



MINUTES
Town of Atherton
CITY COUNCIL
ATHERTON CHANNEL DRAINAGE DISTRICT
JUNE 18, 2008

7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

Mayor Janz called the meeting to order at 7:06 p.m.

1. **PLEDGE OF ALLEGIANCE**
2. **ROLL CALL**
3. **PRESENT** Jerry Carlson
Charles E. Marsala
James R. Janz
Kathy McKeithen

City Manager Jerry Gruber and City Attorney Marc Hynes were also present.

4. **PRESENTATIONS**

Carolyn Williams, Principal, Selby Lane School, updated the Council on activities and programs at Selby Lane School. Enrollment for the year was 700 students in Kindergarten through 8th Grade. The school had attained the title of an International Baccalaureate School with the Middle-Years Program, grades 6, 7, and 8. She appreciated the support from the Police Department for assistance with students, as well as special functions. There were several state and federal guidelines for public schools. Selby Lane School received some federal funding by meeting Adequate Yearly Progress (AYP) standards. A state guideline was the Academic Performance Index (API), and Selby Lane School's API was 719, up 150 points from 7 years ago. The goal was to reach 800. She thanked Council for its support. She distributed a brochure from the Selby Lane Education Foundation.

5. **PUBLIC COMMENTS**

Bill Grove, Atherton, Member of the ACIL and its Disaster Preparedness Committee, spoke regarding the limited routes in and out of west Atherton in case of wild fire. He urged Council to approve the Menlo Park Fire Protection District (MPFPD) working with residents to develop exit routes.

City Manager Jerry Gruber said a meeting took place the previous day. Police Chief Bob Brennan was working on an evacuation plan as well as working with the Circus Club to develop a staging area. The MPFPD plan was being worked on with residents of west Atherton and was a collaborative effort. The next meeting was July 29 and meeting with residents would occur in between.

Shirley Carlson, Atherton, announced that the Holbrook-Palmer Park Foundation and Atherton Dames were kicking off “Swing in the Park” on Sunday, September 7, 2008, from 2:00 p.m. until dusk. She encouraged everyone to attend and was looking for volunteers. She thanked Public Works Director Duncan Jones and Park staff for all the work on the City Manager’s home.

John Ruggeiro, Atherton, noted the passing of John Sisson, President of the Lloyden Park Homeowners’ Association and a past member of the San Mateo County Grand Jury. He said John had been a war hero receiving the Purple Heart, Bronze Star, and Silver, Star.

5. REPORT OUT OF CLOSED SESSION

City Manager Jerry Gruber said no reportable action was taken regarding the Closed Session:

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

Agency Negotiator: Glenn Berkheimer, I.E.D.A.; Jerry Gruber, City Manager Current and Upcoming Labor Negotiations

6. CITY MANAGER’S REPORT

City Manager Jerry Gruber introduced his wife Melanie, who was officially an Atherton resident. The City Manager’s home was almost finished and he thanked staff for their hard work. He noted that Watkins Avenue would be closed from June 20-23 and June 27-30 for repairs. He said that Police Chief Bob Brennan was being honored that evening as one of the “Top Cops” in San Mateo County. He reported on several meetings he attended during the month. He also updated Council and the residents regarding the Town’s website improvements to foster better communications and a new and approved *Athertonian*.

Council Member Marsala announced a “Welcome Party” for the City Manager would take place on Tuesday, July 15, from 5 to 7 p.m. in the Pavilion.

In response to Vice Mayor Carlson, City Manager Gruber talked about the recruitment processes. Applications were received for Police Chief (55), Assistant City Manager (45) and Finance Director (17). He hoped to fill the positions by the middle of August or early September.

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

Atherton Heritage Association

Marion Oster, President, Atherton Heritage Association, said Sally Bush established the Association in the early 1990s and had spent 10 years collecting materials. Currently, there were 12 members, 7 of whom were working members, and there was always a need for new members. The Heritage Room was open on Tuesday mornings from 10-12 and included books, maps, newspaper clippings, yearbooks, etc. She spoke regarding how things were acquired for the Heritage Room. She noted that Nancy Lund and Pamela Gullard were writing a history of the Town of Atherton, which was about a year away from completion.

CONSENT CALENDAR (Items 8-22)

Council Member McKeithen commented on Item Nos. 9, 11, 13, 18, 20, and 21. She asked whether she should recuse herself from Item No. 15 since she lived nearby. City Attorney Marc Hynes stated the item was ministerial in that it was setting the date for a public hearing. When the item was heard, he recommended she step down. She asked that Item No. 14 be removed for discussion.

Mayor Janz commented on Item Nos. 15 and 18.

Vice Mayor Carlson had questions on Item No. 11 regarding the status of management's responses, on Item No. 12, and Item No. 13. He requested that Item No. 18 be removed for discussion.

MOTION – to approve the Consent Calendar as presented, with the exception of Item Nos. 14 and 18, which were removed and placed at the end of the Regular Agenda for discussion.

M/S McKeithen/J.Carlson

Ayes: 4 Noes: 0 Absent: 0 Abstain: 0

8. APPROVED MINUTES OF THE SPECIAL CITY COUNCIL CLOSED SESSION MEETING AND REGULAR CITY COUNCIL MEETING OF MAY 21, 2008

9. APPROVED BILLS AND CLAIMS FOR MAY IN THE AMOUNT OF \$ 842,363

10. ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR MAY 2008

Received the Monthly Financial Report for May 2008.

11. ACCEPTANCE OF THE FINAL AUDIT MANAGEMENT LETTER FOR FISCAL YEAR 2006-07

Received and filed the Report to Town Council and Management for the year ended June 30, 2007.

12. APPROVAL OF PROFESSIONAL SERVICES AGREEMENT WITH REDWOOD CITY TO PROVIDE THE TOWN WITH INFORMATION TECHNOLOGY SERVICES

Authorized the Mayor to execute an agreement with Redwood City for Information Technology services.

13. AMENDMENT TO CONTRACT FOR SERVICES WITH NEAL MARTIN & ASSOCIATES

Approved the proposed rate increase.

~~**14. APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT FOR GOLDFARB (HOUSING ELEMENT)**~~

~~**Recommendation: Approve the attached Professional Services Agreement with Goldfarb & Lipman for legal services and assistance with the review, preparation, and presentation of the 2007-14 Housing Element Update. (Removed and placed on the Regular Agenda for discussion.)**~~

15. SET A DATE FOR A PUBLIC HEARING FOR AN APPEAL OF THE PUBLIC WORKS DIRECTOR'S DECISION REGARDING 99 DE BELL

In accordance with Atherton Municipal Code Section 17.64, the City Council set the date for the public hearing for the City Council meeting of July 16, 2008.

16. ADOPT A RESOLUTION APPROVING A NO STOPPING ZONE ON SELBY LANE OPPOSITE SELBY LANE SCHOOL

Adopted Resolution No. 08-17 approving a "No Stopping" zone on Selby Lane opposite Selby Lane School, fronting 165, 171 and 177 Selby Lane. This will be a modification to an existing "No Stopping" zone to adjust the sign legend and time limits.

17. ADOPT A RESOLUTION APPROVING A NO STOPPING ZONE ON EDGE ROAD BETWEEN LOWERY DRIVE AND LAUREL SCHOOL

Adopted Resolution No. 08-18 approving a "No Stopping" zone on Edge Road between Lowery Drive and Laurel School.

~~**18. APPROVAL OF RESPONSE TO THE GRAND JURY REPORT**~~

~~**Recommendation: Consider response to Grand Jury report and provide direction regarding any additions or revisions. (Removed and placed on the Regular Agenda for discussion.)**~~

19. APPROVE AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH CSG CONSULTANTS, INC., FOR CODE ENFORCEMENT

Approved an Amendment to the Professional Services Agreement with CSG Consultants, Inc., to provide Code Enforcement Services to the Town of Atherton in the amount of \$53,000.

20. APPROVE AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH CSG CONSULTANTS, INC., FOR MUNICIPAL CIVIL ENGINEERING SERVICES FOR THE REVIEW OF DEVELOPMENT PROJECTS

Approved an Amendment to the Professional Services Agreement with CSG Consultants, Inc., for Municipal Civil Engineering services for the review of development projects, in an amount not to exceed \$100,000 for Fiscal Year 2008-09.

21. ADOPTION OF RESOLUTIONS PERTAINING TO THE NOVEMBER 2008 GENERAL MUNICIPAL ELECTION

Recommendation: 1) Adopted Resolution No. 08-19 calling for a General Municipal Election for the purpose of electing two (2) members of the Atherton City Council and requesting consolidation with the County Elections Office; and 2) Adopted Resolution No. 08-20 requiring candidates to pay the prorated cost of publication and distribution of the Statement of Qualifications and specifying the length of the Statement.

22. CONSIDERATION OF DESIGNATING A VOTING DELEGATE AND ALTERNATE FOR THE 2008 LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE

Appointed Vice Mayor Jerry Carlson as a voting delegate and Council Member Marsala as an alternate to the League of California Cities Annual Conference and Annual Business Meeting to be held in Long Beach from September 24 through September 27, 2008.

Mayor Janz moved Item No. 26 from the Regular Agenda forward to be heard before Item No. 23, Public Hearing.

26. SIDEWALK REPAIRS FOR LLOYDEN PARK

Public Works Director Duncan Jones said one reason the initial remediation to the sidewalks was performed was because the Town's insurer (ABAG) gave the Town \$5,000 per year for sidewalk remediation. A program was being implemented to inspect the sidewalks every two years in order to have the entire cost covered by ABAG. The subject repairs were addressing those portions of the sidewalk that were in too much disrepair to do simple remediation. In all seven instances, the repairs were due to tree roots pushing up on the sidewalks, resulting in the need for the tree root to be pruned, which had a potential impact on the tree and was most often on private property. A waiver of liability was needed in order for the Town to take over

the responsibility, giving the option to the homeowners of signing or electing to do the work themselves. In conjunction with state law, the Atherton Municipal Code states the responsibility for sidewalk repairs lies with the homeowner.

On advice from the City Attorney, Mayor Janz recused himself from the item because he lived in Lloyd Park. Vice Mayor Carlson presided over the item.

Council Member McKeithen had a report written by John Sisson shortly before his death regarding arguments in favor of the Town assuming responsibility for repairing sidewalks including: 1) the Town already paid for many of the sidewalk displacements, i.e., 10 out of the 17 sites were ground down and 7 were not, making the Town involved in some but not in others; 2) everyone paid the Parcel Tax, so the Town should pay the \$35,000 for repair of the only sidewalks in Town; 3) the damage might not be caused by the homeowner's tree, but that of a neighbor; 4) Sidewalks were used as much by passer-bys as residents; 5) Palo Alto paid for emergency sidewalk repairs including cement pushed up by the roots; an insurance claim caused by sidewalk upheaval would be costly to the Town. His report went on to discuss other items that the Lloyd Park Homeowners' Association did at its own cost and asked that the Town consider the request to pay the cost of the sidewalk repairs. Council Member McKeithen thought the cost was small, hoped that ABAG would continue to pay the cost of remediation, the potential cost to the Town was considerable; the risk to the Town was considerable, and the sidewalks were used by all.

Richard Moore, Atherton, had met with John Sisson before his death. Lloyd Park was the only area in the Town that had sidewalks. He believed the Town was responsible, and the liability would ultimately rest with the Town either way. He strongly supported Alternative 2.

Janet Simonds, Atherton, showed a picture of the sidewalk in front of her home. Homes in Lloyd Park were 50 to 60 years old and in need of maintenance. Some residents were widows, young couples, or singles and the cost to repair the sidewalks would be a hardship. She urged the Town to fix the sidewalks.

Stuart Awbrey, Atherton, lived by a sidewalk that had a serious tree problem. She thought the Atherton Municipal Code Section 12.06.020 regarding the issue might have been written before the sidewalks were in Lloyd Park and pertained to the rest of Atherton. Sidewalks were an impervious surface, i.e., incapable of being passed through or penetrated.

James Dobbie, Atherton, had previously lived in Palo Alto for many years. Someone fell and sued the City of Palo Alto and won a large judgment. He urged the Town to fix the sidewalks

Nancy Smee, Atherton, appreciated others' comments. She encouraged the Town to fix the problem. She was a single owner and the cost would be a hardship.

Elizabeth Lewis, Atherton, believed the Town was responsible to repair the sidewalks in Lloyd Park. Section 12.06.020 stated the public right-of-way was to be safe.

During her campaign, she sent out a survey and residents responded that safe streets and right-of-ways being blocked by stumps or boulders, etc., were of concern.

James Janz, Atherton, recalled when Richard Moore was city manager 15 or 20 years prior, there was a project to replace sidewalks in Lloyd Park, including in front of his home. One tree in front of his home had raised the sidewalk, the roots were pruned, and the tree was fine to the present.

Council Member Marsala asked whether \$35,000 was an accurate figure.

Public Works Director Jones believed the figure was conservative and would actually be less.

MOTION – the Town to assume complete maintenance of the sidewalks in Lloyd Park with a right-of-entry and waiver of liability required from each property owner to allow required root pruning of the property tree; if the property owner was unwilling to grant the right-of-entry and waiver of liability, he/she could elect to root prune his/her own tree, or to perform the reconstruction without root pruning, assuming responsibility for ongoing maintenance from continued growth of the roots

M/S McKeithen/Marsala Ayes: 3 Noes: 0 Absent: 1 (Janz) Abstain: 0

Mayor Janz returned to the meeting and called a recess at 8:45 p.m. The meeting was reconvened at 8:53 p.m.

PUBLIC HEARINGS (Items 23-26)

23. **ADOPTION OF A RESOLUTION ADOPTING THE FY 2008-09 OPERATING AND CAPITAL BUDGET** (*Continued from June 11, 2008*)

Interim Finance Officer Bill Yeomans noted the changes from the last meeting. The Police Department Vehicle Replacement Fund was adjusted to reflect what the actual cost would be, as well as replacing one vehicle instead of two. The change generated enough funds to restore the SRO officer and to restore some of the Planning contract. An additional \$35,000 would be needed for the sidewalk repair in Lloyd Park, which could come from the unexpended Parcel Tax funds. He distributed a sheet, which highlighted the changes from the last meeting. Changes were made to the Vehicle Replacement Fund, a new budget was added for the Library Fund, and the most recent changes were shown on the budget summary. Detail pages would be adjusted later.

Vice Mayor Carlson thanked staff for taking Council's suggestions and balancing General Fund expenditures with revenues. He asked whether the Administrative Service fees would be reviewed.

Interim Finance Officer Yeomans said staff was reviewing a number of fees in Planning and Public Works. Generally, all department heads would be reviewing their fees. Overhead charges were more complicated and would be reviewed as part of a Master Fee Schedule.

Vice Mayor Carlson received clarification on the \$75,000 for contract services in the Library fund, as well as the Five-Year Financial Plan, and unfunded liabilities regarding PERS.

Council Member Marsala had several concerns. As the Town moved forward with the Historic Artifact Ordinance, i.e. designating Lindenwood as a Historic District, he asked whether monies were available in the budget for that purpose.

Deputy Town Planner Lisa Costa Sanders indicated Council had authorized PMC to look at the ordinance and money was in the budget, as well as funds for a historical consultant to review any requests for modifications to a wall or a gate.

City Manager Jerry Gruber emphasized the 2008-09 budget was “pay-as-you-go.” If money had not been allocated, Council would have to authorize allocating money from some fund.

Council Member Marsala asked whether the City Manager’s area had enough staff to support upcoming elections, etc.

City Manager Gruber said the City Clerk’s position was 960 hours per fiscal year currently. Acting City Clerk Kathi Hamilton would remain until the end of 2008. In discussions with Acting City Clerk Hamilton, he believed there was a need for a full-time City Clerk. If he found the needs of the Council were not being met, he would return to Council with a request.

City Attorney Marc Hynes responded to Council Member Marsala that the legal budget was reactive and hard to predict; however, he believed the cuts that were made could be met.

Public Works Director Jones responded to Council Member Marsala that there was enough money to perform speed studies that were needed to enforce the speed laws with radar. There was a number of traffic studies requested that would not be done.

Council Member Marsala wanted the money for a new sound system for the Chambers to be reinstated. Additionally, he wanted to address the funds that were to be set aside for Town facilities. Resolution No. 00-13 from the year 2000 authorized the setup of the fund.

City Manager Gruber indicated an item was placed on the agenda schedule for the next month.

A discussion ensued regarding the Police Department staffing and the possibility of interest savings related to paying down unfunded liabilities related to PERS. With the two vacant positions and the Narcotics Officer returning to patrol, staffing would result in 21 out of 22 positions. The unfunded liability pay down was a one-time occurrence, i.e., saving the interest earnings one time. A position could not be sustained over a long period of time.

Council Member McKeithen said there were two fundamental precepts: 1) a balanced budget, and 2) working with what you had. Regarding the Contingency Fund, the Finance Committee regarded it as a “slush” fund, i.e, too much ability to say it’s in the Contingency so spend it. The Finance Committee wanted the accountability to explain why the money was needed. With regard to litigation, the Council adopted a policy that said litigation would be avoided where possible and reduced the budget to the 2004 level. Regarding the Police Department budget, Chief Brennan said he was able to keep the increase at the 2007 level. Additionally, using reserves to pay down the unfunded liability related to PERS would be reviewed for its feasibility. She believed the budget was transparent and far more understandable than previous budgets.

Mayor Janz stated the budget was balanced without the use of Parcel Tax funds, which was a good thing. However, he wanted to be clear that he did not think it was a bad thing to use Parcel Tax funds in the General Fund because when the public voted on it, it was presented that a percentage would be used for operating funds and a larger percentage used for capital funds. He thought the Contingency Fund was a good idea; however, the City Manager and department heads had the ability to shift funds from one area to another.

Mayor Janz reopened the public hearing.

Jim Dobbie, Atherton, asked whether the Sheriffs Department had been asked to share in the SRO costs for Menlo-Atherton High School.

Police Chief Bob Brennan said the City of Menlo Park had been asked. The Sheriff’s Department had not; however, he would follow up.

Mayor Janz suggested talking to the City of East Palo Alto as well.

Randy Lamb, Atherton, asked what the actual General Fund revenues vs. expenses were. He asked for clarification for some documents included on the website, as well as unfunded liabilities.

Interim Finance Officer Yeomans responded the total revenues in the General Fund were \$10,392,000, transfers in \$250,000, expenditures \$10,638,000. The documents on the website appeared to be preliminary documents and would be reviewed. The unfunded liability was a complicated calculation received from PERS and changed from year to year.

Rose Hau, Atherton, had questions regarding litigation costs. If the \$25,000 budget were exceeded, she asked where the funds would come from to pay the excess charges. She also believed the Police Department was the most important function of the Town and any cuts should be scrutinized.

Vice Mayor Carlson indicated the \$25,000 was a built-in mechanism to cause Council to look at the whole process of litigation. If a situation arose that there was no other

Council Member Marsala clarified that the finding did not bind the Town to only use the funds for capital improvements.

In response to Council Member Marsala, Mayor Janz clarified there was a tacit policy levy in the past not to assess the maximum levy.

Mayor Janz opened the public hearing. No one came forward to speak, and the public hearing was closed.

MOTION – to adopt Resolution No. 08-22, “A RESOLUTION OF THE TOWN OF ATHERTON ESTABLISHING A SPECIAL TAX FOR MUNICIPAL SERVICES FOR THE FISCAL YEAR 2008-2009;” further add a finding as a “Whereas” to the resolution that states, “the City Council determines that the appropriations in the FY 2008-09 Budget and the uncompleted capital improvements in the Pavement Management Program and the Town-wide Drainage Study exceed the projected revenues from other sources by more than the tax to be levied for FY 2008-09”

M/S McKeithen/Janz

Ayes: 4 Noes: 0 Absent: 0 Abstain: 0

REGULAR AGENDA (Items 26-29)

27. ADOPTION OF GOALS AND OBJECTIVES FROM MAY 2, 2008, COUNCIL/STAFF WORKSHOP

City Manager Jerry Gruber said staff and Council ultimately narrowed the 17 goals and objectives to 5 that were before Council to approve. Many of the resources adopted in the budget reflected the goals and objectives and how staff would accomplish them. One of the recommendations of Carl Neu was to develop a work plan to accomplish the goals and objectives, which would be brought to Council for approval. The Goals were: 1) Obtain approval from residents for a long-term finance mechanism for the Town (Council 3/7 Staff in support); 2) Obtain the Atherton Housing Element state certification (Council 4/6 Staff support); 3) Determine the feasibility (politically, economically, and operationally) of a new or remodeled Atherton Town Center and implement recommendations from the Feasibility Study (Council 4/7 Staff support); 4) Fund and build quad gates at train crossing, implement a quiet zone, and get Caltrain to accommodate Atherton’s concerns regarding high-speed rail through Atherton (Council 3/2 Staff support); 5) Determine the feasibility of annexation for commercial and residential and, if feasible, pursue annexation of designated area (Council 3/2 Staff support). A more detailed analysis would be required of Items 1, 3, and 5. Item 2 was incorporated into the 2008-2009 Budget, and Item 4 was funded by Caltrain. A more detailed financial analysis would be required of Items 1, 3, and 5. Item 2 was incorporated into the 2008-2009 Budget, and Item 4 was funded by Caltrain.

Mayor Janz clarified for voting purposes, the maximum for any item was four Council and seven staff. If the maximum vote was not registered for any item, it did not necessarily mean there was opposition. Out of the 17 possible goals, there were a limited number one could support. Regarding Item 4, Caltrain was working to put

quad gates at one crossing, and the Town was seeking assistance for another quad gate, which would assist in obtaining a quiet zone. Neither Caltrain nor the Town had control regarding high-speed rail.

Valerie Gardner, Atherton, asked whether any goals related to environmental goals were considered.

City Manager Gruber said one of the original 17 goals was to implement a Green Building program, as well as an Environmental Element in the General Plan.

Mayor Janz said there were minor goals that were discussed and should be brought back for approval.

William Grindley, Atherton, asked whether there was plan to make the document public. The goals and objectives were an important set of directions and he wanted to see maximum exposure.

Mayor Janz said the top five goals were the top five but not necessarily in order 1 to 5.

MOTION – to adopt the five major goals as outlined in the staff report; further, to consider at a future meeting approving secondary goals, with goals to be published on the Town’s website and next *Athertonian*

M/S McKeithen/J.Carlson

Ayes: 4 Noes: 0 Absent: 0 Abstain: 0

28. ADOPTION OF MASTER RESOLUTION REGARDING COMMITTEE/COMMISSIONS

City Attorney Marc Hynes said the most recent version, as amended from the last Study Session, was before the Council. The biggest discussion involved the Environmental Programs Committee, which was shown in bold for added language and strikeout for deleted language. The provision for annual reports could be a global requirement; therefore, the annual report from the Parks and Recreation Commission could be eliminated. If Council adopted the resolution, there were additional actions to be adopted.

Vice Mayor Carlson suggested “Appointed Official” should be added to the title of the resolution. Additionally, he thought training for new members was essential regarding the Brown Act, etc. A formalized process for all appointed Town officials should occur.

Mayor Janz wanted the provision for the annual report for the Park and Recreation Commission to remain.

City Attorney Marc Hynes suggested one way to ensure a training policy would be to include it in the Council’s Rules of Procedure.

18. APPROVAL OF RESPONSE TO THE GRAND JURY REPORT

Vice Mayor Carlson said the recommendation was for direction to be given on the matter. One of the elements he thought important that was not addressed in the memo was the safeguarding of the independence of the Town management team. One way to safeguard it was to put a formal evaluation process in place in order for real or perceived issues from the Council or staff to be addressed. Additionally issues should be discussed more frequently in the interim and not wait for yearend. Procedures should be revised where necessary to make them more effective. Members of the Council, staff and appointed officials should carefully consider the ramifications of public pronouncements when sensitive Town matters were being investigated. The topic could be revisited when the City Council Rules of Procedure were discussed.

Council Member McKeithen clarified that the Rules of Procedure would be addressed in July.

Mayor Janz had minor comments regarding the exhibits. Mayor Janz made the following motion:

MOTION – to approve the response to Grand Jury Report

Vice Mayor Carlson made the following amendment, which was seconded by Council Member Marsala:

AMENDMENT --to incorporate Vice Mayor Carlson’s comments: 1) Safeguarding the independence of the Town management team by implementing a formal evaluation process so that real or perceived issues from the Council could be addressed and to address issues that might arise in the interim more frequently; 2) Revise those procedures, where necessary, to make them more effective; and 3) Advise members of the Council, Town staff, and appointed officials to carefully consider the ramifications of public pronouncements when sensitive Town matters were being investigated

The Maker and Secunder accepted amendment.

MOTION AS AMENDED/S Janz/McKeithen Ayes: 4 Noes: 0 Absent: 0 Abstain: 0

14. APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT FOR GOLDFARB (HOUSING ELEMENT)

Council Member McKeithen said the approach recommended by staff to prepare the Housing Element was to have Neal Martin prepare the draft and to have Goldfarb & Lipman review it. The Town had worked on a draft Housing Element for years with revisions in accordance with comments from Housing and Community Development (HCD). She was confused as to what draft was being discussed.

Deputy Town Planner Lisa Costa Sanders said the current Housing Element was sent to Goldfarb & Lipman to pre-review it. Barbara Kautz was very familiar with state

law, the HCD, and had spoken to many organizations. The Town was required to prepare a substantial Housing Element Update based on current census data and projections.

Council Member McKeithen thought \$40,000 was a substantial sum.

Deputy Town Planner Costa Sanders said the \$40,000 included one Town-wide meeting, two General Plan Committee meetings, a Planning Commission meeting, and City Council consideration. Additionally, responses would be needed when the document came back from the state.

Council Member McKeithen wanted to see a proposal regarding the scope of work. She thought \$40,000 was too much. She was concerned that Goldfarb & Lipman had already begun working on it before Council approved the item.

Deputy Town Planner Costa Sanders said the sum was small, \$2,000. She said staff was looking that evening for authorization for Goldfarb & Lipman. Staff could return to Council with a more detailed proposal on how to approach the Housing Element Update. The item was time-sensitive in that it needed to be approved by the state by June of next year.

Discussion ensued. Council Member McKeithen said a strategy needed to be developed regarding which cities/towns had been certified, what consultant was used, what the cost was, etc. A review was needed of those cities that were successful in having their Housing Element approved, e.g., Portola Valley, Woodside, and Hillsborough.

Vice Mayor Carlson said the consultant was well known in the industry and possessed many of the answers. Having someone with that expertise made a lot of sense.

Council Member Marsala said each city/town was unique and thought having an expert made sense.

Jim Dobbie, Atherton, had been involved in the Housing Element as a member of the General Plan Committee. Fundamental decisions needed to be made regarding the Housing Element before hiring someone, i.e., how to meet the requirements of the Housing Element. The Town needed to do its homework first.

Mayor Janz said the money was already in the budget and Barbara Kautz was an expert who discussed the Housing Element on a countywide basis. One benefit of San Mateo County working together was that HCD promised one reviewer for all the cities. He believed Ms. Kautz knew what she was doing.

Valerie Gardner, Atherton, asked Council to look at a bold and environmentally positive and effective Housing Element that could be incorporated into the possible annexation of areas into the Town to fulfill the Housing Element.

Vice Mayor Carlson was very impressed with Ms. Kautz and was ready to approve the item.

Council Member Marsala deferred to Mayor Janz and Vice Mayor Carlson and trusted their judgment.

Council Member McKeithen insisted on waiting a while and suggested scheduling a Special meeting while staff further reviewed what other options cities had taken to successfully achieve their Housing Element certification. She would not vote in favor of the item.

Mayor Janz said Ms. Kautz' billing rate was low and she was clearly an expert. Loosening the second dwelling unit ordinance had been discussed, as well as the housing availability on school campuses, as a means to having the Housing Element approved. He was in favor of approving the item.

Council Member McKeithen was concerned costs would escalate. She wanted to know that Goldfarb & Lipman was the best out there.

After further debate, the item was continued to the City Council meeting of July 16, 2008.

30. COUNCIL REPORTS

- Council Member Marsala said the Environmental Program Committee had a lengthy meeting including the review of the Grand Jury report. An error was discovered regarding Ox Mountain closing by 2020; in actuality, Ox Mountain would be operational until at least 2030. An evening meeting in August was discussed in order to solicit more community input. The City of Palo Alto did a "Green Fest" with local high schools, and the EPC was looking to do the same. Jill Boone performed a carbon footprint and goals needed to be set regarding reduction. He attended a meeting of the County Library JPA and received feedback regarding funding library improvements. He attended the League of Cities Employee Relations Subcommittee in Sacramento. A recommendation was to pre-fund pension plans. Measure O failed with 61% of the vote where 66.6% was needed. Additionally, he noted when the Parcel Tax was passed, it was to add two police officer. He wanted to ensure residents' expectation of level of service was maintained.
- Council Member McKeithen said she would attend the Peninsula Congestion Relief Alliance and the OES the next day. She would meet with Rich Lanier regarding NASA standards on noise from aircraft next week, and two meetings would take place the next day regarding the PERS actuarial. The San Francisco Airport Roundtable met and discussed that larger and larger aircraft potentially would be coming into San Francisco. Older aircraft had been phased out; however, new aircraft, although oftentimes larger, were actually quieter. Even with the largest aircraft, it would be less noisy.
- Vice Mayor Carlson said there were parking problems around schools, e.g. M-A High School and Encinal School. He was attending the multi-jurisdictional task

force meetings. Additionally, Union Pacific said their right-of-way could not be used by high-speed rail. The County Grand Jury report regarding Dumbarton Crossing raised serious questions regarding Santa Clara County putting up funds. He attended the San Mateo County Council of Cities where John Boyle from Menlo Park was selected as the ABAG alternate and a panel discussed County homeless shelters.

- Mayor Janz said Union Pacific was also indicating it needed more right-of-way for increased railroad freight traffic. A State Legislature committee report was also highly critical of the High-Speed Rail Commission's estimate of ridership, the cost, the risks involved, etc. He heard rumors that the Governor and Senator Feinstein would jump on the support of the High-Speed Rail Bond; however, it had not happened. Considerable repairs to Atherton's train station due to the fire had been completed, as well as other repairs. Caltrain promised allocating \$100,000 in its budget for north station repairs.

31. PUBLIC COMMENTS

Rose Hau, Atherton, revisited Item No. 14. She had worked on the Housing Element when she was a member of the Planning Commission. The Commission exhausted all the alternatives. She suggested seeking a third-party for a new outlook.

Valerie Gardner, Atherton, asked whether high-speed rail had been considered to go over Hwy 101.

Mayor Janz said he had advocated the 280 Corridor because it was very logical and would not disrupt any local corridors. He suggested that high-speed rail come up from the southern approach through the Pacheco Pass to downtown San Jose to the Diridon Station, follow the Caltrain corridor two blocks, come up Interstate 280 (in a median, one side or the other, or elevated) run to Interstate 380 where it could head back down the hill and join the Caltrain route to go into San Francisco, the airport, etc.

32. ADJOURN TO CLOSED SESSION

The meeting was adjourned to a Closed Session by Mayor Janz at 11:15 p.m.

Mayor Janz called the Closed Session to order at 11:20 p.m.

- A. CONFERENCE WITH LEGAL COUNSEL – Existing Litigation pursuant to Subsection (a) of Government Code Section 54956.9**

Lamb vs. Town of Atherton, et al.
Superior Court of California, San Mateo County, CIV 461630

- B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Initiation of litigation pursuant to subsection (c) of Government Code Section 54956.9:
One (1) potential case

C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – Significant exposure to litigation pursuant to subsection (b) of Government Code Section 54956.9:

One (1) potential case

RECONVENE TO OPEN SESSION

Report of action taken.

City Attorney Marc Hynes said no reportable action was taken on Items A, B, and C.

33. FINAL ADJOURNMENT

Mayor Janz adjourned the meeting was at 11:50 p.m.

Respectfully submitted,

**Kathi Hamilton
Acting City Clerk**