



Item No. 13 Town of Atherton

CITY COUNCIL STAFF REPORT – CONSENT AGENDA

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: GEORGE RODERICKS, CITY MANAGER

DATE: OCTOBER 21, 2020

SUBJECT: APPROVAL OF REVISIONS TO THE CITY COUNCIL HANDBOOK

RECOMMENDATION

Approve the revisions to the City Council Handbook and Adopt the Handbook.

BACKGROUND/ANALYSIS

At the September 16, 2020 Council Meeting the City Council recommended a series of revisions to the City Council Handbook. Revisions centered around the Mayor's appointment of subcommittees, the role of non-subcommittee members, and representation of the Town and the Council's policy decisions. There were also a series of minor formatting and corrections to current that were non-substantive. Three sections contained substantive revisions. These are articulated below. All other changes were either corrective, formatting, or non-substantive. Attached is a redline/strike version of the Handbook.

Section 3.2 – City Council Meetings

Within the section for Study Session meetings, revisions were made to clarify that Study Sessions are considered Special Meetings and that the Council *may* take action at such meetings but typically *does not* take action at Study Sessions. This was added for clarity of current practice.

Section 3.4 – Subcommittees

The following revisions were made at Council specific direction.

A provision that reads "*The Mayor shall strive to appoint balanced subcommittees whenever they are created.*" Was added to the first paragraph.

A second paragraph was added to capture the Council's concern about non-subcommittee members engaging in outside conversation or deliberation on a topic specifically delegated to the subcommittee.

The provision reads "*When an ad hoc or standing subcommittee has been formed,*

Councilmembers that are not on the respective subcommittee shall refer outside inquiries on the subject matter pertaining to the subcommittee to the subcommittee via the City Manager. Councilmembers shall refrain from engaging in discussion, other than with the City Manager, on issues that are directly related to the subject-matter jurisdiction of the subcommittee, unless and until a report from the subcommittee has been received by the City Council at a public meeting.”

Section 3.7 – Mayor

The following revision was made at Council specific direction.

A final sentence was added to capture the Council’s concern about outside representations by members of the Council. The sentence reads “*When representing the City Council or Town on respective issues, all members of the Council are first and foremost expected to represent the respective policy decision(s) of the City Council.*”

Councilmembers are allowed to represent their own perspective; however, the provision is intended to clarify that if a member of the Council is representing the Council or the Town, the policy decision of the City Council is what should be represented irrespective of the member’s personal perspective.

FISCAL IMPACT

None.

POLICY FOCUS

Policy discussion by the Council could revolve the various policies and procedures outlined within the Handbook and Rules of Procedure. It is important to note that any amendments must also be in conformance to the Government Code and Brown Act.

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 provides (water, power, and sewer), and regional elected officials.

COMMISSION/COMMITTEE FEEDBACK/REFERRAL

This item ___ has or X has not been before a Town Committee or Commission.

- Audit/Finance Committee (meets every other month)
- Bicycle/Pedestrian Committee (meets as needed)
- Civic Center Advisory Committee (meets as needed)

- ___ Environmental Programs Committee (meets every other month)
- ___ Park and Recreation Committee (meets each month)
- ___ Planning Commission (meets each month)
- ___ Rail Committee (meets every other month)
- ___ Transportation Committee (meets every other month)

ATTACHMENTS

Amended City Council Handbook 2020

TOWN OF ATHERTON



A HANDBOOK FOR MEMBERS OF THE CITY COUNCIL

TABLE OF CONTENTS

1.	Introduction	4
2.	General Information	
2.1	Geography and Demographics	5
2.2	The History of Atherton	5
2.3	The General Plan	6
2.4	The Municipal Code	6
3.	The Structure of the Town Government	
3.1	The City Council	6
3.2	City Council Meetings	7
3.3	Election of Councilmembers	7
3.4	Subcommittees	7
3.5	Vacancies	8
3.6	Election of Mayor and Vice Mayor	8
3.7	Mayor	8
3.8	Vice Mayor	8
3.9	Presiding Officer	8
3.10	The City Manager	9
3.11	The City Attorney	9
3.12	The City Clerk	9
4.	Volunteer Positions	
4.1	Commissions and Committees	9
4.2	Qualifications and Appointments to Office	10
4.3	City Council Liaisons	11
5.	General Rules of Office	
5.1	Code of Ethics and Conduct	11
5.2	Conflict of Interest	11
5.3	Statement of Economic Interest	12
5.4	Relations with Town Staff	12
5.5	Orientation for New Members	13
5.6	Meeting Attendance	13
5.7	Resignation	13
5.8	Compensation	13
5.9	Benefits/Insurance/Immunity	13
5.10	Travel Expenses	13
5.11	Authority of Councilmembers	14
5.12	Use of E-mail	14
5.14	Assignment to Outside Committees, Agencies, and Organizations and as Committee Liaisons	14

[2]

6.	Operating Procedures	
6.1	Ralph M. Brown Act	14
6.2	Limitations Upon Official Action of the City Council	15
6.3	Tort and Constitutional Rights Liability	16
6.4	Environmental Impact	16
6.12	Resolutions	16
6.13	Ordinances	16
6.14	Effective Date of Ordinances	16
6.15	Publication of Ordinances	16
6.16	Quorum Requirements	16
6.17	Minutes	17
6.18	Agendas and Agenda Packets	17
6.19	Actions Limited to Posted Agenda	17
6.20	Public Comments	18
6.21	Public Hearings	18
6.22	Consent Calendar	18
7.	Conclusion	19
8.	Appendix	19
	A - City Council Rules of Procedures	
	B - Code of Conduct	
	C - Resolution Governing Committees and Commissions	
	D- Rosenberg's Rules of Order	
	E- City Council Approved Policies	

[3]

1. INTRODUCTION

Congratulations on your election to office! You have an exciting and very important job ahead of you. As a City Councilmember you are in a key position of leadership in dealing with the many challenges facing the Town of Atherton. Towns and cities perform many of the functions which are of most immediate concern to citizens. These include essential services public safety, sewer and storm drainage, and capital improvement projects.

As City Councilmember's, you share an authority which lends you great influence over the determination of the quality of life of your fellow citizens. The community looks to the City Council to help protect it against a host of natural, social and economic challenges; as well as for providing an attractive and healthy place to live. To fulfill these responsibilities, the City Council enacts local laws, sets policies that direct Town programs and establishes budget priorities.

This handbook has been prepared to provide a convenient source of information about the functions and activities of the City Council. It is intended to assist Councilmembers in carrying out their roles, as well as to provide useful information to prospective Councilmembers and other interested citizens.

[4]

2. GENERAL INFORMATION

2.1 Geography and Demographics

Atherton is a small, rural, and residential community, with no commercial or industrial land-use base. Native live oaks, white oaks, bays, redwoods, cedars, pines and other ornamental trees cover the six square miles of town.

Atherton's population is 6,995 according to the 2011 census. In October 2012, there were 5,052 registered voters and approximately 2,500 households. The median age is 48.2 years.

2.2 The History of Atherton

In 1866, Atherton was known as Fair Oaks and was a [flag stop](#) on the California Coast for the Southern Pacific Railroad between [San Francisco](#) and [San Jose](#) for the convenience of the owners of large estates living north of [Menlo Park](#). The entire area was called Menlo Park. It was part of the [Rancho de las Pulgas](#), which is now southern [San Mateo County](#).

In 1923, Menlo Park wanted to incorporate its lands to include Fair Oaks. During a meeting of the representatives of the two communities, the Fair Oaks property owners maintained their community as a strictly residential area, and they would incorporate independently. Both groups rushed to Sacramento, but the Fair Oaks committee arrived first. It was at that time they realized that they could not keep the name Fair Oaks, as it was already the name of a town near Sacramento. It was decided to honor Faxon Dean Atherton who had been one of the first property owners in the south peninsula and named the Town for him. Atherton was incorporated on September 12, 1923.

[Faxon D. Atherton](#), originally from Massachusetts, had spent several years as a trader in tallow, hides, and merchandise. His friend and business associate, Thomas Lark, had written to him about the opportunities, for family and business, on the San Francisco peninsula. Atherton purchased over 600 acres in 1860. His home, "Valparaiso Park," was built several years later.

With the development of the railroad, other San Franciscans established summer homes further south. The dirt roads were usually treacherous in the winter, and the families would only visit May through September.

The Mayor of San Francisco, Thomas H. Selby, purchased over 400 acres and called his estate "Almendral." John T. Doyle, an attorney, also built a home off Middlefield Road, "Ringwood." [James C. Flood](#), owner of "Linden Towers," is now known as Lindenwood. The Joseph A Donohoe estate was "Holmgrove" and is now the site of Menlo-Atherton High School. James Thomas Watkins' home was "Fair Oaks" which stands today on Alejandra Avenue, after being moved twice.

Edward E. Eyre reigned as first Mayor and in 1928, the residents voted to build a Town Hall, which is still in use today. The early residents sought to build a Town that would be divided into large parcels and would not contain businesses. During the 1920s and 1930s, a few of the large land holdings were subdivided, including James Floods' estate in 1938. In the 1940s and 1950s over eighty subdivisions were recorded bringing the era of large estates to a close. Atherton is still a "plain of oaks." Native live oaks, white oaks, bays, redwoods, cedars, pines and other ornamental trees cover the six square miles of town. There are approximately 50

[5]

miles of roads. Ms. Olive Holbrook-Palmer left Holbrook-Palmer Park, a 22-acre parcel, to the Town in 1958. It is an open, tree-covered park, which offers recreational programs and has facilities for functions.

2.3 The General Plan

The General Plan guides the future development of the Town, describes the desired character and quality of the community, sets forth the goals that govern the Town, and states the policies that the Town government will follow to achieve those goals. The Plan's primary goals are to preserve and enhance Atherton as a scenic, rural residential community, to conserve the natural environment and its open space, to protect people and their property from exposure to hazards, to assure access to utility services, to abate noise, to manage and maintain the Town's system of roads, trails, and paths. A copy of the Plan is on file with the City Clerk and on the Town's website (<http://www.ci.atherton.ca.us>), and interested parties are encouraged to peruse it.

2.4 The Municipal Code

The Atherton Municipal Code is the systematized collection of regulatory, penal, and administrative laws of general application. The City Council modifies the Municipal Code by introducing and adopting ordinances in public meetings (see Chapter 1). The Municipal Code serves as the basic law of the Town. The Municipal Code is available for review from the City Clerk and is also on the Town's website.

3. THE STRUCTURE OF TOWN GOVERNMENT

Atherton is a general law city operating under a council-manager form of government. This provides the Town with policy direction from the City Council and professional administration and policy implementation through the City Manager. Approximately 80% of the towns and cities in California operate under general law, which means they are organized pursuant to state law concerning town government structure contained in the State of California's Government Code.

The general law system of municipal government provides that the Town has no powers except those it receives under a constitutional or statutory grant of authority. The powers so granted are enumerated in Article XI of the California Constitution, which provides two kinds of powers for general law towns. These kinds of powers are the power to regulate people's actions (known as regulatory power) and the power to provide services for the benefit of the Town's inhabitants (known as commercial power).

3.1 The City Council

The City Council is the legislative body of the Town of Atherton, with all the regulatory and corporate powers provided under California state law. The City Council provides the policy direction that guides the operation of the Town, adopts ordinances and resolutions that constitute the local laws of the Town, and sets the Town's priorities through the adoption of an annual budget and the provision of direction to the City Manager. The City Council represents the Town's residents through these actions and through the conveyance of constituent requests and concerns to the Town staff. The City Council also appoints members to its advisory committees and commissions.

[6]

Deleted: THE STRUCTURE OF TOWN GOVERNMENT
Formatted: No underline

3.2 City Council Meetings

All meetings (except closed sessions as provided by State law) of the Council shall be open to the public. The regular meetings of the City Council are held on the third Wednesday of each month at 7:00 p.m. The regular meeting place of the City Council is 94 Ashfield Road, Atherton, California. If the regular meeting should fall on a legal holiday, the Council shall meet at a time and date so designated by the Council.

Adjourned Meetings

Any meeting of the City Council may be adjourned to a later date, place, and time provided no adjournment is for a longer period than the next regularly scheduled meeting.

Special Meetings

Special meetings may be called by the Mayor or by a majority of the Councilmembers. The call for a special meeting must specify the day, hour, and place and shall specify the subject(s) to be considered. Twenty-four hours' notice must be given prior to the meetings. Only matters specified in the notice may be discussed at special meetings. Notice shall be posted as required by law.

Closed Session Meetings

Authorized closed sessions may be held in accordance with the provisions of the Brown Act (Government Code Section 54954.5).

Study Session Meetings

The Council meets on an as-needed basis on the first Wednesday of the month at 4:00 p.m. for study sessions. Study Sessions are considered special meetings. The Council may meet in Study Sessions or Special Meetings called by the Mayor or the majority of Councilmembers. Study Sessions and Special Meetings are open to the public and are meetings for purposes of the Brown Act. Council typically does not take any formal action during study session meetings. Meeting notice requirements are contained in Section 2.2.

- Deleted: informally
- Deleted: Further, t
- Deleted: informally
- Deleted: may
- Deleted: at

Media Attendance

All meetings (except Closed Sessions) of the City Council, Committees and the Planning Commission shall be open to the media and may be recorded on tape, radio, television, and photography, provided such recordings do not interfere with orderly conduct of the meetings.

- Deleted: s

City Council has established Rules of Procedures for the conduct of Council meetings. These rules are included with the handbook as Appendix A.

3.3 Election of Councilmembers

The five members of the City Council are elected at-large to four-year terms. Elections occur in November of even-numbered years, and the terms are staggered so that no more than three City Council seats are up for election at any one time. New City Councilmembers are sworn in

[7]

at the first regular meeting after election results are available for canvas, which is usually the December meeting.

3.4 Subcommittees

The Mayor may create and appoint members to standing subcommittees of the City Council with the approval of the Council for the purpose of studying specific issues in more detail and reporting back to the Council with data and recommendations, or ad hoc subcommittees for limited specific purposes without Council approval. All standing subcommittees are subject to the provisions of the Brown Act, while ad hoc subcommittees are not. The Mayor shall strive to appoint balanced subcommittees whenever they are created.

When an ad hoc or standing subcommittee has been formed, Councilmembers that are not on the respective subcommittee shall refer outside inquiries on the subject matter pertaining to the subcommittee to the subcommittee via the City Manager. Councilmembers shall refrain from engaging in discussion, other than with the City Manager, on issues that are directly related to the subject-matter jurisdiction of the subcommittee, unless and until a report from the subcommittee has been received by the City Council at a public meeting.

3.5 Vacancies

Vacancies occasionally occur as a result of death, resignation or the departure of a Councilmember from the Town. When a person has ceased to be a resident of the Town, that person's office immediately becomes vacant. The City Council must appoint a replacement or call for a special election within sixty days of the occurrence of the vacancy. The special election shall be held on the date of the next regularly established election (provided by State law) or the next regularly established general municipal election to be held throughout the Town. In either case, the special election may not be held less than 114 days from the call of the special election.

3.6 Election of Mayor and Vice Mayor

The Mayor and Vice Mayor are elected from among the Councilmembers by a majority vote of the members of the Council. They serve for a one-year period and at the pleasure of the Council. They may be relieved of their duties by a majority vote of the City Council taken at a duly noticed Council meeting.

3.7 Mayor

The Mayor presides at the City Council meetings and represents the Town as the official head of the Council on public and ceremonial occasions. Other than administrative duties set forth in the Municipal Code, the Mayor and Vice Mayor shall have no additional powers or authority different from other members of the City Council. The principal qualification for the position of Mayor is the ability to effectively preside at meetings. This requires tact, courtesy, and familiarity with parliamentary procedures. The responsibility of the Mayor is to direct the discussion and deliberation of the matters at hand. The Mayor should encourage the input of ideas, clarify ideas, and restate motions in order that all members understand the item on which they are voting. It is the Mayor's responsibility to ensure that the Council is operating within the confines of all applicable rules and regulations. Since the Mayor must preside over meetings, he or she must maintain a certain degree of impartiality and be sure to allow all

[8]

views on an issue to be expressed. However, the Mayor may also participate in debate, expressing his or her own views, and may make or second motions.

When representing the City Council or the Town on respective issues, all members of the Council are first and foremost expected to represent the respective policy decision(s) of the City Council.

3.8 Vice Mayor

The Vice Mayor acts in the Mayor's absence.

3.9 Presiding Officer

In the absence of both the Mayor and the Vice Mayor, the Councilmembers shall elect a temporary Presiding Officer by majority vote.

3.10 City Manager

The City Manager is appointed by the City Council and is responsible to the City Council as a whole, not to individual Councilmembers. The City Manager serves as the chief executive of the Town, administering its day-to-day affairs. The Manager's responsibilities include enforcement of the Town's laws; preparation and submission of the annual budget to the City Council for approval; hiring, discipline, and dismissal of staff; direction and organization of staff in the execution of Council policies; provision of information and recommendations to the Council; and investigation of complaints concerning the Town's administration. The City Manager attends all meetings of the Council and has the right to take part in all discussions of the Council, but has no vote.

3.11 City Attorney

The City Attorney is appointed by the City Council. The City Attorney acts as legal advisor to the City Council, City Manager, the various Town departments, and all Town commissions, committees, and boards. The City Attorney prepares and approves for legality all proposed Town ordinances, resolutions, contracts and other legal documents. The Attorney also represents the Town in litigation and prosecutes violations of the Municipal Code.

3.12 City Clerk

The City Clerk is appointed by the City Manager. The Clerk serves as the Secretary to the City Council at meetings, performs the official recordation of City Council actions, and composes the minutes. The Clerk administers and organizes all municipal elections and coordinates the filing of Political Reform Act conflict of interest statements. The Clerk also manages the Town's records and is responsible for the care and custody of all official records and documents of the Town. Those records include all Town deeds, contracts, leases, ordinances, resolutions, minutes, and the Municipal Code. The Clerk publishes public notices and ordinances as required by law and assists staff and the public in researching information contained in the Town's official records. The Clerk is responsible for ensuring timely responses to Public Records Act requests.

Formatted: Font: Not Bold, No underline

Deleted: ¶

4. VOLUNTEER POSITIONS

The voluntary participation of Atherton's citizens in the operation of the Town government is critical to the City Council's and the Town staff's success in serving the community. The City Council has established several committees and a commission composed mainly of volunteers. Volunteers to specific a committee or commission are appointed by the City Council and charged with the responsibilities of gathering, synthesizing, and analyzing the information relevant to their areas of responsibility and providing the City Council and Town staff with advice and recommendations. The Council and staff rely on this advice for the development and execution of Town policies. Citizen involvement is the hallmark of Atherton government, and the Town encourages all residents to participate.

Deleted: s and committees

Deleted: s or committees

4.1 Committees and the Planning Commission

A resolution governing committees has been adopted by the City Council and is periodically updated. The resolution includes principles and rules of procedures, appointment and funding information, and powers and duties of each active committee. The Planning Commission is established by Atherton Municipal Code Chapter 2.36 and the California Government Code.

Deleted: s and Committees

Deleted: and commissions

Deleted: and commission

A list of citizen advisory bodies can be found on the Town's website by accessing the Town Roster of Committees and Commissions and is set forth in a Resolution which establishes and governs Town Committees and Commissions. All citizen advisory bodies are subject to the provisions of the Brown Act. These bodies are charged with the following responsibilities:

Deleted: ¶

- Advise the City Council and the City Manager on matters within their area of responsibility and interest, as prescribed by the City Council and its ordinances and resolutions.
- Help focus attention on specific issues and problems within their scope of responsibilities and recommend actions and alternatives for Council consideration.
- Act as channels of communication and information between Town government and the general public, including groups with interests related to the work of the advisory bodies.
- Consider and assist in reconciling contradictory viewpoints and provide direction toward achievement of Town-wide goals.
- Encourage citizen participation in the definition and formulation of Town goals and actions for their achievement.
- Balance community desires with municipal responsibilities and resources.

Formatted: Font: Trebuchet MS

Formatted: List Paragraph, Add space between paragraphs of the same style, Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5", Widow/Orphan control, Allow hanging punctuation, Adjust space between Latin and Asian text, Adjust space between Asian text and numbers, Font Alignment: Auto, Tab stops: Not at 0" + 0.3" + 0.5"

Deleted:

Deleted:

Deleted: ¶

Formatted: Font: Trebuchet MS

Deleted: ¶

4.2 Qualifications and Appointment to Office

Interested citizens who live within the Town of Atherton are encouraged to submit applications for positions on committees and commissions. The application form is available from the Town staff and includes space for the applicant to state the qualifications, experience, and skills which he or she can bring to the service of the Town. Applications may be submitted at any time. Completed forms are kept on file at Town Hall and may be considered by the City Council when vacancies occur.

[10]

Notice of openings and requests for applications for committees and commissions are posted and published annually in "The Almanac," Town website, through e-mail blasts and, if timely, in "The Athertonian." Regular appointments to all bodies are made by the City Council in June of each year at a duly noticed meeting of the City Council. Requests for applications for candidates to fill unexpected vacancies, which occur from time to time, can be solicited when the vacancies arise, or during annual solicitation which typically begins 2-3 months before term expirations.

Members are appointed by simple majority vote of the City Council.

Deleted: The m
Deleted: of committees and commissions

When making commission and committee appointments, the City Council will favor applicants who do not already belong to another commission or committee. The Council seeks a diversely representative body of membership for each board, commission, and committee so that there will be a broad balance of views. Rather than filling an advisory panel with people who are all dedicated to the same ideas or goals, the Council will attempt to assemble groups of applicants with a variety of interests and experience. Similarly, the Council will attempt to select members from across the Town's geographically diverse make-up. For all of the Town's citizen advisory bodies, the City Council may decide to refrain from appointing candidate(s) if, in its judgment, the qualifications and/or experience of the candidate(s) are insufficient. When this occurs, the City Clerk will again advertise the vacant position(s) involved and the appointment process will be included on a subsequent City Council agenda.

The Town is grateful for the service of members of a committee or commission, recognizing that the service to the community is voluntary. Even so, it is important to understand the legal requirements that apply to the role because failure to comply may result in stiff penalties. Committee/Commission representatives: the City Clerk, the City Attorney, or the City Manager are available to assist with any questions. Their job is to ensure that representatives are able to do the job freely and without apprehension.

An updated list of volunteer committee members is included in the Town Roster, available at the front desk in Town Hall and on the Town's website. It also includes the latest information on the regular meetings days and times for the committees, as well as the approved committee sizes.

4.3 City Council Liaisons

Each of the Town's advisory committees is assigned a City Councilmember to serve as Liaison between the Council and the committee (excluding the Planning Commission). The Mayor makes these appointments in January of each new calendar year.

Deleted: Commission and the Park & Recreation Commission...

It is the Liaison's responsibility to attend each meeting of the committee to which he or she is assigned and to provide general guidance, as needed, to the committee as it moves through its meeting agenda. The primary role of the Liaison is to ensure the committee's compliance with the Brown Act and to provide information regarding City Council policy as it pertains to the work of the committee. It is not the role of the Liaison to advocate on behalf of or against items before the committee or to endorse positions or directions that the committee may be considering. If a Council Liaison is unsure how to advise his or her committee, he or she should consult with the City Manager. The Liaison should also report any operational problem his or her committee may be facing at the earliest opportunity so that staff can intervene and provide the needed assistance through the committee chair.

[11]

5. GENERAL RULES OF OFFICE

5.1 Code of Ethics and Conduct

Public officers owe an undivided duty to the public they serve and are not permitted to place themselves in a position that will subject them to conflicting duties or expose them to the temptation of acting in any manner other than the best interest of the public. Town officers may not, under any circumstances, use their official position to their own benefit or for the benefit of anyone except the Town itself, nor may they represent the Town in any transaction in which they are personally interested in obtaining an advantage.

A copy of the Council Code of Conduct has been included with this handbook as Appendix B.

5.2 Conflict of Interest

In order to fulfill the Town government's undivided duty to serve the public, it is necessary for the Town's officers to diligently avoid any circumstance in which their personal and public interests or responsibilities could come into conflict, or in which Town officers could be tempted to use their positions for personal gain. State law specifically regulates several areas:

Interests in Contracts: Members of the City Council and other public officers may not make any contract with the Town in which they have a financial interest. Such contracts are void, and violation may constitute a felony. (Government Code §1090)

Discounted or Free Transportation Passes: Office holders in California are strictly prohibited from accepting free passes or discounts from transportation companies. Violation of this prohibition is punishable by forfeiture of office. (California State Constitution)

The Political Reform Act: The Political Reform Act (Government Code §§87100, et seq.) forbids a public official from participating in or attempting to influence any governmental decisions or actions in which he or she has a "material financial interest." The Act defines the kinds of interests (which includes interests owned by spouses, dependent children and agents, and certain businesses and trusts) which might cause a conflict and requires public officials to disqualify themselves from decisions which could affect those interests. The Fair Political Practices Commission (FPPC) enforces the Political Reform Act.

Common Law Doctrine Against Conflicts of Interest: There is a body of common law regarding conflicts of interest which prohibits a public official from acting, or failing to even avoid the appearance of acting, in an inappropriate manner with respect to his or her interest in any matter.

5.3 Statement of Economic Interest

As established in The Political Reform Act, Councilmembers must file Statements of Economic Interest upon assumption of office, on an annual basis, and when leaving office. The proper forms are supplied by the City Clerk. Members must disclose all investments, business positions, sources of income, and interests in real property which could be materially affected by the decisions made by their commission. The completed statements are kept on file by the City Clerk and are available for public inspection. Since the law permits the Fair Political Practices

[12]

Commission to impose a penalty for failure to file such statements in a timely manner or correctly, elected officials should be certain the statements are complete, accurate, and submitted on time.

5.4 Relations with Town Staff

The Town staff works under the direction of the City Manager. While the Council as a whole may direct the City Manager, it is not appropriate for individual Councilmembers to provide such direction or to become involved in the administrative or operational concerns of the Town departments. However, the staff will be happy to answer questions and provide whatever assistance they can when authorized to do so by the City Manager.

It is expected that a mutually respectful and professional relationship will be maintained between the staff personnel and the Councilmembers. In the event that a conflict does arise, the problem should be brought to the attention of the Mayor or the City Manager.

5.5 Orientation for New Members

Shortly after election, a general orientation will be provided by the City Manager, City Attorney, and staff. This orientation is intended to acquaint newly elected Councilmembers with Town goals, the responsibilities of the office, current issues before the body, legal issues related to the position, and meeting schedules.

Deleted: 1

5.6 Meeting Attendance

Government Code Section 36513 (a) If a city councilmember is absent without permission from all regular city council meetings for 60 days consecutively from the last regular meeting he or she attended, his or her office becomes vacant and shall be filled as any other vacancy. (b) Notwithstanding subdivision (a), if a city council meets monthly or less frequently than monthly and a city councilmember is absent without permission from all regular city council meetings for 70 days consecutively from the last regular meeting he or she attended, his or her office becomes vacant and shall be filled as any other vacancy.

5.7 Resignation

A Councilmember resigns from office before the end of his or her term by submitting a written resignation with the City Clerk. This information will be forwarded to the City Council and the City Manager. Such notice is effective based on its terms and need not be accepted. It may be withdrawn prior to becoming effective, but once it takes effect, it may not be withdrawn.

Deleted: terms, and

5.8 Compensation

Service on Council is purely voluntary. None of the City Councilmembers are paid, although they may be reimbursed for expenses incurred in carrying out official Town business.

5.9 Benefits/Insurance/Immunity

Councilmembers are covered by the Town’s Workers’ Compensation policy and, in the event of an accident, while serving in an official capacity, the member will be required to file an accident report. Members are also covered under the Town’s general liability insurance policy

for actions taken in the course and scope of their duties. The Tort Claims Act limits municipal liability, and Councilmembers are granted immunity by the applicable sections of the California Government Code for good faith actions taken.

5.10 Travel Expenses

Councilmembers are entitled to reimbursement for their own personal reasonable expenses incurred in the performance of his or her duties as a Councilmember. If the reimbursement involves the costs of travel, such as hotels and/or airfare, a request for reimbursement shall be made to the City Manager prior to the occurrence of the travel, in order to ensure that budgetary authority exists. Councilmembers are required by State law to provide a brief report on their paid Town travel at the next available City Council meeting following their return.

5.11 Authority of Councilmembers

Individual members of the Council are not authorized to expend public funds, enter into agreements or contracts, employ staff, sign documents on behalf of the Town, or bind the Town in any way. This authority can only be granted by action of the City Council.

5.12 Use of E-mail

Each member of the City Council will be provided with an e-mail account on the Town’s server. The Town’s website provides the public with a link to these e-mail accounts, and the business cards of each Councilmember includes the Town e-mail account/address. Members of the City Council may request set up of automatic forwards from their Town email account directly to their personal email account.

The Town will retain all incoming and outgoing e-mail messages from the City Council e-mail accounts on the Town’s server for two years. These e-mail messages are public records and are subject to disclosure through the provisions of the Public Records Act, with rare exception.

5.13 Assignment to Outside Committees, Agencies, and Organizations and as Committee Liaisons

The Town is represented by individual Councilmembers on a wide variety of outside committees and organization, such as the City/County Association of Governments (C/CAG) and the Association of Bay Area Governments (ABAG). Additionally, each of the Town’s standing committees is assigned one or two Councilmembers to serve as its Liaison to the City Council and the staff (see Section 4.3 “City Council Liaisons”). In January of each year, the Mayor makes Councilmember assignments as he or she deems appropriate. Coordination is provided by the City Manager and City Clerk to ensure that there are no schedule conflicts that would preclude a Councilmember from attending the meetings of the bodies to which he or she may be assigned.

6. OPERATING PROCEDURES

The City Council does most of its work in meetings which are open to the public. A detailed set of Rules of Procedure has been established for the conduct of such meetings - See Appendix A. Formal rules may occasionally appear arcane or inconvenient, but they are necessary to guarantee a fair and democratic process. The rules are designed to ensure Atherton’s compliance with state law, to guarantee fair and equal treatment of citizens, to encourage

citizen participation in civic affairs, and to foster a productive climate which encourages the communication of constructive ideas. Such rules may be temporarily set aside upon a vote of the Council where it is agreed that application of the normal rules may be inappropriate or unfair.

6.1 Ralph M. Brown Act

The Brown Act (Government Code §54950, et seq.) is a state law requiring that almost all local government business be conducted in open and public meetings. This requirement is based upon the belief that the people must remain informed about the activities of government in order that they may retain control over it. The Brown Act applies to the City Council, as well as all Town commissions and committees. Any time a majority of the members of one of these bodies meets face-to-face or through intermediaries or technological devices (such as phone, fax, e-mail, or letters) to hear, discuss, or deliberate upon any public business, a "meeting" is taking place as defined by the Brown Act. Social events are exceptions to this, so long as public business is not discussed.

With very few exceptions, such meetings must be open to the public and must be announced at least 72 hours ahead of time for a regular meeting and 24 hours ahead of time for a special meeting, with a posted agenda indicating the time and place of the meeting and describing each item of business which is to be discussed with enough clarity to inform the public of what action may be taken. No action may be taken at any meeting unless a quorum is present. Action may be taken by the body only on items which properly and clearly appear on the meeting agenda unless a matter is added by a 4/5 vote where action is required to be taken, and the item arose after the agenda was posted. In addition, minutes of the proceedings must be taken for entry into the public record.

The City Council may from time-to-time convene properly agendized Closed Sessions pursuant to Government Code §54954.5 where the public is excluded. Such sessions are allowed for a few limited purposes, including Personnel Sessions, to discuss pending or anticipated litigation and real property negotiations.

A copy of the Brown Act is distributed to all new Councilmembers, and additional copies are available for examination at Town Hall. All members should be sure to understand this law. Staff will be happy to assist in interpreting its requirements.

6.2 Limitations on Official Action of the City Council

While the City Council is the supreme legislative body of the Town, State, and Federal law impose certain limitations and restrictions on the powers of the Council. These limitations include:

Preemption: As a general law town, the Town of Atherton must comply with state and federal laws and therefore cannot make any rule or regulation which conflicts with or duplicates state or federal law, or conflicts with policies or regulations of the state or federal governments.

Public Purpose: All public funds must be expended for a public or municipal purpose of the Town. An improper expenditure (not authorized by law) may result in personal liability of the individual Councilmember.

[15]

Expenditure Limitations: At present, a State-imposed spending limitation (Gann Appropriations Limit) restricts the expenditure of most revenues to the 1978-79 fiscal year level plus or minus cost of living and population changes. This limitation may be relaxed by vote of the electorate or through the use of funds not subject to the limitation.

Discrimination: The Town may not enforce its rules, regulations, or ordinances on a discriminatory basis based on any protected status of any person or group of people. All facilities, rules, regulations, and ordinances must be applicable to everyone on an equal basis.

Civil Liberties: The state and federal constitutions guarantee certain civil liberties and civil rights, such as the right of peaceful protest, assembly, worship, speech, etc. Municipal regulations which unreasonably impinge on the lawful exercise of these rights, whether by prior restraint, prohibition, arbitrary regulation or arrest, are invalid.

Reasonableness: No municipal action can be arbitrary or excessive in scope.

6.3 Tort and Constitutional Rights Liability

A town enjoys a variety of immunities from liability based on negligence claims. The State Tort Claims Act determines under what circumstances government will be liable for injuries to property and persons not involving constitutional violations and requires that timely claims be filed ahead of any lawsuit in such matters.

6.4 Environmental Impact

The State Public Resources Code requires the Town to conduct an environmental review before undertaking any public project or approving discretionary private projects. If the environmental review discloses a reasonable probability that the project will have potentially significant environmental impacts, an Environmental Impact Report (EIR) must be prepared in accordance with the California Environmental Quality Act (CEQA). If mitigations can be made ahead of approval, it may be possible to permit a Negative Declaration to be filed indicating that the mitigation measure have reduced potential impacts to less than significant levels. The Planning Staff is generally charged with determining what level of compliance under CEQA is required.

6.5 Resolutions

Routine business and administrative matters are accomplished by motion and resolution. As with motions, resolutions are referenced in the minutes. Resolutions are also separately maintained, numbered in sequence, and preserved in a permanent collection by the City Clerk. Resolutions are usually prepared in advance by the City Manager or the City Attorney. Resolutions can be introduced and enacted at the same meeting.

6.6 Ordinances

Legislative acts of the City Council intended for long-term application or having to do with matters required by law to be created by ordinance, are enacted by ordinance. Pursuant to Government Code §41802, the City Attorney is responsible for the drafting of all ordinances. Ordinances must be adopted at a regular meeting or an adjourned regular meeting. The approval of an ordinance occurs in two stages: Introduction and Adoption.

[16]

6.7 Effective Date of Ordinances

Ordinances take effect 30 days from the date of adoption unless otherwise specified in the Ordinance, or in the case of an urgency ordinance which takes effect immediately.

6.8 Publication of Ordinances

The text and voting record of Ordinances are published or posted by the City Clerk within 15 days of adoption. Failure to do so may invalidate the Ordinance. Standard posting sites are the Atherton Library, Atherton’s contracted US Post Office station, Atherton Town Hall lobby, and the Almanac newspaper. An alternative to publishing the full ordinance is to publish a summary of the ordinance. Summaries are prepared by the City Clerk. They are published at least five days prior to City Council adoption, and a certified copy of the full text is posted in the City Clerk’s office. Within five days following adoption, the summary, including the Council’s vote and date of adoption, is republished.

6.9 Quorum Requirements

A quorum must be present in order to conduct any business at a meeting. A quorum is present when a majority of the members of the Council are in attendance. The Mayor must determine that a quorum is present before business may be undertaken, and the quorum must be maintained throughout the meeting in order to continue to carry out business. If a Councilmember is recused from consideration of a certain matter, then he or she is generally not counted in order to achieve a quorum.

If it is known in advance that a quorum cannot be achieved, Councilmembers and interested parties should be notified. A notice must be posted by the City Clerk on the door of the meeting room within 24 hours of the cancellation, advising the public that the meeting has been canceled due to a lack of quorum.

6.10 Minutes

Written minutes constitute the official record of the Council’s activities. Minutes are approved by a formal motion of the Council. The minutes should record the minimum required information. They should provide a clear and concise statement of Council actions, including the motions made and the vote thereon. Reasons for making a motion, Council debate and audience reactions should not be included. Minutes include a list of who is present, the times of convening and adjournment, a record of motions made and votes taken, and a description of items discussed.

City Council minutes are to be kept for all meetings. In addition, all meetings are also videotaped and archived. The City Clerk produces the written minutes from these recordings.

6.11 Agendas and Agenda Packets

The City Manager, in consultation with the Mayor and/or the City Staff, schedules items for City Council agendas. Other Councilmembers, as well as members of the public, may also request that certain topics be placed on the agenda; however, the agenda is ultimately the responsibility of the City Manager, and he or she is not required to add items simply because a

[17]

request has been made. Because of the posting requirements of the Brown Act, requests for additions to the agenda must be made at least 72 hours prior to a meeting.

Prior to each regular or special meeting, the City Clerk compiles an agenda packet which contains the agenda, all staff reports, communications, resolutions, ordinances, and other relevant supporting materials. Agenda packets for City Council meetings will be available at Town Hall at least three days before each scheduled meeting. In addition, the Brown Act requires that the City Clerk print and post the agendas at least 72 hours before regular meetings and 24 hours before special meetings.

The City Clerk’s Office posts the City Council agenda at the following locations: (a) Atherton Town Offices; (b) Atherton Branch Library; (c) Town Council Chambers; (d) on the Town’s website and through the websites online newsflash. The agenda specifies the time, date, and location of the meeting and contains a brief description and proposed action of each item of business to be transacted or discussed at the meeting.

Any citizen may submit written comments to the Council through the City Clerk or City Manager’s office. Council will receive copies ion the agenda packet provided such comments are received before the schedule meeting. Written comments can be submitted to the City Clerk or City Manager’s office up to the time of the meeting and distributed to the Council and the public at the meeting.

In order to be prepared for the meetings, Councilmembers should read the agenda packet and contact the City Manager with any questions regarding the information presented.

6.12 Actions Limited to Posted Agenda

In general, the City Council cannot take action on any item not appearing on the posted agenda except under rare exceptions permitted by the Brown Act, usually to add critical matters that arose after posting of the agenda.

6.13 Public Comments

Persons wishing to address the Council on any matter within the jurisdiction of the Town and not on the posted agenda are invited to do so during the Public Comment portion of the meeting. This period is limited three minutes per person. The Council is not able to undertake extended discussion of or act on non-agendized items. Such items can be referred to staff for appropriate action, which may include placement on a future agenda.

6.14 Public Hearings

Some actions must be preceded by a public hearing primarily for the purpose of soliciting testimony from the general public. The Municipal Code and state law require public hearings for the consideration of certain issues, such as zoning amendments, conditional use permits, and fee increases. Official notice of public hearings will be published in the "Almanac" at least ten days before the hearing. Members of the public who wish to submit written statements may do so. Members of the public may also speak during the hearing. However, if there are numerous people who would like to speak representing the same viewpoint, the Mayor may ask that a spokesperson be designated for the group and/or require that each speaker's comments be limited to a set amount of time. If a time limit is to be imposed the Mayor should announce

- Deleted: , 91 Ashfield Road (lobby)
- Deleted: , 2 Dinkelspiel Lane
- Deleted: ,
- Deleted: , 94 Ashfield Roa
- Deleted: d,

[18]

it before any members of the public have begun speaking.

6.15 Consent Calendar

Items listed under the Consent Calendar are those items staff believes may not require Council discussion and are considered to be routine in nature. Ordinances introduced at a previous meeting which are brought back for adoption may also be included on the Consent Calendar. Before taking a vote, the Mayor will allow time for the Councilmembers, staff, and the public to read the list to determine if it includes any matters on which they may have a question, or which they would like to discuss or oppose. Any Councilmember, staff, or member of the public has the right to remove any item from the Consent Calendar, in which case it is transferred to the regular agenda so that it may be considered, discussed, and voted on separately. All of the remaining items are then unanimously approved with one roll call vote.

7. CONCLUSION

This handbook is designed to provide a basic overview of the Town of Atherton and the duties associated with the office of City Councilmember. It is intended to familiarize you with the workings of your government and to help you prepare to serve. It is not an exhaustive work, nor the final authority on matters of procedure or conduct. If you have further questions regarding the specific details of your office or other aspects of the Town government, please feel free to contact the City Manager, City Clerk, or City Attorney.

8. APPENDICES

- A - City Council Rules of Procedures
- B - Code of Conduct
- C- Resolution Governing Committees and Commissions
- D- Rosenberg's Rules of Order
- E- City Council Approved Policies

[19]