



MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON
CHANNEL DRAINAGE DISTRICT
July 19, 2006
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

Mayor Marsala called the meeting to order at 7:07 p.m.

1. **PLEDGE OF ALLEGIANCE**

2. **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**

NONE

4. **COUNCIL REPORTS**

- Vice Mayor Alan Carlson said he and Council Member McKeithen attended the Atherton Civic Interest League's (ACIL) Emergency Preparedness Committee meeting on Saturday, July 15th. The Town was divided into 14 divisions with captains for those areas. The committee was off to a good start.
- Council Member Jerry Carlson noted the Selby Lane School principal resigned to take a position with Partners in School Innovations. Carolyn Williams was named overall principal. The YES Reading Program would include reading comprehension next year. He would be meeting with the new Superintendent of the Redwood City School District and Atherton residents to talk about continuing to make Selby a good school. A meeting of the Finance Committee was held in June that included the Phase I report regarding the Building Department audit. Financial irregularities were found in the way revenues

were being collected. A Phase II report would provide more information. Approximately \$100,000 in additional fees might be invoiced in the near future. On June 14, 2006, the special investigator hired by the Town submitted a confidential personnel report to the City Manager. The City Council was denied access to any information from the report. The Town's Fraud Policy called for immediate notification of the Council if fraud occurred such as irregularities in collection of revenues. Council was informed that the Fraud Policy was enacted after any irregularities had occurred, thus did not apply. The Council had responsibility for sharing whatever and to what extent irregularities occurred with Town residents. He requested concurrence in directing staff to have a qualified third party conduct an audit of all Building Department files with the findings being presented to the Audit Committee and the City Council. The audit should go back at least three years, to be completed and presented to Council at its October 18th City Council Meeting. He requested that the Finance Committee be authorized to work out the scope of the audit with the auditor and that the auditor have full access to all Building Department records and files, as well as to personnel within the department. The City Manager should have no direct involvement in the audit other than to help facilitate in any way he was asked. Anything short of the requests would not restore credibility to the Town. The matter needed to be addressed at once and constituted an emergency situation.

- Mayor Marsala asked the City Attorney for clarification on what constituted an emergency for the purpose of adding an item to the evening's agenda
- City Attorney Marc Hynes explained a 4/5 majority vote of the Council was needed to add an emergency item to the evening's agenda. Ordinarily, a dramatic circumstance to justify the emergency, e.g., a labor dispute or natural disaster, was needed. The other manner by which an item could be added to an agenda was if the issue arose after the an agenda had been posted 72-hours before the meeting, also requiring a 4/5 majority. He had not heard anything to suggest the issue arose after the agenda was prepared. Absent an emergency finding, he suggested placing the item on a subsequent agenda.
- Council Member McKeithen believed there was no question that the matter constituted an emergency.

MOTION – to add an emergency item to the evening's agenda to discuss acquiring the use of an independent auditor to perform a comprehensive review of the Building Department

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

- Council Member Jim Janz said the Atherton Rail Committee continued to look at available options regarding Caltrain. The best course of action was to cooperate with other cities concerned with service. A July 6th press release announced that the Coalition to Expand Train Service (CETS) was formed, comprised of 14 past/present council members from San Mateo County. A meeting of CETS was scheduled for Thursday, July 27th.

- **Council Member McKeithen said the Transportation Committee met on July 11th. After discussion, a request for a pedestrian crosswalk at Hoover and Valparaiso Avenue resulted in a possible better solution: once the work on Valparaiso was completed and a berm-type curbing was installed, a pedestrian pathway could be created from Victoria Manor to El Camino Real creating a smooth walking surface. Additionally, the Police Department would monitor speed in the area. A request for installation of a “No Entry During Rush Hour” sign at the entry way at 17th Ave and Holbrook Lane was deferred. Calming devices would be tried first, along with monitoring traffic, in order to make a better judgment. Council Member McKeithen said the big issue that evening concerned the Finance Committee and Audit Committee. Six years ago when multiple problems existed in the Town, a forensic audit was performed which led to the formation of the Audit Committee and ultimately to the first unqualified audit that the Town had ever received in its history. Last November, she began hearing concerns from residents and employees regarding possible improprieties in the Building Department. Allegations encompassed fee collection irregularities including Road Impact Fees, incomplete files, valuation issues, enforcement lapses, favoritism, gifts, variance and permit questions, parcel tax concerns, and more. She was informed by the Town’s attorney that she could not look into the issues on her own. Lance Bayer was hired to do the factual, investigatory work, and she was to be his contact person and ultimately receive a copy of his report with any names deleted. Subsequently, Mr. Bayer was directed to reveal no investigatory results. In early June, she and Council Member Jerry Carlson, both members of the Finance Committee, asked to see a copy of the report, but were refused. The Town attorney said they would not be permitted to even question the attorneys involved as to the basis for their opinions in a Closed Session because it did not involve potential litigation. She filed a public records request on June 13, 2006, which was ultimately denied. The arguments for keeping the report secret were merely rote: 1) a personnel matter, 2) the information in the report was protected as attorney/client privilege, and 3) the right to privacy outweighed the right to know. Building was Atherton’s number one business, a \$100 million industry. Without oversight, internal controls, and accountability, the process was unfair to everyone involved: to the residents who might live next to an illegal structure, to those who paid full payment of applicable fees and might be subsidizing those who managed to avoid paying their fair share, and to the contractors and developers whose activities were subject to speculation regarding improper behavior and, therefore, lived under suspicion. She met last week with the City Manager to try to find a solution to the Building Department dilemma. As one of the two members of the Town’s Finance Committee, as well as a member of the Audit Committee, she needed to know what aspects, if any, of the Building Department’s operations might have affected past and future finances. She needed to know what structural guidelines needed to be put into place to protect against abuses. She needed to understand how Atherton’s Municipal Code provisions should be amended to strengthen professionalism, fairness, understanding, and respect for the laws. She needed to be able to respond to the many complaints she received and**

exercise with authority the job for which she was twice elected, including overseeing needed changes. If alleged problems were found to be as inconsequential as the Town's response indicated, the report should be made public. If the investigation failed to investigate Building Department activity, but looked only at Building Department personnel, a new investigation should be conducted as recommended by Council Member Carlson. Any problems should be looked at openly without fear to correct what might be wrong. The process would enhance the Town's efficiency, credibility, and image.

- Mayor Marsala announced the annual Town barbecue sponsored by the Atherton Dames was scheduled for October 1st. Music@Menlo would begin on Monday, July 24th, and continue for two weeks. He hosted a barbecue for the Peninsula Division of the League of California Cities. The reconstruction of Selby Lane was in progress. He informed the General Plan Committee that some residents contacted him regarding basements under accessory structures. He believed as the underground basement issue was evaluated, accessory structures needed to be included. Mayor Marsala met privately with the Finance Director, City Manager, and City Attorney regarding the Building Department. He did not want to diminish the efforts of the Audit Committee or any residents who worked to improve the Town; however, he was always concerned about protecting the morale of staff who worked incredibly hard for the Town.

MOTION – to place the emergency item on the Regular Agenda to be heard before Item No. 17

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

5. PUBLIC COMMENTS

Steve Dostart, Atherton, recently purchased his home on Stockbridge Drive. The main house was built in 1950, which he did not want to demolish. He wanted to add an accessory structure with an underground playroom. His interpretation of sections of the Municipal Code indicated that the buildable area applied to accessory structures.

Vice Mayor Alan Carlson said the intent of the Council at the time the ordinance was enacted was to prohibit basements outside of the main building footprint and within the setbacks in which the main building could be built, 50 to 60 feet. Knowing the legislative history, he disagreed with Mr. Dostart's interpretation and suggested he review the tapes of the meetings.

John Sisson, Atherton, spoke regarding truth in government. As a citizen, he wanted to know what went on in the Town in order to know a good job was being done by Town staff.

John Rugeiro, Atherton, commended Council Members Jerry Carlson and Kathy McKeithen for their statements and Vice Mayor Carlson for placing the item early on the agenda. He spoke regarding the upcoming election.

6. STAFF REPORTS

- **City Manager Jim Robinson welcomed back Police Chief Bob Brennan from vacation and commended Lieutenant Glenn Nielson for filling in for the Chief. He noted bids were opened the previous day for Item No. 14 on the Consent Calendar, the Valparaiso Avenue Reconstruction project, and suggested the item be removed for discussion. City Manager Robinson welcomed Gary Binger to the Town as the new Interim Planning/Building Administrator. Mr. Binger previously worked as the Community Development Director for the City of Walnut Creek and as the Deputy Executive Director of ABAG. City Manager Robinson noted 600 Police Department surveys had been received. Those who had not responded to the survey would receive a phone call. Interim Planning/Building Administrator Binger and he would be meeting with Gordon Siebert to implement the evaluation of code enforcement issues. Council's list of priorities would be completed by the end of July beginning of August.**
- **Finance Director John Johns said the Phase II report regarding the Building Department's permitting process review was completed and would be submitted to the Audit Committee on July 27th. During Phase I, permit files were reviewed to determine whether Road Impact Fees or any other fees should have been collected at the time of application. A number of exceptions were identified where property owners were allowed to circumvent the excavation surcharge. A number of process weaknesses were identified in the assessment of collection of fees. Based on the Phase I report, another review was conducted regarding damage assessment, i.e., to identify/quantify the amount of fees that should have been assessed and to verify that fees assessed and collected during the last 18 months had been done properly. The Phase II report contained a recommendation to develop procedures that would improve the level of integrity of the process. Revised procedures would be submitted to the Audit Committee, as well as a claim summary that identified the number of times in which fees were determined to be improperly assessed. Eight files had been identified where fees were not assessed properly, totaling approximately \$100,000. Instances were identified in which departmental personnel appeared to have acted improperly in not assessing fees specifically related to the excavation surcharge that became effective in May 2005. Property owners should have been assessed permit fees based upon a standard calculation; however, in some cases, the property owner was allowed to declare a value based on his/her word. The next step was to present a claim, along with a notice to the applicant, for the amounts due and payable and the circumstances surrounding the claims. All the documentation would be filed with the City Attorney in order to assess the collectibility of the claims and the sufficiency of the documentation. He believed during the course of the review, facts and circumstances were identified that might be useful to the ongoing personnel investigation.**
- **Vice Mayor Carlson said a copy of the Phase I and Phase II reports should be delivered to each City Council Member not on the Audit Committee on July**

27th. He suggested that the Council reinstate its meeting in August to discuss the reports.

- **Finance Director Johns said the Phase I audit was conducted to verify that excavation surcharges and other fees had been properly assessed and collected in accordance with the fee resolutions in place as recommended by the external auditors. As a result of Phase I, exceptions were identified which suggested a pattern of inappropriate conduct. He alerted management and recommended that the scope of the personnel investigation be extended, expanded, or reopened to address the concerns. Those in the Finance Department were unaware of the scope, nature, and objectives of the personnel investigation. During the course of the audit, he believed evidence was found that would be useful to support an investigation. The information could not be disclosed as it was considered privileged.**
- **Police Chief Bob Brennan said due to recent donations, the Police Activities League was able to present a check for \$5,000 to the Menlo-Atherton High School football team for new equipment.**
- **Public Works Director Duncan Jones reported the Selby Lane project was moving forward despite that a water main broke the previous evening. The main was repaired and paving would begin the next week. Regarding the claim presented to P.G.&E., no response had been received to date. Council Member McKeithen asked that within the next week, Public Works Director Jones set up a meeting to discuss the landscaping near the train depot. She had requested a report regarding a trench along Mandarin where illegal work occurred in the encroachment and what action would be taken. Public Works Director Jones said there was, in fact, no encroachment permit. He was looking at alternatives for the drain.**
- **City Attorney Marc Hynes reported out of Closed Session as follows:**
 - A. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Significant Exposure to litigation pursuant to subsection (b) of Government Code Section 54956.9:

One (1) potential case

No reportable action.
 - B. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Initiation of litigation pursuant to subsection (c) of Government Code Section 54956.9:

Two (2) potential cases

Item continued to the end of the Regular City Council agenda.

C. LIABILITY CLAIM – pursuant to Government Code Section 54956.95

Claimant: Elaine Farnham

Agency Claimed Against: Town of Atherton

Item continued to the end of the Regular City Council agenda.

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

NONE

CONSENT CALENDAR (Items 8 - 16)

Item No. 14 was removed from the Consent Calendar and placed at the end of the Regular Agenda for discussion.

Regarding Item No. 10, Finance Director John Johns clarified the report was for the Fiscal Year ended June 30, 2006, with the exception of some adjusting entries and accruals. The final numbers for 2005/2006 would be presented as part of the Mid-Year Budget report. Council Member Jerry Carlson requested the information be provided earlier. Regarding Item No. 15, Public Works Director Duncan Jones explained the range in bids resulted from some contractors who wanted the work and others who bid high hoping they were the only bid. He was satisfied with the quality of work.

MOTION – to approve the Consent Calendar as presented with the exception of Item No. 14, which was removed and placed at the end of the Regular Agenda for discussion

M/S J. Carlson/McKeithen

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

8. APPROVED MINUTES OF THE SPECIAL MEETING OF JUNE 14, 2006, AND THE REGULAR MEETING OF JUNE 21, 2006

9. APPROVED BILLS AND CLAIMS FOR MAY 2006 IN THE AMOUNT OF \$758,976

10. ACCEPTED MONTHLY FINANCIAL REPORT FOR JUNE 2006

11. ACCEPTED THE ANNUAL INVESTMENT POLICY FOR FISCAL YEAR 2006/2007

12. APPROVED A RESOLUTION AUTHORIZING THE FINANCE DIRECTOR AND CITY MANAGER TO INITIATE TRANSACTIONS WITH THE STATE OF CALIFORNIA LOCAL AGENCY INVESTMENT FUND

Adopted Resolution No. 06-12 regarding investment transactions with the State of California Local Agency Investment Fund.

13. AWARD OF CONTRACT FOR THE 2006 PAVEMENT PATCHING PROJECT, PROJECT NO. 05-006

Awarded the contract for the 2006 Pavement Patching Project, Project No. 05-006, to G. Bortolotto & Co., Inc., the lowest responsible bidder on the July 13, 2006 bids, for \$58,012.50, and to authorize the Mayor to sign the contract on behalf of the Town.

~~**14. AWARD OF CONTRACT VALPARAISO AVENUE RECONSTRUCTION PROJECT, PROJECT NO. 05-003**~~ (Removed from the Consent Calendar and placed at the end of the Regular Agenda for Discussion.)

~~**Recommendation: Award the contract for the Valparaiso Avenue reconstruction Project, Project No. 05-003, to the low bidder on the July 18, 2006 bids, and to authorize the Mayor to sign the contract on behalf of the Town.**~~ (Removed from the Consent Calendar and placed at the end of the Regular Agenda for discussion.)

15. AWARD OF CONTRACT FOR STREET RECONSTRUCTION PHASE III, PROJECT NO. 05-005

Awarded the contract for Street Reconstruction Phase 3, Project No. 05-005, to O'Grady Paving Inc., the low bidder on the June 29, 2006 bids, for \$883,930, with a 10% construction contingency of \$88,393, for a total authorization of \$972,323 and to authorize the Mayor to sign the contract on behalf of the Town.

16. APPROVED AMENDMENT NO. 3 TO THE AGREEMENT BETWEEN THE TOWN OF ATHERTON AND THE CITY OF REDWOOD CITY FOR VEHICLE MAINTENANCE SERVICES AND FUEL PURCHASING

Approved the amended agreement between the Town of Atherton and the City of Redwood City for vehicle maintenance services and fuel purchasing.

PUBLIC HEARINGS NONE

REGULAR AGENDA (Items 17 - 22)

17 A. DISCUSSION AND POSSIBLE DIRECTION TO STAFF REGARDING THE USE OF AN INDEPENDENT AUDITOR TO PERFORM A COMPREHENSIVE REVIEW OF THE BUILDING DEPARTMENT'S POLICIES AND PROCEDURES (Added to the agenda by a 4/5 vote of the Council)

Council Member Jerry Carlson recommended conducting an audit of the Building Department's files, records, and transactions to be performed by a qualified outside auditor going back three years and possibly more. The Finance Committee should be involved with the auditor to discuss the scope,

and the scope should be authorized by the full Council to ensure the scope of the audit encompassed concerns regarding processes/internal controls. The auditor should have complete access to the Building Department's records/files and personnel to determine whether or not problems existed. The auditor should report to the Council, and any findings would be a matter of public record. He was concerned with credibility. The Building Department needed to be reengineered. The Town was made up of professionals who expected a government organization that performed in a professional manner.

Council Member McKeithen added that the Finance Director should have sole oversight of the project on a day-to-day basis as he reported to the Audit Committee, the Finance Committee, and ultimately the Council.

Mayor Marsala asked whether there were restrictions on access to the Building Department's records.

City Manager Jim Robinson said the process would be the same as performed by the Town's outside auditor every year, which resulted in an unqualified Town audit for the past five years. The auditor would obtain information and file a report. The Building Department needed to perform its day-to-day work; however, he saw no impediments.

Mayor Marsala supported Council Member Carlson's proposal and said if a problem existed, the Council would address it.

Council Member Janz asked for clarification that an outside independent auditor would be hired by the Town.

Council Member Carlson believed the Town already had an outside qualified auditor handling the Phase I and Phase II studies who could also perform the new audit.

Finance Director John Johns said the Town had the resources to accomplish Council's request, which could become Phase III. A professional engineer might be needed to assist with technical issues. An independent auditor was onsite, working under his supervision, and was very well qualified.

Council Member McKeithen said whoever was performing the audit needed to understand Building Department rules; Atherton rules/regulations; and state rules regarding building, design processes, and management.

Finance Director Johns clarified an outside auditor was already onsite who could perform a quality assurance review and develop a simple list of objective criteria by which an assessment could be made whether Building Department files were processed properly. Every file that had been finalized and issued an occupancy permit should contain three documents: 1) a certification of height; 2) a certification of setback requirements performed by a licensed professional

engineer; and 3) a calculation of required floor area ratio based upon data contained within the plans. Some criteria might need the judgment of an engineer. The Phase III audit would take 8 to 12 weeks to complete.

Council Member Janz suggested that the Council could receive the Phase II report at the August City Council Meeting and the Phase III report could be returned to the Council Meeting of October 18th.

Finance Director Johns said a statement of work for Phase III would be developed immediately and could be submitted to the Finance Committee, the Audit Committee, and then to the full Council.

Vice Mayor Alan Carlson had several issues, the most important of which was that the residents needed to have confidence in their Town government. Therefore, the Town needed to be as expeditious as possible in ascertaining the information, which should flow directly to the City Council. The first step was for Council to agree on the scope of the audit. He suggested the Council meet in a Special Meeting during the week of July 31st to discuss the scope of the audit. He queried that the previous study reviewed the last 18-months and was a verification of all fees.

Finance Director Johns said the focus of Phase I was on applications that were received shortly before the effective date of the excavation surcharge and resulted in identifying 6 files out of 30 with problems, representing \$70,000 worth of fees. The second task was to look at all files that had any evidence of remodeling activity where the Building Department had used the owner's declaration of value instead of the standard \$250 per square foot valuation. He identified about 4 files representing \$12,000 in fees. From the audit procedures he used, looking at 140 files, he was able to come within an acceptable degree of error that 115 files had been processed correctly; however, there were exceptions within that population that gave pause. The new audit would be an entirely separate review and entailed establishing a checklist and establishing a process of verifying consistency with the criteria.

Vice Mayor Carlson asked whether the review of the Building Department indicated that proper policies and procedures were in place but not followed, or whether appropriate policies and procedures did not exist.

Finance Director Johns had believed certain controls were in place based upon the representation of management. However, after reviewing the files, he found that either controls were not in place or staff was not adhering to them. Other procedures should be implemented immediately and had been documented.

Vice Mayor Carlson asked for documentation in the report to be presented next week on the policies and procedures that were in place but were enforced in a lax manner or not implemented, and to identify those additional policies and procedures which were recommended to be implemented.

Finance Director Johns said the Phase I report identified those policies and procedures that were not in place or were not adhered to. The Phase II report indicated how it should be done in the future. Additionally, he would be better able to ascertain how long Phase III would take after the scope was developed.

Vice Mayor Carlson was interested in fixing whatever problems were identified as quickly as possible, which would be the first step in restoring confidence in the Building Department. He recognized that personnel matters were in the purview of the City Attorney and the City Manager, he recognized the legal significance of personnel matters as a labor and employment attorney, and he realized that public employees had greater protections than private sector employees. The City Council could be put in the position of ultimately deciding whether a personnel action should be upheld.

Council Member McKeithen asked how building heights, setbacks, size of the structure, etc., would be verified. A surveyor had verified the height of a structure using the term “finished” grade. She had yet been able to define the term.

Finance Director Johns said with respect to height verification and setback requirements, every file should have a certification from a licensed engineer. If any language in the certification was questioned, the surveyor should be required to clarify the original language.

Mayor Marsala asked what percentage of permits represented over \$100 thousand or under \$50 thousand and whether lower amounts should be reviewed as well. He questioned whether current fee collection practices and current staffing levels were adequate.

Finance Director Johns said the Phase I report contained a tabulation of permits issued by permitted value. He thought the current distributed cash receipting process was in the best interest of customer service and that adequate staff was available in both the Finance and Building Departments to facilitate the processes.

Council Member Carlson encouraged staff to review files with a value lower than \$100 thousand dollars because irregularities often happened in the case of lower value transactions. He was concerned adequate information systems were not in place to provide the proper controls.

Finance Director Johns said staff reviewed files with a low dollar value based upon their description to ascertain whether they should have a higher dollar value. Instances had been identified where the owner’s declaration was \$40 thousand, but the actual permitted value should have been \$120 thousand.

Vice Mayor Carlson asked staff to prepare a flow chart showing the processes currently in place and a flow chart showing any changes that were implemented.

John Sisson, Atherton, requested that the report be made available to the public when it was completed.

John Ruggeiro, Atherton, spoke regarding the investigation done by Lance Bayer.

Jim Dobbie, Atherton, stated that the big business in Atherton was real estate. Rumors around the Town regarding favoritism toward developers pointed to a conflict of interest.

MOTION – to initiate a Phase III audit under the supervision of the Finance Director, using outside qualified resources to audit the files/records of the Building Department, going back a sufficient amount of time to ascertain any weaknesses in internal controls/processes; to develop a scope of work to be presented to the City Council at a Special Meeting during the week of July 31, 2006, with a final report to be presented to the full Council at its Regular Meeting in October. Further, direction was given to the City Manager to pole the Council for availability for a Special Meeting during the week of July 31, 2006.

M/S J.Carlson/McKeithen

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

17.B. ADOPTION OF A RESOLUTION ENDORSING THE PARKS FOR THE FUTURE CONCEPT AND RECOMMENDING THAT THE SAN MATEO COUNTY BOARD OF SUPERVISORS PLACE THE MEASURE ON THE NOVEMBER BALLOT

City Manager Jim Robinson presented the staff report. Parks for the Future was an effort to secure dedicated tax-based revenues to support the parks- and recreation-related activities of San Mateo County. Voter approval of a measure to increase sales tax by 1/8th of a cent for a period of 25 years was needed. The San Mateo County Board of Supervisors was expected to take final action at its August 1, 2006, meeting to place the item on the November 2006 ballot.

Vice Mayor Alan Carlson noted the Town would be required to maintain its current General Fund contribution to the Park & Recreation budget. He queried how the amount was determined and what the benchmark would be at the present time

City Manager Jim Robinson said if the 1/8-cent tax was approved, the revenue would be used to support ongoing or existing programs at the current level. The Town's ongoing programs were fairly minimal.

Cecily Harris, San Carlos, Chair, Parks & Recreation Commission, said the City of San Carlos discussed the maintenance of effort issue and decided during a time of budget cutting, no more could be cut from the Parks & Recreation budget than any other department. Her understanding of the maintenance of effort was that it was based on the last several years' figures.

Finance Director Johns said the information he had on how the calculation for the maintenance of effort was determined provided three scenarios, and he was comfortable with all three. The amount of revenue coming from the tax measure was perhaps twice as much as the Town was currently providing.

Ms. Harris said seven of the nine Bay Area counties had some type of dedicated funding. San Mateo County did not. The revenue from the tax could be used for maintenance and operations, not just capital improvements. The Town determined how the money would be used. The Board of Supervisors unanimously endorsed the ballot measure on the first reading and would be meeting on August 1, 2006, for a final vote.

Linda Liebes, Atherton, said the Town had been among the leaders in supporting the effort from the beginning. Mayor Marsala and Council Member Janz attended the first meeting. The Park & Recreation Commission was involved, as well as the City Manager. She asked for continued support and encouragement to other jurisdictions to support the measure.

MOTION – to adopt Resolution No. 06-13 endorsing the Parks for the Future concept and recommending that the San Mateo County Board of Supervisors place the measure on the November ballot.

M/S McKeithen/J.Carlson Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

Mayor Marsala called for a recess at 9:40 p.m. The meeting was reconvened at 9:49 p.m.

18. PARK LANE COMMUNITY POLICING REPORT – UPDATE

Police Chief Bob Brennan presented the staff report. During the months of May and June, seven calls were received regarding Park Lane. Some were procedural, and a few had merit where action was taken. The situation was better, projects were finishing up, and most vehicles could be parked onsite. An audit was performed for one week, four times a day, checking for before 8 a.m. and after 5 p.m. violations, parking violations, and trash accumulation, which resulted in one violation.

Council Member McKeithen believed the report was more favorable than the actuality. She received several complaints on July 5, 6, and 7 from residents. Standards had fallen off which was indicative of the problem that the remedy

often did not last. A regular code enforcement system would eliminate the need for citizens to report neighbors.

A discussion ensued regarding a recent burglary and subsequent arrests. Arrests were also made at construction sites in the past few months. Many of these crimes were related to narcotics rather than gangs.

Direction was given to staff to present a follow-up report to the City Council in three months.

19. REPORT ON TOWN PARTICIPATION IN REGIONAL AGENCIES

At the Regular City Council Meeting of June 21, 2006, the City Council directed staff to provide a list of regional organizations of which the Town is a member as well as to provide a tabulation of membership fees paid to such entities in FY 2005-06

Finance Director John Johns said the report showed the fees paid to regional associations, the majority of which came out of the City Council's budget, based upon tabulation of data in the accounts payable database.

Council Member Janz queried whether information was received on the benefits of participating in the Abandon Vehicle Program.

City Manager Jim Robinson spoke to three people involved in the program from C/CAG and received three different answers. Those cities that had a large abandoned vehicle problem received a great benefit from participation in the program. His understanding was even if there was no activity in a quarter, the Town would receive approximately \$400; however, that fact had not been confirmed. Staff was continuing to look into the issue.

20. REVIEW AND APPROVE A RESOLUTION AUTHORIZING THE TOWN OF ATHERTON TO BECOME A MEMBER OF A COUNTYWIDE SUB-REGION, AN ENTITY THAT WOULD LOCALLY ADMINISTER ABAG'S REGIONAL HOUSING NEEDS ALLOCATION PROCESS (RHNA)

Council Member Janz said that state legislation existed that allowed communities within the state that were contiguous to work together on the housing allocation process. If the Town participated in the sub-region process, the sub-region could be assigned less of a housing quota than the same sub-region would have been assigned for its member entities. Additionally, by participating in the sub-region group, the information collected for the Housing Element, could be used by the participants regardless of whether they continued to participate.

Deputy Town Planner Lisa Costa Sanders clarified if all the communities in the County joined, the housing allocation would be distributed among all the

communities. For example, if Atherton chose to meet the requirement by making an in-lieu payment, the money could be distributed to any community within the County.

Vice Mayor Alan Carlson encouraged participation in the process on every level.

MOTION – to adopt Resolution No. 06-14 authorizing the Town of Atherton to become a member of a Countywide Sub-Region, an entity that could locally administer ABAG’s Regional Housing Needs Allocation Process (RHNA).

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

21. CONSIDER CREATING A TWO-MEMBER SUBCOMMITTEE OF THE COUNCIL ON EMERGENCY PREPAREDNESS

City Manager Jim Robinson said Council, at its last meeting, suggested a subcommittee be created on emergency preparedness. Council Member McKeithen volunteered to chair the committee. The item was placed on the evening’s agenda to create the committee and develop the scope.

Council Member McKeithen clarified that she and Vice Mayor Alan Carlson would discuss the scope of the subcommittee after its creation.

Mayor Marsala suggested rotating in the other members of the Council in subsequent years in order to gain expertise in emergency preparedness.

MOTION – to create a two-member subcommittee for emergency preparedness composed of Council Member McKeithen and Vice Mayor. Further, Council Member McKeithen and Vice Mayor Carlson will meet to develop the scope of the subcommittee.

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

22. CONSIDERATION OF DESIGNATING A VOTING DELEGATE AND ALTERNATE FOR THE 2006 LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE

City Manager Jim Robinson said if Council intended to participate in the League of California Cities Annual Conference and participate as a voting delegate, Council needed to authorize one of its members to represent the Town at the Annual Business Meeting.

Council Member Jerry Carlson expressed interest in attending the League meeting.

MOTION – to appoint Council Member Jerry Carlson as a voting delegate to the League of California Cities Annual Conference and the Annual Business Meeting to be held in San Diego from September 6 through September 9, 2006..

M/S Janz/McKeithen

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

14. AWARD OF CONTRACT VALPARAISO AVENUE RECONSTRUCTION PROJECT, PROJECT NO. 05-003

Public Works Director Duncan Jones presented the staff report. Bids were received the previous day and were considerably higher than the engineer's estimate. The difference between the low bidder and the engineer's estimate was almost exclusively due to asphalt prices. He interviewed the low bidder as to whether it would be beneficial to re-bid the project when more competition might exist and was told labor costs historically increased and there was no guarantee asphalt prices would go down. Public Works Director Jones recommended proceeding with the project so as to not risk price increases.

A discussion ensued regarding the merits of re-bidding the project, investigating alternatives to asphalt, constructing the project, moving funds from the current year's budget to complete the project and delay other projects into the next year.

MOTION – to award the contract to the low bidder on the July 18, 2006 bids, Interstate Paving and Grading, Inc., not to exceed \$1,840,766.95, and to authorize the Mayor to sign the contract on behalf of the Town

M/S McKeithen/Janz

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

23. PUBLIC COMMENTS

There were no public comments.

24. ADJOURNMENT

Mayor Marsala adjourned the meeting at 10:22 p.m. to a *Continued* Closed Session

B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

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

Two (2) potential cases

C. LIABILITY CLAIM – pursuant to Government Code Section 54956.95

Claimant: Elaine Farnham

Agency Claimed Against: Town of Atherton

There was no reportable action taken on Item B. With regard to Item C, by a unanimous vote of the Council, the claim was denied.

Respectfully submitted,

Kathi Hamilton
Acting City Clerk