



Minutes
Town of Atherton
CITY COUNCIL
March 21, 2012
7:00 p.m.
COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California
REGULAR MEETING

1. **PLEDGE OF ALLEGIANCE**

2. **ROLL CALL** Lewis, Dobbie, Widmer, McKeithen, Carlson

3. **PRESENTATIONS**

REALIGNMENT – Presented by San Mateo County Assistant Sheriff Trisha Sanchez.

Assistant Sheriff Sanchez gave a brief update of the state prisoner realignment on behalf of Sheriff Greg Munks. Realignment went into effect on October 1, 2011. Assistant Sheriff Sanchez gave a brief history of how the state prisoner realignment came to be. The realignment refers to addressing overcrowding in the state's prisoners. Assistant Sheriff Sanchez addressed the reasons for the realignment and the possible repercussions on local jurisdictions.

4. **PUBLIC COMMENTS**

Bill Warren gave a report about high speed rail. Mr. Warren wanted to bring two documents to the council's attention: "Analysis of Local Transit Agencies Use of High Speed Rail Funds," and "The CHSRA Knows Their Proposed High-Speed Train Will Forever Need an Operating Subsidy." Both documents can be found at www.cc-hsr.org. Another document is a report done for the GAO. The document will not be made public as it was done for the GAO but Interim City Manager Della Santa has a copy and has distributed it. Mr. Warren would like to request that the Council support the two bills that are on tonight's agenda in item 16.

Davina Gentry of the High Energy Home program updated the Council on the user success and would like to invite other residents to take advantage of the program. Council Member McKeithen clarified that in order to take part in the program you have to have a SmartMeter and you cannot have solar. Council Member McKeithen asked Ms. Gentry when the program allowing solar would be rolled out. Ms. Gentry didn't know offhand but will look into it and report back. There is a component of the program that pulls in water component that allows you to look at water usage in your home as well. Vice Mayor Lewis added that a notice went out in the *Athertonian* regarding the program. A member of the public asked why solar users are not included. At this point solar users don't have SmartMeters and they are required to gather the data in order for the program to run its algorithms. Council Member McKeithen mentioned that the Town needs to do a better job of advertising the program.

Denise Kupperman reminded everyone that the Atherton Dames will be hosting their annual Easter Egg Hunt on Saturday, April 7 at Holbrook-Palmer Park. Volunteers are welcome at 8am to help hide the 6000 eggs.

5. **REPORT OUT OF CLOSED SESSION –**

Mayor Widmer reported that the discussion with the labor negotiators returned no actionable items.

The Council completed a successful performance appraisal for the City Attorney.

6. **CITY MANAGER’S REPORT**

Interim City Manager DellaSanta has provided her written report and wanted to add that on page 12 of 17 there is a Construction and Permit Summary and moving forward they will illustrate where they are against the budget.

7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT**

CONSENT CALENDAR (Items 8-21)

It was announced at the start of the meeting that items 12 and 14 of the Consent Calendar have been removed and will be resubmitted by Staff and should be heard at the April meeting.

8. **APPROVAL OF FEBRUARY 16, 2012 REGULAR MEETING**

Recommendation: Approve February 16, 2012 regular meeting minutes

9. **APPROVAL OF BILLS AND CLAIMS FOR FEBRUARY, 2012 IN THE AMOUNT OF \$763,615**

Recommendation: Approve Bills and Claims in the amount of \$763,615

10. **FINANCIAL REPORT FOR THE EIGHT MONTHS ENDED FEBRUARY 29, 2012**

Report: Finance Director Debra Auker

Recommendation: Receive the General Fund Financial Report for the eight months ended February 29, 2012.

11. **ACCEPTANCE OF QUARTERLY TREASURERS REPORT FOR DECEMBER 31, 2011**

Report: Finance Director Debra Auker

Recommendation: Accept Quarterly Report

12. **APPROVAL OF TOWN DISASTER COUNCIL**

Report: Police Chief Ed Flint

Recommendation: Approve the appointment by the Town Manager of five (5) civilian members to the Town Disaster Council

13. **RESOLUTION TO REJECT CLAIM OF COURTNEY SCHRIER, BY ELIZABETH SCHRIER, MOTHER AND GUARDIAN**

Report: Interim City Manager Theresa DellaSanta

Recommendation: Adopt Resolution 12-xx denying the claim filed by Elizabeth Schrier on behalf of Courtney Schrier for damages.

14. **APPROVE FOURTH AMENDMENT WITH MENLO-ATHERTON LITTLE LEAGUE ASSOCIATION TO PERMIT THE LITTLE LEAGUE TO OPERATE AT HOLBROOK-PALMER PARK**

Report: Interim City Manager Theresa DellaSanta

Recommendation: Approve amendment between the Menlo-Atherton Little League Association and the Town of Atherton for operation of Little League activities at Holbrook-Palmer Park

15. BAYFRONT CANAL/ATHERTON CHANNEL STORM MANAGEMENT ANALYSIS – LETTER OF SUPPORT

Report: Public Works Director Mike Kashiwagi

Recommendation: Authorize the Mayor to sign a letter of support for the Bayfront Canal/Atherton Channel Storm Management analysis to Don Edwards San Francisco Bay National Wildlife Refuge.

16. APPROVAL OF LETTER TO SENATOR DOUG LAMALFA SUPPORTING SENATE BILL 985 TO PREVENT THE SALE OF BONDS FOR CALIFORNIA HIGH SPEED RAIL (HSR); AND APPROVAL OF RESOLUTION IN SUPPORT OF ASSEMBLY BILL 1455 (HARKEY) – HIGH SPEED RAIL LEMON LAW

Report: Interim City Manager Theresa DellaSanta

Recommendation: Approve letter to Senator Doug LaMalfa supporting Senate Bill 985 and Adopt Resolution 12-xx Supporting Assembly Bill 1455

17. ATHERTON LIBRARY BUILDING PROJECT – SECOND AMENDMENT TO GROUP 4 ARCHITECTURE, RESEARCH AND PLANNING, INC. AGREEMENT

Report: Public Works Director Mike Kashiwagi

Recommendation: Approve the Second Amendment to the Group 4 Architecture, Research and Planning, Inc. agreement which expands the scope of services to provide additional details and adds \$1,400 to the compensation, and authorize the City Manager to execute the amendment

20. APPROVAL OF PLANS AND SPECIFICATIONS AND AUTHORIZATION TO ADVERTISE FOR THE 2012 CAPE/ SLURRY SEAL PROJECT

Report: Public Works Director Mike Kashiwagi

Recommendation: Approve the plans and specifications and authorize advertisement for bids for the 2012 Cape/Slurry Seal Project, Project No.56052.

MOTION by Carlson, second by McKeithen to approve the consent agenda excluding items 18, 19, and 21 and correcting typos in item 16. The motion passed.

Ayes: 5 Nays: 0 Abstain: 0 Absent: 0

Council then took up items that were removed.

18. SELECTION OF EXECUTIVE RECRUITMENT FIRM FOR CONDUCTING SEARCH FOR A PERMANENT CITY MANAGER

Report: Interim City Manager Theresa DellaSanta

Recommendation: Approve selection of recommended recruitment firm in an amount not to exceed \$17,000.

Mayor Widmer, together with Council Member McKeithen and Interim City Manager Theresa DellaSanta, recommends the Council retain Bob Murray & Associates. They are recommending that Council approve use of the firm and approve the City Manager and City Attorney to negotiate a contract.

Council Member Carlson asked if the figures before them will change. Mayor Widmer explained that that fee was for a retainer and the actual fee charged will be much lower.

Council Member McKeithen explained that the fee includes a two year money back guarantee. There is a great deal of flexibility. This firm does a quasi-complete background search – not all firms do that. Bob Murray is looking for a unique candidate to fit in Atherton. Council Member McKeithen believes this firm will allow for as much or as little input from the Council as the Council chooses.

Council Member Carlson asked if the firm can work with our time line. Council Member McKeithen assured him that they can.

Mayor Widmer mentioned that more candidates will apply if they know a recruiting firm is managing the process.

A citizen brought forth a concern about how much travel will be needed to bring in candidates. Mayor Widmer responded saying that was taken into account and much of the interviewing will be done using Skype or some other tele-presence. The Council will have the decision as to whether a candidate should be brought in for interviews.

MOTION by Dobbie, second by Lewis to approve selection of Bob Murray & Associates as the executive recruitment firm for conducting search for a permanent city manager. The motion passed.

Ayes: 5 Nays: 0 Abstain: 0 Absent: 0

19. CONSIDERATION OF SUPPORT FOR THE LEAGUE OF CALIFORNIA CITIES LEGISLATIVE ACTIVITIES

Report: Interim City Manager Theresa DellaSanta

Recommendation: Authorize the Mayor to Respond to Requests from the League of California Cities for Legislative Advocacy as deemed appropriate by the City Manager and City Attorney.

MOTION by McKeithen, second by Widmer to approve consideration of support for the league of California cities legislative activities. The motion passed.

Ayes: 5 Nays: 0 Abstain: 0 Absent: 0

21. APPROVAL OF AMENDMENT TO AGREEMENT FOR ACCESS WITH FELTON GABLES HOMEOWNERS ASSOCIATION AND AMENDMENT TO EASEMENT AGREEMENT BETWEEN JOSEPHINE LEE AND FELTON GABLES, INC.

Report: Interim City Manager Theresa DellaSanta

Recommendation: Approve amended access agreement and side letter agreement with Felton Gables Homeowners Association, and approval of amended easement agreement between Josephine Lee and Felton Gables, Inc..

Steve Tyler responded to Mayor Widmer’s question about the history of this topic. In 2009 there was a poll of Atherton and Menlo Park residents regarding traffic tables/speedhumps on Encinal Avenue. Atherton residents were not in favor. Menlo Park residents were in favor. It was decided that neither city overruled the other so they were not put in.

Council Member McKeithen would like to find out what the cost efficiency is of portable speed humps as used in Redwood City. Is it a deterrent, and what, if any noise aspects are involved. She would like to see a report back to the Transportation Committee. This is an issue that keeps coming up.

Council Member Carlson thinks that is a good idea to research further.

Council Member McKeithen would like approval to bring the findings back to the Council.

Paul Quinlan, citizen, spoke about the agreement with Felton Gables Homeowners Association. He noted the wording requires the Town to look into traffic measures and does not require the Town to implement anything. He suggested rewording to “traffic calming devices” rather than “traffic humps.”

Mayor Widmer would like the agreement to say “traffic calming devices” rather than traffic humps.

A citizen commented that the problem seems to be primarily when the children are entering and leaving Encinal School. He feels a police presence helping direct parents would be more helpful than speed bumps.

MOTION by Widmer, second by McKeithen to approve an amendment to Agreement for Access with Felton Gables Homeowners Association and Amendment to Easement Agreement between Josephine Lee and Felton Gables, Inc. with the words “speed bumps” to be replaced by “traffic calming methodologies.” The motion passed.

Ayes: 5 Nays: 0 Abstain: 0 Absent: 0

PUBLIC HEARINGS - None

REGULAR AGENDA – (Items 22-24)

**22. ADOPTION OF A RESOLUTION APPROVING THE MID-YEAR BUDGET
ADJUSTMENTS FOR FY 2011-2012**

Report: Finance Director Debra Auker

Recommendation: Adopt the Resolution Approving the Mid-Year Budget Adjustments for FY 2011-2012 (FY 2012)

Finance Director Debra Auker presented the report.

Council Member Carlson wondered if the Planning fee structure had changed. Lisa Costa Sanders replied that the fees have not changed, but we have seen less application for Planning Commission review recently.

Council Member McKeithen commented that the Council made a commitment to review fees on a more regular basis and she commented that the Council has not followed through on that.

Mayor Widmer wanted to know the status of the Building department unclaimed refunds. Need to look at notifications, statutes etc. to see when they roll in funds that haven't been claimed.

City Attorney Connors commented that the fee is often built in to projects and is often forgotten. In the past the money was turned over to the General fund. The thought remained that there needed to be enough for the odd occurrence of someone who was out of the country or something of that nature who reappears to legitimately claim their refund.

Vice Mayor Lewis asked where that revenue would be found on the chart. If there is a balance it would be included in the General Fund balance.

Council Member Dobbie wanted to know if Finance Director Auker has made an appointment with the County Assessor to see how property taxes are calculated. She had not made an appointment at that time but will do so. Council Member Dobbie would like to see if the Town of Atherton is getting the right amount of money from property taxes.

Council Member Dobbie also added that based on the Finance Committee review, the Town, at the end of the year, could have a negative balance of \$300,000, which is much better than last year. Council Member Dobbie would like that number to zero or positive at the end of the year.

Council Member McKeithen bought up the Post Office. It is projected to bring in \$7500 this year but costs upwards of \$40,000 to operate. It serves nine Atherton residents a day and nine Menlo Park residents a day. Council Member McKeithen thinks it should be discussed as a future Council agenda item. Interim City Manager DellaSanta responded that they have begun to gather data for a report on how many Atherton residents visit the Post Office daily.

Mayor Widmer mentioned that traffic citations are up. Wants to show proper trends where we can.

Vice Mayor Lewis wanted to make sure that the Building Department revenue vs. expenses was due to the restructuring of the department. Going forward those should level off. Also they will be left with \$600k in Building Department reserves, which is quite a lot.

Council Member McKeithen wanted to clarify that the person that thought that funds needed to be reallocated from the Building Department reserves was the former City Attorney and there were differences of opinion regarding that topic.

A citizen asked about the transfer from the special parcel tax fund. This fund should cover capital expenditures and safety. Staff noted that the Council is reviewing the operating budget at this time and not capital expenditures.

Council member Carlson asked if this review is limited to the general fund. Finance Director Auker responded in the affirmative, noting that Staff is not recommending an adjustment to any special funds.

MOTION by Carlson, second by Dobbie for the adoption of a Resolution approving the mid-year budget adjustments for FY 2011-2012

Ayes: 5 Nays: 0 Abstain: 0 Absent: 0

23. TOWN COMMITTEES & COMMISSIONS AND RULES & PROCEDURES

Report: Interim City Manager Theresa DellaSanta

1. Reinstate the Environmental Programs Committee, and review the charters and purpose of all current Town Committees and Commission and decide whether there is a need to alter, merge or dismiss certain committees based on existing staff resources.
2. Extend all Committee and Commission expiration dates to June 30, 2012.
3. Review and approve rules and procedures for Committees and Commissions.

Interim City Manager Theresa DellaSanta reported.

Council Member McKeithen wanted to start the discussion by stating that this agenda item was initiated because of an investigation of a particular committee. Council Member McKeithen thinks that making amendments to the committees and commissions before the details of the investigation are made public is premature. The public should be made aware and have a chance to comment and ask questions before changes are made. She would like to make a motion that the investigative report be made public as well as the report that was prepared by our City Attorney based on that investigation. Council Member McKeithen would like to put aside this discussion until such time as the information is distributed.

City Attorney Bill Connors believes there is no reason not to release the report.

Mayor Widmer agrees and since Town funds were used to have the report done and it was requested by the Town; in the interest of transparency, he thinks the information should be released.

Vice Mayor Lewis thinks it is a good idea to give guidance and direction to all of the committees and commissions. She also thinks that each committee and commission should undergo the same scrutiny that the investigated committee underwent.

MOTION by McKeithen, second by Dobbie for the release of the report on the Environmental Programs Committee.

Ayes: 5 Nays: 0 Abstain: 0 Absent: 0

Discussion on the Committees and Commission continues:

Council Member Carlson thinks it's a good idea to look at the committees and commissions.

Council Member Dobbie is uncomfortable with some of the wording proposed. Council Member Dobbie believes that the Council is responsible for making the rules and staff is to implement the rules. Council Member Dobbie wants to be careful that we don't get into a situation of having it the other way around.

Vice Mayor Lewis thinks that staff should act as a liaison for the committee and commission members. Vice Mayor Lewis and Mayor Widmer would like to provide all committee and commission members with a handbook that would answer a lot of these questions and help the Town volunteers.

Mayor Widmer agrees that the volunteers are doing things for the best of the town. Mayor Widmer believes that there should be a Council Member on each of the commissions and committees. The Council Member is ultimately responsible for keeping the committee or commission on track. The committees should be involved; he would like them to have a representative of each committee speak at a Council meeting to inform the Council of their activities.

MOTION by Carlson, second by Widmer to extend all Committee and Commission Expiration Dates to June 30, 2012.

Ayes: 5 Nays: 0 Abstain: 0 Absent: 0

Council Member Carlson feels that Staff can be very helpful in making sure that our committees and commissions are abiding by the Brown Act and other Town policies and regulations.

Council Member Carlson would also like to see that the committees be matched up with staff members who are more informed and involved in a given topic.

Vice Mayor Lewis would like to discuss further in a workshop format.

Council Member McKeithen would like a continuance of this discussion to a future meeting..

MOTION by Lewis, second by McKeithen to request Staff Schedule a Public Workshop with Representatives from each Committee and Commission.

24. POSSIBLE START UP OF EVENT BOOKINGS AT HOLBROOK-PALMER PARK THROUGH THE 2012 CALENDAR YEAR

Report: Community Services Director Mike Kashiwagi

Recommendation: Provide direction to staff regarding starting full event bookings at Holbrook-Palmer Park through December 31, 2012

Community Services Director Mike Kashiwagi reported.

Council Member Carlson suggested if you want to discourage large groups you can charge more for larger groups to discourage them. He asked what kind of pricing model was used in the analysis.

Community Services Director Mike Kashiwagi answered that at this point they are relying on the existing fee structure. In some special situations, like the Easter Egg hunt, they are looking to make sure staff costs are recovered.

Council Member Carlson asked about the landscaping cost in the report. Community Services Director Mike Kashiwagi answered that this is to make sure the grounds are swept and “look nice” for an event and the amount is to cover the cost of staff. Council Member Carlson thinks the facilities and grounds should be rented “as is.”

Council Member McKeithen said that while discontinuing events might have gone too far – the colleagues’ memo approving this item doesn’t say anywhere that we will consider holding weddings and large corporate events again.

City Attorney Bill Conners made a distinction that staff is looking for direction in light of actions taken after the Colleagues Memo to clarify what events the Council wants to allow at the Park and which types it doesn’t want to allow. However, the wording must be defensible. We cannot say we won’t allow big groups and then host the largest event of the year in the park (Easter Egg Hunt). That will open the Town up to challenges of the wording.

Council Member Dobbie objects to having this brought up again. The Colleagues Memo was brought forward to make small adjustments to a decision that the Council already made. The staff report before them tonight brings the whole item up again including fees and budgets and revisiting the entire issue and it is inappropriate.

Council Member Carlson wants to know what’s peculiar about weddings. Council Member McKeithen answered that the staff report shows that the Town lost \$300,000 on weddings previously. Also, once you open the park up to weddings, the park will be occupied every weekend with a wedding. This will deprive Atherton residents of the ability to enjoy their park.

Council Member Carlson responded that the Easter Egg hunt only includes about 20% Atherton residents. Council Member McKeithen suggested that it’s not about providing events for Atherton residents but rather community-centered events.

Council Member McKeithen would like to allow birthdays, bah mitzvahs and other large group events that originate in the community.

Mayor Widmer wants to discuss that residents who are paying for the upkeep of the park were beginning to find that they were not able to use the park due to the amount of events being held. The Council should make restrictions that allow for the residents of Atherton to use the park. Having size and use restrictions makes sense. If the event is a money-making event, the Town should be compensated. Mayor Widmer has polled citizens and found that the residents want to use the park for events are willing to do the set-up and use their own caterer. They don’t need the Town to dictate all of those details. The Town should charge a deposit.

Council member Dobbie agrees with Council Member McKeithen’s suggestions about what events should be allowed.

Council Member Carlson would like to name “Designated Community Organizations” that allow those organizations to approach the City Manager about holding events. Mayor Widmer feels that if the organizations are charging a fee, the Town should get cost recovery from any group.

Two citizens spoke on behalf of the Atherton Civic Interest League (ACIL). Wanted to make clear that they are there to help and assist the Town and wanted to give an overview of what types of events they will be holding in the park.

John Davey (ACIL) spoke about not being able to use the park for a “Meet your Neighbors” event. He is pleased with the progress this evening and thinks definitions need to be made on who can use the park. The unintended consequences need to be revisited.

Bob McLean (ACIL) was dismayed by the bureaucratization of the process (insurance etc.).He also expressed concern that he didn’t see the difference between some of the events that are allowed and some that are not and it could end up being a problem.

A representative from the Atherton Dames spoke on the proceedings.

Council Member Carlson revisited the pricing portion of the discussion. He would like to look further at the price structure. The Town doesn’t have to be competitive in its pricing. Perhaps weekends should cost more.

Council Member McKeithen disagrees with a new pricing model. People pay taxes to get to use the park. They shouldn’t have to pay to use it. The Town shouldn’t try to recoup those costs.

Vice Mayor Lewis is concerned with cost differential for non-Atherton residents. The Town took on the stewardship of the park for the community. She thinks that limitations shouldn’t be on weddings but on number of guests for the events.

Interim City Manager DellaSanta asked if the recommendation for insurance will be at the discretion of the City Manager. This was affirmed by the Council.

A MOTION and a second was made for allowing use of the park by “Designated Community Organizations” and “Local Group Meetings” on a cost-recovery basis.

Ayes: 5 Nays: 0 Abstain: 0 Absent: 0

MOTION by McKeithen, second by Dobbie to allow parties and gatherings including birthdays, bah mitzvahs, bridal showers, memorial services and similar events giving the City Manager discretion on like activities. Also included would be graduation ceremony, art exhibits, family picnics and barbecues, fundraisers, and classes including but not limited to yoga, folk dance, country dance, family music, dog training and team sheeper. There will be no weddings or non-designated non-community organizations.

Ayes: 5 Nays: 0 Abstain: 0 Absent: 0

25. COUNCIL REPORTS

No further comments

26. **FUTURE AGENDA ITEMS** - none

27. **PUBLIC COMMENTS**

Council Member McKeithen wants consideration of a budget for the library. Wants to know what the staff budget is going to be for the library fund.

Finance Officer Debra Auker responded that the Council has approved a budget for the library fund which includes the design work that is being done. Next year it will be split out between maintenance and design and construction.

Council Member McKeithen clarified that the Library Steering Committee wants to find out what the budget is for staff working on the Library project.

Mayor Widmer asserted that there should be quarterly reports going to the Library for review.

Council Member McKeithen answered that there have been no quarterly reports to the Library.

City Attorney Conners would like to add to the Agenda – *Council Reports and Comments*. Council Members shouldn't make Public Comments but if the Agenda is changed to reflect comments after Council Reports this would alleviate any concerns of the Brown Act.

28. **ADJOURN** - The meeting was adjourned by Mayor Widmer at 10:30pm.

Respectfully submitted

**Theresa DellaSanta
Interim City Manager**