



MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT

February 16, 2005

7:00 p.m.

TOWN COUNCIL CHAMBERS

94 Ashfield Road
Atherton, California

REGULAR MEETING

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

1. **PLEDGE OF ALLEGIANCE**

2. **ROLL CALL**

PRESENT: James R. Janz
Charles Marsala
Alan B. Carlson
William R. Conwell

ABSENT: Kathy McKeithen (arrived at 8:15 p.m.)

Mayor Conwell announced that Council Member McKeithen would be arriving later in the meeting.

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

3. **PRESENTATION**

Caltrain – Report on Hold-Out Stations: The Council received a presentation by Al Fong of Caltrain, who explained Caltrain’s plans to eliminate the “hold-out” status of stations along the Caltrain route, Atherton being one of them. Due to the current configuration, one train cannot pass while a train going the opposite direction is stopped at the Atherton station, for safety reasons. Mr. Fong and Duncan Jones, Public Works Director, explained the design elements in the remodel of the Atherton train station, which would include new lighting, a signalized pedestrian crossing, a display message board, ADA accessibility, new platforms and fencing. The following audience members commented on the plan:

Greg Conlon, Atherton Caltrain Corridor Ad Hoc Subcommittee, asked for clarification on the four quadrant gates.

Rosemary Maulbetsch, Atherton Caltrain Corridor Ad Hoc Subcommittee, stated that the designs needed to be scaled down for Atherton as the proposed modifications are too urban.

Council Member Carlson queried Mr. Fong regarding the safety requirements, and Mr. Fong gave responses regarding what is required to ensure the safe crossing of passengers.

Council Members requested clarification on the State legislation regarding establishing quiet zones (no train horns being used), and Mr. Fong stated that he did not have extensive information on this at the present time and he would look into getting more information on this. He further stated that the current operational practice is to blow the horn when approaching a station.

4. COUNCIL REPORTS

- Council Member Janz reported that he attended a High Speed Rail Board Meeting in Sacramento in January, where a report was reviewed on the Environmental Impact Report (EIR) and possible changes to be made. The significance of the changes was that it left open the idea of how and where to connect Los Angeles and San Francisco. He stated that he made a presentation at the meeting, stating that the Town prefers that High Speed Rail not go through the Town, and if it had to go through, we prefer that it go underground. He continued that the Caltrain Subcommittee met on February 1st and as a result a proposed Caltrain resident survey is on the agenda tonight as Item 18. On February 2nd, Caltrain Subcommittee Member Rosemary Maulbetsch, Public Works Director Jones and Council Member Janz attended a meeting with representatives from Menlo Park, Redwood City, Palo Alto and Mountain View to discuss items of common interest and joint concern regarding the Caltrain corridor. The next meeting will be held on March 2nd to discuss quiet zones.**
- Council Member Marsala reported that in January he attended the Atherton Dames new residents' party. He also attended a meeting in Mountain View regarding the Governor's proposal to change public retirement plans from defined benefit to defined contribution.**
- Council Member Carlson reported that on February 9th the General Plan Committee met, and the topic was possible revisions to the special events ordinance. The ordinance is still undergoing review by the Committee, and is not yet at a point for Council consideration.**
- Mayor Conwell reported that at the San Francisco Airport Noise Roundtable meeting last week, the Vice Mayor of Portola Valley reported that he tracked violations of aircraft altitude for a year and presented a report of his findings. At the Criminal Justice Council meeting, they heard a presentation from the County Probation Department regarding the juvenile justice hall and how they are working with those juveniles with mental health and substance abuse problems. He added that last week he heard a presentation regarding road maintenance and**

conservation, which emphasized that if we let our road surfaces go too far, it can cost five to six times over the typical amount to repair and bring them up to normal condition. He noted that he recently had lunch with Menlo College President Carlos Lopez and Stedman Graham, a motivational speaker who is Oprah Winfrey's boyfriend.

5. PUBLIC COMMENTS

- Jerry Carlson, Atherton, stated that at the Atherton Civic Interest League (ACIL) meeting last week, County Supervisor Rich Gordon spoke regarding the day laborer issue at Fifth Avenue and El Camino Real. A temporary shelter is being erected on Middlefield and \$20,000 is proposed for County appropriation with another \$11,000 raised from merchants and a private foundation. The goals of the center will be to reduce the visibility of the workers and provide a safer site for the workers. A center manager will be selected and the center will be open in 30 to 60 days. He further stated that Supervisor Gordon passed along kudos to Council Member Janz for his work on the Caltrain issue.
- Doris Kellett, Atherton, stated that she asked where the new shelter would be located, and was notified that the location was a secret, and that she does not want it near the Atherton homes adjacent to Middlefield. Mayor Conwell stated the location would be in the County not in the Town of Atherton. Chief Bob Brennan stated that the center would be located near Fifth Avenue and Middlefield near the tool rental places.

6. STAFF REPORTS

- City Manager Robinson stated that this Thursday the County will hold another meeting regarding a proposed revenue measure, either sales tax or a parcel tax, to maintain existing parks in the County. He also stated that on February 28th at 7:00 p.m. there will be a meeting in the Chambers to discuss proposed improvements to Selby Lane, and there are letters being sent to residents who would be affected along the roadway. The improvements will include the walkway swale and drainage, which would help both pedestrians and drivers. He further noted that Item No. 20 .D. on the agenda has an error in the date and it should state June 7, 2005 instead of March 8, 2005 for the Special Election.
- City Attorney Hynes reported out of closed session as follows:

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Initiation of litigation pursuant to Government Code Section 54956.9(c):
3 potential cases

By unanimous vote of those present at the closed session (Council Member McKeithen absent), initiation of litigation was approved.

First case: Barking dog at 102 Fair Oaks.

Second case: Violation of the heritage tree ordinance at 28 Isabella.

Third case: Violation of the heritage tree ordinance at 26 Selby Lane.

For both tree cases, civil action would be brought against the property owners and criminal action against the persons conducting the cutting.

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

Marion Oster, President, Atherton Heritage Association, presented an overview of the association's activities. The Heritage Room is open on Tuesdays from 10:00 a.m. to Noon and currently there are 15 members volunteering with historical work. Among other items, a variety of historical photos, maps, books and newspaper clippings are available as resources for people conducting research. Mrs. Oster also stated that the group is trying to put together an inventory of the historical artifacts located on private property throughout Town, in hopes that owners will consider maintaining these historical items, such as fountains, gates, etc.

CONSENT CALENDAR (Items 8 - 18)

In response to Council Member questions, the following was clarified by staff regarding the consent calendar items:

- Item No. 14, Purchase of Police Vehicles: the equipment will cost \$10,000 per vehicle, and the mileage on the cars to be phased out is 85,000 and 67,000 and one needs a transmission. The cars that are not used for emergency will be maintained for a longer period.**
- Item No. 12, Contract for Tennis Professional Services: the tennis fees are going into the Tennis Fund.**

Council Member Janz noted that on Item No. 18, Caltrain Hold Out Station Resolution, he did not disagree with Caltrain Subcommittee Member Rosemary Maulbetsch's comments on the design of the hold-out station, but Caltrain has a standard method of modifying the stations, and he is interested in Caltrain moving forward with the modifications since it shows they are interested in keeping the Atherton station open.

MOTION – to approve the Consent Calendar as presented.

M/S Janz/Carlson Ayes: 4 Noes: 0 Absent: 1 (McKeithen) Abstain: 0

- 8. APPROVED MINUTES OF SPECIAL AND REGULAR MEETINGS OF JANUARY 19, 2005 AND SPECIAL MEETING OF FEBRUARY 7, 2005**
- 9. APPROVED BILLS AND CLAIMS FOR JANUARY 2005 IN THE AMOUNT OF \$637,948**
- 10. ACCEPTED MONTHLY FINANCIAL REPORT FOR JANUARY 2005**

11. **ACCEPTED INVESTMENT REPORT FOR QUARTER ENDED DECEMBER 31, 2004**

Noted, received and filed.

12. **APPROVED CONTRACT FOR TENNIS PROFESSIONAL SERVICES AT HOLBROOK-PALMER PARK**

Approved a two-year contract for services of Tennis Professional Alan Margot.

13. **SECOND READING AND ADOPTION OF ORDINANCE NO. 554 – ADDING CHAPTER 1.22 TO THE ATHERTON MUNICIPAL CODE PERTAINING TO CLAIMS AGAINST THE TOWN OF ATHERTON**

Waived further reading and adopted Ordinance No. 554.

14. **PURCHASE OF POLICE VEHICLES FOR FY 2005-06**

Authorized the Town to “piggy back” on the City of Redwood City’s bid in order to purchase two marked patrol vehicles and related equipment for the Fiscal Year 2005-06, for a total cost of \$65,788.16.

15. **APPROVED PLANS AND SPECIFICATIONS AND AUTHORIZED ADVERTISEMENT OF THE 2004 STREET RECONSTRUCTION PHASE 2 PROJECT, NO. 04-002**

Approved the plans and specifications, and authorized advertisement of the contract for the 2004 Street Reconstruction Phase 2 Project, No. 04-002.

16. **APPROVED PLANS AND SPECIFICATIONS AND AUTHORIZED ADVERTISEMENT OF THE SELBY LANE RECONSTRUCTION PROJECT, NO. 04-004**

Approved the plans and specifications, and authorized advertisement of the contract for the Selby Lane Reconstruction Project, No. 04-004.

17. **RESOLUTION NO. 05-31 IN SUPPORT OF MENLO COLLEGE DIRECTIONAL SIGNAGE ON INTERSTATE 280 AND BAYSHORE FREEWAY 101**

Adopted Resolution No. 05-31 requesting Senator Joseph Simitian’s assistance to help secure directional signs on both Interstate 280 and Bayshore Freeway 101 for Menlo College.

18. RESOLUTION NO. 05-32 APPROVING CALTRAIN'S PROPOSED "HOLD-OUT" STATION MODIFICATIONS AND ADVOCATING THE INSTALLATION OF FOUR-QUADRANT GATES AT FAIR OAKS DRIVE AND WATKINS AVENUE TO IMPROVE GRADE CROSSING SAFETY

Adopted Resolution No. 05-32 approving Caltrain's proposed "Hold-Out" station modifications and advocating the installation of four-quadrant gates at Fair Oaks Lane and Watkins Avenue.

PUBLIC HEARINGS (Items 19 - 20)

19. ORDINANCE AMENDING ATHERTON MUNICIPAL CODE SECTION 17.20.040 REGARDING THE USE OF THE HETCH HETCHY PROPERTY FOR SETBACK PURPOSES

Recommendation: After public hearing, consider comments from the City and County of San Francisco, and determine whether to introduce the ordinance as written or amended waiving reading beyond title. Alternatively, the City Council may decide to take no action pending further developments of the Hetch Hetchy Right-of-Way.

City Attorney Marc Hynes introduced the item, explaining that the proposed ordinance would allow property owners bordering the Hetch Hetchy right-of-way to use the right-of-way for purposes of calculating setback requirements. In the 1950's the City and County of San Francisco acquired the Hetch Hetchy property up and down the Peninsula for the underground pipe system to route water from the Hetch Hetchy Reservoir to the City and County of San Francisco. The property is an 80-foot wide strip. The City and County of San Francisco owns the property underneath and allows certain uses on top of the property. The Planning Commission recommends City Council approval of the ordinance.

Mayor Conwell opened the public hearing.

John Aiken, Atherton, stated that the Town should preserve the property value of owners who built on the right-of-way.

Gary Dowd, Director of Real Estate, Public Utilities Commission, City and County of San Francisco, stated that the action of adopting the ordinance would set a dangerous precedent and urged the Council not to adopt the ordinance. If the 96-inch diameter water line had a break, there could be a public safety issue and there is a need to protect the Hetch Hetchy system from further encroachment.

Council Member McKeithen arrived at 8:15 p.m.

Marcelo Mottes, Atherton, stated his disagreement with the City and County of San Francisco on this issue, and there is a 10-foot access easement that runs the length of his property on each side of the 80-foot right-of-way. He further stated that if the ordinance is not adopted, the existing encroachments would be considered nonconforming.

John Sisson, Atherton, asked for copies of the map of showing the right-of-way. He also stated that in Lloyd Park, the Town owns a 25-foot strip of property in the middle of the street and he was told that the property owners were responsible for the trees and other vegetation on the strip.

MOTION – Hold first reading of the ordinance – AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON AMENDING SECTION 17.20.040 OF THE ATHERTON MUNICIPAL CODE REGULATING SETBACKS IN CONNECTION WITH RESERVED SURFACE RIGHTS ON THE HETCH HETCHY RIGHT OF WAY WITHIN THE TOWN OF ATHERTON

Mayor Conwell requested that City Attorney Hynes clarify the 10-foot setback line for access to the Hetch Hetchy property and the building of accessory structures to the property line, and review the status of every property (as to whether there is an additional easement outside the 80-foot right of way) between the first and second reading and provide this information to the Council.

M/S McKeithen/Carlson

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

20. CONSIDERATION OF REVENUE ENHANCEMENT OPTIONS - PUBLIC HEARING REGARDING PARCEL TAX ORDINANCE FOR JUNE 7, 2005 ELECTION

A. CONSIDERATION OF FINANCE COMMITTEE AND STAFF RECOMMENDATION REGARDING REVENUE ENHANCEMENT OPTIONS

Recommendation: Consider and discuss options.

B. PUBLIC HEARING - ORDINANCE CALLING A SPECIAL ELECTION FOR JUNE 7, 2005 TO PLACE A MEASURE BEFORE THE VOTERS REGARDING A RENEWAL OF THE PARCEL TAX

Recommendation: After public hearing, adopt ordinance calling Special Election for June 7, 2005. Hold roll call vote.

C. RESOLUTION SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING A CITY MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

Recommendation: Decide whether to authorize the City Council to write ballot argument for the measure, and adopt resolution.

D. SET DATES OF COMMUNITY MEETINGS REGARDING MEASURE

Recommendation: Discuss and select dates for holding community informational meetings regarding the June 7, 2005 Special Election.

City Manager Robinson introduced this item.

Council Member Carlson explained the recommendation of the Finance Committee, which is a renewal of the existing parcel tax for five or seven years at the existing rates. The subsequent renewal of a five or seven year tax would be at an off-year election, not included with a general election.

Vice Mayor Marsala stated that he is concerned that the current rates might limit the Town, since there are proposals to eliminate some local funding for the COPS program at the federal level.

City Manager Robinson, Finance Director Johns, Police Chief Brennan and Public Works Director Jones responded to questions regarding funding availability and cost of capital projects.

Mayor Conwell opened the public hearing.

Jerry Carlson, Atherton, asked that the message be kept simple and that he did not feel that a seven year tax would garner more votes.

James Dobbie, Atherton, stated that the main industry in town is real estate and that if the legalities can be overcome, some form of transfer tax should be considered.

John Ruggeiro, Atherton, stated that many people voted against the parcel tax in November or did not vote on the ballot measure at all.

Janet Simonds, Atherton, stated that she is concerned about the increased use of the parcel tax by school districts and other taxing districts, and that the public pension problem needs to be fixed.

Vice Mayor Marsala spoke of the benefits of a longer-term parcel tax.

Council Member Janz stated that the Town should not take chances on a longer tax and that a 20-year tax is problematic since revenue and expenditure estimates out that far are not reliable.

Mayor Conwell stated that we needed to make the issue simple and that he would recommend four years but thinks it would be great to get a five year tax.

Council Member Carlson stated that he hoped a five-year tax would pass, with the commitment that the Town will continue to work on long-term solutions.

MOTION – Read ordinance placing a five-year parcel tax before the voters at a June 7, 2005 Special Election with no change to the current maximum assessments, by title only, waive further reading and adopt the ordinance.

ORDINANCE NO. 555 - AN ORDINANCE OF THE TOWN OF ATHERTON CALLING AN ELECTION TO SUBMIT TO THE VOTERS AN ORDINANCE AUTHORIZING THE RENEWAL OF A SPECIAL TAX FOR MUNICIPAL SERVICES AND CAPITAL IMPROVEMENTS, FOR THE EXPENDITURE OF FUNDS DERIVED FROM SUCH TAX

A roll call vote was held as required by the ordinance.

Motion/Second: McKeithen/Carlson

Janz: Aye

Marsala: Aye

Carlson: Aye

Conwell: Aye

McKeithen: Aye

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

Council Member McKeithen made a motion to direct staff to give the City Council a report at the next meeting regarding the road impact fee and the procedures required to enact changes as well as a proposed landscaping and excavation fee ordinance.

Council Member Carlson recommended that the Finance Committee meet on this issue in advance of the next Council meeting.

Mayor Conwell recommended that the road impact fee changes be held in abeyance as to keep the matter of the election straightforward for people to understand.

City Manager Robinson stated that the next action item is the resolution regarding ballot arguments.

Acting City Clerk Linda Kelly explained that the ballot statement is due by March 21, 2005 and staff suggests that the Council appoint a less than a quorum subcommittee to write the argument.

MOTION – Adopt the resolution, authorizing the City Council to write the ballot argument in favor of the measure.

RESOLUTION NO. 05-33 - SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING A CITY MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

M/S Carlson/McKeithen

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

The Council authorized the Finance Committee to draft the argument in favor of the measure, to be presented to the Council for adoption at the March 16 regular Council meeting.

Phil Lively, Atherton, spoke from the audience, stating that there is a citizens' committee being established to promote passage of the parcel tax, and that meetings will be set up.

City Attorney Hynes clarified that city facilities for meetings could be used by the citizens' committee, but that city equipment could not be used by the committee.

Regarding setting up times and dates for potential community meetings for public information regarding the parcel tax, each Council Member is to provide the City Manager with those dates and times when he/she is available to meet.

REGULAR AGENDA (Items 21 - 23)

21. REVIEW AND APPROVAL OF RESIDENT SURVEY REGARDING CALTRAIN

Recommendation: Review the draft survey prepared by the Caltrain Corridor Ad Hoc Sub-Committee, and if appropriate, approve of the survey and direct staff to conduct the survey.

City Manager Robinson introduced the item. The Caltrain Corridor Subcommittee has submitted a request to survey the Town residents regarding Caltrain services and usage.

Council Member Janz explained the purpose of the survey and the desire of the Committee to receive feedback from the residents regarding Caltrain service, and he welcomed comments from the Council on the survey.

A few changes to the survey were requested by the Council regarding frequency of usage and which stations residents are taking the train from.

MOTION – Approve the survey as amended and authorize staff to conduct the survey.

There were no comments from the public on this item.

M/S Janz/McKeithen

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

22. LICENSE AGREEMENT – BEAR GULCH COMMUNICATIONS SITE

Recommendation: Approve License Agreement between California Water Service Company and the Town of Atherton for a license authorizing Town's use of California Water Service Company reservoir site for communications equipment and tower and authorize City Manager to execute agreement on behalf of the Town.

24. PUBLIC COMMENTS

Jerry Carlson, Atherton, stated that the Council agenda on the government cable television channel was showing the January Council agenda instead of the February agenda.

City Manager Robinson stated that the Council had received a letter from the Menlo Park Fire District requesting the Council to revisit the fire sprinkler ordinance regarding remodels.

The Council agreed that there was not a need to revisit the fire sprinkler ordinance.

25. ADJOURNMENT

Mayor Conwell adjourned the meeting at 9:52 p.m.

Respectfully submitted,

Linda Kelly, Acting City Clerk