



AGENDA
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT

November 17, 2004

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** Janz, Marsala, Carlson, McKeithen, Conwell
- 7:05 P.M. 3. **PRESENTATIONS**
- A. Annual Red Ribbon Week Presentation
B. America Recycles Week Proclamation
- 7:30 P.M. 4. **COUNCIL REPORTS**
- 7:40 P.M. 5. **PUBLIC COMMENTS** (only for items which are not on the agenda –
limit of three minutes per person)
- 7:50 P.M. 6. **STAFF REPORTS**
- 7:55 P.M. 7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT** (Directed
by Resolution Nos. 99-6 and 02-31)
- Crime Prevention Task Force
- 8:10 P.M. **CONSENT CALENDAR** (Items 8-16)
8. **APPROVAL OF MINUTES OF SPECIAL AND REGULAR
MEETINGS OF OCTOBER 20, 2004**
9. **APPROVAL OF BILLS AND CLAIMS FOR OCTOBER 2004 IN THE
AMOUNT OF \$1,263,724**
10. **ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR
OCTOBER 2004**

11. ACCEPTANCE OF QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDED SEPTEMBER 30, 2004

12. SECOND READING AND ADOPTION OF AN ORDINANCE RATIFYING, IN PART, ORDINANCE NO. 29 OF THE MENLO PARK FIRE PROTECTION DISTRICT PERTAINING TO FIRE SPRINKLER SYSTEM REQUIREMENTS

Recommendation: Adopt Town of Atherton Ordinance No. 04-__ ratifying, in part, Ordinance No. 29 of the Menlo Park Fire Protection District pertaining to Fire Sprinkler System Requirements

13. ADOPTION OF RESOLUTIONS AUTHORIZING APPLICATION FOR ROBERTI-Z'BERG-HARRIS URBANIZED AREA NEED BASIS PROGRAM GRANTS TO REHABILITATE THE HOLBROOK-PALMER PARK CARRIAGE HOUSE RESTROOMS, KITCHEN AND SECOND FLOOR AND TO RECONSTRUCT THE HOLBROOK-PALMER PARK TENNIS COURTS AND COMMITTING THE REQUIRED THIRTY PERCENT LOCAL MATCH

Recommendation: Adopt resolutions authorizing staff to submit applications for Roberti-Z'berg-Harris Urbanized Area Need Basis (RZH) program grants to rehabilitate the Holbrook-Palmer Park Carriage House restrooms, kitchen and second floor and to reconstruct the Holbrook-Palmer Park tennis courts and committing the required thirty percent (30%) local match.

14. APPROVAL OF RECOMMENDATION FROM THE CALTRAIN CORRIDOR SUBCOMMITTEE TO ALLOW OVERNIGHT PARKING AT THE ATHERTON TRAIN STATION

Recommendation: Approve recommendation from the Caltrain Corridor Subcommittee to allow overnight parking at the Atherton train station to accommodate riders utilizing Caltrain service to San Francisco and San Jose International Airports as part of the free parking promotion at the station previously approved on a trial basis by the City Council.

15. RECORDATION AND REMOVAL OF THE OLD GAZEBO IN HOLBROOK-PALMER PARK

Recommendation: Accept recommendation of the Park and Recreation Commission and authorize Park staff to record by digital photography and remove the old gazebo in Holbrook-Palmer Park.

16. GENERAL PLAN COMMITTEE APPOINTMENT

Recommendation: Approve the recommendation of the Screening Committee to appoint a resident to the Arts Committee.

8:15 P.M. REGULAR AGENDA (Items 17 - 19)

8:15 P.M. 17. CONSIDERATION OF REQUEST FOR DRAINAGE IMPROVEMENTS AT 401 FLETCHER DRIVE

Recommendation: Consider request from Mr. Frank Novak at 401 Fletcher Drive and provide appropriate direction to staff.

8:45 P.M. 18. CONSIDERATION OF FINANCE COMMITTEE RECOMMENDATIONS REGARDING REVENUE ENHANCEMENT OPTIONS – DISCUSSION AND POSSIBLE ACTION REGARDING SPECIAL MUNICIPAL ELECTION

Recommendation: Depending upon the Council’s preference regarding proceeding with a Special Election, the actions specified in Agenda Item No. 19 may be required.

9:15 P.M. 19. DISCUSSION AND CONSIDERATION OF A SPECIAL MUNICIPAL ELECTION ON MARCH 8, 2005

Recommendation: Should the Council wish to pursue a Special Election to submit to the voters an amendment to the business license tax ordinance, the following actions would be required:

- 1. Motion adopting a Resolution Declaring a Fiscal Emergency**
- 2. Motion to introduce, read by title only, waive further reading, and adopt an Ordinance Calling an Election to Submit to the Voters an Ordinance Amending Sections 5.12.150, 5.12.160 5.12.080 and 5.12.140 of the Atherton Municipal Code Relating to the Business License Tax**
- 3. Motion adopting of a Resolution setting priorities for filing written arguments regarding a City Measure and directing the City Attorney to prepare an impartial analysis**

OR

Recommendation: Should the Council wish to submit the renewal of the parcel tax to the voters, the following action would be required:

- 1. Motion adjourning the present Regular City Council meeting to a time on Thursday, December 9, 2004, which would allow for a 15-day public notice to take place and a public hearing to**

occur on December 9, 2004 in advance of the December 10, 2004 deadline to adopt an ordinance calling a Special Election on March 8, 2005 to submit to the voters an ordinance adopting a Parcel Tax for Fiscal Years 2005-06 through 2008-2009.

10:00 P.M. 20. PUBLIC COMMENTS

10:15 P.M. 21. ADJOURNMENT

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☛ 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)

Proclamation

America Recycles Week - November 14-20, 2004

WHEREAS, each year, Americans generate more than 217 millions tons of municipal solid waste, which is more than 4.4 pounds per person per day. While the nation has reached an overall recycling rate of more than 28 percent, much more can be done, especially in closing the loop and purchasing products made with recycled content; and

WHEREAS, focusing the nation's attention on the importance of recycling and closing the loop, businesses, industries, government agencies, nonprofit organizations, and individuals have joined together to celebrate America Recycles Week and are encouraging their employers, staff, customers, membership, and all citizens to pledge to buy more recycled-content products; and

WHEREAS, state community leaders need to spread the word about the excellent recycling programs they have established, the growth of markets for recyclable materials, the importance of buying recycled products; and

WHEREAS, Town of Atherton residents generated more than 2,492 tons of trash in 2003, and this trash is buried in a landfill; and

WHEREAS, Town of Atherton residents recycled more than 5,443 tons in 2003 through Town of Atherton curbside recycling programs; and

WHEREAS, recycling saves precious energy, conserves valuable natural resources, protects the environment, reduces landfill needs and has a positive economic impact; and

WHEREAS, participating in America Recycles Week is one way citizens can help raise awareness about the need to reduce waste by reusing, recycling, and buying recycled products; and

WHEREAS, residents are encouraged to "Make Every Day America Recycles Day."

NOW, THEREFORE, BE IT RESOLVED BY THE Town of Atherton, California, THAT November 14-20, 2004, is hereby proclaimed as **AMERICA RECYCLES WEEK** in the Town of Atherton.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Town of Atherton to be affixed this 17th day of November, 2004.

Kathleen McKeithen, Mayor
Town of Atherton



Draft MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
October 20, 2004
6:00 P.M.
Meeting Room
Town Administrative Offices
91 Ashfield Road
Atherton, California

Special Meeting

The meeting was called to order at 6:00 p.m.

ROLL CALL

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

PUBLIC COMMENTS

There were no public comments.

CLOSED SESSION

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

Three (3) potential cases

RECONVENE TO OPEN SESSION

Report of action taken.

No reportable action was taken.

ADJOURN

The meeting adjourned at 6:25 p.m.

Respectfully submitted:

Kathy McKeithen
MAYOR



Draft MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
October 20, 2004

7:00 p.m.

TOWN COUNCIL CHAMBERS

94 Ashfield Road
Atherton, California

REGULAR MEETING

Mayor McKeithen called the meeting to order at 7:02 p.m.

1. PLEDGE OF ALLEGIANCE

2. ROLL CALL

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

3. PRESENTATIONS

A. Presentation of Annual Tree Awards – Atherton Tree Committee

Denise Kupperman, Atherton Tree Committee Chair, and Kathy Hughes Anderson, Town Arborist, presented the 2004 Annual Tree Awards to the following residents:

Kenneth and Virginia Frederick
Alex and Antonia Cross
Mario and Danelle Rosati
Marsha Gustafson

4. COUNCIL REPORTS

- Council Member Janz stated that he met with Finance Director John Johns regarding revenue enhancement and cost savings options that would be discussed later that evening. He attended the Menlo Park City Council meeting

the previous night, along with Council Member Carlson, City Manager Jim Robinson, Public Works Director Duncan Jones, and several members of the Caltrain Corridor Subcommittee. A presentation was given on a feasibility study for grade separations in Menlo Park. An ordinance was passed that said, in essence, that staff from Menlo Park would work with staff from Atherton and other cities on the Peninsula to discuss various perspectives on electrification, high-speed rail, grade separations, etc. Council Member Janz announced on October 26, 2004, from 10:30 a.m. to Noon, in the Menlo Park City Council Chambers, the Menlo/Atherton Branch of the American Association of University Women (AAUW) and the League of Women Voters of South San Mateo County were sponsoring an impartial panel to present the pros and cons of ballot measures for the upcoming November 2, 2004, election.

- Council Member Marsala reported the Holbrook-Palmer Park Foundation and Atherton Dames sponsored a Town barbeque the past weekend that was a great success. He attended the Lindenwood Homeowners' Association (HOA) meeting and a Selby Lane School fundraiser for "Yes" Reading. Council Member Marsala and Council Member Janz spoke at a parcel tax neighborhood meeting on October 18.
- Council Member Carlson also attended the Lindenwood HOA meeting and the Menlo Park City Council meeting. The study of railroad crossings was presented with overlays on the intersections depicting the disruptions the grade crossings would cause, e.g., making adjoining properties virtually inaccessible. In order to have any control over the future of what happened in the corridor, he believed all cities must come together. The idea of grade crossings and high-speed rail would be a disaster for the whole Peninsula.
- Vice Mayor Conwell had no report from the San Francisco Airport Roundtable. At the City/County Association of Governments (C/CAG) meeting, the significant topic was airport influence areas. In the future, homeowners must disclose to prospective buyers that the home was located in an airport influence area. A presentation was given at the Criminal Justice Council that day regarding the Private Defender program which cost San Mateo County \$15 million a year. A high profile and most expensive case was the Billionaire Boys Club at a cost of \$4 million. Vice Mayor Conwell noted that the Criminal Justice Council, in conjunction with the Council of Cities, would hold its annual awards dinner in Pacifica on Friday, October 22, to honor those who went above and beyond to help people who were unable to help themselves. On Sunday, October 17, he attended the 100th Anniversary of the Los Lomitas School where he presented a proclamation on behalf of Mayor McKeithen.
- Mayor McKeithen attended the Lindenwood HOA meeting. She attended a meeting to inform residents regarding Measure O and authored an article for *The Almanac* supporting Measure O. The Transportation Committee met last Tuesday where the following items were discussed: 1) completion of the DeBell Drive centerline striping project; 2) the Caltrans ECR Selby Lane left pocket issue which was not going forward due to the discovery of environmentally unsound earth and no federal monies being available; 3) the Safe Route to School grant for Selby Lane (pending); 4) installation of a warning sign, "Cross Traffic Does Not Stop," was approved at the corner of Alejandro Avenue,

Britton Avenue, and Emilie Avenue and would be placed below the stop sign on Emilie; 5) the “No Parking Zone” on Park Avenue was well received and no problems were reported; 6) a “Safe Driving” banner was placed at the end of Marsh Road where it connects to Middlefield Road and “Keep Kids Alive” bumper stickers were available; 7) a problem was reported regarding SamTrans bus turnouts on Middlefield Road, traffic was unable to pass the bus; however, widening the pocket was not a possibility; 8) a request from a resident for a traffic signal at Middlefield Road and Glenwood Avenue was denied; 9) a discussion on a channelization plan for the intersection of Greenoaks Drive and Acorn Way proposed three large islands to be installed, and the Lindenwood HOA was asked to consider whether it would be willing to maintain any new vegetation that might be planted. On September 23, the San Mateo County Sheriff’s Office of Emergency Services (OES) met. The third edition of the Portable Water Procurement and Distribution Annex Report was available. Two gallons of water per day, per person were needed in the event of an emergency. If a major event occurred with Hetch Hetchy, an estimate of 60 days would be needed to repair it. Increased alert levels would occur on a regional basis. The transit system was most at risk and concern for the time period just prior to the election was heightened. A draft emergency alert system protocol was in place, tune to KCBS radio, and translators were also available. Genentec wanted to partner with the County to store diesel fuel and was negotiating, along with Nelo Oil Company, to reserve fuel storage capacity. The OES had 18,000 radios for schools to inform them of catastrophic events and were available at the Redwood City office.

5. PUBLIC COMMENTS

Jim Dobbie, Atherton, commented on street renovation delays on James Avenue and Greenoaks Drive.

Staff responded to Council questions. After a brief discussion, Mayor McKeithen requested an item be placed on the next General Plan Agenda regarding the issue of limits to be placed on building permits with a report including other jurisdictions with limits, how they work, and staffing requirements.

Jerry Carlson, Atherton, Atherton Civil Interest League (ACIL) President, gave an update on Selby Lane School. The ACIL Board endorsed Measure O and Proposition 1A. He offered his comments on Caltrain issues.

John Sisson, Atherton, spoke regarding cable lines in his neighborhood, zoning of elementary school districts, and complimented the Council on its public relations campaign for Measure O.

Bob Jenkins, Atherton, spoke regarding Measure O and the possibility of a telemarketing campaign.

6. STAFF REPORTS

- City Attorney Marc Hynes stated no reportable action was taken as a result of the 6 p.m. Closed Session. The three potential litigation cases involved a City Attorney report on code enforcement actions relative to the Heritage Tree ordinance.
- City Manager Jim Robinson announced the fall *Athertonian* would be mailed on Friday, October 22. A letter was received from the Heritage Foundation noting that the cost to rebuild the gazebo at Holbrook-Palmer Park was prohibitive. A report would be scheduled for the City Council meeting of November 17, 2004.
- Police Chief Bob Brennan reported State Fish and Game made a decision that the mountain lion would not be deemed a public safety threat at the present time. Warning signs were posted in the area. The Town Hall meeting would be held at St. Joseph's School on November 4 at 7 p.m. State Fish and Game would be present to answer questions.
- Public Works Director Duncan Jones reported the projects at Valley Road and Walsh Road received their federal permits for installing erosion control. A problem with insurance held up the encroachment permit; however, the permit was ready to be issued the next day. Regarding the pavement project, staff was working with the contractor to defer the project on Alta Vista until spring due to the steepness of the street. A resident complained that a contractor for the Fair Oaks Sewer District, with no identification, was putting rat poison in sewers. Public Works Director Jones indicated he would remind utility companies at the annual meeting in January of the need to notify residents when work was to be done and that identification was needed.

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

No report scheduled.

CONSENT CALENDAR (Items 8 - 19)

Council Member Marsala had questions regarding Item No. 15. Mayor McKeithen requested that Item Nos. 14 and 15 be removed and placed on the Regular Agenda for discussion.

Mayor McKeithen announced that in regard to Item No. 12, the Screening Committee recommended that Betty Ulman be appointed to serve on the Arts Committee.

MOTION - to approve the Consent Agenda with the exception of Item Nos. 14 and 15 which were moved to the Regular Agenda for discussion.

M/S Carlson/Janz

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

8. APPROVED MINUTES OF SPECIAL MEETING OF SEPTEMBER 9, 2004; SPECIAL CLOSED SESSION AND REGULAR MEETINGS OF SEPTEMBER 15, 2004; SPECIAL MEETING OF SEPTEMBER 27, 2004; AND SPECIAL JOINT

MEETING WITH THE PARK AND RECREATION COMMISSION OF OCTOBER 6, 2004

9. **APPROVED BILLS AND CLAIMS FOR SEPTEMBER 2004 IN THE AMOUNT OF \$751,953**
10. **ACCEPTED MONTHLY FINANCIAL REPORT FOR SEPTEMBER 2004**
11. **APPROVED REVISED CORE NATURAL GAS SALES AND AGGREGATION AGREEMENT WITH ABAG POWER**

Approved the revised Core Natural Gas Sales and Aggregation Agreement with ABAG POWER.

12. **APPOINTMENT TO ATHERTON ARTS COMMITTEE**

Approved the recommendation of the Screening Committee to appoint Betty Ulman to the Arts Committee.

13. **ACCEPTED THE WORK, AUTHORIZED RECORDATION OF A NOTICE OF COMPLETION AND APPROVED CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$3,027.81 FOR THE HOLBROOK-PALMER PARK RESTROOM EXPANSION PROJECT NUMBER 03-008**

Accepted work, authorized recordation of a notice of completion and approved contract change orders in the amount of \$3,027.81 for the Holbrook-Palmer Park Restroom Expansion Project Number 03-008 project.

14. *REMOVED AND PLACED ON REGULAR AGENDA FOR DISCUSSION*
AWARDED CONTRACT FOR THE 2004 STREET CAPE SEAL PROJECT, PROJECT NUMBER 04-003 TO GRAHAM CONTRACTORS, INC. FOR \$69,678.50

15. *REMOVED AND PLACED ON REGULAR AGENDA FOR DISCUSSION*
ADOPTION OF RESOLUTIONS AUTHORIZING APPLICATION FOR A YOUTH SOCCER AND RECREATION DEVELOPMENT PROGRAM GRANT TO REHABILITATE AND EXPAND THE HOLBROOK-PALMER PARK SOUTH MEADOW AND A STATE URBAN PARKS AND HEALTHY COMMUNITIES PROGRAM GRANT TO RECONSTRUCT THE HOLBROOK-PALMER PARK TENNIS COURTS AND COMMITTING THE REQUIRED TWENTY-FIVE PERCENT LOCAL MATCH

16. **ADOPTED A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR FEDERAL SURFACE TRANSPORTATION PROGRAM FUNDING FOR THE VALPARAISO AVENUE RECONSTRUCTION PROJECT AND COMMITTED THE NECESSARY NON-FEDERAL MATCH FOR THE PROJECT AND STATED**

THE ASSURANCE OF THE TOWN OF ATHERTON TO COMPLETE THE PROJECT

Adopted Resolution No. 04-19 authorizing staff to submit an application for Surface Transportation Program (STP) grant funds to reconstruct Valparaiso Avenue, committing the required local match, and stating the assurance of the Town to complete the project.

- 17. ACCEPTED STATUS REPORT ON HETCH-HETCHY RIGHT-OF-WAY ISSUES – CONSIDERED AN AMENDMENT TO THE ZONING ORDINANCE (FROM THE MEETING OF SEPTEMBER 15, 2004)**

Received and filed status report, which was for information only.

- 18. ACCEPTED FISCAL YEAR 2003-2004 AUDITED FINANCIAL STATEMENTS**

Accepted the basic financial statements and independent auditor's report for year ending June 30, 2004.

- 19. ACCEPTED AUDIT COMMITTEE AND STAFF RECOMMENDATION TO AUTHORIZE CONTRACT EXTENSION WITH CAPORICCI & LARSON FOR INDEPENDENT AUDIT SERVICES FOR A THREE-YEAR PERIOD**

Approved a three-year extension to the contract for Independent Audit Services with Caporicci & Larson, Certified Public Accountants.

REGULAR AGENDA

Item Nos. 14 and 15 were removed from the Consent Agenda and placed on the Regular Agenda for discussion.

- 14. AWARDED CONTRACT FOR THE 2004 STREET CAPE SEAL PROJECT, PROJECT NUMBER 04-003 TO GRAHAM CONTRACTORS, INC. FOR \$69,678.50**

Awarded the contract for 2004 Street Cape Seal Project, Project Number 04-003, to Graham Contractors, Inc., the low bidder of the October 14, 2004 bids, for \$69,678.50.

In response to Mayor McKeithen, Public Works Director Duncan Jones said a cape seal consisted of a three-layer pavement rehabilitation, was being used for the first time in the Town on low-traffic streets, and could be used in the future in place of overlays. Slurry seals were used on streets in good condition.

Mayor McKeithen noted the bid was 22% below the engineer's estimate of \$85,000.

- 15. ADOPTION OF RESOLUTIONS AUTHORIZING APPLICATION FOR A YOUTH SOCCER AND RECREATION DEVELOPMENT PROGRAM GRANT TO**

REHABILITATE AND EXPAND THE HOLBROOK-PALMER PARK SOUTH MEADOW AND A STATE URBAN PARKS AND HEALTHY COMMUNITIES PROGRAM GRANT TO RECONSTRUCT THE HOLBROOK-PALMER PARK TENNIS COURTS AND COMMITTING THE REQUIRED TWENTY-FIVE PERCENT LOCAL MATCH

Adopted Resolution No. 04-21 authorizing staff to submit an application for Youth Soccer and Recreation Development (YSRD) program grant to rehabilitate and expand the Holbrook-Palmer Park south meadow and Resolution No. 04-20 for a State Urban Parks and Healthy Communities (SUPHC) program grant to reconstruct the Holbrook-Palmer park tennis courts and committing the required local match of 25%.

Council Member Marsala asked whether Atherton was at a disadvantage to receive the grants and whether other grants were available.

City Manager Jim Robinson noted the Park and Recreation Commission reviewed the grant applications and recommended approval by the City Council. The grants were competitive and contingent upon approval and inclusion in the long-term Capital Improvement Program. Approval was indicative of support for the project and a commitment to provide supplemental funding if funds were available.

Public Works Director Duncan Jones said a total of three grants were available for the tennis courts. The Town could receive only one grant from the State with a commitment of matching funds from another non-State source.

Mayor McKeithen was concerned with making a commitment of \$225,000 at the present time for turf remediation, new irrigation and drainage, without knowing whether the parcel tax had passed.

Public Works Director Jones stated the irrigation system was inadequate, the system needed to be redone, and the original turf was not intended for a real playing field. Having the whole field rebuilt through the grant, might be the most cost-effective method.

City Manager Robinson stated even though a commitment was being made in the resolution, the opportunity could be declined if the application were granted. Staff would provide each project on a list that Council could prioritize to determine which, if any, project to pursue.

Council Member Marsala believed the matching funds could be raised through donations and the user groups should be asked to participate in that effort.

Council Member Janz said the potential for a major restoration of the Park to be done quickly was a possibility. Applying for a grant that provided 75% of the funds from the State should be attempted.

MOTION— to approve Item Nos. 14 and 15 as presented

M/S McKeithen/Carlson

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

20. HOLD FIRST READING OF AN ORDINANCE RATIFYING, IN PART, THE MENLO PARK FIRE PROTECTION DISTRICT FIRE SPRINKLER SYSTEM REQUIREMENTS

City Manager Jim Robinson stated Council's action that evening was to introduce the ordinance ratifying, in part, the Menlo Park Fire Protection District Fire Sprinkler System Requirements based on conditions that were considered at the City Council Meeting of September 15, 2004.

MOTION – to approve the first reading of an ordinance ratifying, in part, Ordinance No. 29 of the Menlo Park Fire District amending District Fire Prevention Code pertaining to automatic fire sprinkler system requirements

M/S McKeithen/Janz

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

21. CONSIDERATION AND POSSIBLE ACTION ON ALTERNATIVES RELATIVE TO SPECIAL MUNICIPAL TAX FOR SUPPORT OF OPERATING AND CAPITAL EXPENDITURES AND EVALUATION OF REVENUE ENHANCEMENTS AND COST-SAVING OPTIONS

Finance Director John Johns presented the staff report. Recommendations in the report presented the Council with cost reductions/revenue enhancements that would close the gap between expected expenses and revenues over the next several years. Secondly, from the various revenue enhancements strategies identified, Council was being asked to select one of the four options to pursue for the long term. Additionally, changes were being recommended to the Intermediate Financial Plan that included a combination of cost savings and revenue enhancements representing the most promising targets.

Staff responded to Council questions. Finance Director Johns stated with regard to a surcharge on excavation permits, staff was being conservative in its expectations of a \$200,000 increase in the operating transfer from road impact fees. After preliminary discussions with a consultant, staff believed generating \$400,000 per year was reasonable; however, splitting the surcharge between ongoing operations and maintenance and long-term capital projects was more prudent.

Mayor McKeithen noted that major landscaping needed to be included, as well as expanding on the excavation permit terminology to include "fill."

City Manager Jim Robinson stated the focus of the consultant would be to look at the existing fees and new fees as related to the issues raised by the Council.

In response to Council Member Janz, Finance Director Johns said if the consultant's fee was less than \$15,000, staff would execute a purchase order; however, if the scope of work was greater than \$15,000, staff would bring the item to the City Council for approval. Once the consultant was secured, staff anticipated a report within 8 to 12 weeks. Additionally, Council was being asked to 1) authorize staff to implement the cost savings/revenue enhancement options as presented on Page 2 of the staff report; and 2) choose among the long-term revenue enhancements strategies as presented on Page 3. Staff was concentrating on amending the business license ordinance as the primary vehicle for providing a supplemental source of revenue.

Council Member Carlson preferred deferring action until after the November 2, 2004, parcel tax election.

Discussion ensued regarding the elimination of funding for two full-time equivalent positions in the Police Department and one full-time position in Administration. The information was being presented to show the cost savings of making those positions permanently vacant.

In response to Mayor McKeithen, Finance Director Johns said the paying down of unfunded pension liabilities would begin in fiscal year 2006-07 as part of the budget process.

Council Member Carlson clarified the recommendations were guidelines for the next budget and future budgets. The assumptions in the box on Page 2 of the staff report were the items to be changed and incorporated into the next budget.

MOTION (McKeithen) -- to conceptually change the way the budget is prepared to incorporate the recommended actions on Page 2 of the staff report dated October 20, 2004, with the addition of implementing a surcharge not only for excavation permits but also for landscaping permits, fill permits, and other related activities. In addition, to incorporate a consultant who costs less than \$15,000 or will return to Council for review and approval, to review the gross receipt basis for business license tax for construction and real estate trades to include recommended amounts in accordance with the four criteria set forth on Page 3 of the staff report (equitability, consistency with other communities, set annually through the budget process, and set at a level to offset a catastrophic loss of discretionary revenues). Further, staff is to prepare a recommended phase-in over the next four years, depending upon the need, with various alternatives from year to year, as well as what happens with the parcel tax on November 2, 2004.

Council Member Janz had requested that the analysis of potential revenue enhancements include all the items Council had discussed and displayed in one table.

Council Member Carlson thought the motion should be separated by 1) the assumptions in the box on Page 2; and 2) by the revenue enhancement measures on Page 3.

Finance Director Johns addressed Council Member Janz' concern regarding the omission of a table and indicated that any one of the four long-term revenue enhancement opportunities could generate between \$500,000 and \$2.1 million, relatively equivalent to one another. Staff believed Council should focus on one strategy rather than a combination because each one would require voter approval.

Mayor McKeithen believed Council had discussed all the options over the past few weeks and the time had come to finally make a decision and take action.

Council Member Carlson agreed; however, until the parcel tax either passed or failed, the philosophical questions of whether the measures were supplemental to or supplanting the parcel tax could not be answered. He believed action should be deferred until the City Council Meeting of November 17, 2004, when Council could determine the goal.

Council discussion continued on the pros and cons of deferral, the merits of looking at the four criteria to determine a formula, and the need for a list of all alternatives presented in a table format for future Councils or other organizations.

Vice Mayor Conwell believed the most influential item was the passage of the parcel tax that would generate \$1.8 million. Council should defer action until after the election.

Mayor McKeithen said Council made a promise in the language of Measure O and was troubled by deferring action.

Council Member Carlson disagreed and believed Council had accomplished a great deal during the many special meetings and study sessions. The time had come to give firm direction to staff on what goals Council wanted to achieve. Council would be better able to determine the goals after the election.

MAIN MOTION DIED FOR LACK OF A SECOND

SUBSTITUTE MOTION-- to approve the proposed revenue enhancements and cost reduction actions as presented on Page 2 of the staff report dated October 20, 2004, and to defer other action until after the election on November 2, 2004.

Council Member Janz believed the action, combined with the parcel tax, had fulfilled Council's promise to the electorate. Future actions would be for a particular purpose, either to supplement or supplant the parcel tax.

Council Member Marsala believed by limiting the action, people would not be confused before the passage of Measure O.

City Manager Robinson clarified the cost savings and revenue enhancements that were identified in the staff report represented an action that would be realized in next year's budget. The study of road impact fees and other related issues was also in place. What

remained were the revenue enhancement measures to supplement/supplant the parcel tax. Council needed to provide direction to staff on which measures to pursue and by what timeline.

Mayor McKeithen wanted to take action that evening for staff to pursue the options. Whether the parcel tax passed or not was not an issue.

Council discussion continued on the merits of requesting staff to pursue the options or defer the action until after the election when the goal could be determined. Council Members Janz and Marsala agreed to work with Finance Director Johns to develop a list of all alternatives with the relevant numbers and presented in a table format. The majority of Council favored approving the proposed revenue enhancements and cost reduction actions and deferring other action until after the election.

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

22. DISCUSSION OF MUNICIPAL CODE SECTION 12.06.100 - STANDARDS FOR WORK IN THE PUBLIC RIGHT OF WAY

Director of Public Works Duncan Jones presented the staff report summarizing the current status of Municipal Code Section 12.06.100 passed in 1999 that provided guidelines and was applicable specifically for new landscaping and new construction projects. If existing landscaping was determined to be hazardous or posed a physical obstruction, abatement was subject to being deemed a public nuisance on a complaint-based basis. Most people complied upon receipt of the first notice; a small percentage of complaints were actually referred to the city attorney. The question for discussion was whether a different level of activity should be undertaken, such as inspection of all streets to actively look for hazards, or a modification of the current ordinance to incorporate existing landscaping.

City Manager Jim Robinson clarified the item was before Council as a result of a public comment from the previous meeting. Staff wanted to explain the rules and past practice and determine whether Council wanted to pursue the issue.

Council Member Janz recalled when the item was discussed at the General Plan Committee in 1999. He believed if the ordinance was going to be revised, it should be referred to the General Plan Committee.

Discussion centered on the issue of enforcement. The question was whether the problem had become severe enough that the Town needed to take action to clear the right-of-way.

City Attorney Marc Hynes stated the ordinance was written to proceed on a complaint-based, case-by-case basis. If a situation existed where rocks and logs were creating a safety hazard, then action was taken on that particular property.

Council Member Carlson believed in extreme cases, the Police Department could notify the Public Works staff of traffic hazards.

City Manager Robinson said staff removed obvious obstacles on a weekly basis. He noted part of the problem was residents' perception of what the actual rules were. Some believed nothing should be within 3' of the curb; and in actuality, the rules said 5" high for vegetation and abutting the pavement was acceptable.

Mayor McKeithen believed the real issue was that nothing was being done to enforce the ordinance. Discussion continued on the merits of the ordinance as it was written.

City Attorney Hynes said unless Council wanted to revisit authorizing a Code Enforcement Officer, having a complaint-based ordinance was common for smaller jurisdictions and was a cost-controlled measure.

Mayor McKeithen said a two-pronged test was necessary: 1) was there a safety hazard; and 2) was there a complaint. The community needed to know what was required and what the criteria were.

City Manager Robinson stated every city struggled with the issue of compliance. Council needed to establish the standards and what level of enforcement was required.

Mr. John Worthing, Atherton, believed the pavement should be clear within 3 feet. He was concerned that the Building Department, Police Department, and Public Works Department were not adequately enforcing or informing people regarding the Municipal Code.

Phil Lively, Atherton, explained when the ordinance was crafted, the Lindenwood area was a developed community with extensive existing landscaping. The ordinance was developed for new landscaping and existing landscaping was "grandfathered." The Lindenwood Homeowners' Association notified those residents, on an annual basis, whose landscaping posed obstructions and/or safety hazards.

Council discussion continued on whether any action was necessary, whether the Police Department should be involved in enforcing the ordinance, and the Building Department's responsibility for informing/enforcing the ordinance for new construction.

City Manager Robinson restated the issues: 1) amend the ordinance as it related to vegetation 5" high and abutting the pavement; 2) continue to enforce the ordinance on a complaint basis and ensure follow-up by staff; 3) ensure new construction complied with the ordinance.

No action was taken.

Mayor McKeithen called for a recess at 10:05 p.m. The meeting reconvened at 10:12 p.m.

23. CONSIDERATION OF A RESOLUTION SUPPORTING PROPOSITION 1A, “PROTECTION OF LOCAL GOVERNMENT REVENUES,” A BALLOT INITIATIVE ON THE NOVEMBER 2, 2004 STATEWIDE BALLOT TO RESTRICT THE STATE LEGISLATURE’S ABILITY TO TAKE LOCAL GOVERNMENT FUNDING

City Manager Jim Robinson stated Proposition 1A was supported by the Governor; Menlo Park Fire Protection District; and the cities of Redwood City, Burlingame, Foster City, San Carlos, Belmont, San Bruno, and Daly City. The proposition, in essence, would restrict the State’s ability to utilize cities, counties, and school districts as sources of income to bail out its own revenue shortfalls. There had been some opposition as well as a bipartisan effort to put the issue on the ballot. Council was being asked to adopt a resolution to indicate its support of Proposition 1A.

Mayor McKeithen stated Proposition 1A, more than any other proposition, directly affected the Town of Atherton and moved to adopt the resolution.

Council Member Marsala wrote an article in support of Proposition 1A for *The Almanac* and was in attendance when the Governor spoke in support of the proposition at a League of California Cities meeting. Proposition 1A was a compromise agreement with the Governor. Council Member Marsala seconded the motion.

MOTION – to adopt Resolution No. 04-22 supporting Proposition 1A, “Protection of Local Government Revenues” a ballot initiative, to restrict the State Legislature’s ability to take local government funding.

Council Member Janz believed a better, more creative solution should have been crafted by the legislature and considered Proposition 1A to be a missed opportunity to straighten out the funding mechanisms of the State for the various levels of government. The proposition solved one problem and created another by institutionalizing and making permanent a system that was already dysfunctional. He would abstain on the motion.

Vice Mayor Conwell supported the motion although he had concerns about some provisions.

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

24. PUBLIC COMMENTS

There were no public comments.

25. ADJOURNMENT

The meeting was adjourned at 10:17 p.m.

Respectfully submitted,

Linda Kelly, Acting City Clerk

Minutes prepared by:

Kathi Hamilton

TOWN OF ATHERTON

CLAIMS LIST

October 2004

Payroll Checks	4839 - 5016	\$ 50,201
Electronic Transfers		398,068
A/P Checks	18330 – 18869	866,987
TOTAL		\$1,265,056

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 4839 – 5016 (payroll) and 18330 – 18869 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$1,265,055; are true and correct, and that there are sufficient funds for payment.

James H. Robinson
City Manager

The above claims, check numbers 4839 – 5016 (payroll) and 18330 – 18869 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$1,265,055; are true and correct, and are authorized for payment.

Kathy McKeithen
Mayor, Town of Atherton

SOURCE OF FUNDS

101	General Fund	877,829
105	Tennis Fund	200
201	Special Parcel Tax	351,167
202	Transportation	
203	Gas Tax Fund	10,854
210	Road Construction Impact Fees	
211	Park Grants Fund	173
213	Library Special Revenue Fund	956
401	General Capital Projects	19,411
402	Storm Drainage	
403	Atherton Channel District	294
404	Park Playground Improvement	
406	Facilities Construction	
610	Vehicle Replacement	
611	Computer Maint. & Replacement	2,020
612	Administrative Services	2,110
614	Workers Compensation Insurance	
715	Evans Estate	42
TOTAL		1,265,056



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: JOHN P. JOHNS, FINANCE DIRECTOR
DATE: FOR THE MEETING OF NOVEMBER 17 2004
SUBJECT: MONTHLY FINANCIAL REPORT, OCTOBER, 2004

RECOMMENDATION:

Receive the Monthly Financial Report for October 2004.

INTRODUCTION:

The attached schedules show revenues and expenditures and fund balance for all funds as of October 31st, 2004.

HIGHLIGHTS

General Fund expenditures for the four months ended October 31st, 2004, have amounted to \$2,343,375 or 29% of the \$8,046,585 budgeted for the fiscal year. For the four months ended October 31st, 2004, General Fund revenues amounted to \$1,257,567 or 16% of the \$7,985,565 estimated for the year.

By comparison, General Fund expenditures amounted to 32% of budgeted expenditures for the four months ended October 31st, 2003. Additionally, General Fund revenues amounted to 17% of estimated revenues for the four months ending October 31st, 2003.

FISCAL IMPACT:

None

Prepared by:

John P. Johns
Finance Director

Approved by:

James H. Robinson
City Manager

TOWN OF ATHERTON
Revenue Summary
For the Month ended October 31st, 2004

Fund	Revenue Source	2003-04 Estimate	Current Period Revenues	Year to Date Revenues	% Received
	Property Tax	\$ 3,060,517	244,076	\$ 256,549	8%
	Sales and Use Tax	169,906	6,000	37,521	22%
	Other Taxes	893,010	15,785	142,771	16%
	Licenses & Permits	1,606,949	123,471	542,209	34%
	Fines & Forfeitures	50,000	1,490	9,174	18%
	Revenue from Other Agencies	144,500	-	107,789	75%
	Charges for Services	354,622	29,693	125,588	35%
	Investment & Rental Income	401,900	2,498	15,880	4%
	Other Revenues	3,000	10,060	20,086	670%
	Total General Fund Revenues	6,684,404	433,073	1,257,567	19%
	Interfund (Operating) Transfers In	1,301,161	-	-	0%
101	General Fund Total	7,985,565	433,073	1,257,567	16%
Special Revenue Funds:					
105	Tennis	7,010	275	775	11%
201	Special Parcel Tax	1,858,000	-	-	0%
202	Transportation	178,500	14,598	73,034	41%
203	Street Improvement (Gas Tax)	147,000	11,971	51,009	35%
209	Law Enforcement	100,000	-	-	0%
210	Road Construction Impact Fees	400,000	42,676	147,975	37%
211	State Park Grants Fund	220,000	-	54,400	0%
213	Library	200,000	-	6,867	3%
	Total	3,110,510	69,520	334,060	11%
Capital Project Funds:					
401	Capital Improvement	-	-	-	
402	Storm Drainage	-	-	-	
403	Channel Drainage District	48,530	3,500	3,677	8%
404	Park Playground Improvement	2,205	-	-	0%
405	Middlefield Road Grants	-	-	-	
406	Facilities Construction	-	-	-	
	Total	50,735	3,500	3,677	7%
Internal Service Funds:					
610	Vehicle Replacement	66,000	-	-	
611	Information Technology	98,661	-	-	0%
612	Administrative Services	285,815	-	-	0%
614	Workers Compensation Insurance	-	-	-	
	Total	450,476	-	-	0%
Trust and Agency Funds:					
715	Evans Creative Design	45,150	-	1,720	4%
	Total	45,150	-	1,720	4%
Total Revenues		11,642,436	506,093	1,597,024	14%

TOWN OF ATHERTON
Expenditure Summary
For the Month Ended October 31st, 2004

Fund	Description Department	2004-05 Budget	Current Period Expenditures	Year to Date Expenditures	% Spent
101	General Fund				
	11 City Council	\$ 20,204	\$ 555	3,713	18%
	12 City Manager	509,226	60,518	172,870	34%
	16 City Attorney	176,228	12,936	39,528	22%
	18 Finance	456,797	42,925	143,416	31%
	25 Building	975,249	83,697	209,066	21%
	40 Police	4,002,909	471,206	1,247,386	31%
	50 Public Works	1,805,972	203,245	527,396	29%
	Contingency	100,000	-	-	0%
	Total General Fund Expenditures	<u>8,046,585</u>	<u>875,082</u>	<u>2,343,375</u>	<u>29%</u>
	Interfund (Operating) Transfers Out	-	-	-	0%
101	General Fund Total	<u>\$ 8,046,585</u>	<u>\$ 875,082</u>	<u>\$ 2,343,375</u>	<u>29%</u>
Special Revenue Funds:					
105	Tennis	-	1,640	3,932	
201	Special Parcel Tax	2,591,910	351,167	410,329	16%
202	Transportation	211,120	-	-	0%
203	Street Improvement (Gas Tax)	147,000	10,854	33,961	23%
209	Law Enforcement	100,000	17,751	45,677	46%
210	Road Impact Fees	400,000	-	-	0%
211	State Park Grants	80,000	173	5,942	7%
213	Library Fund	49,870	546	7,682	15%
	Total	<u>3,579,900</u>	<u>382,131</u>	<u>507,523</u>	<u>14%</u>
Capital Project Funds:					
401	Capital Improvement	367,902	19,411	43,135	12%
402	Storm Drainage	21,394	-	-	0%
403	Channel Drainage District	400,800	294	1,284	0%
404	Park Playground Fund	-	-	-	
405	Middlefield Road Grants	-	-	-	
406	Facilities Construction	-	-	-	
	Total	<u>790,096</u>	<u>19,705</u>	<u>44,419</u>	<u>6%</u>
Internal Service Funds:					
610	Vehicle Replacement	98,853	-	-	0%
611	Information Technology	104,625	2,020	8,235	8%
612	Administrative Services	287,309	15,719	155,612	54%
614	Workers Compensation Insurance	-	-	-	
	Total	<u>490,787</u>	<u>17,739</u>	<u>163,847</u>	<u>33%</u>
Trust and Agency Funds:					
715	Evans Creative Design	43,287	42	4,959	11%
	Total	<u>43,287</u>	<u>42</u>	<u>4,959</u>	<u>11%</u>
	Total Expenditures	<u>12,950,655</u>	<u>1,294,699</u>	<u>3,064,123</u>	<u>24%</u>

Budget Summary
Fiscal Year 2004-05
As of October 31st, 2004

Fund	Description	Beginning Fund Balance July 1, 2004	Revenues to Date	Transfers to Date	Expenditures To Date	Ending Fund Balance to Date
101	General Fund	6,060,452	1,257,567	-	2,343,375	4,974,644
	Special Revenue Funds:					
105	Tennis	11,867	775		3,932	8,710
201	Special Municipal Tax	963,223	-		410,329	552,894
202	Transportation	145,636	73,034		-	218,670
203	Street Improvement (Gas Tax)	45,050	51,009		33,961	62,098
209	Law Enforcement	12,174	-		45,677	(33,503)
210	Road Construction Impact Fees	632,420	147,975		-	780,395
211	State Park Grants	(5,663)	-		5,942	(11,605)
213	Library Special Revenue Fund	1,075,913	6,867		7,682	1,075,098
	Sub Total	<u>2,880,620</u>	<u>279,660</u>	-	<u>507,523</u>	<u>2,652,757</u>
	Capital Projects Funds:					
401	Capital Improvement	302,895	-		43,135	259,760
402	Storm Drainage	48,225	-		-	48,225
403	Channel Drainage District	404,424	3,677		1,284	406,817
404	Park Playground Improvement	1,309	-		-	1,309
405	Middlefield Road Grants	1,514	-		-	1,514
406	Facilities Construction	65,382	-		-	65,382
	Sub Total	<u>823,749</u>	<u>3,677</u>	-	<u>44,419</u>	<u>783,007</u>
	Internal Service Fund					
610	Vehicle Replacement	449,451	-		-	449,451
611	Information Technology	106,856	-		8,235	98,621
612	Administrative Services	122,618	-		155,612	(32,994)
614	Workers Compensation Insurance	10,871	-		-	10,871
	Sub Total	<u>689,796</u>	-	-	<u>163,847</u>	<u>525,949</u>
	Trust and Agency Funds					
715	Evans Creative Design	<u>117,129</u>	<u>1,720</u>		<u>4,959</u>	<u>113,890</u>
	Sub Total	<u>117,129</u>	<u>1,720</u>	-	<u>4,959</u>	<u>113,890</u>
	Grand Total	<u>\$ 10,571,746</u>	<u>\$ 1,542,624</u>	<u>\$ -</u>	<u>\$ 3,064,123</u>	<u>\$ 9,050,247</u>



CITY COUNCIL STAFF REPORT

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

FROM: JOHN P. JOHNS, FINANCE DIRECTOR

DATE: FOR THE MEETING OF NOVEMBER 17, 2004

SUBJECT: QUARTERLY INVESTMENT REPORT, SEPTEMBER, 2004

RECOMMENDATION:

Note, receipt and file.

INTRODUCTION:

This is the quarterly status report of the Town's investments in the Local Agency Investment Fund (LAIF) and the San Mateo County Investment Pool (SMCIP) for the quarter ending September 30th, 2004.

DISCUSSION

As of September 30, 2004 the Town had a total investment of **\$ 9,850,707**. The total interest earning for the quarter ending September 30th, 2004 amounted to **\$58,548**. The funds are invested in the San Mateo County Investment Pool (SMCIP) and the Local Agency Investment Fund (LAIF).

During the third quarter of 2004, the reported effective yield of the LAIF amounted to 1.67 percent. This compares to an average net earnings reported by the San Mateo County Investment Pool of 2.6 percent.

Investment at SMCIP: San Mateo County Investment Pool is created and managed by the County Treasurer. As of September 30th, the County's investment pool carried investments with a total par value of \$2.0167 billion and an average duration to maturity of 1.9 years. The Town's investment

with the San Mateo County Investment Pool as of September 30th amounted to \$6,619,137 or 67% percent of the town's total investment holdings.

Attachment 1 to this staff report provides a summary of the composition of the San Mateo County Investment Pool according to investment vehicle.

Investment in LAIF: Local Agency Investment Fund (LAIF) is created and managed by the California State Treasurer as part of the Treasurers' Pooled Money Investment Account (PMIA). As of August 31st, 2004, (the most recent date for which PMIA data was available), the Treasurer's Pooled Money Investment account had total assets of \$50.6 billion and an average duration to maturity of 193 days. The Town's investment with LAIF as of September 30th, 2004 amounted to \$3,231,570 or 33 percent of the total funds invested.

FISCAL IMPACT:

Informational only.

Prepared by:

Approved by:

/s/ John P. Johns

John P. Johns
Finance Director

James H. Robinson
City Manager

POOLED MONEY INVESTMENT ACCOUNT
SUMMARY OF INVESTMENT DATA
A COMPARISON OF AUGUST 2004 WITH AUGUST 2003
(DOLLARS IN THOUSANDS)

	AUGUST 2004	AUGUST 2003	CHANGE
Average Daily Portfolio	\$ 50,462,951	\$ 52,329,425	\$ -1,866,474
Accrued Earnings	\$ 71,670	72,327	-657
Effective Yield	1.672	1.632	+0.04
Average Life-Month End (In Days)	193	221	-28
Total Security Transactions			
Amount	\$ 14,704,996	\$ 17,732,213	\$ -3,027,217
Number	314	400	-86
Total Time Deposit Transactions			
Amount	\$ 2,757,600	\$ 2,750,100	\$ +7,500
Number	138	137	+1
Average Workday Investment Activity	\$ 793,754	\$ 975,348	\$ -181,594
Prescribed Demand Account Balances			
For Services	\$ 817,056	\$ 1,053,666	\$ -236,610
For Uncollected Funds	\$ 132,315	\$ 153,331	\$ -21,016

INVESTMENT DIVISION SELECTED INVESTMENT DATA
ANALYSIS OF THE POOLED MONEY INVESTMENT ACCOUNT PORTFOLIO
(000 OMITTED)

		August 31, 2004		
<u>TYPE OF SECURITY</u>	<u>AMOUNT</u>	<u>PERCENT OF PORTFOLIO</u>	<u>DIFFERENCE IN PERCENT OF PORTFOLIO FROM PRIOR MONTH</u>	
Government				
Bills	\$ 2,464,369	4.87	+0.84	
Bonds	0	0.00	0.00	
Notes	4,708,169	9.31	+0.03	
Strips	0	0.00	0.00	
Total Government	\$ 7,172,538	14.18	+0.87	
Federal Agency Coupons	\$ 4,684,231	9.26	+0.94	
Certificates of Deposit	8,090,039	15.99	-1.49	
Bank Notes	350,000	0.69	-0.47	
Bankers' Acceptances	0	0.00	0	
Repurchases	0	0.00	0	
Federal Agency Discount Notes	9,911,735	19.60	-2.64	
Time Deposits	6,136,795	12.13	+0.78	
GNMAs	407	0.00	0	
Commercial Paper	5,110,489	10.10	-3.30	
FHLMC/Remics	364,302	0.72	0	
Corporate Bonds	1,522,537	3.02	+0.21	
AB 55 Loans	4,731,036	9.35	+0.14	
GF Loans	2,509,300	4.96	+4.96	
Reversed Repurchases	0	0.00	0.00	
Total (All Types)	\$ 50,583,409	100.00		

INVESTMENT ACTIVITY

	AUGUST 2004		JULY 2004	
	<u>NUMBER</u>	<u>AMOUNT</u>	<u>NUMBER</u>	<u>AMOUNT</u>
Pooled Money	314	\$ 14,704,996	329	\$ 15,277,594
Other	9	335,270	3	597
Time Deposits	138	2,757,600	158	4,465,790
Totals	461	\$ 17,797,866	490	\$ 19,743,981
PMIA Monthly Average Effective Yield	1.672		1.604	
Year to Date Yield Last Day of Month	1.637		1.604	

COUNTY OF SAN MATEO
ESTIMATED SUMMARY OF POOL EARNINGS
FOR THE 1ST QUARTER ENDED SEPTEMBER 30, 2004

	09/30/04 <u>Par Value</u>	Gross <u>Earnings</u>
<u>Fixed Income Investments</u>		
U S Treasury Notes	\$305,000,000	\$1,364,072
Corporate Notes	\$337,000,000	\$2,528,037
Asset Backed Securities	\$22,813,514	\$25,460
Federal Agencies	\$460,000,000	\$2,825,744
Floating Rate Securities	\$134,000,000	\$130,186
<u>Short Term Investments</u>		
U S Treasury Notes	\$25,000,000	\$112,064
Corporate Notes	\$54,000,000	\$491,234
Federal Agencies	\$348,115,000	\$728,911
Floating Rate Securities	\$93,000,000	\$211,877
Commercial Paper	\$201,000,000	\$40,576
LAIF	\$37,000,000	\$162,952
SUBTOTAL - ACCRUED INCOME	<u>\$2,016,928,514</u>	<u>\$8,620,913</u>
<u>Realized Gain/Loss & Interest Received</u>		
Repurchase Agreements		\$1,076,681
U S Treasury Notes		\$869,783
Corporate Notes		\$1,649,021
Asset Backed Securities		\$140,257
Federal Agencies		\$1,798,430
Floating Rate Securities		\$627,370
Commercial Paper		\$352,762
Certificate of Deposit		\$1,161
LAIF		\$8,405
Securities Lending Income		\$122,012
GROSS POOL RATE/EARNINGS*	2.83%	<u><u>\$15,266,795</u></u>



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: FOR THE MEETING OF NOVEMBER 17, 2004

**SUBJECT: AMENDMENTS TO BUILDING STANDARDS – PARTIAL RATIFICATION
OF MENLO PARK FIRE PROTECTION DISTRICT PERTAINING TO FIRE
SPRINKLERS**

RECOMMENDATION: Adopt ordinance partially ratifying amendments to the Menlo Park Fire Protection District Code pertaining to fire sprinklers. The partial ratification will make fire sprinkler requirements applicable to new construction in the Town. Existing buildings or structures other than residential structures will be obliged to install fire sprinklers as required by the amendments to the Menlo Park Fire Protection District Code.

BACKGROUND: At the Regular City Council Meeting of October 20, 2004, the City Council introduced an ordinance which will ratify amendments to the Menlo Park Fire Protection District Code only insofar as to require fire sprinklers in new construction exceeding 1,000 square feet in area or any new building with a basement exceeding 250 square feet in area. Provisions of the amended District Fire Code as they apply to existing residential structures are not ratified. Section 2 of the ordinance ratifying a part of Ordinance No. 29 points out that as to existing residential buildings, the amendments to the Menlo Park Fire Protection District Code regarding sprinkler system requirements do not apply in the Town of Atherton. These requirements will apply to existing buildings or structures in the Town which are not residential buildings.

Prepared by:

Approved by:

/s/ Marc G. Hynes

Marc G. Hynes
City Attorney

James H. Robinson
City Manager

Attachment

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
RATIFYING A PART OF ORDINANCE NO. 29 OF THE MENLO PARK FIRE
PROTECTION DISTRICT AMENDING DISTRICT FIRE PREVENTION CODE
PERTAINING TO AUTOMATIC FIRE SPRINKLER SYSTEM REQUIREMENTS
RELATING TO NEW RESIDENTIAL CONSTRUCTION IN THE TOWN OF ATHERTON**

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

SECTION 1: Ordinance No. 29 of the Menlo Park Fire Protection District entitled "An Ordinance Amending District Fire Prevention Code" passed and enacted by the District Board of the Menlo Park Fire Protection District on May 18, 2004, and incorporated by this reference is partially ratified insofar as it pertains to new construction in the Town of Atherton and as further described in Section 2, below. Pursuant to the provisions of Section 13869.7 of the California Health & Safety Code, the City Manager or designee is directed to file copies of all applicable findings and amendments to the Menlo Park Fire Protection District Fire Prevention Code with the appropriate State agency.

SECTION 2: Ordinance No. 29 Menlo Park Fire Protection District Section 1.1 is ratified. Section 1.2 is ratified with respect to subsections(a) and (b)(i) and subsection (c). Subsection 1.2 (b)(ii) shall not apply to existing residential buildings or structures in the Town of Atherton, and with that exception is otherwise ratified.

SECTION 3: That the City Council hereby declares that it would have passed this Ordinance word by word, sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that the 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 affect the validity of the remaining parts of this Ordinance.

SECTION 4: This ordinance is exempt from the provisions of Chapter 3 (commencing with Section 21100) of Division 13 of the public Resources Code (California Environmental Quality Act (CEQA)) pursuant to the State CEQA Guidelines Section 15308 as an action that assures the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

SECTION 5: Upon passage and adoption of this ordinance, Town of Atherton Ordinance No. 548, passed and adopted on February 18, 2003, is hereby repealed.

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 20th day of October, 2004.

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the 17th day of November, 2004, by the following vote:

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

Kathy McKeithen, Mayor
Town of Atherton

ATTEST:

Linda Kelly, Acting 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 COUNCIL
JAMES H. ROBINSON, CITY MANAGER**

FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF NOVEMBER 17, 2004

**SUBJECT: ADOPTION OF RESOLUTIONS AUTHORIZING APPLICATION FOR
ROBERTI-Z'BERG-HARRIS URBANIZED AREA NEED BASIS PROGRAM
GRANTS TO REHABILITATE THE HOLBROOK-PALMER PARK
CARRIAGE HOUSE RESTROOMS, KITCHEN AND SECOND FLOOR AND
TO RECONSTRUCT THE HOLBROOK-PALMER PARK TENNIS COURTS
AND COMMITTING THE REQUIRED THIRTY PERCENT LOCAL
MATCH**

RECOMMENDATION:

Adopt resolutions authorizing staff to submit applications for Roberti-Z'berg-Harris Urbanized Area Need Basis (RZH) program grants to rehabilitate the Holbrook-Palmer Park Carriage House restrooms, kitchen and second floor and to reconstruct the Holbrook-Palmer Park tennis courts and committing the required thirty percent (30%) local match.

INTRODUCTION:

In July, the State of California Department of Parks and Recreation issued a call for projects to be funded by various grant programs. The RZH program provides State Funds for the development of capital projects to provide safe, open and accessible local park and recreational facilities for increased recreational opportunities. Project applications are due by December 10, 2004. A total \$3.884 million is available for the RZH program statewide in the 2004/05 fiscal year for cities with populations under 300,000. The minimum grant request is \$30,000 and the maximum is \$250,000 for each project.

The Park and Recreation Commission considered these grant programs at their September 1, 2004 meeting. The Commission recommended that applications be submitted for rehabilitating the carriage house and tennis courts.

In order to submit an application for a project, the following is required:

1. Resolutions of the City Council approving the filing of the applications for the grants, and certifying the availability of the required local share of the total project cost. This project will be constructed within the next three years, so the City Council can commit to providing the local share in a future years budget.
2. Documentation of completed environmental clearance. A categorical exemption under California Environmental Quality Act (CEQA) is required for each project. An environmental clearance document is being prepared by staff and can be approved at staff level for categorical exemptions.
3. Location map, site plan, project proposal, cost estimate and photographs. These items are being prepared by staff to be ready for submittal on December 10.

ANALYSIS:

The first project recommended for the RZH application consists of rehabilitating the historic Carriage House restrooms, kitchen and second floor to complement and enhance recreational uses of the building. The restrooms and kitchen need new cabinets, plumbing fixtures and appliances. The second floor requires structural modifications to make the floor sufficiently strong for holding classes and meetings. It also requires finishing the space, including refinishing the floor, adding walls, upgrading the ceiling and adding lighting.

The second project recommended for the RZH application consists of the complete reconstruction project for the six tennis courts surface and fence, as designed by Beals Sport and previously advertised for bids. The project contemplated is the full build project that was originally bid, including all amenities such as benches and drinking fountains. This will allow maximum leverage of local funds to install these amenities at a 30% cost to the Town.

FISCAL IMPACT:

The estimate for the Carriage House Rehabilitation project is \$300,000, based on cost estimates by staff, including design, construction, inspection and contingency. The estimate for the Tennis Courts Reconstruction project is \$350,000, based on the Dryco Construction bid, including construction, inspection and contingency. The Town needs to commit to fund \$90,000 for the Carriage House grant and \$105,000 for the Tennis Courts grant. There are no additional grants available for the Carriage House project. Other State grants will be sought for the tennis courts in case this grant is not successful, however two State grants cannot match each other, so local funds will need to be budgeted for the match requirement. A maximum of \$192,500 from the Parcel Tax fund will need to be committed and budgeted for these two projects in future years. The Tennis Fund will contribute approximately \$42,500 towards the local match for the tennis courts. The following chart summarizes these two grant programs:

Carriage House Rehabilitation

Grant Amount \$210,000
Local Match \$90,000
Total Cost \$300,000

Tennis Courts Reconstruction

Grant Amount \$245,000
Local Match \$105,000
Total Cost \$350,000

CONCLUSION:

These projects will dramatically improve the utilization of Holbrook-Palmer Park and significantly upgrade its recreational opportunities. The cost to the Town would leverage significant State funds.

Prepared By:

Approved:

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

James H. Robinson
City Manager

Attachments:
 Resolutions (2)

RESOLUTION 04-

**2002 RESOURCES BOND ACT
ROBERTI-Z'BERG-HARRIS URBANIZED AREA NEED-BASIS PROGRAM**

**RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON APPROVING
THE APPLICATION FOR GRANT FUNDS FOR THE ROBERTI-Z'BERG-HARRIS
URBANIZED AREA NEED-BASIS PROGRAM UNDER THE CALIFORNIA CLEAN
WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION
ACT OF 2002 FOR REHABILITATION OF THE HISTORIC CARRIAGE HOUSE**

WHEREAS, the people of the State of California have enacted the CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002, which provides funds to the State of California for grants to eligible Applicants; and

WHEREAS, the California Department of Parks and Recreation has been delegated the responsibility for the administration of the Roberti-Z'berg-Harris Urbanized Area Need-Basis Program for grants and the grant Project shown above within the State, setting up necessary procedures; and

WHEREAS, said procedures established by the California Department of Parks and Recreation require the Applicant's Governing Body to certify by resolution the approval of the Application before submission of said Application to the State; and

WHEREAS, the Applicant will enter into a Contract with the State of California for the Project;

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

1. Approves the filing of an Application for local assistance funds from the Roberti-Z'berg-Harris Urbanized Area Need-Basis Program under the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002; and
2. Certifies that the Applicant has or will have sufficient funds to operate and maintain the Project; and
3. Certifies that the Applicant has reviewed, understands, and agrees to the General Provisions contained in the Contract shown in the Procedural Guide; and
4. Certifies that the Grantee has or will have available, prior to commencement of any work on the Project, the required Match;
5. Certifies that the Project conforms to the recreation element of any applicable city or county general plan; and

6. Appoints the City Manager as agent to conduct all negotiations, execute and submit all documents including, but not limited to, applications, agreements, payment requests, and so on, which may be necessary for the completion of the Project.

* * * * *

I hereby certify that the foregoing Resolution No. ___ was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on this 17th day of November 2004, by the following vote:

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

Kathy McKeithen, Mayor
Town of Atherton

ATTEST:

Linda Kelly, Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney

RESOLUTION 04-

**2002 RESOURCES BOND ACT
ROBERTI-Z'BERG-HARRIS URBANIZED AREA NEED-BASIS PROGRAM**

**RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON APPROVING
THE APPLICATION FOR GRANT FUNDS FOR THE ROBERTI-Z'BERG-HARRIS
URBANIZED AREA NEED-BASIS PROGRAM UNDER THE CALIFORNIA CLEAN
WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION
ACT OF 2002 FOR RECONSTRUCTION OF THE HOLBROOK-PALMER PARK TENNIS
COURTS**

WHEREAS, the people of the State of California have enacted the CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002, which provides funds to the State of California for grants to eligible Applicants; and

WHEREAS, the California Department of Parks and Recreation has been delegated the responsibility for the administration of the Roberti-Z'berg-Harris Urbanized Area Need-Basis Program for grants and the grant Project shown above within the State, setting up necessary procedures; and

WHEREAS, said procedures established by the California Department of Parks and Recreation require the Applicant's Governing Body to certify by resolution the approval of the Application before submission of said Application to the State; and

WHEREAS, the Applicant will enter into a Contract with the State of California for the Project;

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

1. Approves the filing of an Application for local assistance funds from the Roberti-Z'berg-Harris Urbanized Area Need-Basis Program under the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002; and
2. Certifies that the Applicant has or will have sufficient funds to operate and maintain the Project; and
3. Certifies that the Applicant has reviewed, understands, and agrees to the General Provisions contained in the Contract shown in the Procedural Guide; and
4. Certifies that the Grantee has or will have available, prior to commencement of any work on the Project, the required Match;
5. Certifies that the Project conforms to the recreation element of any applicable city or county general plan; and



Town of Atherton

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF NOVEMBER 17, 2004

**SUBJECT: APPROVAL OF RECOMMENDATION FROM THE CALTRAIN
CORRIDOR SUBCOMMITTEE TO ALLOW OVERNIGHT PARKING AT
THE ATHERTON TRAIN STATION**

RECOMMENDATION

Consider approval of a recommendation from the Caltrain Corridor Subcommittee to allow overnight parking at the Atherton train station to accommodate riders utilizing Caltrain service to San Francisco and San Jose International Airports as part of the free parking promotion at the station previously approved on a trial basis by the City Council.

BACKGROUND

The Town of Atherton recently approved free parking in the Caltrain public parking lot to encourage ridership in an effort to ensure the continuation of Caltrain service in Atherton. The free parking was approved at the September 15, 2004 City Council meeting on a trial basis through March 31, 2005.

The Caltrain Corridor Subcommittee now wishes to expand the free parking to allow for overnight parking for those connecting at local area airports. Members of the Committee have on several occasions mentioned the convenience of using Caltrain from Atherton to SFO and San Jose airports. In an effort to publicize this convenience and encourage additional ridership from the Atherton station, it has been proposed that overnight parking be allowed at the station. It was recommended that the residents' permit lot, as well as the public parking lot, be available for overnight parking. The proposal has been discussed with the Police Department and they have no objections to it.

FISCAL IMPACT

The provision of overnight parking does not create any additional financial impacts on the Town.



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF NOVEMBER 17, 2004

**SUBJECT: RECORDATION AND REMOVAL OF THE OLD GAZEBO IN
HOLBROOK-PALMER PARK**

RECOMMENDATION:

Authorize Park staff to record by digital photography and remove the old gazebo in Holbrook-Palmer Park.

INTRODUCTION:

Item N of the 2003 Action Plan Master List of the *Strategic Park and Recreation Plan* for Holbrook-Palmer Park calls for the old gazebo to be either remodeled or removed. Park staff has evaluated the gazebo and determined that the cost to remodel would exceed the cost to replace the gazebo with a new wood structure built to match the old structure.

ANALYSIS:

The gazebo is no longer safe for use. The wood structure is rotted and not suitable for rehabilitation, so a remodel would require replacement of most of the wood parts of the gazebo. There is currently no funding source for reconstructing the gazebo. If funding becomes available in the future, the gazebo can be reconstructed from the photographs.

Staff recommended to the Park and Recreation Commission at their May 5, 2004 meeting that the gazebo be recorded and removed. The Commission unanimously agreed with the recommendation to record and remove the gazebo.

At the City Council meeting of May 19, 2004, the Atherton Heritage Association requested six months to attempt to find funding for the restoration of the gazebo. The Association obtained a bid from a contractor for \$32,000 and stated in a letter to the Town that they are unable to raise sufficient funds to cover this amount.

The Park and Recreation Commission considered this item again at their November 3, 2004 meeting, and recommended that the Town proceed with the recordation and removal.

FISCAL IMPACT:

Park staff can digitally photograph the gazebo using an existing digital camera. The photographs can be stored on a compact disc and on the Town's network server. Park staff can also dismantle and remove the gazebo and place in either a recycle or rubbish bin (depending on BFI's preference). Due to the condition of the gazebo, we estimate approximately two hours to remove and dispose of it. There would be no other costs involved.

Prepared By:

Approved:

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

James H. Robinson
City Manager

Attachments: Atherton Heritage Association Letter



Town of Atherton

CITY COUNCIL STAFF REPORT

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

**FROM: LINDA KELLY, ASSISTANT TO THE CITY MANAGER/
ACTING CITY CLERK**

DATE: FOR THE CITY COUNCIL MEETING OF NOVEMBER 17, 2004

SUBJECT: GENERAL PLAN COMMITTEE APPOINTMENT

RECOMMENDATION:

Approve the recommendation of the Screening Committee for the following appointment to commence November 18, 2004:

General Plan Committee: Todd Beardsley
(Two-year term)

BACKGROUND:

According to Atherton Municipal Code Section 2.37, the membership of the General Plan Committee shall consist of two Councilmembers, two Planning Commissioners and up to five residents who are not members of the City Council or Planning Commission. This appointment would fill a current vacancy on the General Plan Committee. Resident members shall not serve consecutively for no more than one full two-year term.

Prepared by:

Approved by:

Linda Kelly
Assistant to the City Manager/
Acting City Clerk

James H. Robinson
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF NOVEMBER 17, 2004

SUBJECT: CONSIDERATION OF DRAINAGE AT 401 FLETCHER DRIVE

RECOMMENDATION:

Advise the applicant, Mr. Frank J. Novak, that the Town staff initially planned to install a drainage system, as recommended by the Town-wide Drainage Study, but that the date for said construction is indefinite due to the uncertainty of funding. Also advise applicant that he may re-create the drainage swale, construct a valley gutter or install an engineered drainage system across his frontage to cure the street drainage problem created by the filling of the swale. Staff recommends that the City Council authorize the waiver of permit fees for this construction if undertaken by applicant. Also advise applicant that groundwater problems on individual properties are the responsibility of the affected property owner.

BACKGROUND:

Mr. Frank Novak of 401 Fletcher Drive submitted the attached letter, pictures and report to Town staff and asked to be included in the next City Council agenda.

The *Townwide Drainage Study* prepared by Nolte Associates in June of 2001 recommends that a drainage system be installed along Fletcher Drive and Ridgeview Drive to carry runoff to the bottom of the hill at Sutherland Drive. This work was not included in the 2002-2005 Parcel Tax Capital Improvement Program and was to be proposed by staff for inclusion in the 2006-2009 Parcel Tax Capital Improvement Program. However, the Parcel Tax has not passed, so the date of implementation of the project is uncertain.

Residents of many other streets in Atherton have minor drainage problems. Because the Town has insufficient funding to construct drainage systems to relieve minor drainage problems, many have taken it upon themselves to construct the projects on their street.

ANALYSIS:

The particular problem in front of 401 Fletcher Drive was caused by the filling of the swale along the road in front of 401 Fletcher. The drainage swale on both Fletcher Drive and Ridgeview Drive has been filled with gravel, river rock and large boulders by the property owner. These materials block the effective flow across the frontage during large storms. If the property owner were to recreate the swale, or replace it with an engineered drainage system, the street drainage could be kept away from the property.

A small swale has been re-dug across the frontage to allow backed up water to drain away. Staff visited the site after a moderate rainfall and found no standing water at the site, indicating that the existing drainage system is functional. A catch basin and pipe across the driveway of 41 Ridgeview appears to be adequate for fairly large storm flows, and the swale beyond 41 Ridgeview is steep, capable of handling even larger flows. The Nolte Study recommended a drainage system in this area because the flows during very heavy storms overtop the swale and cause erosion on the steep portion of Ridgeview Drive. This drainage system will also pick up the nuisance water from Alta Vista Drive and upper Fletcher Drive.

However, an additional problem that is affecting Mr. Novak’s olive trees is the presence of perched water in the hillsides. The aquifers in hills of the San Francisco Peninsula have been fully recharged in recent years due to above average rainfall, reduced pumping from municipal and other wells, and increased groundwater surcharge due to NPDES requirements. As the natural groundwater levels are restored, properties that have had no groundwater problems for 30+ years have begun to experience such problems within the last five years. The solution to these problems is the construction of sub-drains in the affected portion of the property. Sub-drain installation is the responsibility of the affected property owner.

FISCAL IMPACT:

The drainage system proposed by the Nolte study was estimated by Nolte to cost \$432,000 in 2001 dollars, equating to approximately \$475,000 in 2005 dollars. This cost may increase with implementation of new NPDES permit requirements to restrict flows to the Atherton Channel.

Prepared by:

Approved by:

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

James H. Robinson
City Manager

Attachments:

- Staff Pictures
- Letter from Mr. Novak
- Mr. Novak’s Pictures

Arborist's Report



CITY COUNCIL STAFF REPORT

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

FROM: JOHN P. JOHNS, FINANCE DIRECTOR

DATE: FOR THE MEETING OF NOVEMBER 17, 2004

**SUBJECT: CONSIDERATION OF FINANCE COMMITTEE RECOMMENDATIONS
REGARDING REVENUE ENHANCEMENT OPTIONS**

RECOMMENDATION:

Consider one of four revenue enhancement measures described within the body of this staff report for possible placement on a special election to be scheduled for March 2005.

DISCUSSION

On November 2nd, 2004, the voters in Atherton rejected a ballot measure that would have extended the current parcel tax for an additional four years. The number of ballots cast in favor of the parcel tax was 1,708 or 56 percent of the 3,018 total ballots cast.

Given the 2/3rds margin of approval required for the special tax measure, 2,012 of the 3,018 ballots cast (or 304 additional votes in favor) would have been required for passage.

As a result of the failure of Measure O, we have updated our intermediate range financial plan. This update is presented as Attachment 1 to this report. As indicated in Attachment 1, we are now projecting that General Fund expenditures will exceed General Fund revenues by \$3.5 million from Fiscal Years 2005-06 through 2008-09 (an operating deficit of \$787,000 per year). As a result, the General Fund balance is projected to amount to \$2.5 million or \$2 million less than the level of reserves required.

In order to rectify the imbalance between revenues and expenditures for fiscal years 2005-06 through 2008-09, staff recommends that the Town council place one of the following revenue enhancement measures on the ballot for March of 2005:

- A renewal of the existing parcel tax;

- A special assessment for public safety;
- A utility users tax; or,
- A modified gross receipts tax.

Any one of the measures identified above has the potential to generate \$1.85 million or more (the amount of funds that the parcel tax currently generates). However, these tax measures vary in the following respects:

- The extent to which the tax measure represents an equitable distribution of the tax burden amongst the electorate (equity);
- The degree to which the funding source can be relied upon to provide a stable and continuing source of revenue for the foreseeable future (dependability);
- The extent to which the tax measure appears to be in conformity with applicable statutes and prevailing practices of other taxing authorities (conformity);
- The likelihood that success on a given measure can be attained in light of the threshold required for approval (i.e. simple majority or super majority) and given recent indications of voter preferences (attainability).

In evaluating the extent to which the revenue enhancement measures satisfy the criteria identified above, we have taken into account the following observations.

Parcel Tax

The Parcel Tax approved by the electorate in March of 2001 provided for a maximum levy of approximately \$1.85 million.

At the regularly scheduled council meeting of October 20th, the City Council approved a package of adjustments to the Town's intermediate-range financial plan. The adjustments approved by council included a combination of revenue enhancement and cost savings measures to preserve existing financial reserves without having to rely upon an increase in the current parcel tax levy. (At present, the maximum levy for a single family dwelling in Atherton is \$750 per year).

The parcel tax has been in effect for 22 of the past 24 years. Additionally, the number of ballots cast in favor of the parcel tax in the November 2004 election exceeded by more than 30 percent the number of ballots cast in favor of the current parcel tax, which passed in March of 2001. (In March of 2001 1,275 votes were cast in favor of the parcel tax, 433 less than those voting in favor of measure O in November of 2004).

These observations indicate that a majority of the Town's residents look upon a parcel tax favorably. However, the recent failure of Measure O and the fact that three attempts were needed to attain voter approval of the parcel tax in 2001 suggest that the parcel tax rates only medium from the standpoint of attainability. Additionally, in light of the need to re-authorize the parcel tax every four-years and the 2/3^{rds} approval margin required, the parcel tax rates low from a dependability standpoint.

Special Assessment for Public Safety

Based upon a comparative analysis of revenues and expenditures of other California municipalities, we were able to identify two municipalities (Hillsborough and San Marino) that have implemented a special assessment for public safety. These assessments are levied in a manner similar to that of a parcel tax. Hence the only distinction between these special assessments and Atherton's Parcel Tax is that the entire amount of the proceeds from a special assessment for public safety would have to be spent upon the Police Department operations.

Presumably, the special assessment for public safety would be similar to the parcel tax in the following respects:

- Amount of the tax levy;
- The mode of distribution amongst the Town's 2,250 real estate parcels; and,
- Duration.

Because of the similarities between a parcel tax and a special assessment for public safety we would consider a special assessment for public safety to have a high rating from an equity standpoint and a low rating from a dependability standpoint.

Since we were able to identify only two California municipalities that have implemented a special assessment for public safety we would consider it to have rating of medium from a conformity standpoint.

From the perspective of attainability, we would consider such an assessment to have a low rating in light of the 2/3rds majority requirement and the fact that expenditures for public safety and that, unlike the parcel tax itself, there is no history of support within the community for a tax measure that would be dedicated exclusively to public safety.

Utility Users Tax

Based upon an analysis of utility franchise fees received during the past eight years, Atherton residents and educational facilities expend approximately \$20 million annually on gas, electric, water, and communications utilities.

In order to generate the \$1,850,000 necessary to replace the parcel tax, a tax rate of 9.3% would have to be levied upon all categories of utility consumption. The following table provides a summary of the expected average cost per household and the resultant utility tax that would be imposed.

Utility Users Tax Impact Analysis

Utility Category	Average Monthly Consumption	Taxes Assessed (at 9.33%)
Gas & Electric	\$540	\$50
Cable	38	4
Water	172	16
Telephone	100	9
Total	\$850	\$79

According to data provided by the State Controller, more than 100 California cities have utility users tax ordinances in effect. Additionally, it appears to be the prevailing practice of California jurisdictions to have utility users tax ordinances that do not contain a sunset clause. Utility users taxes therefore rate highly from the perspectives of dependability and conformity. Since utility users taxes are customarily employed based upon a specified percentage of utility consumption, such taxes rate high from an equity standpoint as well.

To assess how attainable passage of a utility users tax ordinance tax is, we analyzed the results of utility users tax measures placed on the November 2004 ballot, using data available on the League of Women Voters smartvoter.org website. The results of this analysis present a mixed picture for utility users taxes. While efforts to establish or increase utility users taxes were largely unsuccessful, the reverse was true for those municipalities attempting to *extend existing* utility users taxes.

Analysis of November 2004 Utility Users Tax Measures

City	Percent in Favor	Proposed Tax Rate Amount or Increase	Type
Fremont	44.7%	6.0%	New
Marina	50.9%	5.0%	New
Saratoga	19.2%	4.0%	New
Greenfield	18.2%	3.0%	Increase
Palm Springs	25.3%	3.0%	Increase
King City	28.2%	2.0%	Increase
Berkeley	37.0%	1.5%	Increase
Salinas	34.6%	Variable	Increase
Pinole	62.3%	-	Continuation
El Cerrito	65.0%	-	Continuation
Hercules	76.8%	-	Continuation
Pinole	62.30%	-	Continuation
Cudahy	77.07%	-	Continuation
Grover Beach	81.70%	-	Continuation

As indicated in the preceding table:

- Of the eight measures for new or increased utility taxes placed on the November 2004 ballot, only one measure, the City of Marina’s, was successful.
- All six of the municipalities proposing to continue their utility users taxes at current rates were successful.

Since Atherton would be imposing a new utility users tax we would give the utility users tax a rating of low for attainability.

Adopting a gross receipts-based business license tax for the real estate and construction industries

Based upon an analysis of building permit and real property transfer tax revenue collected, during the past eight years, the Town of Atherton can expect to issue construction permits with a permitted value of \$93 million each year. Additionally, it is reasonable to expect that approximately \$218 million in real estate transactions will occur annually.

If the Town were to implement a gross receipts-based tax on the real estate and construction industries, the following tax rates and tax basis would have to apply to generate the revenues necessary to replace the parcel tax:

- 1.25% on the permitted value of new construction; and,
- .53% on the value of title policies issued on real estate transactions.

The following table provides an illustration of the tax burden that would be levied on construction firms and title companies.

Illustrative Effect of Business License Tax

<i>Taxable event</i>	<i>Tax Basis</i>	<i>Tax Rate Applied</i>	<i>Business Tax Proceeds</i>
Construction permit issued on a 4,000 square foot residence with a permitted value of \$250 per square foot.	\$1,000,000	1.23%	\$ 12,300
Title insurance policy issued at face value for a \$3 million sale of a single family dwelling	\$3,000,000	0.53%	\$15,900

From an equity standpoint, an amendment to the business tax ordinance would represent an improvement over the current business license ordinance. This is due to the fact that the construction industry generates a disproportionate share of the Town’s business license income even though the real estate industry accounts for a substantially higher dollar volume of activity as measured in terms of the total dollar sales. However, modifying the town’s business license ordinance could result in a concentration of the tax burden on those residents who are either entering the town or improving their homes in the event that the construction and real estate industry is able to pass this additional cost of doing business on to their customers. Accordingly, we

consider a modification of the business license tax ordinance to have a rating of medium from an equity standpoint.

As is the case with utility users taxes, it is the prevailing practice amongst California jurisdictions to have business tax ordinances that do not contain a sunset clause and are therefore in effect unless subsequently rescinded. We therefore consider a gross-receipts based business tax to be a highly dependable source of income. Additionally, based upon research provided to Council in a previous staff report, it is not uncommon for a municipality to have a gross-receipts based business license tax. However, we were only able to identify one municipality (Hillsborough) that actually applies its taxing authority to title insurance companies. We therefore believe that from a conformity standpoint the gross receipts business tax has a rating of medium.

From an attainability standpoint, we consider the gross-receipts business tax to have a high rating. This is due to the fact that:

- A simple majority would be required to pass a modification to the business license ordinance; and,
- The tax burden that would be assessed represents a small fraction of the volume of business being conducted.

The following table presents a summary of our analysis.

Measure (approval threshold)	Criteria and Ranking			
	Equity	Dependability	Conformity	Attainability
Parcel Tax (2/3rds majority)	High	Low	High	Medium
Special Assessment for Public Safety (2/3rds majority)	High	Low	Medium	Low
Utility Users Tax (simple majority)	High	High	High	Low
Modified Business License Tax (simple majority)	Medium	High	Medium	High

CONCLUSION

The tax measures under consideration for placement on the November ballot vary in how well they satisfy the qualities of equity, dependability, conformity and attainability.

In staff’s judgment, the special assessment for public safety and the utility users taxes should be eliminated from consideration given the low probability of attaining success on these measures.

Pursuant to consultation with the Finance Committee, the modification to the business license ordinance is preferable to another attempt at renewing the parcel tax. This is due to the fact that the

modification to the business license tax has is rated more highly from the standpoints of attainability and dependability.

According to the City Attorney, the Council must, by unanimous vote, declare a fiscal emergency in order to place a general tax measure on a special election ballot if it decides to proceed with the option of modifying the business license tax ordinance.

FISCAL IMPACT

According to the San Mateo County Elections Department, holding a special election in March would cost \$19,000.

Prepared by:

Approved by:

/s/ John P. Johns

John P. Johns
Finance Director

James H. Robinson
City Manager

Attachment 1: Intermediate-range financial plan update

Attachment 1 November update to the intermediate-range financial plan

Attachment 1 General Fund Revenue and Expenditure Analysis Fiscal Years 2005 through 2009 (Revised as of November 2004)

Revenue Category	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Property Tax	\$ 3,256,096	\$ 3,119,951	\$ 3,244,749	\$ 3,374,539	\$ 3,509,521	\$ 3,649,902
Sales Taxes	153,870	169,906	175,004	180,254	185,661	191,231
Other Taxes	903,527	893,010	1,016,210	1,056,858	1,099,133	1,143,098
Licenses and Permits	1,864,413	1,736,949	1,754,319	1,771,862	1,789,580	1,807,476
Fines and Forefeitures	68,230	50,000	51,000	52,020	53,060	54,122
Aid from other Agencies	176,093	144,500	124,500	124,500	124,500	124,500
Service Charges	363,751	401,900	421,995	443,095	465,249	488,512
Use of Money and Property	110,000	354,622	493,694	453,571	399,133	329,576
Other Revenues	0	3,000	3,000	3,000	3,000	3,000
Total Revenues	\$ 6,895,980	\$ 6,873,839	\$ 7,284,471	\$ 7,459,699	\$ 7,628,839	\$ 7,791,417
<i>Revenue Growth</i>	<i>7.7%</i>	<i>-0.3%</i>	<i>6.0%</i>	<i>2.4%</i>	<i>2.3%</i>	<i>2.1%</i>
Expenditure Category						
Contingency - Non Departmental	93,000	100,000	100,000	100,000	100,000	100,000
Council	15,197	20,204	21,012	21,747	22,617	23,296
Manager	514,163	509,226	489,595	509,179	529,546	545,432
Attorney	190,664	176,228	185,040	194,292	204,006	210,738
Finance	375,378	456,797	435,069	452,471	470,570	484,687
Building	875,544	975,249	1,014,259	1,054,829	1,097,023	1,129,933
Police	3,594,069	4,057,909	4,188,225	4,355,754	4,629,985	4,768,884
Public Works	1,625,901	1,805,972	1,894,211	1,969,980	2,048,779	2,110,242
Total Expenditures	\$ 7,283,916	\$ 8,101,585	\$ 8,327,410	\$ 8,658,252	\$ 9,102,525	\$ 9,373,213
<i>Expenditure Growth</i>	<i>5.3%</i>	<i>11.2%</i>	<i>2.8%</i>	<i>4.0%</i>	<i>5.1%</i>	<i>3.0%</i>
Surplus (Deficiency) of Revenues over Expenditures	(387,936)	(1,227,746)	(1,042,939)	(1,198,553)	(1,473,686)	(1,581,796)
Add (subtract) Operating Transfers In (out)						
Parcel Tax	799,000	799,000	-	-	-	-
Library Fund Operating Transfer	-	-	-	-	-	-
Police on the Street	-	-	-	-	-	-
Gas Tax/Road Impact Fees	200,000	352,161	352,161	352,161	352,161	352,161
CIP Support	150,000	150,000	75,000	75,000	75,000	75,000
Subtotal Operating Transfers	1,149,000	1,301,161	427,161	427,161	427,161	427,161
Beginning Fund Balance	5,284,633	6,045,697	6,119,112	5,503,334	4,731,941	3,685,416
Ending Fund Balance	\$ 6,045,697	\$ 6,119,112	\$ 5,503,334	\$ 4,731,941	\$ 3,685,416	\$ 2,530,780
Less Reserve Requirements:						
Insurance	500,000	500,000	500,000	500,000	500,000	500,000
Cash Flows and Contingencies	3,200,000	3,200,000	3,200,000	3,200,000	3,200,000	3,200,000
Building Inspections	600,000	600,000	600,000	600,000	600,000	600,000
Comensated Absences	561,000	476,850	405,323	344,524	292,846	248,919
Equals Unreserved Fund Balance	\$ 1,184,697	\$ 1,342,262	\$ 798,011	\$ 87,417	\$ (907,430)	\$ (2,018,138)
Increase (Decrease) in Fund Balance	\$ 761,064	\$ 73,415	\$ (615,778)	\$ (771,392)	\$ (1,046,525)	\$ (1,154,635)



Town of Atherton

CITY COUNCIL STAFF REPORT

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

FROM: LINDA KELLY, ASSISTANT TO THE CITY MANAGER/ACTING CITY CLERK

DATE: FOR THE MEETING OF NOVEMBER 17, 2004

**SUBJECT: DISCUSSION AND CONSIDERATION OF A SPECIAL MUNICIPAL
ELECTION ON MARCH 8, 2005**

RECOMMENDATION:

Should the City Council wish to set a Special Election for March 8, 2005, it is recommended that the appropriate steps be taken in accordance with election law. The last date for the City Council to call for a Special Election on March 8, 2005 is Friday, December 10, 2004.

Depending upon the Council's preference, the required Council actions are as follows.

- (1) Should the Council wish to pursue a Special Election to submit to the voters an amendment to the business license tax ordinance, the following actions would be required:
- a. Adoption of a Resolution Declaring a Fiscal Emergency; and
 - b. Adoption of an Ordinance Calling an Election to Submit to the Voters an Ordinance Amending Sections 5.12.150, 5.12.160 5.12.080 and 5.12.140 of the Atherton Municipal Code Relating to the Business License Tax; and
 - c. Adoption of a Resolution setting priorities for filing Written Arguments regarding a City Measure and directing the City Attorney to prepare an Impartial Analysis.

OR

- (2) Should the Council wish to submit the renewal of the parcel tax to the voters at a Special Election to be held on March 8, 2005, the following action would be required:

- a. Adopt a motion adjourning the present Regular City Council meeting to a specified time on Thursday, December 9, 2004, which would allow for a 15-day public notice to take place and a public hearing to occur on December 9, 2004 in advance of the December 10, 2004 deadline to adopt an ordinance calling a Special Election on March 8, 2005 to submit to the voters an ordinance adopting a Parcel Tax for Fiscal Years 2005-06 through 2008-2009.

BACKGROUND / ANALYSIS:

March 8, 2005 Special Municipal Election for a Business License Tax

(1) Resolution Declaring a Fiscal Emergency

The California Constitution requires that an amendment to a general tax such as a business license tax be placed before the voters at a general election at which Council Member seats would be voted on. The next Council election is scheduled for November 2006. In order to hold an election earlier than November 2006, Article XIII, Section C(2) of the California Constitution provides that a general tax may be considered at a special election where the regular legislative body has determined that an emergency exists. This section is quoted here.

Article XIII, Section C(2)(b) No local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

The attached draft Resolution Declaring a Fiscal Emergency has been prepared in order to allow for the calling of a special election earlier than November 2006. In order to be in effect, the resolution requires a unanimous vote of the City Council.

(2) Ordinance Calling an Election to Submit to the Voters an Ordinance Amending Sections 5.12.150, 5.12.160 5.12.080 and 5.12.140 of the Atherton Municipal Code Relating to the Business License Tax

Subsequent to the adoption of the Resolution Declaring a Fiscal Emergency, the City Council would need to entertain a motion to introduce, read by title only, waive further reading, and adopt an ordinance calling an election to submit to the voters an ordinance amending Sections 5.12.150, 5.12.160 5.12.080 and 5.12.140 of the Atherton Municipal Code relating to the business license tax. In accordance with the requirements of the California Elections Code, this ordinance would:

- a. Call a Special Municipal Election for the next regular election date provided for in the California Elections Code, which is March 8, 2005.
- b. Specify the text of the ordinance to be submitted to the voters.

- c. Specify the statement of the measure to be submitted to the voters (the ballot question). Can be no more than 75 words, per the California Elections Code.
- d. Request the services of the Chief Elections Official of San Mateo County in conducting the election, to be consolidated with any other election held on that same day covering the jurisdiction of Atherton.

(3) Resolution Setting Priorities for Filing Written Arguments regarding a City Measure and Directing the City Attorney to Prepare an Impartial Analysis

In accordance with California Elections Code Section 9282, the City Council must determine whether it wishes to exercise its rights to author and sign ballot arguments regarding the measure. The argument for or against a ballot measure shall not exceed 300 words. The final date for filing a direct argument is 5:00 p.m. on Friday, December 17, 2004.

With respect to rebuttal arguments, if any person submits arguments against a City measure, and an argument has been filed in favor of a City measure, copies of argument against the City measure will immediately be sent to the person or persons filing the argument in favor of the City measure. The person or persons filing the arguments in favor of a City measure may prepare and submit a rebuttal argument not to exceed 250 words. Upon receipt of the proponent's direct argument in favor of the measure, a copy shall be sent to the person or persons filing the argument against the City measure who may submit a rebuttal argument not to exceed 250 words. The final date to submit a rebuttal argument to the City Clerk is 5:00 p.m., Monday, December 27, 2004.

If all of the Councilmembers wish to sign the argument in favor of the measure, it is suggested that a less-than-a-quorum committee convene to write the argument and bring it to the Council for approval and signature at the next regular Council meeting on December 15, 2004, in order to meet the December 17, 2004 deadline.

The draft resolution as attached gives the Council the alternatives of appointing one or more, or all, of the Councilmembers to write the argument. Staff is asking for direction on this matter and the resolution will be finalized as appropriate. The resolution needs to be enacted upon at the present Council meeting if the Council wishes to designate itself or one of its members.

In addition to the Council, any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations, may file a written argument for or against any city measure. If more than one argument for or against is submitted to the City Clerk, the City Clerk shall select the argument in favor and the argument against to be printed in the sample ballot in accordance with California Elections Code Section 9287.

The proposed resolution also directs the City Attorney to prepare an impartial analysis of the measure, which would be due in the Office of the City Clerk by 5:00 p.m. on December 17, 2004. The impartial analysis may not exceed 500 words in length.

March 8, 2005 Special Municipal Election for a Parcel Tax

Should the City Council instead wish to return to the voters at a Special Municipal Election on March 8, 2005 for a renewal of the current Parcel Tax, the following action would be required:

- Adopt a motion adjourning the present Regular City Council meeting to a specified time on Thursday, December 9, 2004, which would allow for a 15-day public notice to take place and a public hearing to occur on December 9, 2004 in advance of the December 10, 2004 deadline to adopt an ordinance calling a Special Election on March 8, 2005 to submit to the voters an ordinance adopting a Parcel Tax for Fiscal Years 2005-06 through 2008-2009.

A timeline for the actions for this type of election would be as follows:

November 17, 2004 – City Council to Adjourn its Regular Meeting to December 9, 2004 (time to be set).

November 23, 2004 – City Clerk to publish and post notice of public hearing for December 9, 2004.

December 3, 2004 – City Clerk to post agenda for Adjourned Regular Meeting and transmit proposed ordinance and resolution to City Council.

December 9, 2004 – City Council to hold Adjourned Regular Meeting, hold public hearing, adopt ordinance calling election, and adopt resolution setting priorities for filing arguments and directing impartial analysis to be prepared.

December 10, 2004 – Last day to call election for ballot measure. City Clerk to transmit ordinance to County Board of Supervisors and County Elections Official prior to 5:00 p.m.

The argument and rebuttal deadlines would remain the same as previously stated in this report.

Unless the City Council wishes to modify the parcel tax ordinance, the ordinance and the wording of the measure would remain the same as was presented to the voters at the November 2, 2004 General Election/Special Municipal Election. If the Council wishes to make modifications, direction to staff at this time would be appropriate.

FISCAL IMPACT:

The County Elections Official has provided the estimate of \$19,000 in order to conduct a Special Election on March 8, 2005. If a Special Election were to be called for June 7, 2005 or another date set by the City Council, the cost is also estimated to be approximately \$19,000. Funds were not budgeted for this additional election but are available within the general administration budget due to staff vacancies.

Prepared by:

Approved by:

Linda Kelly
Assistant to the City Manager/
Acting City Clerk

James H. Robinson
City Manager

- Attachments: Draft Resolution declaring a Fiscal Emergency
Draft Ordinance Calling a Special Election to amend the Business License Tax
Draft Resolution regarding Ballot Arguments and Impartial Analysis
Form of Statement to be filed by Author of Argument
Current Atherton Municipal Code Sections regarding Business License Taxes

RESOLUTION 04-___

**A RESOLUTION OF THE TOWN OF ATHERTON
DECLARING A FISCAL EMERGENCY**

WHEREAS, the Town of Atherton relies upon the parcel tax to generate \$1.85 million in discretionary revenues annually; and

WHEREAS, Measure O, a special tax measure to renew the Town of Atherton Special Municipal Tax for an additional four years beginning fiscal year 2005-2006 failed to attain the necessary 2/3rds majority for approval of the electorate at the general election held on November 2, 2004; and

WHEREAS, the Town's intermediate-range financial plan has been revised to reflect the loss of special municipal tax funds; and

WHEREAS, the Town's revised financial plan now projects that the Town's General Fund Balance for the year ended June 30th, 2009, will amount to approximately \$2 million less than the reserves required pursuant to previous City Council resolutions unless significant reductions are made to essential Town services, including police and canceling needed streets and drainage improvements; and

WHEREAS, without a significant supplemental funding source, the Town will be obliged to reduce staffing levels by an estimated twenty percent (20%) beginning July 1, 2005, and will be further obliged to reduce the amount of funds it expends on its capital improvement program by forty percent (40%) at that time; and

WHEREAS, these reductions will severely affect the health, safety and general welfare of the citizens of the Town; and

WHEREAS, the only practical source of funds required to avoid the above reductions are through increases in taxes which require voter approval in advance of the next general election scheduled for November, 2006; and

WHEREAS, Article XIII, Section C(2) of the California Constitution provides that a general tax may be considered at a special election under where the regular legislative body has determined that an emergency exists.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby declares a fiscal emergency necessitating the consideration of a general tax measure at a special election to be held on March 8, 2005.

* * * * *

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 17th day of November, 2004, by the following vote:

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

Kathy McKeithen, Mayor
Town of Atherton

ATTEST:

Linda Kelly
Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes

Marc G. Hynes
City Attorney

ORDINANCE NO. _____
AN ORDINANCE OF THE TOWN OF ATHERTON
CALLING AN ELECTION TO SUBMIT TO THE VOTERS
AN ORDINANCE AMENDING SECTIONS 5.12.080, 5.12.140, 5.12.150
AND 5.12.160 OF THE ATHERTON MUNICIPAL CODE RELATING TO THE BUSINESS
LICENSE TAX

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

SECTION 1. ELECTION CALLED. The City Council of the Town of Atherton hereby submits the following ordinance to the voters of the Town of Atherton at a Special Municipal Election to be held on Tuesday, March 8, 2005.

SECTION 2. DECLARATION OF FISCAL EMERGENCY. Whereas, Town of Atherton Resolution No. 04-___ declared a fiscal emergency by a unanimous vote of the Council, necessitating the placing of this ordinance before the voters.

SECTION 3. FULL TEXT OF MEASURE. The complete text of the proposed ordinance shall be:

“AN ORDINANCE OF THE TOWN OF ATHERTON, CALIFORNIA, AMENDING SECTIONS
5.12.080, 5.12.140, 5.12.150 AND 5.12.160 OF THE ATHERTON MUNICIPAL CODE
RELATING TO THE BUSINESS LICENSE TAX

The people of the Town of Atherton do ordain as follows:

SECTION 1: Section 5.12.080 of the Atherton Municipal Code is hereby amended to read:

5.12.080 Tax due and payable when.

A. Business license fees for all Category I enterprises as defined in Section 5.12.150 will be due and payable on July 1st of each year and will become delinquent on July 31st of that year.

B. Business license fees for Category II enterprises as defined in Section 5.12.150 will be due and payable upon acceptance of a building permit application.

C. Business license fees for Category III enterprises as defined in Section 5.12.150 will be due and payable upon close of escrow.

SECTION 2. Section 5.12.140 of the Atherton Municipal Code is hereby amended to read:

Delinquent tax—Penalty.

For Category I enterprises, failure to pay a license tax when due will result in a penalty assessment of \$250.

SECTION 3. Section 5.12.150 of the Atherton Municipal Code is hereby amended to read:

5.12.150 Business license categories.

A. Persons or firms conducting business within the town shall pay a business license tax according to the tax rate specified for that type of business. Tax rates are based on the following categories:

1. Category I: Persons or firms with two or more employees doing business as:

Contractors performing residential maintenance and repairs that are not subject to the issuance of a building permit

Alarm installers

Private patrol

Grounds keeping and landscaping firms

Grounds/landscaping

Swimming pools

Delivery vehicles

2. Category II: Persons or firms performing residential construction and renovation activities that are subject to the issuance of a building permit by the Atherton Building Department.

3. Category III: Real Estate Title Insurance Companies issuing title insurance policies on real property located within the geographic boundaries of the Town of Atherton.

SECTION 4. Section 5.12.150 (A)(4) and Section 5.12.150(B) of the Atherton Municipal Code are hereby repealed.

SECTION 5. Section 5.12.160 of the Atherton Municipal Code is hereby amended to read:

5.12.160 Tax Designated

A. Except as otherwise provided, the license tax for those in business, conducting business, supplying services, or delivering goods within the town shall be as follows:

1. Category I: Two-hundred fifty dollars.

2. Category II: 1.23 percent of the permitted value of construction activity performed by the contractor as determined by the Town Building Department.

3. Category III: .53 percent of the face value of each title insurance policy issued by Category III businesses insuring the title of real property located within the Town (to be a charge payable by the party requesting such title insurance and/or the party paying for such title insurance and to be remitted by the title insurance company to the Town within five days after collection thereof by the title insurance company).

SECTION 6. Section 5.12.160(4)(B) and (C) are hereby repealed.

SECTION 7. SEVERABILITY. If any provision of this ordinance of the application thereof to any person or circumstances is held invalid such invalidity shall not affect any other provision or applications, and to this end the provisions of this ordinance are declared to be severable.

SECTION 8. EFFECTIVE DATE - AMENDMENT OR REPEAL. The authorization to levy a tax under this ordinance shall commence with the Fiscal Year 2005-2006, beginning July 1, 2005 and shall continue thereafter until amended or repealed. This ordinance or any provision thereof may only be amended or repealed by approval of a majority of the voters voting on the measure at any initiative or referendum election.

This ordinance shall be adopted if approved as an initiative measure by a majority of the voters voting at a Special Municipal Election to be held on Tuesday, March 8, 2005, and go into effect ten (10) days after the City Council has, by resolution, declared that such initiative measure was approved by a majority of the voters voting thereon.”

SECTION 4. CONDENSED STATEMENT OF MEASURE. The manner in which the proposed measure shall appear on the ballot shall be:

“Shall the Atherton Business License Tax Ordinance be amended to enact increases to the existing business license tax and revise the taxed business categories in order to raise monies for general fund purposes such as, but not limited to, capital improvement projects and public safety services that otherwise might be reduced due to the loss of other local tax revenues?”

Yes _____ No _____

SECTION 5. PUBLICATION. This ordinance shall be posted in at least three public places within the Town of Atherton, and shall become effective immediately upon its passage and approval. The City Clerk is authorized and directed to give notice of election in accordance with Chapter 2 (commencing with section 12100) of Division 12 of the California Elections Code.

SECTION 6. CONSOLIDATION. Due to the economics involved, the public interest would best be served by consolidating such Special Election with any other elections to be held on Tuesday, March 8, 2005 and by contracting with the County of San Mateo for election services. The Town of Atherton does hereby request the Board of Supervisors of the County of San Mateo to consolidate said Special Election with any other election to be held on March 8, 2005. The City Manager is hereby authorized and directed to enter into a contract with the Chief Elections Official of the County of San Mateo for the purpose of providing election services in connection with said Special Election.

SECTION 7. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid such invalidity shall not affect any other provision or application, and to this end the provisions of the ordinance are declared to be severable.

SECTION 8. EFFECTIVE DATE. This ordinance calling an election shall become effective immediately upon its adoption by the City Council of the Town of Atherton.

* * * * *

I hereby certify that the foregoing ordinance was adopted at a regular meeting of the City Council of the Town of Atherton held on _____, 2004, by the following roll call vote:

*AYES: Councilmembers:
NOES: Councilmembers:
ABSTAIN: Councilmembers:
ABSENT: Councilmembers:*

Kathy McKeithen, Mayor
Town of Atherton

ATTEST:

Linda Kelly, Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes

Marc G. Hynes
City Attorney

Resolution No. 04-

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF
ATHERTON, CALIFORNIA, SETTING PRIORITIES FOR FILING
WRITTEN ARGUMENTS REGARDING A CITY MEASURE AND
DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL
ANALYSIS**

WHEREAS, a Special Municipal Election is to be held in the Town of Atherton, California, on March 8, 2004, at which there will be submitted to the voters the following measure:

“Shall the Atherton Business License Tax Ordinance be amended to enact increases to the existing business license tax and revise the taxed business categories in order to raise monies for general fund purposes such as, but not limited to, capital improvement projects and public safety services that otherwise might be reduced due to the loss of other local tax revenues?”

Yes _____ No _____

NOW, THEREFORE, the City Council of the Town of Atherton, California, does resolve, declare, determine and order as follows:

1. That the City Council authorizes

[All Members of the City Council

(OR)

(Name certain Members of the City Council)

(OR)

_____]

to file a written argument in favor of the City measure as specified above, accompanied by the printed name(s) and signature(s) of the person(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California and to change the argument until and including the date fixed by the City Clerk after which no arguments for or against the City measure may be submitted to the City Clerk, which is set for December 17, 2004.

2. That the City Council directs the City Clerk to transmit a copy of the measure to the City Attorney, unless the organization or salaries of the office of the City Attorney are affected. The City Attorney shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. If the measure affects the organization or salaries of the office of the City Attorney, the City Clerk shall prepare the impartial

analysis. The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments (December 17, 2004).

3. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

* * * * *

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 17th day of November, 2004, by the following vote:

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

Kathy McKeithen, Mayor
Town of Atherton

ATTEST:

Linda Kelly
Acting City Clerk

APPROVED AS TO FORM:

/s/ Marc Hynes

Marc Hynes
City Attorney