This should be used as the basis of calculation of increased runoff due to new development over historic conditions. Any increased runoff would be the responsibility of the developer and is normally required to be handled on site.

An alternative approach to extensive hydrologic calculations is for the first two inches (2") of runoff from the impervious area of the site to be directed into an underground percolation system. The most common approach is for the percolation area to be sized based on a 35% void ratio in the gravel, an assumption of a zero percolation rate, and a maximum eight foot (8') depth of the percolation trench(es) or bed below existing grade. (For example: a trench 8 feet deep and 2 feet wide will require 35 linear feet of trench for every 1000 square feet of impervious area.) It is then acceptable for additional runoff that occurs during major storms, when the percolation system is at capacity and unable to accept further runoff, to be released from the property.

The development of property that involves a significant amount of grading, excavation and/or other ground disturbing activities on the site will involve other related reviews and approvals. The process for grading and drainage approval in the Town of Atherton now requires a grading and drainage permit (separate from the building permit), an excavation permit (for basement excavation), and also an erosion and sediment control plan showing the measures that will be taken by the contractors during construction to control erosion, mud tracking, etc. These measures are required of development projects per Atherton Municipal Code Chapter 8.54, and they need to be addressed before ground-disturbing activities can commence. The plan should also incorporate the recommended construction methods prepared by the San Mateo County STOPPP Program. A copy of the Town's grading and erosion ordinance and some typical erosion control details are attached.

The grading plan should also:

1. Show existing and proposed contours, not just spot elevations. The existing contours are needed to establish the basis of calculating the "average grade" elevation of the lot for purposes of establishing a base elevation from which the maximum permissible height of the building will be calculated. This elevation needs to be determined and then referenced to a site "bench mark" before the site is significantly disturbed by grading and excavation activities. This elevation should be shown on the approved final grading plan.
2. The amount of earthwork planned for the site should be calculated, including any proposed basement excavation. The plan should identify the volume of excavated material that will be generated, identify how much will be placed on site as fill, and show the volume to be off hauled. Planned stockpiles need to be covered by plastic during the winter "wet season".
3. The issue of off-haul is related to the condition of the existing street. Even though the Contractor's vehicles must be "street legal", the Town's residential streets are not designed for the concentrated impact of construction activity, particularly when this is coupled with a major grading operation trucking significant amounts of excavated materials away from the site, or transporting fill material to the site. Damage to the existing street will be the responsibility of the builder to repair, as established by City Council policy. A pictorial record of the existing "before" street pavement condition on the abutting street(s) (extent to be determined on a project to project basis) must be obtained and furnished to the Town, or one will be obtained at the Developer's expense. The Contractor's truck haul route and the planned material disposal site must also be identified. A \$5,000 refundable deposit will be collected by the town for offhaul greater than 500 cubic yards.
4. The site plan used for a grading plan should also show how any "heritage" trees on site would be protected. This would be accomplished by having all of the heritage trees along with proposed protection measures (typically 5' temporary cyclone fencing around the tree at the drip line) shown on the same plan. A separate handout is available from the Town on suggested methods of Heritage Tree Protection.

Chapter 8.54

GRADING, EROSION AND SEDIMENT CONTROL

Sections:

- 8.54.010 Title, purpose and general provisions.
- 8.54.020 Permit application procedures.
- 8.54.030 Review standard and procedures.
- 8.54.040 Implementation and enforcement.

8.54.010 Title, purpose and general provisions.

A. Chapter. This chapter shall be known as the town of Atherton Grading, Erosion and Sediment Control Ordinance, and may be so cited.

B. Purpose. The purpose of this section is to provide minimum standards to safeguard life and limb, to protect property and property values, preserve natural beauty, promote public welfare, protect and enhance water quality of watercourses, water bodies and wetlands, and control erosion, sedimentation, and increases in surface runoff and related environmental damage caused by construction-related activities, by regulating and controlling the design, construction, quality of materials, use, location and maintenance of grading, excavating and fill, land disturbances, land fill and soil storage in connection with the clearing and grading of land for construction within the town of Atherton.

C. Definitions. When used in this chapter, the following words shall have the meanings ascribed to them in this subsection:

1. "Administrator" means the public works director/city engineer and duly authorized agents and employees of the town departments of public works or building and zoning.

2. "Applicant" means any person, corporation, partnership, association of any type, public agency or any other legal entity who submits an application to the administrator for a permit pursuant to this chapter.

3. "Best management practice (BMP)" means a technique or series of techniques which, when utilized in a designated manner is proven to be effective in controlling construction-related runoff, erosion and sedimentation (see subsection (C)(10) of this section).

4. "Chapter" means Ordinance 494 in its entirety.

5. "Erosion" means the action or process of wearing away of earth or soil by the action of water.

6. "Final erosion and sediment control plan" means a set of measures designed to control surface runoff and erosion and to retain sediment on a particular site after all other planned final structures and permanent improvements have been erected or installed. The plan shall include a description of and specifications for sediment retention devices, surface runoff and erosion control devices, vegetative soil stabilization measures, and a graphic representation of the location of all devices and/or measures.

7. "Interim erosion and sediment control plan" means a set of measures designed to control surface runoff and erosion and to retain sediment on a particular site during the period in which preconstruction and construction-related land disturbances, fills and soil storage occur. The plan shall include a delineation and brief description of

the measures to be undertaken to retain sediment on the site, the surface runoff and erosion control measures to be implemented, the vegetative soil stabilization measures to be taken (including but not limited to seeding methods), and a graphic representation of the location of all devices and/or measures.

8. "Land disturbance" and "land disturbing activities" mean any human activity moving or removing the soil mantle or top six inches of soil whichever is shallower.

9. "Land fill" means any human activity depositing soil or other earth materials.

10. "Manual of standards (Manual)" means a compilation of technical application standards and design specifications adopted by the administrator as being proven methods of controlling construction-related surface runoff, erosion and sedimentation (see subsection (C)(3) of this section).

11. "Permittee" means the applicant in whose name a valid permit is duly issued pursuant to this chapter and his/her/its agents, employees and others acting under his/her/its direction.

12. "Sediment" means material deposited by water.

13. "Site" means a parcel or parcels of real property which is being or is capable of being developed as a single project.

14. "Wet season" means the period from October 15th to April 15th.

15. "Watercourse" means a natural stream, creek or man-made uncovered channel through which water flows continuously or intermittently. (Ord. 494 (part), 1996)

8.54.020 Permit application procedures.

A. Scope. No person may grade, fill,

excavate, store or dispose of soil and earth-en materials or perform any other land-disturbing or land-filling activity without first obtaining a permit as set forth in this chapter. All land-disturbing or land-filling activities or soil storage shall be undertaken in a manner designed to minimize surface runoff, erosion and sedimentation.

B. Exemptions.

1. General Exemptions. A person performing such activities need not apply for a permit pursuant to this chapter, if all the following criteria are met:

a. The land area disturbed or filled is one-fourth acre or less;

b. Natural and finished slopes are less than ten percent. However, finished slopes created primarily by the grading of small, localized landscaping mounds that are greater than ten percent shall also be deemed to be exempt;

c. Volume of soil or earth materials stored is fifty cubic yards or less;

d. Rainwater runoff is diverted, either during or after construction, by the activities from an area smaller than five thousand square feet;

e. An impervious surface, if any, of less than five thousand square feet is created;

f. No drainage way is blocked or has its stormwater carrying capacities or characteristics modified;

g. No land-disturbing or filling activities occur within one hundred feet of a watercourse.

2. Special Exemptions. Subsection (A)(1)(a) of this section notwithstanding; a person performing the following activities need not apply for a permit pursuant to this chapter:

a. Routine agricultural crop management practices;

8.54.040 Implementation and enforcement.

A. Permits. The administrator shall issue a grading permit upon approval of a site map and grading plan, interim plan, final plan (where required), soil report (where required), deposit of appropriate security (where required), and payment of fees. The administrator may impose such reasonable conditions or restrictions including, but not limited to, time limits, review of performance and performance standards, as deemed necessary to secure the purpose of this title, and may require guarantees and evidence that such conditions are being, or will be, complied with. Permits shall be issued subject to the following conditions:

1. The permittee shall maintain a copy of the permit, approved plans and any required reports on the work site and available for public inspection during all working hours;

2. The permittee shall, at all times, be in conformity with the approved site map and grading plan, and the interim and final erosion and sediment control plans.

B. Suspension or Revocation of Permit. The administrator shall suspend the permit and issue a stop-work order, and permittee shall cease all work on the work site, except work necessary to remedy the cause of the suspension, upon notification of such suspension when the administrator determines that the permittee has substantially deviated from the terms and conditions of the permit.

C. Violations. Unless otherwise specified by this code, the failure to comply with any provision or any of the mandatory requirements of this chapter shall constitute a misdemeanor, and shall be punishable as such pursuant to Chapter 1.20 of this code. It shall be considered a separate violation

for each and every day during any portion of which:

1. Permittee continues working in violation of a stop-work order issued pursuant to Section 8.54.040B;

2. Permittee is not in compliance with the interim or final erosion and sediment control plans at the onset of the wet season; or

3. There is any other deviation of the terms and conditions of the permit.

D. Nuisance Abatement. Neither this chapter, nor any administrative ruling made under it, limits:

1. The power of the town to declare, prohibit and abate a violation of this chapter as a public nuisance pursuant to Chapter 8.20 of this code, or

2. The right of any person to maintain, at any time, any appropriate action for relief against any private nuisance, or for relief against any contamination or pollution.

E. Cumulative Enforcement Procedures. The procedures for enforcement of a permit, as set forth in this section, are cumulative and not exclusive. (Ord. 494 (part), 1996)

b. Work to correct or remedy emergencies posing an immediate danger to life or property, or substantial flood or fire hazards.

C. Application. An applicant for a grading permit shall first file an application therefor in writing on a town application form with the administrator. Applications must include all of the following items:

1. Site map and grading plan;
2. Interim and, where required, final erosion and sediment control plan;
3. Work schedule;
4. Application fees;
5. Any supplementary material or performance security, if required by the administrator.

D. Work Schedule. The applicant must submit a master work schedule showing the following information:

1. Proposed grading schedule;
2. Proposed conditions of the site on each July 15th, August 15th, October 1st and October 15th during which the permit is in effect;
3. Proposed schedule for installation of all interim erosion and sediment control measures including, but not limited to, the stage of completion of erosion and sediment control devices and vegetative measures on each of the dates set forth in subsection (D)(2) of this section;
4. Schedule for construction, if any;
5. Schedule for installation of permanent erosion and sediment control devices where required.

E. Security. The applicant may be required to provide security for the performance of the work described and delineated on the approved grading plan in an amount set by the administrator. The amount will not exceed the estimated cost of the grading

and the costs to mitigate any impacts attributable to the grading operation.

F. Fees. Permit and inspection fees are to be paid pursuant to a schedule of fees adopted, and amended from time to time by the city council.

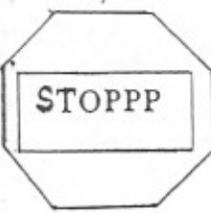
G. Permit Duration. Permits issued under this chapter shall be valid for the period during which the proposed land-disturbing or filling activities and soil storage takes place or is scheduled to take place, whichever is shorter. Permittee shall commence permitted activities within sixty days of the scheduled commencement date for grading or the permittee shall resubmit all required application forms, maps, plans, schedules and security to the administrator.

H. Permit Denial. Any person aggrieved by a determination of the administrator may appeal that administrative decision to the city council pursuant to the provisions of Chapter 17.64 of this code. (Ord. 494 (part), 1996)

8.54.030 Review standard and procedures.

A. Review Policy. The administrator shall issue a permit, provided the submitted plans protect the quality of receiving waters, and minimize surface runoff, erosion and off-site sedimentation.

B. Work Schedule. The administrator shall review the work schedule for overall coherence. Any modifications to the site map and grading plan, and interim and final erosion and sediment control plans shall be noted on the work schedule and the schedule modified, as necessary. (Ord. 494 (part), 1996)



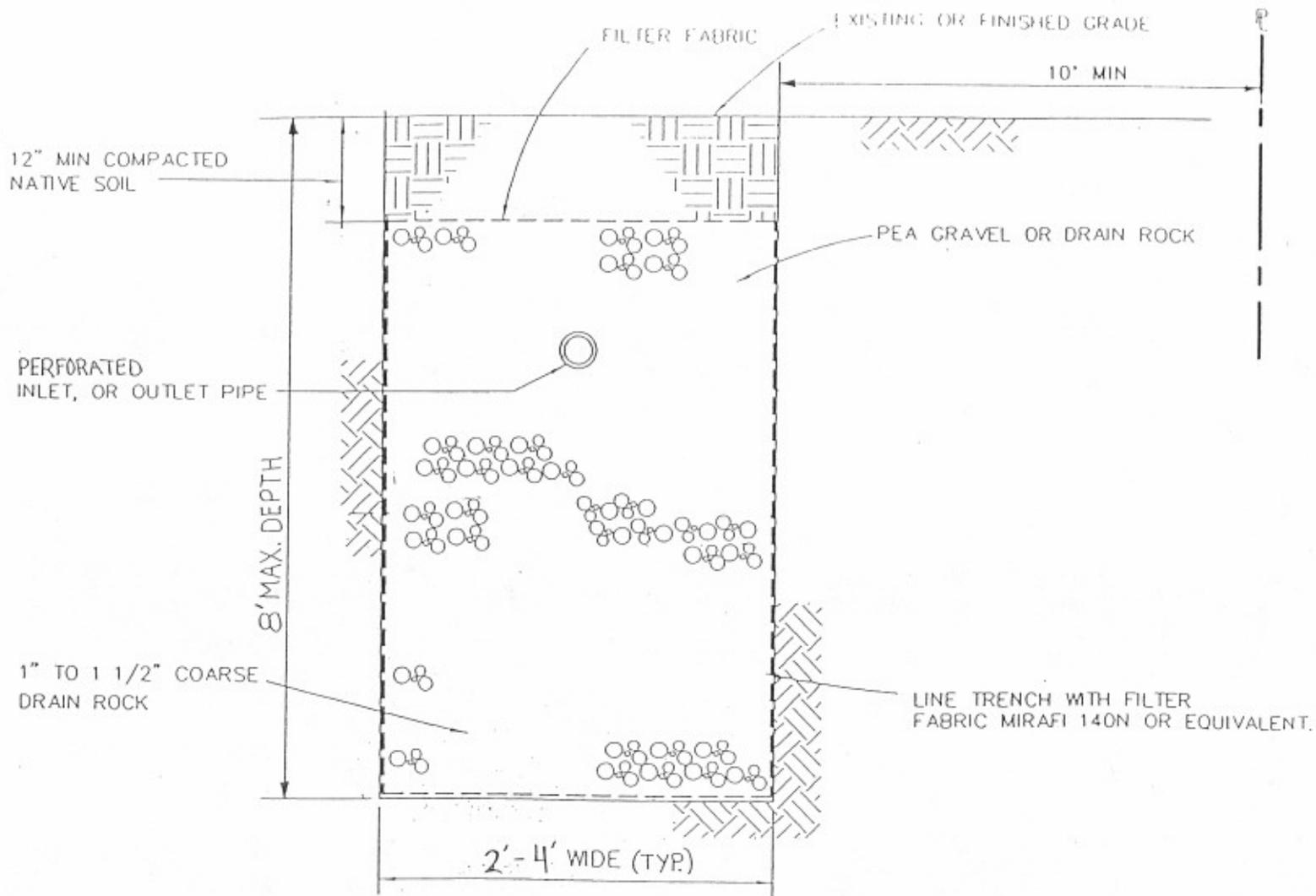
STOPPP

10 CONSTRUCTION METHODS TO HELP PREVENT STORMWATER POLLUTION

STOPPP San Mateo County Stormwater Pollution Program

Checklist for Construction Requirements:

1. Store, handle, and dispose of construction materials and wastes properly, so as to prevent their contact with stormwater.
2. Control and prevent the discharge of all potential pollutants, including solid wastes, paints, concrete, petroleum products, chemicals, washwater or sediment, and non-stormwater discharges to storm drains and water courses.
3. Use sediment controls or filtration to remove sediment from de-watering effluent.
4. Avoid cleaning, fuelling, or maintaining vehicles on site, except in a designated area in which runoff it contained and treated.
5. Delineate clearing limits, easements, setbacks, sensitive or critical areas, buffer zones, trees and drainage course with field markers.
6. Protect adjacent properties and undisturbed areas from construction impacts using vegetative buffer strips, sediment barriers or filters, dikes, mulching, or other measures as appropriate.
7. Perform clearing and earth moving activities during dry weather to the maximum extent practical.
8. Limit and time applications of pesticides and fertilizers to prevent polluted runoff.
9. Limit construction access routes and stabilize designated access points.
10. Avoid tracking dirt or other materials off site; clean off site paved areas and sidewalks using dry sweeping methods to the maximum extent practical.



DETENTION AND ABSORPTION TRENCH

NOT TO SCALE



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF OCTOBER 19, 2005

SUBJECT: CITY COUNCIL AUTHORIZATION FOR DONATION TO HURRICANE KATRINA DISASTER RELIEF

RECOMMENDATION:

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

BACKGROUND:

At the meeting of September 21, 2005, staff was requested to look into whether the Town could provide funding to assist with the hurricane Katrina disaster relief effort. The City Attorney has researched the issue and found that we, as a Town, do not have a policy prohibiting this practice.

Some cities in California and other states have responded to the disaster victims through community efforts to fundraise, "adopt a city" to provide assistance, or some other means of helping devastated areas recover from the massive flooding.

Vice Mayor Marsala requested that the attached e-mail from Margaret Winters be provided as part of this report, as she is suggesting that the Town provide some assistance. Also attached is a web page relating to the devastation in Cameron Louisiana, a community which Vice Mayor Marsala is suggesting that the Town consider assisting. In addition, also attached at the request of the Vice Mayor is information regarding the efforts of the City of San Carlos and the City of Palo Alto.

Attachments

Linda Kelly

From: charles marsala [cemarsala@yahoo.com]
Sent: Friday, October 14, 2005 10:45 AM
To: Linda Kelly
Subject: Fwd: helping those in LA

--- Margaret Winters <sewphiel@sbcglobal.net> wrote:

> Date: Wed, 12 Oct 2005 17:52:03 -0700 (PDT)
> From: Margaret Winters <sewphiel@sbcglobal.net>
> Subject: helping those in LA
> To: cemarsala@yahoo.com
>
> Dear Charles,
>
> We spoke at Michael's party about a month ago, and you promised you
> would bring up Atherton helping another community in Louisiana -- both
> San Carlos and Palo Alto have already linked up with communities.
> Don't you think it's time for our town to help others? Please pass
> this on to the other Town Council members and to the mayor and please
> press for something to get started. Please advise the results....I am
> counting on you!!
>
> Sincerely,
> Margaret Winters
>

Username: **GET**
Password: **FORGOT YOUR**
 Sign me in automatically

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Water tower in Cameron, Louisiana remains standing as the rest of town is either flooded or destroyed due to Hurricane Rita

28 Sep 2005
Source: Reuters

- Emergencies a**
- ▶ Intense hurrica
- ▶ Water



A water tower in Cameron, Louisiana remains standing as the rest of the town is either flooded or destroyed due to damage caused by Hurricane Rita September 27, 2005.
REUTERS/TIM JOHNSON, STR

AlertNet Challenge

Take the quiz...



GO →

AlertNet news is provided by **REUTERS** 

Tsunami AidWatch

Global Pledge-o-meter

- Newsdesk NGO Latest Reuters Pictures
-
- ▶ Hurricane Rita passes, but not financial worries (3 hours ago)
Source: Reuters
 - ▶ Gulf fisheries, hit by Katrina, see slow recovery (8 hours ago)
Source: Reuters

San Carlos Website

Hurricane Katrina Relief Effort

Supporting the Relief Effort at City Hall

Everyone can make a difference in the lives of those impacted by Hurricane Katrina. To help, the following steps have been taken by the City:

- We are placing donation containers at all staffed City facilities. All monies collected will be donated to the local Red Cross for the Hurricane Katrina Relief Fund.
- The Youth Development staff of the Parks and Recreation Department has started a fund raising program at the Youth Center. The staff will put up a heart in the window of the Youth Center with a student's name if that student donates at least \$1.00 to the Hurricane Katrina Relief Fund.
- The San Carlos Youth Advisory Council has voted to give the proceeds from their September 16th Dance to the Red Cross for the Hurricane Katrina Relief Fund.
- Some of our local residents has pledged the proceeds from her sale of items during the 7th Annual Citywide Garage Sale to the Hurricane Katrina Relief Fund.
- City Clerk Christine Boland is hosting a Katrina Bake Sale at 2340 Howard Avenue during the 7th Annual Citywide Garage Sale. She will be selling donuts, coffee, brownies and other home baked goodies. All proceeds from the Katrina Bake Sale will go to the Hurricane Katrina Relief Fund.



Adopting A City In The Hurricane Katrina Area

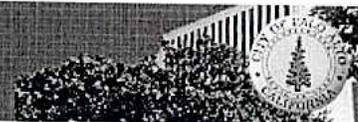
The San Carlos Chamber of Commerce is heading up a group in San Carlos that is adopting the town of Pass Christian, Mississippi, (population 14,000) in the hurricane area to support over the long haul in their rebuilding effort. The idea was brought to the Chamber by the San Carlos Ministerial Association.

The proposal is to have the entire community "adopt" this City. According to the San Carlos Chamber of Commerce, this might include things such as:

- Schools in San Carlos could send used books or take donations of school supplies for the children that could be shipped there. Kids in San Carlos could have Internet pen pals for support and share stories.
- The San Carlos Friends of the Library might donate books for the rebuilding of libraries or donate some of the proceeds from their next sale.
- Service clubs in San Carlos could send money, teams to help, adopt the service club in that city to buy new materials and support in other ways.
- Businesses in San Carlos might want to help rebuild businesses, direct some of their own business there and serve as advisers in the business community.
- Churches in San Carlos working with the adopted City's congregations to support their rebuilding, help with hymnals, Bibles and Sunday school supplies. Church classes could write letters of support, paint pictures to send, perhaps even send work teams to help rebuild the City later on.

San Carlos Chamber of Commerce Executive Director Sheryl Pomerenk says "There are so many ways to help and these are just a few. San Carlos is the City of Good Living. We have been richly blessed and it would be great to give some of our blessings away."

City of Palo Alto
250 Hamilton Avenue, Palo Alto, CA 94301



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Date: September 14, 2005
For Immediate Release

Contact: Jim Burch
Mayor of Palo Alto
(650) 858-2348

City of Palo Alto Helps with Hurricane Relief

Palo Alto, CA -The City of Palo Alto is helping in multiple ways with Hurricane Katrina relief efforts in the Gulf Coast region.

At Monday night's City Council meeting, Mayor Jim Burch proposed that the City reach out directly to "adopt" a community affected by the storm and provide short and long-term assistance. Staff is drafting a City Council resolution for a future meeting.

Through contacts in the region, staff identified the City of Kenner, Louisiana as a community similar in size to the City of Palo Alto . Kenner is located about 10 miles west of downtown New Orleans with a population of about 71,000. Like New Orleans , Kenner is adjacent to Lake Pontchartrain and subject to flooding. Kenner city officials said some parts of the city had six feet of water. They also estimated that the hurricane and subsequent flooding caused wind or water damage to about 85 to 90 percent of homes. Some City infrastructure also sustained damage.

Mayor Burch called Kenner Mayor Phil Capitano to inform him of Palo Alto 's forthcoming help. Capitano told him, "I can't begin to tell you how grateful we are for the support."

Mayor Burch also proposed that City staff encourage other California cities to connect directly with affected cities. Staff is exploring the possibility of working as joint liaisons with statewide non-profits in Louisiana and Mississippi to connect California cities to local government leaders in need in that region.

The City of Kenner has set up a relief fund for local families who have lost everything. Palo Alto residents who would like to contribute to the Kenner Relief Fund can send contributions to the following address:

Kenner Relief Fund
c/o Omni Bank
6300 Corporate Blvd.
Baton Rouge , Louisiana 70809
Account # 3350000919

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This page was last reviewed: September 14, 2005



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF OCTOBER 19, 2005

SUBJECT: 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.

BACKGROUND:

As the Council is aware, the City Council traditionally selects one of its members to serve as Mayor and one of its members to serve as Vice Mayor in December. There is some interest in calling for a Special Meeting in December apart from the regular meeting (which was rescheduled to December 14th at our last Council meeting) in order to make the Mayor and Vice Mayor selection a more ceremonial and celebratory event.

Attachment: Letter from ACIL



Founded 1946
150 Watkins Avenue
Atherton, Ca 94027

October 14, 2005

To Atherton Town Council

Although the ACIL board has not had the opportunity to formally act on the proposal to change the December town council meeting format to a holiday reception, it is in ACIL's Mission Statement to encourage residents to become involved in town government. So, I have no reservation that our organization supports the concept of such an event.

This, of course, assumes that the Council will be able to deal with any matters that requires its attention before the end of the year. Getting the town's business done has to be the top priority. But the idea of holding such an event is a great idea that should be explored.

We look forward to joining with other Atherton residents who care about the community.

Sincerely,

(s)
Jerry Carlson, President