



**MINUTES**  
**Town of Atherton**  
**CITY COUNCIL**  
**ATHERTON CHANNEL DRAINAGE DISTRICT**  
**OCTOBER 21, 2009**  
**7:00 p.m.**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California  
**REGULAR MEETING**

1. **PLEDGE OF ALLEGIANCE**

2. **ROLL CALL** Lewis, Dobbie, Marsala, McKeithen, J. Carlson

3. **PRESENTATIONS**

**EAGLE SCOUT PROJECT – Daniel Kozlowski – Atherton Reading Park Bench and Garden Renovation Project**

Public Works Superintendent Steve Tyler introduced Daniel Kozlowski from the Venture Crew Troup 222 in Menlo Park.

Kozlowski gave a Power Point presentation of his Eagle Scout project on the Atherton Library park bench and garden renovation.

Karen Bliss from the Friends of the Library presented Kozlowski with a certificate. Mayor Carlson also presented a certificate of appreciation on behalf of the Town.

Council thanked Kozlowksi and said he did a great job.

4. **PUBLIC COMMENTS**

Jon Venverloh, Atherton resident, Venverloh said he has studied the drainage criteria and the maintenance agreement and encouraged Council to look at revising it as it is very cumbersome and not fair to the Atherton residents who have to put drainage systems in.

Loren Gruner, Atherton, asked what are the County, State and Federal laws that allow the drainage requirements. Gruner said the only provisions that reference the system are C3 of the national pollution discharge elimination system permit which appears to be for multi-home development and an exemption for single family homes. Gruner asked how the Town can put these requirements on individual home owners.

Kimberly Sweidy, Atherton resident, said she is currently undergoing a seismic retrofit because her Structural Engineer failed to include a component in a basic formula and the Building Department did not catch the error. Sweidy commented that she had overpaid in business license taxes and the

time limit has passed for her to request a refund, she has a high voltage transformer box on a main sewer line, and she cannot turn on two hot water devices simultaneously. Sweidy expressed her appreciation to City Manager Jerry Gruber and Public Works Director Duncan Jones for helping her discover that a sump pump was never installed and that was the reason her property was flooding.

Carol Flaherty, Atherton resident, read and interpreted certain sections of the current maintenance agreement. Flaherty asked Council if they really think people will follow the current agreement requirements.

Kelly Freece, Atherton resident, said she was one of the first residents to install a drainage system on her property which cost her over \$100,000. Freece said her property had over 41 heritage trees on it. After the installment of the drainage system a lot of the tree roots were cut and she hopes none of the trees ever fall over and hurt someone or damage her home.

Colleen Anderson, Atherton resident, said she received an email from former Atherton employee Johns Johns which she felt was an unacceptable letter and wondered why he would send her the email. Anderson concluded that the drainage system is a town-wide issue and suggested revising the agreement so that it is fair and moral.

Melinda Tevis, Atherton resident, said she is thrilled with the Atherton history book, Under the Oaks Two Hundred Years in Atherton by Pamela Gullard and Nancy Lund, and it is the best thing to happen to the Town in decades.

Mayor Carlson said the drainage system agreement will be on the next agenda and welcomed the public to come back and comment.

**5. REPORT OUT OF CLOSED SESSION**

**A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Subsection (a) of Government Code Section 54956):**

*John P. Johns v. the Town of Atherton, San Mateo County Superior Court Case No. CIV 479972*

**B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Subsection (a) of Government Code Section 54956):**

*Atherton et al v. High-Speed Rail Authority Case No. 34-2008-80000022*

**C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Subsection (b) of Government Code Section 54956.9):**

**Four (4) potential cases**

- Carol Flaherty Claim *October 15, 2008*
- Jon Venverloh Claim *September 17, 2009*
- Gustavo Eydelsteyn Claim *September 26, 2009*
- Menlo School Claim *September 30, 2009*

City Attorney Wynne Furth reported that there was no reportable action from the Regular Closed Session.

**A. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION  
(Subsection (a) of Government Code Section 54956):**

*Buckheit v. San Mateo County, et al.*, San Mateo County Superior Court Case No. SP000724

City Attorney Wynne Furth reported that there was no reportable action from the Special Closed Session.

**6. CITY MANAGER’S REPORT**

City Manager Gruber said the Encinal traffic signal is expected to be brought before Menlo Park City Council in December.

Gruber said that he and Public Works Director Jones have been meeting with residents of Victoria Manor who have concerns about the crosswalk at Valparaiso. Gruber added that Menlo Park has put the project off until further studies are done. Gruber requested Council to talk to Menlo Park Council members and push to resolve the issue.

Gruber said he was asked by the League of California Cities (LCC) City Managers’ Department to be the liaison for the California Police Chiefs Associations and Fire Chief Associations for the LCC which consists of discussing and conveying PERS reform, State legislation and joint advocacy efforts.

Gruber said that during the heavy rain fall the previous week there were issues with a lack of drainage on El Camino Real, Almendral, Stockbridge Avenue and Selby Lane. Gruber said that all of the street renovation projects done in the last two years faired well in the storm.

Gruber concluded that the Town currently has an informal plan for how to handle a pandemic, and is currently working on a formal plan by evaluating neighboring City plans.

**7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT  
SAN MATEO COUNTY LIBRARY ANNUAL REPORT**

Carine Risley, Atherton Branch Library Manager, presented Council with the San Mateo County Annual Library Report for the 2008-09 fiscal year. Risley reviewed the Atherton library’s accomplishments over the past year. [A copy of the report is available in the City Clerks office]

**CONSENT CALENDAR (Items 8-27)**

Council Member Marsala had questions on Item 22 and 23.

Council Member Dobbie has a question on Item 9.

Council Member Lewis had a comment on Item 19 and asked to remove items 24 and 26.

Eric Johnson, member of the audience, requested that Item 15 be removed.

Mayor Carlson removed items 15, 24 and 26 from the consent Agenda.

**8. APPROVAL OF SEPTEMBER 16, 2009 REGULAR MEETING MINUTES AND  
SEPTEMBER 23, 2009 SPECIAL MEETING MINUTES**

**Recommendation:** Approve September 16, 2009 Regular Meeting minutes and September 23, 2009 Special Meeting minutes

**9. APPROVAL OF BILLS AND CLAIMS FOR SEPTEMBER 2009 IN THE AMOUNT OF \$2,118,063**

**Recommendation:** Approve Bills and Claims in the amount of \$2,118,063

Council Member Dobbie asked why the legal fees were so high and when the expenses were incurred.

Finance Director Ho said that Attorney fees for this month are being paid from April 2009 through August 2009.

**10. ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR THE MONTH ENDED SEPTEMBER 30, 2009**

**Recommendation:** Accept Monthly Financial Report

**11. RESOLUTION 09-37 APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE SALE OF THE SELLER'S PROPOSITION 1A RECEIVABLE FROM THE STATE; AND DIRECTING AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH**

**Report:** Finance Director Louise Ho

**Recommendation:** Adopt Resolution 09-37 Authorizing the sale of the State of California's obligation to repay to the Town of Atherton the real property tax funds it is borrowing because of the State's fiscal emergency

**12. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$18,858.16 FOR THE STREET RECONSTRUCTION PHASE 6 PROJECT NUMBER 08-025**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Accept work, authorizing recording of a notice of completion and approving contract change orders in the amount of \$18,858.16 for the Street Reconstruction Phase 6 Project Number 08-025

**13. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$6,720.42 FOR THE LAS LOMITAS SAFE ROUTES TO SCHOOL PROJECT NUMBER 08-028**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Accept work, authorizing recording of a notice of completion and approving contract change orders in the amount of \$6,720.42 for the Las Lomitas Safe Routes to School Project, Project Number 08-028

**14. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$3,677 FOR THE HOLBROOK-PALMER PARK PEDSTRIAN BRIDGE, PROJECT NUMBER 08-004**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Accept work, authorizing recording of a notice of completion and approving contract change orders in the amount of \$3,677.00 for the Holbrook-Palmer Park Pedestrian Project, Project Number 08-004

**16. AWARD OF CONTRACT TO CASEY CONSTRUCTION, INC. FOR THE POLHEMUS AVENUE DRAINAGE PROJECT NUMBER 08-011 IN AN AMOUNT NOT TO EXCEED \$127,956.00 PLUS A TEN PERCENT CONSTRUCTION CONTINGENCY, FOR A TOTAL AUTHORIZATION OF \$140,751.60**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Award the contract for the Polhemus Avenue Drainage Project, project number 08-011 to Casey Construction, Inc., the low bidder on the October 15, 2009 bids, for \$127,956.00, with a 10% construction contingency of \$12,795.60, for a total authorization of \$140,751.60; and to authorize the City Manager to sign the contract on behalf of the Town

**17. PRE-APPROVAL TO PURCHASE A USED VEHICLE TO REPLACE THE PUBLIC WORKS 1986 GMC DUMP TRUCK**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Authorize staff to purchase, and if necessary, equip a used dump truck for up to \$42,000 to replace the 1986 GMC dump truck that is currently in the Public Works Streets fleet with the approval of the City Manager

**18. APPROVE A PROFESSIONAL SERVICES AGREEMENT AMENDMENT WITH WILSEY HAM FOR DRAINAGE REDESIGN SERVICES FOR THE FLETCHER RIDGEVIEW DRAINAGE PROJECT, IN AN AMOUNT NOT TO EXCEED \$33,000**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Accept the proposal and authorize the City Manager to sign a Professional Services Agreement Amendment with Wilsey Ham to provide Drainage Redesign services for the Fletcher Ridgeview Project in an amount not exceed \$33,000

**19. SUPPORT OF THE SAN MATEO COUNTY TRANSIT DISTRICT'S APPLICATION FOR FOCUS TECHNICAL ASSISTANCE FOR THE ECONOMIC AND HOUSING OPPORTUNITIES STUDY**

**Report:** City Manager Jerry Gruber

**Recommendation:** Council support San Mateo County Transit District's Application for Focus Technical Assistance for the Economic and Housing Opportunities Study

Council Member Lewis asked who will pay the \$230,000 cost for the project. Gruber said that the project is funded through grants.

Council Member Lewis said that the Grand Boulevard Initiative is a proposal between nineteen Cities who have joined together to transpose El Camino Real into a Grand Boulevard.

**20. CITY MANAGERS EMPLOYMENT AGREEMENT**

**Report:** City Attorney Wynne Furth

**Recommendation:** Approval of employment agreement between the Town of Atherton and Jerome "Jerry" Gruber

**21. REJECT CLAIM OF RODNEY BOGHOSIAN AND TANIA BOGHOSIAN**

**Report:** Assistant City Manager Eileen Wilkerson

**Recommendation:** Adopt Resolution 09-38 rejecting claim of Rodney Boghosian and Tania Boghosian

**22. ACCEPTANCE OF STRUCTURAL EVALUATION REPORTS AND LIFE SAFETY BUILDING PERFORMANCE EVALUATION AND PROBABLE MAXIMUM LOSS (PML) ANALYSIS FOR THE COUNCIL CHAMBERS AND LIBRARY BUILDINGS**

**Report:** City Manager Jerry Gruber

**Recommendation:** Accept the Structural Evaluation Reports and Life Safety Building Performance Evaluation and Probable Maximum Loss (PML) Analysis for the Council Chambers and Library Buildings

Council Member Marsala raised the idea of making the Council Chambers accessible to the Library and the possibility of doing a study to see if a long-term study should be done on whether to turn the Chambers over to the library or not. Marsala concluded that the needs of the library and resident comments should be taken into consideration.

**23. APPROVE ISSUANCE OF A REQUEST FOR PROPOSALS FOR SEISMIC DESIGN OF THE COUNCIL CHAMBERS AND LIBRARY BUILDINGS ACCORDING TO THE REQUIREMENTS OF THE STRUCTURAL EVALUATION REPORTS**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Approve issuance of a Request for Proposals (RFP) for Seismic Design of the Council Chambers and Library Buildings according to the requirements of the Structural Evaluation Reports

**25. STATUS REPORT ON *TOWN OF ATHERTON et al. v. California High-Speed Rail Authority***

**Report:** City Attorney Wynne Furth

**Recommendation:** Receive report on status of litigation, receive any public comment, and provide further direction if needed.

**27. DESIGNATE REPRESENTATIVE FOR POLICY MAKER WORKING GROUP FOR HIGH SPEED RAIL**

**Report:** City Manager Jerry Gruber

**Recommendation:** Designate Mayor Carlson as representative and Vice Mayor McKeithen as alternate to the Policy Maker Working Group for High Speed Rail

**MOTION by Lewis, second by Dobbie to approve Items 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 25 and 27. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**PUBLIC HEARINGS (28)**

**28. CONTINUED PUBLIC HEARING ON ADOPTION OF ZONING CODE UPDATE – TITLE 17**

**Report:** Deputy Town Planner Lisa Costa Sanders

**Recommendation:** City Council conduct the public hearing and adopt Zoning Code Update Ordinance No. 582 based on the following finding for the reasons outlined in the staff report

Deputy Town Planner Lisa Costa Sanders presented Council with background on the Zoning Code update process. Costa Sanders added that staff took the August 19<sup>th</sup> Council recommended revisions to the Planning Commission at a special meeting last month on September 23, 2009.

Costa Sanders said that the Commission did not reach consensus on the setback requirements for entry gates and asked that the Zoning Code update be considered without this provision so it can be studied further.

The Planning Commission agreed on the provisions added to allow setback encroachments for lots smaller than 10,000 square feet in R1-A for bay windows and basement light wells.

The Planning Commission did not agree on Council's recommendation to remove provisions that allowed 8-foot tall interior fences and that all exterior lighting above 10 feet on the main building be shielded and down lit and requires all exterior lighting on entry gates and columns be shielded and down lit.

Costa Sanders concluded that staff does not agree with the Planning Commission's recommendation to lighting and fence heights because Staff feels the new lighting requirements are over-restrictive and would create non-conformity and because the Building Code exempts fences six feet in height or less from requiring a building permit.

Mayor Carlson said that Council will take up one issue at a time and suggested they discuss whether or not to remove the provisions that all exterior lighting above 10 feet on the main building be shielded and down lit and requires all exterior lighting on entry gates and columns be shielded and down lit.

Herman Christensen, Planning Commissioner, said the reason that the Planning Commission did not agree on removing the lighting provision is because many of the newer homes in Atherton have been built to two-story homes and the exterior lights sit on the eaves up to 22 feet above ground and shine into neighbors' homes. Christensen concluded that they would like to keep the provision for gate lights to be down lit in order to keep the rural look of Atherton.

Vice Mayor McKeithen said that at the last meeting a statement was made that shielded and down lit light fixtures are not readily available.

Phil Lively, Planning Commissioner, said some homes light up the entire neighborhood with their gate lights and asked Council to reconsider keeping the provision for down lighting. Lively said he made several trips to Coast Lighting in Redwood City and they supply fixtures of all kinds for shielding and down lighting.

Mayor Carlson asked Lively, in regard to requiring gate lights to be down lit, whether it posed a safety issue for people walking late at night. Lively said no because the fixtures are available to provide cones of light around the area and below the gate.

Ralph B., Atherton resident, said that walking down Atherton streets late at night without the proper amount of lights can pose safety issues and many people are home alone at night living in large homes which can create safety issues.

Loren Gruner, Atherton resident, stated that the shielded and down lit lighting requirements would strip the Town of its rural look.

Joe Kilmartin, Atherton resident, said that the safety issue would be a concern for a one-acre parcel because Atherton is a thick wooded area and some people feel more secure with some lighting pointing out towards the dark spots.

Council Member Dobbie said he is in favor of down lighting because he would like to keep Atherton as rural as possible. He said down lighting provides a good amount of light and some of them are nice looking.

Vice Mayor McKeithen said she originally supported removing the provisions for shielded and down lit lighting because she was told those type of fixtures are not readily available. McKeithen added that safety concerns can be addressed with alarms and motion detectors along with a shielded light. McKeithen said there are a lot of dark cul-de-sacs and, depending on how carefully you choose your fixture, a down lit light can work while still maintaining the Atherton General Plan.

Council Member Lewis felt that the Council was being convinced that Atherton needs these shielded and down lit provisions and she felt that it does not go along with the Atherton General Plan. Lewis added that the opinion of experienced builders the lights are too restrictive and they are not the style for Atherton.

Council Member Marsala said that Atherton is a desirable place to live because of the efforts of residents who want to protect it. Marsala said that residents should be able to pick the fixture they want and was not in support of the restrictive lighting provisions.

Mayor Carlson said if it comes down to safety versus a rural feeling that he would go with supporting safety for Atherton and would not support putting restrictions on a safety concern.

**MOTION by Lewis, second by Marsala to adopt the Ordinance without the provision to include shielded and down lit lighting. The motion passed.**

Ayes: 3      Nays: 2 (Dobbie, McKeithen)      Abstain: 0      Absent: 0

Mayor Carlson suggested discussing whether or not to remove provisions that allowed 8-foot tall interior fences.

Planning Commissioner Christensen said that if two neighbors can agree on an eight foot fence then they should be allowed to build it. Planning Commissioner Lively concurred.

Council Member Marsala asked if someone is willing to pay the building permit fee and any other fees associated with building an 8-foot fence are any reasons why the Town should not allow the 8-foot fence.

Building Official Wasmann said issues to consider would be additional staffing needs for planning and agreements, building review and inspections. Wasmann added that 8-foot fences do not go along with a rural style.

Vice Mayor McKeithen asked if the building permit fee would recoup the cost of staff time. Wasmann said yes but not all of it. McKeithen asked if a property line survey to be paid for by the applicant would help solve a dispute.

City Attorney Furth said property surveys help avoid a dispute but do not always solve them.

Council Member Lewis was not in support of 8-foot fences and felt landscape screening would be better to shield a home from neighbors.

Council Member Dobbie said that if two neighbors can agree on an 8-foot fence then they should be allowed to build it.

Marsala said that even though two neighbors agree to an 8-foot fence the rest of the neighborhood may not.

**MOTION by Lewis, second by Marsala adopt the Ordinance without the provision to allow 8-foot interior fences.**

Ayes: 4      Nays: 1 (Dobbie)      Abstain: 0      Absent: 0

A short discussion ensued regarding electrical meters and the possibility of dual meters. Council concurred to defer the matter to the General Plan Committee for review.

**MOTION by Lewis, second by Dobbie to adopt Zoning Code Update Ordinance No. 582 based on the finding for the reasons outlined in the staff report and rescind and replace Title 17 of the Atherton Municipal Code. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**REGULAR AGENDA (Items 29-34)**

**29. SCHEDULE OF INTERVIEWS AND/OR APPOINTMENTS TO THE AUDIT COMMITTEE**

**Report:** City Manager Jerome D. Gruber

**Recommendation:** To Be Determined

Council concurred to table the item until the candidates have a chance to attend a future meeting.

**30. RESOLUTION APPROVING A FRANCHISE AGREEMENT WITH RECOLOGY SAN MATEO COUNTY FOR RECYCLABLE MATERIALS, ORGANIC MATERIALS AND SOLID WASTE COLLECTION SERVICES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE FRANCHISE AGREEMENT**

**Report:** City Manager Jerome D. Gruber

**Recommendation:** Adopt Resolution 09-39 approving and authorizing the City Manager to execute a Franchise Agreement for Collection Services of Recyclable Materials, Organic Materials and Solid Waste with Recology San Mateo County (“Recology” - formerly Norcal Waste Systems of San Mateo County) (referred to hereafter as the Agreement).

City Manager Gruber said he has worked on the franchise agreement process since his first day with the Town. He added that staff members from Recology and SBWMA are in the audience for questions.

Mayor Carlson expressed his concern not having enough time to review the entire contract.

Council Member Lewis asked whether Town resident can expect an increase over 48%.

Council Member Dobbie asked why the fees were not negotiated at a lower price.

Vice Mayor McKeithen said that the Environmental Impact provision needs clarification.

Council Member Marsala said he is comfortable moving ahead with the contract and felt that staff has done a good job with the process.

Carlson asked what was negotiated differently from the boiler plate language in regard to favorable terms for Atherton.

Lisa Costa Sanders said that staff negotiated the distance for commercial pick up and debris box location, and Atherton will continue to have unlimited yard waste at a reduced cost level. Costa Sanders added that the rear yard garbage collection continues as is and if existing yard waste containers are in good condition residents can continue to use them.

Carlson questioned the street sweeping fees. Costa Sanders said that Recology will not do street sweeping and instead will pay the Town 24,000 dollars per year.

McKiethen asked how Atherton’s rate compared to other jurisdictions.

Carlson questioned whether the Town needs new trucks.

Cliff Feldman, SBWMA Recycling Programs Manager, said the rates vary from City to City. The actual cost in 2010 is 11% premium over the current service provider based on the cost that can be projected now. Feldman said it depends on current contract liabilities which could cause rates to vary in different ways. Feldman said other agencies did not negotiate reduced costs based on what the companies submitted in response to the RFP and those costs were fixed for each City.

City Manager Gruber said there has been no rate increase to residents since 2001.

Marsala said that back in the nineties the Town faced a similar situation where a rate increase had not been implemented for awhile. When the Town finally did increase the rates everyone was shocked but got through it.

Loren Gruner, Atherton resident, said that with the current economic situation the Town will have a lot of angry customers with a rate increase.

McKeithen said she is concerned with the numbers that Recology comes up with and how it will smooth out over the years.

Deputy Planner Costa Sanders said a rate study and analysis is underway and it could end up being a progressive rate structure so residents that have larger cans pay more than residents with smaller cans, and there could be a rear yard surcharge both of which would reduce the rate impact.

Gruber said staff can bring back to Council some options as they relate to fee increases and how to present them in a format that is clear to the residents.

City Attorney Furth offered an executive summary of the contract.

Lewis said she is in favor of Recology but wants to know the liabilities to residents.

Mark Arsinaw, Group Manager for Recology, said the costs will not be known for several months and Recology is only seeking approval of the contract with non-substantive changes.

Lewis said she hopes to see new trucks because of the complaints of raw, wet food leaking onto the streets from the old trucks.

Carlson suggested deferring the item to November. Lewis said she had been persuaded to approve the agreement as long as there was no commitment to the financial obligations.

**MOTION by McKeithen, second by Lewis to Adopt Resolution 09-39 approving and authorizing the City Manager to execute a Franchise Agreement for Collection Services of Recyclable Materials, Organic Materials and Solid Waste with Recology San Mateo County (“Recology” - formerly Norcal Waste Systems of San Mateo County) (referred to hereafter as the Agreement). The motion passed.**

Ayes: 4      Nays: 1 (Carlson)      Abstain: 0      Absent: 0

**31. APPROVAL OF AN AGREEMENT BETWEEN THE SBWMA AND THE CITY OF SAN CARLOS RELATED TO A LOCAL IMPACT FEE FROM THE SHOREWAY RECYCLING AND DISPOSAL CENTER**

**Report:** City Manager Jerome D. Gruber

**Recommendation:** Adopt resolution 09-40 approving an agreement between the SBWMA and the City of San Carlos related to a local impact fee from the Shoreway Recycling and Disposal Center.

**MOTION by McKeithen, second by Lewis to Adopt resolution 09-40 approving an agreement between the SBWMA and the City of San Carlos related to a local impact fee from the Shoreway Recycling and Disposal Center. The motion passed.**

Ayes: 4      Nays: 1 (Carlson)      Abstain: 0      Absent: 0

**32. RESOLUTION APPROVING THE OPERATIONS AGREEMENT WITH SOUTH BAY RECYCLING, LLC (SBR) FOR OPERATION OF THE SHOREWAY RECYCLING AND DISPOSAL CENTER IN SAN CARLOS**

**Report:** City Manager Jerome D. Gruber

**Recommendation:** Adopt Resolution 09-41 approving the Operating Agreement with South Bay Recycling, LLC (SBR) for operation of the Shoreway Recycling and Disposal Center in San Carlos

**MOTION by Dobbie, second by McKeithen to Adopt Resolution 09-41 approving the Operating Agreement with South Bay Recycling, LLC (SBR) for operation of the Shoreway Recycling and Disposal Center in San Carlos. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**33. DRAFT 2007-2014 HOUSING ELEMENT UPDATE RECOMMENDED BY PLANNING COMMISSION**

**Report:** Deputy Town Planner Lisa Costa Sanders

**Recommendation:** Review the Planning Commission Recommended Draft Housing Element Update 2007-2014. Provide direction to Staff to make any additional changes and direct Staff to forward the Draft Housing Element Update to the California Department of Housing and Community Development (HCD) for review and comment

Deputy Planner Costa Sanders said that the Planning Commission felt that utilizing guest houses for full time occupancy would impact the residents. Costa Sanders said the Planning Commission held a special meeting in September, as directed by Council, to discuss options to encourage new construction of second dwelling units in order to meet the housing requirements.

Costa Sanders said the Planning Commission came up with the following:

- Expand the allowable size of second units to a maximum of 1,200 square feet.
- Allow detached or attached second units, if located behind the rear line of the main building, to encroach into the side and rear yard setbacks by not to exceed 20% of the required side or rear yard.
- Exempt the floor area of the second unit from the accessory structure and overall lot floor area limitation up to 1,200 square feet, but not to exceed 10% of the allowed floor area for the lot.
- Eliminate the minimum lot size provisions for second units.
- Waive building permit fees for second units.
- Changes to regulations to allow internal living quarters to be counted as second units.

Loren Gruner, Atherton resident, encouraged Council to reconsider allowing guest houses for full time occupancy.

Council Member Marsala said that we are in a new era and people are living longer and care for parents is needed and felt that Council should reconsider the clause that prohibits someone from allowing their parent to live in the guesthouse.

Vice Mayor McKeithen said that besides the guest house issue Marsala raised she felt the process has been very well done.

Council Member Lewis said she feels the Housing Element draft did not follow the consultant's advice which would be to use the guest houses towards to the housing needs allocation. Lewis concluded that this is not staffs recommendation, but they did an excellent job packaging it.

**MOTION by Dobbie, second by McKeithen forward the Draft Housing Element Update to the California Department of Housing and Community Development (HCD) for review and comment. The motion passed.**

Ayes: 4      Nays: 1 (Lewis)      Abstain: 0      Absent: 0

**34. CONSIDERATION TO DIRECT THE PARKS & RECREATION COMMISSION TO REVIEW STORAGE FACILITIES SITUATION AT THE PARK**

**Report:** City Manager Jerome D. Gruber

**Recommendation:** To Be Determined

Council Member Marsala said he requested this item for discussion because there are two storage units in the Park and there are storage problems in the Park. Marsala added that there may be opportunities to increase the size of the Pavilion before the landscaping is started. He suggested that the Parks and Recreation Commission look into this.

**MOTION by Marsala, second by McKeithen to direct Parks & Recreation Commission to review storage facilities situation at the Park, in particular, the Pavilion and the Portable storage containers. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**15. AWARD OF CONTRACT TO BLOSSOM VALLEY CONSTRUCTION FOR THE HOLBROOK-PALMER PARK IRRIGATION MAINLINE AND WELL INSTALLATION PROJECT, PROJECT NUMBER 09-006 IN AN AMOUNT NOT TO EXCEED \$200,920.88 PLUS A TEN PERCENT CONSTRUCTION CONTINGENCY, FOR A TOTAL AUTHORIZATION OF \$221,012.97**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Award the contract for Holbrook-Palmer Park Irrigation Mainline and Well Installation Project, project number 09-006 to Blossom Valley Construction, the low bidder on the October 15, 2009 bids, for \$200,920.88, with a 10% construction contingency of \$20,092.09, for a total authorization of \$221,012.97; and to authorize the City Manager to sign the contract on behalf of the Town

Eric Johnson, Commercial Environmental Landscaping (CEL), stated that his firm was the lowest bidder on the Holbrook-Palmer Park Irrigation Mainline and Well Installation Project and was uncertain why his form was deemed non-responsive. He said an amendment to the bid was sent with clarifications. Johnson concluded that his bid was approximately \$26,000 below the current bidder being recommended by staff.

Public Works Director Jones said that the Request For Proposals (RFP) required that the bidder fill out the matrix with the unit costs and a total cost entry but CEL did not follow the instructions correctly and filled out the proposal wrong.

City Attorney Furth said that submitting an amendment would create an unfair bidding advantage and, therefore, the Town should instead treat the firm as non-responsive and go with the next lowest responsible bidder. Furth concluded that State law says that if there is a discrepancy in the cost proposal then it should be considered non-responsive.

Council Member Dobbie said he supports staffs recommendation.

Council Member Marsala said he felt the mistake in the cost entries cost both the firm and the Town money.

Vice Mayor McKeithen said she felt the Town should follow the City Attorney's advice even though she would rather not spend the extra money.

**MOTION by McKeithen, second by Dobbie to award the contract for Holbrook-Palmer Park Irrigation Mainline and Well Installation Project, project number 09-006 to Blossom Valley Construction, the low bidder on the October 15, 2009 bids, for \$200,920.88, with a 10% construction contingency of \$20,092.09, for a total authorization of \$221,012.97; and to authorize the City Manager to sign the contract on behalf of the Town. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

Mayor Carlson thanked Johnson for coming to the meeting and encouraged him to bid on future projects.

**24. EMERGENCY PREPAREDNESS (DISASTER PROGRAM) PROGRESS REPORT**

**Report:** Police Chief Glenn Nielsen

**Recommendation:** This informational report is intended to inform Council of the status of the projects.

Council Member Lewis asked how much it would cost to complete the Walsh Road warning and disaster cashes. Police Chief Nielsen said that Menlo Park is currently working on those figures and he will bring it back to Council.

Lewis asked for an update on the letter that was sent by the Mayor on May 20, 2009 asking for assistance for map overlays and flood maps for Walsh Road residents. [Staff will contact the San Mateo County Office of Emergency Services for an update.]

**26. APPROVE A COMMENT LETTER ON THE ALIGNMENT ALTERNATIVES ANALYSIS FOR THE CALIFORNIA HIGH-SPEED TRAIN PROJECT LEVEL EIR/EIS FROM SAN FRANCISCO TO SAN JOSE**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Approve the comment letter on the Alignment Alternatives Analysis for the California High-Speed Train (HST) Project Level EIR/EIS from San Francisco to San Jose and authorize the Mayor to sign the letter

**MOTION by Lewis, second by McKeithen to approve the comment letter on the Alignment Alternatives Analysis for the California High-Speed Train (HST) Project Level EIR/EIS from San Francisco to San Jose and authorize the Mayor to sign the letter. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**35. COUNCIL REPORTS**

Council Member Lewis said that, in addition to her written report, she wanted to inform the Public that a community Council meeting will be held on November 5<sup>th</sup> to discuss and review the master fee schedule. Lewis concluded that the Mayor would like to host a Council of Cities event sometime in 2010.

No other Council Member had anything further to add to their written Council reports.

**36. FUTURE AGENDA ITEMS**

None.

**37. PUBLIC COMMENTS**

None.

**38. ADJOURN**

Mayor Carlson adjourned the meeting at 10:45 p.m.

**Respectfully submitted,**

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**Theresa DellaSanta  
Deputy City Clerk**