



Item No. 13 Town of Atherton

CITY COUNCIL STAFF REPORT – CONSENT AGENDA

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: GEORGE RODERICKS, CITY MANAGER

DATE: JANUARY 21, 2015

**SUBJECT: RESOLUTION AUTHORIZING THE DESTRUCTION OF RECORDS
PURSUANT TO GOVERNMENT CODE SECTION 34090**

RECOMMENDATION

Adopt the attached Resolution authorizing the destruction of certain records pursuant to Government Code Section 34090.

BACKGROUND | ANALYSIS

Penal Code Section 832.5 requires that citizen complaints or internal affairs investigations against police department personnel and any related reports or findings be maintained for a period of at least five years.

Government Code Section 34090 authorizes the Chief of Police, upon resolution of the City Council and written consent of the City Attorney, to destroy records, documents, instruments and other papers under his charge pursuant to an adopted records retention policy as the records are no longer required to be maintained.

The Police Department has 2 files (1 internal affairs investigation and 1 citizen complaint investigation) that have exceeded the 5-year retention period and are no longer required to be maintained. The Chief of Police and City Attorney have reviewed the status of the 2 files noted above to ensure there is no legal or other reason to maintain such files.

In addition, the police department is asking for the approval to destroy the 2011-2012 citations per the destruction guidelines and three (3) partial backgrounds where the applicants were disqualified and not hired.

The California Government Code authorizes the destruction of records and requires agencies adopt compliant records retention schedules. These schedules ensure that certain records are maintained in perpetuity and other records are maintained for sufficient time periods, dependent

on the type of records, to allow standards and structure for local government records management efforts.

Maintaining old files can lead to the use of stale information in personnel and litigation matters that can be detrimental to staff, the department, and the Town. The information is of no useful value to the Town, is out of date and should be destroyed in compliance with Town and State records retention policies.

It is recommended that the City Council authorize this timely and appropriate destruction of old files in accordance with the law.

FISCAL IMPACT

There is no fiscal impact in approving this resolution for the destruction of records.

ATTACHMENTS

None.

RESOLUTION NO. ____

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF
ATHERTON AUTHORIZING THE DESTRUCTION OF RECORDS PER
GOVERNMENT CODE SECTION 34090**

WHEREAS, Penal Code Section 832.5 requires that citizen complaints or internal affairs investigations against police department personnel and any related reports or findings be maintained for a period of at least five years; and

WHEREAS, Government Code Section 34090 expressly authorizes the Chief of Police, upon resolution of the City Council and written consent of the City Attorney, to destroy records, documents, instruments and other papers under his charge pursuant to an adopted records retention policy as the records are no longer required to be maintained; and

WHEREAS, The Police Department has two (2) files (one internal affairs and one citizen complaints) which have exceeded the 5-year retention period and are no longer required to be maintained; and

WHEREAS, The Police Department has 2011-2012 Citations which have exceeded the 2-year retention period and are no longer required to be maintained; and

WHEREAS, the Town has three (3) partial background investigations in excess of the retention period where those applicants were not hired and/or disqualified in the process; and,

WHEREAS, the Chief of Police and City Attorney have reviewed the files for any pending related civil or criminal litigation and the City Attorney hereby gives written consent for the destruction of the following records:

| ITEM NUMBER | RECORD TITLE | RETENTION |
|--------------------|---------------------|------------------|
| 2009-001 | Internal Affairs | 5 years |
| 2009-001 | Citizens Complaint | 5 years |

| RECORD | RETENTION |
|---------------------|------------------|
| 2011-2012 Citations | 2 years |

| BACKGROUND INVESTIGATION | POSITION | REASON | DATE |
|---------------------------------|-----------------|---------------|-------------|
| Partial Background | Reserve Officer | Disqualified | Feb. 2013 |
| Partial Background | Police Officer | Disqualified | Feb. 2013 |
| Partial Background | Police Officer | Disqualified | Feb. 2013 |

NOW, THEREFORE, BE IT RESOLVED, The Chief of Police and City Attorney have reviewed the status of the aforementioned files to ensure there is no legal or other reason to maintain such files and the City Council of the Town of Atherton hereby authorizes destruction of the records.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on this 21st day of January, 2015, by the following vote:

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

Rick DeGolia
Mayor

ATTEST:

Theresa N. DellaSanta
City Clerk

William Conners
City Attorney