



## Item No. 4 Town of Atherton

### CITY COUNCIL STAFF REPORT – REGULAR AGENDA

**TO:** HONORABLE MAYOR AND CITY COUNCIL  
GEORGE RODERICKS, CITY MANAGER

**FROM:** ANTHONY SUBER, DEPUTY CITY MANAGER / CITY CLERK

**DATE:** APRIL 22, 2020

**SUBJECT:** ADOPT RESOLUTION AND AUTHORIZE THE CITY MANAGER TO EXECUTE A SIDE LETTER AGREEMENT WITH THE ATHERTON POLICE OFFICERS ASSOCIATION (APOA) TEMPORARILY LIFTING THE VACATION CAP AS OUTLINED IN RESOLUTION 19-10 APOA MOU SECTION 15, VACATION, IN RESPONSE TO THE COVID-19 PANDEMIC.

### RECOMMENDATION

Adopt the attached Resolution ratifying an amendment to the Memorandum of Understanding via Side Letter between the Town of Atherton and the Atherton Police Officers Association (APOA) regarding Section 15: Vacation.

### BACKGROUND AND ANALYSIS

The Atherton Police Officers Association (APOA) Memorandum of Understanding (MOU) was adopted July 1, 2019. In response to the COVID-19 pandemic the Police Department developed preparedness and readiness plans that have impacted schedules and planned vacations. On March 16, 2020 Police Chief McCulley issued direction that all scheduled vacations are cancelled, and time off requests will not be granted unless it is an emergency. That directive is currently in place until further notice to support the needs of the Town during the Shelter-in-Place (SIP) order.

The APOA MOU has a maximum cap on accrued vacation of 320-hours. The APOA MOU Section 15, Vacation, Part B states:

*“Total accrued vacation can only be accumulated to two times the employee's annual accrual rate, but not to exceed a total of 320 hours. No accrual of vacation hours shall occur beyond 320 hours, and employees shall not accrue any new vacation leave until their balance is 320 hours or less.”*

Currently there is a short list of five (5) Police Department personnel nearing the 320-hour mark as of most recent payroll. To accommodate APOA personnel that might be impacted by the directive in place the City Manager and the APOA have reached an agreement for temporary

modification of Section 15 lifting the maximum vacation cap as outlined in the Side Letter (Attachment 1). Accrued vacation hours will be tracked in a separate bank and must be used within 6-months of the expiration of the SIP order. Any hours over cap remaining after six months has passed will be cashed out at the current rate of pay at the next pay period.

### **FISCAL IMPACT**

None. There is no change to current pay rates, overtime calculations, or how vacation time is accrued. Vacation hours accrued over the 320-hour cap under normal circumstances would have been used or cashed out prior to reaching the cap.

### **POLICY ISSUES**

The addition of this Side Letter agreement will result in a temporary impact on the Town's Human Resource Policy #304: Vacation. Under the guidelines section it states that if the employees balance exceeds the capped hours, they shall not accrue any new vacation leave until their balance is less than the cap. This will be suspended for employees that fall under the APOA MOU. This is a temporary suspension that will follow the rules outlined in the agreement. All other employees will be unimpacted.

### **PUBLIC NOTICE**

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer), and regional elected officials. The Town maintains an active and up to date Project Website at <http://ca-atherton.civicplus.com/index.aspx?NID=290>.

### **ATTACHMENTS**

1. Resolution and Side Letter Agreement
2. Cover Letter to APOA

**RESOLUTION NO. 20-XX**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF  
ATHERTON RATIFYING AN AMENDMENT TO THE MEMORANDUM OF  
UNDERSTANDING BETWEEN THE TOWN AND THE ATHERTON POLICE  
OFFICERS ASSOCIATION**

**WHEREAS**, the City Manager, representing the Town, has met and conferred with the Atherton Police Officers Association; and

**WHEREAS**, the Atherton Police Officers Association and the Town have reached an agreement for modification to Section 15 of the Memorandum of Understanding addressing Vacation;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the Town of Atherton hereby ratifies the attached amendment to the Memorandum of Understanding and the City Manager is authorized and directed to sign said memorandum on behalf of the Town.

**PASSED AND ADOPTED** at a meeting of the City Council of the Town of Atherton held on the 22<sup>nd</sup> day of April, by the following vote:

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

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Rick DeGolia, Mayor  
Town of Atherton

ATTEST:

\_\_\_\_\_  
Anthony Suber, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Mona Ebrahimi, City Attorney

**SIDE LETTER OF AGREEMENT BETWEEN THE TOWN OF ATHERTON AND THE ATHERTON POLICE OFFICERS’ ASSOCIATION**

April 22, 2020

Representatives for the Town of Atherton, hereinafter the “Town” and representatives for the Atherton Police Officers Association, hereinafter “Association” have met in good faith and agreed to modify the Side Letter Agreement to the existing Memorandum of Understanding between the Town and the Association, which expires on June 30, 2023, in the following manner:

*Section 15 Vacation provides that “Total accrued vacation can only be accumulated to two times the employee’s annual accrual rate, but not to exceed a total of 320 hours. No accrual of vacation hours shall occur beyond 320 hours, and employees shall not accrue any new vacation leave until their balance is 320 hours or less.”*

*This maximum vacation cap is temporarily lifted during the period of the County Shelter-in-Place Order (SIP) issued in March 2020 in response to the COVID-19 Pandemic. The effective date will be March 16, 2020. This Policy will expire in concert the SIP Order expiration and any vacation accrued above the 320-hour maximum cap will be placed in a separate bank of hours that must be used within 6 months of the date that the Order expires. Any hours over cap remaining after six months has passed will be cashed out at the current rate of pay at the next pay period.*

If this in accordance with your understanding please review, please indicate your approval and acceptance below:

**FOR THE TOWN OF ATHERTON**

**FOR THE ATHERTON POLICE OFFICERS’ ASSOCIATION**

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City Manager, George Rodericks

President, Atherton Police Officers’ Association



## TOWN OF ATHERTON

ADMINISTRATIVE OFFICES  
150 WATKINS AVENUE  
ATHERTON, CALIFORNIA 94027  
(650) 752-0500

TO: Antoinette Gutierrez and Monica Diaz, APOA

FROM: Anthony Suber, Deputy City Manager / City Clerk

DATE: April 7, 2020

**SUBJECT: MEET AND CONFER: SECTION 15 VACATION – TEMPORARY REMOVAL OF CAP DUE TO COVID-19 RESPONSE**

Dear Antoinette and Monica,

As a result of COVID-19 there are a few personnel that will bump up against the vacation cap. To address this, the Town would like to implement a temporary policy that suspends the vacation cap during the Shelter in Place (SIP) order.

We recognize and appreciate the commitment and service of our staff and understand the current environment doesn't allow for the use of vacation. The proposed policy temporarily suspends the cap and allows for a reasonable period of time to use the vacation after the SIP is lifted. The hours would be tracked in a separate bank of hours by Finance.

Please let me know if you would like to meet and confer over this issue or if you would like to discuss by phone or email. If not, we would like to retroactively implement this policy to April 1, 2020. This would be brought to Council at the April 15, 2020 Council meeting to be ratified.

The temporary policy will be as follows:

*Section 15 Vacation provides that "Total accrued vacation can only be accumulated to two times the employee's annual accrual rate, but not to exceed a total of 320 hours. No accrual of vacation hours shall occur beyond 320 hours, and employees shall not accrue any new vacation leave until their balance is 320 hours or less."*

*This maximum vacation cap is temporarily lifted during the period of the County Shelter-in-Place Order (SIP) issued in March 2020 in response to the COVID-19 Pandemic. This Policy will expire in concert with the SIP Order expiration and any vacation accrued above the 320-hour maximum cap will be placed in a separate bank of hours that must be used*

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*within 6 months of the date that the Order expires. Any hours over cap remaining after six months has passed will be cashed out at the current rate of pay at the next pay period.*

TOWN OF ATHERTON

Anthony Suber

Deputy City Manager / City Clerk

cc: George Rodericks, City Manager  
Steve McCulley, Chief of Police  
Robert Barron III, Finance Director  
Mona Ebrahimi, City Attorney