



**Minutes**  
**Town of Atherton**  
**CITY COUNCIL**  
**September 19, 2012**  
**7:00 p.m.**  
**COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California  
**REGULAR MEETING**

**1. PLEDGE OF ALLEGIANCE –**

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

**3. PRESENTATIONS –**

Mayor Widmer presented a proclamation to William Grindley in honor of his service to the city of Atherton. A proclamation was presented to Kristi Waldron will be made at a later date.

**4. PUBLIC COMMENTS –**

Denise Kupperman on behalf of the Tree Committee spoke to announce the Heritage Tree Award. She encouraged residents to nominate themselves or their neighbors. Applications can be found at the City's administrative offices. One new award is for developers who have demonstrated great care during construction. The application deadline is September 30.

**5. REPORT OUT OF CLOSED SESSION –**

The Council met with the labor negotiator and asked both the labor attorney and the City Attorney to start drafting a resolution which would define clearly the employee fringe benefits for the upcoming year. In addition they met and conferred to discuss recruitment of a new City Manager. Progress is being made on the search.

**6. CITY MANAGER'S REPORT –**

Councilmember Dobbie asked Police Chief Flint about the response time and how it could be brought back down to 5 minutes. Police Chief Flint answered that he would investigate the discrepancy and it should be clarified whether the response time is measured at the time the call is received or after it is dispatched.

Councilmember Carlson asked when the Disaster Preparedness Committee is due to report back to the Council. Interim City Manager DellaSanta answered that it would be in the next few months.

Councilmember Carlson made a request of the Interim City Manager DellaSanta that there be a table added to her monthly report that gives the estimate for things like the Bike and Pedestrian Master Plan and the Park Use Master Plan.

Councilmember Carlson asked if there was an update needed on SBWMA. Interim City Manager DellaSanta answered that she is meeting with the consultant on September 20 and will have a better idea on what the

rates will look like for 2013.

Vice Mayor Lewis asked if the consultant is also working on the fee study. Interim City Manager DellaSanta answered in the affirmative.

Councilmember Dobbie asked about an update on legal proceedings that are ongoing. City Attorney Bill Conners answered that he has provided two reports since the request was made of him. Councilmember Dobbie asked that the report be delivered before the Council meetings. City Attorney Conners responded in the affirmative.

Interim City Manager DellaSanta reported that the City has hired a Finance Director. His name is Robert Baron III. He is currently the Financial Services Manager for the City of Millbrae and his start date is October 9<sup>th</sup>.

**7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT – none**

**CONSENT CALENDAR (ITEMS 8-14)**

**8. APPROVAL OF JULY 25 SPECIAL MEETING MINUTES, AUGUST SPECIAL MEETING MINUTES: (8/7, 8/9 AND 8/21) AND AUGUST 15 REGULAR MEETING MINUTES**

**Recommendation:** Approve meeting minutes

**9. APPROVAL OF BILLS AND CLAIMS FOR AUGUST, 2012 IN THE AMOUNT OF \$760,114**

**Recommendation:** Approve Bills and Claims in the amount of \$760,114

**10. FINANCIAL REPORT FOR THE MONTH ENDED AUGUST 31, 2012**

**Report:** Finance Director Debra Auker

**Recommendation:** Receive the General Fund Financial Report

**11. ESTABLISH SPEED LIMITS – WALSH ROAD, ALEJANDRA AVENUE, FAIR OAKS LANE, JAMES AVENUE**

**Report:** Community Services Director Mike Kashiwagi

**Recommendation:** Staff recommends City Council declares the following speed limits based upon the engineering and speed studies and other related information: Walsh Road- 30 mph, Alejandra Avenue - 25 mph, Fair Oaks Lane - 25 mph, James Avenue - 25 mph

**14. ADOPT RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON SETTING A DATE FOR HEARING OBJECTIONS TO THE ANNEXATION OF THE LANDS OF SONMEZ TO THE ATHERTON CHANNEL DRAINAGE DISTRICT AND MAKING OTHER REQUIRED FINDINGS**

**Report:** Planner Neal Martin

**Recommendation:** Approve Resolution

**MOTION by Dobbie, second by Lewis to approve items 8, 9, 10, 11, and 14 of the Consent Calendar.**

**Ayes: 5**

**Nays: 0**

**Abstain: 0**

**Excused: 0**

**CONSENT CALENDAR ITEMS PULLED (12 & 13)**

**12. AUCTION AGREEMENT WITH FIRST CAPITOL AUCTION, INC., AND AUCTION OF SURPLUS TOWN VEHICLES**

**Report:** Police Chief Ed Flint

**Recommendation:** Approval of permitting the Redwood City Corp Yard to facilitate the auction of eight (8) surplus town vehicles. The Town of Atherton has a contract with First Capitol Auction of Vallejo, CA a company that will sell the Town's vehicles at auction, per agreement.

Councilmember McKeithen asked about the location of the auction company and the need to spend funds transporting the vehicles in question more than an hour away. Public Works Superintendent Steve Tyler answered that reputable auction companies are hard to find and this company has worked well for the Town in the past. Interim City Manager DellaSanta added that staff followed proper purchasing policy protocol.

Councilmember McKeithen and Councilmember Dobbie asked about getting rid of the dump truck. Public Works Superintendent Steve Tyler answered that there is a lot of upkeep on these old vehicles, including the cost to insure them, and they are unreliable when they are not getting a lot of use. He suggested that renting a dump truck when needed would be much more cost effective.

**MOTION by McKeithen, second by Lewis to approve the Auction Agreement with First Capitol Auction, Inc., and Auction of Surplus Town Vehicles**

**Ayes: 5**

**Nays: 0**

**Abstain: 0**

**Excused: 0**

**13. RECOMMENDATION FROM PARK & RECREATION AND ARTS COMMITTEE TO ACCEPT A DONATION OF ARTWORK (STATUES) BY SUSAN BLAKE FOR PLACEMENT IN HOLBROOK-PALMER PARK**

**Report:** Public Works director Mike Kashiwagi

**Recommendation:** Approve recommendation from the Atherton Park and Recreation Commission and the Atherton Arts Committee (AAC) to accept donation of two sculptures for placement at the Park.

Councilmember Carlson asked if the Town has any guidelines or criteria for sculptures or other artwork donations. Interim City Manager DellaSanta answered that the Town does not currently have guidelines but the Parks and Recreation Commission discussed creating some at their last meeting. Councilmember Carlson thinks this is very important.

Councilmember Carlson verified with Interim City Manager DellaSanta that the insurance for the items has been handled. She answered in the affirmative.

Councilmember Carlson asked who would cover the cost of delivery and installation. Interim City Manager DellaSanta answered that the delivery was being handled by the donor and the installation was coming out of the Arts Committee fund. Councilmember Carlson would like to be informed of the details of the maintenance costs of the upkeep of the site and artwork.

Councilmember Carlson asked about location and who will have the final say about where the pieces go. Interim City Manager DellaSanta answered that the City Council will have the final say, with input from the Parks and Recreation Commission and the Arts Commission.

Councilmember Carlson clarified that tonight would be approval but no decision about site would be

made. Interim City Manager DellaSanta answered in the affirmative.

A representative for the Arts Committee spoke. He estimated the value of the pieces to be about \$50,000. He thought the upkeep would be very minimal. He also suggested that the art will pose no more liability to the Town than a tree that children might climb.

A resident asked if the Council is concerned about vandalism. City Attorney Bill Connors commented that all cities are facing vandalism and/or theft of public items containing metals, which can be sold. Interim City Manager DellaSanta noted that the pieces will be insured against vandalism and hopefully with the police patrols, potential vandalism will be reduced.

**MOTION by Dobbie, second by McKeithen to approve the recommendation from Park & Recreation and Arts Committee to accept a donation of artwork (statues) by Susan Blake for placement in Holbrook-Palmer Park**

**Ayes: 5                      Nays: 0                      Abstain: 0                      Excused: 0**

**PUBLIC HEARINGS - none**

**REGULAR AGENDA – (Items 15-17)**

- 15. APPROVAL OF APPOINTMENTS TO THE AUDIT/FINANCE COMMITTEE, PARK & RECREATION COMMISSION, PLANNING COMMISSION AND RAIL COMMITTEE**  
**Report:** Interim City Manager Theresa DellaSanta  
**Recommendation:** Select and approve appointments

Interim City Manager Theresa DellaSanta presented the item. Interim City Manager DellaSanta provided ballots for voting, presided over the vote and collected ballots. The results were as follows:

**Finance Committee appointees:** Bob Polito and Diane Sandhu

**Park and Recreation Commission (Atherton Dames representative) appointee:** Tina Isenberg

**Rail Commission appointee:** Michael Lempres

**Planning Commission appointee:** Eric Lane

- 16. APPROVE THE SELECTION OF BIGGS CARDOSA ASSOCIATES, INC FOR THE MARSH ROAD RETAINING WALL DESIGN (PHASE 1) AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE CONSULTANT SERVICES AGREEMENT FOR A NOT-TO-EXCEED FEE OF \$78,102**  
**Report:** Public Works Director Mike Kashiwagi  
**Recommendation:** Approve the selection of Biggs Cardosa Associates, Inc. for the Marsh Road Retaining Wall design (Phase 1) and authorize the City Manager to execute the Consultant Services Agreement in an amount not-to-exceed \$78,102

Public Works Director Mike Kashiwagi presented the report.

Councilmember Carlson asked about the scope of the project. Public Works Director Mike Kashiwagi answered that the company will come up with three options that will then be brought to Council.

Councilmember Carlson asked if, during the project, there will be a survey to determine the boundaries between the neighbors and the Town. Public Works Director Kashiwagi answered that the survey would be a design-level survey. The survey would just be topographical. It will not survey actual property lines.

Councilmember Carlson noted that the condition of the road at the edge of the channel is not very good, and he wondered if part of the scope of the project could be used for a bike or pedestrian area. Public Works Director Kashiwagi answered that a bike/pedestrian path would be highlighted in one of the options presented to the Council.

Councilmember Dobbie asked if the homeowners could contribute to part of the cost of the wall. Public Works Director Kashiwagi suggested that this should not be considered since the channel is part of the Town's floodwater mitigation and is not the responsibility of the homeowners even if they live adjacent to it.

Vice Mayor Lewis asked about the length of fence that goes under the road. She wondered if the project will take that into consideration since the exposed wall is in disrepair. Public Works Director Kashiwagi answered that the portion of the wall under the road is not in the scope of the current project.

Vice Mayor Lewis asked if anyone has looked at the wall recently. Public Works Superintendent Steve Tyler answered that the portion of wall that is being replaced is about 65-70 years old. The part of the wall that Vice Mayor Lewis is speaking about was replaced and brought up to code much more recently.

Councilmember McKeithen asked how the consultants were ranked. Public Works Director Kashiwagi said it was based on the scope of work, the work plan, similar work experience, and the qualifications. Councilmember McKeithen then asked who on the panel was a licensed engineer. Public Works Director Kashiwagi answered that the panel was comprised of himself, Steven Tyler and Dave Huynh, who is a Civil Engineer.

Councilmember McKeithen asked if only the south side of the channel will be rebuilt. Public Works Director Kashiwagi answered that it will depend on the option chosen by the Council. He gave examples of three different scenarios that could be part of the study.

Councilmember McKeithen asked how the existing storm water runoff will be calculated. A representative from Biggs Cardoza spoke about the runoff and that the hydraulics will be measured and the goal is to not decrease the capacity for runoff. The scope of the project is not to improve the capacity for runoff.

Councilmember McKeithen asked why it states that after Phase 1 there will not be a need for another RFP. City Attorney Conners answered that the first RFP went out and they were tasked with choosing the most qualified. Once the consultant goes through Phase 1, it would be unlikely that they would be any less than the most qualified again. So legally, it is not required, although it is possible.

Councilmember McKeithen asked if anyone has looked into a grant for the project. Public Works Director Kashiwagi answered that it was something they would be looking into as the project progresses. Councilmember McKeithen asked if a grant is something that should be looked into up front to help determine the scope. Public Works Director Kashiwagi answered that he thinks it is reasonable to look into a grant as the project is taking shape.

Councilmember McKeithen is concerned about the section of the channel between the end of Watkins and the beginning of Marsh Road. Public Works Superintendent Steve Tyler answered that he walked it last week and it looks like it is good condition. Councilmember McKeithen asked when it was done. Public Works Superintendent Tyler answered that he believed it was constructed in the late 60's or early 70's.

Mayor Widmer asked if it is a fixed labor contract. Public Works Director Kashiwagi answered that it is a "not to exceed" contract. Mayor Widmer asked about the payment schedule and whether the Town would be billed for hours worked. Public Works Director Kashiwagi answered in the affirmative. Mayor Widmer would like this detail to be in the contract.

Mayor Widmer commented on other language in the contract that he would like cleaned up.

Mayor Widmer would like the contract to be more specific, with things like the 100 year flood study. He would like the wording to be specific so the Council and Town are clear on the scope of the project.

Public Works Director Kashiwagi clarified that the project is not a floodwater project and any improvements made will be done with the idea that the capacity will remain at better than or equal to the flood capacity in the channel currently. Mayor Widmer reiterated that he would just like the wording to be specific.

City Attorney Bill Connors commented that the contract has already been entered into and changes would have to be agreed to by the parties involved.

Vice Mayor Lewis wanted to make sure that the new channel is not bigger than it is now. She is also concerned about aesthetics and hopes there are ways to make the new design aesthetically pleasing. The representative from Biggs Cardoza spoke briefly about the types of things that can be done to improve aesthetics and keeping in mind a historical look.

Lou Paponis, MacBain Avenue, commented that he thinks the foundation should be included in the cost. He believes that eventually the open area will be closed and he is concerned about the foundation. Public Works Director Mike Kashiwagi answered that he is confident in the firms that are undertaking this project that they will be thorough in their assessment and will do a full structural study.

**MOTION by Dobbie, second by McKeithen to approve the selection of Biggs Cardosa associates, Inc for the Marsh Road Retaining Wall Design (Phase 1) and authorize the City Manager to execute the Consultant Services Agreement for a not-to-exceed fee of \$78,102.**

**Ayes: 5                      Nays: 0                      Abstain: 0                      Excused: 0**

**17. APPROVE A ONE YEAR EXTENSION WITH MCE CORPORATION FOR THE CONTINUATION OF PUBLIC WORKS MAINTENANCE AND MAINTENANCE MANAGEMENT SERVICES FOR A NOT-TO-EXCEED AMOUNT OF \$466,207.90**

**Report:** Public Works Director Mike Kashiwagi

**Recommendation:** Approve a one year extension with MCE Corporation for the period of July 1, 2012 to June 30, 2013 for the continuation of public works maintenance and maintenance management services for a not-to-exceed amount of \$466,207.90.

Public Works Director Mike Kashiwagi presented the item and report.

City Attorney Conners clarified that a letter was sent out today that amended the not-to-exceed amount. The number now is not-to-exceed \$467,000.

Mayor Widmer would also like, in the future, to break down the services to see if there could be cost savings found.

Mayor Widmer wondered about the absence of SLAs for park maintenance. City Attorney Bill Conners clarified that this is a contract extension and there was no renegotiation.

Steve Lowree from MCE commented that there was no park maintenance discussed but he would be happy to discuss that with staff if there is interest.

Vice Mayor Lewis asked about the maintenance of the foliage on the streets leading to El Camino. Public Works Superintendent Tyler spoke about the issue. The Town is trying to get residents involved when the bushes and branches are on private property. Vice Mayor Lewis also has concern about the bushes encroaching on some bike lanes and hopes that if that it is in the scope of MCE's work that they will take care of it.

Councilmember Dobbie would like the garden behind the Library maintained. Public Works Superintendent Tyler remarked that the garden behind the Library is being maintained weekly. Interim City Manager DellaSanta will look into it.

Councilmember Carlson asked about the donation of time made by MCE and who on staff makes suggestions. Public Works Superintendent Tyler answered that he works with MCE on this. Councilmember Carlson wondered if MCE would be willing to work on a Volunteer Day so residents could come and help out. Public Works Superintendent Tyler thought that would be a suggestion that could be worked on.

OPEN PUBLIC COMMENT  
CLOSED PUBLIC COMMENT

**MOTION by Carlson, second by Lewis to approve a one year extension with MCE Corporation for the continuation of Public Works maintenance and maintenance management services for a not-to-exceed amount of \$466,207.90**

**Ayes: 5                      Nays: 0                      Abstain: 0                      Excused: 0**

**18. COUNCIL REPORTS/COMMENTS**

**19. FUTURE AGENDA ITEMS**

- A. RESPONSE TO ATHERTON POLICE OFFICERS ASSOCIATION (APOA)  
TOWN-WIDE MAILER  
Report: Mayor Widmer and Councilmember Dobbie**

**MOTION by Carlson, second by Lewis to approve the Atherton Police Officers Association Town-wide Mailer on the City Council agenda.**

**Ayes: 5                      Nays: 0                      Abstain: 0                      Excused: 0**

**20. PUBLIC COMMENTS - none**

**21. ADJOURN – Meeting adjourned**