



Minutes
Town of Atherton
CITY COUNCIL
April 18, 2012
7:00 p.m.
Menlo College
Brawner Room #407 (PIT)
1000 El Camino Real
Atherton, California
REGULAR MEETING

Mayor Widmer called the meeting to order at 7:00pm.

1. **PLEDGE OF ALLEGIANCE**

2. **ROLL CALL** Dobbie, Widmer, McKeithen, Carlson, Lewis (excused)

3. **PRESENTATIONS**

Mayor Widmer presented a proclamation to the Atherton Police Department volunteers honoring their service to the Town of Atherton.

Mayor Widmer presented a proclamation to Meals on Wheels for their years of service to the residents of the Town of Atherton.

Mayor Widmer also thanked Menlo College for hosting the City Council meeting.

4. **PUBLIC COMMENTS**

Denise Kupperman wanted to remind the community that the Atherton Tree Committee is hosting their Arbor Day event on Saturday, April 21 at Holbrook-Palmer Park at 9:30am. They will be planting three trees – adding to their Elm grove as well as a planting a ginkgo tree. Community is encouraged to attend this annual event.

Joseph Rosas announced that there is an education forum for candidates for State Assembly for District 24 to be held at Cupertino Community Hall. The event is Friday, May 18 at 7pm. It will include a debate/forum between candidates.

Anne McNertney wanted to know why Menlo College was chosen for the City Council meeting and would like to request it not be chosen again. Mayor Widmer said the Town is trying to move the meetings around to different locations to maximize public input.

Council Member Dobbie remarked that they have found in the past the attendance at Council meetings was low and specifically they wanted to try to get more young people to attend the meetings. The Council thought it might be an educational experience for them. It was thought that if it was done at Menlo College they might draw some younger citizens.

Ms. McNertney further asked when it would be appropriate in the meeting to ask questions about the Library. She continued that the Library EIR did not take into account the medical building on the side of Watkins across from the proposed right hand turn lane. Ms. McNertney feels the right turn lane would devalue their land. It's already a raceway as it is. This would lose the setback and the roadway would be very close to their house. Ms. McNertney is asking for a vote to determine where the Library should reside.

Charles Marsala presented a thesis from a student who studied San Jose State's partnership with the City to build a new library. Mr. Marsala suggests that maybe the same thing could be done with Menlo College and the Town of Atherton. He believes there could be a lot of benefits.

Carl Ferraro – El Camino. Mr. Ferraro lives north of Watkins. He has seen a lot of accidents. The proposed Library will create more traffic. Mr. Ferraro wants to know where the money is coming from and who is going to provide upkeep. He believes his neighborhood will be full of traffic.

Council Member McKeithen responded that the monies already exist in a special fund that can only be used for the Library. There will be no special tax. As far as maintenance – there have been studies that parks and libraries in a community increase property values – not decrease. All of these things have been studied at great length and are available on the library web site.

Mayor Widmer read a letter from Planning Commission Chair Herman Christensen. Chair Christensen wanted it to be known that at the most recent Planning Commission meeting it was decided that the Commission would recommend to the City Council that the General Plan Committee be disbanded.

5. REPORT OUT OF CLOSED SESSION

City Council met with the labor advisor and there was no reportable action.

6. CITY MANAGER'S REPORT

Council Member McKeithen requested of Interim City Manager that at the next meeting she give a public report to the community on the Menlo Park Facebook EIR and how they have addressed or not addressed issues pertinent to Atherton.

Secondly, Council Member McKeithen would like a report of how much upkeep for the tennis courts costs the Town. It seems like a lot of upkeep for very few residents using them.

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

CONSENT CALENDAR (Items 8-19)

Items pulled from Consent Calendar: 8, 9, 16, and 19.

10. AWARD OF CONTRACT FOR THE 2012 SPRING PATCHING PROJECT

Report: Public Works Director Mike Kashiwagi

Recommendation: Award the contract for 2012 Spring Patching Project, project number 56051 to Half Moon Bay Grading & Paving, Inc., the low bidder on the March 28, 2012 bids, for \$137,160.00; and to authorize the City Manager to execute the contract on behalf of the Town

11. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION FOR THE HOOVER STREET CROSSWALK PROJECT

Report: Public Works Director Mike Kashiwagi

Recommendation: Accept work and authorize recording of a notice of completion for the Hoover

12. AWARD OF CONTRACT FOR THE 2012 CAPE/SLURRY PROJECT

Report: Public Works Director Mike Kashiwagi

Recommendation: Award the contract for 2012 Cape/Slurry Project, project number 56052 to Graham Contractors, Inc., the low bidder on the April 10, 2012 bids, for \$455,021.00 and to authorize the City Manager to execute the contract

13. APPROVE AN AMENDMENT WITH DEBRA AUKER FOR FINANCE DIRECTOR SERVICES FOR THE TOWN

Report: Interim City Manager Theresa DellaSanta

Recommendation: Approve an amendment with Debra Auker to provide interim finance director services on a month to month basis in the amount of \$112 per hour, and authorize interim City Manager to execute an amendment on behalf of the Town

14. ATHERTON LIBRARY BUILDING PROJECT – SECOND AMENDMENT TO LSA ASSOCIATES AGREEMENT

Report: Town Planner Neal Martin

Recommendation: Approve the second amendment to the LSA Associates agreement which expands the scope of services to provide additional services and adds \$7,565 to the compensation, and authorize the City Manager to execute the agreement

15. 2011 ANNUAL REPORT TO THE CITY COUNCIL ON THE ATHERTON GENERAL PLAN IMPLEMENTATION

Report: Town Planner Neal Martin

Recommendation: Accept the annual report and authorize its transmittal to the California Governor's Office of Planning and Research and the California Department of Housing and Community Development pursuant to Section 65400 of the California Government Code

17. APPROVE THE SELECTION OF NOVA PARTNERS AS PROJECT MANAGER FOR THE NEW ATHERTON LIBRARY PROJECT AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE CONSULTANT SERVICES AGREEMENT FOR A NOT-TO-EXCEED FEE OF \$137,000

Report: Public Works Director Mike Kashiwagi

Recommendation: Approve the selection of Nova Partners as the New Atherton Library Project Manager and authorize the City Manager to execute the Consultant Services Agreement in an amount not-to-exceed \$137,000

18. APPROVAL OF PLANS AND SPECIFICATIONS AND AUTHORIZATION TO ADVERTISE FOR THE 2012 PARK PAINTING PROJECT

Report: Public Works Director Mike Kashiwagi

Recommendation: Approve the plans and specifications and authorize advertisement for bids for the 2012 Park Project No.56054

MOTION by McKeithen, second by Dobbie to approve the consent agenda excluding items 8, 9, 16 and 19. The motion passed.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1(Lewis)

Council then took up items that were removed.

8. APPROVAL OF BILLS AND CLAIMS FOR MARCH, 2012 IN THE AMOUNT OF \$721,807

Recommendation: Approve Bills and Claims in the amount of \$721,807

Council Member McKeithen requested of Interim Finance Director Debra Auker that someone let Council Member McKeithen know, by email, how much the Town spends on the Police dogs per year.

MOTION by McKeithen, second by Dobbie to Approve Bills and Claims for March 2012 in the Amount of \$721,807. The motion passed.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1(Lewis)

9. APPOINT HOLBROOK-PALMER PARK FOUNDATION REPRESENTATIVE FRANK MERRILL TO PARK & RECREATION COMMISSION TO FILL RESIGNATION OF RICHARD MOORE

Report: Interim City Manager Theresa DellaSanta

Recommendation: Appoint Atherton resident Frank Merrill as the Holbrook- Palmer Park Foundation representative to the Park & Recreation Commission

Council Member Dobbie asked what the term would be if Frank Merrill was appointed to the Park & Recreation Commission. Interim City Manager DellaSanta answered that he would complete the term of the resigning commissioner, Richard Moore.

Council Member Dobbie also wanted to know if anyone else was interested in the position or if the Park & Recreation Commission decided who would replace Commissioner Moore. Interim City Manager DellaSanta responded that the Holbrook-Palmer Park Foundation recommended Mr. Merrill as their representative.

Council Member McKeithen asked for clarification on the terms. City Attorney Bill Conners answered that two full terms is the maximum that anyone can serve. He further clarified that everyone is appointed by the Council even if they are recommended by a Commission or the Dames, etc.

City Attorney also clarified that the City Council has the authority to let the person serve out the time remaining in an existing term or the Council can grant the incumbent a full term. It is up to the Council. Mayor Widmer stated that traditionally the Council simply filled the seat to finish out the term.

Council Member McKeithen mentioned that there are several seats on the Parks & Recreation Commission that are vacant and are not being filled. Several members have not been to the last few meetings.

Motion by McKeithen, second by Dobbie to appoint Atherton resident Frank Merrill as the Holbrook Palmer Park Foundation representative to the Parks & Recreation Commission to complete the term of Richard Moore.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1(Lewis)

16. REVISIONS TO INTERWEST GROUP CONTRACT

Report: Interim City Manager Theresa DellaSanta

Recommendation: Approve revisions to Interwest Group contract and authorize City Manager to execute an amendment

Council Member Dobbie commented that he would like the term of the contract to be one additional year from the conclusion of the term that will end September 22, 2012.

Council Member McKeithen wanted to make sure the provision suggesting that in order to determine payment that comps are looked at and used is still in the contract.

Council Member McKeithen wanted clarification and or/ rewording on section 18B2. It should say “up to 80%” instead of just 80%. Also, increments of 1/6 will never be mathematically equal so some other equation should be used for this section.

Mayor Widmer suggested that the wording be reworked to be clearer and that the numbers be reworked so that the calculation will result in whole numbers. And perhaps there should be a rounding provision to make that part clear.

City Attorney Connors remarked on the provision that was removed. Hard to figure out how to increase compensation with a one year contract. It could be implemented on a multi-year contract and can be with some input from the Council.

Mayor Widmer wants the language in the first paragraph cleaned up to make the standards of service portion clearer.

MOTION by Dobbie, second by McKeithen to Approve the suggested revisions to the contract for the Interwest Group for Building and Life Safety Services with modifications we have discussed including reducing the term from three years to one year from the September 22, 2012 date. And including changes to section 18,B,2 and to authorize the City Manager to work with the City Attorney to develop and execute the amendment, based on Council action. The motion passed.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1(Lewis)

19. APPROVE MAYOR’S REQUEST TO SOUTH BAY WASTE MANAGEMENT AUTHORITY MEMBER AGENCIES TO SUPPORT AMENDING THE JPA TO ALLOW EACH AGENCY TO APPOINT THEIR REPRESENTATIVE
Recommendation: Approve letter

Council Member Carlson asked if the letter rules out staff being appointed.

City Attorney Connors responded that it doesn’t rule that option out.

Council Member Carlson thinks the tone of that portion of the letter is negative and thinks it should be reworked. Council Member Carlson commented that it’s not just cities that belong to the agency but the County and a district too. And it is up to the individual jurisdiction to make sure they are informed of price increases or changes in price structure.

MOTION by Carlson, second by Dobbie to Approve Letter. The motion passed.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1(Lewis)

PUBLIC HEARINGS

20. INTRODUCTION OF PURCHASING ORDINANCE TO AMEND CHAPTER 3.16 OF THE ATHERTON MUNICIPAL CODE AND ADOPT PURCHASING RELATED RESOLUTIONS
Report: Interim Finance Director Debra Auker
Recommendation: Introduce Purchasing Ordinance amending Chapter 3.16 of the Atherton

Municipal Code establishing purchasing policy for goods and supplies, equipment, professional and nonprofessional services and public works contracts.

Three votes are required to introduce the Ordinance. A second vote, scheduled at least ten days from the date of this meeting, is required to pass the ordinance. It is also recommended that the Council adopt the attached resolutions:

1. Approve resolution establishing purchasing policy amount limits as required in Chapter 3.16 of the Atherton Municipal Code
2. Approve resolution electing to become subject to the Uniform Public Construction Cost Accounting Procedures

Interim Finance Director Debra Auker presented the Staff Report on the Town's new purchasing ordinance. The new ordinance would amend Chapter 3.16 of the Atherton Municipal Code. The code was written by several groups including the Audit Committee and reviewed by the Interim Finance Director and City Attorney.

The old ordinance was outdated; it was last adopted in 1994. This new ordinance is much more logically laid out and up to date. Interim Finance Director gave an overview of the Staff Report.

Council Member McKeithen asked why, in the Staff Report, in the line entitled *Goods, supplies, equipment, materials and nonprofessional services* should say "over \$1000." Council Member McKeithen asked for anything under \$1000 to be explained in the chart as well since it is explained elsewhere in the document.

Council Member McKeithen noted that under *Professional Contract Services* it says "three informal proposals desired." Council Member McKeithen wants to know if it can be changed to "required". City Attorney Connors answered that it was intentional to address those times when three proposals are not feasible. It was agreed that the language would be changed to be less ambiguous.

On page five, in the section entitled "Purchase Orders" it says that any professional services costing more than \$1000 require a purchase order. Council Member McKeithen would like to know why that is not in the table about professional services.

Interim Finance Director Auker explained that the "Purchase Orders" section is an umbrella section over all purchasing and so it wasn't called out in each section. Council Member McKeithen feels that it is possible that it could be overlooked and not clear that a purchase order is required.

Interim Finance Director Auker explained that there is text at the beginning of the ordinance and at the end that make it clear. Council Member McKeithen feels it bears repeating so there is no confusion.

Mayor Widmer would like it added to eliminate any doubt. Interim Finance Director Auker agreed that it would be added.

Council Member McKeithen asked where procurement by committee members enters into the ordinance. Committee members have, in the past, made procurements. Council Member McKeithen asked how these purchasing regulations apply to these situations.

Interim Finance Director Auker responded that all spending of Town funds falls under this new ordinance.

Council Member McKeithen would like definition added for "force account."

Council Member McKeithen pointed out an error on page 8 regarding the amount under which the City Manager can enter into a contract when the total amount is less than \$25,000. That should say \$15,000 and will be changed to reflect the amount that was voted on by the Council.

Council Member McKeithen would like to know who could void a contract signed by someone other than the City Manager or the Mayor.

Another comment by Council Member McKeithen: Page 10, A, E and F all need the language “in the opinion of the Purchasing Manager” in them.

Council Member McKeithen requested a change on Page 13, 3.16.210. She thinks the text is intended to say “City Manager and Finance Director.”

Council Member McKeithen asked about Page 15, 3.16.260 – Council Member McKeithen doesn’t understand why there is a provision about a circumstance which the Council would not authorize the City Manager to execute a contract under the agreed upon amount.

An aside from the above comment – Council Member McKeithen thinks the amount under which the City Manager can enter into a contract should be \$25,000 and not \$50,000. Council Member McKeithen suggested that the ceiling be lowered to \$25,000 and the part about the Council not giving authority to the City Manager be taken out.

Council Member McKeithen has some other changes of typos and awkward language which she gave to Interim Finance Director in writing.

Council Member Dobbie wanted to point out that the “and” in this document emphasizes that two people are required to sign off on a contract.

Council Member Dobbie said that the Audit Committee worked hard on the document and the Council should take their suggestions very seriously.

Council Member Carlson wanted to know about the Mayor’s contract authority. The Mayor’s signing amount would be \$15,000 or under.

Council Member Carlson asked for clarification on Page 18, 3.16.350 and Interim Finance Director replied that this typically comes into play with large developments and will likely not come up in Atherton.

Council Member Carlson asked for clarification about if the City Manager is out of town and can’t sign. City Attorney Connors responded that what would usually happen is that an Acting City Manager is put into place while the City Manager is out of Town. The Mayor can also sign.

Mayor Widmer wanted to clarify section 3.16.330F. He wanted to make sure “surplus” was added to this section and not just donated.

Mayor Widmer commented that the Audit Committee spent a lot of time on this and they felt that based the fact that we still have many interim positions, the committee felt that the lower limits were appropriate. Mayor Widmer would like the ordinance to stand for many years but would like the limits to remain where they were based on the Audit Committee’s recommendation.

Council Member McKeithen would like the informal Public Works limit set at \$25,000. If that is done then the sentence on page 15 about not giving the City Manager authority could be removed.

Mayor Widmer would like some text (provided in email) added to section 3.16.200 C1 that the best efforts will be made to bring decisions before the Council.

Mayor Widmer read a letter from the Audit Committee Chair, Rose Hau. He received a similar letter from Audit Committee Member Bob Massey.

MOTION by McKeithen, second by Widmer to Introduce Purchasing Ordinance amending Chapter 3.16 of the Atherton Municipal Code establishing purchasing policy for goods and supplies, equipment, professional and nonprofessional services and public works contracts as amended. The motion passed.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1(Lewis)

MOTION by McKeithen, second by Widmer to Approve resolution establishing purchasing policy amount limits as required in Chapter 3.16 of the Atherton Municipal Code as amended tonight with the dollar amounts changed to \$25,000 and to take effect upon the effective date of the purchasing ordinance. The motion passed.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1(Lewis)

MOTION by McKeithen, second by Widmer to Approve Resolution Electing to Become Subject to the Uniform Public Construction Cost Accounting Procedures. The motion passed.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1(Lewis)

REGULAR AGENDA – (Item 21)

21. REINSTATEMENT OF THE ENVIRONMENTAL PROGRAMS COMMITTEE

Report: Interim City Manager Theresa DellaSanta

Recommendation: Reinstate the Environmental Programs Committee

Interim City Manager DellaSanta referred to her report and opened the discussion for questions.

Council Member Carlson would like to see regular meeting date so committee members and members of the public can easily take part in the items before the committee.

Mayor Widmer feels that care should be taken to size the committee appropriately and to make sure that a minimum is set for the committee that must be met for the committee to exist. He added that the committees are there to support the Council but also the Council Member assigned to the committee has an obligation to the Town to keep track of the committee and what is going on with it.

Council Member McKeithen commented that the Committee did some good but it ended up being a runaway committee. There were illegal contracts, contracts without signatures; the meetings were at odd times, or not at all. Sometimes the meetings were not announced. There were no minutes for months posted for the meetings that were held. Council Member feels that the committee did some good things but before it is reinstated some things need to be straightened out.

Charles Marsala gave a brief history of the committee and its origin and during his tenure on the committee (2006-2009) noting there were regular meetings and minutes were kept.

Some discussion arose during the motion that it would be hard to impose training for a committee that is not yet in existence. The City Attorney emphasized the need for a body to be in place before training could commence.

An issue was discussed before the motion regarding web sites that were started by the EPC or associated bodies and the Town's recourse to remove/disband web sites. Some of the web sites were paid for by the Town's money. The City Attorney advised that he will look into the process of shutting down web sites that use the Town of Atherton name illegally but clarified that the issue is separate from the reinstatement of the Environmental Programs Committee.

MOTION by Carlson, second by McKeithen, to table the Environmental Programs Committee issue until the May 4, 2012 meeting. The motion passed.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1(Lewis)

22. COUNCIL REPORTS

23. FUTURE AGENDA ITEMS

24. PUBLIC COMMENTS

25. ADJOURN

MOTION by Widmer, second by McKeithen to adjourn the meeting. The motion passed unanimously.

Mayor Widmer adjourned the meeting at 9:35pm.

Respectfully submitted,

Theresa DellaSanta
Interim City Manager