

PRESS STATEMENT FROM THE TOWN OF ATHERTON REGARDING SETTLEMENT OF LITIGATION BETWEEN THE TOWN AND PILAR ORTIZ-BUCKLEY

January 28, 2010

The Town of Atherton has settled a lawsuit brought by former police officer Pilar Ortiz-Buckley against the Town and a Town employee, Troy Henderson. Under the settlement agreement, which became effective on November 19, 2009, the Town paid \$230,000 to Ms. Ortiz-Buckley in exchange for her release of claims against the Town and Mr. Henderson. No admission of wrongdoing was made as a part of the settlement. The lawsuit had been filed in April of 2009. In a related court proceeding, the District Attorney filed assault and battery charges against Mr. Henderson based on allegations by Ms. Ortiz-Buckley concerning an incident on June 3, 2008. The jury found Mr. Henderson not guilty in July of last year. A separate Worker's Compensation proceeding was excluded from the settlement.

The decision to settle the lawsuit was made by the City Council after reviewing information provided by its lawyers in several closed sessions. The decision to settle was based upon a determination that it was in the Town's interest to settle the matter now rather than continue to incur litigation expenses in the face of an uncertain outcome. Even if the Town prevailed on most issues, and the damages were small, the possibility of an award to the plaintiff and the assessment of the attorneys' fees in litigating the case through trial made settlement negotiations advisable.

At a closed session at its October 2009 meeting, the Council voted unanimously to give its lawyers the necessary settlement authority, specifying financial parameters within which an agreement to end the dispute would make sense for the Town. The negotiations were successful and settlement documents were drawn. The final signature on the Settlement Agreement was obtained on November 19, 2009. At that point, the settlement and the Council vote to authorize it became publicly available information under the Brown Act. The Town, however, took no effort to disseminate this information at that time.

While working to settle the Ortiz litigation, the Town has also been taking a number of steps to reduce the likelihood of future employee litigation of this kind. The Town's Assistant City Manager, Eileen Wilkerson, brought extensive human resources experience to the position. She has been working with the Town's lawyers to update existing Town Policies, personnel rules and procedures and establish needed new ones. The Town has updated its anti-harassment and work place violence policies. Training programs have been conducted for management, supervisors, and staff. All Town employees have been advised of their rights to work in a harassment-free environment and the importance of reporting any concerns promptly. Supervisors have been trained on the absolute necessity of treating all complaints seriously and investigating them properly. Implementing the Town's policies is part of the performance evaluation for all managers and supervisors.

In addition to in-house training programs conducted by specialist public employment lawyers, the Town participates in the San Mateo County Employee Relations Consortium, which provides regular training on creating harassment-free environments, workplace harassment, discrimination, and retaliation for supervisors,

accommodating disabilities, and otherwise meeting the requirements of state law and Town expectations.

The Town has also shifted from self-insurance for employee conduct claims to partial Employee Practices Liability Insurance obtained through the Association of Bay Area Governments. To qualify for the program, the Town must have policies in place that meet state and federal compliance, bargaining agreements that meet the insurance companies' requirements, and a training program. Based on the Town's history of claims, the initial annual premium is approximately \$34,000, with a \$100,000 self-insurance deductible. If the Town is successful in reducing the number and severity of claims filed against it in future years, these premiums are expected to go down.

The Town did not issue a press statement at the time the settlement became final. That was an oversight and an error. The City Council and City Manager are taking steps to establish new communication procedures to prevent such a mistake in the future.