



MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON
CHANNEL DRAINAGE DISTRICT
May 17, 2006
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

Mayor Marsala called the meeting to order at 7:10 p.m.

1. **PLEDGE OF ALLEGIANCE**

ROLL CALL

PRESENT: James R. Janz
Jerry Carlson
Alan B. Carlson
Charles E. Marsala
Kathy McKeithen

City Manager Jim Robinson and City Attorney Marc Hynes were also present.

3. **PRESENTATION**

- A. **Swearing in of new Police Officer Nicholas Hillard
Oath of Office Administered by Police Chief Bob Brennan**

Police Chief Bob Brennan introduced Police Officer Nicholas Hillard and administered the Oath of Office.

- B. **Recognition of Outgoing Committee Members**

Mayor Marsala presented Certificates of Appreciation to Outgoing Committee Members: Shirley Carlson, Thor Miller, and Bob Franceschini, Waste Reduction Committee; and Bob Wilson, Audit Committee. Diane Crittenden, Joan Sanders, Arts Committee; Gustavo Eydelseyn, Doris Kellett, Fred Wolin, Caltrain Corridor Ad Hoc Subcommittee; and Phil Lively, General Plan Committee were not present.

4. COUNCIL REPORTS

- Council Member Janz met with Sarah Rosendahl from Senator Joe Simitian's office to update Senator Simitian regarding the lack of Caltrain service in Atherton. On May 11, he attended the City/County Association of Governments (C/CAG) meeting where a presentation on global warming took place. An outcome of the meeting was the appointment of a committee to look into ways that local governments in San Mateo County can reduce energy consumption. C/CAG urged cities in the county to pass resolutions against one state resolution and one federal resolution regarding utilities and cable T.V. within towns. A meeting of the Association of Bay Area Governments (ABAG) was scheduled for the next evening where a discussion of the status of the next housing needs allocation process was on the agenda, a two-year regional housing needs allocation process. By March 2007, the allocation methodology would be developed and approved; by June 2007, the draft regional allocations would be issued; and by June 2008, the final regional allocations would be adopted. The Housing Endowment and Regional Trust (HEART) was also working in conjunction with the process to see whether the allocations made to San Mateo County could be handled within the County.
- Council Member Jerry Carlson attended the Tree Committee's Arbor Day event at Selby Lane School. He commended Kathy Hughes Anderson and Denise Kupperman for organizing the event. The San Francisco Airport Roundtable was celebrating its 25th anniversary on June 7, at the Airport Museum, at 7:00 p.m. Out of the 948 noise complaints in March, 371 came from Atherton from three residents. The Finance Committee met and was working on the budget. He met with the Audit Committee. He met with the Redwood City School Board regarding Selby Lane School, and the Board made a 3-year commitment to fund the International Baccalaureate Program. He attended the D.A.R.E. graduation at St. Joseph's, along with Officer Potts and his wife Ruth, and the members of the Atherton Police Department, who did an excellent job in supporting the program.
- Vice Mayor Alan Carlson attended a meeting of the Atherton Disaster Preparedness Committee, and the committee was meeting again on Saturday, May 20, 2006. He and Mayor Marsala met with representatives of Menlo-Atherton High School (M-A) and addressed a number of issues with respect to the proposed Performing Arts Center (PAC): traffic, parking, noise, and hours of operation. The school was developing guidelines for usage of the PAC. In upcoming meetings, the City of Menlo Park would be included.
- Mayor Marsala said both M-A High School and the Sequoia Union High School Board were receptive to Atherton's concerns. He attended a League of Cities event. The League was supporting the Governor's budget package. He spoke with the Mayor of Sunnyvale regarding its Sunnyvale Neighborhood Action Plan (SNAP) program for earthquake preparedness. He attended Atherton's Earth Day event where 150 residents donated E-waste. Kathy Hughes Anderson and Troy Henderson did a great job and perhaps a second event would be scheduled. He attended services for Vit Eckersdorf, a longtime resident who volunteered his time to the Town. Menlo College's graduation was held, the

college hosted M-A's fundraiser, and an Art and Wine event was planned for Fathers' Day. Mayor Marsala served as a moderator for the Silicone Valley Values and Vision Conference, which was on housing, environmental issues, and philanthropy.

- Council Member McKeithen attended the San Mateo County Office of Emergency Services meeting where the main issue was the budget. A significant increase in costs was expected for the Hazard Materials Response Team and would result in a 27% cost increase per member, or \$8,000 for Atherton. Ongoing costs for the OES were increasing 14 %, and an additional \$30,000 would be required for ongoing maintenance, fuel, and repairs for new vehicles acquired through a Homeland Security grant. The total amount for the Town was approximately \$15,000, including a \$91,000 rollover from the OES' previous year budget. The Town's auditors presented an independent auditor report regarding four areas pursuant to a Finance Department request: 1) Cash receipt processing in the Building Department with a focus on how fees were calculated resulted in a mandate for written policies and procedures pertaining to the processing and issuing of building permits and the calculation, to be put into place by June, with better control over blank permit stock; 2) Review of the bank reconciliation process for July 1 – December 31, 2005, resulted in the need for a notation that the Finance Director reviewed the documents; 3) Review of the accounts payable system and associated claims indicated that only one out of the ten inspected lacked supporting documentation, and the auditors recommended that support packages be filed immediately after the account was reviewed and paid; 4) Review of GASB 34 implementation showed the reports contained formatting errors of the summary totals, as well as historical cost information for depreciation expense calculation and resulted in the need to hire a consultant.
- Council Member Janz noted that the Town was hosting the San Mateo County Council of Cities dinner on Friday, May 19, at Stent Hall in Menlo School.

5. PUBLIC COMMENTS

Richard Moore, President, Atherton Civic Interest League (ACIL), reminded those in attendance that the Annual Meeting of the ACIL was the next evening, May 18, at 7 p.m. Every Atherton resident would receive a free emergency preparedness kit for a family of four.

STAFF REPORTS

- City Manager Jim Robinson said the Parks for the Future recently completed a second survey of San Mateo County registered voters who continued to support a 1/8 cent sale tax increase that would generate approximately \$200,000 for Atherton. The measure was anticipated to go to the voters in November 2006.

Council Member McKeithen asked about the progress on maintenance of the area around the train station.

City Manager Robinson said an aggressive cleanup had taken place around Town including in front of the park along Watkins Avenue, along the El Camino Real median islands, as well as around the train station. Additional contract services would be considered during the budget process.

- Council Member McKeithen wanted to know what the costs were for weekly maintenance of the area, as well as replanting and removal of unsightly and dead shrubbery. Additionally, she requested that the Public Works Director inspect/direct and have oversight of the area while the work was being done. She noted that the corner of Marsh Road and Middlefield Road needed to be cleaned up as well. Further, Council had asked staff to look into lessening the potential liability for resurfacing Selby Lane.

City Attorney Marc Hynes said he filed a claim with P.G.&E for the amount noted in the staff report indicating the amount might increase when the project was completed. He made a request of the Public Works Director for a records search that might show what happened at the time the lines were installed. A copy of the claim was placed in Council's mail.

Council Member McKeithen requested a follow-up report regarding the vegetation and a report with regard to any records found.

- City Attorney Marc Hynes reported out of Closed Session as follows:

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Initiation of litigation pursuant to subsection (c) of Government Code Section 54956.9:

One (1) potential case

No reportable action.

- Police Chief Bob Brennan participated in the annual chess tournament at the Atherton Library. He played the championship round against a 10 year old. Although the Chief lost, his strategy of making less moves in more time made the game last longer. Thirty-four children, from 5 to 12 years old, participated.
- Finance Director John Johns attended a meeting at the assessor's office and reported on a settlement with the airlines. The effect was a \$1 billion reduction in the assessed value of property held at San Francisco Airport, a loss of \$15,000 for Atherton.
- Public Works Director Duncan Jones reported that Public Works Supervisor Troy Henderson had a non-elective surgery and would be out approximately 6 weeks.

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

No Report

CONSENT CALENDAR (Items 8 - 17)

In response to Council Member McKeithen on Item No. 14, Public Works Director Duncan Jones said adequate transition asphalt would be added to Valparaiso Avenue during the first phase to protect the street. Additionally, the agreement with Menlo Park covered both phases, and \$108,000 was Menlo Park's total estimated cost for Phase 1. The \$404,000 was Menlo Park's local match for the grant. The cost between the two agencies was strictly proportional based on the ultimate cost. Regarding Item No. 16, Public Works Director Jones, said Caltrain assistance with construction of the sidewalk within the right-of-way was a part of the train station upgrade. Currently, he was working with Caltrain to have the work performed separately, as well as to have the Fair Oaks crossing upgraded. Council Member McKeithen asked for an update at next month's meeting.

MOTION – to approve the Consent Calendar as presented.

M/S McKeithen/Janz Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

8. **APPROVED MINUTES OF THE SPECIAL MEETING OF APRIL 5, 2006, AND THE SPECIAL CLOSED SESSION AND REGULAR MEETING OF APRIL 19, 2006**
9. **APPROVED BILLS AND CLAIMS FOR APRIL 2006 IN THE AMOUNT OF \$684,346**
10. **ACCEPTED MONTHLY FINANCIAL REPORT FOR APRIL 2006**
11. **ACCEPTED QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDED MARCH 31, 2006**
12. **APPROVAL OF PLANS AND SPECIFICATIONS AND AUTHORIZATION TO ADVERTISE STREET RECONSTRUCTION PHASE 3, PROJECT NO. 05-005**
13. **AWARD OF CONTRACT FOR TREE MAINTENANCE, PROJECT NO. 05-004**

Approved the plans and specifications and authorized advertisement for bids for the Street Reconstruction Phase 3 Project, Project No. 05-005.

Awarded a contract for the 2006 Tree Maintenance Project, Project No. 05-004, to Tru-Green Landcare, the low bidder on the May 5, 2006 bids, for \$50,000, and authorized the Mayor to sign the contract on behalf of the Town.

14. APPROVAL OF PLANS AND SPECIFICATIONS AND AUTHORIZATION TO ADVERTISE FOR VALPARAISO AVENUE RECONSTRUCTION PROJECT, PROJECT NO. 05-003

Approved the plans and specifications and authorized advertisement for bids for the Valparaiso Avenue Reconstruction Project, Project No. 05-003.

15. FIRST READING AND INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 2.37 OF THE ATHERTON MUNICIPAL CODE BY REVISING SECTION 2.37.020 TO INCREASE THE TERM OF OFFICE FOR CERTAIN MEMBERS OF THE GENERAL PLAN COMMITTEE

Waived reading of the Ordinance beyond the title and introduced an Ordinance to extend the term of membership on the General Plan Committee to a four-year term for members who are not members of the City Council or Planning Commission.

16. ADOPT A RESOLUTION ADOPTING A NEGATIVE DELCARATION FOR THE HOLBROOK-PALMER PARK ACCESS TRAIL AND BRIDGE PROJECT

Adopted Resolution No. 06-03 adopting a Negative Declaration (Environmental Document) for the Holbrook-Palmer Access Trail and Bridge Project

17. APPOINTMENT TO THE GENERAL PLAN COMMITTEE

Accepted the City Council Selection Committee's recommendation to appoint Todd Beardsley to a full four-year term on the General Plan Committee, effective through 2010.

PUBLIC HEARINGS

18. FROM THE GENERAL PLAN COMMITTEE AND PLANNING COMMISSION – FIRST READING AND INTRODUCTION OF AN ORDINANCE AMENDING ATHERTON MUNICIPAL CODE SECTION 17.36.195 REGULATING RETAINING WALLS

Recommendation: Staff recommends that the City Council conduct the public hearing, waive reading of the ordinance beyond the title, and introduce an Ordinance based on the following finding for the reasons outlined in the staff report: The proposed ordinance amendment is required to achieve the objectives of the Zoning Plan and the General Plan.

Deputy Town Planner Lisa Costa Sanders presented the staff report. Both the General Plan Committee and the Planning Commission heard the item and recommended changes to the distance spacing for retaining walls. Previously, the height would be measured from the average natural grade. At the Planning Commission meeting, a

concern was raised that someone might lower the grade on the property, which would result in the retaining wall being much higher than six feet. The existing language of the ordinance (a maximum height of six feet) was preferred. The Commission also recommended that spacing of retaining walls for a terraced situation would be no closer than 20 feet apart. A provision was added that if there was something unique about the property, the Planning Commission could review it using the Conditional Use Permit process.

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

MOTION – to accept the recommendation of the General Plan Committee and the Planning Commission and introduce an ordinance for first reading, “AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON AMENDING SECTION 17.26.195 OF THE ATHERTON MUNICIPAL CODE REGULATING RETAINING WALLS WITHIN THE TOWN OF ATHERTON”

M/S Janz/McKeithen

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

REGULAR AGENDA (Items 19 - 28)

19. DISCUSSION AND POSSIBLE ACTION – CREATION OF CODE ENFORCEMENT OFFICER POSITION – PRESENTATION TO COUNCIL

Recommendation: The City Council hear the presentation from CSG regarding a proposal for providing an evaluation of Atherton code enforcement needs and providing contract code enforcement services on an experimental basis for the Town of Atherton.

City Manager Jim Robinson said Gordon Siebert, CSG Consultants, Inc., would make a presentation to the Council regarding Code Enforcement services. CSG provided services to a number of cities/towns. In response to Vice Mayor Alan Carlson, City Manager Robinson said part of the initial task would be to ascertain what was being done currently in terms of hours/numbers/types of code enforcement.

Gordon Siebert, CSG Consultants Inc., presented an overview of his and his staff’s qualifications and background in providing code enforcement services. Additionally, he described services his company provided to the cities of Monte Sereno, Pinole, and Pittsburg. He described the steps to provide an initial assessment of the Town’s code enforcement needs, potential code enforcement changes, code enforcement ongoing efforts, and the advantages of using consulting services, i.e., the cost was only for the hours of use and dedicated staff.

In response to Mayor Marsala, Mr. Siebert said a Senior Code Enforcement Officer earned \$100/hour and was fully benefited; a Code Enforcement Officer at a journeyman level was \$75 per hour.

City Manager Robinson said staff recommended an initial evaluation by CSG for an approximate cost of \$5,000 to determine what was being done, what the needs were, and what changes could be made to improve procedures.

Discussion centered on what would be included in the needs assessment: types of activities to be enforced, types of complaints received and how to deal with them, along with associated costs, and with a recommendation for changes/additions to current code enforcement practices. CSG provided staff augmentation in those cities where it contracted for code enforcement services, from one to five days a week, and either operated on a complaint basis or proactively determined by the city. Mr. Siebert believed within two months, he could reasonably report on the types of complaints the Town received and suggest changes to make the program more effective.

Bob Huber, Atherton, was concerned about a complaint-based system and did not like to complain about his neighbors. He was in favor of a code enforcement officer and urged communication with the residents before implementing the program.

Richard Hill, Lindenwood, believed a Town police officer was a better choice for code enforcement rather than a third party with no vested interest in the community. He urged the Council to avoid an endeavor that might create a “Gestapo” environment.

Amanda Miller, Walnut Avenue, said responding to people’s complaints allowed the Town to determine where enforcement was important and where it wasn’t.

Vice Mayor Alan Carlson was in favor of the initial needs assessment for \$5,000. Additionally, he wanted staff to do an economic analysis of the cost of using staff or using contract services.

Council Member McKeithen believed the current system was not working. Not all code enforcement issues were police related. She was in favor of the initial needs assessment. The Council could then understand what the community wanted and what quality of life meant in Atherton.

Mayor Marsala believed the \$5,000 would be well spent. However, at the same time, the Town needed to determine whether the program could be handled internally.

Council Member Jerry Carlson was in favor of the initial assessment.

Council Member Janz concurred with his Council colleagues.

MOTION – to approve an initial code enforcement needs assessment to be performed by CSG Consultants, Inc., in an amount not to exceed \$5,000

AMENDMENT A. Carlson – to include direction to staff to perform a cost analysis with respect to utilizing staff vs. an outside service, including a resource analysis in terms of availability of staff/time of staff

Mayor Marsala, moved Item No. 28 forward to be heard before Item No. 20.

28. CONSIDER REQUEST FROM POP WARNER FOOTBALL FOR AN EXEMPTION OF THE SPECIAL EVENTS GUIDELINES AND GIVE APPROPRIATE DIRECTION TO STAFF

City Manager Jim Robinson gave a brief staff report regarding the history of the Special Events Ordinance and the adopted School Guidelines for Non-School Related Events. The Town had to contend with the ongoing issue related to the increase of activities occurring on school campuses that were non-school related. Within the Special Events Ordinance, the City Manager was authorized to permit a variance for an event to occur outside the guidelines for a limited amount of days. The request from Pop Warner Football was for a special permit that would exempt it from the hours set forth in the guidelines and included a schedule for practices and games and the need for the use of the field at Menlo-Atherton High School over a four-month period. Staff was reluctant to grant a permit that was longer than a few days so soon after adoption of the ordinance and guidelines. Additionally, within the ordinance, an option for a hearing by the Planning Commission was allowed.

Mayor Marsala asked whether representatives from Pop Warner were present at the outreach meetings and what process was used.

Deputy Town Planner Lisa Costa Sanders explained the process staff used when developing the guidelines which included an extensive outreach to the schools and school districts that had oversight of the fields. Representative from AYSO Soccer and Little League attended the meetings; however, she did not recall whether anyone from Pop Warner Football had attended.

Vice Mayor Alan Carlson said issuing a Special Event Permit rested with the City Manager. The best the City Council could do was to listen to the residents and representatives of Pop Warner and then present the Council's view of what the City Manager should do.

In response to Council Member Janz, City Attorney Marc Hynes said because the ordinance resided in the Planning title, the appeal provisions provided that any decision made by a city officer could be appealed to the City Council.

In response to Council Member McKeithen, City Manager Robinson said his recommendation was not to issue a permit.

Greg Baty, Ridgeview Dr., spoke on behalf of Pop Warner Football. Pop Warner had used the field at M-A High School for the past seven years, worked with the neighbors, addressed noise complaints, and was a good custodian of the field. Additionally, he was unaware of the process or public notice regarding the Special Event Ordinance. Pop Warner could only use the field when the high school teams were not using it, and

the stadium field was the only field they were allowed to use. Practices/games followed Pop Warner guidelines. Additionally, there were no other schools that would allow Pop Warner to use the fields in Atherton or Menlo Park.

Larry Couch, Oak Grove Avenue, spoke against allowing an exemption for Pop Warner Football. More creativity on the part of Pop Warner was needed to find alternative fields. In a discussion he had with the Menlo-Atherton High School principal, she indicated a willingness to consider use of other fields.

Bill Barrett, Woodside, Pop Warner Board Member, spoke in favor of an exemption for Pop Warner Football. He emphasized that the requirements of the program, the cost of referees, and the practicality of multiple fields for different games would not work. Additionally, he did not consider Pop Warner Football a special event as it had been an ongoing program for the past seven years.

Mel Britton, Toyon Road, spoke against allowing an exemption. He believed anything beyond teaching the students of Atherton at the high school should be considered a special use. He would like to spend his Saturdays and Sundays in quiet. He urged Council to vote against an exception.

Richard Hill, Lindenwood, spoke in favor of Pop Warner Football and believed the program was worthwhile. He emphasized that the Lindenwood Homes Association did not contact him nor did it represent his interests or the majority of interests in Lindenwood.

Joan Dove, Oak Grove Avenue, spoke against allowing an exemption. She lived next door to the high school and the noise was not acceptable.

Mike Stanick, Lindenwood, coached Pop Warner Football and lived close to Laurel School. He loved the sound of kids and supported an exemption.

Bruce Smith, Oak Grove Avenue, lived 100 yards from M-A's field and could hear the P.A. system 20 yards behind the fence. He thought the Town's noise ordinance was flawed and was technically an anti-blower ordinance that really didn't measure the types of noise from the field. He wanted the Special Events Ordinance enforced.

Les DeWitt, Lindenwood, said he had a great deal of respect for the Lindenwood Homes Association. The Pop Warner Football program developed a community greater than Atherton and provided access to eastside kids. He believed there was a way to work things out and spoke in favor of an exemption for Pop Warner.

Carol Smith, Oak Grove Avenue, did not believe anyone was opposed to Pop Warner Football. The sound of children was an awesome sound. The problem was the sound of children 24/7. The neighbors wanted some quiet time. She urged Pop Warner to find a creative way to continue its program and urged Council to deny an exemption.

Bob Williams, President, Pop Warner Football, said the primary reason for not using other fields on Saturdays was the simple fact that referees were not available on Saturdays because they were officiating high school games. Also, he had been told by M-A high school officials that the only field Pop Warner could use was the artificial turf.

Alicia Seebold, Atherton, strongly urged Council to deny the exemption. An ordinance was enacted and should be followed.

Vice Mayor Alan Carlson said the evening was difficult and there was merit on both sides. A process had been followed with properly noticed public hearings when enacting the Special Events Ordinance. He sympathized with the neighbors who were exposed to a continuum of noise seven days a week from a variety of programs. Additionally, he did not see any compromise on the part of Pop Warner and urged them to try to find alternatives. If there were room for a compromise, he thought the Planning Commission was the right venue.

Mayor Marsala believed the Town needed to improve the way in which conflicts were resolved. There was room to compromise. He thought the Sunday hours should be upheld; however, the Monday-Friday schedule and the month of September might work. He suggested a 30-day trial period.

Council Member Janz concurred with Vice Mayor Carlson's comments. He liked the idea of looking at other solutions, a middle ground that complied with the ordinance. The Little League arrangement had worked well for the last six years. He suggested Menlo School might be willing to consider working with Pop Warner in conjunction with acquiring an artificial turf.

Council Member McKeithen said there were three important issues: 1) the children and their needs; 2) quality of life; and 3) the process. Notices were posted at five locations throughout the Town, one in Lindenwood, as well as on the Internet. All sides tried to compromise in crafting the ordinance. She urged Pop Warner to find an innovative solution and to try again with Menlo School and/or other fields.

Council Member Jerry Carlson admired what the Pop Warner Football program did for the kids. He concurred with the City Manager's recommendation.

Direction was given to the City Manager to deny the request for an exemption, and Council suggested that the Pop Warner Football organization try to work with the community to find alternatives.

20. CONSIDERATION OF A REQUEST TO REDUCE SOLAR PANEL FEES TO ENCOURAGE SOLAR INSTALLATION

Building Official Mike Hood presented a brief staff report. Mr. Kurt Newick was requesting the City Council reduce the building inspection permit fee schedule to encourage solar installations within the Town. Currently, the permit fee for the

installation of a \$27,000 system would cost \$970.49 and was based on a valuation method. Less than five systems were installed per year of the new photovoltaic systems, which were for electricity for the house. Previously, almost all of the systems were for solar water heating.

Mayor Marsala thought reducing the fee was a good idea and would send a message that the Council was looking to alternative energy sources.

Council Member Janz said he thought the fee should be reduced but was not sure where to set it.

City Manager Jim Robinson said the request had come from an individual from the Sierra Club and other jurisdictions had acted on it. Staff was seeking Council's view of whether to reduce the fee to make it less expensive to install solar equipment.

Council Member Jerry Carlson did not think the fees being collected amounted to much in a year. He thought the Town should do the ecological right thing and do away with the fee.

Vice Mayor Alan Carlson thought the fee should be set at "0" until such time as it became a significant drain on the Building Department's manpower.

Council Member McKeithen believed the Town should be a leader but did not believe it should be "0." To the extent that there was a cost for reviewing the plans, the costs should not be subsidized by others. The fee should be minimal, in direct relation to what the actual cost was to the Town.

Kurt Newick, Global Warming Energy Chair, Sierra Club, said an official letter would be sent to every city in the State of California regarding setting minimum permit costs to encourage solar use. The Supreme Court ruled that cities should be able to recover their costs. The permit fees for solar were much higher based on the valuation method. A flat fee would encourage the use of solar and still allow cities to recover their costs. The Solar Rights Act prohibited cities from prohibiting solar based on aesthetic concerns. A technical task force was creating a checklist for a Bay Area standard for a template with all the information to review a solar permit. Solar photovoltaic systems had a tremendous potential to power society and were underutilized.

Ernie Goitein, Almendral, believed the fee should be reduced to "0"; the Town should be a leader and can afford it.

Bill Streeter, Saratoga, just installed a system. An over-the-counter permit in Saratoga cost \$102 for two field inspections. He urged Council to lower the cost to a set price for any size system.

Annie Belt, San Jose, worked with the Sierra Club and urged Council to lower the fee to a flat fee of \$300 or less and join the 13 Bay Area cities that had already lowered their fees.

Amanda Miller, Walnut Avenue, urged Council to lower the fee. She said most systems were grid-tied systems where the power went to P.G. & E. When the power went out, the solar system did not work and a backup system was needed. Trying to add a battery backup system after the fact would be costly.

In response to Council Member McKeithen, Building Official Hood said about 2-1/2 hours, approximately \$250, of staff time was required for inspections.

City Manager Robinson said \$250 was in line with a majority of the other existing permit fees.

MOTION – to approve a request to reduce the building permit fee for solar panels to “0”

Council Member Janz said energy systems were making everyone bare a cost in terms of increased carbon dioxide in the air; whereas, a photovoltaic system did not. He supported the motion.

Vice Mayor Alan Carlson said the Town had worked hard to develop the principle that one resident should not subsidize another resident, and he did not want to depart from that principle. A \$250 fee seemed in line with what other cities were charging. He would not support the motion.

Mayor Marsala said Portola Valley and Los Altos Hills were at “0” and \$50. As the environment changed, there were companies that sold energy credits to those who were consuming trees or other fossil fuels. A long-term benefit for encouraging solar would be lower power consumption for the Town, which had the highest use in the county.

Council Member McKeithen believed in solar; however, Council did not have the right to waive a fee and pass it on to other people. She did not support the motion.

Council Member Janz said it would not have an impact if other fees were not raised.

Council Member Jerry Carlson was a fiscal conservative; and even though he thought the Town should be a leader, he believed the principle not to subsidize was a good one. He would support reducing the fee to recover costs.

M/S Marsala/Janz Ayes: 2 (Marsala, Janz) Noes: 3 (A. Carlson, J. Carlson, McKeithen) Absent: 0 Abstain: 0

The motion failed.

Amanda Miller, Walnut Avenue, did not believe the difference between “0” and \$250 would prevent people from using solar.

Denise Kupperman, Atherton, said an equitable solution (making something sustainable) was the idea that energy and effort went into reviewing a permit and recovering the cost created a net “0.”

MOTION – to approve a request to reduce the building permit fee for solar panels to a flat fee of \$250

M/S A. Carlson/McKeithen

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

21. ADOPTION OF A RESOLUTION TO APPROVE REVISIONS TO GUIDELINES: CONSTRUCTION, OPERATIONS AND PARKING PLANS (COP Plans)

Recommendation: Consider revised Guidelines for Construction, Operation and Parking Plans and, if desired, rescind Resolution No. 03-28 and adopt the revised Guidelines.

City Attorney Marc Hynes presented the staff report. The most recent revision included changes to paragraph 1.a and 1.c relative to parking regulations onsite, and paragraph 9 included language changes to notes included on the COP Plans.

Council Member Jerry Carlson asked how the City Manager would report as required by paragraph 13.

City Manager Jim Robinson said staff would provide a format that would identify the primary construction sites within the Town and identify where variances existed and where citations occurred. Staff thought reporting on a quarterly basis was more workable for staff.

After a short discussion, paragraph 13 of the guidelines was amended to read, “After implementation of the Guidelines, the Building Official shall report to the City Council on the effect and operation of these guidelines on a quarterly basis for the first year and every six months thereafter.

MOTION – to adopt Resolution No. 06-04, “A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON AMENDING GUIDELINES FOR CONSTRUCTION OPERATION AND PARKING PLANS AND RESSCINDING RESOLUTION NO. 03-28

M/S McKeithen/J. Carlson

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

22. SECOND READING AND ADOPTION OF AN ORDINANCE REGARDING TIME LIMITS FOR COMPLETION OF CONSTRUCTION

Recommendation: Adopt an Ordinance establishing time limits for completion of construction projects.

City Attorney Marc Hynes presented a summary of the changes from the last meeting.

Council Member McKeithen had several changes: 1) regarding deposits, the method of payment should include a Certificate of Deposit in all instances; 2) subsection F should read, “If the owner believes that the failure to meet the applicable time limit was caused by circumstances beyond the owner's control and those circumstances are among those listed as grounds for appeal in Section 15.40.210(B), the owner may file a written statement to that effect with the Building Official at the time of making the deposit as described in subsections A and/or B D above and provide any documentation substantiating such grounds of appeal and the effect on the construction. If the owner makes such filing, no part of the deposit shall be forfeited to the Town and no demand shall be made against the bond if construction is completed within thirty (30) days of the deposit. If construction is ~~thus~~ completed after the thirty (30) days and the Building Official concurs with the owner's statement as to the cause of the failure to meet the deadline, the Building Official shall waive the penalty and return the cash deposit, certificate of deposit, or bond to the owner. If the Building Official does not concur with the owner's statement, it shall be treated as an appeal under Section 15.40.210 and all the provisions of that section shall apply.”; 3) subsection G should read, “If construction is completed after the applicable time limit, and the Building Official does not concur with the owner's statement, the Town shall draw on the deposit, certificate of deposit, or bond in the amount of the applicable penalties; provided, however, that in the event of an appeal, the Town shall not draw on the deposit, certificate of deposit, or bond until the Planning Commission and, if applicable, the City Council has rendered its decision as set forth in Section 15.40.210(A). 4) add the words “certificate of deposit”; 5) the first sentence under Appeal should read, “A penalty imposed pursuant to Sections 15.40.160 through 15.40.220 200 and Section 15.40.220 may be appealed...”; and 6) add the words, “but not limited to,” in the second sentence.

A short discussion ensued regarding whether the 12-month deadline would penalize someone when there was an unusually long rainy season.

MOTION – to reintroduce an ordinance for first reading, “AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ESTABLISHING TIME LIMITS FOR COMPLETION OF CONSTRUCTION AND AMENDING CIVIL PENALTY PROVISIONS AND RENUMBERING CODE SECTION PERTAINING TO VIOLATIONS OF CHAPTER 15.40 PERTAINING TO CONSTRUCTION REGULATIONS”

M/S A.Carlson/McKeithen

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

**23. FIRST READING AND INTRODUCTION OF AN ORDINANCE ADDING
ATHERTON MUNICIPAL CODE SECTION 15.40.157 REGARDING
CONSTRUCTION SITE SCREENING**

Recommendation: Conduct the hearing, waive reading of the Ordinance beyond the title, and introduce the Ordinance based on the following finding for the reason outlined in the staff report: The proposed Ordinance is required to achieve the objectives of the Zoning Plan and the General Plan.

Deputy Town Planner Lisa Costa Sanders presented staff report. The proposed ordinance was reviewed by the General Plan Committee. Initially the language said all construction sites should have screening. After discussion, the Committee thought that existing walls or significant landscaping could screen the site. Any construction site that was visible from the public right-of-way needed to be adequately screened to the satisfaction of the Building Official, should consist of materials approved by the Building Official, be identified on the approved plans, and installed prior to construction.

In response to Council Member McKeithen, City Attorney Marc Hynes said that a cross reference could be added to read, "...as described in 15.40.110A," that defines construction as including site preparation and demolition to ensure screening was included in the demolition phase.

M/S Janz/McKeithen

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

**24. APPROVAL OF PROFESSIONAL SERVICES AGREEMENT WITH BKF
ENGINEERS FOR DRAINAGE STUDY**

Recommendation: Consider approval and authorize the Mayor to sign a professional services agreement with BKF Engineers for review of the Town's drainage policy.

Building Official Mike Hood said the agreement with BKF Engineers was before the Council. He noted that to be consistent with ABAG direction the amount of insurance should be \$2,000,000.

Council Member McKeithen, said the BKF project approach needed to be labeled Exhibit A, notices should be addressed to the Building Official, and any additional questions she had for BKF could be addressed at the kick-off meeting.

MOTION – to authorize the Mayor to sign the professional services agreement with BKF Engineers for a drainage study not to exceed \$132,900

M/S McKeithen/J.Carlson

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

25. RED LIGHT VIOLATION CAMERAS

Recommendation: Staff recommends the Town enter into a trial agreement with Redflex Traffic Systems for three signal-controlled intersections within the jurisdiction of Atherton. Further, if the trial proves viable, staff recommends approval of a contract with Redflex for the permanent installation at the recommended locations.

Police Chief Bob Breenan said the item originally was presented to the Transportation Committee in January in an effort to mitigate some of the problem intersections within the Town. Staff was asking for permission from Council to conduct a trial for three intersections. The trial would assess whether there was enough violations of right turns on red lights to warrant installing a camera system at each intersection to help curb the accident rate, educate the public, and recover the cost for the system. There was no cost to the Town for the trial. Staff was recommending Redflex to perform the trial, assess whether there was enough volume at the intersections to warrant a camera system and, if so, contract with Redflex. The three intersections were: 1) Oak Grove and Middlefield; 2) Marsh Road and Middlefield; 3) Fair Oaks and the El Camino. The trial was for a 12-hour period during peak traffic times.

Council Member McKeithen questioned whether there was a way to terminate the contract sooner.

City Attorney Marc Hynes said an escape clause could be added in the event revenue fell off.

Police Chief Brennan said Redflex's agreement contained a neutral clause that said if revenues fell below the \$5,000 amount to lease the cameras, the Town was not required to pay more.

A discussion ensued regarding the three intersections (four approaches), as well as additional approaches that could be added. The approaches were selected based upon statistical evidence that indicated they were the most dangerous, i.e., the most accidents occurred there.

Amanda Miller, Walnut Avenue, suggested letting residents know about the program before implementation.

MOTION – to enter into a trial agreement with Redflex Traffic System for three signal-controlled intersections in Atherton

M/S McKeithen/J.Carlson

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

26. AMENDMENT TO HERITAGE TREE ORDINANCE – MODIFY PENALTY PROVISIONS – FIRST READING (Continued from the meeting of April 19, 2006)

Recommendation: Consider an amendment to the penalty provisions of the Heritage Tree Ordinance to set out certain remedies related to planting of replacement trees where a heritage tree has been removed in violation of Town regulations.

City Attorney Marc Hynes presented a brief staff report. The proposed amendment would add a new subsection D to the penalty provisions of Chapter 8.10.060 of the Atherton Municipal Code. Comments were received from the Town Arborist after Council received the packet. The following changes were made to the ordinance: 1) Subsection D1 was changed to read, “Requiring that the violator obtain a tree removal, ~~pruning or encroachment~~ permit for the previously conducted unlawful activity...”; Subsection 1i, was changed to designate, “...in the option of the Town Arborist ~~Building Official...~~” to replace one or more trees on the site; Additionally, rather than the Town Arborist making the calculation of the value, the new requirement would be for a certified arborist to make the calculation.

Denise Kupperman, Atherton, believed a longer period than 5 years was needed to maintain replacement trees. A replacement tree should be a “like” tree, i.e., an oak for an oak. Additionally, a replacement tree could be placed on the site other than where a tree was removed, and she believed the determination of where the trees were placed should be made by the Town Arborist or the Tree Committee or the City Manager.

After discussion, language was added to subsection Dii, that read, “...the violator shall plant replacement trees offsite as designated by the Town Arborist...” Additionally, the words “for 5 years” were removed from subsection D2.

MOTION – to introduce for first reading, “AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON AMENDING CHAPTER 8.10 (HERITAGE TREES) OF THE ATHERTON MUNICIPAL CODE BY ADDING PROVISIONS TO SECTION 8.10.060 PERTAINING TO PENALTIES AND REMEDIES FOR VIOLATIONS OF HERITAGE TREE REGULATIONS”

M/S McKeithen/Janz Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

27. CONSIDERATION AND DIRECTION TO STAFF REGARDING RESIDENT AWARENESS AND EMERGENCY PREPAREDNESS (Continued from the meeting of April 19, 2006)

Recommendation: It has been requested that the City Council hold a study session to review the Town’s emergency plan and efforts for resident awareness.

MOTION – to continue the item to the City Council Meeting of June 21, 2006, with direction to place the item earlier on the agenda

M/S A.Carlson/Marsala Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

28. ~~CONSIDER REQUEST FROM POP WARNER FOOTBALL FOR AN EXEMPTION OF THE SPECIAL EVENTS GUIDELINES AND GIVE APPROPRIATE DIRECTION TO STAFF~~ (The item was moved forward on the agenda for discussion.)

29. PUBLIC COMMENTS

There were no public comments.

30. ADJOURNMENT

Mayor Marsala adjourned the meeting to order at 11:35 p.m.

Respectfully submitted,

**Kathi Hamilton
Acting City Clerk**