



MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON
CHANNEL DRAINAGE DISTRICT
September 21, 2005
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

Mayor Conwell called the meeting to order at 7:08 p.m.

1. PLEDGE OF ALLEGIANCE

ROLL CALL

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

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

3. PRESENTATIONS

Proclamation: Pollution Prevention Week – September 19-25, 2005

Mayor Conwell presented the Proclamation declaring September 19 through September 25, 2005, Pollution Prevention Week.

4. COUNCIL REPORTS

- **Council Member Janz reported that the design of the “Non-Hold-Out” Station was 95% completed and only signoffs remained. He and representatives from other cities (Burlingame, Menlo Park, etc.) were working on a proposal to help Caltrain increase its revenues and find other sources of funding in hopes of regaining train service. Santa Clara was proposing a ¼-cent sales tax increase for next year’s ballot, mostly to fund a Bay Area Rapid Transit (BART) connection to San Jose. Council Member Janz’ group suggested part of that revenue to be designated to support Caltrain. Those cities that would not benefit from a BART extension were urged to support the proposal since the tax was countywide and needed 2/3 vote to**

pass. Council Member Janz noted a program on, “Green Building, Reducing the Environmental Impact of Large Homes,” was being held on October 12, 2005, at 7 p.m. at Holbrook-Palmer Park.

- Vice Mayor Marsala attended the Lindenwood Homes’ Association meeting last Sunday. The Atherton Arts Committee was hosting an Artists Reception on Friday, September 23, from 4 to 8 p.m. Sixteen artists were participating. The Tennis Committee scheduled a fundraiser for October 1, from 3 to 5 p.m., to raise money to repair the courts. Mayor Conwell and Vice Mayor Marsala would be representing the Town at the League of Cities meeting, October 6 to 8, in San Francisco. Vice Mayor Marsala was lobbying for a proposed ballot measure, a 1/8-cent sales tax to support parks countywide that would result in \$200,000 for Atherton. He met with City Manager Jim Robinson, Police Chief Bob Brennan, and Sergeant Eric Grimm and toured Town facilities to ascertain where supplies were for a first response to a disaster. The Town was part of rollup system of mutual support that began on the local level and rolled up to the county, region, and the state. A fundraiser, sponsored by Jan Zones, was being held on October 2, from 5 to 7 p.m., for the Salvation Army to benefit the hurricane relief efforts. Vice Mayor Marsala received a request for the Town to consider contributing as a Town to the relief efforts. He noted there were several pamphlets available on how, as individuals, to be prepared for the first 72 hours after a disaster.
- Council Member Carlson attended the Buildings/Facilities Subcommittee meeting and noted an item was on the evening’s agenda regarding the Holbrook-Palmer Park Pavilion. He attended the Audit Committee meeting yesterday. The Town, once again, received an unqualified audit, and the Town was in a strong financial position.
- Council Member McKeithen also attended the Audit Committee meeting. The Town would receive an additional \$300,000 in property taxes due to an increase of 15% in property valuation. The Town’s assets were valued at more than \$49 million; however, the assets were not necessarily available to run the Town. The Town also met GASB 34 and 40 a year early. The auditors recommended adopting a fraud policy and strengthening the bank reconciliation policy. Regarding the program on “green building,” Atherton consumed more electricity and natural gas per household than any other household in San Mateo County, more that 3.5 times what a home in Menlo Park consumed. Council Member McKeithen received an update on the Upper Atherton Channel project. The pool at the bottom of the drop structure was completed, the frog pond was almost done, and no red-legged frogs were found in the area. The project was on target for completion and cost. The Office of Emergency Services (OES) meeting would be held September 22, at 5:30 p.m. Scott Morrow announced one human case of West Nile Virus was reported in San Mateo County; however, the report indicated the virus was contracted out of state. Council Member McKeithen had discussed drainage issues with residents. Problems had occurred with the use of English/French drains and other drainage policies in the Town. She requested the issue be scheduled for the October 19 City Council meeting.
- Mayor Conwell said he received a request to underground more P. G. & E. utilities. He asked the City Manager to contact the City of Palo Alto regarding a creative scheme to assess each home which did not become payable until the transfer of

ownership. City Manager Jim Robinson said the Town had a limited amount of dollars and several requests to use Rule 20A funds. He suggested putting the item on a future agenda in order for Council to prioritize the next undergrounding project. Mayor Conwell noted that Peter Carpenter, President of the Menlo Fire Protection District, was spearheading a meeting within the next week with five local mayors regarding emergency services. Mayor Conwell believed the Town had a provision in its Municipal Code that prevented the Town from making a donation unless it benefited the Town directly. City Attorney Marc Hynes clarified there was a state prohibition against making a gift of public funds. A determination had been made that donations given to other cities in the United States was an appropriate expenditure of public funds. Mayor Conwell recalled a previous Council being prevented from making a donation for the homeless. City Manager Robinson said many counties within the nine Bay Area counties had contributed into a fund to assist the homeless, and many cities had contributed to those funds. If the Council desired to donate, many organizations existed for that purpose. Mayor Cowell asked the City Attorney to research the issue and that the item be placed on the October 19 City Council agenda.

5. PUBLIC COMMENTS

Bob Jenkins, Atherton, spoke regarding disaster response. He distributed material to the Council regarding various disaster preparedness activities/plans/classes.

Steve Kennedy, spoke regarding a video production about suburban forest fire safety and the environment. Additionally, he noted he was a candidate for the Menlo Park Fire Protection District Board of Directors.

John Ruggiero, Atherton, asked for clarification on an item on the Special Meeting Agenda.

City Manager Jim Robinson said that he and Mr. Jory were negotiating on behalf of the Town.

Jim Dobbie, Atherton, spoke regarding his concern with the large amount of water pumping in the Lindenwood area. He asked whether a monitoring system could be put in place.

Public Works Director Duncan Jones said no harm occurred to adjacent properties because the influence only went about 15 feet from the excavation. Additionally, a requirement to filter the water ensured only crystal clear water went into the Atherton Channel.

City Manager Jim Robinson suggested having a representative from Cal Water attend a City Council meeting to discuss the impacts and concerns. The item was scheduled for the October 19 City Council Meeting.

Council Member Carlson said 8 to 10 years ago there was an issue about the number of wells being drilled. A study concluded that the number of wells had no effect.

John Sisson, Atherton, asked whether the well that supplied Holbrook-Palmer Park was drinkable.

Vice Mayor Marsala said no. The water was acceptable for swimming pools but was not drinkable. He believed the calcium deposits prevented the water from being made drinkable.

John Ruggiero believed the water was very drinkable and should be made available in case of emergencies.

City Manager Jim Robinson said the issue would be addressed with the previous item in October.

Bob Jenkins, spoke regarding the Atherton Civic Interest League's (ACIL), campaign for membership. He distributed a handout and requested: 1) to insert a membership solicitation envelope in the Atherton Handbook for distribution to new residents; 2) to erect yard signs in Directors' homes that promote joining the ACIL; 3) to erect a banner on Middlefield and Marsh Roads that promotes joining the ACIL; and 4) to include the membership solicitation letter/envelope in the fall *Athertonian*.

Mayor Conwell explained the Town had a policy that only allowed banners for events that related to the Town.

City Attorney Marc Hynes stated there was nothing prohibiting the erection of signs on private property. The Town policy for banners had been in existence for many years, required that any other organization requesting a banner had to be a Town-sponsored organization, and he did not advise "bending" the rules.

6. STAFF REPORTS

- **City Attorney Marc Hynes reported out of Closed Session as follows:**
 - A. **CONFERENCE WITH LABOR NEGOTIATOR – Labor negotiations pursuant to Government Code Section 54957.6**
Agency Negotiators: James H. Robinson, City Manager; Craig Jory, Jory HR
Employee Organization: Atherton Police Officers Association (APOA)

Discussion was held and no reportable action was taken.

Agency Negotiator: James H. Robinson, City Manager
Employee Organization: Teamsters Local Union 856
Non-management Miscellaneous Employees

Discussion was held and no reportable action was taken.

Agency Negotiator: James H. Robinson, City Manager
Employee Organization: Management Employees

Item continued to the end of the Regular City Council Agenda

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

1 potential case

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

- **City Manager Jim Robinson referred to the letter from Peter Carpenter from the Menlo Fire Protection District regarding a Committee of Mayors and noted the fire chief also wanted to set up a similar committee at the staff level. Council Member McKeithen was the Town’s representative to the OES and City Manager Robinson was on the committee. Efforts to identify locations for storage of water and securing contracts to deliver and make water available in the event of a disaster were ongoing. A new CERT training class started last Thursday, 42 people were enrolled, and 7 were Atherton residents. Additionally, he noted Linda Kelly’s birthday was that day.**

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

Lindenwood Homes’ Association

Philip Lively, President, Lindenwood Homes’ Association, noted the Lindenwood Homes’ Association was established in 1945 for the properties being developed in the area known as the Flood Estate. Sixty years later, there were 479 homes in the area, 288 of which belonged to the Association. Mr. Lively reported on the many changes, activities, and dynamics which occurred in the neighborhood.

CONSENT CALENDAR (Items 8 - 18)

In response to Council questions, the following items were clarified:

Item No. 14: Instruction signs were installed on the exit doors of the elevator by staff.

Item No. 15: The Atherton Dames were donating the proceeds from their Kitchen Tour, approximately \$26,200, accounting for the local matching funds.

Item No. 17: The Traffic Safety Committee should be changed to Transportation Committee.

Item No. 18 was removed from the agenda to be returned to Closed Session.

MOTION - to approve the Consent Calendar as presented with the exception of Item No. 18 that was removed from the agenda to be returned to Closed Session.

M/S McKeithen/Marsala

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

8. **APPROVAL OF MINUTES OF REGULAR AND SPECIAL MEETINGS OF JULY 20, 2005, AND THE SPECIAL MEETING OF AUGUST 15, 2005**
9. **APPROVED BILLS AND CLAIMS FOR JULY 2005 IN THE AMOUNT OF \$933,712**
10. **APPROVED BILLS AND CLAIMS FOR AUGUST 2005 IN THE AMOUNT OF \$800,944**
11. **ACCEPTED MONTHLY FINANCIAL REPORT FOR JULY 2005**
12. **ACCEPTED MONTHLY FINANCIAL REPORT FOR AUGUST 2005**
13. **ACCEPTED QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDED JUNE 30, 2005**
14. **ACCEPTED WORK, AUTHORIZED RECORDATION OF NOTICE OF COMPLETION, AND APPROVED FINAL CHANGE ORDERS IN THE AMOUNT OF \$13,427.30 FOR THE HOLBROOK-PALMER PARK MAIN HOUSE WHEELCHAIR LIFT, PROJECT NUMBER 03-009**

Accepted work, authorized recordation of a Notice of Completion, and approved contract change orders in the amount of \$13,427.30 for the Holbrook-Palmer Park Main House Wheelchair Lift Project No. 03-009.

15. **ADOPTED A RESOLUTION APPROVING GRANT FUNDS FOR THE CALIFORNIA RIVER PARKWAYS GRANT PROGRAM UNDER THE WATER SECURITY, CLEAN DRINKING WATER, COASTAL AND BEACH PROTECTION ACT OF 2002 (PROPOSITION 50) FOR THE ATHERTON CHANNEL RESTORATION AND PATHWAY PROJECT AT HOLBROOK-PALMER PARK**

Adopted a Resolution No. 05- authorizing staff to submit an application for a California River Parkways Program grant to restore and expand the Atherton Channel adjacent to the Holbrook-Palmer Park south meadow and create a new pathway.

16. **ACCEPTED WORK, APPROVED FINAL CHANGE ORDERS AND AUTHORIZED A RECORDATION OF A NOTICE OF COMPLETION FOR THE 2005 CAPE SEAL PROJECT, PROJECT NUMBER 04-005**

Accepted work, authorized recordation of a Notice of Completion and approved contract change orders in the amount of \$5,631.85, for a final project cost of \$261,159.20, for the Town Cape Seal Project, Project Number 04-005.

17. ACCEPTED ATHERTON TRAFFIC ENFORCEMENT PLAN THAT WAS APPROVED BY THE TRANSPORTATION COMMITTEE APRIL 12, 2005

Received and filed the recent analysis of the Atherton Traffic Enforcement Plan adopted in 1997.

~~**18. ADOPTION OF A RESOLUTION APPROVING AN AMENDMENT TO THE CITY MANAGER EMPLOYMENT AGREEMENT (Removed to be returned to Closed Session)**~~

~~**Recommendation: Adopt a Resolution to approve the Third Amendment to the City Manager Employment Agreement.**~~

PUBLIC HEARINGS (Item 19)

19. APPEAL OF PLANNING COMMISSION DECISION REGARDING 40, 50 AND 60 ASHFIELD ROAD (ASSESSOR'S PARCEL NUMBERS 060-323-290, 060-323-210, AND 060-323-220)

Recommendation: Open public hearing, hear testimony, and close the public hearing.

Deputy Town Planner Lisa Costa Sanders presented the staff report. At its July 27, 2005, meeting, the Planning Commission voted 3 to 1 to approve the Exception Review request subject to the conditions listed in the Exception Review Certificate contained in Council's packet. Since that meeting, an appeal signed by 12 neighboring residents was filed on August 1, 2005. The three proposed new homes at 40, 50, and 60 Ashfield Road were each two stories in height, with a detached garage at the rear of the property, and met the requirements of the R-1B zoning district. The developer had worked with the Town Arborist to prepare a revised landscape-screening plan that met the Town's objectives. The appeal asserted there were four items in which the appellants believed the Planning Commission erred and were listed in the staff report. The appellants' concerns centered on neighborhood compatibility, specifically the size of the homes and consistency/compatibility with the existing homes. The appellants had four suggested conditions for Council's consideration: 1) reducing the house size; 2) requiring the homes to comply with the setbacks of the original lot lines; 3) requiring additional screening; and 4) requiring the developer to fix the existing fencing. Staff recommended that Council deny the appeal and thereby approve the Exception Request to allow the three homes.

Mayor Conwell opened the public hearing.

Paul Quinlan, Maple Avenue, spoke regarding Section 17.54.010 of the Atherton Municipal Code which indicated that prior to issuing a Building Permit, the design,

site plan, and surrounding landscaping should be reviewed. The Planning Commission/Council had the ability to impose reasonable conditions to protect, among others, the general welfare and convenience. He believed the three homes were too big, were too similar in profile from the front, and did not comply with the rear lot lines. He encouraged Council to consider reducing the size of the homes and making the rear lot lines conform to the original setbacks.

Brian Kelly, Jr., Kelly Gordon Development Corp., stated all three homes were very different, utilized different exterior materials, and had different rooflines. There were a number of homes in the neighborhood that were 3,500 square feet. In working with the Town Arborist, the landscape screening concerns of the neighbors had been implemented in a landscape-screening plan. He believed the three homes were compatible with the neighborhood and met the four requirements of the Exception Review.

In response to Council, City Attorney Marc Hynes clarified the Exception Review was required because the lots were undersized and had been previously used as one lot and the homes were two story.

Patricia Engasser, Ashfield Road, spoke regarding the Planning Commission decision which she believed was not an actual representation of the Commission's concern for the project, her concerns that the neighbors were not sufficiently notified initially, and that approvals were given without neighborhood input. The homes were not that different architecturally, would change the flavor of the neighborhood, and the impacts to her single-story home next door were significant.

In response to Council Member Carlson, City Attorney Hynes said it was within the Council's purview to make a final decision that evening. Unless there was something within the testimony that evening, or from Council's own view of the rendering of the houses, or from personal investigation, the staff report advised there really was no basis for agreeing to make the homes smaller.

Council Member Carlson clarified if Council denied the appeal, the appellants could file a challenge in court. If Council granted the appeal, the property owner could likewise file a challenge.

City Attorney Hynes explained a challenge would be based on abuse of discretion, to be proved by the plaintiff, and the court would determine whether there was substantial evidence in the record to support the determinations/findings.

Julie Quinlan, Maple Avenue, was troubled by the discussion. The task was daunting; however, under an Exception Review, Council was obligated to follow the Municipal Code that required a design review. The difference with the three homes was they were right next to one another, looked substantially the same, were being built at the same time, and could not be compared to a single home on one lot.

Jim Dobbie, Atherton, Planning Commission member, voted against the project. Other members of the Commission were also concerned; however, they were unsure of their authority and believed the rules were too vague.

Jack Ringham, Atherton, stated his subjective opinion was the three homes looked like high-end, “cookie-cutter” tract homes with some modifications.

Brian Kelly, Sr., Kelly Gordon Development Corp., said, in terms of compatibility, Council should think in terms of: a) the homes were 35 feet wide; b) there was 40 feet between the houses; and c) the homes sat 40 to 60 feet back from the street and were screened by existing trees. The homes, from a streetscape standpoint, were not large houses. The homes met all the design criteria established by the Town of Atherton.

Discussion centered on the footprint of the homes and that they looked too similar.

Mayor Conwell closed the public hearing.

Council Member Carlson said a decision would not be easy; however, one should be made. He believed reducing the side setbacks would be arbitrary because they would become different from all other similar lots in the Town. If the side setback could not be reduced, the frontage remained essentially the same. The three bare schematics did not give a true picture of how the homes would look on the lot from the street. He believed the subjective factor of analyzing/changing the structure of the house then became arbitrary.

Council Member McKeithen said Council needed to represent the community. Staff and developers did not live in Town and would not have to live with the results. The reality was there were three undersized lots, a street that slanted and caused the three homes to appear the same distance from the street, and very large houses being built (much larger than the 17.8 percent ratio on Ashfield Road and the 19.9 percent on Maple Avenue). The ratio was 25 to 28 percent. Council Member McKeithen was troubled with neighborhood compatibility. She believed one of the homes should be smaller by approximately 500 feet and made to look more different. The three homes did not meet the standards of the community.

Council Member Janz said the homes were large; however, “big” was already in Atherton. The lots were small for Atherton but were 1/3 of an acre. Eventually, all the older, smaller homes would be replaced with the newer larger ones. The three lots became subject to the review process by happenstance and individually/separately would not be subject to an Exception Review. Because of the setbacks, he did not believe they would look like they were in a row and that they looked different enough from one another. The looks of the neighborhood would change over time.

Vice Mayor Marsala was more concerned that the homes looked too similar than with their size.

Mayor Conwell said although he believed people should be able to build a home that fell within the confines of legality, he felt deeply for the community. By approving the appeal, perhaps the builders could come back with something more acceptable to the community.

MOTION -- to grant the appeal and direct the developers to further differentiate among the external looks of the three homes to be more acceptable/compatible with the existing neighborhood.

Council Member Carlson believed the motion was arbitrary and lacked guidance.

Council Member Janz thought the motion was too vague.

City Attorney Hynes recommended that Council direct preparation and adopt formal findings that could be used in case of litigation. After discussion, Council chose not to do so.

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

Mayor Conwell called a recess at 10:07 p.m. The meeting reconvened at 10:15 p.m.

REGULAR AGENDA (Items 20-26)

20. DISCUSSION AND POSSIBLE DIRECTION TO STAFF RELATED TO MENLO COLLEGE FIELD USE ISSUES (Continued from the City Council Meeting of July 20, 2005)

Recommendation: Review the Menlo School/Menlo College Progress Report and give appropriate direction to staff.

City Manager Jim Robinson noted at the last Council meeting, representatives of Menlo School and Menlo College were asked to meet with the neighbors and report back to Council. A meeting was held with the neighbors on Brittany Meadows, and representatives of Menlo College prepared a progress report that was contained in the staff report. Representatives from Menlo College were not present that evening and requested the Council accept the report. They intended to meet with the neighbors at least one more time and all would return to the City Council Meeting of October 19, 2005. City Manager Robinson distributed an email that identified the remaining issues to be addressed, namely the starting times and activities on Sundays.

BY CONSENSUS: Council accepted the progress report, and the item was continued to the City Council Meeting of October 19, 2005.

21. SECOND READING AND ADOPTION OF SPECIAL EVENT ORDINANCE

Recommendation: Hold the second reading, receive public comment, and adopt the Ordinance repealing Chapter 8.52 and adding Chapter 17.38 of the Atherton Municipal Code relating to Special Event requirements within the Town of Atherton.

Deputy Town Planner Lisa Costa Sanders presented the staff report. The ordinance was introduced at the City Council Meeting of July 20, 2005. Council directed staff to incorporate two changes: 1) increase liability insurance to \$2 million; and 2) permit City Manager discretion to exempt activities that might occur on cul-de-sacs. Staff researched information regarding availability of Associated Bay Area Governments (ABAG) insurance policy which was contained in Council's packet. Staff presumed with the availability of ABAG insurance, the item regarding City Manager discretion was not needed.

City Attorney Marc Hynes clarified private citizens were able to acquire insurance from ABAG that was made available through another company which provided special event insurance ranging in cost from \$85 to \$335.

A discussion ensued as to whether the insurance was needed for an event on private property or only on public/Town property. Council Member Janz wanted the need for insurance to apply in either case.

After a discussion regarding concerns with the School Guidelines, a determination was made that any changes to the School Guidelines could be made without affecting adoption of the ordinance that evening.

Corrine Zaro, Oak Grove Avenue, was a longtime resident with five children who graduated from Menlo-Atherton High School. She understood the issues and noise related to living near the school; however, over the last two years, the noise had become very intrusive, beginning at 7 a.m. and ending at 5:30 p.m., on both Saturdays and Sundays. She believed a change in the type of speakers was the main cause. She asked the Council for help to rectify the situation.

Harriet Tuchman, Maple Leaf Way, was also a longtime resident who lived nearby the high school and agreed with the previous speaker's comments. During the last two years, the noise had increased to the point she could hear what was being said, word for word, inside her home.

Christopher Dueker, Ringwood Avenue, raised a concern that the noise ordinance and other laws were not being enforced by the Police Department, namely the "No Parking" regulations on Ringwood Avenue. He also stated a noise complaint had not been addressed.

Police Chief Bob Brennan clarified that particular portion of Ringwood Avenue was part of the County. Additionally, he noted Vehicle Code violations could be enforced

throughout the state, but Municipal Code violations such as parking were enforced by the local jurisdiction.

City Attorney Marc Hynes stated a short-form agreement might be possible with the County for that particular area.

Mel Britton, Toyon, agreed with the previous speakers. When making a noise complaint to the Police Department, he was told the school was exempt, which he thought was an error.

City Attorney Hynes clarified the school district was exempt from all the local ordinances except building and zoning codes. If, however, schools decided to exempt classroom activity from the codes, they were permitted to do so. A non-classroom activity would still be subject to the zoning and building codes. The purpose for putting the Special Event regulations in the zoning code was to provide some controls.

City Manager Jim Robinson said staff had had meetings with the Menlo-Atherton staff regarding the new theatre, noise issues, parking issues, and issues related to the school resource officer. Once the School Guidelines were in place, reviewing them with the school made sense.

Carol Smith, Oak Grove Avenue, believed starting an event at 7:30 a.m. on the weekend was unconscionable. Conversations with Mr. Estrada over the past two years had not produced any results. She suggested changing the times on weekends to 10:00 a.m. to 5 p.m. and that enforcement was paramount.

Curt Schulze, Toyon, said his home backed the fire road. He reminded the Council that noise was not the only issue; vandalism occurred and was not controlled.

Marina Boudart, Oak Grove, spoke regarding the increased noise.

David Muller, Stockbridge Avenue, spoke regarding the need to repeal Chapter 8.52 in conjunction with adopting the new ordinance as it was too broad and intrusive. He urged Council to repeal Chapter 8.52 that evening regardless of whether they adopted the new ordinance.

Marguerette Paponis, Atherton, read a letter into the record which recommended that a Special Event permit be awarded only after the property owners within a 500-foot radius were given a 60-day notice that a major event was planned in their area. Additionally, she inquired whether noise meters were still being used and whether officers were trained.

Police Chief Brennan responded yes.

Jeff Ward, Atherton, asked for clarification regarding the need for insurance on private property.

Mayor Conwell stated the Town presumed home owners' policies would suffice.

Council Member McKeithen stated the only issue remaining was with regard to the School Guidelines. She believed the times for non-school related events should comply with the Town's noise ordinance, 10:00 a.m. to 5:00 p.m.

Council Member Carlson recommended that Council adopt the ordinance as written.

Council Member Janz noted the insurance requirement came into play only if a permit was needed and clarified that insurance was required whether the event was on public or private property. Additionally, he clarified that school-related events did not have to comply with the guidelines and could begin at 7:00 a.m. with amplified sound.

MOTION: to adopt Ordinance No. 559, "AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON REPEALING CHAPTER 8.52 AND ADDING CHAPTER 17.38 OF THE ATHERTON MUNICIPAL CODE REGULATING SPECIAL EVENTS WITHIN THE TOWN OF ATHERTON."

A discussion ensued regarding the applicability of the 60-day advance request for a permit. City Manager Robinson said relative to the School Guidelines for Non-Related School Events, the Town needed to work with the schools to get their buy-in on implementing the guidelines.

M/S Marsala/McKeithen

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

Mayor Conwell called a recess at 11:23 p.m. The meeting was reconvened at 11:34 p.m.

22. HISTORIC ARTIFACT INVENTORY – STATUS REPORT

Recommendation: Receive status report and provide direction to staff for continued public outreach and the preparation of a final Study, Inventory, and possible preparation of a draft Ordinance.

Laura Jones, consultant, provided a brief overview. Significant artifacts were found and would be described in detail in the inventory. Public outreach and a community meeting were conducted. Everyone, whether they chose to participate in the inventory or not, respected the value of the artifacts to the Town. Ms. Jones responded to Council questions.

In response to Vice Mayor Marsala, Ms. Jones stated in 75 to 100 years, homes being built currently would look historic. However, she was recommending specific criteria related to the first two periods, the Gilded Age and the Country Place Eras, which were increasingly rare in Atherton. Pursuant to Council's direction, she concentrated on the historic estates of Atherton and stopped with the big subdivisions. She was proposing criteria for acquiring future artifacts.

William Grindley, Atherton, commended Dr. Laura Jones for her work. He noted that approximately half of the 50 objects that were inventoried existed in the public domain. Another 20 to 25 were surveyed on private property in which the property owner gave consent. He raised a concern with the scope of Ms. Jones' contract regarding a draft historic ordinance.

Council accepted the report and took no further action.

23. CONSIDERATION OF VOTING STATUS OF RESIDENT MEMBERS OF TOWN COMMITTEES AND CONFORMANCE OF COMMITTEE NAMES

Recommendation: Consider approving revisions relating to City Council Rules of Procedure.

MOTION – to continue the item to the City Council Meeting of October 19, 2005.

M/S McKeithen/Carlson

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

24. APPROVAL OF FACILITY IMPROVEMENTS TO THE JENNINGS PAVILION AT HOLBROOK-PALMER PARK; APPROVAL OF USE OF STATE PER CAPITA PROGRAM GRANT FUNDS; AND APPROVAL TO REQUEST PROPOSALS FOR ARCHITECTURAL DESIGN SERVICES

Recommendation: Approve a two phase plan for Jennings Pavilion improvements.

Phase 1: replace the windows and doors, replace the carpeting and renovate the lighting using State Per Capita Program Grant Funds. **Phase 2:** hire an architect to investigate the aesthetics and cost of adding a sunroom to the north side, using either the remaining Per Capita Program Grant Funds or future funds.

Public Works Director Duncan Jones presented the staff report. The Pavilion was in need of new carpeting and additional floor space to remain competitive. The proposal was to move the doors on all four sides out to the exterior walls, resulting in their replacement. In addition, the lighting was inadequate and a new system with a lighting control panel was proposed. An additional proposal to expand the size of the Pavilion by adding a sunroom to the north side was recommended to occur as Phase 2 with the hiring of an architect to investigate the aesthetics and costs. Staff was recommending the approval of Phase 1 at the current time.

MOTION – to approve a two-phase plan for Jennings Pavilion improvements. Phase 1: replace the windows and doors, replace the carpeting and renovate the lighting using State Per Capita Program Grant Funds. **Phase 2:** hire an architect to investigate the aesthetics and cost of adding a sunroom to the north side, using either the remaining Per Capita Program Grant Funds or future funds.

M/S McKeithen/Carlson

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

Discussion was held and no reportable actions were taken on Item A, Employee Organization: Management Employees, and Item B, Anticipated Litigation.

The Special Meeting adjourned at 12:45 a.m.

Respectfully submitted,

Linda Kelly, Acting City Clerk

Minutes Prepared By:

Kathi Hamilton