



MINUTES
Town of Atherton
CITY COUNCIL
ATHERTON CHANNEL DRAINAGE DISTRICT
August 18, 2010
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California
REGULAR MEETING

Mayor McKeithen called the meeting to order at 7:01 p.m.

1. **PLEDGE OF ALLEGIANCE**

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

All present.

3 **PRESENTATIONS**

Proclamation presented to Building Official Mike Wasmann –

This item was removed from the Agenda.

Swearing in of Atherton Police officers:

Joe Wade, Lieutenant

Rick Enberg, Sergeant

Deputy City Clerk DellaSanta administered the oath of office to Lieutenant Wade and Sergeant Enberg.

Police Department Staffing Presentation by Chief Guerra –

This item was moved to be presented under Item 27.

4. **PUBLIC COMMENTS**

Jon Buckheit, Atherton resident, said McKeithen is courageous for helping to save the life of an Atherton resident. Buckheit said he has questioned all four candidates on whether they will receive endorsements from unions or real estate developers and Bill Widmer has replied that he will not.

Michael Stogner, read a letter for the record from Mr. John Johns.

Loren Gruner, Atherton resident, said she has a tremendous respect for all five current Council Members, the City Attorney and city staff.

Morris Brown, Menlo Park resident, alerted Council about the Menlo Gateway/Bohannon Project which was conditionally approved by Menlo Park. Morris said it will be in the November ballot. Morris concluded that the project is huge and will have adverse impacts on neighboring jurisdictions.

Bill Widmer, Finance Committee member, said the Town is experiencing financial crisis and suggested the Committee work together with Council, city staff and residents to combine efforts and solve the financial crisis.

Kimberly Sweidy, Atherton resident, said Council Members should realize it is an honor and a privilege to serve the residents of Atherton. Sweidy said she has been inundated with construction problems with her home and the Town needs to hire qualified city staff to avoid this in the future.

5. REPORT OUT OF CLOSED SESSION

PUBLIC COMMENTS - None

CLOSED SESSION

A. CONFERENCE WITH LABOR NEGOTIATOR – Labor negotiations pursuant to Government Code Section 54957.6

Agency Negotiators: Jerry Gruber, City Manager; Glenn Berkheimer, I.E.D.A.

Employee Organization: Miscellaneous - Teamsters Local Union 856

Agency Negotiators: Jerry Gruber, City Manager; Glenn Berkheimer, I.E.D.A.

Employee Organization: Management Employees

Agency Negotiators: Jerry Gruber, City Manager; Eileen Wilkerson, Assistant City Manager

Employee Organization: Confidential Employees

B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION: (Significant exposure to litigation pursuant to subsection (b) of Government Code Section 54956.9): Three potential cases: *-Claim of Pacific Peninsula Group*

City Attorney Furth said there is no reportable action from Item A or B.

6. CITY MANAGER'S REPORT

City Manager Gruber said the Town has welcomed a new interim Building Official from CSG Consultants. Dennis Lockard began with the Town earlier in the week and will be in Town three days per week.

Council Member Carlson said Redwood City gave a state of the city address where the Mayor emphasized the use of community volunteers to fill in empty city staff positions. Carlson urged Gruber to contact Redwood City to find out more and move ahead with the same process.

Council Member Lewis called attention to the increase in permits and revenue in the building department compared to this time last year. Gruber said the Town is experiencing an upward trend.

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT - None

CONSENT CALENDAR (Items 8-24)

Council Member Carlson removed Items 15 and 18. Carlson abstained from the August 2 minutes under Item 8.

Vice Mayor Dobbie had a question under Item 9.

Council Member Lewis had corrections and questions for Item 8 and 19.

Mayor McKeithen had a question on Item 10 and 17, changes to Item 18, 19, 20 and 22 and a statement on Item 23.

Jon Buckheit, Atherton resident, requested removal of Item 18, 23 and 24.

8. APPROVAL OF JULY 21, 2010 REGULAR MEETING MINUTES AND AUGUST 2, 2010 SPECIAL MINUTES

Recommendation: Approve July 21, 2010 regular meeting minutes, and August 2, 2010 special meeting minutes

11. ADOPTION OF A RESOLUTION APPROVING THE STATEMENT OF INVESTMENT POLICY FOR FISCAL YEAR 2010-2011

Report: Finance Director Louise Ho

Recommendation: Adopt Resolution 10-48 approving the Statement of Investment Policy for FY 2010-2011

12. APPROVAL OF PLANS AND SPECIFICATIONS AND AUTHORIZATION TO ADVERTISE THE UPPER ATHERTON CHANNEL REPAIR PROJECT PHASE 2 PROJECT NUMBER 56037

Report: Public Works Director Duncan Jones

Recommendation: Approve the plans and specifications and authorize advertisement for bids for the Upper Atherton Channel Repair Project Phase 2, Project No. 56037

13. APPROVAL OF PLANS AND SPECIFICATIONS AND AUTHORIZATION TO ADVERTISE THE HOLBROOK-PALMER PARK SOUTH MEADOW IRRIGATION PLAN UPGRADES AND TURF REHABILITATION PROJECT NUMBER 56019

Report: Public Works Director Duncan Jones

Recommendation: Approve the plans and specifications and authorize advertisement for bids for the Holbrook-Palmer Park South Meadow irrigation upgrade and turf rehabilitation, Project No. 56019

14. APPROVE A CONTRACT CHANGE FOR THE SPRING STREET PATCHING CONTRACT NUMBER 56047

Report: Public Works Director Duncan Jones

Recommendation: Approve a contract change to allow Street Patching Project, project number 56047, to exceed its current square footage of 30,000 square feet by 6,250 square feet to a total of 36,250 square feet. This will increase the project base cost by \$26,809 from \$128,885 to \$155,694

16. APPROVE FIVE ADDITIONAL STOP SIGNS AND AMEND THE CENTERLINE MARKING LIST TO CREATE THREE-WAY STOPS AT THE INTERSECTIONS OF ACORN WAY WITH GREENOAKS DRIVE AND CATALPA DRIVE

Report: Public Works Director Duncan Jones

Recommendation: Approve five additional stop signs and amend the Centerline Marking List to create three-way stops at the intersections of Acorn Way with Oak Grove Drive and Catalpa Drive. Staff recommends adding double yellow stripes in advance of each stop bar

21. APPOINT JOAN SANDERS TO THE ARTS COMMITTEE

Report: City Manager Jerry Gruber

Recommendation: Appoint Joan Sanders to the Arts Committee

MOTION by Dobbie, second by Marsala to approve consent items 8 (excluding the August 2 minutes), 11, 12, 13, 14, 16, and 21. The motion passed.

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

MOTION by Dobbie, second by Lewis to approve the August 2, 2010 minutes under Item 8. The motion passed.

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

ITEMS REMOVED FROM CONSENT:

10. FINANCIAL REPORT FOR THE ONE MONTH ENDED JULY 31, 2010

Report: Finance Director Louise Ho

Recommendation: Accept Monthly Financial Report

Mayor McKeithen said the Town is already over budget and questioned if this will be the trend for the rest of the year.

Finance Director Ho said certain fees such as the insurance policies are paid up front and a large part of the overage was the Planning Department because of issues like Parker Ave. and the Housing Element.

Mayor McKeithen asked staff to keep an eye on the legal and planning services contract.

MOTION by Lewis, second by Dobbie to accept the monthly financial report. The motion passed.

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

9. APPROVAL OF BILLS AND CLAIMS FOR FEBRUARY 2010 IN THE AMOUNT OF \$1,149,445

Recommendation: Approve Bills and Claims in the amount of \$1,149,445

Dobbie questioned why there was such a large amount spent on Springbrook for this month.

Finance Director Ho said she has kept an accounting on Springbrook costs and this is the first payment ever made to Springbrook since the additional work was approved by Council. Ho said the Town is still well within the approved budget.

MOTION by Lewis, second By Dobbie to approve the bills and claims in the amount of \$1,149,445. The motion passed.

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

15. ADOPT A RESOLUTION APPROVING A NO PARKING ANY TIME ZONE ON SURREY LANE AND ON MIDDLEFIELD ROAD FROM 157 FEET NORTH OF SURREY LANE TO 100 FEET SOUTH OF SURREY LANE

Report: Public Works Director Duncan Jones

Recommendation: Adopt resolution 10-43 approving a “No Parking Any Time” zone on Surrey Lane and on Middlefield Road from 157 feet north of Surrey Lane to 100 feet south of Surrey Lane

Loren Gruner, Atherton resident, said Encinal school is growing and parking is decreasing. Gruner said most of the time parents walk their children to school but there are times they need to drop their kids off or volunteer and the parking situation needs to be resolved.

Julie Quinlan, Atherton resident, echoed Gruner’s statement and said it is not safe the way it is now.

Grace Ferrando, Atherton resident, said there is no bus service in the neighborhood and they need a resolution that will allow them to stop for a few minutes to pick up and drop off their children.

Todd Brohana, Atherton resident, questioned whether the Town can come up with other options. He suggested deferring a decision until after school has started and the new traffic signal is installed.

John Davey, Atherton resident, said parking at Encinal school is a huge problem and hopes for a resolution.

Mayor McKeithen asked Public Works Director Jones what his thoughts are on deferring the issue for one month.

Jones said the school was recently paved and the teacher's parking lot was striped and he anticipates parking to get better, but something still needs to be done to improve parking around the school. Jones said the problem comes mainly from people parking illegally on Surrey Lane and blocking safety routes.

City Manager Gruber suggested a staff meeting with school administrators and the Menlo Park Fire District to discuss alternatives and then come back to Council.

Council agreed to defer the item for one month.

17. APPROVAL OF PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR PREPARATION OF A TRAFFIC ANALYSIS FOR MENLO SCHOOL AND APPROVAL OF REIMBURSEMENT AGREEMENT WITH MENLO SCHOOL FOR CONSULTANT AND STAFF SERVICES

Report: Town Planner Neal Martin

Recommendation: Approve the attached Professional Services Agreement with Kimley-Horn and Associates, Inc. for the preparation of a traffic analysis to determine the impact of increased enrollment at Menlo School. Also approve the attached Reimbursement Agreement between the Town of Atherton and Menlo School for consultant and staff services.

Mayor McKeithen suggested changing the termination clause in the reimbursement agreement to reflect that the Town needs five days notice for termination.

MOTION by Dobbie, second by Carlson to approve the attached Professional Services Agreement with Kimley-Horn and Associates, Inc. for the preparation of a traffic analysis to determine the impact of increased enrollment at Menlo School. Also approve the attached Reimbursement Agreement between the Town of Atherton and Menlo School for consultant and staff services with the revision. The motion passed.

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

18. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF ATHERTON OPPOSING THE CONSTRUCTION OF THE CALIFORNIA HIGH SPEED RAIL PROJECT

Report: Public Works Director Duncan Jones

Recommendation: Adopt Resolution 10-44 opposing the construction of the California High Speed Rail project

Rosemary Maultbetsch, Atherton resident, said she supports the resolution. Maultbetsch said the focal point right now should be the commuter train and fixing it on the Peninsula. She said high speed rail would require a trench and that would leave a very large and unattractive scar.

Vice Mayor Dobbie said Solano Beach, California has an open trench and it is absolutely enormous and suggested people go and see how unsightly it is.

Mayor McKeithen said she is in support of not allowing the high speed train along the Caltrain corridor but not entirely against being on the Peninsula in areas such as 101 and 280. McKeithen added that the Rail committee supports this as well.

McKeithen made edits to the resolution, particularly changing the word “support” to “favors” in the first whereas. Council supported the changes.

Jon Buckheit, Atherton resident, questioned the rules of interacting with the public during public comments. Buckheit concluded that he believes Carlson should recuse himself from any votes that pertain to high speed rail.

William Grindley, Atherton resident, said a letter needs to go to the Federal Rail Administration from the Town as soon as possible.

Michael Stogner, Belmont resident, said he is 100% opposed to high speed rail based on the numbers.

Colleen Anderson, Atherton resident, said she is in support of finding something that works.

MOTION by Carlson, second by Dobbie to adopt resolution 10-44 opposing the construction of the California High Speed Rail project. The motion passed.

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

19. APPROVE A LETTER TO THE FEDERAL RAILWAY ADMINISTRATION OPPOSED TO THE CALIFORNIA HIGH SPEED RAIL PROJECT APPLICATION FOR AMERICAN INVESTMENT AND RECOVERY ACT FUNDS

Report: Public Works Director Duncan Jones

Recommendation: Approve a letter to the Federal Railway Administration (FRA) opposed to the California High Speed Rail project application for American Recovery and Reinvestment Act (ARRA) funds

Council Member Lewis pointed out an error in the document which she had already brought to the attention of staff.

Mayor McKeithen reviewed her edits to the letter which Council accepted.

MOTION by Carlson, second by Dobbie to approve a letter to the Federal Railway Administration (FRA) opposed to the California High Speed Rail project application for American Recovery and Reinvestment Act (ARRA) funds with the revisions. The motion passed.

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

20. AMEND RESOLUTION 10-13 ADDING LIBRARY STEERING COMMITTEE

Report: City Manager Jerry Gruber

Recommendation: Approve Amendment to Resolution 10-13 adding Atherton Library Steering Committee

Mayor McKeithen reviewed her edits to the resolution which Council accepted.

MOTION by Carlson, second by Dobbie to approve Amendment to Resolution 10-13 adding Atherton Library Steering Committee with the revisions to the resolution. The motion passed.

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

22. TOWN RESPONSE TO CIVIL GRAND JURY REPORT ON THE EFFECTIVENESS OF RED LIGHT TRAFFIC CAMERA ENFORCEMENT

Report: Police Chief Mike Guerra

Recommendation: Accept the attached final proposed draft as the Town's response to the civil grand jury regarding effectiveness of red light traffic camera enforcement

Mayor McKeithen reviewed her edits to the letter which Council accepted.

MOTION by McKeithen, second by Dobbie to accept the attached final proposed draft as the Town's response to the civil grand jury regarding effectiveness of red light traffic camera enforcement with the revisions to the response. The motion passed.

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

23. AMEND COUNCIL RULES OF PROCEDURES TO STAY IN COMPLIANCE TO REFLECT STATE LAW

Report: City Manager Jerry Gruber

Recommendation: Amend Council Rules of Procedures

Jon Buckheit, Atherton resident said he thinks it is great that Council is acting to fully honor freedom of speech rights, but he does not see how freedom of speech is addressed by saying it is the Mayor's sole judgment to remove someone from the meeting. Buckheit concluded that there should be some objective standards that require someone to be removed from a meeting.

Mayor McKeithen said she will abide by the Constitution of the United States before the rules of procedures and lean towards freedom of speech.

City Attorney Furth said it is common to have procedures that do not allow defamatory or derogatory conduct but it is not Council's job to judge the accuracy of freedom of speech. Furth said Council has a right to limit speaking time and on very unusual circumstances to eject someone from a meeting.

Colleen Anderson, said she appreciates Council's efforts on this item because she has been in a hostile situation at a recent Council meeting.

John Ruggeiro, Atherton resident, suggested when people speak to identify themselves. Ruggeiro said to be careful about ejecting someone from a meeting because it could lead to a lawsuit.

Peter Carpenter, Atherton resident, said the Brown Act permits you to remove someone only if they willfully interrupt the meeting. Carpenter said the Act prohibits Council from requiring public speakers to identify themselves.

MOTION by Dobbie second by Lewis to amend the council rules of procedures. The motion passed.

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

24. ADOPTION OF RESOLUTION REJECTING CLAIM SUBMITTED BY MCNEILL LAW OFFICES ON BEHALF OF PACIFIC PENINSULA GROUP

Report: Assistant City Manager Eileen Wilkerson

Recommendation: Adopt Resolution No. 10-47 rejecting claim of Pacifica Peninsula Group

Council Member Marsala recused himself for personal preference.

Jon Buckheit, Atherton resident, said Council needs to show the taxpaying residents of this Town better fidelity and consistency. He had one incident with the Town and filed a lawsuit and he believes he is made to feel like a pariah by city staff. Buckheit questioned whether Pacific Peninsula Group President Steve Ackley will be treated the same.

MOTION by Dobbie, second by Carlson to adopt Resolution No. 10-47 rejecting claim of Pacifica Peninsula Group. The motion passed.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1 (Marsala recused himself)

27. INTRODUCTORY REPORT ON ATHERTON POLICE STAFFING

Report: Police Chief Mike Guerra

Recommendation: To Be Determined

Chief Guerra gave a Power Point presentation on Atherton police staffing. [A complete copy of the report is available in the City Clerk's office].

Guerra discussed the following topics:

- values based policing performance dimensions which included documented and undocumented crimes, investigation and solving crimes, and citing and arresting felonies, misdemeanors and infractions
- Fear and protection measures
- Using force and authority fairly and effectively
- Financial resources and customer service
- DOJ crime reporting in Atherton and surrounding jurisdictions
- Five years of police activity
- Atherton Department structure compared to surrounding jurisdictions

Chief Guerra closed by listing potential alternatives and options for Council.

Members of the public engaged in an ongoing conversation with the Chief in regards to his presentation.

Council Member Carlson agreed with the public and reiterated that staff needs to work together with residents and the Finance Committee on a five-year financial plan. Carlson encouraged Chief Guerra to work with the Committee on putting together goals on how to proceed with examining all alternatives for balancing the Towns budget.

City Manager Gruber said he will suggest that Town staff attend the next Finance Committee meeting.

PUBLIC HEARINGS (25)

25. PUBLIC HEARING ON INITIAL STUDY/DRAFT NEGATIVE DECLARATION AND DRAFT 2007-2014 HOUSING ELEMENT UPDATE

Report: Town Planner Neal Martin

Recommendation: Adopt Resolution 10-45 approving:

The 2007-2014 Housing Element Update and Zoning Ordinance Amendments Initial Study and Negative Declaration, and The Town of Atherton Housing Element Update 2007-2014 dated August 1, 2010

Deputy Town Planner Costa Sanders said the Planning Commission recommends adoption of the Negative Declaration to stay consistent with the California Environmental Quality Act. Further, adoption of the Housing Element Update 2007-2014 would be in compliance with California Housing Element law. Costa Sanders concluded that staff supports this recommendation.

MOTION by Carlson, second by Dobbie to adopt Resolution 10-45 approving the 2007-2014 Housing Element Update and Zoning Ordinance Amendments Initial Study and Negative Declaration, and The Town of Atherton Housing Element Update 2007-2014 dated August 1, 2010. The motion passed.

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

REGULAR AGENDA (Items 26-35)

26. CLASSIFICATION STUDY – THOUGHTS AND OPPORTUNITIES

Report: Assistant City Manager Eileen Wilkerson

Recommendation: To Be Determined

Gruber said the foundation report is enclosed and an analysis has been done on each Town department.

Assistant City Manager said the information given to Council is the only documentation allowed to be made public at this time, during Teamsters negotiations.

Mayor McKeithen felt that the actual report was missing and believed the report was very subjective. McKeithen questioned why there is no cost breakdown on staffing, and cost efficiencies. McKeithen said employees should be evaluated on how they perform their job and what they accomplish. McKeithen concluded that she believes someone from outside Town staff should evaluate the employees.

Vice Mayor Dobbie said he made suggestions to the City Manager many months ago on ways to eliminate positions and save money, but he was told a classification study needed to be done first. Dobbie said he wants options where the Town can save a substantial amount of money without degrading services. He said the report does not include this.

Council Member Lewis said the report is based on several snapshots over time and as areas were discovered during the process, where more efficiencies could be made without impacting current positions then those changes were made without waiting for the study to be completed. Lewis said management significantly reduced temporary staff, landscape contracts and have not filling open positions. Lewis concluded that this report is only the first step.

Council Member Marsala said Assistant City Manager Wilkerson has done a superb job in keeping the Town safe from the restrictions put on during negotiations. Marsala said certain items have not only been reduced but it also discusses potential ideas like contracting out the Park Program Manager and it addresses state mandates which require continued education and specialized skills. Marsala concluded that staff has done a good job on giving advice with respect to the fact that negotiations are currently taking place.

Council Member Carlson asked the City Manager if he believes the Town is in a fiscal crisis.

City Manager Gruber felt staff and Council needed to do additional work on a five-year financial plan. Gruber said staff has done a good job at reducing costs and balancing the budget without taking money out of reserves. Gruber added that there has been an exorbitant amount of litigation coupled with two large settlements and refunding of business license taxes which have been addressed. Gruber concluded that the Town needs to continue to tighten their belt and look at additional sources of revenue and he does not believe the Town's financial outlook is dire.

Council Member Carlson said the Town has a cost curve that is steeper than the revenue curve and this needs to be resolved before looking at other revenue sources. Carlson said the Town needs to reinvent itself on how to deliver Town services. Carlson added that he agrees this report is a stepping stone in the right direction but the Town needs to review compensation programs, look at volunteers, and possibly perform service level adjustments before any more revenue enhancements are discussed. Carlson concluded that there needs to be a sense of urgency on alternatives and staff recommendations.

Vice Mayor Dobbie said job descriptions need to be compared to salaries because he believes some of the positions are way over paid relative to the work required for the position.

Council Member Marsala said it is challenging for the Town because we do not have the ability to collect sales tax to increase revenue. Marsala did not feel that reducing employee salaries would make a very big difference in balancing the budget.

Loren Gruner, Atherton resident, said a classification study can be very ambiguous. Gruner suggested finding creative ways to get everything done with fewer employees, allowing employees to grow and learn more.

Kimberly Sweidy, Atherton resident, said the qualifications of the town employees should be researched before hiring. Sweidy said she discovered the now retired Building Official had no formal education and botched all of her inspections.

Jeff Wise, Atherton resident, said the report provides a starting point for next steps on accomplishing tasks to serve the residents more efficiently.

Wilkerson said there is a part of the report which can only be shared in a closed session. City Attorney Furth explained what can be discussed in closed session.

Council agreed that they need to review the rest of the study in closed session and they suggested that the Finance Committee should gather information and move ahead to reflect some changes in the Towns cost structure for next years budget.

28. AUDIT COMMITTEE REPORT ON PURCHASING POLICY

Report: Finance Director Louise Ho

Recommendation: To Be Determined

Finance Director Ho said Council directed that the Audit Committee review the draft purchasing policy. Ho said the Audit Committee has requested to rewrite the entire policy.

Vice Mayor Dobbie said the Audit Committee wants to rewrite certain parts of the policy and Committee member Bill Widmer has volunteered to do so.

Bill Widmer explained that with the current policy someone can place orders without a specification, and someone can inspect their own product and approve it. Widmer said this leads to fraud and need to be cleaned up.

Rose Hau, Audit Committee, said the Committee was presented with a narrow scope and realized there are large procedural problems with the policy. Hau said the Committee supports Bill Widmer drafting a new policy for review.

City Attorney Furth clarified the steps needed to be taken in order to adopt an ordinance for a new, revised purchasing policy.

Mayor McKeithen asked if it will affect the Town if nothing is done with the draft policy this year.

Ho said in the final recommendation letter from the Auditor's they will say the purchasing policy is pending and in progress, but it will not cause any issues with the audit.

MOTION by Lewis, second by Dobbie to approve allowing the Audit Committee to rewrite the purchasing policy for Council review. The motion passed.

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

29. APPROVE CONSULTANT SERVICES AGREEMENT WITH CSG CONSULTANTS, INC. FOR CODE ENFORCEMENT

Report: Public Works Director Duncan Jones

Recommendation: Approve Consultant Services Agreement with CSG Consultants, Inc. to provide Code Enforcement Services to the Town of Atherton in the amount of \$56,925.00 for the fiscal year 2010-11

City Manager Gruber said he is recommending staying with CSG for continuity purposes and the success rate the Town has experienced with the current code enforcement officer. Gruber added that he is ready to implement the administrative citation process and the current code enforcement officer is familiar with what is required during and after implementation.

Council Member Lewis said that the current code enforcement officer works great with Town management, but she would like to see more information from a potential partnership with Redwood City.

Mayor McKeithen said she would like to see a representative from Redwood City come speak to Council and possibly give a presentation on the services they would offer for code enforcement. McKeithen said this is the first opportunity to look at outsourcing and save on costs.

Vice Mayor Dobbie said he has pushed for the police department to handle violations of the zoning code. Dobbie said the current code enforcement officer has done a good job, but the Town needs to see if they can get more for less.

Council Member Marsala disagreed with pushing for the police to handle violations of the municipal code and added that it makes sense to look at what Redwood City has to offer.

Council Member Carlson said he was disappointed there were not more options.

City Manager Gruber said the Town should always look at cheaper ways to provide services to the residents but when it comes to code enforcement it is about quality, and cheaper isn't always sufficient.

Loren Gruner, Atherton resident, questioned whether the Town has determined the goal of code enforcement.

Rose Hau, Atherton resident, said the primary purpose for hiring a code enforcement officer several years back was to enforce rules on construction sites.

Kimberly Sweidy, Atherton resident, said anonymous complaints are not the best way to resolve conflict. Neighbors should go to one another to discuss any issues before complaining.

Jeff Wise, Atherton resident, said he supports the current code enforcement officer and feels the Town should ask for a reduced rate. Wise said he has serious concerns about how Redwood City handles code enforcement.

Council agreed to direct staff to have a representative from Redwood City make a presentation on what they have to offer for code enforcement services.

30. ADOPTION OF A RESOLUTION APPROVING BUDGET AMENDMENT FOR FY 2010-11

Report: Finance Director Louise Ho

Recommendation: Adopt Resolution 10-49 approving the budget amendment for FY 2010-11 for the General Fund

Mayor McKeithen made an edit to the resolution to add that the refunds will come from undesignated reserves.

MOTION by Lewis, second by Marsala to adopt Resolution 10-49 approving the budget amendment for FY 2010-11 for the General Fund undesignated reserve. The motion passed.

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

31. ADOPTION OF A RESOLUTION AUTHORIZING REFUNDING OF THE FORTY PERCENT (40%) INCREASE IN ROAD IMPACT FEES IMPLEMENTED IN 2007

Report: Finance Director Louise Ho

Recommendation: Adopt resolution 10-46 authorizing refunding of the forty percent (40%) increase in Road Impact Fees implemented in 2007

Finance Director Ho said adoption of this resolution will approve giving refunds to anyone who made the 40% overage in road impact fees. Ho said on July 21, 2010 meeting, the City Council passed a motion 4-1 to limit the Road Impact Fee refund to the additional 40% increment that went into effect on August 17, 2007, as proposed in the Colleagues Memorandum; direct staff to prepare a resolution authorizing the 40% Road Impact Fee increment refund for approval by City Council at its next regular meeting.

Mayor McKeithen corrected typographical errors in the resolution.

Council discussed item 33 and the fact that if approved it will be available for refunds of road impact fees.

MOTION by Carlson, second by Lewis to adopt resolution 10-46 authorizing refunding of the forty percent (40%) increase in Road Impact Fees implemented in 2007. The motion passed.

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

32. APPROVAL OF THE CONSULTANT SERVICES AGREEMENT BETWEEN MUNISERVICES, LLC AND THE TOWN OF ATHERTON FOR ROAD IMPACT FEE REFUND PROCESSING

Report: Finance Director Louise Ho

Recommendation: Approve the consultant services agreement with MuniServices LLC; and authorize the City Manager to execute the agreement

City Manager Gruber informed Council that Finance Director Ho was very persistent in getting the amount reduced by \$10,000.

Mayor McKeithen asked if there is a way to include a “sliding scale” in case there are a fair number of people who do not request refund of road impact fees.

Finance Director Ho said \$30,000 is the minimum to perform this function because Muniservices has performed a similar job with the business license refunds which took a considerable amount of time.

Jeff Wise, Atherton resident, said the business license refund process was complex but road impact fee refunds should be very straightforward. Wise said \$30,000 is a lot for what they will be performing.

Bill Widmer, Atherton resident, questioned whether the Town is following its procedures outlined in the current purchasing policy.

Mayor McKeithen asked if there are other jurisdictions that can perform this work.

Ho said there would be a learning curve and Muniservices has the capacity and the skill set to get this done in a timely manner.

MOTION by Lewis, second by Carlson to approve the consultant services agreement with Muniservices LLC; and authorize the City Manager to execute the agreement conditioned upon staff asking Muniservices to include a sliding scale, bonus share or cost incentive. The motion passed.

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

33. APPROVE ADJUSTMENTS TO CAPITAL IMPROVEMENT PROJECT (CIP) SUPPORT AND ADMINISTRATIVE CHARGES TO THE ROAD IMPACT FEE FUND AND APPROVE THE USE OF GENERAL FUND UNDESIGNATED RESERVE OF \$469,642 TO REPAY THE ROAD IMPACT FEE FUND

Report: Finance Director Louise Ho

Recommendation: Approve adjustments to CIP support and administrative charges to the Road Impact Fee Fund and approve the use of General Fund undesignated reserve of \$469,642 to repay the Road Impact Fee fund

Finance Director Ho said that on July 21, 2010, the City Council directed the Finance Committee to review and determine the appropriate amount of engineering and administrative support costs chargeable to the Road Impact Fee Fund for CIP.

Ho said from 2003 until 2006, operating transfers were made from the Road Impact Fee Fund to the General Fund to pay for street maintenance and engineering support for the Capital Improvement Program (CIP). From 2003 until 2009, administrative service charges were transferred from the Road Impact Fee fund to the Administrative Service Fund to pay for Town general overhead.

Based on the request of the Citizen's Group, staff was directed to recheck the appropriateness of the operating transfers to General Fund. While examining the operating transfers, staff felt that it would be proper to also examine the administrative services charges for its reasonableness.

The procedure used to recalculate the transfers is attached, along with a spreadsheet showing all charges and the numbers associated with each step of the procedure.

Ho concluded that the Finance Committee review, the procedures and preliminary recalculation have been discussed and reviewed by the Town external auditor Maze & Associates on an informal basis.

Council Member Lewis said the analysis and spreadsheet calculations done by staff were superb and very detailed.

MOTION by Dobbie, second by Carlson to approve adjustments to CIP support and administrative charges to the Road Impact Fee Fund and approve the use of General Fund undesignated reserve of \$469,642 to repay the Road Impact Fee fund. The motion passed.

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

Mayor McKeithen said she believes the amount should have come from the capital improvement fund and not the general fund undesignated reserves account.

34. APPROVAL OF PROFESSIONAL SERVICES AGREEMENT WITH BURKE, WILLIAMS, & SORENSON, LLP FOR LEGAL SERVICES

Report: City Manager Jerry Gruber

Recommendation: Approve Professional Services Agreement with Burke, Williams & Sorenson, LLP for Legal Services

City Attorney Furth introduced a member of her new law firm Burke, Williams & Sorenson. Furth recused herself and left the meeting.

City Manager Gruber said due to ongoing personnel issues that need legal oversight; staff is recommending retaining the law firm effective August 19, 2010. Gruber said he understands the current financial challenges that the Town is experiencing and he is sensitive to maintaining a legal budget that reflects fiscal stewardship while protecting the Town against future litigation.

Loren Gruner, Atherton resident, said Wynne Furth is incredibly detailed and quick in answering questions. Furth is a huge improvement from where the Town has ever been and she hopes that by putting in the time it will benefit the Town in the future.

Kimberly Sweidy, Atherton resident, said she respects Wynne Furth at Council meetings however, she has had a different experience as a potential litigant.

City Manager Gruber concluded that Burke, Williams & Sorenson specializes in personnel law.

MOTION by Dobbie, second by Lewis to approve a professional services agreement with Burke, Williams & Sorenson, LLP for legal services. The motion passed.

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

35. DISCUSS CITY ATTORNEY REQUEST FOR PROPOSAL PROCESS AND DISCUSS COMPOSITION, TERMS, DUTIES AND APPOINT COUNCIL MEMBERS TO AN AD-HOC COMMITTEE FOR THE CITY ATTORNEY RFP PROCESS

Report: City Manager Jerry Gruber

Recommendation: To Be Determined.

Council agreed that due to the late hour they will select an ad-hoc committee at this point and table the RFP process to a special meeting within the next two week where Council can discuss what they want the process to consist of.

Council agreed to appoint Vice Mayor Dobbie and Council Member Lewis to an ad-hoc committee to oversee the RFP process.

Council Member Lewis said specific criteria should be given for the volunteers who want to participate on the committee. Council agreed.

Mayor McKeithen suggested that the ad-hoc committee begin drafting an RFP for the meeting.

36. COUNCIL REPORTS

Nothing further to add to written reports.

37. FUTURE AGENDA ITEMS

A. CODE OF CONDUCT TRAINING

Council Member Lewis said she believes the code of conduct should be discussed annually. Lewis said it was last reviewed in September 2008.

MOTION by Carlson, second by Marsala to add code of conduct training to the next Council meeting agenda. The motion passed.

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

38. PUBLIC COMMENTS

None.

39. ADJOURN

MOTION by Lewis, second by Dobbie to adjourn the meeting. The motion passed unanimously.

Mayor McKeithen adjourned the meeting at 12:15 p.m.

Respectfully submitted,

**Theresa DellaSanta
Deputy City Clerk**