



**MINUTES**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON**  
**CHANNEL DRAINAGE DISTRICT**  
**October 18, 2006**

**7:00 p.m.**

**Town Council Chambers**

94 Ashfield Road  
Atherton, California

**REGULAR MEETING**

Mayor Marsala called the meeting to order at 7:05 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**

**CONSIDERATION AND ACCEPTANCE OF THE ATHERTON POLICE DEPARTMENT SURVEY CONDUCTED BY GODBE ASSOCIATES (Continued from the City Council Meeting of September 20, 2006)**

City Manager Jim Robinson presented a brief introduction regarding the Atherton Police Department survey and introduced Brian Godbe and Brian Murray of Godbe Associates. Mr. Murray summarized a PowerPoint presentation regarding the survey. The overall outcome of the survey indicated that 97 percent of Atherton residents were satisfied with the quality of life in Atherton and that 97 percent of residents were satisfied with the performance of the Atherton Police Department. Mr. Godbe and Mr. Murray responded to questions.

Police Lieutenant Glenn Nielsen read a letter into the record from Police Chief Bob Brennan. Chief Brennan thanked everyone for his/her support which was reflected in the results of the survey. As the Police Chief, he received compliments on the changes brought about in the Police Department during the six years of his administration.

However, he believed the members of the Police Department had embraced the message and delivered the services that brought the 97 percent survey results.

#### 4. COUNCIL REPORTS

- Vice Mayor Alan Carlson and Mayor Marsala attended a Buildings and Facilities Committee meeting that morning where building facility needs were reviewed. The Town was moving forward with a space needs assessment for the Police Department and the Administrative offices. He attended the October 10<sup>th</sup> Transportation Subcommittee meeting along with Council Member McKeithen. A traffic issue on Holbrook Lane was discussed; the subcommittee decided to conduct a study, and a special meeting would be held within the next 30 days to discuss the findings. The Public Works Department was applying for “A Safe Route to School” grant money and would report to the subcommittee in 30 days.
- Council Member Jerry Carlson commended the Atherton Dames for a successful Town Barbecue. There was an excellent turnout, with a number of younger families attending. He commended staff on an unqualified financial audit, along with no management letter comments. The Finance Department had been successfully reengineered and he wanted to achieve the same for the Building Department. He asked the City Manager for the follow-up list of pending projects. City Manager Jim Robinson said a quarterly report was almost completed and would be distributed to Council before the next meeting. Public Works Director Duncan Jones clarified that the meeting scheduled for the 24<sup>th</sup> of October, at 6:00 p.m., in the Council Chamber was a City/County Association of Governments (C/CAG) Gateway 20/20 Project. The meeting was the first step to explain the Gateway Project; the northerly portion of the project was the Marsh Road/Hwy 101 intersection, which was the connection to the Dumbarton Bridge.
- Council Member Janz said he was a member of the Policy Committee for the Gateway 20/20 Project, which was important to ensure Atherton’s interests in structuring traffic accessibility from the Dumbarton Bridge to the Hwy 101 corridor and to Woodside Road in the north and Hwy 85 in Mountain View. C/CAG was working and had support from all the cities in the county, as well as San Mateo County, to work together on the regional housing allocation process. San Mateo County was the only county in the state that took advantage of handling the allocation process themselves. There was no provision in current law to allow cities to trade allocation levels. The Housing Endowment and Regional Trust (HEART) was trying to work with state legislators to include the ability to trade allocation levels as part of the law. The State of California Geological Service released maps/reports showing areas of seismic hazard. The section that included Atherton was completed and was available on the web.
- Council Member McKeithen said the Town had received an unqualified audit for the past six years. Regarding the Transportation Subcommittee meeting, Victoria Manor residents asked for reinstallation of “chatter bars” that were near the Blockbuster store in order to safely enter/exit their neighborhood, and the committee agreed to contact the City of Menlo Park. Additionally, the

residents have asked for a safe walking zone from their homes across Valparaiso Avenue. The committee agreed to clear some debris, move some signs, and widen the path before looking into other improvements. Before a decision was made regarding the installation of signs along Holbrook Lane, Public Works staff would check the timing of the lights at Marsh Road and Middlefield Road to ascertain whether the flow of traffic could flow more freely. She attended a meeting of the Office of Emergency Services at the end of September. Many issues were discussed: 1) Homeland Security grants were received in the amount of \$14.2 million, and \$11.9 million had been spent. 2) In November, a Golden Guardian exercise would take place and would be the reenactment of the 1906 earthquake commencing at 5:12 a.m. Most cities (13) would participate for three to four hours, and Atherton was confirmed to participate. 3) With regard to a Pandemic Flu outbreak, the key word was self-sufficiency. There were six levels of preparation: The first three were for planning, and the next three were for execution. An outbreak was predicted to last from 9 to 24 months, would arrive in at least three waves, with mortality being the greatest in the first wave. A vaccine would not be available for 6 months and would likely go to first responders. A plan was being developed for essential operations: water delivery, food delivery, electricity, fuel, communication, pharmacy, and money. The deadline for Atherton's plan was March 2007, and a large exercise would take place in May 2007. 4) Atherton was the sixth Bay Area city to be certified as "storm ready" by the federal government. San Mateo County was developing an emergency sanitation plan and an emergency alert system was being beta tested in Burlingame that would notice people via text messages on cell phones.

- Mayor Marsala attended a "Building Green" seminar for ideas to promote green building in Atherton. He attended the San Mateo County disaster preparedness day which was very informative. He congratulated all those who worked on the Town Barbecue for a successful event. Mayor Marsala also attended the Menlo Park Fire District pancake breakfast. He hosted an event to pass Measure A, the Parks for the Future ballot measure.

## 5. PUBLIC COMMENTS

Shirley Carlson, Mt. Vernon Lane, spoke regarding the Town Barbecue, which was attended by more than 300 people. She thanked the Parks Department staff, ACIL, the Holbrook-Palmer Park Foundation, and the Police Department for their help in making it a great success.

Carol Flaherty, Camino Por Los Arboles, spoke regarding the rising water table and Atherton Channel problems. She asked for an update at the next Council Meeting on the drainage study.

Mayor Marsala said he would meet with Ms. Flaherty. A study was performed in 2000 which prioritized projects.

Council Member McKeithen said two public meetings needed to take place as part of the study so a global community solution could be reached rather than one property at a time. However, funds were allocated in the Capital Improvement budget to address the issues on Fletcher and Ridgeview.

City Manager Jim Robinson said the BKF study focused on ground water issues and the Fletcher Ridgeview study was somewhat intertwined. Historically, the concern was the cost of the actual improvements, and the Fletcher/Ridgeview study would ascertain what needed to be done to fix the drainage in the roadways.

Barbara Kostick, Selby Lane, spoke regarding the reconstruction of Selby Lane and resulting damage to her car. She submitted a claim to the Town which was passed on to Interstate Paving, Inc., but she had not received payment for the damages.

City Manager Jim Robinson said Assistant to the City Manager Wende Protzman would look into the issue.

John Sisson, Belleau Avenue, spoke regarding the ongoing issues in the Building Department, as well his dissatisfaction with Council's ability to uncover problems.

John Rugeiro, Stockbridge Avenue, spoke regarding drainage problems and flooding throughout the Town.

Mayor Marsala moved the Consent Calendar forward to be heard before Staff Reports. (See Consent Calendar)

## **6. STAFF REPORTS**

- **City Attorney Marc Hynes reported out of Closed Session as follows: Only one item was discussed, Item C. Six of the eight potential cases were discussed. The Closed Session was continued to the end of the Regular Agenda that evening.**
  - A. LIABILITY CLAIMS – pursuant to Government Code Section 54956.95**  
**Claimant: Giselle McKeller**  
**Agency Claimed Against: Town of Atherton**
  - B. CONFERENCE WITH LEGAL COUNSEL – Existing Litigation pursuant to Subsection (a) of Government Code Section 54956.9**  
**Town of Atherton vs. Chiu Ching et al. CIV 457574, San Mateo County**
  - C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**  
**Initiation of litigation pursuant to subsection (c) of Government Code Section 54956.9:**

Eight (8) potential cases

- Public Works Director Duncan Jones said the Upper Atherton Channel study of the red-legged frog was nearing completion. The pond silted up from construction projects upstream; however, the frogs had moved in and were “happy.” The initial recommendation from the consultant regarding the Marsh Road/Atherton Channel repair was for the use of soil-nail walls. Two bids were received; one for \$103 thousand, and one for \$84 thousand. The low bidder expected to begin work within the next two weeks.

7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT**

None

**CONSENT CALENDAR** (Items 8 – 21)

Item No. 14, Item 19, and Item 19A were removed for discussion.

**MOTION - to approve the Consent Calendar as presented with the exception of Item Nos. 14, 19, and 19A, which were removed for discussion.**

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

8. **APPROVED MINUTES OF THE SPECIAL MEETING OF SEPTEMBER 18, 2006, AND THE REGULAR AND SPECIAL MEETINGS OF SEPTEMBER 20, 2006**

9. **APPROVED BILLS AND CLAIMS FOR SEPTEMBER 2006 IN THE AMOUNT OF \$ 1,786,300**

10. **ACCEPTED MONTHLY FINANCIAL REPORT FOR SEPTEMBER 2006**

11. **ACCEPTED THE ANNUAL FINANCIAL STATEMENTS AND AUDIT REPORT FOR THE YEAR ENDED JUNE 30, 2006**

12. **APPROVED AN AGREEMENT BETWEEN THE TOWN OF ATHERTON AND THE HUMAN INVESTMENT PROGRAM (HIP) AND FUNDING**

13. **APPROVAL OF APPOINTMENTS TO THE ENVIRONMENTAL PROGRAMS COMMITTEE (Formerly the Waste Reduction and Recycling Committee)**

Accepted the recommendation of the City Council Screening Committee and appointed Todd Beardsley, Owen Hawkins, and Bob Jenkins to the Environmental Programs Committee

14. **~~ACCEPTED THE UPDATE FROM THE GENERAL PLAN COMMITTEE~~ (Removed for discussion. Continued from the City Council Meeting of September 20, 2006)**

15. **ACCEPTED THE REPORT OF THE ATHERTON POLICE DEPARTMENT THREE-MONTH REPORT FOR PARK LANE COMMUNITY POLICING**
16. **ADOPTION OF A RESOLUTION PROVIDING FOR THE INTEGRATION AND UTILIZATION OF THE NATIONAL INCIDENT MANAGEMENT SYSTEM, TO THE EXTENT APPROPRIATE, INTO THE EMERGENCY MANAGEMENT SYSTEM**

**Adopted Resolution No. 06-20, “A Resolution of the City Council of the Town of Atherton Providing for the Integration and Utilization of the National Incident Management System, to the Extent Appropriate, into the Emergency Management System.”**

17. **ACCEPTED THE CITY ATTORNEY’S RESPONSE TO THE GRAND JURY REGARDING THE TOWN’S POLICIES ADDRESSING THE ISSUE OF BROWN ACT COMPLIANCE RELATIVE TO ELECTRONIC COMMUNICATIONS**
18. **SECOND READING AND ADOPTION OF AN ORDINANCE FOR THE PRESERVATION OF HISTORICAL ARTIFACTS**

**Adopted Ordinance No. 567, “An Ordinance of the City Council of the Town of Atherton Adding Chapter 8.14 Requiring Preservation of Historical Artifacts within the Town of Atherton.**

19. ~~**ADOPTION OF RESOLUTION AUTHORIZING HOURLY SALARY RANGES FOR PART-TIME AND TEMPORARY EMPLOYEES FOR FISCAL YEAR 2006-07**~~

**Adopted Resolution No. 06-21, “A Resolution of the City Council of the Town of Atherton Adopting Hourly Salary Ranges for Part-Time and temporary Employees for Fiscal Year 2006-07,” effective October 22, 2006.**

- 19.A ~~**PURCHASE OF STREET SWEEPER FOR ATHERTON PUBLIC WORKS DEPARTMENT**~~ *(Continued to the City Council Meeting of November 15, 2006)*

**Item Nos. 14, 19, and 19A were removed for discussion.**

14. **ACCEPTANCE OF THE UPDATE FROM THE GENERAL PLAN COMMITTEE**

**Mayor Marsala said he received many calls regarding the issue of houses on smaller lots which the General Plan Committee decided not to discuss further. Residents of Parker wanted the issue of floor area ratio (FAR) on smaller lots addressed.**

**Colleen Anderson, Atherton, said when a decision was made to downsize the R1A zone, the homes on Parker, on 1/8-acre lots, were also downsized. She requested that her neighborhood be removed from the R1A zone. The community was a very transient area because the homes did not appreciate in value due to not be able to add square**

footage. Additionally, problems existed in the Town long before basements were an issue.

Vice Mayor Alan Carlson said he and Council Member Janz sat on the General Plan Committee and were cognizant of the issue with lots less than one acre. He said the rezoning issue should begin with the General Plan Committee and suggested the item be referred.

Kathy Hu, 28 Parker, said the underlying issue was that her street had subdivided lots and was zoned under R1A, while other subdivided streets were zoned differently, which became an issue of equity.

Council Member McKeithen suggested that Ms. Hu contact Deputy Town Planner Lisa Costa Sanders to provide her with information/research on the issue.

Deputy Town Planner Lisa Costa Sanders said houses on smaller lots that were zoned R1B had a higher FAR which allowed a larger percentage of floor area based on the lot size; however a lower height limit (28') was also required. Several years ago, she met with residents and suggested they obtain a petition with at least a majority of homeowners' signatures requesting rezoning. She again encouraged soliciting a majority of the neighbors to support rezoning.

Colleen Anderson said the neighborhood was split 50/50 and was dividing the community.

**MOTION – to accept the update from the General Plan Committee with the recommendation that the issue regarding house size on smaller lots be referred to the General Plan Committee for further review**

**M/S Marsala/Janz**

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

**Council Member Janz complimented the Police Department on the Park Lane report.**

**19. ADOPTION OF A RESOLUTION AUTHORIZING HOURLY SALARY RANGES FOR PART-TIME AND TEMPORARY EMPLOYEES FOR FISCAL YEAR 2006-07**

**Council Member McKeithen said the last time the ranges were adjusted was in 2003. She asked for clarification under Attachment A that indicated there was no change in the Temporary range from 2005 to 2006.**

**Assistant to the City Manager Wende Protzman said the Temporary Employee classification was actually implemented a year and half ago.**

**Council Member McKeithen asked whether any of the ranges were out of sorts with other communities in the 70<sup>th</sup> percentile.**

**Assistant to the City Manager Protzman said they were all within 3.2 to 5.4 percent.**

**MOTION – to adopt Resolution No. 06-21, “A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ADOPTING HOURLY SALARY RANGES FOR THE PART-TIME AND TEMPORARY EMPLOYEES FOR THE FISCAL YEAR 2006-07**

**M/S McKeithen/Janz**

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

**19.A PURCHASE OF STREET SWEEPER FOR ATHERTON PUBLIC WORKS DEPARTMENT**

**City Manager Jim Robinson clarified that the Council specifically asked staff to provide more information regarding the street sweeper. Due to the length of the evening’s agenda, staff placed the item on the Consent Calendar primarily to provide Council with cost information and staff’s recommendation.**

**Public Works Director Duncan Jones passed out the new version of the Regional Water Quality Municipal Permit which would begin requiring street sweeping on all streets in early 2007.**

**Council Member Janz asked what the life expectancy was and commented on the short warranty period of one year.**

**Public Works Director Jones said the intent was to purchase a two-year warranty plan. The street sweeper should last approximately 10 years. The Town would be responsible for sweeping the portion of El Camino Real currently being done by CalTrans and would bill CalTrans an estimated \$6,000, or a new negotiated price.**

**Council Member Janz said the cost came out to approximately \$50 per household. If the sweeper lasted 10 years, he was in favor of the purchase.**

**Council Member Jerry Carlson had a problem with the economic justification for the item. If he had to vote that evening, he would vote no.**

**In response to Vice Mayor Alan Carlson, Public Works Director Jones clarified the Town’s obligation to sweep streets would be required in the future. All the cities in the county were negotiating with the Regional Water Quality Municipal Quality Control Board. There were three categories of streets: arterials would have to be swept twice a month, the collector streets swept once a month, and the smaller residential streets swept at least twice before the rainy season. The new regulations would go into effect during the first half of 2007.**

**Council Member McKeithen still had issues with going forward that evening including: 1) the slight difference between the hours of operation (20 hours) during the winter and during the fall, spring, and summer; 2) what the labor costs would be; and 3) to the extent the Town did not have curbs, what would that mean in terms of**

liability and damage. She also did not know how great the problem really was and believed that the gardeners and construction sites cleaned up a lot of the debris.

Mayor Marsala was in favor of purchasing the street sweeper. The work was not getting done and a sweeper would get the job done faster. Using a “power” tool instead of manual labor would free up staff to do other tasks.

Jim Dobbie, James Avenue, was not an expert in street sweepers but believed \$140 thousand was too much money to spend. He suggested looking on Ebay for a used street sweeper. Additionally, he suggested approaching Allied Waste to sweep the streets for free since a great deal of debris came from its trucks.

Vice Mayor Alan Carlson said \$140 thousand was a great deal of money and would like to have the questions answered that were presented that evening. Additionally, he asked Council Member Jerry Carlson to submit his questions to staff.

**MOTION – to continue the item to the City Council Meeting of November 15, 2006**

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

**PUBLIC HEARINGS (Item 20)**

**20. INTRODUCTION OF AN ORDINANCE AMENDING SECTION 17.08.080 and 17.36.190 OF THE ATHERTON MUNICIPAL CODE PLACING LIMITS ON BASEMENTS WITHIN THE TOWN OF ATHERTON DEFINING BUILDABLE AREA AND REGULATING BASEMENTS**

Deputy Town Planner Lisa Costa Sanders presented the staff report. The current regulations were adopted by the Council in 2002. Recently, Council expressed concern regarding the term “buildable area,” which was not a defined term and could be interpreted to be anywhere on the lot rather than the area where the main dwelling was located. The General Plan Committee recommended clarifying the language and also requested Council’s permission to study the issue further. Some members of the committee wanted to research the reason basements were not permitted under accessory structures to see whether different regulations could be adopted to mitigate concerns and allow basements under accessory structures. The recommendation was to change the term “buildable area” to “main building area.” The item was discussed at the Planning Commission as well.

Vice Mayor Alan Carlson clarified the item did not address the issue of counting basements in FAR or garages in basements. Additionally, the General Plan Committee did not come to a consensus regarding light well regulations.

Council Member Jerry Carlson clarified that the only issue being considered was defining and changing the term “buildable area” to “main building area.”

Mayor Marsala opened the public hearing.

**Steve Ackley, Bellbrook Way, President of the Pacific Peninsula Group, encouraged Council to return to the General Plan Committee for further study the issue of basements under accessory structures. He believed the issue was one of basic property rights. He suggested a tour of homes with existing basements.**

**Steve Dostart, Patricia Drive, said the lights were again working on Patricia Drive. He felt the existing regulations were very broad and perhaps were a sweeping answer to one situation. He did not see how a basement under an accessory structure created a negative impact for a neighbor.**

**Harriet Tuckman, Maple Leaf Way, was not against basements. Her biggest concern was that the Town of Atherton was the only town in a 5-town geography that did not have any architectural and/or design review. Not all builders were like Pacific Peninsula Group and she asked Council to consider the matter.**

**Carol Flaherty, Camino Por Los Arboles, loved the beauty of Atherton but also agreed the issue was one of property rights. A reasonable structure under an accessory structure that did not impact heritage trees, with responsible guidelines developed by the Planning Commission should be allowed. The Town did not need design review.**

**Herman Christensen, Park Lane, clarified the only thing being discussed that evening was defining the word buildable.**

**Melinda Teves, Tallwood Court, believed the issue was one of drainage when absorbable soil was removed and was sealed.**

**Carol Smith, Oak Grove Avenue, said Atherton very easy compared to other cities that required geotechnical and hydrological analysis. The Town needed to look at things being done underground and how ground water was impacted. She agreed with architectural review.**

**Mayor Marsala closed the public hearing.**

**Council Member McKeithen was in favor of approving the defined term of main building area. Until the drainage report was completed, she believed it was premature to send the issue of basements under accessory structures back to the General Plan Committee. There were three stated issues: 1) the landscaping issue; 2) the drainage issue; and 3) the heritage tree issue. More information was needed, e.g., what other ramifications might surface, what type of guidelines was needed, and what type of appellate process would be instituted.**

**Mayor Marsala was in favor of sending the issue back to the General Plan. There was enough interest on the part of residents to debate the issue. There was not one general answer for every circumstance, i.e. what happened on a 5-acre parcel or a 2-acre parcel.**



**Finance Director Johns said there were 6500 “active” projects and a determination needed to be made as to whether a project was really active.**

**Discussion continued on checks and balances, defining system requirements, processes, and a timetable for implementation. A progress report would be presented to the Council and the Audit Committee in November. An interim tracking system had been implemented to help through the transition to a new system. Converting to a new system could be expensive; however, a certain amount of cleanup was necessary. Data conversion was included in the Request for Proposals for the permit tracking software.**

**Vice Mayor Alan Carlson said all of the pieces needed to be brought together in a single document, i.e. Phase I, Phase II, and Phase, III, recommendations from the Interim Building/Planning Administrator, an RFP for software, etc., that indicated what had been done, what needed to be done, and what the Council needed to do. The City Manager should bring that to the Council at its next meeting brings all together.**

**A discussion ensued regarding the 537 potentially active projects and whether any were issued a certificate of occupancy. The Building Department reviewed 33 projects some of which had closed out but the system had not been updated. Additionally, the status of 17 of the projects was unknown. One way to determine what happened was to review the 537 files and stratify them from small remodels to large new homes and make a determination on a case-by-case basis. Another issue was the manner in which the Building Department interpreted the Zoning Ordinance. Some problems that were cited were based upon interpretation of the code on part of some staff. At some point, a determination needed to be made as to whether the problems resulted from the interpretation of the law or the way the law was written.**

**Sam Goodman, Atherton, Member of the Audit Committee, said the ACIL asked him to elaborate on the Phase III report. The ACIL released a summary of the findings in the form of an “alert.” Basically, the ACIL believed the Council had not acted proactively enough with the different factions that developed.**

**Jim Dobbie, James Avenue, said some things in the audit report indicated that the Building Department was totally out of control. He said if Council Member McKeithen took all the heat for investigating the department, she should be given the credit for the Building Department being audited.**

**John Ruggeiro, Stockbridge Avenue, asked City Attorney Marc Hynes for clarification regarding a speaker giving up his/her 3 minutes to another speaker.**

**City Attorney Hynes said the Mayor was the presiding officer and could set rules regarding time limits.**

**Alan Douglass, Sargent Lane, asked who met with the Building Department officials to ensure the current rules and regulations were followed. He thought the \$60 to \$70 thousand price tag and potential law suit was not worth the results.**



Assistant to the City Manager Wende Protzman presented the staff report. A permit tracking software system was recommended from all three phases of the audit report, as well as from the Interim Building/Planning Administrator. Staff visited six cities to look at their software systems and to review some of the areas the Town was lacking. The Request for Proposal included information from the Finance Department, IT departments, and the six visited cities; Hillsborough, Burlingame, Belmont, Woodside, Redwood City, and San Bruno.

Discussion centered on the process for selecting a vendor, resulting negotiations, and a consultant to aid in reviewing the RFPs. The Town would ultimately need to decide what elements it wanted built into the software system, e.g. a Code Enforcement element, as well as what might be implemented in the future. After the RFPs were received, the recommendations would be brought back to the Council in the early 2007.

**MOTION - to approve the release of the permit tracking software request for proposal**

M/S A.Carlson/Janz

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

**23. FINDINGS AND RECOMMENDATIONS RELATING TO PLANNING AND BUILDING DEPARTMENT SERVICES**

Interim Planning/Building Administrator Gary Binger presented a staff report. Over the past three months, Mr. Binger performed an assessment of the Building Department staffing levels and operational procedures, as well as zoning and code enforcement. Some of his recommendations included hiring a Building Official with management and communication skills, hiring a Permit Technician to work at the front counter who was certified from the International Council of Building Officials, transferring the Town Arborist from the Public Works Department to the Building Department, and having the Public Works Department review projects with regard to drainage and drainage issues. Other recommendations included reviewing how fees were being charged in the Building Department, rewriting the zoning code, finding solutions to interpretation issues, and code enforcement.

City Manager Jim Robinson said a strategy had been developed for the interim, i.e., Michael Cully from CSG Consultants would work full time until a building official was hired. The recruitment for a new building official would begin immediately, and a job description needed to be prepared for a permit technician, as well as authorizing and approving the position in the budget and salary resolution.

A short discussion ensued regarding some of the recommendations suggested by Mr. Binger, along with the costs for implementation. A possibility of hiring an outside consultant to recruit for a building official and/or permit technician was also discussed. Mr. Binger recommended that a consulting firm be utilized with respect to revamping the zoning code. The Council thanked Mr. Binger for his contributions, hard work, and excellent recommendations.

**Richard Moore, Atherton, said the Town needed to be proactive and needed a vision for the Building Department. He suggested forming a committee of users and developers to solicit ideas to prioritize for the future.**

**Jeff Wise, Linden Avenue, supported the idea of a vision and a committee of interested persons to help with the recruitment process. He encouraged the Town to find a building official who equitably and honestly facilitated people through the building/permit process.**

**Randy Lamb, Laburnam, believed there was an outside perception problem that everything was wrong within the Building Department and that the Town would have a difficult time recruiting a new building official.**

**Council Member Janz said the first priority was to start a recruiting effort for a new building official. He asked the City Manager to ensure public input in soliciting good candidates for the position.**

**MOTION - to accept the Findings And Recommendations Relating To Planning And Building Department Services and to direct staff to: 1) begin the recruitment for a Director/Building Official; 2) begin the recruitment for a permit technician; 3) return to Council with a recommendation for an independent professional to sign off on zoning compliance and a recommendation for the possibility of Public Works' staff (or a consultant) to review grading, drainage, and other site development aspects, with a cost estimate; and 4) with regard to the zoning code, return to Council with a staff proposal to hire a consultant to rewrite the zoning code including the cost. Further, Council approved the transfer of the Town Arborist from the Public Works Department to the Building Department. Other items contained in the recommendations, i.e. Procedures 2 and 3, would be handled by a new Director/Building Official**

**M/S Janz/Marsala**

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

**City Manager Jim Robinson encouraged those in the audience and in the building trade to let people know about the great opportunity to work in the Town of Atherton.**

#### **24. CODE ENFORCEMENT ASSESSMENT REPORT**

**Bob Cushing, CSG Consultants, Inc., presented a staff report. He presented a summary of recommendations for the Town's code enforcement assessment and focused on five areas: customer service, communication, data collection, staffing, and enforcement. During the two months of the assessment, 65 cases were investigated on a complaint basis. The Town was maintaining itself very well in general. A staffing recommendation included a part-time person for approximately eight hours a week in order to determine whether that was enough time to handle code enforcement. He was not recommending administrative citations at the present time as long as other forms of communication were working, e.g., a courtesy letter. His final recommendation was**

to hire a part-time code enforcement officer for a six-month trial and to research what type of data base would best capture the code enforcement cases, i.e., zoning violations.

Discussion centered on what type of code enforcement was desired: 1) proactive or complaint based, and 2) utilizing a Community Services Officer (CSO) working out of the Police Department to handle code enforcement. Mr. Cushing indicated that most larger cities used professional code enforcement staff, with some smaller cities using a CSO. A consulting firm such as CSG could provide a code enforcement officer for eight hours a week who would respond to complaints as they were received. Oftentimes, issues could be solved over the phone. A CSO would need to attend training to learn the laws of search and seizure in order to not put the Town at risk. Many police departments trained their CSOs in building inspection to cross check building inspectors. Mr. Cushing noted that most small cities did not do proactive code enforcement because it generated a lot of calls and complaints.

Council asked that CSG Consultants provide the Town with a cost estimate for providing a code enforcement officer for eight hours a week.

Vice Mayor Alan Carlson reiterated the need to decide whether the Town wanted to do code enforcement on a complaint basis or proactively.

Council Member McKeithen said she believed most people wanted to know that when they had a concern, it would be addressed. She did not think they wanted a code enforcement officer checking up on their neighbors for illegal rocks, etc.

Richard Moore, Atherton, said there were eight violations on his street alone. He did not want to report his neighbors. He thought the Town needed to be proactive and could inform people of regulations in the *Athertonian*.

Carol Flaherty, Ridgeview, had a neighbor who repeatedly called upon the Town regarding code enforcement issues, most of which were unfounded. She complimented Town staff for its responsiveness.

**MOTION – to accept the Code Enforcement Assessment Report with direction to staff to return to the City Council Meeting of November 15, 2006, with a proposal from CSG Consultants for a Code Enforcement Officer, on a 6-month trial basis, including a recommendation of whether the Town’s code enforcement should be complaint based or proactive and a cost estimate of each**

M/S McKeithen/J.Carlson

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

**25. REVIEW OF CALENDAR OF CITY COUNCIL MEETINGS FOR THE REMAINDER OF 2006**

**MOTION – to cancel the City Council meeting of December 20, 2006, and schedule a Special City Council meeting for December 13, 2006**

**M/S Marsala/J.Carlson**

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

**26. PUBLIC COMMENTS**

**27. ADJOURNMENT**

**Mayor Marsala adjourned the meeting to a *Continued* Closed Session at 12:15 a.m.**

**A. LIABILITY CLAIMS – pursuant to Government Code Section 54956.95**

**Claimant: Giselle McKeller  
Agency Claimed Against: Town of Atherton**

**B. CONFERENCE WITH LEGAL COUNSEL – Existing Litigation pursuant to subsection (a) of Government Code Section 54956.9**

**Town of Atherton vs. Chiu Ching et al. CIV 457574, San Mateo County**

**C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION  
Initiation of litigation pursuant to subsection (c) of Government Code Section 54956.9:**

**Eight (8) potential cases**

**There was no reportable action taken on Items A. B. & C.**

**Mayor Marsala adjourned the *Continued* Closed Session at 1: 15 a.m.**

**Respectfully submitted,**

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**Kathi Hamilton  
Acting City Clerk**