



AGENDA
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
December 17, 2003

7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

- 7:00 P.M.** 1. **PLEDGE OF ALLEGIANCE**
- 7:03 P.M.** 2. **ROLL CALL** McKeithen, Marsala, Carlson, Janz, Conwell
- 7:05 P.M.** 3. **PRESENTATIONS**
- A. Presentation to Outgoing Mayor James R. Janz
- 7:15 P.M.** 4. **CITY COUNCIL REORGANIZATION**
- Selection of Mayor and Vice Mayor
Oaths of Office
- 7:30 P.M.** 5. **COUNCIL REPORTS**
- 7:45 P.M.** 6. **PUBLIC COMMENTS** (only for items which are not on the agenda –
limit of three minutes per person)
- 8:00 P.M.** 7. **STAFF REPORTS**
- 8:15 P.M.** 8. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT** (Per
Resolution No. 02-31)
- Atherton Heritage Association
- 8:20P.M.** **CONSENT CALENDAR** (Items 9 – 17)
9. **APPROVAL OF MINUTES OF REGULAR AND SPECIAL MEETINGS
OF OCTOBER 15, 2003**

10. **APPROVAL OF BILLS AND CLAIMS FOR NOVEMBER 2003 IN THE AMOUNT OF \$1,078,124**
11. **ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR NOVEMBER 2003**
12. **REFER REVIEW OF SPECIAL EVENTS ORDINANCE TO GENERAL PLAN COMMITTEE (Continued from the Meeting of November 19, 2003)**

Recommendation: Refer to the General Plan Committee the Special Events Ordinance for review and recommendation. Specifically, it is requested that the General Plan Committee review the maximum time permitted for the life of the Special Events Permit issued and determine what specific time constraints, if any, should be imposed on permitted events within the Town.

13. **APPROVAL OF PLANS AND AUTHORIZATION TO ADVERTISE FOR BIDS FOR THE HOLBROOK-PALMER PARK MAIN HOUSE ELEVATOR PROJECT**

Recommendation: Approve the plan and specifications and authorize advertisement for bids for the Holbrook-Palmer Park Main House Elevator Project, Project No. 03-009.

14. **ADOPTION OF A RESOLUTION ADOPTING AN INTEGRATED PEST MANAGEMENT POLICY**

Recommendation: Adopt Resolution No. 03-___ adopting the San Mateo Stormwater Pollution Prevention Program Model Integrated Pest Management Policy.

15. **ADOPTION OF A RESOLUTION TO REAPPLY FOR REISSUANCE OF THE MUNICIPAL STORMWATER NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT TO ACCEPT AND ADOPT THE SAN MATEO COUNTYWIDE STORMWATER MANAGEMENT PLAN FOR 2004-2009**

Recommendation: Adopt Resolution No. 03-__ authorizing the reissuance of the NPDES permit and commit to the implementation of permit requirements through a Stormwater Management Plan.

16. ACCEPTANCE AND APPROVAL OF THE FINAL MAP FOR A LOT LINE ADJUSTMENT AT 76 AND 86 TALLWOOD COURT

Recommendation: Accept and approve the final map for a lot line adjustment at 76 and 86 Tallwood Court.

17. RESOLUTION APPROVING THE SECOND AMENDMENT TO THE FRANCHISE AGREEMENT BETWEEN THE TOWN OF ATHERTON AND BFI WASTE SYSTEMS OF NORTH AMERICA, INC.

Recommendation: Adopt Resolution No. 03-__ approving the Second Amendment to the Franchise Agreement and approving a 35% reduction to the rate for participation in the commercial organics program as recommended by the Atherton Waste Management Committee.

REGULAR AGENDA (Items 18 – 25)

8:30 P.M. 18. APPROVAL OF AGREEMENT BETWEEN FELTON GABLES HOMEOWNERS ASSOCIATION AND TOWN OF ATHERTON TO PROVIDE FOR ACCESS TO HOLBROOK-PALMER PARK

Recommendation: Approve an agreement with Felton Gables Homeowners Association to provide access to Holbrook-Palmer Park. (Continued from the Meetings of October 15, 2003 and November 19, 2003)

8:45 P.M. 19. APPOINTMENT OF RESIDENT MEMBERS TO CALTRAIN CORRIDOR AD HOC SUBCOMMITTEE

Recommendation: Consider recommendations of City Council Screening Committee to appoint resident members to the Caltrain Corridor Ad Hoc Subcommittee.

8:55 P.M. 20. CALTRAIN CORRIDOR AD HOC SUBCOMMITTEE UPDATE

Recommendation: Review the activities of the Caltrain Corridor Ad Hoc Subcommittee and give direction to Staff and the Subcommittee on the proposed Petition and January 27, 2004 Public Meeting.

9:10 P.M. 21. CONSIDER INTRODUCTION FOR ADOPTION AN ORDINANCE AMENDING ATHERTON MUNICIPAL CODE CHAPTER 10 RELATING TO PARKING AND CHAPTER 15.40 RELATING TO CONSTRUCTION REGULATIONS

CONSIDER ADOPTION OF A RESOLUTION ADOPTING GUIDELINES FOR CONSTRUCTION, OPERATION AND PARKING PLANS

Recommendation: 1) Consider introduction of an ordinance amending Chapters 10 and 15 of the Atherton Municipal Code relating to construction regulations and parking, and waive further reading. 2) Consider adoption of Resolution No. 03-__ adopting guidelines for construction, operation and parking plans.

- 9:30 P.M. 22. ACCEPTANCE OF THREE YEAR UPDATE TO THE TOWN'S FINANCIAL PLAN**

Recommendation: Receive and review the update to the Town's three-year financial plan.

- 10:00 P.M. 23. CONSIDER INTRODUCTION OF AN ORDINANCE FOR ADOPTION AMENDING ATHERTON MUNICIPAL CODE SECTION 8.10 REGARDING TREE PRESERVATION GUIDELINES, STANDARDS AND SPECIFICATIONS**

CONSIDER ADOPTION OF A RESOLUTION APPROVING TREE PRESERVATION GUIDELINES AND ESTABLISHING CIVIL PENALTY FEE

Recommendation: 1) Consider introduction of an ordinance amending Atherton Municipal Code Section 8.10 regarding tree preservation guidelines, and waive further reading. 2) Consider adoption of Resolution No. 03-__ approving tree preservation guidelines and establishing civil penalty fee.

- 10:15 P.M. 24. APPROVAL (IN CONCEPT) OF CHANGES TO THE SAN MATEO COUNTY LIBRARY AUTHORITY JOINT POWERS AGREEMENT**

Recommendation: Consider and approve (in concept) proposed changes to the San Mateo County Library Authority Joint Powers Agreement.

- 10:25 P.M. 25. DISCUSS AND CONSIDER PROCEDURE FOR PLACEMENT OF ITEMS ON THE CITY COUNCIL AGENDA**

Recommendation: Consider the existing procedure for setting of the City Council agenda and determine if any changes are appropriate.

- 10:40 P.M. 26. PUBLIC COMMENTS**

10:45 P.M. 27. ADJOURNMENT

Agendas and staff reports may be accessed on the Town website at: www.ci.atherton.ca.us

☞ Please contact the City Clerk's Office at 650.752.0529 with any questions

Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the City Clerk's Office at (650) 752-0529. Notification of 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (29 CRF 35.104 ADA Title II)



Draft Minutes
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
October 15, 2003
6:00 P.M.
Meeting Room
Town Administrative Offices
91 Ashfield Road, Atherton
Special Meeting

Mayor Janz called the meeting to order at 6:10 p.m.

1. ROLL CALL

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

ABSENT: William R. Conwell

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

2. PUBLIC COMMENTS

There were no public comments.

3. CLOSED SESSION

The Council adjourned to Closed Session at 6:12 p.m.

4. RECONVENE TO OPEN SESSION

The Council reconvened to Open Session at 6:50 p.m. The following action was taken:

- A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION pursuant to Subdivision (a) of Government Code Section 54956.9
Teamsters Local No. 856 v. City of Atherton**

No action was taken.

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

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

Direction was given to the City Manager.

5. ADJOURN

The meeting adjourned at 6:55 p.m.

Respectfully submitted,

James R. Janz, Mayor



**Draft Minutes
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT**

October 15, 2003

7:00 p.m.

TOWN COUNCIL CHAMBERS

94 Ashfield Road
Atherton, California

REGULAR MEETING

Mayor Janz called the meeting to order at 7:09 p.m.

- 1. PLEDGE OF ALLEGIANCE**
- 2. ROLL CALL**

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

ABSENT: William R. Conwell (Excused)

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

3. PRESENTATIONS

- A. Citizen Commendations – Ben and Jenny Chute**
Police Chief Bob Brennan introduced Ben and Jenny Chute who were recognized for their heroic actions assisting in the rescue of an injured neighbor. Mayor Janz presented Certificates of Recognition from the City Council.
- B. Housing Endowment and Trust of San Mateo County**
County Supervisor Richard Gordon presented information on the Joint Powers Authority which was formed to address affordable housing issues in the county. The Council referred review of this issue to the Finance Committee.
- C. Annual Tree Awards – Atherton Tree Committee**

Denise Kupperman, Atherton Tree Committee Chair, and Kathy Hughes Anderson, Town Arborist, presented the 2003 Annual Tree Awards to the following residents:

**Barbara Tuffli
George and Kitsy Anagnoston
Cynthia Lovewell
Clarice and Frank Merrill
LePrele Johnson
Reese and Alicia Bader
Marnie and Joe Van Poppelen
Phoebe Rowles
Paul and Nancy Jones
Emily and Eric Tashman
Nadine and Bob Franceschini
Sandy and Farida Kaye**

- D. Mayor Janz signed Certificates of Appreciation for Outgoing Arts Committee members Fran Eastman, Mindy Perez-Rubio, and Judy Sleeth. The certificates will be mailed to the outgoing members.**
- E. Report from Menlo-Atherton High School Principal
Principal Eric Hartwig reported on current school activities and goals, and gave an update on current and future construction projects at the High School. School staff will be working with the Town on parking and traffic issues associated with planned improvements to the school.**

4. COUNCIL REPORTS

- Vice Mayor McKeithen reported that she attended the Lindenwood Homes Association meeting where a variety of topics were addressed. She also attended the Transportation Subcommittee meeting. She reported that the Channel Drainage District Subcommittee has not met recently, but she asked Public Works Director Duncan Jones to report on the status of the permits required for improvements to the channel. She attended the September Planning Commission meeting and made a presentation regarding code enforcement officers.**
- Council Member Marsala reported that he attended the board meeting of the County Library Joint Powers Authority on October 6. The Board discussed the administrator position and adding library services in the unincorporated Fair Oaks area. He also attended the Holbrook-Palmer Recreation Park Foundation meeting October 6. He suggested that the Town look into recognizing volunteer committee and commission members on an annual basis. Council Member Marsala, along with several Town staff members, spoke to the Realtors' Board October 7 on various Atherton related topics. He also attended the Council of**

Cities meeting along with Council Member Conwell on September 26. Council Member Marsala also noted that the Council usually holds an annual joint meeting with the Park and Recreation Commission at this time of year.

- Council Member Carlson reported that the Transportation Subcommittee, at their October 14 meeting, discussed proposed Caltrain Corridor improvements and requested that staff pursue possible funding both for study and for grade separations. He reported that the Subcommittee agreed with the formation of a Caltrain Subcommittee. The Transportation Subcommittee also reviewed parking issues surrounding Menlo-Atherton High School and received an update on parking restrictions on Oak Grove Avenue and the traffic signal at Valparaiso and University Avenues. A crosswalk at the intersection of Middlefield Road and Watkins Avenue was approved. The next meeting will be held January 13, 2004.
- Mayor Janz read a commendation received from the Honorable Anna Eshoo in celebration of the Town's 80th anniversary. He reported on the Waste Reduction Committee meeting held earlier this month. The Committee toured the recycling facility in San Carlos. He reported that he plans to attend the Association of Bay Area Governments General Assembly on October 24.

5. PUBLIC COMMENTS

The following members of the audience spoke:

- Bob Jenkins reported recent activities of the Atherton Civic Interest League. ACIL will sponsor a candidate forum Thursday, October 23, 7:00 p.m. for Menlo Fire Protection District candidates.
- Jerry Carlson reported on the ACIL Selby Lane project committee and gave an update on planned improvements for the school.

6. STAFF REPORTS

- Public Works Director Duncan Jones reported on actions that are being undertaken to prepare for improvements to the Atherton Channel. He reported that the \$425,000 budget amount is still on track. The Town is eligible for a state parks grant as a result of the red-legged frog being found in the channel.
- City Attorney Marc Hynes reported out of the 6:00 p.m. Closed Session as follows:

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION pursuant to Subdivision (a) of Government Code Section 54956.9 Teamsters Local No. 856 v. City of Atherton

No action was taken.

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

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

Direction was given to the City Manager.

- **Finance Director John Johns reported that he will attend a meeting of the City Finance Directors of San Mateo County and the County Controller to discuss the allocation method for ERAF reimbursements to cities within the county. City Manager Jim Robinson asked Mr. Johns to also look into possible ERAF reimbursements for the Library donor funds.**

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

No report.

CONSENT CALENDAR

Vice Mayor McKeithen asked that Item 8 be removed from the Consent Agenda and held over for approval at the November Council meeting in order that Item 19 of the September regular minutes to be clarified.

MOTION – to approve the items on the Consent Agenda with the exception of Item 8.

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

- 8. Removed from Consent Agenda - MINUTES OF REGULAR AND SPECIAL COUNCIL MEETINGS OF SEPTEMBER 17, 2003 AND SPECIAL MEETING OF OCTOBER 6, 2003**
- 9. APPROVED BILLS AND CLAIMS FOR SEPTEMBER 2003 IN THE AMOUNT OF \$743,837**
- 10. ACCEPTED MONTHLY FINANCIAL REPORT FOR SEPTEMBER 2003**
- 11. AMENDMENT TO EMPLOYMENT AGREEMENT BETWEEN THE TOWN OF ATHERTON AND CITY MANAGER JAMES H. ROBINSON**

Authorized the Mayor to execute the second amendment to the employment agreement between the Town of Atherton and City Manager James H. Robinson effective July 23, 2003.

12. **APPROVED REVISED JOINT POWERS AGREEMENT WITH BAY AREA EMPLOYEE RELATIONS SERVICE**
13. **ADOPTED RESOLUTION NO. 03-20 AUTHORIZING HOURLY SALARY RANGES FOR PART-TIME AND TEMPORARY EMPLOYEES FOR FISCAL YEAR 2003-04**

REGULAR AGENDA

14. **CONSIDERATION AND ACCEPTANCE OF FISCAL YEAR 2002-2003 AUDITED FINANCIAL STATEMENTS AND AUDIT COMMITTEE REPORT**

Finance Director John P. Johns presented the staff report for this item. The auditing firm of Caporicci and Larson has completed its annual financial audit and has issued the financial statements for the year ended June 30, 2003. The Management Letter accompanying the audit report documents the status of the previous year's recommendations and contains one new recommendation that the Finance Department document its year-end closing procedures.

Finance Director Johns noted that a careful monitoring of expenditures had been performed at mid-year. The implementation of additional measures at mid-year to limit expenditures resulted in a slight improvement in the Town's financial position at the end of the fiscal year.

The Audit Committee has reviewed the independent auditors' report and has recommended that the Council accept the report. A separate report prepared by the Audit Committee was provided to the Council.

Finance Director Johns was commended for the unqualified opinion of the audited financial statements received for the third year in a row.

Audit Committee Chair Marc Hebert summarized the committee's annual report and stated that the four points in last year's management letter have been addressed. He stated that the Committee, which oversees the annual audit process, is available for any other projects the Council might deem necessary. Former Audit Committee member Jerry Carlson was commended for his guidance and efforts while serving on the committee.

Council Member Carlson stated that an appropriate project for the Committee would be to look into other investment vehicles for the Town besides the ones identified in the Town Investment Policy.

At 8:43 p.m., Mayor Janz left the podium. He returned at 8:46 p.m.

(The motion approving Item 14 was overlooked and was taken out of order after Item 15.)

MOTION – to approve the audited financial statements for fiscal year ending June 30, 2003 and the Atherton Audit Committee report.

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

**15. APPROVAL OF FIRST READING OF AN ORDINANCE RATIFYING AN
ORDINANCE OF THE MENLO PARK FIRE PROTECTION DISTRICT
PERTAINING TO FIRE SPRINKLER SYSTEM REQUIREMENTS**

Building Official Mike Hood gave a brief overview of Menlo Park Fire Protection District Ordinance No. 28 which requires automatic fire sprinkler systems to be installed on all structures 1,000 square feet and larger. The Council, at their January 15, 2003 meeting, heard presentations from the Fire District regarding the sprinkler requirements, and provided comments to the District representatives that were incorporated into the ordinance.

Fire Chief Paul Wilson, along with Fire Marshall Jeffrey Os, provided information on residential automatic sprinkler system statistics. Chief Wilson explained that the District is asking the Council to conduct first reading of a Town ordinance ratifying the Fire District ordinance. He stated that East Palo Alto has asked for stricter requirements in the ordinance because their housing stock is mostly 1,000 square feet.

Sandy Crittenden, Atherton, spoke from the audience asking if it would be necessary to increase the size of the water lines to homes. Fire Marshall Os responded that in some instances, larger lines would be necessary, but that the water companies have agreed not to charge more if the system qualifies as a life safety system.

MOTION – to approve the first reading of an ordinance ratifying Menlo Park Fire District Ordinance No. 28, and waive further reading.

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

**18. DISCUSSION AND POSSIBLE ACTION – CREATION OF CODE ENFORCEMENT
OFFICER POSITION**

Item No. 18 was taken out of order.

City Manager Jim Robinson presented the staff report for this item. The General Plan Committee, at their most recent meeting, recommended the development, description, and funding for a Code Enforcement Officer position for the Town. The Planning Commission considered the recommendation of the General Plan Committee at their September 23, 2003 meeting. Planning Commission Vice Chair Robert Andrews prepared

a report for the Council identifying the research of Vice Mayor McKeithen and each commissioner's comments regarding this issue.

City Manager Jim Robinson reported that in recent years staff has handled such code enforcement issues as landscape sight distance complaints, parking violations, construction noise, tree hazards in the public right-of-way, inoperable street lights, operating businesses out of the home, and dogs off leash, along with many others. He reported that the Police Department has responded to 376 Town ordinance violations in the past year. The Public Works Department received 114 calls for service from May 2003 to October 2003 including street light outages, dangerous road conditions, drainage issues, tree removal, etc. He discussed opportunities available to the Council to handle code enforcement including continuing to utilize existing staff with direction from the Council identifying specific areas of need. Other alternatives could include creating a full time Code Enforcement Officer position, contracting with other agencies, or hiring an independent contractor. A one-month sampling of complaints received by the Police Department was provided to the Council.

Discussion ensued regarding the current methods used in following up on complaints. Building Official Mike Hood explained how construction code violations are currently handled, stating that the Police Department receives any after hours complaints which are then followed up on by the Building Department.

Mayor Janz opened the issue up for public comment.

Jennifer Acheson, Atherton, expressed concerns that the General Plan Committee had brought up the issue of code enforcement while discussing only one issue, construction parking requirements. Her view was that if construction parking is an issue, it should be addressed alone and not associated with code enforcement. She suggested a Steering Committee be formed if necessary to review and make recommendations for code changes.

Vice Mayor McKeithen stated that the Town has code provisions that are not currently being enforced. She referred to her research of positions in Los Altos Hills, Menlo Park, and Hillsborough, and stated that the responsibility of a Code Enforcement Officer would also include looking at the ordinances and recommending changes to reflect what the community wants.

Police Chief Bob Brennan noted that code enforcement is currently handled department-wide. Police officers make personal contact when they receive a complaint and, depending on the situation, may issue a warning citation. Any written citations are forwarded to the City Attorney. Chief Brennan expressed concerns with assigning specific enforcement duties to a police officer when two police officer positions are not funded in the current budget.

Discussion ensued regarding the process for handling complaints when they are received. Mayor Janz suggested that the Town adopt a more systematic process for following up on complaints. The Council agreed to direct staff to develop a protocol for handling code enforcement issues. The importance of maintaining systematic records of complaints with follow through to resolution was discussed. Records developed from complaint logs could subsequently be used to identify problem areas. Special training of staff members who answer phones was also deemed necessary so that complaints may be channeled to the proper department and not allowed to “fall through the cracks”. It was suggested that staff send a postcard informing callers of the resolution of complaints they have filed.

In response to Bob Jenkins’ concerns regarding abandoned properties and construction sites, the City Manager stated that staff is following up on a number of abandoned construction projects and some are already being cleaned up. He stated that staff would be happy to follow up on any problem properties that are brought to the staff’s attention.

Shirley Carlson, General Plan Committee, expressed concerns that residents may be unfamiliar with what constitutes an ordinance violation. She asked that authority be given to Town staff to deal with issues. Mayor Janz suggested that articles could be run in the Athertonian to make residents aware of certain Town codes.

Kristy Waldron, General Plan Committee, expressed concerns that complaints are currently treated as separate events rather than being documented as repeat offenses.

Staff was given direction to return to the December meeting with a proposed protocol for handling code enforcement issues.

19. CONSIDER CREATION OF AD HOC COMMITTEE FOR CALTRAIN ISSUES

Item 19 was taken out of order.

Mayor Janz gave an overview of issues related to proposed changes to rail service within the Town, including Caltrain proposals for the implementation of high-speed rail and grade separations. He noted that a statewide ballot initiative is planned for November 2004, which if successful, would provide high speed rail along the corridor. He suggested the formation of an ad hoc committee made up of eight to ten residents and one or two City Council Members to research and address the impact that the proposed rail improvements would have on the Town. The Committee would recommend policies, consider issues, and make the Town’s position clear to the appropriate authorities. The Committee would have open-ended appointments, be self-directing, and report back to the Council periodically.

It was determined, after discussion, that this is a critical, long-term issue, which will necessitate a different focus than the Transportation Committee can provide.

MOTION - to create an ad hoc Caltrain Corridor Committee consisting of 8 to 10 members to be Atherton residents selected at large who will serve, with the discretion of the Committee Chair, for indefinite terms. Two Council Members are to serve on the Committee. The Committee will explore the tasks as outlined in the staff report of October 15, 2003, and consider opposing the implementation of high speed rail through the Town of Atherton, while looking into possible alternatives.

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

The Council directed staff to solicit members for the Caltrain Corridor Committee. This item will return to the Council at the November meeting for appointment of Council Members to the Committee.

17. CONSIDER APPROVAL OF AGREEMENT BETWEEN THE FELTON GABLES HOMEOWNERS ASSOCIATION AND THE TOWN OF ATHERTON TO PROVIDE FOR ACCESS TO HOLBROOK-PALMER PARK

Item 17 was taken out of order.

City Attorney Marc Hynes presented the draft agreement between the Felton Gables Homeowners' Association and the Town to provide Association members access to Holbrook-Palmer Park. The agreement was drawn up by the City Attorney at the direction of the Council at the September 17, 2003 meeting. Michael Mimeles, representative of the Homeowners' Association, reviewed the agreement and related the Association's concerns with the termination provisions in paragraph 6 to the City Attorney.

The City Attorney stated that the two exhibits to the agreement, the description of the gate and the release form for keyholders, were missing from the staff report and will be provided to Council. The release form contains language requiring the keyholder to be responsible for payment at the gate for any events that may be held in the Park requiring entrance fees.

Vice Mayor McKeithen asked that language be added to the agreement requiring the Homeowners' Association to provide monthly maintenance of the gate to the satisfaction of the Town, and that copies of the maintenance records be provided to the Town on a quarterly basis. The Council suggested several other changes to the draft agreement.

Doug Satzger, Felton Gables Representative, spoke regarding the Association's concerns with the draft agreement. He asked for clarification of actions that might cause a breach of the agreement. He stated that the Association would be cleaning up the area and providing improvements to the area by building a fence. In response to the termination language in Section 6, Mr. Satzger asked that language be added stating that once the

agreement is canceled and the easement is no longer in place, the Association would not have any outstanding liability with respect to the gate.

Lou Paponis, spoke from the audience, against construction of the gate.

The City Attorney was directed to return to the November meeting with the draft agreement with the changes so discussed.

16. REPORT FROM FINANCE DIRECTOR – TRANSFER TAX

Finance Director John Johns presented the staff report for this item. At the September 17, 2003 meeting, the City Council directed staff to prepare a report on the potential of increasing the taxes levied on the sale of residential real property within the Town. Finance Director Johns' report provided the Council with an analysis of seven years of taxable sales and the amount of tax receipts generated. Also provided was a list of selected municipalities that have imposed property transfer taxes in excess of the amount provided for under state statute.

Discussion ensued regarding the possible placement of a measure on the ballot allowing the Town to levy a property transfer tax. The City Attorney stated that as a result of Proposition 13, any tax on property requires a 2/3 vote. City Manager Jim Robinson stated that the Town is trying to find a stable source of revenue.

Staff was directed to return with this issue after the City Attorney has obtained further information from legal tax counsel.

20. CONSIDERATION OF REQUEST FROM ASSOCIATION OF BAY AREA GOVERNMENTS (ABAG) TO ADOPT A RESOLUTION IN SUPPORT OF A STATEWIDE BALLOT INITIATIVE TO PROTECT LOCAL REVENUES

City Manager Jim Robinson stated that the League of California Cities, along with the Association of Bay Area Governments, has requested cities to adopt a resolution in support of a statewide ballot initiative to protect local revenues. The objective of the initiative is to prevent the state from taking additional revenues from locally designated funds without voter approval.

MOTION – to adopt Resolution No. 03-21 supporting a statewide ballot initiative to require voter approval before state government may take local tax funds.

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

21. PUBLIC COMMENTS

There were no public comments.

22. ADJOURNMENT

The meeting adjourned at 11:45 p.m.

Respectfully submitted,

Sharon Barker, City Clerk

TOWN OF ATHERTON
CLAIMS LIST
November, 2003

Item No. 10

Payroll Checks	3273 - 3359	\$ 47,018
Electronic Transfers		545,833
A/P Checks	16522 - 16680	485,273
TOTAL		\$1,078,124

I, James H. Robinson, City Manager of the Town of Atherton, do hereby certify under penalty of perjury that the demands listed above, check numbers 3273 - 3359 (payroll) and 16522 through 16680 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$1,078,124; are true and correct, and that there are funds for payment.

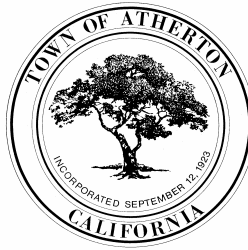
James H. Robinson
City Manager

The above claims, check numbers 3273 - 3359 (payroll) and 16522 through 16680 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$1,078,124; are true and correct, and that there are funds for payment.

James R. Janz
Mayor, Town of Atherton

SOURCE OF FUNDS

101	General Fund	\$886,480
105	Tennis Fund	1,775
201	Special Parcel Tax	74,890
202	Transportation	-
203	Gas Tax Fund	-
210	Road Construction Impact Fees	76,975
211	Park Grants Fund	-
213	Library Special Revenue Fund	1,195
401	General Capital Projects	-
402	Storm Drainage	-
403	Atherton Channel District	11,967
404	Park Playground Improvement	-
406	Facilities Construction	1,763
610	Vehicle Replacement	14,184
611	Computer Maint. & Replacement	5,147
612	Administrative Services	3,585
614	Workers Compensation Insurance	-
715	Evans Estate	164
TOTAL		\$1,078,124



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JOHN P. JOHNS, FINANCE DIRECTOR

DATE: FOR THE MEETING OF DECEMBER 17, 2003

SUBJECT: MONTHLY FINANCIAL REPORT, NOVEMBER, 2003

RECOMMENDATION:

Receive the Monthly Financial Report for November, 2003.

INTRODUCTION:

The attached schedules show revenues and expenditures and fund balance for all funds as of November 30, 2003.

HIGHLIGHTS

General Fund expenditures for the first five months of Fiscal Year 2003-04 have amounted to \$2,971,283 or 40% of the \$7,519,490 budgeted for the fiscal year. For the five months ending November 30, 2003, General Fund revenues have amounted to \$1,675,822 or 22% of the amount of total revenues estimated for the year. By comparison, General Fund expenditures amounted to 37% of budgeted expenditures for the first five months of FY 2002-03. Additionally, General Fund revenues amounted to 23% of total budgeted revenues for the first five months of FY 2002-03.

For the five months ended November 30, 2003, Motor Vehicle License fee revenues amounted to \$59,111 or 14% of the total that has been budgeted for FY 2003-04. In previous years, the Town has collected between 30 and 40% of budgeted MVLF revenues during the first five months of the fiscal year.

The current-year revenue shortfall is a result of the elimination in State of California appropriations for motor vehicle license fee “backfill” reimbursements to local governments.

November receipts for licenses and permits amounted to \$47,629, approximately 50% less than normal collections for the month of November. The drop in licenses and permit revenues is a result of an illness in the Building Department and resultant delays in receipting in such revenues until the first week of December.

FISCAL IMPACT:

None

Prepared by:

Approved by:

John P. Johns
Finance Director

James H. Robinson
City Manager

TOWN OF ATHERTON
Revenue Summary
For the Month ended November 30th, 2003

Fund	Revenue Source	2003-04 Estimate	Current Period Revenues	Year to Date Revenues	% Received
	Property Tax	\$ 3,035,934	136,709	\$ 591,957	19%
	Sales and Use Tax	200,640	18,800	56,412	28%
	Other Taxes	882,115	61,018	151,326	17%
	Licenses & Permits	1,541,673	47,629	522,277	34%
	Fines & Forfeitures	70,000	1,599	24,456	35%
	Revenue from Other Agencies	139,000	4,314	90,510	65%
	Charges for Services	445,900	18,611	146,621	33%
	Investment & Rental Income	347,300	61,291	82,324	24%
	Other Revenues	3,000	3,303	9,939	331%
	Total General Fund Revenues	6,665,562	353,274	1,675,822	25%
	Interfund (Operating) Transfers In	1,009,871	-	-	0%
101	General Fund Total	7,675,433	353,274	1,675,822	22%
	Special Revenue Funds:				
105	Tennis	9,000	1,000	2,425	27%
201	Special Parcel Tax	1,770,000	-	-	0%
202	Transportation	177,740	34,676	70,449	40%
203	Street Improvement (Gas Tax)	149,309	15,772	71,937	48%
209	Law Enforcement	100,000	-	-	0%
210	Road Construction Impact Fees	340,000	6,988	109,102	32%
211	State Park Grants Fund	93,040	-	-	0%
213	Library	200,000	(945)	33,441	17%
	Total	2,839,089	57,491	287,354	10%
	Capital Project Funds:				
401	Capital Improvement	-	-	-	
402	Storm Drainage	-	-	-	
403	Channel Drainage District	46,000	1,945	5,367	12%
404	Park Playground Improvement	-	-	-	0%
405	Middlefield Road Grants	-	-	1,514	
406	Facilities Construction	-	-	-	
	Total	46,000	1,945	6,881	15%
	Internal Service Funds:				
610	Vehicle Replacement	-	-	-	
611	Information Technology	96,043	30,782	30,782	32%
612	Administrative Services	283,128	64,011	64,011	23%
614	Workers Compensation Insurance	-	-	-	
	Total	379,171	94,793	94,793	25%
	Trust and Agency Funds:				
715	Evans Creative Design	74,000	20	9,494	13%
	Total	74,000	20	9,494	13%
	Total Revenues	11,013,693	507,523	2,074,344	19%

TOWN OF ATHERTON
Expenditure Summary
For the Month Ended November 30th, 2003

Fund	Description	2003-04	Current Period	Year to Date	%
	Department	Budget	Expenditures	Expenditures	Spent
101	General Fund				
	11 City Council	\$ 20,174	\$ 284	5,153	26%
	12 City Manager	497,895	48,876	224,302	45%
	16 City Attorney	175,551	16,773	43,420	25%
	18 Finance	434,137	30,510	153,731	35%
	25 Building	902,873	98,366	332,103	37%
	40 Police	3,629,233	334,418	1,548,047	43%
	50 Public Works	1,759,627	113,137	664,527	38%
	Contingency	100,000	-	-	0%
	Total General Fund Expenditures	<u>7,519,490</u>	<u>642,364</u>	<u>2,971,283</u>	<u>40%</u>
	Interfund (Operating) Transfers Out	-	-	-	0%
101	General Fund Total	<u>\$ 7,519,490</u>	<u>\$ 642,364</u>	<u>\$ 2,971,283</u>	<u>40%</u>
Special Revenue Funds:					
105	Tennis	22,936	3,764	6,590	29%
201	Special Parcel Tax	1,986,917	94,108	436,933	22%
202	Transportation	177,740	5,161	5,161	3%
203	Street Improvement (Gas Tax)	180,080	600	23,707	13%
209	Law Enforcement	100,000	8,219	47,092	47%
210	Road Impact Fees	588,682	76,617	77,100	13%
211	State Park Grants	81,660	-	2,483	3%
213	Library Fund	<u>15,720</u>	<u>250</u>	<u>14,131</u>	<u>90%</u>
	Total	<u>3,153,735</u>	<u>188,719</u>	<u>613,197</u>	<u>19%</u>
Capital Project Funds:					
401	Capital Improvement	284,451	2,250	28,331	0%
402	Storm Drainage	25,713	(2,309)	-	0%
403	Channel Drainage District	411,554	14,195	22,276	0%
404	Park Playground Fund	-	-	446	-
405	Middlefield Road Grants	-	-	-	-
406	Facilities Construction	<u>287,267</u>	<u>(2,957)</u>	<u>27,884</u>	<u>0%</u>
	Total	<u>1,008,985</u>	<u>11,179</u>	<u>78,937</u>	<u>8%</u>
Internal Service Funds:					
610	Vehicle Replacement	10,000	14,184	37,397	374%
611	Information Technology	107,500	5,147	21,746	20%
612	Administrative Services	328,151	11,010	154,025	47%
614	Workers Compensation Insurance	-	-	-	-
	Total	<u>445,651</u>	<u>30,341</u>	<u>213,168</u>	<u>48%</u>
Trust and Agency Funds:					
715	Evans Creative Design	<u>62,100</u>	<u>164</u>	<u>12,380</u>	<u>20%</u>
	Total	<u>62,100</u>	<u>164</u>	<u>12,380</u>	<u>20%</u>
	Total Expenditures	<u>12,189,961</u>	<u>872,767</u>	<u>3,888,965</u>	<u>32%</u>

TOWN OF ATHERTON
Budget Summary
Fiscal Year 2003-04
As of November 30th, 2003

Fund	Description	Beginning Fund Balance July 1, 2003	Revenues to Date	Transfers to Date	Expenditures To Date	Ending Fund Balance to Date
101	General Fund	5,284,633	1,675,822	-	2,971,283	3,989,172
	Special Revenue Funds:					
105	Tennis	10,543	2,425		6,590	6,378
201	Special Municipal Tax	895,443	-		436,933	458,510
202	Transportation	14,728	70,449		5,161	80,016
203	Street Improvement (Gas Tax)	126,605	71,937		23,707	174,835
209	Law Enforcement	22,911	-		47,092	(24,181)
210	Road Construction Impact Fees	650,346	109,102		77,100	682,348
213	Library Special Revenue Fund	723,832	-		14,131	709,701
	Sub Total	<u>2,444,408</u>	<u>253,913</u>	-	<u>610,714</u>	<u>2,087,607</u>
	Capital Projects Funds:					
401	Capital Improvement	358,152	-		28,331	329,821
402	Storm Drainage	48,225	-		-	48,225
403	Channel Drainage District	405,865	5,367		22,276	388,956
404	Park Playground Improvement	28,958	-		446	28,512
405	Middlefield Road Grants	-	1,514		-	1,514
406	Facilities Construction	274,654	-		-	274,654
	Sub Total	<u>1,115,854</u>	<u>6,881</u>	-	<u>51,053</u>	<u>1,071,682</u>
	Internal Service Fund					
610	Vehicle Replacement	402,633	-		37,397	365,236
611	Information Technology	78,723	30,782		21,746	87,759
612	Administrative Services	134,052	64,011		154,025	44,038
614	Workers Compensation Insurance	-	-		-	-
	Sub Total	<u>615,408</u>	<u>94,793</u>	-	<u>213,168</u>	<u>497,033</u>
	Trust and Agency Funds					
715	Evans Creative Design	<u>116,028</u>	<u>9,494</u>		<u>12,380</u>	<u>113,142</u>
	Sub Total	<u>116,028</u>	<u>9,494</u>	-	<u>12,380</u>	<u>113,142</u>
	Grand Total	<u>\$ 9,576,331</u>	<u>\$ 2,040,903</u>	<u>\$ -</u>	<u>\$ 3,858,598</u>	<u>\$ 7,758,636</u>



Town of Atherton

MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

**DATE: FOR THE MEETING OF DECEMBER 17, 2003
(CONTINUED FROM NOVEMBER 19, 2003 MEETING)**

**SUBJECT: REFER REVIEW OF SPECIAL EVENTS ORDINANCE TO GENERAL PLAN
COMMITTEE**

RECOMMENDATION

That the City Council refer to the General Plan Committee the Special Events Ordinance for review and recommendation. Specifically it is requested that the General Plan Committee review the maximum time permitted for the life of the Special Events Permit issued and determine what specific time constraints, if any, should be imposed on permitted events within the Town of Atherton.

BACKGROUND

Currently, Ordinance No. 499 establishes a permit process for Special Events conducted within the Town of Atherton "to insure the comfort, safety, and general welfare of the Town of Atherton citizens by controlling the number of Special Events and the impacts of said Events on the community and by providing a simplified permit process." It is also the intent of the ordinance to "protect the residents from excessive noise, traffic and other intrusions upon their privacy."

The Ordinance requires a Special Event Permit for Processions, Motion Picture filming, House Tours, Fundraisers, Auctions, Antiques Shows, Concerts, and other similar activities. However, a Special Event Permit is not required for on-site events at Schools and Country Clubs.

Although the Ordinance allows the Town to impose "any reasonable conditions to insure the event will have a minimal impact on the community," the ordinance does not address any specific constraint on the length of these special events. Although most events are usually of a one day or weekend variety, occasionally the Town will receive requests for permits that will cover much longer periods of time. The current ordinance is silent on the length of permitted events.

ORDINANCE NO. 499

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF
ATHERTON AMENDING VARIOUS SECTIONS OF THE ATHERTON MUNICIPAL CODE
REGULATING SPECIAL EVENTS WITHIN THE
TOWN OF ATHERTON**

The City Council of the Town of Atherton does ordain as follows:

SECTION 1: Chapter 8.52 is hereby entirely amended to read as follows:

Chapter 8.52 Special Events

Sections:

- 8.52.010 Title
- 8.52.020 Purpose and Intent
- 8.52.030 Definitions
- 8.52.040 Permit Required
- 8.52.050 Application Submittal Requirements
- 8.52.060 Permit Issuance
- 8.52.070 Permit Requirements
- 8.52.080 Permit Revocation
- 8.52.090 Violation as a Public Nuisance

8.52.010 Title
This chapter shall be known as the "Special Event Ordinance" and may be so cited.

8.52.020 Purpose and Intent
The purpose of this chapter is to insure the comfort, safety, and general welfare of the Town of Atherton citizens by controlling the number of Special Events and impacts of said Events on the community and by providing a simplified permit process. It is also the purpose of this chapter to defray the costs of processing applications for these events.

The intent of this chapter is to protect the residents from excessive noise, traffic, and other intrusions upon their privacy.

8.52.030 Definitions
Special Events" shall include motion picture filming, house tours, fundraiser, auction, antique show, concert, processions (walks, road races, bicycle rides, skate-a-thons), or other similar activity,

8.52.040 Permit Required

- A. A Special Event Permit is required for any of the following listed activities:
1. Processions such as: Walks, Road Races, Bicycle Rides, Skate-a-thons and similar activities.
 2. Motion picture filming
 3. House Tours
 4. Fundraisers
 5. Auctions
 6. Antique Shows
 7. Concerts
 8. Other similar activities
- B. Although a Special Event Permit is not required for on-site events at Schools and Country Clubs, responsible parties shall notify the Town of such events.

8.52.050 Permit Requirements

The following items and information shall be submitted to the Building and Zoning Official:

1. Completed application (application form supplied by the Town) submitted to the Town at least 2 months prior to the event.
2. Detailed description of the event..
3. Contact person available prior to and during the event.
4. Application fee, (as set by resolution of the City Council).
5. One composite assessors map with a circle showing all properties within a 500' radius of the subject site.
6. Copies of the assessors roll pages listing said owners of the aforementioned properties as shown on the latest equalized assessment roll.
7. Plain No. 10 envelopes, stamped, addressed to each owner, in order by parcel number.
8. Notices suitable for area wide posting describing the event.
9. The anticipated number of vehicle trips per day,
10. An on and off site parking plan including the placement of barricades, etc.
11. A deposit as determined by the Building and Zoning Official for the funding of any additional security measures not provided by the applicant.
12. A hold harmless agreement, holding the Town of Atherton, its employees and agents harmless and certificate of insurance, naming the Town as additional insured, in amounts determined sufficient by the City Attorney, and from a company approved by the City Attorney.

8.52.060 Permit Issuance

The Building and Zoning Official may issue a Special Event Permit when in the opinion of the Building and Zoning Official the event meets all of the requirements of the Atherton Municipal Code and the Atherton General Plan. The Building and Zoning Official may refer items to the Planning Commission when, in his/her opinion, the public interest would be better serviced by the Planning Commission conducting a Public Hearing. The Building and Zoning Official shall issue, deny or refer a Special Event Permit within a timely manner of receipt of a completed application. If there is a possibility that the event will not be in conformance with either the Atherton Municipal Code or the Atherton General Plan the application shall be denied.

If a Special Event Permit is issued by the Building and Zoning Official, said official may impose any reasonable conditions to insure the event will have a minimal impact on the community. Said conditions may include, but are not limited to, any of the following.

1. Adequate arrangements to prevent:
 - a) Violation of the Atherton Municipal Code.8.16 NOISE CONTROL.
 - b) Violation of the Atherton Municipal Code 8.20 NUISANCES.
 - c) amplified sound.
 - d) Violation of any traffic laws.
 - e) Violation of any other section of the Atherton Municipal Code.
2. Posting of docents at key/dangerous locations.
3. Event, including setup and tear down will be done during daylight hours if feasible.
5. Signs on public property shall be kept to a minimum and shall not be displayed for longer than one hour prior to or after the end of the event.
6. Other materials or mitigation measures deemed necessary by the Building and Zoning Official.
7. Parking barricades shall be set back a minimum distance as required by the City Manager or his/her designee to insure site distance clearance from special event site driveways and neighboring driveways.

8.52.070 Permit Requirements

1. All special events shall be publicly noticed pursuant to the process outlined in State Planning and Zoning Law section 65091, with a 500' radius notification. However, if the event is not conducted on a single site, or would be conducted within the public fight-of-way, the applicant shall instead place the notice in a newspaper of general circulation.
2. The applicant shall submit a written statement consenting to the required conditions of the Special Event permit.

3. No more than two Special Event Permits shall be issued in each calendar year for Special Events on any property.

8.52.080 Permit Revocation

A Special Event Permit may be revoked by the City Manager or his/her designee in the event of any violation of the Special Events Permit or the Atherton Municipal Code.

8.52.090 Violation as a Public Nuisance

Each violation of this ordinance shall constitute a public nuisance and be subject to abatement as such.

SECTION 2: Sections 17.24.030(D) and 17.20.030(D) are hereby deleted in its entirety.

SECTION 3: That the City Council hereby declares, that it would have passed this Ordinance sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions of this Ordinance are severable, and, if for any reason any sentence, paragraph or section of this Ordinance shall be held invalid, such decision shall not effect the validity of the remaining parts of this Ordinance.

SECTION 4: This Ordinance shall be posted in at least three public places according to law and shall take affect and be in force from and after 30 days after its passage and adoption.

Introduced this 10th day of Febuary, 1999.

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the 9th day of March, 1999, by the following vote:

AYES, COUNCLMEMBERS: Alan B. Carlson, William R. Conwell, Malcolm H. Dudley
Vice Mayor Dianne M. Fischer, Mayor Nanette F. Chapman

NOES, COUNCILMEMBERS: None

ABSENT, COUNCILMEMBERS: None

s/Nanette F. Chapman
MAYOR of the Town of Atherton

ATTEST:

s/Donald F. Guluzzy

CITY MANAGER of the Town of Atherton



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF DECEMBER 17, 2004

SUBJECT: APPROVAL OF PLANS AND SPECIFICATIONS AND AUTHORIZATION TO ADVERTISE THE HOLBROOK-PALMER PARK MAIN HOUSE ELEVATOR PROJECT

RECOMMENDATION:

Approve the plans and specifications and authorize advertisement for bids for the Holbrook-Palmer Park Main House Elevator Project, Project No. 03-009.

INTRODUCTION:

The adopted Capital Improvement Program includes funds for constructing the Holbrook-Palmer Park Main House Elevator Project. The need for this project resulted from the need to provide Americans with Disabilities Act (ADA) access to the facility. In order to make more effective use of the elevator, capacity was also provided for use by caterers for functions at the Main House.

ANALYSIS:

All of the facilities at Holbrook-Palmer Park need to be accessible to all residents according to the ADA. Currently only the Main House is not accessible to wheelchairs. This project will complete compliance with the provisions of the ADA for Holbrook-Palmer Park.

The primary function of the Main House is rental for events, such as weddings and corporate retreats. Caterers service the vast majority of those events. Currently the caterers must carry individual trays from their trucks to the second floor kitchen. With the elevator, they will be able to bring their wheeled carts to the second floor, reducing the time required and protecting their products from the elements.

Engineers evaluated the use of ramps but determined that the long ramps required would detract from the aesthetics and use of the Main House and surrounding areas. The elevator can be tucked in behind the house at the service entrance. At that location, it can do double duty of providing access and providing a very desirable assist to caterers servicing events at the Main House.

The elevator will be a separate structure from the Main House, connected at the second floor by an extension of the porch. The existing porch and entrance doorway are too narrow for ADA compliance, so the entire porch will be reconstructed and the doorway will be widened. The existing stairs do not comply with the current building code. Because the stairs must be moved to expand the porch, they will be reconstructed to comply with the code.

The elevator building will have a roof line above the elevator to match the Main House roof, and the siding on the building will also match the Main House. The elevator equipment room will have a lower roof aligned with the stairway. The stairway was moved to the face of the elevator building to help the hide building. Trees and shrubs to the rear of the elevator building will also help it blend into the park.

The Holbrook-Palmer Park Main House Elevator Project is budgeted for construction in FY 2003-04. CSG Consultants prepared the design for the project. The Holbrook-Palmer Park Main House Elevator Project plans and specifications are ready to be advertised for construction.

FISCAL IMPACT:

The engineer's estimate for the Holbrook-Palmer Park Main House Elevator Project is \$113,390. Additionally, we believe that it is prudent to establish an appropriation for construction contingencies and construction support services (such as submittal reviews by the consultant and materials testing) in the amount of \$11,339. We therefore recommend appropriations for this project be increased to \$124,729, an increase of \$24,729 from the \$100,000 that was appropriated within the FY 2003-04 operating and capital budget.

Subsequent to the adoption of the FY 2003-04 budget an additional \$19,564 in FY 2002 Roberti-Z'Berg-Harris Grant funds have become available as well as \$220,000 in FY 2002 California State Park Per-Capita Block Grant funds. Accordingly, we recommend that the entire amount of the additional Roberti-Z'Berg-Harris grant funds and \$5,165 of the 2002 Per-Capita Block Grant funds be used as a source of funding to accommodate this appropriation increase request.

The project is scheduled to receive bids in January and award the contract at the February 2004 City Council meeting.

CONCLUSION:

The plans for this project are consistent with the Capital Improvement Program and should be approved.

Prepared By:

Approved:

Duncan L. Jones, PE
Public Works Director

James Robinson
City Manager

Attachments:

1. Rendering of project



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
CITY MANAGER, JAMES ROBINSON**

FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF DECEMBER 17, 2003

**SUBJECT: NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM –
INTEGRATED PEST MANAGEMENT POLICY**

RECOMMENDATION:

Approve a resolution adopting the San Mateo Countywide Stormwater Pollution Prevention Program Model Integrated Pest Management Policy.

INTRODUCTION:

The Environmental Protection Agency, under amendments to the 1987 Clean Water Act, imposed regulations that mandate local government to control and reduce the amount of stormwater pollution runoff into receiving waters of the United States. Under the authority of the Porter-Cologne Water Quality Act, the State Water Resources Control Board has delegated authority to its regional boards to invoke permitting requirements. In July 1991, the San Francisco Bay Regional Water Quality Control Board (RWQCB) notified San Mateo County and all its incorporated cities of the requirement to submit a Municipal National Pollutant Discharge Elimination System (NPDES) Stormwater Permit application and to implement a Stormwater Management Plan (Plan).

Under the direction of the City/County Association of Governments (C/CAG), the San Mateo Countywide Stormwater Management Plan 1998-2003 was submitted to the RWQCB in February 1998. The RWQCB adopted the Plan, making it part of the San Mateo Countywide NPDES Stormwater Permit CA0029921, which remains in effect until July 2004. The Plan includes performance standards to which each member agency is committed to control stormwater pollution.

Under the Plan, the member agencies developed a Pesticide Management Plan that includes goals for minimizing the effects of pesticide use on municipal stormwater quality, actions to achieve those goals, and monitoring mechanisms to document effectiveness of those actions. One of the required actions is adoption of an Integrated Pest Management (IPM) policy and/or ordinance requiring use of IPM techniques in municipal operations, minimizing pesticide use, and restricting use of organophosphate pesticides.

ANALYSIS:

In order for member agencies to adopt IPM policies, the Parks and Recreation branch of the STOPPP Municipal Maintenance subcommittee developed a model policy each agency could adopt by resolution. The goal of the model policy is to protect health and safety, the environment, and water quality, and to provide sustainable solutions for pest control through reduced pesticide use. The model policy recommends municipal use of non-pesticide alternatives and least-toxic chemicals, if necessary. Preference will be given to contractors implementing IPM techniques. Employee and contractor pesticide usage will be tracked and reported annually to the State as part of the countywide program deliverables.

The model policy encourages pilot projects demonstrating landscape and structural pest control activities, requires review of and modifications to purchasing procedures, contracts, service agreements, and employee training practices to support reduced pesticide use, and requires educational outreach and/or support of countywide or regional IPM educational efforts and pesticide-related water quality issues.

Town staff was involved in developing the STOPPP model policy, and are already implementing an effective IPM program. Adoption of the policy will formalize the activities already being conducted by Town staff.

FISCAL IMPACT:

Since the Public Works department is already implementing an IPM program based on the model policy, additional fiscal impacts are minimal. Funding to continue implementing an IPM program will come from the NPDES Fund 556, Department 101-50. Implementing an IPM program was included in the 2003-04 departmental objectives, and therefore included in the adopted budget.

CONCLUSION:

IPM is a problem solving approach to landscape and grounds management designed to prevent and control undesirable weeds, insects, fungi and rodents. IPM relies on the use of site specific information about environmental conditions and behavior to prevent, resist and control pests that interfere with the purpose and use of a particular site. When a pest has exceeded a predetermined threshold at a particular site, all appropriate strategies are employed including modifying the habitat, modifying maintenance practices, modifying user behavior, and if all else fails, using pesticides as a last resort, and only within specific guidelines for least toxic selection and use.

This type of beneficial program is one that Atherton should adopt and encourage as a way of guiding both residents and staff in determining it's method of controlling all types of pests.

Prepared by:

Approved by:

Duncan L. Jones, P.E.
Director of Public Works

James Robinson
City Manager

Attachments:

1. Resolution

RESOLUTION NO. 03 - ____

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ADOPTING
THE SAN MATEO COUNTYWIDE STORMWATER POLLUTION PREVENTION
PROGRAM MODEL INTEGRATED PEST MANAGEMENT POLICY**

WHEREAS, the Environmental Protection Agency, under the 1987 amendments to the Federal Clean Water Act, imposed regulations mandating local governments control and reduce the amount of stormwater pollutant runoff into receiving waters;

WHEREAS, under the authority of the California Porter-Cologne Water Quality Control Act, the State Water Resources Control Board delegated authority to the Regional Water Quality Control Boards to invoke permitting requirements upon counties and cities;

WHEREAS, in July 1991, the San Francisco Bay Regional Water Quality Control Board notified San Mateo County of the requirement to submit a National Pollutant Discharge Elimination System (NPDES) Permit Application by November 30, 1992;

WHEREAS, in furtherance of the NPDES Permit Process, San Mateo County, in conjunction with all incorporated cities in San Mateo County, prepared the San Mateo Countywide Stormwater Management Plan that has a General Program as a fundamental component;

WHEREAS, the San Mateo Countywide Stormwater Management Plan has been submitted to the San Francisco Bay Regional Water Quality Control Board and has been approved by the Board and made part of NPDES Permit CA 0029921, issued in 1998 and remaining in effect through 2003;

WHEREAS, the San Mateo Countywide Stormwater Management Plan and NPDES Permit CA 0029921 required San Mateo County submit a renewal application by March 31, 1998, including a Stormwater Management Plan for 1998 through 2003;

WHEREAS, the Town of Atherton has accepted, adopted, and committed to implement the San Mateo Countywide Stormwater Management Plan for 1998-2003 and the renewal application and Plan was submitted to the San Francisco Regional Water Quality Control Board on March 18, 1998;

WHEREAS, the San Francisco Bay Regional Water Quality Control Board, after Public Hearing, approved the Renewed NPDES Permit CAS0029921, effective July 21, 1999 and which expires July 20, 2004;

WHEREAS, the San Mateo Countywide Stormwater Management Plan includes a Pesticide Management Plan and performance standards for pesticide usage and integrated pest management. A component of these standards is adoption by all member agencies of an Integrated Pest Management policy and/or ordinance requiring integrated pest management techniques in municipal operations;

WHEREAS, the Town of Atherton seeks to protect the health and safety of its employees and the general public, the environment and water quality, as well as to provide sustainable solutions for pest control, through the reduced use of pesticides on property owned or managed by the Town to the maximum extent practicable.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the Town of Atherton that:

1. Employees implementing pest management operations will use Integrated Pest Management (IPM) techniques that emphasize non-pesticide alternatives and, when necessary, employ the least toxic chemicals. Preference will be given to contractors who implement IPM. Town of Atherton departments and their contractors that apply pesticides will develop and maintain an active IPM Plan to ensure the long-term prevention and suppression of pest problems with minimum negative impacts on the health and safety of the community and environment. The Town of Atherton will track employee and contractor pesticide use and prepare an annual report summarizing pesticide use and evaluating pest control activities performed.
2. The Town of Atherton shall encourage pilot projects to demonstrate landscape and structural pest control alternatives, seeking to use the most recent technology, best management practices and least toxic methods for all pest control measures. Pilot projects should include an objective analysis of the effectiveness of the alternative techniques applied.
3. The Town of Atherton will review its purchasing procedures, contracts or service agreements with pesticide applicators and employee training practices to determine what changes can be made to support the goal of pesticide reduction and promote the purchase and use of the least harmful chemicals.
4. The Town of Atherton will perform educational outreach and/or support Countywide or regional efforts to educate residential and commercial pesticide users on a.) goals and techniques of IPM, and b.) pesticide related water quality issues.
5. Pesticides are defined as: any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. Pests can be insects, rodents and other animals, unwanted plants (weeds), bacteria or fungi. The term pesticide applies to herbicides, fungicides, insecticides, rodenticides, molluscicides and other substances used to control pests. Antimicrobial agents are not included in this definition of pesticides. In general, the intent of antimicrobial agents is to reduce or mitigate the growth or development of microbial organisms. They are used to avoid health hazards and include indoor cleaning, spa and swimming pools, medical sterilizer and sanitizer products.
6. Integrated Pest Management (IPM) is an ecosystem-based strategy that focuses on long-term prevention of pests or their damage through a combination of techniques such as biological control, habitat manipulation, modification of cultural practices, and use of resistant varieties. Pesticides are used only after monitoring indicates they are needed according to established guidelines, and treatments are made with the goal of removing only the target organism. Pest control materials are

selected and applied in a manner that minimizes risks to human health, to beneficial and non-target organisms, and to the environment.

IPM techniques could include biological controls (e.g., ladybugs and other natural enemies or predators); physical or mechanical controls (e.g., hand labor or mowing); cultural controls (e.g., mulching, discing, or alternative plant type selection); and reduced risk chemical controls (e.g., soaps or oils).

- 7. Town of Atherton owned or managed property includes but is not limited to parks and open space, roadsides, landscaped medians, flood control channels and other outdoor areas, as well as municipal buildings and structures.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on this ___th day of _____, 2003, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

ATTEST:

MAYOR
TOWN OF ATHERTON

Sharon Barker, City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF DECEMBER 17, 2003

SUBJECT: ADOPTING A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON TO REAPPLY FOR REISSUANCE OF ITS MUNICIPAL STORMWATER NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT AND TO ACCEPT AND ADOPT THE SAN MATEO COUNTYWIDE STORMWATER MANAGEMENT PLAN FOR 2004-2009

RECOMMENDATION:

Staff recommends that the City Council adopt a resolution authorizing the reissuance of the NPDES permit and commit to the implementation of permit requirements through a Stormwater Management Plan.

INTRODUCTION:

The Environmental Protection Agency, under amendments to the 1987 Clean Water Act, imposed regulations that mandate local government to control and reduce the amount of stormwater pollution runoff into receiving waters of the United States. Under the authority of the Porter-Cologne Water Quality Act, the State Water Resources Control Board has delegated authority to its regional boards to invoke permitting requirements. In July 1991, the San Francisco Bay Regional Water Quality Control Board (RWQCB) notified San Mateo County and all its incorporated cities of the requirement to submit a Municipal National Pollutant Discharge Elimination System (NPDES) Stormwater Permit application and to implement a Stormwater Management Plan (SWMP).

Under the direction of the City/County Association of Governments (C/CAG), the San Mateo Countywide Stormwater Management Plan 1998-2003 was submitted to the RWQCB in February 1998. The RWQCB adopted the Plan, making it part of the San Mateo Countywide NPDES Stormwater Permit CA0029921, which remains in effect until July 2004. The Plan includes performance standards to which each member agency is committed to control stormwater pollution.

The existing five year NPDES permit expires in June 2004. The San Mateo County Counsel has requested that each municipality adopt its own separate City Council resolution that would adopt the SWMP and authorize the San Mateo Program Coordinator (Robert Davidson) to submit the NPDES permit Renewal application to the RWQCB. The application is due to the TWQCB by January 21, 2004.

EOA, an environmental engineering company, representing participating jurisdictions, has prepared a SWMP. Over the life of the existing NPDES permit, EOA has represented the participating jurisdictions in meeting the base requirements of the permit. EOA has represented the interests of the Town of Atherton in preparing the new SWMP to meet the new permit requirements to the maximum extent possible.

ANALYSIS:

The San Mateo Countywide Stormwater Pollution prevention Program (STOPPP) provides a comprehensive area-wide stormwater pollution prevention and control program under the auspices of the C/CAG. STOPPP will prepare the application for the reissuance of the NPDES permit to discharge stormwater from the storm drain systems of the represented municipalities. The SWMP is the most important element of STOPPP's application.

The SWMP contains revised performance standards for stormwater Best Management Practices (BMPs) to be implemented by the Town in five categories:

1. Municipal Maintenance Activities
2. Industrial and Illicit Discharge Controls
3. Public Information and Participation
4. New Development and Construction Controls
5. Watershed and Monitoring

While the majority of the performance standards have been continued from the previous SWMP, there have been a number of changes, summarized as follows:

- A SWMP for Corporation Yards would be required, describing how the performance standards are addressed locally, i.e., prepare storage contamination kits, develop educational materials and post them in appropriate areas, etc.
- The Integrated Pesticide Management (IPM) plan would be enhanced, i.e., conduct periodic searches of municipal facilities to make sure that outdated pesticides are documented and properly disposed of. The new IPM policy is a separate agenda item for tonight's meeting.
- Mercury sources in demolition materials would be disposed of in a specialized manner, i.e., fluorescent tubes, older thermostats and other mercury containing devices are removed separately and taken to a mercury disposal facility.
- Stream maintenance efforts would be enhanced, i.e., schedule routine maintenance activities during the dry season with appropriate permits.

- Prepare a five-year implementation plan to address illicit discharges, i.e., providing a comprehensive field screening plan to locate discharge areas, staff training and enhanced record keeping.
- New development performance standards would incorporate requirements from the 2003 NPDES permit amendment as well as the reissued NPDES permit, i.e., requiring additional treatment controls to limit stormwater pollutant and sediment discharges associated with new development and significant redevelopment.

A greater emphasis has been placed on evaluating the effectiveness of the SWMP's tasks in order to determine where to make future improvements in the SWMP.

FISCAL IMPACT:

The NPDES permit was amended by the RWQCB in February 2003. The amended permit represents a significant amount of additional work for municipalities, primarily in the review, permitting, inspection and long term monitoring of new construction, but also in water quality monitoring. C/CAG STOPPP staff will provide services to represented jurisdictions for the portion of this additional work related to water quality monitoring. Additional budget is expected to be required for the next fiscal year for additional funding for C/CAG's STOPPP staff and for increased NPDES permit fees. The State Water Resources Control Board annually sets the NPDES permit fees charged to each municipality.

CONCLUSION:

The new NPDES permit and the associated SWMP are necessary elements of San Mateo County's compliance with the Clean Water Act. The City Council should adopt this resolution and SWMP, authorizing the C/CAG to apply for reissuance of the NPDES permit on the behalf of all represented municipalities in San Mateo County.

Prepared By:

Approved:

Duncan L. Jones, P.E.
Public Works Director

James Robinson
City Manager

Attachments:

1. Resolution
2. Stormwater Management Plan

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON TO REAPPLY FOR REISSUANCE OF ITS MUNICIPAL STORMWATER NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT AND TO ACCEPT AND ADOPT THE SAN MATEO COUNTYWIDE STORMWATER MANAGEMENT PLAN FOR 2004-2009

WHEREAS, The U.S. Environmental Protection Agency, under amendments to the 1987 Federal Clean Water Act, imposed regulations that mandate local governments reduce to the maximum extent practicable the amount of pollutants in stormwater discharged from municipal storm drain conveyance systems; and

WHEREAS, The San Francisco Bay Regional Water Quality Control Board's Water Quality Control Plan specifically requires that all of the municipalities in San Mateo County have municipal stormwater NPDES permit coverage; and

WHEREAS, under the authority of California Porter-Cologne Water Quality Act, the State Water Resources Control Board and its regional boards have been delegated the authority to adopt NPDES permits and waste discharge requirements for municipal stormwater discharges; and

WHEREAS, in July 1991, the San Francisco Bay Regional Water Quality Control Board notified all of the municipalities in San Mateo County of the requirement to submit an NPDES Permit Application by November 30, 1992; and

WHEREAS, under the authority of the City/County Association of Governments (C/CAG), all of the municipalities in San Mateo County submitted an NPDES permit application, including a Stormwater Management Plan, which met the San Francisco Bay Regional Water Quality Control Board's requirements; and

WHEREAS, the San Francisco Bay Regional Water Quality Control Board adopted a municipal stormwater NPDES permit CA 0029921 and Waste Discharge Requirements for all of the municipalities in San Mateo County on September 15, 1993, which remained in effect for five years; and

WHEREAS, the adopted NPDES permit requires that all of the municipalities in San Mateo County reapply for reissuance of their municipal stormwater NPDES permit by March 18, 1998; and

WHEREAS, the San Mateo Countywide Stormwater Pollution Prevention Program's Technical Advisory Committee prepared a new San Mateo Countywide Stormwater Management Plan for the period from July 1998 through June 2003 and compiled other information needed to reapply for NPDES permit reissuance; and

WHEREAS, under the authority of the City/County Association of Governments (C/CAG), all of the municipalities in San Mateo County submitted an NPDES permit renewal application, including a

Stormwater Management Plan, which met the San Francisco Bay Regional Water Quality Control Board's requirements; and

WHEREAS, the San Francisco Bay Regional Water Quality Control Board adopted a renewed municipal stormwater NPDES permit CA0029921 and Waste Discharge Requirements for all municipalities in San Mateo County on July 21, 1999, which remained in effect for five years; and

WHEREAS, the San Francisco Bay Regional Water Quality Control Board reopened the existing municipal stormwater NPDES permit CA0029921 and Wastewater Discharge Requirements for all municipalities in San Mateo County to include revised new development and erosion control language and adopted the revised municipal stormwater NPDES permit CA0029921 on July 21, 2003; and

WHEREAS, the adopted renewed NPDES permit requires that all of the municipalities in San Mateo County again reapply for reissuance of their municipal stormwater NPDES permit by January 23, 2004; and

WHEREAS, the San Mateo Countywide Stormwater Pollution Prevention Program's Technical Advisory Committee prepared a new San Mateo Countywide Stormwater Management Plan for the period of July 2004 through June 2009 and compiled other information needed to reapply for NPDES permit reissuance; and

WHEREAS, the San Mateo Countywide Stormwater Management Plan 2004-2009 represents mainly a continuation of the stormwater pollution prevention and control activities and costs that are currently being implemented;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the Town of Atherton that:

1. The Town of Atherton hereby agrees to reapply to the San Francisco Bay Regional Water Quality Control Board for reissuance of the municipal stormwater NPDES permit to discharge water from the municipally owned storm drain system; and
2. The Town of Atherton accepts, adopts, and commits to implement the San Mateo Countywide Stormwater Management Plan 2004-2009 and requests that the San Mateo Countywide Stormwater Pollution Prevention Program's (STOPPP) NPDES Coordinator submit this plan to the San Francisco Bay Regional Water Quality Control Board as part of the reapplication for NPDES permit reissuance; and
3. The City Clerk is hereby directed to forward a copy of this Resolution to the City/County Association of Governments' Stormwater Pollution Prevention Program NPDES Coordinator.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a REGULAR OR SPECIAL meeting thereof held on this 17th day of December, 2003, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

COUNCILMEMBERS:
COUNCILMEMBERS:
COUNCILMEMBERS:
COUNCILMEMBERS:

ATTEST:

, MAYOR
TOWN OF ATHERTON

Sharon Barker, City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
CITY MANAGER JAMES H. ROBINSON**

FROM: MICHAEL A. HOOD, TOWN SURVEYOR

DATE: FOR THE MEETING OF DECEMBER 17, 2003

**SUBJECT: LOT LINE ADJUSTMENT
76 AND 86 TALLWOOD COURT**

RECOMMENDATION:

Accept and approve the final map for a lot line adjustment at 76 and 86 Tallwood Court.

ANALYSIS:

A lot line adjustment is a procedure by which two property owners exchange a small portion of their respective properties. Per Chapter 16.14 Atherton Municipal Code, a map is prepared by the owner's surveyor and submitted to the Town. Normally, the Town surveyor reviews the map and delivers the map to the City Clerk for recording.

Lot line adjustments usually do not involve dedications of roads or easements. In this case, however, a public utility easement is being extended slightly. For this reason the map is being referred to the City Council for acceptance and approval per section 16.20.040, Atherton Municipal Code.

The Town surveyor has reviewed the map and finds that it is in technical conformity with the town ordinance.

FISCAL IMPACT:

The cost related to the processing of this parcel map has been paid by the developer. There are no additional costs to the Town.

Respectfully submitted:

Reviewed/Approved:

Michael A. Hood
Town Surveyor

James H. Robinson
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

DATE: FOR THE CITY COUNCIL MEETING OF DECEMBER 17, 2003

SUBJECT: RESOLUTION APPROVING THE SECOND AMENDMENT TO THE FRANCHISE AGREEMENT BETWEEN THE TOWN OF ATHERTON AND BFI WASTE SYSTEMS OF NORTH AMERICA, INC.

RECOMMENDATION:

The SBWMA Board and the Atherton Waste Reduction Committee recommends the City Council approve the attached Resolution approving the Second Amendment to the Franchise Agreement. The Waste Reduction Committee further recommends a 35% reduction to the rate for the organics program.

INTRODUCTION:

The Town of Atherton entered into the Uniform Franchise Agreement for Solid Waste, Recyclable Materials and Plant Materials Collection Services with BFI Waste Systems of North America, Inc.

BFI has presented a proposal to provide a Commercial Organics Collection Program for SBWMA jurisdictions. The program has been reviewed by SBWMA staff/consultants, the SBWMA Recycling Committee and recommended for approval by the SBWMA Board. Implementation of the program in each jurisdiction requires the approval by each City Council/Board of Supervisors with an Amendment to the Uniform Franchise Agreement.

ANALYSIS:

BFI currently provides commercial garbage and recycling services to Atherton's commercial customers (schools and the Circus Club). The recycling services include collection of cans, bottles, cardboard, mixed paper and green waste.

The SBWMA Board recommends jurisdictions consider the Commercial Organics Collection Program. Based on state-wide estimates, approximately 20% of the commercial waste stream is comprised of food and other organic material (including yard waste). The majority of this material is currently being sent to the landfill. In Atherton, the Commercial Organics Collection program will target the schools, the Circus Club, and would be available for events at Holbrook Palmer Park. In other SBWMA jurisdictions, the program will target restaurants, hotels, grocery stores, produce markets, bakeries, food banks, floral shops/nurseries, cafeterias and schools. The program will include the collection and composting of the organic materials.

Program Description:

The Commercial Organics Program is modeled after the successful program underway in San Francisco. The program will target businesses with the following materials; all organic compostable food waste (vegetables, meat, poultry, fish, bakery goods, etc.), waxed cardboard, wooden crates, floral trimmings, tree trimmings, brush, leaves and grass. Once collected, the material will be transported to a designated area in the San Carlos Transfer Station and then transported to Newby Island for composting. The finished compost product will be hauled back for use by jurisdictions. Each jurisdiction will receive one bag of compost for every two tons of inbound organic material. Additional bags can be provided at a nominal cost. The program includes the initial work of a consultant to market the compost product.

The program includes the services of Applied Compost Consultant to work closely with BFI Recycling Coordinators to train participating businesses on the program. Applied Compost will provide the business with training, monitoring, follow-up and troubleshooting. Applied Compost worked to implement the San Francisco program and has staff fluent in different languages. New containers will be provided to the participating customers for interior use and for collection. The program will also include the acquisition of new BFI collection vehicles. These vehicles need to be water-tight to handle this material. The vehicles could be used for general garbage collection if the program is discontinued in the future.

If authorized by the City Council, BFI will order new collection equipment and containers, develop marketing materials, start outreach to potential customers and prepare internal logistics. Actual collection and processing of the material would begin six months after program approval.

CONCLUSION:

It is Staff's professional opinion the commercial organics program will increase recycling efforts and provides a new program at a reasonable cost for commercial customers in Atherton.

ALTERNATIVES:

The Council could request modifications to the program.

FISCAL IMPACT:

The Waste Reduction Committee recommends a 35% rate reduction for participation in the program. The SBWMA's Rate Consultant, HF&H has evaluated the impact to the rates with a 35% rate reduction. With

the assumption of all five commercial accounts participating, HF&H estimates an impact to rates of \$6,237 per year or 11% of the \$47,223 in revenue derived from commercial accounts.

ENVIRONMENTAL IMPACT:

The program should increase recycling and reduce the amount of waste that is disposed of in the landfill. Staff believes that the implementation of the program will have a positive effect on the environment.

FORMAL MOTION:

I move that the City Council approve the Resolution approving the Second Amendment to the Franchise Agreement.

s/Lisa Costa Sanders _____

Lisa Costa Sanders, Senior Planner

_____ James H. Robinson, City Manager

Attachments:

1. Resolution
2. Second Amendment to the Franchise Agreement

RESOLUTION NO. 03 - ____

**RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON APPROVING
THE SECOND AMENDMENT TO THE
AGREEMENT FOR SOLID WASTE, RECYCLABLE MATERIALS, AND PLANT
MATERIALS COLLECTION SERVICES**

RECITALS

WHEREAS, Town of Atherton (“Agency”) and BFI Waste Systems of North America, Inc. (“Contractor”) entered into the Agreement for Solid Waste, Recyclable Materials, and Plant Materials Collection Services (“Agreement”), dated March 1, 2000; and,

WHEREAS, the Agreement anticipates that the Agency may request additional services or the modification of existing services there under; and,

WHEREAS, the Agreement provides that the Agency may direct Contractor to submit proposals from time to time to provide additional or expanded services; and

WHEREAS, the Agency is a Member Agency of the South Bayside Waste Management Authority (“Authority”), and the Authority, on behalf of the Agency, has requested a proposal from Contractor for a Commercial Organics Collection Program; and,

WHEREAS, Contractor has prepared a proposal in response to the Authority’s request; and,

WHEREAS, Contractor and the Agency now desire to amend the Agreement to incorporate the Commercial Organics Collection Program;

NOW, THEREFORE, IT IS AGREED AS FOLLOWS that the City Council of the Town of Atherton hereby approves the Second Amendment to the Uniform Franchise Agreement with BFI Waste Systems of North America, Inc. for the Commercial Organics Collection Program as attached.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the ___th day of _____, 2003, by the following vote:

AYES, COUNCILMEMBERS: _____

NOES, COUNCILMEMBERS: _____

ABSENT, COUNCILMEMBERS: _____

ABSTAIN, COUNCILMEMBERS: _____

MAYOR

ATTEST

Sharon Barker, CITY CLERK

**Second Amendment to the
Agreement for Solid Waste, Recyclable Materials, and Plant Materials Collection Services**

THIS SECOND AMENDMENT to the Agreement for Solid Waste, Recyclable Materials, and Plant Materials Collection Services (“Agreement”), dated for reference December 1, 2003, is made by and between the Town of Atherton (“Agency”) and BFI WASTE SYSTEMS OF NORTH AMERICA, Inc. (“Contractor”)

1. Contractor shall implement the program to diverted commercial organic material from landfill disposal (hereinafter the “Commercial Organics Collection Program”, or “Program”) consistent with Contractor’s November 20, 2002 proposal (Attachment 1), and subsequent clarifications and revisions dated: January 27, 2003 (Attachment 2); February 7, 2003 (Attachment 3); March 14, 2003 (Attachment 4); August 6, 2003 (Attachment 5); and August 13, 2003 (Attachment 6). Copies of the foregoing documents are on file with the Authority, the Agency, and the Contractor.

2. The Commercial Organics Collection Program shall commence not later than September 1, 2004, and shall continue for the remaining term of the Agreement and any extension thereof.

3. Contractor shall report Program tonnage information and other such operational information (e.g., changes in participants’ solid waste service levels), in a content and format satisfactory to the Authority, as part of the existing quarterly MIS report provided by Contractor to Authority. In addition, Contractor shall submit Program financial information as a part of Contractor’s annual rate application consistent with the provisions of Article 6 of the Agreement.

4. The Contractor shall be compensated for services rendered hereunder in accordance with Article 6 of the Agreement, except as provided below for processing expenses.

5. Accounting for processing expenses incurred hereunder shall be the product of multiplying the number of commercial organic tons processed by Contractor by the applicable Processing Fee (per ton) specified below (hereinafter referred to as the “Processing Fee”).

	Contamination Level	Processing Fee (per ton)
Tier 1	Less than 5%	\$ 30.00
Tier 2	5% to less than 10%	\$ 32.00
Tier 3	10% to less than 15%	\$ 36.00
Tier 4	15% to less than 20%	\$ 38.00
Tier 5	Greater than 20%	\$ 40.00

Second Amendment to the Agreement for Solid Waste, Recyclable Materials, and Plant Materials Collection Services

6. The applicable Processing Fee will be based on the quarterly assessment process as described in the Contractor's proposal letter dated March 14, 2003, referred to in paragraph 1 above. The Authority and/or Agency may monitor the Contractor's quarterly assessment process to ensure that it reflects an accurate accounting of the contamination level for purposes of establishing the applicable Processing Fee. The Tier 2 Processing Fee of \$32.00 per ton will be applicable for the first quarter of the program.

7. The Tiered Processing Fee schedule will remain in effect without adjustment until December 31, 2006, the end of the current term of the Agreement. Any new governmental or regulatory agency fees that become effective during the current term of the Agreement will be added to the Tiered Processing Fee schedule.

8. Commencing January 1, 2007, and on every twelve month anniversary thereof ("Adjustment Date") the Tiered Processing Fee schedule shall be adjusted to reflect the change in the Consumer Price Index, All Urban Consumers, All Items Indexes, for the San Francisco-Oakland-San Jose Metropolitan Area, (Series ID: CUURA422SAO) published by the United States Department of Labor, Bureau of Labor Statistics ("Index"). The Index for the month of April preceding the Adjustment Date shall be the Comparison Index; the Index for the month of April twelve months prior thereto shall be the Base Index. On each Adjustment Date, each Tiered Processing Fee shall be adjusted to an amount equal to the product obtained by multiplying each TPF for the prior year by a factor equal to one (1) plus the percentage change in the Index between the Base Index and the Comparison Index. Any new governmental or regulatory agency fees that become effective after January 1, 2007, will be added to the Tiered Processing Fee schedule.

9. As an additional part of the Program, Contractor shall provide Agency with finished compost measured by the inbound tonnage of organic material delivered to the Newby Compost Facility from Agency's Service Area. Agency may elect to receive finished compost in accordance with the following exchange factors: (a) one cubic yard of *bulk* compost in exchange for each incoming ton of material delivered; (b) one, one cubic foot *bag of* compost in exchange for each two tons of material delivered; or (c) any combination of the foregoing. Contractor will provide additional bagged compost at \$1.00 per bag, subject to a CPI adjustment after the December 31, 2004. Compost requested by Agency within a calendar year shall be charged against inbound tonnage only in the same calendar year.

10. In the event the Agreement is not extended after December 31, 2006, the Authority shall pay the Contractor the Net Book Value of the vehicles and containers acquired for the Commercial Organics Collection Program. In such event, the Authority shall have the option, but not the obligation, to assume ownership of such vehicles and/or containers. If the Agreement is extended after December 31, 2006, then the Authority shall have the option, but not the obligation, to purchase the commercial organics collection vehicles and/or containers by payment to Contractor of the Net Book Value thereof at the end of the final term of any such extensions.

**Second Amendment to the
Agreement for Solid Waste, Recyclable Materials, and Plant Materials Collection Services**

**IN WITNESS WHEREOF the parties hereto have executed this SECOND
AMENDMENT to the Agreement on the date indicated below.**

BFI WASTE SYSTEMS OF NORTH AMERICA, INC

Date: _____

By: _____
Chris Valbusa, District Manager

TOWN OF ATHERTON

Date: _____

By: _____
Mayor

Approved as to Form:

Marc G. Hynes, City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCILMEMBERS

FROM: MARC G. HYNES, CITY ATTORNEY

**DATE: CITY COUNCIL MEETING OF DECEMBER 17, 2003
(CONTINUED FROM NOVEMBER 19, 2003 MEETING)**

**SUBJECT: ACCESS AGREEMENT HOLBROOK-PALMER PARK
FELTON GABLES HOMEOWNERS ASSOCIATION**

RECOMMENDATION

Consider revised agreement between the Town and the Felton Gables Homeowners Association. If revisions are appropriate, direct execution of the agreement by the City Manager on behalf of the Town and invoicing Felton Gables Homeowners Association for costs related to preparation of the agreement.

BACKGROUND

Attached is the revised agreement which was sent to Mr. Michael Mimeles, President of the Felton Gables Homeowners Association, on November 5, 2003. The cover letter proposes that indemnification language in Exhibit B track the indemnification provisions of the agreement itself. A copy of the cover letter is also enclosed.

Exhibits A and B envision attachments to the agreement and are described in a letter dated October 6, 2003, to the Felton Gable Homeowners Association. A copy of that letter is attached.

A proposed Exhibit A, the diagram showing the gate itself, is attached.

Felton Gables has not produced an Exhibit B as described in my letters. A form of Exhibit B which I have prepared is attached.

Costs to date based upon my time in preparing the agreement, exhibits and revisions equals 5.35 hours at \$145/hour = \$775.75.

FISCAL IMPACT

The City Council has directed that all costs of preparing the agreement be borne by the Felton Gables Homeowners Association.

Respectfully,

MGH:cwb

MARC G. HYNES

Attachments:

Agreement 11/04/03 draft

November 4, 2003 letter

October 6, 2003 letter

Exhibit A

Exhibit B



Town of Atherton

MEMORANDUM

**TO: HONORABLE MAYOR AND CITY COUNCIL
JAMES H. ROBINSON, CITY MANAGER**

FROM: SHARON BARKER, CITY CLERK

DATE: FOR THE MEETING OF DECEMBER 17, 2003

**SUBJECT: CONSIDER APPOINTMENT OF RESIDENT MEMBERS TO
CALTRAIN CORRIDOR AD HOC COMMITTEE**

RECOMMENDATION

Consider recommendations of Council Screening Committee for appointments to the Caltrain Corridor Ad Hoc Committee.

BACKGROUND

At the City Council meeting of October 15, 2003, the City Council created an Ad Hoc Caltrain Corridor Committee, to consist of two Council Members and approximately 10 residents of the Town. The purpose of the committee is to serve in an advisory capacity to the City Council to research and address the impact of High Speed Rail and other rail improvements may have on the Town of Atherton.

Seven resident members were appointed to the committee at the November 19, 2003 Council meeting. The City Council Screening Committee has received four more letters of interest from Atherton residents and will provide recommendations for appointments at tonight's meeting.

Prepared by:

Sharon Barker
City Clerk

Approved by:

James H. Robinson
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF DECEMBER 17, 2003

SUBJECT: CALTRAIN CORRIDOR AD-HOC SUBCOMMITTEE UPDATE

RECOMMENDATION

That the City Council review the activities of the Caltrain Corridor Ad-Hoc Subcommittee and give direction to Staff and the Committee on the proposed Petition and January 27, 2004 Public Meeting.

BACKGROUND

The City Council recently created a Caltrain Corridor Ad-Hoc Subcommittee. The Committee held its first meeting December 8, 2003. The meeting was chaired by Mayor Jim Janz. The agenda included a discussion on the proposed reductions in weekday and elimination of weekend Caltrain service and an update and discussion on High Speed Rail/Grade Separations.

The Committee recommended that the following actions be taken:

1. An article be included in the next *Athertonian* regarding the proposed changes in Caltrain service.
2. A petition be developed that would allow residents of Atherton to express their desire to retain the existing level of weekday and weekend Caltrain service (see attached draft).
3. A community meeting be held and well-publicized on Tuesday, January 27, 2004 at 7:00 p.m. to discuss the proposed changes and receive input from the public.
4. The Committee set a date of their next meeting for Tuesday, January 6, 2004 at 7:00 p.m.

5. That petitions, letters and e-mails received be forwarded to Caltrain/Samtrans in advance of their February 5, 2004 Board meeting.

At this writing, it is staff's understanding that discussion of a revised Caltrain schedule will be considered as part of the Caltrain/Samtrans Board meeting on February 5, 2004. The Caltrain Corridor Subcommittee expects to provide several speakers at that meeting to provide input on the proposed changes in service and any "revised" schedule following the six public comment meetings held and the receipt of many e-mails and letters sent to Caltrain.

To assist in this process it is requested that the City Council review and provide direction as to the proposed petition and comment on any of the actions proposed by the Committee.

As of this date, the following residents are members of the Caltrain Corridor Ad-Hoc Subcommittee:

Jerry Carlson
Christopher Cobey
Doris Kellett
Philip Lively
Mike McPherson
Phil Mitchell
Fred Wolin

Attachment: Draft Petition

PETITION

To the
Peninsula Corridor Joint Powers Board
(Caltrain)
1250 San Carlos Avenue
P.O. Box 3006
San Carlos, CA 94070-1306

The undersigned are residents of the area served by Caltrain at the Atherton Train Station.

We petition you to revise the proposed "Baby Bullet Schedule," which drastically reduces service to our Atherton Train Station, by:

1. Retaining the existing level of service for Atherton
2. Providing weekend service for Atherton
3. Providing some "limited" service for Atherton for morning and evening peak hours

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Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

DATE: FOR THE CITY COUNCIL MEETING OF DECEMBER 17, 2003

SUBJECT: ORDINANCE AMENDING ATHERTON MUNICIPAL CODE CHAPTER 10 RELATING TO PARKING AND CHAPTER 15.40 RELATING TO CONSTRUCTION REGULATIONS AND RESOLUTION ADOPTING GUIDELINES FOR CONSTRUCTION, OPERATION AND PARKING PLANS.

RECOMMENDATION

Staff recommends that the City Council adopt the Ordinance and Resolution adopting guidelines for construction, operation and parking plans.

INTRODUCTION

Upon receipt of a letter from the Planning Commission, the City Council referred the issue of construction parking to the General Plan Committee for further study. The General Plan Committee has discussed this item at their last three meetings, formed a subcommittee to work with staff to develop the Ordinance changes and Guidelines and researched requirements in other jurisdictions.

ANALYSIS

The following options were discussed at the last General Plan Committee meeting;

OPTION 1: Recommend the City Council amend Chapter 15.40 (Construction Regulations) to include a requirement to submit a Construction, Operation and Parking Plan and adopt the Resolution outlining the guidelines for the Plan. The Plan would be submitted prior to the submittal of plans for building plan check for any construction project. This would educate contractors that they need to better plan and stage their projects to

accommodate parking on-site or immediately in front of their projects. Violation of the Plan would not be enforceable.

OPTION 2: Recommend the City Council amend Chapter 15.40 (Construction Regulations) to include a requirement to submit a Construction, Operation and Parking Plan, adopt the Resolution outlining the guidelines for the Plan, and further, establish a Resident Parking District for the Town. The parking district would apply town-wide and could be limited to resident only parking from 8:00 a.m. till 5:00 p.m. on weekdays. The resident parking limitation would only become effective/enforceable with the posting of signage by the contractor. At that time, residents would be issued parking permits and would also need to obtain guest permits from the Police Department. Any car parked on a posted street without a parking permit would be cited. The contractor could not be directly penalized for a violation.

OPTION 3: Retain the existing language contained in section 15.40.040 that states: “where possible, the City Manager or City Manager’s designee may require on site parking for construction vehicles to avoid congestion and damage to landscaping and improvements in the right-of-way”. As with option one, this requirement would be educational and not enforceable.

In the General Plan Committee’s discussion of the three options, various issues were raised. It was noted that option one could result in little changes from the present parking situation, as it is not enforceable, and could present residents with unfilled expectations. Concern over option two centered on the establishment of a town-wide resident only parking district, and the resulting proliferation of signs, the expense and staff coordination with the signage and issuance of parking stickers and the added workload with the enforcement. The Committee preferred some modification to the current requirements and therefore did recommend option three. After much discussion, the General Plan Committee voted to recommend the City Council adopt a modified version of option one, with the addition that the Police Chief have the ability to require the posting of no parking signs if the contractor is in violation of the construction, operation and parking plan or the parking presents a hazardous situation. The following language was recommended to be included in the Guidelines for Construction, Operation and Parking Plans:

“No Parking Signs. At the discretion of the Police Chief, to protect health and safety, or in the event the contractor fails to properly implement the COP plan, the Police Chief may require the contractor to post signs on and along streets at 100 foot intervals for a distance of 500 feet on both sides of the street from the construction project notifying that parking is prohibited except for residents and their guests as authorized by the California Vehicle Code Section 22507. The contractor shall pay for the cost of the signs.”

The City Attorney has prepared a separate memo addressing the enforceability of parking limitations and the inclusion of this requirement in the resolution. Planning Staff’s discussion with the City Attorney concluded that this requirement would be enforceable

with an amendment to Section 10.16 of the Atherton Municipal Code relating to parking within the Town. This amendment has been included in the draft Ordinance as attached to this staff report. The City Attorney also recommended designating the City Manager or City Manager's designee in the Guidelines. The no parking signs would only be posted when the City Manager or City Manager's designee has determined that the parking would constitute a traffic hazard or would congest traffic or damage landscaping and improvements in the right of way, or would endanger life or property.

Regardless of any changes to the Ordinance and a Parking Plan, the Police Department has the ability to enforce violations of the vehicle code and any situation that poses a safety hazard.

CONCLUSION:

As stated above, Staff and the General Plan Committee do not recommend the City Council adopt a Town-wide Parking District at this time due to the reasons discussed above, specifically, the proliferation of signage and the additional expense and workload associated with the posting of signs, issuance of parking stickers and parking enforcement. Staff recommends the modification to the Ordinance to restrict parking and to require the submittal of a Construction, Operation and Parking Plan and the adoption of the Resolution adopting Guidelines for the Plan. The implementation of these requirements will help educate contractors and reduce construction conflicts. The posting of no parking signs and parking enforcement would only be implemented when the parking would constitute a traffic hazard or would congest traffic or damage landscaping and improvements in the right of way, or would endanger life or property

ALTERNATIVES:

Alternatives have been discussed in the analysis section of this staff report and in the City Attorney's memo.

FISCAL IMPACT:

The Ordinance and Resolution as recommended by Staff minimize the fiscal impact to the Town. There will be added staff time reviewing the Construction, Operation and Parking Plans through the Building Permit process and additional time responding to general public inquiries.

ENVIRONMENTAL IMPACT:

The proposal has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Sections 15305, Class 5 which permits minor alterations in land use limitations which do not result in any changes in land use or density.

FORMAL MOTION:

I move that the City Council introduce the Ordinance and adopt the Resolution.

s/Lisa Costa Sanders
Lisa Costa Sanders, Deputy Town Planner

James H. Robinson, City Manager

Attachments:

1. Draft Ordinance
2. Resolution
3. Atherton Municipal Code Chapter 15.40.
4. Memo from City Attorney

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
AMENDING CHAPTERS 10 AND 15 OF THE ATHERTON MUNICIPAL CODE
RELATING TO CONSTRUCTION REGULATIONS AND PARKING WITHIN
THE TOWN OF ATHERTON

The City Council of the Town of Atherton does ordain as follows:

SECTION 1: Section 10.16.040 of the Atherton Municipal Code is hereby added to read as follows:

10.16.040 *No person shall stop, stand, park or leave standing any vehicle in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or other authorized officer or traffic sign, or signal*

- A. *In any area where the Town has indicated that parking is prohibited by appropriate signs or markings.*
- B. *In any area where the City Manager or designee has determined that the parking or stopping of a vehicle would constitute a traffic hazard or would congest traffic or damage landscaping and improvements in the right of way, or would endanger life or property, when such area is indicated by no parking signs or markings in accordance with guidelines adopted by the City Council.*

SECTION 2: Section 15.40.040 of the Atherton Municipal Code is hereby amended to read as follows:

15.40.040 Construction vehicle parking.

~~Where possible, the city manager or city manager's designee may require~~ On site parking or parking within the public right-of-way only in front of the construction site for construction vehicles *shall be required* to avoid congestion and damage to landscaping and improvements in the right-of-way *except when authorized in writing by the City Manager or the City Manager's designee or when authorized by the guidelines adopted pursuant to these regulations.* (Ord. 498 § 3, 1998)

SECTION 3: Section 15.40.110(B) and (D) of the Atherton Municipal Code is hereby amended to read as follows:

15.40.110 Definitions.

- B. "Delivery" means delivery of building materials or equipment to any construction project *and items related to the construction project.*
- D. "Pickup" means pickup or retrieval of building materials or equipment from any construction project *and items related to the construction project.*

SECTION 4: Section 15.40.152 is hereby added to the Atherton Municipal Code to read as follows:

15.40.152 Construction, operation, and parking plan.

Prior to submitting plans for building plan check, the owner of any property located within the Town for any construction project on said property shall submit a construction, operation, and parking plan (COP Plan) for review and approval by the building official. The construction, operation, and parking plan shall be prepared in accordance with guidelines to be adopted by Resolution of the City Council and made a part of the public file.

SECTION 5: That the City Council hereby declares that it would have passed this Ordinance sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions on this Ordinance are severable and, if for any reason any sentence, paragraph or section of this Ordinance shall be held invalid, such decision shall not effect the validity of the remaining parts of this Ordinance.

SECTION 6: This Ordinance shall be posted in at least three public places according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

Introduced this 17th day of December, 2003

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the ___ day of _____, 2004, by the following vote

AYES:	COUNCILMEMBERS	_____
NOES:	COUNCILMEMBERS	_____
ABSTAIN:	COUNCILMEMBERS	_____
ABSENT:	COUNCILMEMBERS	_____

, MAYOR
Town of Atherton

ATTEST

Sharon Barker, City Clerk

APPROVED AS TO FORM:

Marc G. Hynes
Marc G. Hynes, City Attorney

ATKINSON • FARASYN, LLP

ATTORNEYS AT LAW

LEONARD J. SIEGAL
HAROLD S. TOPPEL
STEVEN G. BAIRD
MARC G. HYNES

660 WEST DANA STREET
P.O. BOX 279
MOUNTAIN VIEW, CALIFORNIA 94042
TELEPHONE (650) 967-6941
FACSIMILE (650) 967-1395

J.M. ATKINSON (1892-1982)
L.M. FARASYN (1915-1979)

MEMORANDUM

TO: Honorable Mayor and City Councilmembers, Town of Atherton
FROM: Marc G. Hynes, City Attorney
RE: Construction Ordinance
Parking Restrictions
DATE: December 11, 2003

An ordinance has been prepared amending Chapters 15.40 and 10.16 of the Atherton Municipal Code relative to the issue of street parking attendant to construction activities in the Town. The General Plan Committee has considered the issues of traffic congestion and damage to areas adjacent to improved streets in the Town caused by the parking of numerous vehicles related to construction projects. The proposed revisions to the ordinance are intended to require the parking of vehicles related to construction activities on the construction site (where practicable) and where street parking is required to limit that to the portion of the street fronting the property which is under construction and on one side of the street.

The right of control over street traffic is an exercise of part of the sovereign power of the state. Local ordinances regulating traffic that are inconsistent with general state laws are invalid. Accordingly, regulation of parking on public streets, as an adjunct to traffic regulation, is also pre-empted by state law. However, the state, through the adoption and continued amendments of Section 22507 of the California Vehicle Code has recognized the special interest the people of cities have in parking. Court interpretation of Section 22507 has concluded that the state has turned over regulation of "parking minutiae" to the localities. (Friedman v. City of Beverly Hills (1996) 47 Cal.App.4th 436.) In Friedman the Court of Appeal for the Second District said that the initial grant of power of Vehicle Code Section 22507 broadly empowered localities to regulate parking within their jurisdiction. Subsequent statutory amendments have expanded rather than restricted the powers accorded local government over parking matters.

Vehicle Code Section 22507 provides in pertinent part as follows:

**"§ 22507. Parking restrictions during certain hours;
Preferential parking for residents and merchants**

(a) Local authorities may, by ordinance or resolution, prohibit or restrict the stopping, parking, or standing of vehicles, ... on certain streets or highways, or portions thereof, during all or certain hours of the day. The ordinance or resolution may include a designation of certain streets upon which preferential parking privileges are given to residents and merchants adjacent to the streets for their use and the use of their guests, under which the residents and merchants may be issued a permit or permits that exempt them from the prohibition or restriction of the ordinance or resolution. With the exception of alleys, the ordinance or resolution shall *not apply* until signs or markings giving adequate notice thereof have been placed. A local ordinance or resolution adopted pursuant to this section may contain provisions that are reasonable and necessary to ensure the effectiveness of a preferential parking program."

The Friedman case involved a challenge by a merchant to a parking restriction adopted by the City of Beverly Hills which restricted parking to residents only on a street in front of a building owned by the plaintiff which had five retail stores and ten offices in it. The plaintiff argued that the language "residents and merchants" required that the city could limit parking to residents and merchants, but not to residents only. The Court declined such a strict reading of the ordinance observing that the history of the Vehicle Code and its subsequent amendments evidence intent of the state legislature to grant broad authority to municipalities for parking regulation (Friedman v. City of Beverly Hills (1996) 47 Cal.App.4th 436 at 442). The Court said that the language regarding "provisions that are reasonable and necessary to ensure the effectiveness of a preferential parking program" gives localities substantial power to tailor preferential parking programs to meet local circumstances.

Local circumstances in the Town, that is to say long periods during which construction projects are underway on relatively narrow streets with concerns for traffic congestion and damage to landscaping adjacent to the streets should be cited to justify the regulations. Accordingly, I recommend that a finding to the following effect be made at the time of adoption of the ordinance to read as follows:

"The Atherton General Plan has as its land use goal preservation of the Town's character as a scenic, rural, thickly wooded residential area with abundant open space. One of the objectives to obtain this goal is to retain the high quality of maintenance and living environment existing in the Town's residential neighborhoods.

Honorable Mayor and City Councilmembers
Construction Ordinance Parking Restrictions

December 11, 2003
Page 3

The circulation element goal is a circulation system that is compatible with the needs of the various land uses planned within the Town. Objectives to achieve this goal include minimizing the encroachment of the circulation network on the residential and open space uses which prevail throughout most of the community. All streets in the Town are to be preserved as scenic routes. Scenic roadway policies have been adopted which provide that on-street and visible off-street parking of vehicles and other means of transportation shall be carefully controlled. Over the last several years, the Town has experienced a significant increase in residential construction and re-construction projects. Many of these projects last for years and involve a large number of workers who park their vehicles on the streets adjacent to and near construction sites. In order to preserve the character of the Town and the quality of life as mandated by the General Plan, the City Council finds that it is necessary and appropriate to adopt regulations on the parking of vehicles involved in construction projects. Authority pursuant to California Vehicle Code Section 22507 should be exercised where necessary to avoid traffic congestion on the Town's streets, protect adjacent landscaping, and otherwise protect the public health, safety and general welfare of town residents serviced by those streets."

Respectfully,

s/Marc G. Hynes
MARC G. HYNES

MGH:cwb

RESOLUTION No. 03 - _____

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
ADOPTING GUIDELINES FOR CONSTRUCTION, OPERATION AND
PARKING PLANS**

WHEREAS, the Atherton City Council has amended Section 15.40.152 of the Atherton Municipal Code to require that a Construction Operation and Parking Plan be submitted prior to the submittal of plans for building plan check for any construction project within the Town of Atherton, and

WHEREAS, the Atherton City Council has amended Section 15.40.152 of the Atherton Municipal Code to require that such Construction Operation and Parking Plan be prepared in accordance with guidelines to be adopted by Resolution of the City Council and made a part of the public file, and

WHEREAS, the Atherton City Council hereby determines that the adoption of these Guidelines is Categorically Exempt from the California Environmental Quality Act pursuant to Section 15305, Minor Alteration in Land Use Limitations.

NOW THEREFORE BE IT RESOLVED, that the City Council of the Town of Atherton hereby adopts the Guidelines for Construction, Operations and Parking Plans as attached.

* * * * *
* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the ___th day of _____, 2003, by the following vote:

AYES COUNCILMEMBERS:
NOES COUNCILMEMBERS:
ABSENT COUNCILMEMBERS:
ABSTAIN COUNCILMEMBERS:

, MAYOR
Town of Atherton

ATTEST

Sharon Barker, CITY CLERK

APPROVED AS TO FORM:

s/Marc G. Hynes

Marc G. Hynes, City Attorney

CITY COUNCIL ADOPTED
Guidelines for Construction, Operations and Parking Plans

The following guidelines have been adopted by City Council Resolution in compliance with Chapter 15.40 of the Atherton Municipal Code requiring the submittal of a Construction Operation and Parking Plan.

Prior to acceptance of plans for building plan check, the applicant for a building permit shall submit a Construction Operation and Parking Plan (COP Plan) for review and approval by the Building Official. The Plan shall be made a part of the public file. At a minimum, the Construction Operation and Parking Plan shall contain the elements listed below:

- 1. Parking Area for Construction Personnel.** All construction parking shall be located on-site or within the public right-of-way, only in front of the construction site and on the same side of the street as the construction site. The COP Plan shall provide a sufficient area to accommodate the number of construction personnel anticipated to be working on the project. The construction parking area shall be located outside of any tree protection fencing area. The construction parking area shall be rocked, with a rocked access drive. All construction personnel shall park in the construction parking area when at the job site. The Building Official may provide written permission for construction personnel parking in the public right-of-way only during such times as finish landscaping or other similar circumstance prevent use of the on-site construction parking area and further provided that the parking is located and conducted in a safe manner and affords a minimum disruption to the neighbors and neighborhood.
- 2. No Parking Signs.** At the discretion of the City Manager or City Manager's designee, to protect health and safety, or in the event the contractor fails to properly implement the COP plan, the City Manager or City Manager's designee may require the contractor to post signs on and along streets at 100 foot intervals for a distance of 500 feet on both sides of the street from the construction project notifying that parking is prohibited except for residents and their guests as authorized by the California Vehicle Code Section 22507. The contractor shall pay for the cost of the signs.
- 3. Construction Trailer.** If a construction trailer is proposed, it shall be located completely on the private property at least 10 feet from any side or rear property line, at least 40 feet from the front property line for properties located in the R1-B zone and at least 20 feet from the front property line for properties located in the R1-A zone.
- 4. Debris Box.** Any debris box used in conjunction with the construction shall be placed completely on the private property. The debris box shall be accessible from a paved or rocked access road.
- 5. Deliveries and Truck Traffic.** A temporary construction driveway shall be installed consisting of base rock or alternate material approved by the Building

Official, beginning at the edge of pavement and extending a minimum of 100 feet into the property in order to reduce dust and mud tracking. Signs, delineators and flag personnel shall be available on-site, if necessary. If an existing paved driveway is maintained during construction, a temporary access will not be required. The applicant may propose, or the Building Official may require temporary construction fencing to restrict additional access points.

- 6. Sanitary Facilities.** The temporary sanitary facilities shall be placed out of the views of neighboring properties as much as possible. The facilities shall be accessed from a paved or rocked road or driveway. The sanitary facilities shall not be located in the public right-of-way and shall be located at least 10 feet from any side or rear property line, at least 40 feet from the front property line for properties located in the R1-B zone and at least 20 feet from the front property line for properties located in the R1-A zone.
- 7. Clean-up Area.** When on-site cleaning of equipment is required for concrete forms and trucks, paint brushes, plastering tools and other similar equipment, a cleanup area shall be specified on the COP plan and posted with a sign. This area shall not be located beneath any tree canopy or in any proposed planting area. Runoff from the clean-up area shall be contained and the waste material disposed of using “Best Management Practices” acceptable to the Regional Water Quality Control Board.
- 8. Construction Materials Storage.** An area shall be designated on-site for the storage of construction materials. The storage area shall not be located within the drip lines of any trees.
- 9. Notes to be Included on Construction Operation and Parking Plans.** The following notes shall be included on all Construction Operation and Parking Plans:

 - a.** Construction, deliveries and servicing of any item (i.e., debris box, sanitary sewer facilities, etc) on the site shall only permitted Monday through Friday, 8:00 AM to 5:00 PM.
 - b.** No hauling or heavy equipment shall be permitted on Saturdays, Sundays or Holidays.
 - c.** No work of any nature shall be permitted on Saturdays, Sundays or Holidays.



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JOHN P. JOHNS, FINANCE DIRECTOR

DATE: FOR THE MEETING OF WEDNSDAY DECEMBER 17, 2003

SUBJECT: THREE-YEAR FINANCIAL PLAN UPDATE

RECOMMENDATION:

Receive and review the update to the Town's three-year financial plan.

INTRODUCTION:

In March of 2002, the Finance Committee directed the City Manager and the Finance Department to prepare a three-year financial plan and to update this plan at no less frequently than semi-annual intervals. In the judgment of the Finance Committee, implementation of a rolling three-year forecast was essential to:

- Better understand the intermediate-range impact on financial decisions made in the current year; and,
- Identify circumstances that threaten the financial health of the Town and to enable the town to act upon such threats in a timely manner.

Presented herein is the November 2003 update to the Town's three-year financial plan. This update is presented in a format that is consistent with the schedule included on page 14 of our FY 2003-04 Adopted Budget. However, pursuant to the direction of the Finance and Facilities Committee, we present the two versions of this three-year plan. These versions include differing assumptions regarding the future of the Parcel Tax, as follows:

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- A renewal of the parcel tax and an allocation of parcel tax proceeds that is consistent with FY 2003-04 (70 % to capital projects and 30% to the General Fund); and,
- No renewal of the parcel tax.

This analysis indicates that without an extension of the parcel tax beyond 2005 and without an increase in the maximum parcel tax levy above the currently authorized level of \$750, a significant reduction in expenditures for current operations and for capital improvements will be necessary in order for the Town to preserve its financial position.

In addition to a projection of revenues, expenditures and changes in fund balance for the next three years, this staff report includes:

- A summary of key assumptions made in updating this forecast.
- A review of the history of the parcel tax, including an examination of the circumstances which led to the original passage of the parcel tax in 1980 and subsequent renewals thereto;
- A description of the actions that the Town has taken during the past several years to lessen its dependence on the parcel tax to fund current operations while preserving both the Town's financial position and the level of service to which residents have been accustomed.
- An analysis of recent legislative and economic events that have had or that will have a significant impact on the cost to provide municipal services to Atherton as well as Atherton's ability to finance such services.

This staff report identifies several alternatives available to the Town to bring revenues and expenditures into balance in the event the parcel tax fails to be renewed in 2005 as follows:

- A Town-wide reduction in staffing of 39%;
- Reductions in employee benefits combined with mandatory furloughs or pay reductions;
- Contracting with the County Sheriff or another municipality for some or all police services; or
- Elimination of parcel tax funded capital improvements.

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It should be noted that the selection and implementation of any action to alter or change the scope of services provided by the Town (such as those highlighted above) would necessitate extensive deliberation and action on the part of the City Council.

DISCUSSION AND ANALYSIS

The schedules on the following three pages provide a summary of revenues, expenditures and changes in General Fund balances for the five year period 2002-03 through 2006-07. (The 2002 and 2003 fiscal years are shown for comparative purposes).

These schedules indicate that:

- If the parcel tax is not renewed in 2005, the General Fund balance will decline by \$5.1 million between June 30, 2004 and June 30, 2007, (from \$5,626,162 to \$675,203. At \$675,203, the June 30, 2007 fund balance would amount be \$2.82 million less than the \$3.5 million in general fund reserves that Council policy requires.
- If the parcel tax levy were renewed at levels currently authorized, and if the allocation of parcel tax proceeds were in the same proportion to FY 2003-04, (65% to the capital improvement program and 35% to the General Fund) the General Fund balance would decline by \$2.65 million. At \$2.63 million, the General Fund balance would be \$867,000 less than the \$3.5 million reserve that Council requires.
- An increase of \$500 in the average parcel tax levy per parcel (from the current level of \$689 to \$1,189) would be required in order for the Town to be able to sustain existing service levels without reducing the amount of funds available to support the Town's capital improvement program. (During the four-year period of FY 2000-01 to 2004-05 an average of \$1.1 million or 65% of the \$1.7 million in parcel tax proceeds are programmed for capital projects).

It should be noted that in June, 2003 the Town's three-year range financial plan included a projected decline in the General Fund balance of \$1.8 million as compared to the \$2.65 million decline currently projected. The \$850,000 cumulative three-year difference can be attributed to the fact that the Governor has issued an executive order rescinding the increase in the Motor Vehicle License fees. At this time we believe that it is prudent to assume that the State legislature will not approve a "backfill" from the General Fund.

**General Fund Revenue and Expenditure Analysis
Fiscal Years 2004 through 2007**

Scenario 1:

Renewal and Distribution of the Parcel Tax at Current Levels, Loss of VLF Backfill

Revenue Category	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Property Tax	\$ 3,076,749	\$ 2,855,536	\$ 3,035,934	\$ 3,218,090	\$ 3,346,813	\$ 3,480,686
Sales Taxes	156,672	172,640	200,640	210,672	216,992	223,502
Other Taxes	468,338	871,809	882,115	617,400	623,574	629,809
Licenses and Permits	1,451,920	1,341,133	1,588,131	1,556,368	1,571,932	1,587,651
Fines and Forefeitures	107,483	79,178	70,000	71,400	72,828	74,285
Aid from other Agencies	524,553	188,011	139,000	119,000	99,000	99,000
Service Charges	462,729	412,202	445,900	445,900	468,195	491,605
Use of Money and Property	371,909	435,338	347,300	347,300	347,300	347,300
Other Revenues	12,420	44,406	3,000	3,000	3,000	3,000
Total Revenues	\$ 6,632,773	\$ 6,400,253	\$ 6,712,019	\$ 6,589,129	\$ 6,749,634	\$ 6,936,837
<i>Revenue Growth</i>			7.6%	-1.8%	2.4%	2.8%
Expenditure Category						
Contingency			100,000	100,000	100,000	100,000
Council	20,589	18,623	20,174	20,779	21,818	22,472
Manager	440,341	460,684	497,895	548,023	575,424	592,687
Attorney	158,329	300,504	175,551	180,817	189,858	195,554
Finance	339,944	354,985	434,137	473,487	497,161	512,076
Building	835,806	891,603	902,873	977,811	1,026,701	1,057,502
Police	3,294,575	3,449,048	3,629,233	4,129,368	4,335,836	4,465,911
Public Works	1,539,967	1,678,360	1,759,627	1,904,460	1,999,683	2,059,673
Total Expenditures	\$ 6,629,551	\$ 7,153,807	\$ 7,519,490	\$ 8,334,744	\$ 8,746,481	\$ 9,005,875
<i>Expenditure Growth</i>			5.1%	10.8%	4.9%	3.0%
Surplus Deficit of Revenues over Expenditures	3,222	(753,554)	(807,471)	(1,745,614)	(1,996,847)	(2,069,038)
Add (subtract) Operating Transfers In (out)						
Parcel Tax	350,000	554,000	799,000	654,186	654,186	654,186
Police on the Street			-	-		
Gas Tax	100,000	200,000	200,000	160,000	160,000	160,000
CIP Support		90,000	150,000	150,000	150,000	150,000
Public Facilities Fund	(220,000)		-	-		
Vehicle Replacement Fund	(100,000)		-	-		
Subtotal Operating Transfers	130,000	844,000	1,149,000	964,186	964,186	964,186
Beginning Fund Balance		5,194,187	5,284,633	5,626,162	4,844,734	3,812,073
Ending Fund Balance	\$ 133,222	\$ 5,284,633	\$ 5,626,162	\$ 4,844,734	\$ 3,812,073	\$ 2,707,221
Increase (Decrease) in Fund Balance			\$ 341,529	(781,428)	(1,032,661)	(1,104,852)

**General Fund Revenue and Expenditure Analysis
Fiscal Years 2004 through 2007**

Scenario 2:

No Renewal of the Parcel Tax, Loss of VLF Backfill

Revenue Category	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Property Tax	\$ 3,076,749	\$ 2,855,536	\$ 3,035,934	\$ 3,218,090	\$ 3,346,813	\$ 3,480,686
Sales Taxes	156,672	172,640	200,640	210,672	216,992	223,502
Other Taxes	468,338	871,809	882,115	617,400	623,574	629,809
Licenses and Permits	1,451,920	1,341,133	1,588,131	1,556,368	1,571,932	1,587,651
Fines and Forefeitures	107,483	79,178	70,000	71,400	72,828	74,285
Aid from other Agencies	524,553	188,011	139,000	119,000	99,000	99,000
Service Charges	462,729	412,202	445,900	445,900	468,195	491,605
Use of Money and Property	371,909	435,338	347,300	347,300	312,570	312,570
Other Revenues	12,420	44,406	3,000	3,000	3,000	3,000
Total Revenues	\$ 6,632,773	\$ 6,400,253	\$ 6,712,019	\$ 6,589,129	\$ 6,714,904	\$ 6,902,107
<i>Revenue Growth</i>			7.6%	-1.8%	1.9%	2.8%
Expenditure Category						
Contingency			100,000	100,000	100,000	100,000
Council	20,589	18,623	20,174	20,779	21,818	22,472
Manager	440,341	460,684	497,895	548,023	575,424	592,687
Attorney	158,329	300,504	175,551	180,817	189,858	195,554
Finance	339,944	354,985	434,137	473,487	497,161	512,076
Building	835,806	891,603	902,873	977,811	1,026,701	1,057,502
Police	3,294,575	3,449,048	3,629,233	4,129,368	4,335,836	4,465,911
Public Works	1,539,967	1,678,360	1,759,627	1,904,460	1,999,683	2,059,673
Total Expenditures	\$ 6,629,551	\$ 7,153,807	\$ 7,519,490	\$ 8,334,744	\$ 8,746,481	\$ 9,005,875
<i>Expenditure Growth</i>			5.1%	10.8%	4.9%	3.0%
Surplus Deficit of Revenues over Expenditures	3,222	(753,554)	(807,471)	(1,745,614)	(2,031,577)	(2,103,768)
Add (subtract) Operating Transfers In (out)						
Parcel Tax	350,000	554,000	799,000			
Police on the Street			-	-		
Gas Tax	100,000	200,000	200,000	160,000	160,000	160,000
CIP Support		90,000	150,000	150,000	150,000	150,000
Public Facilities Fund	(220,000)		-	-		
Vehicle Replacement Fund	(100,000)		-	-		
Subtotal Operating Transfers	130,000	844,000	1,149,000	310,000	310,000	310,000
Beginning Fund Balance		5,194,187	5,284,633	5,626,162	4,190,548	2,468,971
Ending Fund Balance	\$ 133,222	\$ 5,284,633	\$ 5,626,162	\$ 4,190,548	\$ 2,468,971	\$ 675,203
Increase (Decrease) in Fund Balance			\$ 341,529	(1,435,614)	(1,721,577)	(1,793,768)

KEY ASSUMPTIONS AND ESTIMATES

This three-year financial forecast is based upon a number of assumptions and estimates. These assumptions and estimates are described herein.

Employee Salaries will increase by 3% annually.

We have assumed that cost of living adjustments and step increases will average three percent per year during each of the next three years or roughly the same rate at which employee salaries have increased during the past two years. We believe that this trend will continue in the near future due to absence of inflationary pressures on wages as evidenced by recent employment and consumer price trends.

Employer contribution rates will increase by 52% and 114% respectively for miscellaneous and safety employees between FY 2004-05 and FY 2006-07

The Public Employee Retirement system has provided an estimate of pension benefit costs for FY 2004-05 through 2006-07. We believe that these estimates are a reasonable basis for projecting such costs. The following table provides a summary of the estimated rate of growth in employee pension benefit costs.

Estimated Employer Contribution Rates Fiscal Years 2004-05 through 2007-08

<i>Fiscal Year</i>	<i>2004-05</i>	<i>2005-06</i>	<i>2006-07</i>	<i>FY 2004-05 to 2006-07 Percentage Increase</i>
Miscellaneous	8.4%	9.9%	11.1%	32%
Safety	14.1%	26.7%	30.3%	114%

Staffing levels will remain consistent with the levels authorized in FY 2003-04.

The FY 2003-04 authorized staffing level for the Town of Atherton is currently 54.75 full-time equivalents. Of these, 51.75 are funded, while the remaining three are currently vacant and un-funded. Positions currently vacant and un-funded include:

- Two patrol officers; and,
- One park maintenance supervisor¹.

¹ In the interests of cost savings, the Public Works position has performed park landscape maintenance activities under contract in-lieu of replacing the former Park Maintenance Supervisor who retired in May of 2003.

Investment yields will increase from 3% annually to between 4% and 5% annually. However significant declines in the town's cash balances will result in no growth in investment income.

Non-payroll related expenses will increase in a manner consistent with expected changes in the consumer price index.

During the past five years, the consumer price index has risen by an average of 3.52% annually. During the next three years, we do not anticipate a significant departure from this trend. We have therefore assumed that expenditures for non-payroll related items such as contract services, materials and supplies will increase by at a rate similar to the past five years.

The Building Department will continue to be fully self-supporting through building permit fees.

In FY 2000-01, the Building Department's fees were adjusted to an amount equivalent to 1 % of the permitted value of residential construction or rehabilitation (in accordance with the uniform building code standards, a value of \$250 per square foot is used in most instances to determine permitted value). During the past three years, residential construction activity has been especially robust. In fact, since June of 2000 more than 3,000 building permits have been issued, representing more than \$300 million in permitted construction. As a result, the Building Department has not only been able to recoup its costs, the Town has been able to establish a reserve in the amount of \$450,000 to cover the cost of future building inspection activity.

We believe that during the next several years, the Building Department will continue to fully recover its costs.

FACTORS NECESSITATING THE IMPLEMENTATION OF A PARCEL TAX

In 1980, the Town found it necessary to seek authorization of the voters for as a result of the following circumstances:

- The passage of Proposition 13 and resultant loss of the Town's ability to adjust its property tax levy as desired;
- The absence of alternative sources of funding due to the residential nature of the Town; and,
- The desire of the community to preserve essential services, including police protection and infrastructure maintenance in order to preserve the character of the Town.

These factors are best described in the original voter pamphlet (see attachment 1).

Atherton's parcel tax has been renewed on four separate occasions and has been in effect for 23 of the past 24 years. Additionally, the parcel tax has constituted a significant portion of the Town's general revenue base². As indicated in the following table, parcel tax revenues have ranged from a high of 34% of total general revenues in FY 1984-85 to a low of 18% of general revenues in FY 1988-89.

Comparison of Parcel Tax Revenues to Total General Revenues Fiscal Years 1980-81 through 2001-02

Fiscal Year	Total General Revenues	Parcel Tax Revenue	Parcel Tax as a Pct of Total Discretionary Revenues
1980-81	1,278,427	275,059	22%
1984-85	2,052,709	698,270	34%
1988-89	3,228,699	576,167	18%
1992-93	4,049,034	834,140	21%
1996-97	5,486,621	1,498,888	27%
2001-02	8,149,203	1,516,430	19%

During the past 24 years, the average amount of parcel tax paid per parcel has increased from \$125 to \$689. However, the parcel tax levy has not increased as rapidly as has the secured property tax levy. As a result, the parcel tax as a percent of the total tax levy has declined considerably in recent years. This trend, which is illustrated in the following table, is a result of the fact that secured property taxes are, by their nature, increased at a constant rate with respect to property value. Parcel taxes however, are established at a fixed rate per parcel as approved within the parcel tax referendum.

Comparative Analysis of Secured Tax and Parcel Tax Levies FY 1980-81 through 2001-02

² General revenues are those revenues which the City Council has discretion in allocating among town programs and activities. General revenues are equal to the sum of revenues that accrue to the General Fund, (such as taxes, user fees, aid from other governmental agencies and interest income) as well as parcel tax revenues that are available for transfer into the General Fund.

Fiscal Year	Average Secured Tax Levy Per parcel	Average Parcel Tax Levy per Parcel	Total Real Property Tax Levy	Parcel Tax Levy as a Percent of Total Property Tax Levy
1980-81	\$ 160	\$ 125	\$ 285	44%
1984-85	557	317	874	36%
1988-89	632	262	894	29%
1992-93	978	379	1,357	28%
1996-97	1,376	681	2,057	33%
2001-02	1,853	689	2,542	27%

During the past 23 years, the voters have rejected the parcel tax on three occasions, in 1994, 1999 and 2000. In 1984, the parcel tax referendum was placed before the electorate a second time and approved in time to ensure continuation of the levy. However, subsequent to the 1999 and 2000 defeats, the parcel tax lapsed for one fiscal year. The revenue loss to the Town of Atherton resulting from this one-year lapse in the parcel tax was approximately \$1.6 million.

Based upon a review of various documents in the City Clerk's archives, rejection of the parcel tax reauthorization appears to have resulted from a sense that the Town had not adequately explored viable alternatives, such as pursuing other sources of revenue or seeking to reduce operating costs.

EFFORTS BY THE TOWN TO DIVERSIFY ITS REVENUE BASE AND TO CONTAIN COSTS

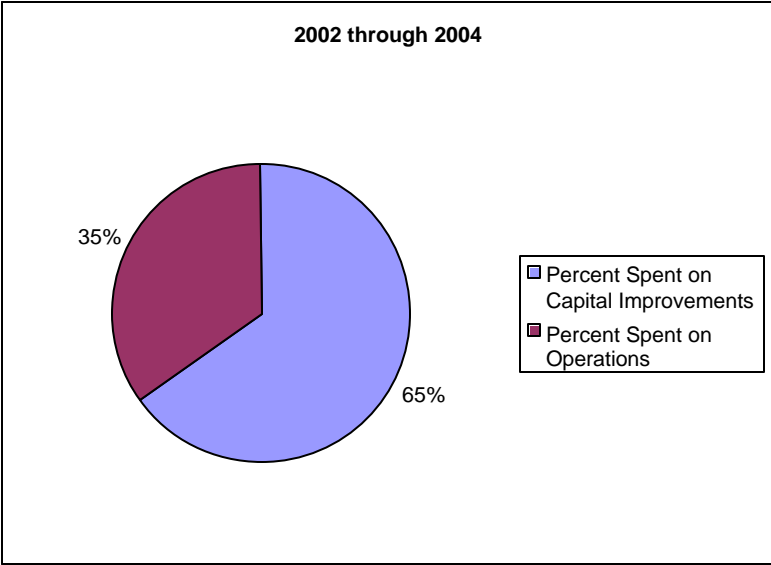
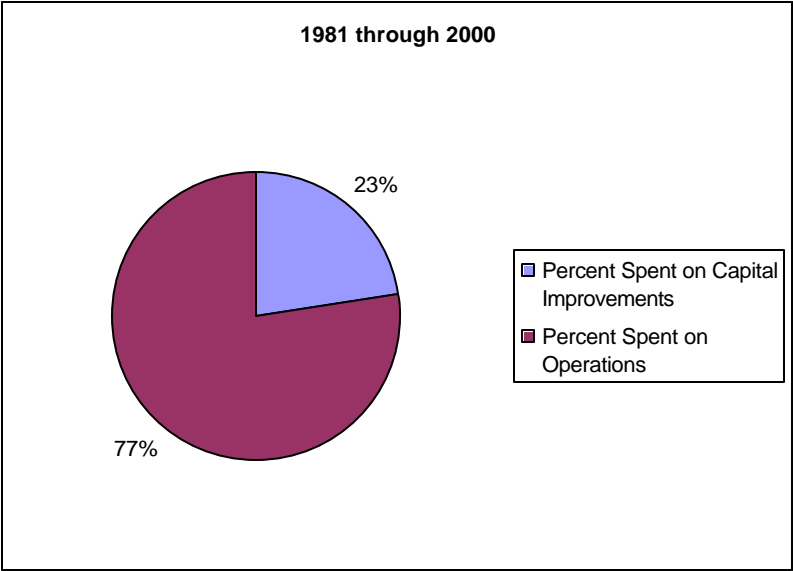
Since FY 2000-01, the Town has taken a number of steps to contain costs and to diversify its revenue base with the ultimate objective of reducing the Town's reliance on the parcel tax as a source of operating income. In fact, during the past three years, the Town has been able to generate cost savings and revenue enhancements of \$1,130,000 annually. These actions are summarized in the following table.

**Summary of Revenue Enhancements and Cost Savings
Since 2001**

Description	Cost Savings/Revenue Enhancement
Adjusting building fees to attain full cost recovery.	\$200,000
Increasing the level of reimbursement from the Gas Tax fund for road maintenance activities performed with resources provided by the General Fund.	\$100,000
Re-negotiating intergovernmental service agreements with the US Postal Service and with Caltrans	\$50,000
Deferring recruitment on two vacant police officer positions.	\$200,000
Allocating general fund direct and indirect costs to the Town's capital improvement program.	\$310,000
Increasing compliance with the Town's business license enforcement	\$150,000
Using contractors in-lieu of a permanent staff to perform routine park maintenance.	\$30,000
Total	\$1,130,000

As a result, of the activities described above, the Town has been able to improve its financial position while investing in its roads and drainage systems. For example since June 30, 2000, the General Fund balance has increased from \$4.8 million to \$5.3 million. In addition, during the past two years, \$2.2 million or 65% of the \$3.1 million in parcel taxes received in fiscal years 2001-02 and 2002-03 has been allocated to the Town's four-year capital improvement program and the remaining 35% being spent on current operations. As a result, the proportion of special tax revenue funds dedicated to the Town's capital improvement program has nearly tripled from that of the previous 20 years. The following charts illustrates this point.

Figures 1 and 2
Comparative Analysis of Parcel Tax Expenditures
Operations Versus Capital Improvements



The Town has also worked to promote confidence in the Town’s financial stewardship. These efforts have included:

- Expanded coverage of Town financial affairs in the Athertonian;
- Creation of the Audit Committee³; and,
- Improved access to agendas and meeting minutes via publication on the Town’s website.

Despite the “belt tightening” efforts of the Town, the cost of municipal services is projected to increase at a more rapid rate than revenue growth. In addition to the underlying circumstances necessitating the parcel tax (i.e. the effect of Proposition 13) reauthorization of the Parcel Tax has become an urgent matter for the Town for the following reasons:

- Costs related to retaining qualified employees by ensuring that salaries and benefits are competitive with those of neighboring jurisdictions;
- Rising insurance and employee health insurance costs;
- Reductions in assessments granted by the County Assessor due to market conditions;
- A denial or diversion by the State of California of funds that had traditionally been the domain of local government; and,
- Statewide voter improved mandates that have restricted the ability of local governments to enhance their revenue base.

The following table provides an analysis of the ongoing costs to the town of these factors:

**Town of Atherton Analysis of Cost increases
Revenue Reductions since 2001**

Factor	Cost Increase/ Revenue Reduction
Repeal of the increase in Motor Vehicle License Fees	\$300,000
Rising health insurance and pension costs	\$615,000
Adjustments to staff compensation	\$449,000
Deferral of state mandated reimbursements	\$80,000
Reductions in assessments initiated by the County Assessor	\$200,000
Total	\$1,644,000

Of the five factors identified in the \$1.644 million increase in costs and revenue losses experienced by the Town, approximately \$1.05 million is related to actions that the Town has taken to augment staff and to ensure that employee salaries and benefits are competitive with those of other jurisdictions. For example:

³ The Audit Committee’s responsibilities include reviewing the annual audit and advising the Town on matters related to internal control. The audit committee consists of two members of the City Council as well as five members of the public with extensive backgrounds in corporate finance, public accounting and auditing.

- In FY 2000-01, the City Council adopted a policy of establishing employee salaries at the 70th percentile of neighboring jurisdictions. Additionally, the City agreed to increase police officer retirement benefits from 2% at 50 to 3% at 50.
- In FY 2001-02, the Town authorized the creation of a three-year limited term associate engineer position and an assistant finance director. The objectives of which were to complete the capital program and to strengthen the Town's internal control structure and financial reporting capability as recommended by the external auditor and the Audit Committee.

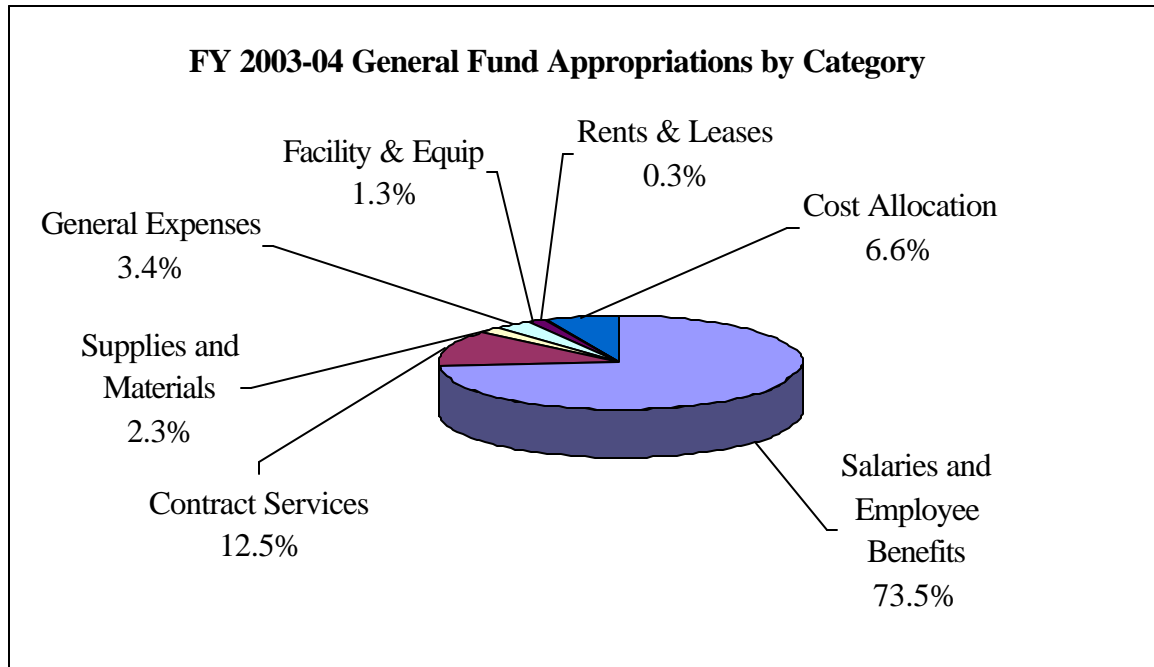
As a result of these actions the Town was able to achieve the following:

- Reduce employee turnover by 50% for the Town as a whole and by more than two-thirds for the Police Department (the department with the highest recruitment and training costs⁴);
- Achieve budgetary savings of approximately \$900,000 in its four-year capital improvement plan as a result of attaining favorable bids from construction vendors; and,
- Received an unqualified and favorable opinion from its auditors for three consecutive fiscal years.

COST REDUCTION AND REVENUE ENHANCEMENT OPTIONS IN THE EVENT OF A FAILURE TO RENEW THE PARCEL TAX

The following chart, originally presented in the FY 2003-04 recommended budget, illustrates the proportion of General Fund appropriations according to appropriation category.

⁴ Costs to recruit and train a police officer can range from \$35,000 to \$75,000 depending upon the level of training and supervision required.



As indicated in the preceding table, 73.5% of total General Fund appropriations are for salaries and employee benefits. Consequently, it is unlikely that the Town of Atherton would be able to achieve the costs savings necessary to preserve its financial resources in the event of a failure to renew the parcel tax without significant reductions in personnel and related services.

The following is a description of the cost savings measures that have been identified heretofore.

Implement a city-wide reduction in force of 39 percent

This option would entail reducing the headcount of the Town by 39%. Such a reduction would generate the \$1.7 million in cost savings that would be needed to bring General Fund revenues in line with expenditures. However, in light of the fact that the Building Department is fully self-supporting, the personnel reductions would have to be absorbed within Administration, Police and Public Works. The following table provides a comparative analysis of current staffing levels with the staffing levels that would be in effect after a reduction in headcount was made to offset a loss of the parcel tax revenue.

**Analysis of Staffing Reductions Necessary
To Achieve \$1.7 Million in Annual Cost Savings**

Department	FY 2003-04 Authorized	FY 2005-06 Post-reduction Staffing	Percentage Reduction in Staffing
City Manager	3	2	33%
Finance	4	2	50%
Building	5	5	0%
Police	29	17	41%
Public Works	13	7	46%
Total	54	33	39%

Negotiate furloughs and reductions in benefits in lieu of a reduction in force

Requiring employees to fully fund the employee share of pension benefits and health, dental and vision insurance costs would generate approximately \$800,000 in cost savings. To achieve cost savings on the order \$1.7 million, without reducing staff, reductions in salaries or furloughs would have to be negotiated in the amount of 15%, or \$900,000.

Implement a shared services agreement with another governmental agency to provide police services.

Based upon a comparative analysis of public safety expenditures for selected San Francisco Bay Area municipalities, it is conceivable that the implementation of a contract services agreement with either the County of San Mateo or a neighboring city to provide police services could generate cost savings of up to \$1.7 million annually. However, to achieving cost would, in all likelihood have the following effects:

- A reduced presence of officers on the street at any given time resulting in a degradation of incident response times as well as the Department's ability to deter criminal activity through constant patrols⁵;
- The elimination of community specific programs such as DARE and the deployment of School Resource Officer

⁵ At present it is the practice of the Police Department to have two officers and one sergeant on patrol at any given time. In order to accomplish the current level of patrol coverage, a minimum of 15 officers and five dispatchers must be employed on a full-time basis. Accordingly, the Finance Department estimates reducing the Department's staffing complement to 17 while providing for an adequate command and support structure would necessitate a 50 percent reduction in patrol staffing (from the current level of 3 full-time officers to one and one-half patrol officers).

- The elimination of dedicated resources for dispatch, investigations and traffic control and, to the extent that such resources are replaced by through contractual means, a loss of familiarity with the Town's constituency and operating environment.

FISCAL IMPACT:

As indicated in the introduction to this report, the selection and implementation of any action to alter or change the scope of services provided by the Town (such as those highlighted above) would necessitate extensive deliberation and action on the part of the City Council. Therefore, there is no fiscal imp-act resulting from Council's acceptance of this report.

Prepared by:

Approved by:

John P. Johns
Finance Director

James H. Robinson
City Manager

Attachment 1: 1980 Parcel Tax Ballot Information Pamphlet



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

DATE: FOR THE CITY COUNCIL MEETING OF DECEMBER 17, 2003

SUBJECT: ORDINANCE AMENDING ATHERTON MUNICIPAL CODE SECTION 8.10 REGARDING TREE PRESERVATION GUIDELINES, STANDARDS AND SPECIFICATIONS

RECOMMENDATION

Staff recommends that the City Council adopt the attached Ordinance.

INTRODUCTION

With the update of the Heritage Tree Ordinance, it was noted that the Town's Tree Preservation Guidelines, Standards and Specifications as referred to in Section 8.10.030(B) of the Atherton Municipal Code needed further review. This reference was removed and a subcommittee was formed to review the Guidelines.

ANALYSIS

The attached Tree Preservation Guidelines, Standards and Specifications were revised by the subcommittee and further reviewed by the General Plan Committee. The General Plan Committee recommends the City Council amend the Heritage Tree Ordinance to include a reference to the Tree Preservation Guidelines, Standards and Specifications. The Guidelines will then be utilized with the implementation of Heritage Tree Protection Plans.

CONCLUSION:

It is Staff's professional opinion that the proposed Ordinance Amendment is consistent with the General Plan and the intent of the Heritage Tree Ordinance.

ALTERNATIVES:

The City Council could decide not to refer to the Guidelines in the Heritage Tree Ordinance.

FISCAL IMPACT:

Costs associated with the implementation of the ordinance and guidelines will be borne by applicants.

ENVIRONMENTAL IMPACT:

The proposal has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Sections 15305, Class 5 which permits minor alterations in land use limitations which do not result in any changes in land use or density.

FORMAL MOTION:

I move that the City Council introduce the attached Ordinance for adoption and waive further reading.

s/Lisa Costa Sanders

Lisa Costa Sanders, Deputy Town Planner

James H. Robinson, City Manager

Attachments:

5. Draft Ordinance
6. Tree Preservation Guidelines, Standards and Specifications

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
AMENDING THE ATHERTON MUNICIPAL CODE 8.10.030(B) RELATING TO
TREE PRESERVATION GUIDELINES, STANDARDS AND SPECIFICATIONS
WITHIN THE TOWN OF ATHERTON**

The City Council of the Town of Atherton does ordain as follows:

SECTION 1: Section 8.10.030(B) of the Atherton Municipal Code is hereby amended to read as follows:

8.10.030 Prohibitions and protections

“B. All heritage trees must be shown and designated on every plot map that may be required by the town in connection with any application for subdivision, variance, use permit, or building permit. In addition, a heritage tree protection and preservation plan may be required with each application. The heritage tree protection and preservation plan shall be prepared by a certified arborist to assess impacts to trees, recommend mitigation to reduce impacts to a less than significant level and identify construction guidelines to be followed through all phases of a construction project. *Detailed standards and specifications for the implementation of a heritage tree protection and preservation plan can be found in the Town’s current Tree Preservation Guidelines, Standards and Specifications.*”

SECTION 2: That the City Council hereby declares that it would have passed this Ordinance sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions of this Ordinance are severable and, if for any reason any sentence, paragraph or section of this Ordinance shall be held invalid, such decision shall not effect the validity of the remaining parts of this Ordinance.

SECTION 3: This Ordinance shall be posted in at least three public places according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

* * * * *
*

Introduced this 17th day of December, 2003.

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the ___ day of _____, 2004, by the following vote

AYES: COUNCILMEMBERS _____
NOES: COUNCILMEMBERS _____
ABSTAIN: COUNCILMEMBERS _____
ABSENT: COUNCILMEMBERS _____

MAYOR, Town of Atherton

ATTEST

Sharon Barker, City Clerk

APPROVED AS TO FORM:

s/Marc G. Hynes

Marc G. Hynes, City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCILMEMBERS
FROM: MARC G. HYNES, CITY ATTORNEY
DATE: CITY COUNCIL MEETING OF DECEMBER 17, 2003
SUBJECT: RESOLUTION APPROVING TREE PRESERVATION GUIDELINES AND ESTABLISHING CIVIL PENALTY FEE

Recommendation Adopt resolution approving tree preservation guidelines, standards and specifications and establishing civil penalty fee for damage to or un-permitted removal of heritage trees.

Background The Deputy Town Planner has described the procedure by which tree preservation guidelines, standards and specifications have been developed. The guidelines themselves appear as an attachment to the Deputy Town Planner's Staff Report. This resolution will approve the guidelines, standards and specifications incorporating them by reference.

Section 8.10.060(A) of the Atherton Municipal Code provides for imposition of a civil penalty for persons damaging or removing without permit trees which are protected by Chapter 8.10. This resolution establishes a civil penalty in the amount of \$5,000.00.

Fiscal Impact None.

Respectfully,

s/Marc G. Hynes
MARC G. HYNES

MGH:cwb

Attachment



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF DECEMBER 17, 2003

SUBJECT: APPROVAL (IN CONCEPT) OF CHANGES TO THE SAN MATEO COUNTY LIBRARY AUTHORITY JOINT POWERS AGREEMENT

RECOMMENDATION

It is recommended that the City Council consider and approve (in concept) proposed changes to the San Mateo County Library Authority Joint Powers Agreement.

BACKGROUND

A Joint Powers Authority known as the San Mateo County Library Authority was formed in 1999 with the cooperation of San Mateo County and several cities served by the County Library. The objective of the Authority was to improve the level of library services and the efficiency of its operation.

Since its inception and with the resignation of the County Librarian two years ago, the Authority has been attempting to address the needs of all the members of the Joint Powers Authority. Recently, a Governance Study was approved by the Governing Board (Council Member Charles Marsala is Atherton's representative). The purpose of the study was to evaluate the current JPA and suggest any changes. The attached memo outlines the proposed amendments to the JPA. In summary, the report recommends that we continue with the JPA approach and resolve issues dealing with the role of the governing board, the annual budget, the Library Director, staffing and support services, County financial contributions and county taxes and services.

The Governing Board of the Library JPA approved the study in November 2003 and has requested that all member agencies approve in concept the proposed changes. The precise legal language is currently being prepared by legal counsel and when completed will be submitted to all JPA members for formal approval. It is expected to be available for final approval in early 2004.

**JOINT POWERS AGREEMENT BETWEEN THE COUNTY OF SAN MATEO
AND THE CITIES OF ATHERTON, BELMONT, BRISBANE, EAST PALO
ALTO, FOSTER CITY, HALF MOON BAY, MILLBRAE, PACIFICA, PORTOLA
VALLEY, SAN CARLOS, AND WOODSIDE, RELATING TO LIBRARY
SERVICES**

This is an agreement between the County of San Mateo and the cities of Atherton, Belmont, Brisbane, East Palo Alto, Foster City, Half Moon Bay, Millbrae, Pacifica, Portola Valley, San Carlos, and Woodside (hereinafter “Parties”), relating to the joint exercise of powers over library services throughout the San Mateo County Library System.

WHEREAS, the San Mateo County Free Library System (hereinafter the “Library System”), which is comprised of the unincorporated area of the County and of the other Parties, has authority to provide library services within its jurisdiction, and is governed by the San Mateo County Board of Supervisors; and

WHEREAS, the Parties have independent authority to provide library services within their jurisdictions; and

WHEREAS, the provision of library services to the residents of the unincorporated area of the County and of the other Parties is enhanced and made more efficient by a coordinated program among the public entities who comprise the Library System; and

WHEREAS, the Joint Powers Law (Government Code ' 6500 et. seq.) permits public entities, after receiving the prior consent of their respective legislative bodies, to jointly exercise powers common to the contracting parties, including the power to provide for library services; and

WHEREAS, the County Service Area Act (Government Code ' 25210 et. seq.) provides for alternative methods of providing for services within unincorporated areas of the County and within those cities which choose to participate in a County Library Service Area (hereinafter "Service Area"); and,

WHEREAS, the Parties may request the San Mateo Local Agency Formation Commission (LAFCO) to approve the creation of a County Library Service Area to include the unincorporated area of the County and other Parties, to provide library services.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS CONTAINED HEREIN, the parties to this agreement agree as follows:

I. Establishment of Library Joint Powers Authority; Purpose of Agreement.

A. Joint Powers Authority Created.

The parties to this agreement, with the consent of their respective legislative bodies, hereby join together for the purpose of providing extended library services within their communities and by establishing a Library Joint Powers Authority (hereinafter "Library JPA") to exercise the powers described herein. The Library JPA shall be an entity which is separate from the parties to this agreement and shall be responsible for the administration of this agreement. Except as otherwise provided herein, the debts, liabilities and obligations of the Library JPA shall be the debts, liabilities and obligations of the entity and not the debts, liabilities, and obligations of the parties to this Agreement.

B. Purpose and Functions of the Library JPA.

1. Provide policy direction and governance for the San Mateo County Free Library System.
2. Carry out the functions required by Joint Powers Authority Agreement.
3. Approve the budget and disposition of revenues for Library System Services.
4. Approve and oversee the services and programs of the Library System.

C. Library JPA Operating Rules and Restrictions - Designation.

The Library JPA shall operate under and be governed by the rules and regulations and legal restrictions and requirements applicable to the County.

D. County Service Area

The parties by execution of this Joint Powers Agreement also hereby consent to the initiation of and the formation of a County Service Area for library purposes.

II. Additional Parties.

The parties agree that additional cities may become parties to this Agreement on such terms and conditions as may be approved by a majority of the members of the Library Joint Powers Governing Board (hereinafter “Governing Board”). One condition to participation shall be that all Parties and their residents shall have reciprocal access to library facilities, materials and services of all other Parties.

III. Term of Agreement; Termination and Withdrawal.

This Joint Powers Agreement shall commence upon its execution by the County and a majority of the Cities listed on page one of this Agreement. The Agreement shall

continue, uninterrupted, until two-thirds of the members vote to terminate the Agreement. An individual Party may withdraw effective at the end of the fiscal year from this Agreement upon the giving of written notice by December 31st of its intent to withdraw from the JPA effective July 1st of the following fiscal year. For purposes of this JPA, the fiscal year shall run from July 1st of one calendar year to June 30th of the following calendar year. The withdrawal of any Party from this Agreement shall in no way affect the rights and obligations of the remaining Parties. If a Party withdraws from this agreement, such Party shall not be entitled to the return of any funds contributed to the JPA nor to the return in cash or in kind of any materials or supplies and such party shall take on the obligation to provide library services to its residents.

In the event a Party fails to make any required contribution as set forth in a budget approved in accordance with section XIV of this Agreement or otherwise fails to approve the budget adopted by the Governing Board, the Party shall not receive services to be paid for by that party's required contribution.

IV. Disposition of Property Upon Termination.

Upon termination of this Agreement, any surplus money on hand shall be returned in proportion to the contributions made by the Parties who are still active members at the time of termination. Upon termination, title to all property, including facilities, buildings, materials and equipment owned by a Party upon execution of this agreement shall remain in the ownership of that Party, except as otherwise provided by this Agreement. All property acquired by the JPA during the term of this agreement shall become the property of the County Free Library System. Parties shall retain the right to acquire capital outlay items to be used by the JPA with ownership retained by the Party.

V. Creation of Governing Board; Composition.

There hereby is created the Library Joint Powers Governing Board which shall administer this agreement. The Governing Board shall be comprised of one representative from each Party, selected by the Party from the elected legislative body of that Party. Each Party may designate one alternative representative who will be a member of that Party's legislative body. The selection process and length of tenure for each Governing Board representative and any alternate shall be determined by the governing body of each Party. Governing Board representatives shall serve without compensation. The policies of the Library System shall be directed by the Governing Board.

VI. Actions of the Governing Board.

Actions of the Governing Board shall be taken only if a quorum is in attendance and shall be effective upon approval of a majority of the members present. The Governing Board shall select a chairperson and vice-chairperson and shall meet at least annually to consider and approve the operating and capital budget of the Library JPA for the next fiscal year and to elect officers. The Board may also hold other special meetings as convened by the Chairperson.

VII. Powers of Governing Board.

The JPA, through its Governing Board, may acquire, purchase, lease, own or dispose of property and equipment, and make and enter contracts, as may be required to meet the purposes of this agreement. It may employ agents and employees, operate public works improvements and facilities, sue and be sued in its own name, incur debt, and invest surplus funds.

The Governing Board may delegate any or all of these powers, except the power to sue and be sued, to the Operations Committee or County Librarian for purposes of program development and implementation or policy formulation.

VIII. Operations Committee.

An Operations Committee shall be responsible for administration and oversight of the day to day operations of the Library System, working through the County Librarian. The Operations Committee will be comprised of the Chief Executive Officer of each Party, or his/her designee and will serve without consideration of terms or tenure and without additional compensation. The Operations Committee will meet at least quarterly, but may meet more often, upon the call of its Chairperson, as needed.

IX. Notice of Meetings.

Notice of the time and place of all regular meetings shall be given in accordance with the Brown Act and shall be posted in all community libraries in the County Library System. The County Library and Governing Board Chairperson shall be responsible for preparation and posting of the Board's agenda in compliance with the Brown Act. The County Librarian and the Operations Committee Chair shall be responsible for the preparation and posting of the agenda for the Operations Committee in compliance with the Brown Act.

X. Quorum.

A majority of the members of the Governing Board and of the Operations Committee shall constitute a quorum at any regular or special meeting of the Governing Board or Operations Committee respectively. A majority of affirmative votes of those present are necessary for action to be taken.

XI. Employees and Support Services.

The County Librarian shall be appointed and employed by the County of San Mateo. The JPA for a minimum period of five years shall contract with the County to provide staff services to the Library System and such staff shall be subject to the County's labor agreements and personnel rules. The costs of such services shall be paid for from JPA funds. The County will consult with the JPA Governing Board regarding any personnel rule changes. The JPA also may contract with any other party or may employ its own personnel for additional personnel services deemed necessary.

The Governing Board may contract to provide other administrative services such as legal, purchasing, payroll, budget and other support services to the Library System JPA with the costs of these services paid for from JPA funds.

XII. Property.

A. Ownership of and responsibility for real property shall be as described in Exhibit A attached and incorporated by this reference.

B. The materials in the Library collection and all furniture and equipment used for Library services shall be and remain the property of the Library System on termination of this Agreement except as otherwise provided in Section IV. Insurance for this material is the responsibility of the Library System.

XIII. Library Policies.

All policies relating to the provision of library services, including hours, organization, staffing levels and type, and other services, shall be determined by the Governing Board, unless specifically delegated to the Operations Committee. Current policies with respect to the library shall continue in full force and effect until changed by the Governing Board or Operations Committee, if so delegated by the Governing Board. In addition, the Library System remains subject to general State laws with respect to

libraries, including Education Code section 19146 which vests power to select materials in the County Librarian.

XIV. Financial Provisions.

A. Adoption of Annual Budget.

The Board shall adopt by July 1st of each year an annual operating budget for the JPA setting forth anticipated expenses, financing sources and proposed service levels necessary to carry out the purposes of this Agreement. The fiscal year for the Library JPA shall be from July 1st of each calendar year to June 30th of the following calendar year. Immediately after approving the annual budget, the Board shall refer the budget to the governing bodies of the parties for the purposes of securing from them any necessary contributions and/or appropriations as set forth in the budget. Each party shall deposit its monetary contribution to the budget with the JPA Treasurer on or before August 1st of each fiscal year. If a party fails to pay its annual contribution, it shall not receive services to be paid for by that contribution. Any individual party may enhance library services at particular libraries with additional funds contributed by that party.

B. Revenues.

The parties to this agreement hereby reconfirm existing Library System revenue sources and commit to their continuance at their current proportion to the extent permitted by general law. These revenue sources include:

- a. Property Tax
- b. Motor Vehicle in Lieu tax distributed to libraries
- c. Public Library Fund
- d. State and Federal Library Services Act funds
- e. Interest

C. Allocation of Property Tax Dollars.

Notwithstanding any other provision of this agreement for each fiscal year the library service revenue allocated to libraries in each city shall not be less than the estimated library property tax revenue attributable to property located in that city. It shall be the responsibility of the Governing Board to develop a budget which guarantees this provision. In the event that the allocated library service revenue exceeds the amount required to maintain the minimum library service hours for each city as described in this agreement, such excess funds shall be spent on library related activities within that city including, but not limited to, facility maintenance, facility remodeling or expansion, increased service hours, or increased book purchases. Before expending such excess funds, the Governing Board shall solicit the views of the affected City Council and such views shall be given substantial weight in any Governing Board decision.

D. Funding Formula.

Parties to this agreement hereby reconfirm the following "funding formula"; funding of personnel and operation at each library facility shall be a function of three equally weighted factors: circulation and walk-in use, property tax contribution and population of each community's service area, adjusted so as to provide minimum service levels, as set forth below.

E. Minimum Service Levels.

The Parties to this agreement agree to minimum service levels as follows, provided revenues are maintained at the 1997-98 fiscal year level:

1. For parties of less than 10,000 in population, base library service shall be 40 hours per week and for parties of over

10,000 in population, base library service shall be 60 hours per week.

The County will contribute \$225,000 in fiscal year 1998-99 to support these hours. In each subsequent fiscal year the County will contribute an amount equal to \$225,000 plus an adjustment based on the change in the Consumer Price Index (CPI) as published by the United States Bureau of Labor Statistics for the San Francisco-Oakland Metropolitan Area. For fiscal year 1999-2000 the adjustment shall be based on the change in the CPI for the period January 1998 to January 1999. For future fiscal years the adjustment shall be based on the change in the CPI for the period January 1998 to the January preceding the start of the fiscal year. For fiscal years 1999-2000 through 2002-2003 the County will, in addition, contribute an amount equal to the shortfall, if any, in the library system budget needed to provide the minimum level of service specified in this section. The County contributions described in this section of the agreement are in addition to the amounts that the County has agreed to provide as specified elsewhere in this agreement.

2. The funding formula will be applied to allocate all additional available revenues to all member jurisdictions.

3. Library services provided through the Pacifica libraries will be maintained at 74 hours per week beginning in 1998-99 and continuing for five years. Authority revenues will be used to fund a maximum of 60 branch service hours per week in Pacifica, and the County will contribute revenue to fund 14 additional weekly service hours for five years. At the end of the five year period, as revenues are available, service hours in Pacifica will be funded in the same fashion as other jurisdictions. For fiscal year 1998-99 the County shall contribute \$62,616 to pay for the maintenance and repair costs for the Pacifica and Sanchez libraries. For the fiscal years 1999-2000 through 2002-2003 the County shall make a similar contribution subject to adjustment based on changes in maintenance and repair costs.
4. Bookmobile service will continue on the 1997-98 schedule, with minor adjustments to be made by the County Librarian as he/she deems appropriate in order to meet the responsibilities of a professional Library. This service is to be funded from the Administrative account.
5. Administrative, collection and technical services support will be provided appropriate to each branch's public service hours. Administration and other central services, the Bookmobile, Project Read and Peninsula Library System costs, payments to Redwood City and Daly City for library

services provided to residents of Fair Oaks, Colma, and Broadmoor and collection replacement and a base service level of 40 or 60 hours per party will be funded prior to application of the funding formula.

6. Each Party may supplement revenues to provide for enhanced services at individual library facilities, but no party shall be required to make a revenue contribution for additional services beyond the minimum service levels provided for in this agreement.
7. Each Party has the right to use its allocated library services revenues for facility maintenance costs or library patron services. The service levels defined in this agreement for each city are based on the assumption of responsibility for library facility maintenance and repair as described in Exhibit A. However, notwithstanding the provisions of Exhibit A, each city may elect to accept a reduction in the level of service to which it would otherwise be entitled in return for a corresponding reduction in its obligation for maintenance_and repair costs. Such election by a city must be accompanied by a resolution duly adopted by the City Council of said city.

F. Half Moon Bay Facility

In the event the City of Half Moon Bay decides to either replace or significantly remodel and expand the Half Moon Bay Library, the County agrees to contribute 50% of

the costs associated with any such replacement or remodeling in recognition that approximately 50% of the population served by the Half Moon Bay Library comes from unincorporated areas. If there is a significant change in the unincorporated area population either by annexation to the City of Half Moon Bay or incorporation of a new city then the County contribution to the remodel or expansion of the Half Moon Bay Library will be renegotiated by the County and the City of Half Moon Bay. Any budget for such facility construction must be mutually agreed to by the County Board of Supervisors and the Half Moon Bay City Council prior to the County making this contribution.

G. Waiver of Property Tax Allocation Fee

The County agrees that it shall waive the imposition of the Property Tax Allocation Fee for Library property tax revenue collected from the unincorporated areas.

H. Treasurer.

The Joint Powers Authority shall designate one of its members to act as Treasurer for the Library JPA. The Treasurer shall be the depository for and have custody of all funds of the JPA from whatever source. The duties of the Treasurer shall include

preparation of periodic reports of receipts and disbursements, and all other duties of the Treasurer as set forth in Government Code section 6500, et. seq.

I. Controller/Auditor.

The Joint Powers Authority shall designate one of its members to act as Controller/Auditor for the Library JPA. The Controller/Auditor shall be responsible for all duties required of such by Government Code section 6500, et seq., including preparing or contracting for preparation of regular audits and shall ensure strict accountability of all funds and report all receipts and disbursements.

J. Legal Counsel.

The Joint Powers Authority shall designate one of its members to act as legal counsel.

K. Access to Property; Bonding.

The officers, employees and other persons having access to the property of the JPA shall be specifically designated by the Governing Board, or by the Operations Committee if this authority is delegated by the Governing Board, and bonded in an amount determined by that body.

XV. Insurance Provisions.

A. The County shall add the Library JPA to its existing excess liability insurance coverage and shall maintain such coverage in full force and effect during the life of the Agreement. Said excess liability insurance coverage has a \$250,000 self-insured retention by the County.

Unless the parties determine otherwise, County shall provide for the defense of any claims or litigation within the \$250,000 self-insured retention.

B. Any out of pocket expense or loss, by way of judgment or settlement, arising out of the operation of this Agreement, within the limits of the County's \$250,000 self-insured retention shall be paid from the Library JPA funds. Any additional costs incurred by County in adding the Library JPA to its excess liability insurance coverage shall be borne by the JPA.

XVI. Notices.

The County Librarian shall file all notices with the Secretary of State as required by Government Code Section 6503.5 and shall be responsible for any other notices required by law.

XVII. Amendments.

This Joint Powers Agreement may be amended by the parties to this agreement. In the event there is a change in law affecting a material term of this agreement, the Parties agree to engage in good faith negotiations on a successor agreement within 45 days being notified of the change in law.

XVIII. Authorization and Execution.

By the execution of this Agreement, each Party hereby authorizes its respective Chief Elected Official to execute such documents as may be necessary to carry out the terms of this Agreement. This Agreement may be signed in counterparts, each of which shall be deemed an original, and all of which constitute one and the same agreement.

EXHIBIT A
Real Property

A. Libraries owned by the County in the cities of Half Moon Bay, Pacifica and Woodside shall be transferred to the cities in which they are located, as expeditiously as possible in compliance with all county and state laws and procedures. After transfer of

ownership each city shall assume full responsibility for repairs and maintenance of the library facilities in its jurisdiction. In the event any of these cities withdraws from the JPA it will retain ownership of the Library buildings but it will also assume full responsibility for the provision of library services to its residents pursuant to a contract between the County and the withdrawing city.

B. The County library located in East Palo will remain in County ownership unless otherwise agreed by County and East Palo Alto. County shall be responsible for maintenance and repair of this facility as long as it remains in County ownership.

C. Responsibility for the maintenance and repair of libraries owned by individual cities shall be the sole responsibility of the city owning such library. This provision applies to the cities of Atherton, Belmont, Brisbane, Foster City, Millbrae, Portola Valley and San Carlos.

IN WITNESS WHEREOF, the parties, by their duly authorized representatives, have affixed their hands on the dates indicated below.

Dated: _____ **COUNTY OF SAN MATEO**

ATTEST:

Clerk of the Board

BY _____
President of the Board
of Supervisors

Dated: _____ **TOWN OF ATHERTON**

ATTEST:

BY _____

Clerk of Town Council

Mayor

Dated: _____

CITY OF BELMONT

ATTEST:

Clerk of City Council

BY _____
Mayor

Dated: _____

CITY OF BRISBANE

ATTEST:

Clerk of City Council

BY _____
Mayor

Dated: _____

CITY OF EAST PALO ALTO

ATTEST:

Clerk of City Council

BY _____
Mayor

Dated: _____

CITY OF FOSTER CITY

ATTEST:

Clerk of City Council

BY _____
Mayor

Dated: _____

CITY OF HALF MOON BAY

ATTEST:

Clerk of City Council

BY _____
Mayor

Dated: _____

CITY OF MILLBRAE

ATTEST:

Clerk of City Council

BY _____
Mayor

Dated: _____

CITY OF PACIFICA

ATTEST:

Clerk of City Council

BY _____
Mayor

Dated: _____

TOWN OF PORTOLA VALLEY

ATTEST:

Clerk of Town Council

BY _____
Mayor

Dated: _____

CITY OF SAN CARLOS

ATTEST:

Clerk of City Council

BY _____
Mayor

Dated: _____

TOWN OF WOODSIDE

ATTEST:

Clerk of Town Council

BY _____
Mayor



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF DECEMBER 17, 2003

**SUBJECT: DISCUSS AND CONSIDER PROCEDURE FOR PLACEMENT OF
ITEMS ON THE CITY COUNCIL AGENDA**

RECOMMENDATION

Consider the existing procedure for setting of City Council agenda and determine if any changes are appropriate.

BACKGROUND

At the November City Council meeting, it was requested by Council Member Alan Carlson that a discussion of how items are placed on the agenda be considered at the December 17, 2003 meeting.

Staff reviewed the adopted City Council Rules of Procedure (see attached). Section 5.2 states that "The agenda shall be prepared in accordance with the preparation procedure as directed by the City Manager." The current practice of the City Manager is to prepare a draft agenda with the assistance of the City Clerk and Department Heads and review the draft with the Mayor to consider the length of the agenda and the best order of items considered.

The agenda has also included items specifically requested by individual Council Members. Generally, these requests have occurred at the City Council meeting. If the City Council wishes to expand upon the existing written procedure you may want to consider amended language to the effect that "items requested to appear on future City Council agendas by individual City Council Members are to be requested under the Council comments section of each agenda."

Attachment: Rules of Procedure Section 5.2