



**Minutes**  
**Town of Atherton**  
**CITY COUNCIL**  
**February 20, 2019**  
**CLOSED SESSION**

**6:00 P.M.**

**Administrative Conference Room**  
**91 Ashfield Rd**  
**REGULAR MEETING**

**7:00 P.M.**

**City Council Chambers**  
**94 Ashfield Road**

**Council Member Lempres will teleconference from the following location for both closed session and the regular meeting:**

La Quinta Resort & Club  
49-499 Eisenhower Drive,  
La Quinta, California, 92253

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

**7:00 REGULAR SESSION**

**1. PLEDGE OF ALLEGIANCE**

**2. ROLL CALL          Widmer, DeGolia, Lewis, Wiest, Lempres**

**PRESENTATIONS**

- **Oath of Office – Officer Diego Romero** – Administered by Commander Joe Wade

Commander Wade introduced Officer Romero and administered the oath of office. Romero's wife pinned him.

**4. PUBLIC COMMENTS** *(This portion of the meeting is reserved for persons wishing to address the Council on any matter not on the Agenda that is within the subject matter jurisdiction of the City Council. State law prohibits the Council from acting on items not listed on the Agenda except by special action of the City Council under specified circumstances. Speakers' time is limited to three minutes. Additionally, the public may address the Council on any subject listed on the Consent and Regular Agenda. Each speaker may address the Council once for a limit of three minutes.)*

Jim Janz, Atherton resident, complimented Public Works Director Ovadia and public works staff for solving the flooding problem at Wilburn Ave.

Jim Massey, Atherton resident, addressed a potential Brown Act violation by Rail Committee members. He suggested that the last two rail committee meetings should be null and void because of it. Massey suggested that staff release all public documentation regarding Brown Act violations, and that any rail committee members involved resign from their positions.

Jack Ringham, Atherton resident, complained about missing attachments for agenda items.

Greg Conlon, Atherton resident, addressed the issue of the safety of the children and suggested forming a foundation between the Town of Atherton and the Fire District and other individuals who want to contribute to store additional police and equipment to be ready for attacks in schools.

Emily Finn, representative of Green Waste recovery, expressed an interest in an RFP process to future refuse contracts with the Town of Atherton

**5. REPORT OUT OF CLOSED SESSION - Report out by City Attorney**

City Attorney Connors reported. There was no reportable action for items A and C. Regarding Item B Council gave direction to City Counsel to confer with outside counsel on how to proceed.

**CLOSED SESSION IN CONFERENCE ROOM**

**ROLL CALL**            **Wiest, Widmer, Lewis, DeGolia, Lempres**

**A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Pursuant to Government Code Section 54957(b)**

*City Manager*

Council discussed and no action was taken.

**B. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Subdivision (a) of Section 54956.9)**

*One (1) Case*

Council discussed and gave direction to City Attorney Bill Connors to seek outside legal assistance.

**C. CONFERENCE WITH LABOR NEGOTIATOR – Labor negotiations pursuant to Government Code Section 54957.6**

*Agency Negotiators: George Rodericks, City Manager*

*Employee Organization: Unrepresented Employees, Atherton Police Officers' Association*

**6. CITY MANAGER'S WRITTEN REPORT AND VARIOUS DEPARTMENT ORAL REPORTS ON NOTED ITEM**

**Discussion:** *The City Manager's Report includes written reports from the Town's various Departments. Staff is present to answer any questions the Council may have on the various issues noted in the written in the Reports. The Council may ask questions and discuss any of the various items in the City Manager's Report. Staff is also present to provide oral reports on the status of the following issues/projects: Public Safety Activity and Crime Prevention – Steve McCulley, Police Chief*

City Manager Rodericks stated that Commander Joe Wade is present to answer any questions and provide updates on the recent rash of burglaries in Town.

Commander Wade informed Council that there had been six burglaries in January and two in February; the Department has since increased its burglary suppression efforts. As a result, Police have made one weapons arrest, one burglary arrest from the Encinal school, and three mail thefts which include possession of a stolen property. Four of the five individuals who were arrested did have a theft history but unfortunately the department doesn't not think they are our burglars.

Council Member Wiest requested the details of the Fletcher property burglary. Commander Wade stated that this burglary was a ground floor invasion but has not determined what has been stolen.

Council Member Lewis questioned if the home was vacant during the time of the burglary. Commander Wade stated that there was no one home at the time of the burglary.

Council Member Wiest commented that on weekends and evenings he has witnessed that there has been an increase police patrol.

## **7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT**

### **CONSENT CALENDAR (Items 8-13)**

Council Member Lempres questioned Item 11. Lempres asked how SB1421 affects the Town's records retention policy. City Attorney Conners stated that there are no records that fall within that category and he would be happy to discuss SB1421 and AB748 in detail with any member of the council

Council Member Lewis asked for clarification on whether they three files that are being destroyed have current ongoing litigations. City Attorney confirmed that none have any litigation associated.

**MOTION by Lewis, second by Wiest to approve the Consent calendar. The motion passed unanimously with Lempres recused from Item 12 due to the proximity of the project to his home.**

## **8. APPROVAL OF MINUTES**

**Report:** City Clerk Theresa DellaSanta

**Recommendation:** Approve minutes for: January 9, 2019 and January 21, 2019

**Description:** *This item involves approval of draft minutes from past City Council meetings.*

## **9. APPROVAL OF BILLS AND CLAIMS FOR JANUARY, 2019 IN THE AMOUNT OF \$ 1,318,062**

**Report:** Finance Director Robert Barron III

**Recommendation:** Approve Bills and Claims for November in the total amount of \$ 1,318,062

10. **ACCEPTANCE OF TREASURER’S REPORT FOR THE SECOND QUARTER ENDED DECEMBER 31, 2018**  
**Report:** Finance Director Robert Barron III  
**Recommendation:** Accept the Treasurer’s Report for the Second Quarter Ended December 31, 2018
11. **RESOLUTION AUTHORIZING THE DESTRUCTION OF RECORDS PURSUANT TO GOVERNMENT CODE SECTION 34090**  
**Report:** Police Chief McCulley  
**Recommendation:** Adopt the attached Resolution authorizing the destruction of certain records pursuant to Government Code Section 34090  
**Description:** *Upon review of the Report, the City Council would authorize files that are ready for destruction under the Town’s Document Retention Policy and subject to Government Code Section 34090. The documents are as follows: 1 Citizen Complaint from 2013 that exceeds the 5 year standard to maintain, 2 partial backgrounds for Police Officers that were not hired and 2016 Citations. The last two have a 2 year standard for maintenance.*
12. **ACCEPT THE FINAL PARCEL MAP FOR THE CIVIC CENTER PROJECT AT 91 ASHFIELD ROAD AND 2 DINKELSPIEL STATION LANE (APNS 060-321-010, 060-321-130, 060-323-180, 060-323-010, 060-321-170 and 060-321-160)**  
**Report:** Town Planner Lisa Costa Sanders  
**Recommendation:** It is recommended that the City Council determine that the Final Parcel Map is in conformity with the approved Tentative Parcel Map, the requirements of Title 16 (Subdivisions) of the Atherton Municipal Code and the California Subdivision Map Act and accept the Final Parcel Map for recording.  
**Description:** *This item involves the review and approval of the Civic Center’s Final Parcel Map. The Map combines all of the connected parcels of the Civic Center into one parcel. If discussed, the Council would discuss the merits of the Parcel Map and issues related to setbacks and lot coverage.*
13. **ACCEPT THE FISCAL YEAR 2017-18 AUDITED BASIC FINANCIAL STATEMENTS**  
**Report:** Finance Director Robert Barron III  
**Recommendation:** Accept the FY 2017-18 Audited Basic Financial Statements and the Memorandum on Internal Control and Required Communications

**PUBLIC HEARING** – None

**REGULAR AGENDA** – (Items 14-21)

14. **DISCUSS AND, IF APPROPRIATE, ADOPT AMENDMENTS TO THE TOWN’S RAIL POLICY; PROVIDE DIRECTION AND FEEDBACK TO STAFF REGARDING A RESPONSE TO THE CALTRAIN BUSINESS PLAN; AND ESTABLISHMENT OF AD HOC SUBCOMMITTEE TO WORK WITH STAFF REGARDING TRANSIT ORIENTED DEVELOPMENT AND TO MEET WITH LEGISLATORS REGARDING HOUSING ALONG RAIL CORRIDORS AND POTENTIALLY MEET WITH CALTRAIN REPRESENTATIVES REGARDING THE ATHERTON STATION**  
**Report:** Public Works Director Robert Ovardia

**Recommendation:** Discuss, and, if appropriate, adopt amendments to the Town’s Rail Policy; provide direction and feedback to staff regarding a response to the Caltrain Business Plan; and establish an Ad Hoc Subcommittee regarding Transit-Oriented-Development and to meet with Legislators and other elected officials regarding housing along rail and transit corridors, and potentially meet with Caltrain representatives regarding the Atherton Station.

**Description:** *This item involves the consideration of amendments to the Town’s Rail Policy. The Council will discuss potential levels of service for the Atherton Train Station and provide direction to staff to provide input in the development of the Caltrain Business plan and desired service levels. The Council may also discuss current regional and legislative efforts regarding transit-oriented development and may create a subcommittee to meet with legislators and other elected officials regarding housing along rail and transit corridors.*

City Manager Rodericks presented.

Lewis questioned if there is pressure from Caltrain for Atherton to decide whether it will remain open or closed and to define full Caltrain service. She felt the Town should work with C/CAG and the League on progressive language that defines specific criteria about what to do with the train station.

Mayor Widmer opened up for public comment.

Jack Ringham, Atherton resident, said SB50 requires job-rich housing opportunities and suggested we determine if Atherton borders job-rich projects in surrounding communities.

Paul Jones, Atherton resident provided material that describes topics that was discussed at the Rail Committee meeting regarding this item. He stated that the weekend service that Caltrain is providing to Atherton has been a nuisance to the homes nearby the train station.

Frank Burke, Atherton resident, commented that the weekend and weekday services are not beneficial due to the transit times. He urged Council to negotiate with Caltrain to close the station as it presents beneficial factors and to possibly determine other alternative public transportation such as van service.

Wally Sleeth, Atherton resident, commented that the train has some benefits and to carefully consider all options before deciding to close the station.

Greg Conlon, Atherton resident, commented that the issue of SB50 has presents many issues and that a lobbyist should be given an opportunity to present the full details.

Alex Keh, Atherton resident, commented that a fair definition of job rich housing might be defined as “a community that has more jobs than homes.” He suggested the Ad Hoc community meet with Caltrain as soon as possible to provide an opportunity to create a beneficial agreement for the Town of Atherton.

Randy, Atherton resident, commented that the increase of level of services would be at a disadvantage for residents.

Barret Anderson, Atherton resident, commented that he hopes SB50 would not change the nature/environment of Atherton.

Matt, Atherton resident, commented that restoring services would be an opportunity for Atherton residents to get cars off the road. He requested that the Council not defer to the recommendation of the rail committee and to review without indifference.

Nerissa Dexter, Atherton resident, commented that the train station should be closed as it would eliminate the safety risks posed by the current dangerous configuration of the hold out stations. She suggested negotiating a right to use the land after it's closed and incorporate it into the civic plaza. She commented that closing the station would improve the quality of life because the immediate cessation of noise.

John Maultbetsch, Atherton resident, commented that the decision to close the station would have a negative impact and that it is too early in the process. He suggested meeting with Caltrain to determine what they would like to achieve for the future of the Atherton train station.

Public Comment was closed.

Council Member Lempres commented that with the new civic center coming now is as good a time as ever to look at what to do with the station. He felt an ad-hoc committee to discuss with Caltrain would be appropriate.

Mayor Widmer commented that the plans presented by Caltrain is still in process and that there is still an opportunity to raise the concerns that residents have. He suggested an ad-hoc committee to brainstorm ideas including council feedback. He clarified that the ad-hoc committee does not determine the final decision and is not related to SB50 discussions.

Council Member Wiest commented that SB50 and Caltrain should be kept separate. Some variable factor of SB50 will come our way at some point but as far as making a decision related to the station it is not related. He suggested carefully and thoughtfully negotiating with Caltrain.

Vice Mayor DeGolia commented that the train service is an asset to the Town. He also felt that times have changed and people are not commuting to San Francisco like they did twenty or thirty years ago. He suggested talking with Caltrain to see what their desire is for the train station and also noted changes to the rail policy to remove points that will not benefit the residents.

Council Member Lewis stated that there needs to be a partnership with C/CAG and the League in crafting language to SB50 that wouldn't put Atherton at risk. Lewis said neighbors are subjected to train noise and the hold-out station should be redeveloped; these are things that should be negotiated with Caltrain. Lewis supported an ad-hoc committee.

Council agreed that the Mayor will form an Ad Hoc Subcommittee to meet with staff and Caltrain on the future of the Atherton Station; use the Town's existing Subcommittee for the League of Cities and C/CAG to address the potential of State Legislation, to include the drafting of potential legislative changes; and task the Ad Hoc Subcommittee to craft changes to the Town's Rail Policy based on the Rail Committee's recommendations and return with a recommendation for the City Council.

**15. AUTHORIZE MAYOR TO TRANSMIT A COMMENT LETTER TO CALTRAIN REGARDING CONSTANT WARNING TIME SYSTEM CONCERNS ASSOCIATED WITH THE CALTRAIN MODERNIZATION PROJECT**

**Report:** Public Works Director Robert Ovadia

**Recommendation:** Authorize the Mayor to sign the attached letter and transmit to Caltrain expressing concerns regarding the planned Constant Warning Time system for the various trains operating on the Caltrain Corridor

**Description:** *This item involves concerns raised at the Town's Rail Committee regarding the planned Constant Warning Time system for the various trains operating on the Caltrain Corridor. Constant Warning Time devices are to provide relatively uniform advance warning time between the activation of warning devices and train arrival. The Council may discuss issues the Denver Regional Transportation District (RTD) is experiencing with the implementation of their Constant Warning Time System for their new electric light rail system and its applicability to the Caltrain corridor. The Council will consider transmittal of a letter to Caltrain regarding the issues as Caltrain's contractor for their modernization project is part of the Denver contractor/operator team.*

City Manager Rodericks reported.

Paul Jones, Atherton resident, Caltrain hired Balfour Beatty who is connected with Denver Regional Transportation District. He stated the Balfour Beatty has violated several policies and regulations and has not acknowledged their actions.

Nerissa Dexter, Atherton resident, further elaborated on Balfour Beatty's issues with the FRA. She expressed that she does not support sending a letter to Caltrain at this time.

Roland Lebrun, San Jose resident, discussed his attendance at a recent Caltrain meeting. He did not support sending the letter.

Vice Mayor DeGolia commented that the Town of Atherton should not get involved in this issue. He followed what happened in Denver and would never want to see that here but didn't feel Atherton needs to get involved.

Council Member Lewis commented the letter be simplified to express our concerns about the potential for something like this to come up in our electrification project. Ask for reassurance to not let this happen.

Council Member Wiest commented that the goal is to create a safer corridor; it is important to let Caltrain know about the precautions of working with Balfour Beatty and that we are aware of the issues. He felt the language could be made a bit shorter; didn't feel it was confrontational.

Mayor Widmer felt an obligation to send our concerns.

The Council discussed issues related to the tone of the proposed letter; the need for the letter; and whether the Town should be weighing in on the issue at all. Following discussion, the Council advised that the Rail Committee should invite Caltrain to come speak regarding the issue at an upcoming Rail Committee meeting, and following that public meeting, if the Committee felt that a letter still needed to be sent, that the Committee make such a recommendation to the Council.

**16. APPROVE THE MIDDLEFIELD ROAD CLASS II BICYCLE LANES IMPROVEMENTS PLANS AND SPECIFICATIONS AND AUTHORIZE ADVERTISEMENT FOR PUBLIC BIDS - PROJECT NUMBER 56081**

**Report:** Public Works Director Robert Ovadia

**Recommendation:** Approve the Middlefield Road Class II Bicycle Lanes Improvements Plans and Specifications and authorize staff to advertise for public bids

**Description:** *This item involves the approval of project design documents for the Middlefield Road Class II Bicycle Lanes Improvements project and authorization to release the project for public bid. The Council may discuss the proposed improvements which extend along Middlefield Road from north of Jennings Lane to south of Ravenswood Avenue.*

The Council discussed issues related to grants and funding of the project, noting the savings found by grants and collaboration with PG&E's pending gas line replacement project.

**MOTION by Lewis, second by Wiest to approve the bid specifications of Middlefield Road Class II Bicycle Lanes and authorized the bid. Motion passed unanimously by a roll call vote.**

**17. CIVIC CENTER UPDATE: AUTHORIZE THE CITY ATTORNEY TO PREPARE AND THE CITY MANAGER TO EXECUTE A LEASE AGREEMENT WITH MOBILE MODULAR MANAGEMENT CORPORATION FOR THE RELOCATION OF ADMINISTRATION/FINANCE AND BUILDING/PLANNING STAFF DURING CONSTRUCTION OF THE CIVIC CENTER PROJECT**

**Report:** Public Works Director Robert Ovadia

**Recommendation:** Authorize the City Attorney to prepare and the City Manager to execute a Lease Agreement with Mobile Modular Management Corporation in the amount not to exceed \$271,238 for two – 36'x60' trailer setups (six total trailers) for Admin/Finance and Building/Planning for a period of 20 months and authorize a 20% contingency in the amount of \$55,000 for the City Manager to execute as needed changes to the lease or required unforeseen work, moving expenses, utility connections and other equipment required to install the trailers.

**Description:** *This report requests City Council authorization for the City Manager to execute a Lease Agreement with Mobile Modular Management Corporation in the amount not to exceed \$271,238 for six temporary trailers to be located in the North Meadow parking lot in Holbrook-Palmer Park for Admin/Finance and Building/Planning staff for a period of 20 months during the construction of the Civic Center project.*

Council Member Lempres was recused due to the proximity of the project to his home.

Hanneman stated that the bid for the Civic Center Project will be held on February 27, 2019. He noted that staff will not execute a contract until after the bid.

The Council discussed issues related to parking, availability and cost of space outside of Town, comparative costs, and notification to Park group users.

**MOTION by Wiest, second by Widmer to direct the City Manager to authorize up to \$271,238 in an agreement with Mobile Modular Management. Motion passed 4-0-1 by a roll call vote with Widmer, DeGolia, Lewis and Wiest in favor, and Lempres recused.**

**18. RECEIVE AND FILE THE MID-YEAR BUDGET REPORT FOR FY 2018/19; AND ADOPT THE BUDGET AMENDMENT RESOLUTION FOR NECESSARY ADJUSTMENTS**

**Report:** Finance Director Robert Barron III



**Recommendation:** Receive and file the Mid-Year Budget Review for the General Fund for FY 2018/19; and adopt the attached Resolution authorizing a Budget Amendment for Necessary Adjustments

**Description:** *This item will involve a discussion by the Council of the Mid-Year Budget review of General Fund for FY 2018/19. It will also include adoption of a budget amendment resolution for necessary adjustments to budgeted expenses. Discussion will include projected revenues and expenditures of the General fund and adjustments to operating departments. Also will include discussion update to the FY 2018/19 projected unallocated Fund Balance and estimated allocation and funding toward Civic Center. Council Discussion could also include upcoming CIP projects and provide opportunity to make adjustments and corrections based on unanticipated changes, goals and priorities of the Council. Adoption of budget resolution will be to FY 2018/19 General Fund operational expenditures.*

Council Member Lewis questioned the increase for custodial services and if there as an established service. Rodericks confirmed that the existing custodial services will be terminated, and the new service will move forward as a month-to-month service.

Vice Mayor DeGolia questioned the change in revenue for police. Barron stated that the increase of officers in school and the anticipated costs were factored in.

**MOTION by Lewis, second by Widmer to adopt the Resolution authorizing a Budget Amendment for Necessary Adjustments. The motion passed unanimously by a roll call vote.**

**19. DISCUSSION OF OPTIONS FOR USE OF RULE 20A UTILITY UNDERGROUNDING WORK CREDITS AND PROVIDE STAFF WITH DIRECTION**

**Report:** Public Works Director Robert Ovadia

**Recommendation:** Discuss options for use of Rule 20A Utility Undergrounding Work Credits; consider the option of selling accumulated Rule 20A work credits; and provide staff with direction

**Description:** *This item involves the consideration of the use of PG&E Rule 20A utility undergrounding work credits. The Council will discuss potential of selling or transferring the Town's work credits to another interested community. The Council may direct staff to reach out to communities within the PG&E service area to gauge their interest in purchasing the Town's work credits.*

Council Member Lempres questioned how long it would take for the funds to be available if transferred. Rodericks informed him that it would take 30-60 days.

Council Member Lewis questioned if we can apply the funds to other avenues. Rodericks informed that we can borrow only 5% per year.

Council Member Lempres questioned how other cities were able to find cost-efficient methods.

City Manager Rodericks informed that other cities have other contributors within the community which helped build the underground utility districts and who have also received larger funds.

Walter Sleeth, Atherton resident, suggested looking into the cost of a second transformer.

**Council asked that staff explore with PG&E the cost to underground utilities along the Fair Oaks corridor near the Civic Center and attempt to assess if there are any agencies currently looking for Rule 20A funds.**

**20. DISCUSSION AND DIRECTION REGARDING THE AMENDED AND RESTATED FRANCHISE AGREEMENT BETWEEN THE TOWN OF ATHERTON AND RECOLOGY SAN MATEO COUNTY FOR RECYCLABLE MATERIALS, ORGANIC MATERIALS, AND SOLID WASTE COLLECTION SERVICES**

**Report:** City Manager George Rodericks

**Recommendation:** Review report and provide direction for next steps with respect to the Amended and Restated Franchise Agreement between the Town of Atherton and Recology San Mateo County for Recyclable Materials, Organic Materials, and Solid Waste Collection Services

**Description:** *This item involves a discussion of the Amended and Restated Franchise Agreement between the Town and Recology; a requested review of refuse collection rates of other jurisdictions; and direction to staff regarding adoption of the Amended Agreement or preparation of a Request for Proposal for consulting services to prepare a Request for Bid for Refuse Services.*

City Manager Rodericks reported.

The Council discussed issues related to rates of other agencies compared to the Town; potential expansion and cost to the Town for expansions at the SBWMA Shoreway Facility; impact on staff time and resources for processing a bid for services at this time with other ongoing priorities; and the cost for soliciting a bid for services.

**Council directed to reschedule Item 20 to be discussed in March at which time the Town will have additional information after the Civic Center bid.**

**21. DISCUSSION AND DIRECTION REGARDING LEAF BLOWERS AND POSSIBLE RESTRICTIONS ON THEIR USE IN TOWN**

**Report:** City Manager George Rodericks

**Recommendation:** Review and discuss the report and provide direction to staff regarding leaf blowers and possible restrictions on their use in Town.

**Description:** *The Council will review and discuss the possibility of researching the use of leaf blowers in consideration of a ban or limitation on their use. The Council will discuss the restrictions on leaf blowers in other jurisdictions and may discuss the use of a local Town subcommittee to conduct outreach and education.*

The Council discussed issues related to the efficiency of electric powered leaf blowers; impact of future State legislation; environmental issues; whether this was an issue that needed to be explored at all; and the effectiveness on large parcels

**Council directed that the Environmental Programs Committee review the staff report and explore the issue further.**

22. **COUNCIL REPORTS/COMMENTS** - Council asked that staff put out information on how to serve on a Grand Jury to the public via the Friday Atherton Online and to contact City Clerk Theresa DellaSanta for more information on how to get involved.
23. **FUTURE AGENDA ITEMS**
24. **PUBLIC COMMENTS**
25. **ADJOURN**

Mayor Widmer adjourned the meeting at 10:11 p.m.

Respectfully submitted by,  
Theresa DellaSanta