



Item No. 11 Town of Atherton

CITY COUNCIL STAFF REPORT – CONSENT AGENDA

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

FROM: STEVEN D. MCCULLEY, CHIEF OF POLICE

DATE: FEBRUARY 16, 2021

**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

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 3 files (1 Internal Affairs Investigation and 2 Citizen Complaints) that have exceeded the 5-year retention period and is no longer required to be maintained. The Chief of Police and City Attorney have reviewed the status of the 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 2018 citations per the destruction guidelines.

ANALYSIS

The California Government Code authorizes the destruction of records and requires agencies to 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 The information is of no useful value to the Town, is out of date and should be destroyed in compliance with Town and State records retention policies.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.

POLICY FOCUS

Once records have been retained for the applicable period set forth in the Records Retention Schedule, they should be prepared for destruction in the manner prescribed by the Town's Original Resolution # 15-09 adopted March 18, 2015.

FISCAL IMPACT

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

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 1,600 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but not limited to media outlets, school districts, Menlo Park Fire District, service providers (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)

Records Destruction

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- _____ Park and Recreation Committee (meets each month)
- _____ Planning Commission (meets each month)
- _____ Rail Committee (meets every other month)
- _____ Transportation Committee (meets every other month)
- _____ Tree Committee (meets each month)

ATTACHMENTS

ATTACHMENT 1 – Resolution

ATTACHMENT 2 – Records Destruction Form

RESOLUTION NO. 21-

**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 for the Town of Atherton, upon resolution of the City Council and written consent of the City Attorney, to destroy City records, documents, instruments and other papers under his charge as the same are no longer required; and

WHEREAS, the Chief of Police has agreed to review the status of any such citizen complaint or internal affairs investigation in excess of five years for pending related civil or criminal litigation prior to its destruction and only if the employee no longer works for the Town of Atherton shall said records be destroyed; and

WHEREAS, the City Attorney hereby gives his written consent for the destruction of the following records:

ITEM NUMBER	RECORD TITLE	RETENTION
2015-001	Internal Affairs Investigation	5 years
2015-001	Citizens Complaint	5 years
215-002	Citizens Complaint	5 years

NOW, THEREFORE, BE IT RESOLVED, The Chief of Police and City Attorney have reviewed the status of the 1 Internal Affairs Investigation, 2 Citizen Complaint Investigations, and the 2018 citations;

BE IT FUTHER RESOLVED that nothing in this resolution is intended to supersede or otherwise conflict with any other law or any lawful judicial process which might affect retention or destruction of such 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 16th day of February 2021, by the following vote:

ATTACHMENT 1

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

Mayor Lewis

Mayor ATTEST:

Anthony Suber
City Clerk

Mona Ebrahimi
City Attorney

TOWN OF ATHERTON
NOTICE OF RECORDS DESTRUCTION

DEPARTMENT: POLICE DEPARTMENT

ITEM NUMBER	RECORD TITLE	RETENTION
2015-001	Internal Affairs	5 years
2015-001	Citizens Complaint	5 years
2015-002	Citizens Complaint	5 years

TITLE	RETENTION
2018 Citations	2 Years

CONSENT TO DESTRUCTION OF RECORDS

DEPARTMENT HEAD: _____ DATE: _____

CITY MANAGER: _____ DATE: _____

CITY ATTORNEY: _____ DATE: _____

CITY CLERK: _____ DATE: _____

DESTROYED BY: _____ DATE: _____