



**MINUTES**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**  
**MARCH 16, 2005**  
**7:00 p.m.**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California

**REGULAR MEETING**

Mayor Conwell called the meeting to order at 7:03 p.m.

1. **PLEDGE OF ALLEGIANCE**

2. **ROLL CALL**

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

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

Mayor Conwell sadly reported that longtime Police Department Dispatcher Glenn Blick passed away. Police Chief Bob Brennan noted Mr. Blick succumbed to a short-term illness and had worked for the department for 18 years. He asked that the meeting be adjourned in his memory.

3. **PRESENTATION**

**Housing Endowment and Regional Trust of San Mateo County (HEART)**

Chris Moore, Executive Director of the Housing Endowment and Regional Trust of San Mateo County (HEART), reported on its progress and plans for the future. The median home prices in San Mateo County (the County) increased dramatically over the last decade with demand for housing continuing to outpace the construction of new homes. HEART was developing solutions by funding new construction of housing. Its vision was “housing attainable for all,” and its mission was to raise and distribute funds to meet critical housing needs. Twelve of the 20 cities in the County had joined the Joint Powers Authority (JPA) along with the County. HEART qualified for a \$2 million matching grant from the State of California (the State) that matched \$2 million from the

County. The \$4 million was available for rental housing development. HEART's goal was to raise \$10 million a year enabling it to construct 400 to 500 units a year. Dues from member jurisdictions were \$.30 cents per person of population that helped fund HEART's staffing. All contributions and grants were allocated to the programs. HEART was grateful to the Town of Atherton for its participation and support.

Council Member Janz noted any proposed development would have to be in compliance with the jurisdiction in which the project was to be built. Since there was no multi-family zoning in Atherton, the current program for rental housing would not be compatible. Additionally, the State required an approved Housing Element before a project could be built in a particular town/city.

#### **4. COUNCIL REPORTS**

- Council Member McKeithen noted that all the permits were in regarding the Atherton Upper Channel, and work was scheduled to begin in late spring. She asked whether the lengthy process was typical. Public Works Director Jones responded whenever endangered species were involved in a project, a yearlong process was typical. Council Member McKeithen said the Office of Emergency Services budget meeting was scheduled for April. A special meeting to set the budget was scheduled for 5:00 p.m., March 30, in the Jury Room of San Mateo County, for anyone who wished to attend.
- Council Member Carlson had a follow-up question from the Transportation Committee regarding the intersections of Encinal/Middlefield Road and Oak Grove/ Middlefield Road. Public Works Director Jones had not heard from the City of Menlo Park regarding the status of the grant. The Police Department had surveyed the area in the morning and found queues of 20 cars on Middlefield Road and 12 cars on Encinal. Menlo Park is conducting a study of intersections from Marsh Road to Ringwood. Mayor Conwell asked whether a change had been made with the traffic light at Atherton Avenue and El Camino Real. Public Works Director Jones said a pot hole affected one of the loops which caused the signal to malfunction. Caltrans had changed the timing on the lights. Staff responded to questions regarding parking signs at Menlo College and the Blockbusters' claim that a "No Left Turn" sign caused it to go out of business.
- Vice Mayor Marsala met with the Tennis Committee, a newly reformed subcommittee of the Park and Recreation Commission. Discussions regarding recent grant applications and ways to raise money to redo the tennis courts were productive. The Easter Egg Hunt, sponsored by the Dames, was scheduled for March 26. At the Library meeting he attended, a new online Library was unveiled. The ability to download books to an MP3 player was possible and the service was dubbed, "the 13<sup>th</sup> Branch in San Mateo County." Additional funds were expected to be returned to the Library due to an overpayment of ERAF funds. Some City of Millbrae residents were interested in a book drop, and the JPA agreed to look into it. Council Member Marsala attended a meeting with citizens who would be working on the Parcel Tax election.
- Council Member Janz announced an Association of Bay Area Governments (ABAG) meeting would be held the next evening and he was unable to attend. The

ABAG Annual General Assembly Meeting was scheduled for April 28 at the Palace Hotel in San Francisco where the annual Proposed Budget Work Program was an item of interest. He noted the Caltrain Corridor Subcommittee did not meet in March. Sadly, Caltrain came to the conclusion it was short of money and an emergency budget workshop was held on Monday morning. City Manager Jim Robinson attended and a discussion was held on whether Atherton would have train service at all. A survey was sent to Atherton residents from the Caltrain Corridor Subcommittee that would hopefully determine how important Caltrain service was to the residents of the Town. A Caltrain Corridor Subcommittee meeting was scheduled for April 5, at 7:00 p.m., at Town Hall; on April 7, at 10:00 a.m., the official public hearing would be held for the JPB regarding the budget crises. A final meeting would be scheduled after the public meeting for the results. Three public meetings would be held: one in San Jose, one in San Francisco, and one in San Carlos. City Manager Robinson announced the San Carlos meeting would be held on March 23, at 6:00 p.m., to accept public comments. He stated that possibly from two to four train stations could be closed, Atherton being one. Members of the subcommittee would attend the April 7 meeting to lobby for Atherton.

- Mayor Conwell attended the San Francisco Airport Noise Roundtable meeting and a C/CAG meeting. The Criminal Justice Commission held its annual retreat that day. Additionally, he and Police Chief Brennan attended a presentation at Encinal School.

## 5. PUBLIC COMMENTS

There were no public comments.

## 6. STAFF REPORTS

- City Manager Jim Robinson noted the Caltrain survey was mailed to residents on March 14 and extra copies were available at the back of the Chambers. The Annual recruitment for Committees/Commissions was in progress. Openings were available on the Planning Commission, General Plan Committee, Park and Recreation Commission, Audit Committee, as well as the MidPeninsula Community Media Center. Applications were available on the website under "Town News," at the back of the Chambers, and were due in the City Clerk's Office by April 1. The spring issue of the *Athertonian* would be available by April 15; articles were due by March 21. The Town's ballot measure qualified for the June 7th ballot and was designated Measure W. Atherton was the only Town with a measure on the ballot.
- Police Chief Brennan announced he would play the winner of the Chess Tournament sponsored by the Library in April.
- City Attorney Marc Hynes reported out of the closed session held at 6:10 p.m.

### A. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION Pending litigation pursuant to Government Code Section 54956.9(a): San Mateo County Superior Court Cast No. CIV440523 – Town of Atherton v. Vivek Ranadive

No action was taken.

**B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Initiation of litigation pursuant to Government Code Section 54956.9(c):  
1 potential case

No action was taken.

**C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to Government Code Section 54956.9(b):  
1 potential case

No action was taken.

The closed session adjourned at 6:50 p.m.

**7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT**

**The Friends of the Atherton Library**

Joan Sanders, President of Friends of the Atherton Library, reported on changes made in the Library. Vicki Johnson from the City of Sunnyvale was appointed as the new Library Director for San Mateo County. Atherton's Head Librarian, Thom Ball, was leaving to become the head of Pacifica's library. The new Librarian for Atherton was Susan Gotz who would be sharing time among Atherton, Portola Valley, and Woodside. Katie Sanderson was the new Director of Circulation for Atherton's Library. Two new Board Members were recruited, Karen Moore and Jan Swanberg. She further reported on upcoming library activities including Friday Night Flicks, a free Ice Cream Social, Chess for Fun, and the children's summer reading program, entitled Super Heroes. Additionally, on May 1, a guitar concert was scheduled.

Mayor Conwell congratulated Dr. Beekley regarding an article he read about the doctor's daughter. Additionally, the article spoke of Dr. Beekley's notable medical career.

**CONSENT CALENDAR (Items 8 - 15)**

**MOTION - to approve the Consent Calendar as presented.**

**M/S Carlson/Janz**

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

**8. APPROVED MINUTES OF SPECIAL AND REGULAR MEETINGS OF FEBRUARY 16, 2005**

9. **APPROVED BILLS AND CLAIMS FOR FEBRUARY 2005 IN THE AMOUNT OF \$632,274**
10. **ACCEPTED OF MONTHLY FINANCIAL REPORT FOR FEBRUARY 2005**
11. **APPROVED INDEPENDENT CONTRACTOR AGREEMENT BETWEEN THE TOWN OF ATHERTON AND TIM WULFF FOR PLAN CHECKING SERVICES FOR FISCAL YEAR 2004-05**

**Approved the Independent Contractor Agreement between the Town of Atherton and Tim Wulff for Plan Checking Services for Fiscal Year 2004-2005.**

**PUBLIC HEARINGS (Items 12 - 13)**

12. **CONSIDERATION OF REVISIONS TO ROAD IMPACT FEE AND EXCAVATION FEE – RECOMMENDATION FROM THE FINANCE COMMITTEE AND PUBLIC HEARING**

**Recommendation: Adopt a resolution adjusting existing road impact fees and extending such fees to excavation and grading.**

**A. DISCUSSION AND CONSIDERATION – LANDSCAPE FEE**

**Recommendation: Receive direction from Council on implementing a surcharge on road impact fees related to landscaping and/or grading.**

**Finance Director John Johns presented the staff report. Staff's recommendation was to increase road impact fees from .5 percent of the permitted value of new construction to .71 percent of the permitted value and to implement a new road impact fee of \$22 per cubic yard of earth removed when construction projects involved excavation for basements or other features. Despite the investment the Town put into roads in the past several years, deterioration continued and was directly attributable to the increased load placed on the roads due to heightened construction activity. Substantially more homes were being built with basements. Excavation activity accounted for more wear and tear on the roadways than residential new construction. Staff was being conservative in recommending the \$22 per cubic yard surcharge because the fee was a new fee and staff would prefer to review the effect on the road impact fee in 12 to 24 months.**

**Council Member McKeithen was concerned with not only excavation/off-hauling materials but also with replacing or bringing in materials, citing a large retaining wall project as an example. Language to that effect had not been included.**

**Finance Director Johns replied that staff's approach was to take the road impact fee one step at a time and continue to study projects that dealt with landscaping. Primarily, the intent was to include activities such as building large retaining walls in the base road impact fees. When material was being brought on site for the home itself or ancillary**

structures, costs should be recovered associated with transportation of materials to the jobsite.

Council Member McKeithen agreed delaying the landscaping element made sense because of the unknowns. However, in the case of retaining walls, it was separate from landscaping, and replacement/or excavating large amounts of materials would be known. She preferred to include retaining walls.

Council Member Carlson questioned how the off-hall/excavation fee would be administered.

Finance Director Johns said staff would know what cubic yard of earth was being removed as a result of just looking at the plans.

Council Member Carlson believed if there was a grading plan, the estimate for removing or importing materials would be a simple matter. If the plans included a basement or retaining wall, it would trigger the inquiry for an estimate. He suggested including language in the resolution to the effect that wherever there was an import or export of materials, a fee of \$22 per cubic yard of earth would be imposed.

City Attorney Marc Hynes suggested inserting language to the last paragraph on Page 1 of the resolution that read, *“Excavation surcharges will be placed upon road impact fees in the amount of \$22 per cubic yard of earth excavated and off-hauled from, as well as any earth delivered to, a construction site when the scope of residential construction projects include the excavation, removal, or addition of earth for the construction of basements or other features requiring such excavation and removal of earth.”*

Council Member Carlson moved to include the language in the resolution.

Council discussion continued on methods of calculating the excavation/off-haul or redistribution of material and how the road impact fees would be distributed to areas impacted by the construction.

Public Works Director Duncan Jones noted the Metropolitan Transportation Commission required the Town to update the Pavement Condition Index every two years. Streets with heavy construction activity would be identified.

Council Member Janz pointed out additional areas in the resolution where language was needed to reflect the proposed changes. He also noted the \$22 per cubic yard fee for bringing materials to the site needed supporting data.

Council Member Carlson stated a severability clause could be added and would prevent the resolution from being invalidated. He suggested Council open the public hearing and defer a vote on the item until the end of the meeting to allow the City Attorney to revise the resolution as appropriate.

Mayor Conwell opened the public hearing at 8:07 p.m. No one came forward to speak, and the public hearing was closed.

**MOTION – to continue the item to the end of the agenda to be heard after Item No. 19.**

M/S Carlson/McKeithen

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

**A. DISCUSSION AND CONSIDERATION – LANDSCAPE FEE**

**Recommendation: Receive direction from Council on implementing a surcharge on road impact fees related to landscaping and/or grading.**

Direction was given to staff to look into what would be included in a Landscape Fee, to be brought back to the Council at a subsequent meeting.

**13. FINAL PARCEL MAP – 64 MOULTON AVENUE**

**Recommendation: Continue the public hearing on the Final Parcel Map at 64 Moulton to the April 20, 2005, City Council meeting.**

City Manager Jim Robinson stated staff was recommending the item be continued to the City Council Meeting of April 20, 2005.

**MOTION – to continue the item regarding a Final Parcel Map for 64 Moulton Avenue to the City Council Meeting of April 20, 2005.**

M/S McKeithen/Janz

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

**REGULAR AGENDA (Items 14 - 19 )**

**14. ORDINANCE NO. 556 AMENDING ATHERTON MUNICIPAL CODE SECTION 17.20.040 REGARDING THE USE OF THE HETCH-HETCHY PROPERTY FOR SETBACK PURPOSES**

**Recommendation: Hold first reading of Ordinance amending Atherton Municipal Code Section 17.20.040 regarding the use of the Hetch-Hetchy property for setback purposes, and waive reading of Ordinance beyond title.**

City Attorney Marc Hynes presented the staff report. Before the Council was proposed revised language to Section 17.20.040 of the Atherton Municipal Code relative to calculation of setbacks affecting properties bordering the property owned by the City and County of San Francisco (C/CSF) known as Hetch-Hetchy. At the previous meeting, staff was asked to look at the effects on Hetch-Hetchy property of any accessory structures. Building Official Mike Hood reviewed maps of the area and determined only three properties had additional easements other than the 80-foot wide swath that was entirely owned by the C/CSF. As a result, staff recommended that language be added to Section 17.20.040 which stated, *“Provided, however, that no*

*accessory structure may be erected within ten (10) feet of the Hetch-Hetchy property.”* Additionally, an informational piece was recommended to be added to Section 17.036.050 relative to accessory structures that directed readers to Section 17.20.040 to see the restrictions. City Attorney Hynes forwarded a copy of the staff report to Ms. Hazel Brandt, Deputy City Attorney for the C/CSF, and received an email from her noting the C/CSF was pleased with Council’s concern for the issue.

Council Member McKeithen asked whether Building Official Hood looked at the maps or the deeds and how many accessory structures or homes were actually within 10 feet of the property line.

Building Official Hood replied he reviewed the maps and the copies of eight or nine deeds. He did not know how many structures existed near the property line.

City Attorney Hynes noted any existing structures would become legal, nonconforming structures; however, he did not know how many properties would be affected and suggested going back to identify the number.

**MOTION -- to continue the item to allow staff to identify how many properties would be affected by the change in the ordinance.**

**M/S Carlson/McKeithen**

**Ayes: 5 Noes: 0 Absesnt: 0 Abstain: 0**

Council Member McKeithen requested that staff determine what the legal status was, what would become of the legal status, and whether a “grandfathering” clause was required to make something legal.

City Attorney Hynes said if the zoning was being changed and an existing building or structure did not meet the changed zoning, it would be considered legal under the Town’s code.

Steve Nachtsheim, Atherton, asked for clarification regarding the swimming pool on his property since the 80-foot easement ran through his backyard.

City Attorney Hynes stated the pool would become an existing nonconforming use. However, the requirement would mean that no accessory structure could be built on the 10 feet on either side of the Hetch-Hetchy property line.

Marcelo Mottes, Atherton, asked for clarification on legal, nonconforming use. He noted in the past, the C/CSF negotiated with a property owner and compensated the owner for the use when it needed the extra 10 feet.

Dr. Beekley, Atherton, noted in addition to the 80-foot Hetch-Hetchy property, the Town bought 8 to 10 feet of his property to build a sewer line. Giving another 10 feet on each side would mean another 5,000 square feet of unusable land.

After further discussion, Council Member Carlson suggested letting each case come through the Planning Commission and then to the City Council.

City Attorney Hynes said Council had the authority to adopt the ordinance, adopt separate ordinances, handle each property on a case-by-case basis, or do nothing. He advised looking at each property to determine what was involved and then craft language appropriate to the situation.

Parker Willis, Atherton, noted there were consequences when the C/CSF accessed the properties as there was still top soil that had not been replaced since the last time the C/CSF utilized the easement in the 1970s.

Council discussion continued regarding the C/CSF motives for wanting the setback and the merits of allowing each homeowner to negotiate with the C/CSF.

City Attorney Hynes suggested removing the bold language under Section 1: Section 17.20.040, eliminating Section 2: Section 17.36.050, and by doing so, the Council was back to the original ordinance as presented at the City Council meeting of February 16, 2005. If Council approved the suggestion, it would be considered the second reading of the ordinance.

**MOTION – to remove the bold language under Section 1: Section 17.20.040 that stated, “Provided, however, that no accessory structure may be erected within ten (10) feet of the Hetch Hetchy property;” eliminate Section 2: Section 17.36.050; and consider it the second reading of the original Ordinance No. 556 as presented at the City Council meeting of February 16, 2005.**

M/S Carlson/Janz

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

## 15. NEXTG FRANCHISE AGREEMENT

**Recommendation: Consider right-of-way use agreement authorizing NEXTG Networks of California, Inc. to install and maintain micro-cellular optical repeater equipment on facilities in the Town owned by the Town and/or third parties. Authorize the City Manager or designee to take all necessary action to execute the agreement on behalf of the Town.**

City Attorney Marc Hynes presented the staff report. The Town was being approached by NEXTG Networks of California to enter into a franchise agreement that would authorize NEXTG to install and maintain repeater equipment designed to improve cellular telephone usage. Subsequent to the Town receiving the proposed agreement, NEXTG entered into an agreement with the City of San Diego. After securing a copy of that agreement, staff requested NEXTG to include certain elements favorable to the Town. NEXTG agreed except that NEXTG requested extensions of the agreement for 5-year periods.

Nicole Mason, Government Relations Officer for NEXTG Networks, responded to several questions from the Council. She presented pictures depicting a small box that would attach to existing utility or street light poles, as well as one whip antenna. There were four different types of boxes as described in Exhibit A of the agreement which would be placed no lower than 8 feet from the ground. Given the size of Atherton, an estimate of no more than 10 boxes would be installed, no more than three per square mile. NEXT G was not a cellular phone provider but would be filling in gaps of coverage and augmenting capacity. Before any installation took place, wind and support studies would be performed. Ms. Mason continued that 5 percent of gross revenue was an assumption based on \$500 per pole times 10 poles. The revenue was in addition to the pole rental of \$5,000 based on 10 decorative poles. Five percent of \$5,000 would be \$250 for a total of \$5,250 per year. She said NEXTG was a public utility that had the authority to work in the right-of-way and to attach to P. G. & E. utility poles. NEXTG did not have a right to attach to city/town-owned poles. Ms. Mason further responded that customer's requirements for capacity drove which box was used, as well as which box would be supported by the infrastructure. All equipment was licensed by the Federal Communications Commission (FCC) and had no emissions. All sites were low-powered, approximately 90 to 120 watts. In response to concerns regarding decorative street light poles, Ms. Mason said the Town had full discretion to deny use.

After lengthy discussion, staff was asked to review the following in the agreement: 1) the wording in Section 3.1 Attachment to Municipal Facilities, second to last sentence to read, "*Notwithstanding anything to the contrary herein, attachment to Decorative Streetlight Poles shall be fully discretionary and subject to the Town's approval in each instance;*" 2) Section 3.2 Attachment to Third-Party Property needed clarification concerning right to enter the right-of-way; 3) Assignment provision; 4) Insurance; and 5) Omit Section 5.3 Street Furniture Cabinets.

**MOTION:** to adopt right-of-way use agreement authorizing NEXTG Networks of California, Inc. to install and maintain micro-cellular optical repeater equipment on facilities in the Town owned by the Town and/or third parties. Authorize the City Manager or designee to take all necessary action to execute the agreement on behalf of the Town.

M/S Marsala/McKeithen

Council Member McKeithen believed the best the Town could do was exercise control over the location of the equipment, what type of equipment, and whether the Town was protected from liability.

Mayor Conwell noted that San Diego was giving a one 5-year extension option rather than two.

Council Member McKeithen requested that the Town grant no more than one 5-year extension.

**Council Member Carlson did not believe by signing the agreement the Town gained very much control, and the amount of money derived from the project was very small. The Town traditionally maintained a rural atmosphere. He believed the project ran counter to that concept. He would vote against the motion.**

**Council Member Janz said wanted to see a map depicting the dead spots and what problems would be solved for the Town, and perhaps he would be more amenable to approving the agreement.**

**Mr. John Ruggiero, Atherton, questioned how the agreement would affect the poles on Stockbridge in the rear of properties.**

**Ms. Mason said with access to utility easements, the poles would be easily accessed.**

**Mayor Conwell was not interested in pursuing the agreement as he could not see any benefit to the Town of Atherton.**

**Council Member McKeithen seconded the motion in favor previously moved by Council Member Marsala.**

**Council Member McKeithen was not particularly in favor; however, she believed the Town would have some control by making the suggested changes to the agreement.**

**Council Member Marsala noted there were areas of poor cellular phone coverage and that was the benefit for the Town.**

**Council Member Carlson stated that the residents of the Town would not want boxes hanging off poles in the front/back of their homes. He suggested the agreement be referred to the City Attorney to make the suggested changes discussed that evening and returned to the Council for approval.**

**Council Member Janz preferred the boxes be installed on utility poles rather than Town poles. He wanted the agreement to include discretion to do that by removing the provision that said equipment was automatically installed on Town poles if there was a choice.**

**REVISED MOTION: to refer the item to the City Attorney to make suggested revisions to the agreement and to be returned to the City Council for adoption at the April 20, 2005, meeting.**

**Maker and Secunder of the original motion agreed to the revised motion.**

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

**16.    ATHERTON CALTRAIN STATION PARKING LOT FEE ELIMINATION –  
REPORT BACK AFTER SIX MONTH TRIAL PERIOD (Trial period began 10/1/04)**

**Recommendation:** Consider a continuation of the free parking and overnight parking at the Caltrain parking lot.

City Manager Jim Robinson presented a brief staff report which recommended continuance of the free parking and overnight parking at the Caltrain parking lot indefinitely.

Council Member Janz suggested clarifying the long-term parking by adding a requirement to advise the Police Department when parking would be longer than seven days.

City Manager Robinson reported that he took a visual view regularly, and 12 to 15 cars a day were parked in the lot months before implementing the policy and during the trial. He did not find a substantial change in parking during the trial period. The real numbers were those who actually get on the train and were being surveyed by Caltrain, not the number of cars in the parking lot.

**MOTION:** to authorize continuation of the free parking and overnight parking at the Caltrain parking lot indefinitely with the addition to notify the Police Department when overnight parking would exceed seven days.

M/S McKeithen/Janz

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

**17. CONSIDERATION OF COUNCIL WRITTEN ARGUMENT IN FAVOR OF JUNE 7, 2005 SPECIAL ELECTION BALLOT MEASURE**

**Recommendation:** Consider draft ballot argument, revise if appropriate, and adopt the argument.

Mayor Conwell said Council needed to send a message to the voters of Atherton to vote in favor of Measure W, a renewal of the parcel tax.

Council discussed the draft arguments presented in the packet and at the meeting and suggested revisions.

Phil Lively, Atherton, spoke from the audience and made suggestions.

Council continued to discuss and revise the argument. Council Member Carlson read the following argument into the record, "Argument in Favor of Measure W."

For more than two decades since enactment of Proposition 13, Atherton's parcel tax has been a critical income source to the Town. Currently \$750 for most parcels of property, and fully tax deductible, it annually raises for the Town approximately \$1.8 million. Unlike other property taxes, of which only 10 percent goes to Atherton, all of the parcel tax goes to the Town. We ask for renewal of Atherton's parcel tax at its present level.

**Atherton has acted prudently with its residents' tax revenues, and has received four consecutive clean financial audits. Wherever possible, state and federal grants have been sought to supplement Town revenues. Nonetheless, recognizing early the financial crisis enveloping cities state-wide, and faced with increasing costs and shifts of local property taxes to the state, Atherton has made \$1.4 million in budget cuts and adjustments since February 2003. Moreover, in the most recent agreement with employees, no salary increases were given. The Town has continued to reduce staff and outsource work. Atherton has fewer employees today, including in the Police Department, than at any other time in recent years.**

**While a majority of residents supported the parcel tax last November, a two-thirds vote is necessary for passage. Atherton now faces a cumulative \$5.9 million budget deficit by 2009, elimination of nearly all its financial reserves, curtailment of road repair, and further police and other staff reductions. Failure to renew the parcel tax places in jeopardy continued essential city services. These are simply the facts.**

**As The Almanac has editorially observed, while "the town has been managed frugally during the last year," nonetheless "Atherton needs the parcel tax just to keep the doors of local government open."**

**Please support renewal of the parcel tax at its present level and vote Yes for Atherton.**

**MOTION -- Adopt the argument as revised and read into the record by Council Member Carlson.**

**Acting City Clerk Linda Kelly commented that since Council was taking action to adopt the argument at the current meeting, she would make the changes and circulate a copy for Council's signatures.**

**M/S McKeithen/Janz**

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

**18. SELECTION OF A REPRESENTATIVE TO SERVE ON THE BOARD OF THE PENINSULA POLICY PARTNERSHIP**

**Recommendation: Discuss and consider the selection of a Town representative to serve on the Board of the Peninsula Policy Partnership (P<sup>3</sup>) organization.**

**MOTION – to appoint City Manager Jim Robinson as the representative to serve on the Board of the Peninsula Policy Partnership (P<sup>3</sup>) organization.**

**M/S Carlson/McKeithen**

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

**19. CONSIDERATION OF THE ATHERTON HERITAGE ASSOCIATION'S REQUEST REGARDING IDENTIFICATION OF TOWN ARTIFACTS**

**Recommendation: Discuss and consider the Atherton Heritage Association's request to identify and protect heritage artifacts on public and private property.**

Marion Oster, President of the Atherton Heritage Association, reported many Town artifacts were disappearing. Residents and/or contractors were often unaware that artifacts existed on their property and removed them. She suggested the item be brought before the General Plan Committee to discuss and consider a simplified ordinance or way to protect the artifacts as was done with heritage trees.

Council Member McKeithen said in some instances, the property owner might have a right to remove an artifact but could offer it to the Town for relocation.

**MOTION – to refer the item to the General Plan Committee for discussion and consideration to create an ordinance to identify and protect heritage artifacts on public and private property.**

M/S McKeithen/Janz

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

12. *(Continued from earlier in the meeting)* **CONSIDERATION OF REVISIONS TO ROAD IMPACT FEE AND EXCAVATION FEE – RECOMMENDATION FROM THE FINANCE COMMITTEE AND PUBLIC HEARING**

City Attorney Marc Hynes recommended leaving the recitals as they existed and making the following changes to the body of the resolution regarding road impact fees: 1) the first clause remained the same; 2) the second clause would read “Excavation and/or grading surcharges will be placed upon road impact fees in the amount of \$22 per cubic yard of earth excavated and off-hauled from, as well as any earth hauled onto, a construction site when the scope of residential construction projects include the excavation and/or removal from and/or hauling of earth to the construction of basements or other features requiring such excavation and/or removal and/or hauling of earth; 3) the third clause would read, “Road impact fees and excavation and hauling surcharges shall be used to fund roadway projects to maintain and repair local roadways including normal engineering, administrative overhead, and other costs associated therewith. Road impact fees and excavation and hauling surcharges shall be retained in a separate fund with all fund accounting and reporting performed consistent with state law;” 4) The fourth clause would read, “The resolution shall be effective immediately upon adoption; however, the fee established shall become operative 60 days thereafter in accordance with state law. Resolution No. 00-27 is superseded and rescinded as of the operative date of this resolution;” 5) Finally, The City Council declares that it would have passed this Resolution word by word, sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions of this Resolution are severable and, if for any reason any word, sentence, paragraph or section of this Resolution shall be held invalid, such decision shall not affect the validity of the remaining parts of this Resolution.”

**MOTION – to adopt the resolution of the City Council of the Town of Atherton adjusting road impact fees to provide for roadway maintenance and repair related to damages caused by construction, excavation, and hauling, as amended.**

**In response to Building Official Hood, City Attorney Hynes clarified in the theoretical case of off-hauling 500 cubic yards from one site and on-hauling to another Atherton site, two impact fees would be charged.**

**M/S McKeithen/Carlson**

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

**20. PUBLIC COMMENTS**

**There were no public comments.**

**ADJOURNMENT**

**The meeting was adjourned at 10:49 p.m. in memory of Police Dispatcher Glenn Blick.**

**Respectfully submitted,**

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**Linda Kelly, Acting City Clerk**

**Minutes Prepared by:**

**Kathi Hamilton**