



**Atherton
CITY COUNCIL AGENDA
December 19, 2001**

6:00 P.M. ☞ NOTE TIME

**Meeting Room
Town Administrative Offices
91 Ashfield Road
Atherton, California
Special Meeting**

6:00 P.M. ROLL CALL McKeithen, Janz, Carlson, Fisher, Conwell

6:05 P.M. PUBLIC COMMENTS

6:15 P.M. CLOSED SESSION

**A. CONFERENCE WITH LABOR NEGOTIATOR – Labor
Negotiations pursuant to Government Code Section 54957.6**

**Agency Negotiator: James H. Robinson, City Manager
Employee Organization: Local Union 856
Non-management miscellaneous employees**

RECONVENE TO OPEN SESSION

Report of action taken.

ADJOURN

Agendas and staff reports may be accessed on the Town website at: www.ci.atherton.ca.us

☞ *Please contact the City Clerk's Office at 650.752.0529 with any questions*

Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the City Clerk's Office at (650) 752-0529. Notification of 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (29 CRF 35.104 ADA Title II)



**Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT AGENDA
December 19, 2001**

7:00 p.m.

TOWN COUNCIL CHAMBERS

94 Ashfield Road
Atherton, California

REGULAR MEETING

- 7:00 P.M.** 1. **PLEDGE OF ALLEGIANCE**
- 7:03 P.M.** 2. **ROLL CALL** McKeithen, Janz, Carlson, Fisher, Conwell
- 7:05 P.M.** 3. **PRESENTATIONS/APPOINTMENTS**
- A. Appointment of representative to San Mateo County Mosquito Abatement District Board of Trustees as recommended by Council Screening Committee.
- B. Appointment of representative from Holbrook-Palmer Park Foundation to the Park and Recreation Commission as recommended by Council Screening Committee.
- C. Proclamation supporting Samaritan House Shelter.
- 7:10 P.M.** 4. **REORGANIZATION OF CITY COUNCIL AND ELECTION OF MAYOR AND VICE MAYOR**
- 7:25 P.M.** 5. **COUNCIL REPORTS**
- 7:35 P.M.** 6. **PUBLIC COMMENTS** (only for items which are not on the agenda – limit of three minutes per person)
- 7:50 P.M.** 7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT** (Directed by Resolution No. 99-6)

8:00 P.M. CONSENT CALENDAR (Items 8 - 18)

- 8. MINUTES OF REGULAR MEETING AND SPECIAL MEETING OF NOVEMBER 6, 2001**
- 9. APPROVE BILLS AND CLAIMS FOR NOVEMBER 1, 2001 THROUGH DECEMBER 12, 2001 IN THE AMOUNT OF \$1,351,434.17**
- 10. MONTHLY FINANCIAL REPORT FOR THE MONTHS OF OCTOBER AND NOVEMBER, 2001**
- 11. ADOPTION OF THE DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOAL FOR FEDERAL FISCAL YEAR 2001/2002**
- 12. APPROVAL OF PLANS AND SPECIFICATIONS – MIDDLEFIELD ROAD REHABILITATION PROJECT**
- 13. ADOPTION OF RESOLUTION REGARDING A VETERANS PREFERENCE SYSTEM FOR HIRING**
- 14. NOTICE OF COMPLETION – POLICE DEPARTMENT COMMUNICATIONS CENTER REMODEL**
- 15. INTRODUCTION OF ORDINANCE AMENDING ATHERTON MUNICIPAL CODE CHAPTER 15.52 RELATING TO RECYCLING AND DIVERSION OF CONSTRUCTION AND DEMOLITION DEBRIS AND WAIVE FURTHER READING**
- 16. ACCEPTANCE OF WORK AND AUTHORIZATION TO FILE NOTICE OF COMPLETION FOR 2001 PAVEMENT MARKING, PROJECT 01-004**
- 17. ADOPTION OF RESOLUTION DESIGNATING OFFICIAL POSTING PLACES**
- 18. AMICUS BRIEF – Bonanno v. Contra Costa Transit Authority**

PUBLIC HEARINGS (Items 19 - 21)

- 8:05 P.M. 19. PUBLIC HEARING AND ADOPTION OF A RESOLUTION ORDERING VACATION OF A PORTION OF McCORMICK LANE RIGHT-OF-WAY, WITH RESERVATION OF EASEMENTS FOR PUBLIC UTILITIES AND SANITARY SEWERS**

Recommendation: Presentation/recommendation of Town staff, open public hearing, hear testimony of interested parties, close public hearing, consider adoption of proposed resolution.

- 8:10 P.M. 20. PUBLIC HEARING ON APPEAL OF PLANNING COMMISSION DECISION AND CONSIDERATION OF VESTING TENTATIVE MAP – 19 SARGENT LANE**

Recommendation: Presentation/recommendation of Town staff as stated in staff report, open public hearing, hear testimony of interested parties, close public hearing, consider action on appeal.

- 8:35 P.M. 21. PUBLIC HEARING ON APPEAL OF PLANNING COMMISSION DECISION ON DENIAL OF VARIANCE – 396 SELBY LANE; EXCESSIVE SIDEWALL AND ROOF HEIGHT**

Recommendation: Presentation/recommendation of Town staff as stated in staff report, open public hearing, hear testimony of interested parties, close public hearing, consider action on appeal.

REGULAR AGENDA (Items 22 - 25)

- 9:00 P.M. 22. CONSIDERATION OF KNOX PLAYSCHOOL REQUEST FOR AMENDMENT TO LEASE AGREEMENT REGARDING FUNDING OF ELECTRICAL WORK FOR PLAYSCHOOL EXPANSION**

Recommendation: Consider request from Knox Playschool for amendment to lease agreement (held over from November 6, 2001 meeting).

- 9:15 P.M. 23. APPROVAL OF CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEAR 2001/02**

Recommendation: Approve the revised FY 2001-02 portion of the 4-year Capital Improvement Program.

- 9:25 P.M. 24. CONSIDERATION OF ACCEPTANCE OF GRANT AWARD OF \$125,000 ADDING ONE (1) SCHOOL RESOURCE OFFICER GRANT**

Recommendation: Accept the School Resource Officer (SRO) Grant Award of \$125,000, and approve the addition of one police officer position to the existing Police Department staff.

- 9:45 P.M. 25. SAN MATEO COUNTY CITY SELECTION COMMITTEE: CONSIDERATION OF ENDORSEMENT FOR APPOINTMENTS**

10:00 P.M. 26. **PUBLIC COMMENTS**

10:15 P.M. 27. **ADJOURN - IN MEMORY OF HENRY CARTAN III**

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PROCLAMATION
OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
TO THE GOOD PEOPLE OF SAN MATEO COUNTY

WHEREAS, San Mateo County and its cities have always been blessed with people who care for those less fortunate among us; and

WHEREAS, San Mateo County and its cities have always been served well by an extensive and effective human service delivery system both public and private; and

WHEREAS, so many human service agencies depend on the resources that are shared during this special season of thanksgiving and the celebration of life; and

WHEREAS, the events of September 11th and after have brought us together in a new way yet endangered our ability to give locally; and

WHEREAS, the effects of these events have already brought increased demands to many of these agencies and leave us very uncertain for the year 2002.

NOW, THEREFORE, as Mayor of the Town of Atherton, I hereby request, encourage and beseech you, our fellow San Mateo County citizens, to share generously this holiday season, to give at least as much as in the past if not more. It is a time of sacrifice. It is a season for caring as never before. This sharing is our way of saying in a real way, "United We Stand".

IN WITNESS WHEREOF, I have hereunto set my hand and caused
the seal of the Town of Atherton to be affixed this 19th day of
December, 2001.

Dianne M. Fisher, Mayor



Minutes
CITY COUNCIL MEETING
November 6, 2001
6:00 P.M.
Conference Room
Town Administration Building
91 Ashfield Road
Atherton, California
Special Meeting

Mayor Fisher called the meeting to order at 6:00 p.m.

1. ROLL CALL

PRESENT: Kathy McKeithen
James R. Janz
Alan B. Carlson
Dianne M. Fisher
William R. Conwell

City Manager James Robinson and City Attorney Marc Hynes were also present.

2. PUBLIC COMMENTS: None.

3. CLOSED SESSION: The Council adjourned to closed session at 6:05 p.m.

4. RECONVENE TO OPEN SESSION: The Council reconvened to open session at 7:10 p.m. The following action was taken:

A. CONFERENCE WITH LABOR NEGOTIATOR – Labor Negotiations pursuant to Government Code Section 54957.6

Agency Negotiator: James H. Robinson, City Manager
Employee Organization: Teamsters Union Local No. 856
Non-management miscellaneous employees

No action.

B. CONFERENCE WITH LABOR NEGOTIATOR – Labor Negotiations pursuant to Government Code Section 54957.6

Agency Negotiator: James H. Robinson, City Manager

Employee Organization: Management

No action.

- C. **Added to the Closed Session agenda as an emergency item by unanimous consent:**
CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: One potential case.

No action.

5. ADJOURN

The meeting adjourned at 7:15 p.m.

Respectfully submitted,

Dianne M. Fisher, Mayor



**DRAFT MINUTES
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT MEETING
Tuesday, November 6, 2001
7:00 P.M.
PAVILION
Holbrook-Palmer Park, 150 Watkins Ave.
Atherton, California
REGULAR MEETING**

Mayor Fisher called the meeting to order at 7:25 p.m. and led the pledge of allegiance.

1. ROLL CALL

PRESENT: Kathy McKeithen
James R. Janz
Alan B. Carlson
Dianne M. Fisher
William R. Conwell

City Manager James Robinson and City Attorney Marc Hynes were also present.

The City Attorney reported the following actions from the Closed Session (Special Meeting) of the City Council held at 6:00 p.m.

**A. CONFERENCE WITH LABOR NEGOTIATOR – Labor Negotiations
pursuant to Government Code Section 54957.6**

Agency Negotiator: James H. Robinson, City Manager
Employee Organization: Teamsters Union Local No. 856
Non-management miscellaneous employees

No action.

**B. CONFERENCE WITH LABOR NEGOTIATOR – Labor Negotiations
pursuant to Government Code Section 54957.6**

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

No action.

- C. **Added to the Closed Session agenda by unanimous consent: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: One potential case.**

No action.

2. PRESENTATIONS

- A. **Presentation of Annual Tree Awards.**
Atherton Tree Committee Chair Shirley Carlson and Town Arborist Kathy Hughes Anderson presented awards to the following residents for maintaining and preserving outstanding trees:

Jan Zones	Tom and Mimi Howarth
Robert and Barbara Huber	Darlene and George Shaheen
Geoff and Andrea Ralston	Chris Brosterhous
Rita and Amedeo Gado	Jan and Esther Eitel
Max and Irene Siltan	Mary H. Ford

- B. **Proclamation Expressing Support for Our Nation.**
Mayor Fisher read a proclamation expressing support for the Nation in fighting terrorism.
- C. **City Manager James Robinson presented a gift to Interim Finance Director Bill Yeomans and thanked him for his dedicated service to the Town during the Finance Director recruitment.**

3. COUNCIL REPORTS

- **Council Member Conwell reported that the next CCAG meeting will be held Thursday, November 8th. The San Francisco Roundtable will meet on Wednesday, November 7. The Criminal Justice Commission has cancelled its November meeting.**
- **Council Member Janz announced the Council of Cities meeting will be held in Burlingame at the end of the month.**
- **Council Member McKeithen announced that the Town is soliciting applications for an opening on the Mosquito Abatement Board. The deadline for applying is Friday, November 16, 2001. The appointment will be made at the December Council meeting.**
Council Member McKeithen also commended Assistant to the City Manager Linda Kelly for the excellent work she did on the Management Resolution report, and Public Works Director Cliff Temps for his work on the Capital Improvement report.

- Mayor Fisher announced that the Library JPA will meet Thursday, November 8th to consider methods of filling the position of Library Director. The Waste Reduction Committee will meet Wednesday.

4. PUBLIC COMMENTS

- Marion Oster, Heritage Association, announced that the tree awards photographs will be on display in the lobby of the Town Offices this week. She also reported that the Heritage Association recently toured the Watkins house, which has been preserved and is the only home in Atherton on the National Register.
- Bob Jenkins, announced that the Audit Committee will have a final review of the Town's Fiscal Year 2000/01 Annual Report on December 4th.
- Virginia Rugeiro, 10 Stockbridge, questioned the cancellation of the October Transportation Commission meeting.
- Bob Simons, President of Holbrook Palmer Park Foundation
- Jean Schaaf, 29 Stockbridge
- Interim Finance Director Bill Yeomans answered questions regarding the Treasurer's Report.
- City Manager James Robinson addressed questions on the bills and claims on the Consent Agenda.

5. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

No report.

CONSENT CALENDAR

MOTION – to approve the Consent Agenda with the following: 1) a notation that the City Attorney is to provide a certificate of insurance along with his agreement, 2) a minor date change to the resolution in Item 13, and 3) with the exception of Items 12 and 16, which will be moved to the end of the regular agenda.

M/S McKeithen/Conwell

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

- 6. **MINUTES – Approved the minutes of Special Meetings of October 10, 2001 and October 17, 2001, and the Regular Meeting of October 17, 2001.**
- 7. **BILLS AND CLAIMS – Approved the bills and claims for October 11, 2001 through October 31, 2001 in the amount of \$351,435.12.**
- 8. **QUARTERLY INVESTMENT REPORT – Accepted the Quarterly Investment Report for the quarter ended September 2001.**
- 9. **MICRO-SURFACING PROJECT - Accepted the work and authorized the recording of the notice of completion for the 2001 Street Micro-Surfacing Project 01-003.**

10. **CITY ATTORNEY AGREEMENT** - Approved the amendment to the compensation provision of the agreement with City Attorney Marc Hynes, increasing the monthly retainer from \$6,000 to \$7,000, to be effective August 2001. City Attorney to provide proof of insurance.
11. **POLICE TOWING CONTRACTS** - Approved the towing contracts with All Weather Towing and Exotic Towing for addition to the Atherton Police Department Tow Rotation List.
13. **RESOLUTION NO. 01-20, BAY AREA ALLIANCE FOR SUSTAINABLE DEVELOPMENT** - Adopted Resolution No. 01- 20 in support of the Bay Area Alliance for Sustainable Development.
14. **GENERAL PLAN COMMITTEE REQUEST** - Authorized the General Plan Committee to consider home day care regulations.
15. **POLICE DEPARTMENT VEHICLE REPLACEMENT** - Approved A&S BMW as the sole-source vendor (State Contract), and approved the purchase of two 2002 BMW Police Motorcycles in the amount of \$30,918.68 to be funded from the current year vehicle budget. ~~15. ADOPTION OF RESOLUTION NO. 01___, INTENT TO ABANDON PORTION OF McCORMICK LANE~~
- ~~16. ADOPTION OF RESOLUTION NO. 01___, INTENT TO ABANDON PORTION OF FAXON ROAD~~
17. **AMICUS BRIEF** – Agreed to support the Amicus Brief in the matter of Alford v. Superior Court (San Diego County)

REGULAR AGENDA

18. **INTRODUCTION AND FIRST READING OF ORDINANCE AMENDING ATHERTON MUNICIPAL CODE CHAPTER 15.52 RELATING TO RECYCLING AND DIVERSION OF CONSTRUCTION AND DEMOLITION DEBRIS**

City Manager James Robinson presented this item. Council Member Janz proposed some alternate language to clarify Section 15.52.040 of the proposed ordinance regarding Diversion Requirements. Mayor Fisher suggested that this item be addressed at the Waste Reduction Committee meeting on Wednesday, November 7th . Council Member McKeithen asked that the Waste Reduction Committee also consider including Accessory Structures in the definition of “Covered Projects”.

MOTION – to place the proposed ordinance relating to recycling and diversion of construction and demolition debris on the December 19, 2001 Consent Agenda.

M/S Conwell/McKeithen

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

19. ADOPTION OF URGENCY ORDINANCE REGARDING PROCEDURES FOR REORGANIZATION OF CITY COUNCIL AND SELECTION OF MAYOR AND VICE MAYOR

City Attorney Marc Hynes explained that this urgency ordinance would amend Section 2.04.030 of the Municipal Code to allow for the appointment of mayor and vice mayor on an annual basis. The current code reflects procedures for appointment based on the former two-year mayoral term. Referring to the Publication section of the ordinance, Council Member McKeithen asked where the official posting places are for posting ordinances. City Clerk Sharon Barker stated that all Town ordinances are posted at the four sites set out by ordinance, and at two additional sites as well. Ordinances are also posted on the Town website. Council Member McKeithen asked that notice of the Town posting sites be put in the Athertonian. Staff was directed to return with a resolution establishing a policy regarding posting. Mayor Fisher asked that notice of the Town website be placed on each agenda face. The City Attorney stated that selection of the mayor and vice mayor may take place at the December 19 regular meeting.

Jean Schaaf and John Ruggeiro spoke from the audience.

MOTION – to adopt Urgency Ordinance No. 528 amending Section 2.04.030 of the Atherton Municipal Code allowing for the City Council to meet annually to choose one of its members as mayor and one of its members as vice mayor.

M/S McKeithen/Conwell

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

20. CONSIDERATION OF KNOX PLAYSCHOOL REQUEST FOR AMENDMENT TO LEASE AGREEMENT REGARDING FUNDING OF ELECTRICAL WORK FOR PLAYSCHOOL EXPANSION

City Manager Jim Robinson presented two letters from Susan Knox, owner of Knox Playschool, requesting that the Council provide some assistance in the cost of upgrading the electrical service at Holbrook-Palmer Park. Improvements to the electrical service in the amount of \$11,496.87 were required by P.G. & E. as a result of the Playschool expansion project.

Susan Knox spoke from the audience.

Council Member McKeithen suggested a fifth alternative to the alternatives outlined in the staff report, that the Town look into providing the Playschool with a loan with charges for interest equal to that which the Town is earning on its current investments.

The Council concurred that they would like to have Building Official Mike Hood present to address questions regarding this issue. They asked that this item be brought back to the December 19th meeting.

MOTION – to add this item to the December 19th City Council meeting agenda.

M/S Carlson/Janz Ayes: 5 Noes: 0 Abstain: 0 Absent: 0

21. DISCUSSION AND POSSIBLE ACTION – CONSIDERATION OF CONTENT AND IMPLEMENTATION OF CAPITAL IMPROVEMENT PLAN

Public Works Director Cliff Temps presented a plan for developing a capital improvement program for the next four fiscal years. The plan included a recommended four-year Capital Improvement project list. The Council addressed the five recommendations contained in the staff report for implementing the plan. Vice Mayor Carlson stated he would stand down in the consideration of any vote on the reconstruction of Magnolia, Magnolia to end, due to a potential conflict of interest.

It was agreed that the Planning Commission and Park and Recreation Commission should review and comment on some of the proposed projects. The City Manager will announce to the Park and Recreation Commission at their meeting on November 7th, that they will be asked to review projects.

As per the Public Works Director’s request, the Council directed staff to conduct a poll of property owners for input on discretionary street reconstruction projects. Discussion ensued on the Fiscal Year 2001/02 recommended projects. The 2002-2005 segments of the proposed CIP will be addressed during the annual budget process.

Charles Marsala and Jean Schaaf spoke from the audience.

MOTION - to authorize staff to proceed with selection and retention of consultants to perform surveying/base mapping, soils investigation and specialized design services for approved Fiscal Year 2001/02 projects.

M/S McKeithen/Conwell Ayes: 5 Noes: 0 Abstain: 0 Absent: 0

MOTION - to approve the proposed FY 2001/02 projects recommended in the Capital Improvement Plan with the exception of the Magnolia, Magnolia to end project, subject to review and comments by the Planning Commission and Park and Recreation Commission on certain projects.

M/S McKeithen/Carlson Ayes: 5 Noes: 0 Abstain: 0 Absent: 0

MOTION – approve Magnolia, Magnolia to end as a discretionary project for Fiscal Year 2001/02.

M/S Janz/Conwell Ayes: 4 Noes: 0 Abstain: 1 (Carlson) Absent: 0

Sharon Barker, City Clerk

TOWN OF ATHERTON
CLAIMS LIST
November 1st, to December 12th, 2001

Item No. 9

Payroll Checks	501487 – 501740	\$ 500,528.67
Electronic Transfers		135,554.27
A/P Checks	11578 – 11832	<u>715,351.23</u>

TOTAL \$ 1,351,434.17

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 501487 – 501740 (Payroll) 11578 – 11832 (Accounts Payable), and Electronic Transfers for Employees Federal Payroll Taxes and fees, inclusive, amount to \$1,351,434.17 are true and correct, and that there are funds for payment.

James H. Robinson
City Manager

The above claims, Payroll check numbers 501487 - 501740, Accounts Payable check numbers 11578 – 11832 and Electronic Transfers for employees federal payroll taxes and fees, amount to \$1,351,434.17; and are hereby approved for payment.

Mayor, Town of Atherton

SOURCE OF FUNDS

101	General Fund	\$1,012,562.74
105	Tennis Fund	66.32
201	Special Parcel Tax	118,202.36
202	Transportation	51,339.15
203	Gas Tax Fund	41,464.74
210	Road Construction Impact Fees	-
401	General Capital Projects	472.00
402	Storm Drainage	1,250.00
404	Park Playground Improvement	22,893.06
610	Vehicle Replacement	-
611	Computer Maint. & Replacement	4,180.66
612	Administrative Services	94,282.40
614	Workers Compensation Insurance	-
715	Evans Estate	4,720.74
730	H-P Park Improvement	-
731	Tree Committee	-
	TOTAL	\$1,351,434.17

Item No. 10



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: JOHN P. JOHNS, FINANCE DIRECTOR
DATE: FOR THE MEETING OF DECEMBER 19, 2001
SUBJECT: MONTHLY FINANCIAL REPORTS, OCTOBER AND NOVEMBER 2001

RECOMMENDATION:

Receive and file Monthly Financial Reports for October and November 2001.

INTRODUCTION:

The attached schedules show all revenues and expenditures to the end of the months of October and November for fiscal year 2001-2002 (FY02).

FINANCIAL HIGHLIGHTS

With approximately 42 percent of the fiscal year elapsed, (five months out of twelve), the Town has realized approximately 29 percent of budgeted revenues for the General Fund, while expenditures have amounted to 47 percent of FY 2001-2002 appropriations.

After taking into consideration seasonal fluctuations in the timing of cash receipts (in particular property taxes, sales and use taxes and other taxes) General Fund revenues appear to be tracking well with estimates prepared at the beginning of FY 2001-2002.

The financial report includes a statement of balances for every budgeted fund incorporating the audited fund balances for the year ended June 30, 2001.

A more thorough analysis of revenues and expenditures as well as recommendations for any necessary adjustments to appropriations and revenue estimates will be provided to Council

in late January, 2002.

FISCAL IMPACT:

Informational only.

Prepared by:

Approved by:

John P. Johns
Finance Director

James H. Robinson
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: CLIFF TEMPS, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF DECEMBER 19, 2001

**SUBJECT: ADOPTION OF DISADVANTAGED BUSINESS ENTERPRISE GOAL FOR
FEDERAL FISCAL YEAR 2001/2002**

RECOMMENDATION

Approve the Disadvantaged Business Enterprise (DBE) Program goal for Federal Fiscal Year 2001/2002.

INTRODUCTION

Last June the Council approved a DBE Program and Goal for Federal Fiscal Year 2000/2001. This was necessary because Atherton has been awarded Federal funds in the amount of \$1,147,000 for the rehabilitation of a substantial part of Middlefield Road, and a condition of the grant is the Town's adoption of a DBE Program. Maintenance of a DBE Program and a current goal is also now a prerequisite for receipt of FEMA disaster assistance. Once adopted, the plan does not have to be readopted unless there is a change in the law. The goal however, must be redetermined and adopted each Federal Fiscal year. The goal calculation and supporting documentation is attached. Notice of the proposed goal must be published, and a forty-five day period allowed for public comment, before final adoption can occur.

ANALYSIS

The DBE goal established for Federal Fiscal Year (FFY) 2001/2002 is 5 percent. This is the same as the goal for the preceding year. Notice was published in The Almanac on October 3, 2001, and

the forty-five day comment period has ended. No comments were received, and the Council may approve the FFY 2001/2002 goal by motion.

FISCAL IMPACT

The 5 percent goal is a target. Any contractor hired to perform Federally assisted work for the Town must demonstrate good faith effort to achieve or exceed that goal. This isn't expected to present any problem or to affect cost.

CONCLUSION

A notice of the DBE program, inviting comments, was published as required by law. The 45-day comment period has passed, and no comments were received. The Council is now free to adopt the program.

Respectfully submitted:

Reviewed/Approved:

Cliff Temps
Public Works Director

James Robinson
City Manager

Attachment: Town of Atherton Overall Annual DBE Goal for Federal Fiscal Year 2001/2002



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: CLIFF TEMPS, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF DECEMBER 19, 2001

**SUBJECT: APPROVAL OF PLANS AND SPECIFICATIONS FOR MIDDLEFIELD
ROAD REHABILITATION**

RECOMMENDATION

Approve the plans and specifications for Middlefield Road Rehabilitation.

INTRODUCTION

The Middlefield Road Rehabilitation project consists of correcting pavement and trench failures and resurfacing Middlefield Road from Fair Oaks Lane to Ravenswood Avenue. It also includes 1) shoulder work, so there will not be pavement edge drop offs that are common with overlays, 2) drainage from Fair Oaks to Marsh Road, between Encinal School and Watkins Avenue, and at Ravenswood, and 3) replacing pavement markings. The drainage work is an expansion of the original project, adding drainage to solve chronic problems at Fair Oaks and Ravenswood intersections with Middlefield Road. The project is budgeted with \$1,147,000 from a Federal grant, \$152,000 from a State grant, \$8,500 from SamTrans and Menlo Park, \$474,440 from Town drainage and Channel District reserves, \$554,445 from Gas Tax and Measure A, and \$250,000 from road impact fees. Preconstruction design costs and the Engineer's Estimate of construction cost indicate the project should still be slightly under budget, even with the added drainage.

ANALYSIS

Excellent work by the design firm, Wilsey Ham, and expert assistance from our contract liaison with Caltrans, Waymen Lum, has successfully and expeditiously steered this project through the morass environmental, right-of-way, DBE and boiler plate requirements. The last item needed to receive final clearance to go to bid is the Town’s adoption of the DBE goal for Federal Fiscal Year 2001/2002. This is on the same Council agenda as this plan approval. Within a few days of delivering proof of the Council’s action on the DBE goal to Caltrans, we should receive their final authorization to go to bid and commitment to provide funding.

After receipt of the Caltrans authorization, the dates will be filled in the bid documents, and we will start a 4-week bid period. This means we should have a recommendation to award a contract for construction before the Council at its February 20, 2002 meeting, and work should be started by April 1. Ninety-five working days are allowed. If the contractor completes the project on schedule, Middlefield Road should be free flowing again a couple of weeks before school reopens next fall.

FINANCIAL IMPACT

Town funding for the project has been budgeted.

CONCLUSION

The plans and specifications are consistent with the project scope considered in prior Council actions and should be approved.

Respectfully submitted:

Reviewed/Approved

Cliff Temps
Public Works Director

James Robinson
City Manager

Reference: A set of the plans and specifications is available for viewing at the public counter in Town Hall.



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: LINDA KELLY, ASSISTANT TO THE CITY MANAGER

DATE: FOR THE MEETING OF DECEMBER 19, 2001

**SUBJECT: RESOLUTION REGARDING A VETERANS' PREFERENCE
SYSTEM FOR HIRING**

RECOMMENDATION:

Adopt a Resolution regarding a veterans' preference system for hiring.

INTRODUCTION:

California law (Government Code Section 50088) encourages public agencies with civil service systems and entrance examinations to adopt a resolution instituting a veterans' preference system for hiring, or adopt a resolution stating why the agency is exempt from such a system, no later than January 1, 2002.

ANALYSIS:

A veterans' preference system for recruiting and hiring Town employees is one potential component of a comprehensive set of personnel rules and regulations. Currently, the Town does not have an up-to-date and comprehensive set of personnel rules and regulations, but intends to prepare and present such a system for Council adoption within the next fiscal year. Nevertheless, Town staff currently follows all State, Federal and local regulations regarding personnel matters, and routinely consults with the Town's labor law counsel in those areas of personnel matters which require significant interpretation and advice.

In considering Government Code Section 50088, staff believes that implementing a veterans' preference system for hiring at the present time would be premature since it would be only one component of an otherwise incomplete personnel system. For instance, currently not all oral examinations for positions are scored through a point system. Most veterans' preference systems do include an additional point score for veterans, some allowing more points for disabled veterans and some also include widows of veterans. The Town would need to set up standards for its hiring examinations so that a veterans preference system could be applied equally for all positions, while still maintaining the flexibility that a small agency needs in order to hire the right person in the right position.

As a side note, the Town currently has at least three employees on staff who have prior military service. Staff does not believe that the Town's current hiring system hinders veterans in applying for Town employment.

Staff consulted with the League of California cities, as well as local cities and cities across the State, on the issue of veterans' preference systems. Overall, the majority of large cities which already have complex civil service systems in place have implemented or intend to implement a veterans' preference system for hiring. These cities typically have large human resources department staffs which can administer these often elaborate and administratively complex systems. Currently, the Town has one position which handles human resources issues (the Assistant to the City Manager).

Local cities were consulted and most smaller agencies do not have a veterans' preference system and had not taken any recent action on this issue. For example, Colma, Los Altos, Los Altos Hills, Hillsborough, Portola Valley and Woodside do not currently have such a system. Menlo Park has a system whereby whenever the City's hiring process results in two or more identically qualified applicants, preference is given to an honorably discharged veteran over the other applicants. Other cities with veterans' preference systems provide 5 extra points to veterans on entrance exams, or add 5% to their final score, for example.

Once staff drafts personnel rules and regulations, staff will take the other cities' systems into consideration and recommend a system that would best fit the needs of the Town. Staff would seek to create the least amount of administrative burden, and strive to make the implementation of such a system easily understandable and encouraging to veteran applicants for Town employment.

The attached Resolution addresses the new State law, states the Town's support for giving veterans a preference in the hiring process, and resolves that the Town will implement such a system as a part of the Town's future comprehensive set of personnel rules and regulations. Staff's goal is to draft personnel rules and regulations within the upcoming fiscal year, 2002-03.

FISCAL IMPACT:

There is no fiscal impact as a result of the adoption of this resolution.

Prepared by:

Approved by:

Linda Kelly
Assistant to the City Manager

James H. Robinson
City Manager

Attachment: Proposed Resolution

RESOLUTION NO. 01-__

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
REGARDING A VETERANS PREFERENCE SYSTEM FOR HIRING**

The City Council of the Town of Atherton hereby resolves as follows:

WHEREAS, California Government Code Section 50088 encourages cities with civil service systems and entrance examinations to implement a veterans' preference system for hiring, or adopt a resolution identifying reasons for not implementing such a system, no later than January 1, 2002; and

WHEREAS, the Town of Atherton does not have a set of adopted and up-to-date comprehensive personnel rules and regulations, but routinely makes employment, hiring and promotional decisions based upon merit; and

WHEREAS, the preparation and adoption of a set of up-to-date comprehensive personnel rules and regulations is a goal of the Town for the near future; and

WHEREAS, it is the intent of the Town of Atherton to be in compliance with Section 50088, and further the public policy promoting veterans' preference; and

WHEREAS, the Town of Atherton recognizes the value of the skills and experience veterans can bring to the workplace, as well as the value of military service to our Country; and

WHEREAS, the Town of Atherton continues to encourage individuals with military service credentials to apply for positions with the Town.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the Town of Atherton that a veterans' preference system for hiring will be integrated with the Town's comprehensive set of personnel rules and regulations, once the Town prepares and adopts such rules and regulations.

* * * * *

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 the ___ day of _____, 2001, by the following vote.

AYES: *Councilmembers:*
NOES: *Councilmembers:*
ABSENT: *Councilmembers:*
ABSTAIN: *Councilmembers:*

Mayor
Town of Atherton

ATTEST:

Sharon Barker, City Clerk



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: MICHAEL A. HOOD, BUILDING OFFICIAL

DATE: FOR THE MEETING OF DECEMBER 19, 2001

**SUBJECT: ACCEPTANCE OF WORK AND AUTHORIZATION TO FILE NOTICE OF
COMPLETION FOR SPACE PLANNING AND PROJECT MANAGEMENT
SERVICES (REMODEL OF POLICE DISPATCH CENTER)**

RECOMMENDATION

Accept the work and authorize recording of a notice of completion for Space Planning and Project Management Services for the remodel of the police dispatch center.

INTRODUCTION

The Council awarded a contract for planning and project management services for the remodel of the police dispatch center on March 6, 2001. The work has been substantially completed in accordance with the terms of that contract.

ANALYSIS

Daniel D. White, doing business as Specialized Communication Services, contracted with the Town of Atherton on March 6, 2001, to provide space planning and project management services for the remodel of the police dispatch center. Because of the highly specialized nature of the work, a sole source contract was granted. Daniel White provided the design, negotiated contracts and supervised the work of sub-contractors for all necessary work.

On September 19, 2001, the City Council approved the project design submitted by Daniel White and authorized the expenditure of up to \$68,137.00 for the construction of that project. The project has now been completed to the satisfaction of Town staff.

FISCAL IMPACT

The contract with Daniel D. White was for a sum of \$10,000. Specialty construction work was authorized for up to \$68,137.00. All expenditures are funded as part of a \$102,601.00 California Law Enforcement Equipment Grant. There is no additional cost to the Town.

CONCLUSION:

The planning and project management services contract completed. All construction work and coordination related to that contract has also been completed. It is appropriate to accept the work and record a notice of completion.

Respectfully submitted:

Reviewed/Approved:

Michael Hood
Building Official

James Robinson
City Manager

ORDINANCE NO. ____

AN ORDINANCE OF THE TOWN OF ATHERTON
AMENDING CHAPTER 15.52 OF THE
ATHERTON MUNICIPAL CODE,
RELATING TO RECYCLING AND DIVERSION OF
CONSTRUCTION AND DEMOLITION DEBRIS

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

Section 1. Chapter 15.52 of the Atherton Municipal Code is hereby amended to read as follows:

Chapter 15.52
RECYCLING AND DIVERSION OF DEBRIS FROM
CONSTRUCTION AND DEMOLITION

Sections:

- 15.52.010 Findings and Purpose**
- 15.52.020 Definitions**
- 15.52.030 Deconstruction and Salvage and Recovery**
- 15.52.040 Diversion Requirements**
- 15.52.050 Information Required Before Issuance of Permit**
- 15.52.060 Deposit Required**
- 15.52.070 Administrative Fee**
- 15.52.080 On Site Practices**
- 15.52.090 Reporting**
- 15.52.100 Violation a Public Nuisance**
- 15.52.110 Penalties**
- 15.52.120 Exemption from Diversion Requirements**
- 15.52.130 Designation of Approved Mixed C&D Recycling Facility**

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15.52.10 Findings and Purpose

The City Council of the Town of Atherton hereby finds and determines that the Town is committed to protecting the public health, safety, welfare and environment; that in order to meet these goals it is necessary that the Town promote the reduction of solid waste and reduce the stream of solid waste going to land fills; that under California law as embodied in the California Waste Management Act (California Public Resources Code Sections 40000 et seq.), Atherton is required to prepare, adopt and implement source reduction and recycling elements to reach reduction goals, and is required to make substantial reductions in the volume of waste materials going to landfill, under the threat of penalties of \$10,000 per day; that debris from demolition and construction of buildings represents a large portion of the volume presently coming from Atherton, and that much of said debris is particularly suitable for recycling; that Atherton's commitment to the reduction of waste and to compliance with state law requires the establishment of programs for recycling and salvaging construction and demolition materials; the City Council recognizes that requiring demolition and construction debris to be recycled and reused may in some respects add modestly to the cost of demolition and in other respects may make possible some cost recovery and cost reduction; and that it is necessary in order to protect the public health, safety and welfare that the following regulations be adopted.

15.52.020 Definitions

For purposes of this chapter the following definitions apply:

A. "Contractor" means any person or entity holding, or required to hold, a contractor's license of any type under the laws of the State of California, or who performs (whether as contractor, subcontractor or owner-builder) any construction, demolition, remodeling, or landscaping service relating to buildings or accessory structures in Atherton.

B. "Covered Project" means any project that has an estimated cost above \$50,000 or will generate more than ten tons of construction and demolition debris.

"Covered Project" shall not include:

- | | | |
|------------------------|----------------------|-------------------------------|
| <u>1. drainage</u> | <u>5. foundation</u> | <u>9. landscape screening</u> |
| <u>2. electrical</u> | <u>6. grading</u> | <u>10. tree removal</u> |
| <u>3. encroachment</u> | <u>7. mechanical</u> | <u>11. new pools and spas</u> |
| <u>4. excavation</u> | <u>8. plumbing</u> | |

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C. "Demolition and Construction Debris" means:

1. Discarded materials generally considered to be not water soluble and non-hazardous in nature, including but not limited to steel, glass, brick, concrete, asphalt material, pipe, gypsum, wallboard, and lumber from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure and/or landscaping, and

including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing, landscaping and development operations for a construction project.

2. Clean cardboard, paper, plastic, wood, and metal scraps from any construction and/or landscape project.
 3. Non-construction and demolition debris wood scraps.
 4. De-minimis amounts of other non hazardous wastes that are generated at construction or demolition projects, provided such amounts are consistent with best management practices of the industry.
 5. Mixing of construction and demolition debris with other types of solid waste will cause it to be classified as other than construction and demolition debris.
- D. "Designated Recyclable and Reusable Materials" means:
1. Masonry building materials including all products generally used in construction including, but not limited to asphalt, concrete, rock, stone and brick.
 2. Wood materials including any and all dimensional lumber, fencing or construction wood that is not chemically treated, creosoted, CCA pressure treated, contaminated or painted.
 3. Vegetative materials including trees, tree parts, shrubs, stumps, logs, brush or any other type of plants that are cleared from a site for construction or other use.
 4. Metals including all metal scrap such as, but not limited to, pipes, siding, window frames, door frames and fences.
 5. Roofing Materials including wood shingles as well as asphalt, stone and slate based roofing material.
 6. Salvageable Materials includes all salvageable materials and structures Including, but not limited to wallboard, doors, windows, fixtures, toilets, sinks, bath tubs and appliances.
- E. "Mixed C&D Recycling Facility" means: a facility that accepts mixed construction and demolition debris for the purpose of manually and/or mechanically sorting the material into recyclable components for the purpose of recycling a portion of the total material entering the facility.
- F. "Approved Mixed C&D Recycling Facility" means: a facility which has been identified by the Building Official as having diversion rates, reporting mechanisms, and sorting systems which have the highest potential for helping the Town achieve its diversion goals and policies.

15.52.030 Deconstruction and Salvage and Recovery

Every structure planned for demolition shall be made available for deconstruction, salvage and recovery prior to demolition. No demolition shall commence until a period of 10 working days has elapsed from the date of issuance of the demolition permit, in order to facilitate de-construction, salvage and recovery prior to demolition. It shall be the responsibility of the owner, the general contractor and all subcontractors to recover the maximum feasible amount of salvageable

designated recyclable and reusable materials prior to demolition. Recovered and salvaged designated recyclable and reusable materials from the deconstruction phase shall qualify to be counted in meeting the diversion requirements of this chapter. Recovered or salvaged materials may be given or sold on the premises, or may be removed to reuse warehouse facilities for storage or sale. Title to recyclable materials forwarded to the operator of recycling facilities or of a landfill that is under contract to the cities in southern San Mateo County will transfer to the service provider upon departure of materials from the site.

15.52.040 Diversion Requirements

It is required that at least the following specified percentages of the waste tonnage of demolition and construction debris generated from the following categories of covered projects shall be diverted from land fills by using recycling, reuse and diversion programs:

- A. Demolition:
Sixty percent (60%) of total waste tonnage.
- B. Full residential Reroofing projects:
Fifty percent (50%) of waste tonnage.
- C. New Construction :
Sixty percent (60%) of waste tonnage.
- D. Alteration and Additions:
Fifty (50%) percent of total waste tonnage.

Separate calculations and reports will be required for the demolition and for the construction portion of projects involving both demolition and construction.

15.52.050 Information Required Before Issuance of Permit

Every applicant shall submit a properly completed "Recycling and Waste Reduction Plan", on a form as prescribed by the Building Official

The form shall contain an accurate estimate of the tonnage or other specified units of construction and/or demolition debris to be generated from construction and demolition on the site. Approval of the form as complete and accurate shall be a condition precedent to issuance of any building or demolition permit.

15.52.060 Deposit Required

As a condition precedent to issuance of any permit that involves the production of solid waste destined to be delivered to a landfill and is identified as a covered project needing to comply with the diversion requirements of this Ordinance, the applicant shall post a cash deposit in the

amount of fifty dollars (\$50.00) for each estimated ton of construction and/or demolition debris to be recycled, but not less than One thousand dollars (\$1,000.00) for all covered projects except residential reroofing projects, which shall be required to post a cash deposit of not less than five hundred dollars (\$500). The deposit or cash bond shall be returned, without interest, in total or in proportion, upon proof to the satisfaction of the building official, that no less than the required percentages or proven proportion of those percentages of the tons of debris generated by the demolition and /or construction project have been diverted from landfills and have been recycled or reused. If a lesser percentage of tons or cubic yards than required is diverted, a proportionate share of the deposit will be returned. The deposit shall be forfeited entirely if there is a failure to comply with the requirements of this chapter.

15.52.070 Administrative Fee

As a condition precedent to issuance of any permit for a covered project that involves the production of solid waste destined to be delivered to a landfill, the applicant shall pay to the Town a cash fee sufficient to compensate the Town for all expenses incurred in administering the permit. The amount of this fee shall be determined in accordance with the then current resolution of the City Council.

15.52.080 On Site Practices

During the term of the covered project, the contractor shall recycle or divert the required percentages of materials, and keep records thereof in tonnage or in other measurements approved by the Building Official that can be converted to tonnage. The Building Official will evaluate and monitor each project to gauge the percentage of materials recycled, salvaged and disposed from the project. The required diversion of a minimum of the required percentages of the demolition and construction debris will be measured separately with respect to the demolition segment and the construction segment of a project where both demolition and construction are involved. To the maximum extent feasible on-site separation of scrap wood and clean green waste in a designated debris box or boxes shall be arranged, in order to permit chipping and mulching for soil enhancement or land cover purposes. In order to protect chipping and grinding machinery, metal and other materials which cannot be chipped or ground shall not be placed in such boxes. On-site separation shall be undertaken for wallboard to the extent feasible on new construction.

15.52.090 Reporting

Within sixty (60) days following the completion of any covered project, the contractor shall, as a condition precedent to the return of any cash deposits, submit documentation to the Building Official which proves compliance with the requirements of Section 15.52.040. Separate reports shall be required for the demolition and new construction phases of a covered project. The documentation shall consist of a final completed "Recycling and Waste Reduction Report" showing actual data of tonnage of materials recycled and diverted, supported by originals or certified photocopies of receipts and weight tags or other records of measurement from recycling companies,

deconstruction contractors and/or landfill and disposal companies. Receipts and weight tags will be used to verify whether materials generated from the site have been or are to be recycled, reused, salvaged or otherwise disposed of. If a project involves both demolition and construction, the report and documentation for the demolition project must be submitted and approved by the Building Official before issuance of a building permit for the construction project. Alternately, the permittee may submit a letter stating that no waste or recyclable materials were generated from the project, in which case this statement shall be subject to verification by the Building Official. Any deposit posted pursuant to Section 15.52.060 shall be forfeited if the permittee does not meet the timely reporting requirements of this section.

As required, the Building Official shall prepare a report that describes the number and type of permit issued; the number and type of projects covered by diversion requirements; the amount of deposit received; and the total tonnage generated and diverted from completed projects.

15.52.100 Violation a Public Nuisance

Each violation of the provisions of this chapter shall constitute a public nuisance and be subject to abatement as such, pursuant to the provisions of Chapter 8.20 of this Code. The costs of abatement of any such nuisance shall be a lien upon the property involved.

15.52.110 Penalties

Each violation of the provisions of this chapter shall constitute a misdemeanor, and shall be punishable by imprisonment in the county jail for not to exceed six (6) months, or by fine not exceeding one thousand dollars (\$1,000.00), or by both such fine and imprisonment. Each day that a violation continues shall be deemed a new and separate offense.

15.52.120 Exemption from Diversion Requirements

A permit applicant may apply to the Building Official for an exemption to the diversion requirements of this Ordinance at the time of the submittal of the Recycling and Waste Reduction Plan. The Recycling and Waste Reduction Plan must still be filled out, with data indicating what diversion percentage the applicant considers feasible. In addition, a Waiver Request Form must be completed that indicates the reasons the applicant is requesting an exemption from the diversion requirements. Exemptions will be considered based on contamination by hazardous materials and low recyclability of specific materials.

15.52.130 Designation of Approved Mixed C&D Recycling Facility

The Building Official may identify individual facilities as an Approved Mixed C&D Recycling Facility and require contractors working on projects covered by the diversion requirements of this Ordinance to deliver non-source-separated construction and demolition materials to these facilities for the purpose of helping to increase Town diversion rates and achievement of AB939 goals.

Section 2. Except as hereby amended, said Atherton Municipal Code as amended shall be and remain in full force and effect.

Section 3. If any section, subsection, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or circumstances is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof nor other applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Section 4. This Ordinance shall be posted in at least three public places within the Town of Atherton and shall be effective from and after thirty (30) days following its adoption.

|
* * * * *

I hereby certify that the foregoing ordinance was introduced at a regular meeting of the City Council of the Town of Atherton held on , _____ and was adopted by said City Council at a regular meeting held on , _____ by the following roll call vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS
ABSENT: COUNCILMEMBERS
ABSTAIN: COUNCILMEMBERS

Mayor
Town of Atherton

ATTEST:

Sharon Barker, City Clerk



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: CLIFF TEMPS, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF DECEMBER 19, 2001

**SUBJECT: ACCEPTANCE OF WORK AND AUTHORIZATION TO FILE NOTICE OF
COMPLETION FOR 2001 PAVEMENT MARKING, PROJECT 01-004**

RECOMMENDATION

Accept the work and authorize recording of a notice of completion for 2001 Pavement Marking, Project 01-004.

INTRODUCTION

The Council awarded a contract for centerline striping and other pavement marking to Linear Options on September 12, 2001. The work has been substantially completed in accordance with the plans and specifications.

ANALYSIS

Linear Options' work was performed after completion of placing micro-surfacing, and was done to the plans and description provided by the Town and Caltrans standards. We have received some comment that the double lines, reinforced by raised pavement markers, are more than needed or appropriate for some residential streets on which they were applied. Options for marking centerlines in the future will be discussed at the January 8, 2002 Transportation Committee meeting. The outcome of that discussion has no bearing on Linear Options' completed contract.

FISCAL IMPACT

The work was budgeted as part of \$60,000 for contract services in the operating budget for streets. Linear Option's bid was for \$28,399.15, based on unit prices. The final cost is almost exactly the same. The balance of the account will be used for additional contract work next spring.

CONCLUSION:

The striping work has been completed, and it is appropriate to accept it and record a notice of completion.

Respectfully submitted:

Reviewed/Approved:

Cliff Temps
Public Works Director

James Robinson
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: CITY COUNCIL MEETING OF DECEMBER 19, 2001

SUBJECT: POSTING PLACES RESOLUTION

RECOMMENDATION:

Consider and, if appropriate, adopt a resolution establishing two posting places in addition to the four posting places presently existing in Atherton.

BACKGROUND/ANALYSIS

Section 2.08.010 of the Atherton Municipal Code has established four official bulletin boards in the Town of Atherton. These are located at Rosewood Drive and Greenoaks Drive; the Atherton Train Station; the Atherton Branch of the San Mateo County Library; and Town Offices. Section 2.08.010 of the municipal code provides that all Town ordinances must be posted as provided by law on the official bulletin boards. Section 36933 of the Government Code provides that where there is no newspaper published and circulated in a city, ordinances may be posted, instead of being published. Section 36933 requires that posting occur in at least three separate locations.

The attached Resolution will designate two additional locations as official bulletin boards. If approved, ordinances may be posted at these locations. Other official and public notices may be posted at these locations as well as those established by Section 2.08.010.

FISCAL IMPACT:

None.

RESOLUTION NO. 01-____

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
RELATING TO POSTING OF OFFICIAL NOTICES**

WHEREAS, State law requires that ordinances, to be effective, be published in a newspaper of general circulation; and

WHEREAS, in communities which do not have a newspaper published and circulated within its jurisdiction, posting of ordinances is authorized in at least three (3) locations in the community; and

WHEREAS, Section 2.08.010 of the Atherton Municipal Code has confirmed this State mandate and has established that all ordinances must be posted as provided by law on official bulletin boards and official bulletin boards are designated in Section 2.08.010; and

WHEREAS, the City Council of the Town of Atherton has determined that it is in the public interest to provide for additional places at which ordinances as well as any other public notice may be posted;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of the Town of Atherton as follows:

1. The City Council hereby finds and determines that in addition to posting places established by Section 2.08.010 of the Atherton Municipal Code, the following public places in the Town are also designated as places at which ordinances may be posted as provided by law, and at which other public notices may be placed from time to time:

Atherton City Council Chambers, 94 Ashfield Road
The bulletin board located at the intersection of Selby Lane and Atherton Avenue.

I HEREBY CERTIFY that the foregoing Resolution was regularly introduced and adopted at a regular meeting of the City Council of the Town of Atherton held on _____, 2001, by the following roll call vote:

Ayes:	Councilmembers:
Noes:	Councilmembers:
Absent:	Councilmembers:
Abstain:	Councilmembers:

Mayor
Town of Atherton

ATTEST:

Sharon Barker, City Clerk



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: CLIFF TEMPS, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF DECEMBER 19, 2001

**SUBJECT: PUBLIC HEARING AND ADOPTION OF RESOLUTION ORDERING
VACATION OF A PORTION OF MC CORMICK LANE RIGHT-OF-WAY**

RECOMMENDATIONS

Hold a public hearing on the vacation of a portion of McCormick, then adopt the resolution ordering the vacation of McCormick Lane right-of-way, with reservation of easements for public utilities and sanitary sewers.

INTRODUCTION

The vacation of the section of McCormick Lane street right-of-way between Burns Avenue and the barricade across McCormick Lane that separates Villa Oaks and Mariana Park Subdivisions has been set for a public hearing at this Council meeting. Earlier, the Transportation Committee approved the vacation and the Planning Commission found the vacation to not be inconsistent with the General plan. The public hearing has been noticed by posting at three places along the area proposed to be vacated, as required by the Streets and Highways Code.

ANALYSIS

The area proposed to be vacated is shown on the attached Exhibit "B." Number 65 McCormick Lane is the only property that gets access from this section of street, and the owners of that property support the vacation. All utilities were contacted to determine if they have facilities in the area proposed for vacation, and reservations will be provided for easements to accommodate their present and future needs. These reservations are described in Exhibit "A." The vacation requires a

public hearing, with notices posted physically on the property to be vacated. At its October meeting, the Council adopted a resolution setting a public hearing on the matter. If the Council approves the vacation, the resolution ordering it will be recorded at the County. After this happens, the two property owners adjacent to the abandoned section of street will have the ability to file quiet title actions to acquire title to the portions of vacated right-of-way lying between their respective McCormick Lane frontages and the center of the former street. Any removal or change in existing improvements within the vacated area will thereafter be the responsibility of its new owners and will need to accommodate access by utilities with rights to the reservations.

FISCAL IMPACT

There is no direct fiscal impact to the Town. Removal of the short section of paved street from the Town's responsibility for maintenance will not be noticeable in the street maintenance budget.

CONCLUSION

Adoption of the resolution vacating this portion of McCormick Lane can be done without any impact to other Town facilities or resources.

Respectfully submitted:

Reviewed/Approved:

Cliff Temps
Public Works Director

James Robinson
City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ORDERING THE VACATION OF A PORTION OF MC CORMICK LANE RIGHT-OF-WAY, WITH RESERVATION OF EASEMENTS FOR PUBLIC UTILITIES AND SANITARY SEWERS, SAID PORTION AND EASEMENT RESERVATIONS BEING MORE PARTICULARLY DESCRIBED IN EXHIBITS "A" AND "B" ATTACHED HERETO AND MADE A PART HEREOF.

WHEREAS, Notice of a Public Hearing concerning the vacation of a portion of McCormick Lane right-of-way was published and posted pursuant to the requirements of Part 3, Chapter 1, Section 8300 et.seq. of the California Streets and Highways Code; and

WHEREAS, the City Council has duly conducted a Public Hearing on the 19th day of December, 2001, and all persons interested in the proposed vacation appearing at the hearing were heard; and

WHEREAS, utility companies serving properties in the area have been notified regarding the proposed vacation and have requested the reservation of easements and imposition of conditions.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the Town of Atherton that:

1. The City Council finds from all the evidence submitted, that the portion of McCormick Lane right-of-way described and shown in Exhibits "A" and "B" is unnecessary for public use, except for use by utilities and sanitary sewers for which reservations are therein described.
2. The portion of McCormick Lane right-of-way described and shown in Exhibits "A" and "B" is hereby declared vacated, except for the Public Utilities and Sanitary Sewer easements described and reserved therein.
3. Said vacation is subject to the condition that private fencing or landscaping of all or any portion of the area being vacated shall be constructed or installed in such a way as to permit access to any utility or sanitary sewer within the vacated area for maintenance, replacement or repair, by the entity having authority over the utility and/or sewer.

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 the 19th day of December, 2001, by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

, Mayor
Town of Atherton

ATTEST:

Sharon Barker, City Clerk

EXHIBIT "A"
MC CORMICK LANE VACATION
LEGAL DESCRIPTION

A portion of McCormick Lane shown on that certain subdivision map entitled "Villa Oaks, Atherton, San Mateo County, California, Being a Resubdivision of Lots 9, 10, and 11 of Villa Lots at Fair Oaks" Recorded February 25, 1954 in San Mateo County Records File Number 38670L, Volume 39 of Maps, Page 20.

BEGINNING at the most westerly corner of Lot 4 of said Villa Oaks, said point being a point on the northeast street right-of-way Line of McCormick Lane, thence along said McCormick Lane right-of-way line south 45E 40' east, 30.00 feet, thence along a curve to the right with a radius of 280.00 feet, through an angel of 9E 07' 40", a distance of 44.61 feet, thence along a curve to the left with a radius of 30.00 feet, through an angle of 79E 43' 06" a distance of 42.26 feet, thence, leaving the right-of-way line of McCormick Lane and proceeding south 62E44'35" west a distance of 59.36 feet along a line parallel to and 20.00 feet northwest of the center line of Burns Avenue, to a point on the southwest street right-of-way line of McCormick Lane, thence in a generally northwest direction, along the said McCormick Lane right-of-way line, on a curve with a center that lies south 57E 57' 46" west 240.00 feet, with a radius of 240.00 feet, through and angle of 13E 37' 46" a distance of 57.09 feet, thence north 45E 40" west to the most northerly corner of Lot 5 of said Villa Oaks, thence leaving the southwest street right-of-way line of McCormick Lane north 31E23'40" east to the point of beginning and containing 3925.59 square feet, and

RESERVING therefrom a Public Utility Easement over the entire area of the parcel described above, and also

RESERVING therefrom an easement 10 feet wide for sanitary sewers lying immediately adjacent to and southeast of the line connecting the most northerly corner of Lot 5 and the most westerly corner of Lot 4 of said Villa Oaks.



Town of Atherton

DATE: FOR THE CITY COUNCIL MEETING OF DECEMBER 19, 2001
TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS
FROM: NEAL J. MARTIN, CITY PLANNER
SUBJECT: 19 SARGENT LANE (APN 073-261-120)
VESTING TENTATIVE PARCEL MAP

RECOMMENDATION:

For the reasons outlined in this Staff Report it is recommended that the City Council uphold the decision of the Planning Commission and approve the Vesting Tentative Parcel map for the division of one parcel into four parcels based on the findings listed below and subject to the conditions listed in the Draft Vesting Tentative Parcel Map Certificate.

REQUIRED FINDINGS:

Both the California Government Code and the Atherton Municipal Code require the findings listed below to be made in conjunction with the approval of any tentative parcel map.

1. The Tentative Parcel Map is in conformance with the Subdivision Map Act and the Atherton Subdivision Ordinance.
2. The size and shape of the proposed subdivision is in general conformance with Town requirements and the general pattern of the neighborhood and will not cause traffic, health or safety hazards.
3. The proposed subdivision will have proper and sufficient access to a public street.
4. The proposed map and the design or improvement of the proposed subdivision is consistent with the Atherton General Plan.
5. The site is physically suitable for the proposed type of development.
6. The site is physically suitable for the proposed density of development.
7. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
8. The design of the subdivision or the type of improvements is not likely to cause serious public health problems.
9. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed

subdivision, or that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to those previously acquired by the public.

10. Discharge of waste from the proposed subdivision will not result in violation of existing water quality requirements prescribed by the regional water quality board.

INTRODUCTION:

The site of the proposed subdivision is an existing 4.42-acre parcel that currently contains one residence and a stable. The site is accessed from Sargent Lane and is also bounded by Valley Road and Walsh Road. The site contains numerous mature trees and other vegetation with a creek traversing through the center of the property. The overall site is fairly level.

The applicant proposes to subdivide the existing 4.42-acre parcel into four approximate one-acre parcels.

PROJECT DESCRIPTION:

The applicant is proposing to subdivide the property into four parcels. Each parcel will have street access. Parcel 1 (with the existing residence) will be accessed from Sargent Lane. Parcel 2 will be accessed from Walsh Road with approximately 217’ of frontage on Walsh Road. Parcel 3 will be located at the corner of Valley Road and Walsh Road and can have driveway access from either road. The front of Parcel 3 is considered along Walsh Road, with approximately 188’ of frontage. Parcel 3 would have approximately 203’ of frontage along Valley Road. Parcel 4 would be accessed from Valley Road, with approximately 200’ of frontage.

The proposed subdivision and the minimum R-1A zoning district requirements are as follows:

	Lot Area	Width	Depth
Minimum Required	43,560 sq. ft.	175.00’	200.00’
Proposed Parcel 1	+/-54,014 sq.ft.	222.00’	255.00’
Proposed Parcel 2	+/-44,867 sq.ft.	216.00’	214.00’
Proposed Parcel 3	+/-43,560 sq.ft.	208.00’	200.00’
Proposed Parcel 4	+/-50,530 sq.ft.	220.00’	243.00’

The applicant has prepared a plan showing the application of required setbacks and the resulting buildable areas. Staff has also calculated the allowed floor area for each lot (18% of lot area).

	Net Buildable Area	Allowed Floor Area
Proposed Parcel 1	9,700 sq.ft.	9,722 sq. ft.
Proposed Parcel 2	6,800 sq. ft.	8,076 sq. ft.
Proposed Parcel 3	9,450 sq. ft.	7,840 sq.ft.
Proposed Parcel 4	8,100 sq. ft.	9,095 sq. ft.

In addition to the existing creek area shown on the plans, the Public Works Director is recommending an additional 10’ wide easement from the existing top of the creek bank. This would further reduce the net buildable area of Parcel 2 and Parcel 4. Given these constraints, there will still be sufficient buildable area to construct a sizeable residence on each parcel. To access the buildable areas, bridges over the creek at Parcel 2 and Parcel 4 will need to be constructed.

ISSUES:

Drainage and Erosion

The issue of drainage and erosion has been of considerable concern to the Town Council, citizens and staff for several years. The topic is summarized in the July 18, 2001 Memorandum from the Director of Public Works/City Engineer, Cliff Temps (Please see Attachment 6 to the Planning Commission Staff Report for August 22, 2001). Mr. Temps notes that the Town contracted with Nolte Engineers during the year 2000 to conduct a Town wide drainage study. The consultants identified a number of projects needed to upgrade, repair, replace, supplement, extend and construct new drainage facilities to make existing and proposed drainage facilities sound and adequate to prevent street and property flooding within Atherton. The cost of these projects would be almost \$40 million. The consultants placed needed work to the Atherton Channel in the two highest priorities with a combined total cost of almost \$22.6 million. Mr. Temps also noted the extremely limited source of income available to the Atherton Channel Drainage District; an amount barely sufficient to cover the cost of cleaning the creek each year. To date the Town has not been able to identify a source of funding for these extensive and expensive projects.

With knowledge of the drainage system deficiencies throughout the Town, the Town has been requiring that new development provide on-site detention when there is potential for an increase in the volume of runoff. Compliance with that requirement ensures that the increase is stored on the property where it originates and is released gradually to offsite facilities long after the storm's peak has passed. The standard requirement is that on-site storm water detention be provided for the runoff produced by 2" of rainfall from the total impervious area to be produced. This is approximately the amount of water generated in 24 hours from a storm that has the frequency of occurring once in 25 years. Release from the on-site storage into the creek would be restricted so as not to exceed the rate of runoff in its current, undeveloped condition. By using this method, new development or additions that increase the amount of impervious surfaces, should not exacerbate the current downstream conditions.

The appellant has argued that the requirement for on-site storage for the runoff produced by 2" of rainfall over 24 hours is an insufficient standard and should be increased to 5" of runoff. However, the applicant's own data does not support this proposed standard (Please see Attachment 10 to Planning Commission Staff Report for August 22, 2001). A review of the rainfall records measured at 7 Sargent Lane submitted to the Planning Commission (and resubmitted to the City Council with the appeal) shows that 24-hour rainfall amounts rarely exceed 2". In fact, between July 1, 1992 and June 30, 2001, a period of 9 years, the 2" in 24 hours standard was equaled or exceeded only on four occasions as listed below and on only one occasion did rainfall approach the standard advocated by the appellant.

March 22, 1995	2.25"
February 4, 1996	2.00"
February 2, 1998	4.75"
January 23, 2000	3.00"

It should be noted that the rainfall records presented for 7 Sargent Lane show several entries for amounts greater than 2” but these are for periods of 48 hours or more. For example, January 27-31, 1997 or February 15-29, 2001 where the actual duration of the storm is not known.

Heritage Trees

The appellant correctly alleges that the Tentative Parcel Map submitted by the applicant does not disclose the location of all the heritage trees on the property. Section 8.10.030 of the Atherton Municipal Code requires that all heritage trees must be shown and designated on every plot map required in connection with any application for a subdivision. While the applicant’s Vesting Tentative Map dated May, 2000, identified a number of trees by diameter and species, it apparently did not contain all of the existing heritage trees. The assignment of the previous arborist report was to inspect large valley oaks and to generally look at existing perimeter screening to adjacent properties in light of potential subdivision. The Planning Commission expressed concern about potential heritage tree removal and relied on enforcement of Municipal Code Chapter 8.10 at the building permit stage. Staff, upon receipt of the appeal determined that not all heritage trees had been shown and designated as required by the ordinance. The applicant was requested to have their arborist prepare a detailed inventory and assessment of the heritage trees on the property. Such a report was prepared by Ray Morneau, a copy of which is attached to this report.

Mr. Morneau identified all trees with diameter greater than 12 inches. It should be noted that the Atherton Municipal Code defines Heritage Trees as having a diameter greater than 15.28 inches.

Mr. Morneau’s report identifies 97 large trees on the property, 46 of which are Heritage Trees. His report quantifies data about each tree and contains his professional evaluation of the overall condition and suitability for preservation of each tree. Municipal Code Chapter 8.10 specifies that no person shall remove a heritage tree from the tree preservation area unless a permit has been issued in accordance with that Section. Heritage trees within the building area may be removed without such a permit unless they are Oak trees. Ten heritage trees have been identified by staff as being located within the proposed building areas of the subdivision. The table below lists each heritage tree number by proposed parcel number and the arborist rating of its suitability for preservation.

Heritage Trees Located Within Buildable Areas		
Proposed Parcel Number	Heritage Tree Number	Arborist’s Suitability
1	16 Oak	Moderate
	17 Oak	Moderate
	18 Oak	Moderate
2	78 Redwood	High
	83 Oak	High

Consequently, the appellant's request for additional environmental review is not appropriate since this project is specifically exempt from the California Environmental Quality Act.

Request for Moratorium

The appellant has requested the Town Council impose a "moratorium on all new development within the upper Atherton Channel Drainage District." They suggest that to not do so would result in the destruction of private property and continuation of the problems of unsafe drainage. They state in their appeal: "You have a moral and legal imperative to not allow the destruction of private property. Your decision to allow any subdivision or development within this area without addressing and solving the problem of safe drainage will be a breach of that imperative."

Adoption of such a moratorium would have the effect of halting new development as well as additions to existing homes and the construction of new impervious surfaces such as tennis courts, patios and driveways. Under the provisions of California Government Code Section 65858 a moratorium could only remain in effect for a maximum of two years. The City Council would have to adopt an urgency ordinance by a 4/5 vote and then, within 45 days of the adoption, hold a public hearing on the matter in order to extend moratorium for an additional 10 months and 15 days. A final extension could be adopted for one more year by holding another public hearing. Both of the extensions would have to be approved by a 4/5 vote. At each public hearing a report must be presented outlining the measures taken to alleviate the condition which led to the adoption of the ordinance. Consequently, during the time that the moratorium is in effect a major effort would be required to arrive at a permanent solution.

It is Staff's opinion that a moratorium as requested by the appellant is too drastic a measure. It would stop all new construction, additions, remodels and placement of new impervious surfaces with the Upper Atherton Channel Drainage District for up to two years, thereby depriving residents of the ability to expand their homes. Further, the Town has not identified a permanent solution to the funding problem that could be accomplished within the statutory two-year moratorium timeframe.

Contact with Atherton Channel Drainage District (ACDD)

The appellants allege that there was apparently no contact with the Atherton Channel Drainage District and no consideration of this development by the district. The appellant appears to be unaware that the same members of City Council sit as the Board of Directors of the Atherton Channel Drainage District and that the City Manager also serves as the Drainage District Manager and that the City Director of Public Works/City Engineer also serves as the District Engineer. Therefore any contact with the City is a de facto contact with the District. This allegation appears to be incorrect.

CONCLUSION:

The existing residence on Parcel 1 meets current setback requirements when applied to the new subdivision. No modifications of this residence will be required as a condition of the subdivision.

The only other structure on this property is a stable. As the stable will not meet accessory structure setback requirements on Parcel 4, it will need to be removed as a condition of approval.

The proposed lot sizes and design seem compatible with the lot sizes of the surrounding neighborhood. Most of the lots in the neighborhood appear to be just over one acre in area.

The proposed plans have been reviewed by the Public Works Director and the Building Official. Their recommended conditions of approval concerning; drainage easements, on into storm water detention cleaning of the creek and a requirement for a soils report, have been included in the Draft Vesting Tentative Parcel Map Certificate.

The proposed subdivision complies with the minimum R-1A zoning requirements and the residential land use policies contained in the General Plan. The design of the subdivision is compatible with the neighborhood character. All parcels meet the minimum subdivision design standards established in the Zoning and Subdivision Ordinances.

It is Planning Staff's professional opinion the proposed subdivision will be consistent with the existing pattern of development and that the proposal is consistent with the purposes and intent of the General Plan and Zoning Code.

ALTERNATIVES:

The City Council could deny the request or request a reduction in the number of lots and redesign the Tentative Parcel Map.

FISCAL IMPACT:

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

ENVIRONMENTAL IMPACT:

The proposal has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Sections 15315 Minor Land Division involving four or fewer parcels.

FORMAL MOTION:

I move that the City Council uphold the decision of the Planning Commission, make the required findings as stated in the Staff Report and approve the Vesting Tentative Parcel Map subject to the conditions listed in the Draft Vesting Tentative Parcel Map Certificate, as recommended by the Planning Commission, allowing the subdivision of one parcel into four parcels, based on findings and for the reasons incorporated in the Staff Report.

s/Neal J. Martin

Neal J. Martin, City Planner

Attachments:

1. Application for Town Action - Vesting Tentative Parcel Map
2. Approved Minutes Planning Commission Meeting June 27, 2001
3. Approved Minutes Planning Commission Meeting August 22, 2001

4. Draft Vesting Tentative Map Certificate- As recommended by Planning Commission
5. Letter from Ellen Smith, Stanford Management Company requesting continuance to December 2001 Council Meeting, dated September 28, 2001
6. Appeal letter from Jessup, Beekley and Nachtsheim dated September 4, 2001
7. Arborist's Report, subdivision tree inventory prepared by Ray Morneau, dated October 2001
8. Letter from Sanford M. Skaggs, McCutchen, Attorneys at Law dated December 10, 2001
9. Proposed Vesting Tentative Parcel Map



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: LISA COSTA SANDERS, SENIOR PLANNER

DATE: FOR THE CITY COUNCIL MEETING OF DECEMBER 19, 2001

**SUBJECT: 396 SELBY LANE (APN 070-022-410)
APPEAL DECISION OF PLANNING COMMISSION DECISION TO DENY
VARIANCE**

RECOMMENDATION:

Due to the fact that the subject property does not meet all the requirements to grant a variance, Planning Staff is recommending that the City Council uphold the decision of the Planning Commission and deny the Variance. Planning Staff recommends that the City Council conduct the public hearing and deny the variance based on following findings:

1. There are not exceptional or extraordinary circumstances or conditions applicable to the property involved that do not generally apply to property in the same district, and that the granting of a variance will constitute a granting of a special privilege inconsistent with the limitations on the property in the vicinity and under identical zone classifications;
2. The granting of the application is not necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.

If the Council wishes to approve the Variance, the Council should make all findings listed in the analysis section of this staff report in the affirmative and subject to the attached draft Variance Certificate.

INTRODUCTION:

This item was reviewed by the Planning Commission at their September 26, 2001 meeting. At that meeting, the Commission voted 4-0 to deny the Variance based on the two findings listed in the recommendation section of this Staff Report. The applicant then filed an appeal of this decision to the City Council. The applicant is requesting a variance to construct a second story addition to the existing two-story residence. This proposal would continue the existing ridgeline at the north end of the home at a height of 48 feet where the maximum height limit is 30 feet.

ANALYSIS:

The attached staff report from the September 26, 2001 Planning Commission meeting analyzes alternatives and details the reasons the required findings cannot be met. The applicant has also submitted a letter from an Attorney citing cases that support the requested variance. An opinion letter from Town Attorney Marc Hynes is also attached responding to the points raised in the applicant's Attorney letter.

In order to grant a Variance, the City Council must make the following findings:

1. Variances from the terms of the Zoning Title shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surrounding, the strict application of the Zoning Title deprives such property of privileges enjoyed by other property in the vicinity and under identical classification.
2. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.
3. A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

As outlined in the September 26, 2001 Planning Commission staff report, the first two required findings cannot be met as the property's size, shape, topography, location or surrounding is not unique where the application of the zoning requirements deprives this property of privileges enjoyed by other properties. There is sufficient area within the existing buildable area of the lot to construct a sizeable addition to the residence. Staff agrees that the proposed design is attractive and would not be a significant impact to adjacent properties, nevertheless, it does not warrant the granting of a variance.

CONCLUSION:

The Town's Attorney concludes that the case reference by the Applicant's attorney is not applicable to this site and that the required findings cannot be met to grant the requested variance.

It is the professional opinion of Planning Staff that the required findings cannot be met in order to grant the Variance. As stated in the attached staff report there are other feasible alternatives to construct an addition on the property, and that granting the variance would constitute the granting of a special privilege not enjoyed by other properties under the identical zone classification.

If the Council decides to reverse the decision of the Planning Commission and grant the variance, then the Council is required to make all the findings in the affirmative.

ALTERNATIVES:

Alternatives to the proposal are discussed in the analysis section of the attached staff report.

FISCAL IMPACT:

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

ENVIRONMENTAL IMPACT:

The proposal has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15303, Class 1(e) (additions to existing structures).

FORMAL MOTION:

I move that the City Council uphold the decision of the Planning Commission to deny the Variance based on the findings enumerated in the Staff Report for the reasons noted in the Staff Report.

s/ Lisa Costa Sanders

Lisa Costa Sanders, Senior Planner

James H. Robinson, City Manager

Attachments:

1. Draft Variance Certificate
2. Opinion memo from Town Attorney Marc Hynes
3. Opinion memo from Applicant's Attorney, Bill Devine, dated October 9, 2001
4. Letter of Appeal from Alan Salzman
5. Letter Requesting Continuation of Council Public Hearing on the Appeal from Alan Salzman dated October 17, 2001
6. Letter from Jonathan Feiber and Heather Buhr dated September 23, 2001
7. Staff Report from the September 26, 2001 Planning Commission meeting with attachments
8. Approved minutes from the September 26, 2001 Planning Commission meeting

Continued From Meeting of November 6, 2001 Item No. 20



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: JAMES H. ROBINSON, CITY MANAGER
DATE: FOR THE MEETING OF NOVEMBER 6, 2001
SUBJECT: CONSIDERATION OF KNOX PLAYSCHOOL REQUEST FOR AMENDMENT TO LEASE AGREEMENT REGARDING FUNDING OF ELECTRICAL WORK FOR PLAYSCHOOL EXPANSION

RECOMMENDATION:

Staff is seeking Council direction on this matter.

INTRODUCTION:

The Town of Atherton entered into a lease (see attached) with Knox Playschool in May of 2001. The terms provide for a five-year lease ending on June 30, 2006. There is also an option to extend the lease for one five-year period following the expiration of the initial term. Base rent for the site was established at \$2,071.00 per month plus an additional sum of \$500.00 per month for the new modular building. The Lease anticipated the construction of a new modular building on the Holbrook Palmer Park property.

ANALYSIS:

The Lease agreement (as shown in Exhibit B) included a descriptive detail of the proposed expansion which included the need for sewer and electrical connections. The expansion has since

been completed and the Knox Playschool has received a bill from PG&E for \$11,496.87 to provide permanent electrical service.

The attached letters from Susan Knox describe the expenses incurred for the new electrical service and a request for assistance by the Town of Atherton. Susan Knox has requested that the Town consider several options. These include either payment of the bill by the Town of Atherton or a reduction of the rent over a fixed period of time.

Alternatives:

1. Amend the existing agreement to provide for payment of the PG&E bill in the amount of \$11,496.87.
2. Amend the existing agreement and provide some relief through rent reduction over a period of time prescribed the City Council.
3. Direct the City Manager to negotiate a settlement of this request.
4. Deny the request.

FISCAL IMPACT:

The fiscal impact would vary depending upon the option chosen by Council from the above alternatives.



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: CLIFF TEMPS, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF DECEMBER 19, 2001

SUBJECT: APPROVAL OF FY 2001-2002 CAPITAL IMPROVEMENT PROGRAM

RECOMMENDATION

Approve the Revised FY 2001-2002 portion of the 4-Year Capital Improvement Program recommended by staff.

INTRODUCTION

A staff recommended 4-year Capital Improvement Program (CIP) was introduced at the November Council meeting. Certain projects for FY 2001-2002 were tentatively approved, subject to a finding by the Planning Commission that they are consistent with the General Plan. Consideration of discretionary street reconstruction projects and new park projects was deferred until input was received from affected property owners and the Park and Recreation Commission. In the intervening month, both Commissions have reviewed the CIP, and owners of property abutting discretionary reconstruction streets have been polled. A summary of the results of these independent considerations may be found below.

PLANNING COMMISSION ACTION

The Planning Commission met on December 5. It found that all projects in the Recommended 4-year plan are consistent with the General Plan

PARK AND RECREATION COMMISSION ACTION

The Park and Recreation Commission met on December 10. It considered and approved the Park Play Structure, Park Wedding Area/Playground Path Landscape Screen and Main House

Handicapped Lift Projects that were proposed in the FY 2001-2002 segment of the 4-year recommended CIP.

The City Manager brought up the fact that Community Development Block Grant (CDBG) money may be available to fund half the \$50,000 cost of the Main House Handicapped Lift. This is not reflected in the revised FY 2001-2002 program because the details of (CDBG) funding are not known at this time. That source will be pursued. If it materializes, use of State Park Grant money will be reduced accordingly and become available for rebudgeting in another fiscal year.

The Commission voted to add another item, \$5,000 funding for a soils investigation to find out what it will really take to stabilize and rehabilitate the tennis courts in the park. This addition does not have to go back to the Planning Commission because it is only a study.

DISCRETIONARY STREET SURVEY

A short letter explaining discretionary street reconstruction work was sent to the owners of the fifty properties abutting those streets, along with a post card for each to return to indicate if they favored reconstruction or not. The results of post card returns are listed below:

<u>Street</u>	<u>Number of Houses</u>	<u>Votes in Favor</u>	<u>Votes Against</u>
Spencer Lane	9	8	None
Lowery Drive	11	7	None
Lilac Drive	8	5	None
Magnolia Drive	14	13	None
Irving Avenue	4	2	None
James Avenue	4	2	1

ANALYSIS

The survey results indicate solid support for proceeding with reconstruction of the streets in the discretionary class. Adding the tennis court soils investigation project to the CIP makes good sense to gain needed knowledge of the extent of remedial work needed to make “permanent” court repairs.

All the projects in the CIP, except those that are already completed or under construction and the tennis court soils investigation, will be brought back to the Council for plan approval and contract award. The Planning Commission will be asked to review plans for the Police Equipment and Storage Building, and to provide a forum for neighborhood reaction. The Park and Recreation Commission will pre-approve designs for the Wedding Area/Play Structure Path Landscape screening and Handicapped Lift.

Review and refinement of the CIP for FYs 2002-2003, 2003-2004 and 2004-2005 will become part of the routine budget process for those years.

FISCAL IMPACT

Sufficient funds are available to carry out the program recommended for FY 2001-2002.

CONCLUSION:

The Revised FY 2001-2002 CIP should be adopted.

Respectfully submitted:

Reviewed/Approved:

Cliff Temps
Public Works Director

James Robinson
City Manager

RECOMMENDED 4-YEAR CIP PROJECT LIST - FY 2001-2002 REVISED

TYPE/PROJECT	* PCI	PG	FY2001-02	FY2002-03	FY2003-04	FY2004-05	TOTAL
STREETS							
SPECIFIC PATCH & OVERLAY							
Middlefield Road Design	*	1	250,314				250,314
Middlefield Road Construction	*	2	1,476,581	706,500			2,183,081
Stockbridge, Alameda to Selby	* 34/45	3		321,276			321,276
Selby, 134-136 Cul-de-sac, to Austin	55	4			91,736		91,736
Selby, Austin to El Camino	34/49	4			299,855		299,855
							<u>3,146,262</u>
GENERAL PATCH, SEAL & OVERLAY							
2001 Crack Seal, Patch & Micro-Seal		5	490,000				490,000
2002-2005 Patch, Seal & Overlay		6	100,000	46,104	49,609	200,000	395,713
							<u>885,713</u>
MANDATORY RECONSTRUCTION							
San Benito, Middlefield to Oak		19	7	97,222			97,222
Bassett Lane, Laurel to end		16	7	39,463			39,463
Lane Place, Middlefield to both ends		22	7	215,868			215,868
Atherton, Linda Vista to Stern		42	8	437,140			437,140
James, Magnolia to Lilac	*	31	8	354,343			354,343
Selby, n/s Selby to 134-136 Cul-de-sac		35	9		396,417		396,417
Camino al Lago, Alameda to Barney		32	9		94,902		94,902
Linden, Laburnum to Hawthorn	* 37	10				479,949	479,949
Laburnum. Hawthorn to Magnolia	* 39	10				234,817	234,817
Austin, Almendral to Atherton	* 50	10				479,054	479,054
							<u>2,829,175</u>
DISCRETIONARY RECONSTRUCTION							
Irving, Irving to end	* 14	11	58,360				58,360
Spencer, Isabella to end		17	11	105,734			105,734
James, James to end		24	11	55,483			55,483
Magnolia, Magnolia to end		21	11	48,513			48,513
Magnolia, Irving to James	* 37	11	214,186				214,186
Lowery, Edge to end		25	11	120,249			120,249
Lilac, Lilac to end		28	11	49,495			49,495
Lilac, James to Greenoaks		50	11	124,243			124,243
228-230 Atherton, Atherton to end		18	12	59,310			59,310
216-222 Atherton, Atherton to end	* 18	12	158,884				158,884
215-219 Atherton, Atherton to end		19	12	92,890			92,890
Greenoaks, James to Rosewood	40/49	13			432,049		432,049
Barry, 70-74 Cul-de-sac		26	14			76,689	76,689
Tallwood, 350' from Walsh to end		28	14			129,114	129,114
							<u>1,725,199</u>
OTHER							
Valparaiso Corridor Study		15	35,000				35,000
Valparaiso Signal Contingency		16	65,000				65,000
							<u>100,000</u>
DRAINAGE							
Middlefield Extra Drainage Contingency		17	152,000				152,000

Atherton Channel Repairs (No. of Reservoir)	18	100,000			100,000
Atherton Channel - Elena Box Repl.	19		240,120		240,120
Atherton Channel - Barry Box Repl.	20			248,472	248,472
Unspecified Atherton Chan. WS Project	21				36,500
					<u>777,092</u>

FACILITIES

PARK & PARK BUILDINGS

Play Structure	22	333,000			333,000
Wedding/Play Path Landscape Screen	23	15,000			15,000
Main House Handicapped Lift	24	50,000			50,000
Tennis Court Soils Investigation		5,000			
Unspecified Grant Project	25		34,300		34,300
Corporation Yard Remodel	26				49,905
					<u>482,205</u>

GENERAL GOVERNMENT

Town Hall Entry & RR Disabled Imps.	27	28,000			28,000
Police Equipment Storage Building	28	64,000			64,000
Post Office Ergonomic Modifications	29	12,500			12,500
Street Corp Yard Remodel Design	30		36,225		36,225
Street Corp Yard Remodel	31			487,305	487,305
					<u>628,030</u>

ANNUAL/PROGRAM TOTALS

4,305,211 2,487,092 2,100,345 1,686,028 10,573,676

* = Includes drainage work in project cost



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: CHIEF ROBERT J. BRENNAN

DATE: FOR THE MEETING OF DECEMBER 19, 2001

**SUBJECT: SCHOOL RESOURCE OFFICER – GRANT AWARD OF \$125,000
ADDING ONE (1) POLICE OFFICER POSITION**

RECOMMENDATION:

Accept the School Resource Officer (SRO) Grant Award of \$125,000.00 as delineated below, and approve the addition of one police officer position to the existing Police Department Staff.

INTRODUCTION:

Earlier this year, the United States Department of Justice COPS, announced a new federal law enforcement grant, the COPS in Schools 2001 Program. The COPS Office provides grants to increase police presence, to improve police and community partnerships designed to address crime, and to enhance public safety. The grant pays up to \$125,000 for salaries and benefits for new officers to work in schools. In March 2001, the Atherton Police Department applied for the maximum grant award (\$125,000) toward the hiring of an additional sworn law enforcement officer to work in Atherton schools (other than Menlo-Atherton High School that is served by a full-time officer). We were recently notified that our request for grant funds was accepted and that we have been awarded the full amount of \$125,000.

ANALYSIS:

Grants awarded under this program are restricted to the payment of approved salaries and benefits for the hiring of additional sworn career law enforcement officers for deployment in schools. A "career law enforcement officer" is a person hired on a permanent basis who is authorized by law to engage in the prevention, detection, or investigation of violations of criminal laws. Grant awards are based on the entry-level salary of a police officer in a department. These funds may not be used

for the supplanting of existing positions. The grant must be used in addition to, and not in lieu of, the departments other hiring plans. The Town of Atherton City Council approved an additional sworn officer position earlier this year to be assigned to Menlo-Atherton High School as a School Resource Officer. Officer Joe Wade has done an outstanding job at the school and has become an integral part of the MAHS management team. The 2000 students that attend that school and the number of calls-for-service at that campus necessitate his full-time presence upon the campus.

Atherton has nine other schools in the Town that do not receive any proactive, non-enforcement oriented attention from the Police Department. With very few exceptions, these schools never receive a visit from the Police Department. It is the goal of this additional SRO program to address the needs of those students and staff of those schools with programs like D.A.R.E., 9-1-1 for kids, bicycle rodeos, etc. Additionally, the new SRO will provide counseling and referral services for at-risk children at those schools, and can assist the Menlo-Atherton High School SRO when necessary. As an additional full-time uniformed police officer, this SRO will be a visual deterrent, driving a marked police car though the Town, and will be available to respond to any call for service or to be temporarily assigned to address a problem area such as a burglary prevention.

The duration of the SRO grant is three years and payment to the Town would be spread over these three years as follows:

	YEAR ONE	YEAR TWO	YEAR THREE	TOTAL
FEDERAL AMOUNT	\$45,000	\$42,000	\$38,000	\$125,000
MATCHING FUNDS	\$44,599	\$51,728	\$60,116	\$156,443
TOTAL SRO EXPENSE	\$89,599	\$93,728	\$98,116	\$281,443

RESOURCE FOR MATCHING FUNDS:

Currently the budget contains \$21,000 from the “Cops on the Street”, a citizen’s action committee with the intention of funding additional sworn officers. The Police Department is expecting a rebate of \$25,000 from the R.E.A.C.T. Task Force that Officer Hunter is currently assigned to. The Police Department has invoiced the Sequoia Union High School District for \$43,000 for the services of the School Resource Officer assigned to Menlo-Atherton High School. The information I have is that the District has budgeted for this expense and was expecting an invoice for our services. Menlo College has also expressed in writing an interest in contributing to an additional sworn officer. Although the exact amount of the contribution has yet to be determined, it is expected to be between \$20,000 and \$40,000 per year. The Police Activities League is also willing to defray some of the costs (as in the past) not covered by the community, grants, or other sources of funding.

By the end of the grant, the department will be wholly responsible for funding of the officers hired under the grant and will then need to determine at that time to continue the program.

RETENTION REQUIREMENT:

This grant stipulates that the Town must agree to retain the SRO for at least one locally set budget cycle at the conclusion of the grant period (essentially a fourth year).

CONCLUSION:

Accepting this grant award will financially assist the Town in adding an additional SRO position, by forgoing \$125,000 in salary and benefits over the next three years.

ALTERNATIVE:

Decline the grant award.

FISCAL IMPACT:

Over the three-year life of this grant, the Department of Justice will fund \$125,000. The Town of Atherton will incur an obligation of \$156,443 to supplement the salary and benefits of the new SRO. This amount will be defrayed primarily by an annual contribution from the Sequoia Union High School District in the amount of \$43,000. Additionally, a rebate of \$25,000 from the R.E.A.C.T. Task Force, and \$21,000 "Cops on the Street" funds from the current budget are available for matching funds.

No additional vehicles, firearms, cell phones, pagers, computers or flashlights are necessary to outfit the position. Uniforms are included in the above listed expenses.

Prepared by:

Approved by:

Robert J. Brennan, Police Chief

James Robinson, City Manager

Attachments:

COPS in Schools 2001 Federal and Local Share financial requirements (page 6 of Grant).



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: SHARON BARKER, CITY CLERK

DATE: FOR THE MEETING OF DECEMBER 19, 2001

**SUBJECT: SAN MATEO COUNTY CITY SELECTION COMMITTEE
SELECTION OF REPRESENTATIVES**

RECOMMENDATION:

Appoint a Town of Atherton City Council Member to attend the San Mateo County City Selection Committee meeting on December 21, 2001, if the Mayor is unable to attend, and authorize said Council Member to vote for city representatives to certain county commissions.

BACKGROUND/ANALYSIS:

Council Member Helen Fiscaro, Chair of the San Mateo County City Selection Committee, has called a special meeting of the Committee on December 21, 2001. The purpose of the meeting is to elect city representatives to vacancies on various county commissions. The agenda, and a list of the council members requesting to be appointed, are attached. Also attached are letters from two council members requesting the support of the Atherton City Council.

Prepared by:

Approved by:

Sharon Barker
City Clerk

James H. Robinson
City Manager