AGENDA
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
July 17, 2002
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

7:00 P.M.  1.  PLEDGE OF ALLEGIANCE

7:03 P.M.  2.  ROLL CALL  McKeithen, Janz, Carlson, Fisher, Conwell

7:05 P.M.  3.  PRESENTATIONS

A.  Letter of Recognition of Heroism by Sean Devlin
B.  Certificate of Appreciation – Alice Marston, Arts Committee

7:15 P.M.  4.  COUNCIL REPORTS

7:25 P.M.  5.  PUBLIC COMMENTS  (only for items which are not on the agenda – limit of three minutes per person)

7:35 P.M.  6.  STAFF REPORTS

7:45 P.M.  7.  PRESENTATION

Drug Awareness Resistance Education (D.A.R.E.) - Officer Bruce Potts

8:00 P.M.  8.  CONSENT CALENDAR  (Items 8 - 18)


9.  APPROVAL OF BILLS AND CLAIMS FOR JUNE, 2002 IN THE AMOUNT OF $636,846

10.  ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR JUNE 2002
11. AUTHORIZATION TO ISSUE PURCHASE ORDER TO NORTH CENTRAL SERVICE COOPERATIVE FOR TWO SHARP BRAND PHOTOCOPY MACHINES AND ENTER INTO MAINTENANCE AGREEMENT WITH PINNACLE DOCUMENT SYSTEMS FOR SAID MACHINES

Recommendation: Authorize the issuance of a purchase order for two Sharp brand photocopy machines from the North Central Service Cooperative and authorize entering into a maintenance agreement for said machines with Pinnacle Document Systems. Funding is included in the adopted FY 2002-2003 Budget.

12. APPROVAL OF SIDE LETTER TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN OF ATHERTON AND THE ATHERTON POLICE OFFICERS’ ASSOCIATION FOR THE PERIOD JULY 1, 2000 THROUGH JUNE 30, 2005

Recommendation: Adopt a Side Letter to the Memorandum of Understanding between the Town of Atherton and the Atherton Police Officers’ Association for the period of July 1, 2000 through June 30, 2005 regarding a holiday pay issue.

13. ADOPTION OF A RESOLUTION AUTHORIZING HOURLY SALARY RANGES FOR PART-TIME AND TEMPORARY EMPLOYEES FOR FISCAL YEAR 2002-03

Recommendation: Adopt Resolution No. 02-___ authorizing hourly salary ranges for part-time and temporary employees for Fiscal Year 2002-03, effective for the payroll period beginning July 7, 2002.

14. ADOPTION OF A RESOLUTION AMENDING THE TOWN OF ATHERTON CONFLICT OF INTEREST CODE FOR DESIGNATED EMPLOYEES

Recommendation: Adopt Resolution No. 02-__ amending the Town’s Conflict of Interest Code to add additional positions as described in the resolution.

15. ADOPTION OF A RESOLUTION RECOMMENDING THAT SAN MATEO COUNTY FLOOD CONTROL DISTRICT IMPOSE CHARGES FOR FUNDING THE 2002-03 COUNTY-WIDE NATIONAL POLLUTANT DISCHARGE AND ELIMINATION SYSTEM GENERAL PROGRAM

ADOPTION OF A RESOLUTION IMPOSING ADDITIONAL CHARGES
APPROVAL OF AN AGREEMENT FOR SAID PROGRAM REGARDING CHARGES

Recommendation: Adopt the two proposed resolutions and approve the agreement regarding charges for funding the National Pollutant Discharge and Elimination System Program for the County of San Mateo, and authorize the Mayor to sign the agreement.

16. ACCEPTANCE OF WORK AND AUTHORIZATION TO RECORD NOTICE OF COMPLETION – MIDDLEFIELD ROAD PATCHING PROJECT NO. 02-001

Recommendation: Accept the work and authorize the recording of the notice of completion for Middlefield Road Patching Project No. 02-001.

17. APPROVAL OF PLANS AND SPECIFICATIONS FOR WEST MIDDLEFIELD ROAD OVERLAY PROJECT NO. 02-003

Recommendation: Approve the plans and specifications for West Middlefield Road Overlay Project No. 02-003.

18. APPROVAL OF PLANS AND SPECIFICATIONS FOR POLICE GARAGE STORAGE BUILDING AND FENCE– PROJECT NO. 02-004

Recommendation: Approve the plans and specifications for the Police Garage Storage Building and Fence, Project No. 02-004.

PUBLIC HEARING (Item No. 19)

8:05 P.M. 19. PUBLIC HEARING – APPEAL OF BUILDING OFFICIAL DECISION REGARDING ISSUANCE OF BUILDING PERMIT FOR A RETAINING WALL AT 85 ORCHARD HILLS DRIVE

Recommendation: Open public hearing, hear testimony, close public hearing. Consider appeal of Building Official decision.

REGULAR AGENDA (Items 20 - 24)

8:25 P.M. 20. CONSIDERATION OF POSSIBLE ACTION OF A REQUEST FOR REIMBURSEMENT OF PERMIT FEE FOR DEAD OR DANGEROUS TREE

Recommendation: Consider the request of Douglas M. Heller for reimbursement of a $250.00 tree removal permit, and give direction to staff.
8:40 P.M.  21. DISCUSSION AND POSSIBLE ACTION RE: ATHERTON CHANNEL DRAINAGE DISTRICT – LIABILITY INSURANCE, WATER TESTING, EASEMENTS

Recommendation: Consider issues related to water testing (E.O.A. proposal), easements, liability insurance, and give direction to staff.

9:10 P.M.  22. INTRODUCTION AND FIRST READING OF AN ORDINANCE AMENDING CHAPTER 5.20 OF THE ATHERTON MUNICIPAL CODE – REVISIONS OF SECTION 5.20.010 REGARDING PERMITS

Recommendation: Consider an Ordinance amending regulations pertaining to soliciting activities and introduce the ordinance for first reading.

9:20 P.M.  23. INTRODUCTION AND FIRST READING OF AN ORDINANCE AMENDING CHAPTER 15.40 OF THE ATHERTON MUNICIPAL CODE – CONSTRUCTION REGULATIONS

Recommendation: Consider an Ordinance amending Chapter 15.40 regarding demolition sales, operations of vehicles and required signs and penalties for violation, and introduce the ordinance for first reading.

9:45 P.M.  24. ACCEPTANCE OF STATUS REPORT BY CITY MANAGER OF ANNUAL REVIEW OF LITTLE LEAGUE COMPLIANCE WITH PARK LICENSE AGREEMENT

Recommendation: Accept the status report from the City Manager regarding compliance by the Little League to the terms of the “License Agreement”, receive input from the City Council regarding Little League’s compliance with the agreement and mitigation measures, and direct the City Manager to meet with the President of Little League to ensure compliance with the agreement and conduct an annual review.

10:00 P.M.  25. PUBLIC COMMENTS

10:15 P.M.  26. ADJOURNMENT

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

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

Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the City Clerk’s Office at (650) 752-0529. Notification of 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (29 CRF 35.104 ADA Title II)
Mayor Carlson called the meeting to order at 5:05 p.m.

1. ROLL CALL

PRESENT: Kathy McKeithen
James R. Janz
Alan B. Carlson
Dianne M. Fisher
William R. Conwell

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

2. PUBLIC COMMENTS

There were no public comments.

3. PUBLIC HEARING - PROPOSED FISCAL YEAR 2002-03 INTEGRATED OPERATING/CAPITAL BUDGET

Mayor Carlson opened the public hearing for discussion of the proposed Fiscal Year 2002-2003 Operating and Capital Budget.

City Manager Jim Robinson presented the proposed Fiscal Year 2002-03 Budget, stating that the focus in developing the budget was on streets, drainage, and facilities. The Budget is balanced and is committed to funding capital improvements. Changes to the proposed budget since its printing were incorporated in a memo from the City Manager and presented at this meeting with amended resolutions. An expenditure and revenue summary and an overview of the proposed Capital Improvement Program were presented to the Council. The City Manager recommended not filling any vacancies that may occur in FY 2002-03 until he and the Finance Director are able to develop recommendations regarding how to bring revenues into balance with expenditures.
Mayor Carlson commented that a General Fund Revenue and Expenditure Analysis for Fiscal Years 2002 through 2005 is included in the proposed Fiscal Year 2002-03 Budget at the request of the Finance Committee.

The Council directed specific questions regarding the budget to Finance Director John Johns. The Mayor called a recess at 7:24 p.m. The Council reconvened at 7:37 p.m.

Public Works Director Cliff Temps presented the Capital Improvement Program projects for Fiscal Year 2002-03.

Mayor Carlson called for public comments on the budget. None given, the public hearing was closed.

MOTION – to adopt Resolution No. 02-14 adopting the FY 2002-03 Integrated Operating and Capital Budget, with an amendment to add Little League revenues and expenditures in the amount of $3,500.

M/S McKeithen/Fisher Ayes: 5 Noes: 0 Abstain: 0 Absent: 0

4. ADOPTION OF A RESOLUTION APPROVING THE FISCAL YEAR 2002-03 APPROPRIATIONS LIMIT AND CALCULATIONS

MOTION – to adopt Resolution No. 02-15 approving the Fiscal Year 2002-03 appropriations limit and calculations.

M/S Fisher/McKeithen Ayes: 5 Noes: 0 Abstain: 0 Absent: 0

Staff will return to the Council to discuss possible adjustments to the fee resolution.

5. ADJOURNMENT

The meeting adjourned at 7:52 p.m.

Respectfully submitted,

__________________________
Sharon Barker, City Clerk
Mayor Carlson called the meeting to order at 6:00 p.m.

1. ROLL CALL

PRESENT: Kathy McKeithen
      James R. Janz
      Alan B. Carlson
      Dianne M. Fisher
      William R. Conwell

2. PUBLIC COMMENTS

There were no public comments.

3. CLOSED SESSION – The Council adjourned to closed session at 6:10 p.m.

4. RECONVENE TO OPEN SESSION – The Council reconvened to open session at 7:05 p.m. The following actions were taken:

   A. CONFERENCE WITH LABOR NEGOTIATOR – pursuant to Government Code Section 94957.6. Agency Negotiator: James H. Robinson, City Manager
      Employee Organization: Management Employees

      Instructions were given to the City Manager.

   B. CONFERENCE WITH LABOR NEGOTIATOR – pursuant to Government Code Section 94957.6. Agency Negotiator: James H. Robinson, City Manager
      Employee Organization: Part Time Employees

      Instructions were given to the City Manager.
C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION - pursuant to Government Code Section 54957. Title: City Manager

No action was taken.

D. CONFERENCE WITH LEGAL COUNSEL – Existing Litigation pursuant to Government Code Section 54956.9 (a)
Stephen Chaput v. Town of Atherton
Patrick McTaggart v. Town of Atherton

No action was taken.

E. CONFERENCE WITH LEGAL COUNSEL – Anticipated Litigation pursuant to Government Code Section 54956.9(b). One potential case.

No action was taken.

F. LIABILITY CLAIM – pursuant to Government Code Section 54956.95
Claimant: Jodie Crossman
Agency claimed against: Town of Atherton

The Council unanimously denied the claim.

5. ADJOURN

The meeting adjourned at 7:05 p.m.

Respectfully submitted,

[Signature]
Alan B. Carlson, Mayor
Mayor Carlson called the meeting to order at 7:14 p.m.

1. **PLEDGE OF ALLEGIANCE**

2. **ROLL CALL**

   **PRESENT:**  Kathy McKeithen  
   James R. Janz  
   Alan B. Carlson  
   Dianne M. Fisher  
   William R. Conwell

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

3. **PRESENTATIONS**

   A. Mayor Carlson presented a proclamation to Menlo College President James Waddell in recognition of the 75th anniversary of the College.

4. **COUNCIL REPORTS**

   - Council Member Conwell reported on the San Francisco Airport Roundtable meeting he attended where the status of the proposed reconfiguration of runways was discussed. The Criminal Justice Council met today and elected a new chair and vice chair.
   - Council Member Fisher reported that the Library JPA is continuing to work with the County on their agreement. The Library donor funds have been received by the Town. The Valparaiso Corridor Traffic Study will be discussed at the Transportation Commission meeting on July 9th.
   - Vice Mayor Janz reported that an item is on tonight’s agenda regarding SB 1243. The Council of Cities meeting was attended by Vice Mayor Janz and Council
Member Conwell several weeks ago where the proposed San Francisco Airport expansion was addressed.

- Council Member McKeithen reported on issues addressed at the last Atherton Channel Drainage District Committee meeting. She asked that an item be put on the next Council agenda to address Channel issues including water testing, easements, and insurance. The Emergency Services Council meets tomorrow at 5:30 p.m. in the Jury Room at County Center.

- Mayor Carlson reported that the Finance Committee met several times to discuss the budget prior to its adoption at the Special Council meeting on Monday, June 17th. He thanked the Finance Committee and staff for their work on the budget. Staff and residents who participated in producing the Resident Handbook were also commended. Mayor Carlson reported on the Community Youth awards given for projects which help the community. He attended two D.A.R.E. graduation ceremonies and commended Officer Bruce Potts who conducts the D.A.R.E. program. The City Manager and Chief of Police were asked to return to the next meeting with a report on the County Crime Lab which the county is proposing to build.

5. PUBLIC COMMENTS

Chun Lee from Falun Gong spoke.

6. STAFF REPORTS

- City Manager Jim Robinson reported that the Philips Brooks School item is being considered tonight by the Woodside Planning Commission. Staff has reviewed the staff report and will keep the Council apprised. Copies of the Fiscal Year 2002-03 Budget, adopted by the City Council on Monday, June 17, 2002, are available in the Town offices.

- Public Works Director Cliff Temps reported on a pavement conditions survey which is being done on a trial basis using software provided by a company for a nominal monthly fee.

- City Attorney Marc Hynes reported on a Supreme Court decision holding the permitting of door to door solicitation to be impermissible. He will return to the Council with an amendment to the Atherton Municipal Code to reflect the decision. As a result of another case which decided that the NPDES fee is a property user fee covered by Proposition 218, an emergency meeting is being called of all San Mateo County city attorneys on Friday. He recommended that the Council go ahead and take action on the NPDES item on tonight’s agenda. He reported out of the closed session as follows:

A. CONFERENCE WITH LABOR NEGOTIATOR – pursuant to Government Code Section 94957.6
   Agency Negotiator: James H. Robinson, City Manager
   Employee Organization: Management Employees
   Instructions were given to the City Manager.
B. CONFERENCE WITH LABOR NEGOTIATOR – pursuant to Government Code Section 94957.6
Agency Negotiator: James H. Robinson, City Manager
Employee Organization: Part Time Employees

Instructions were given to the City Manager.

C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION - pursuant to Government Code Section 54957
Title: City Manager

No action taken.

D. CONFERENCE WITH LEGAL COUNSEL – Existing Litigation pursuant to Government Code Section 54956.9 (a)

Stephen Chaput v. Town of Atherton
Patrick McTaggart v. Town of Atherton

No action taken.

E. CONFERENCE WITH LEGAL COUNSEL – Anticipated Litigation pursuant to Government Code Section 54956.9(b).
One potential case.

No action taken.

F. LIABILITY CLAIM – pursuant to Government Code Section 54956.95
Claimant: Jodie Crossman
Agency claimed against: Town of Atherton

Council unanimously denied the claim.

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

Shirley Carlson gave a report from the Atherton Tree Committee.

CONSENT CALENDAR

MOTION – to approve the Consent Agenda as presented.

M/S McKeithen/Fisher Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

8. APPROVED MINUTES OF SPECIAL AND REGULAR MEETINGS OF MAY 15, 2002
9. APPROVED BILLS AND CLAIMS FOR MAY, 2002 IN THE AMOUNT OF $787,381

10. ACCEPTED MONTHLY FINANCIAL REPORT FOR MAY 2002

11. ADOPTED ORDINANCE NO. 533 AMENDING ATHERTON MUNICIPAL CODE SECTION 8.10 REGARDING HERITAGE TREES AND SECTION 1.16, GENERAL PROVISIONS

12. ACCEPTED THE WORK FOR HOLBROOK-PALMER PARK PLAY AREA RENOVATION, PROJECT 01-005

13. ADOPTED RESOLUTION NO. 02-16 AUTHORIZING THE MAYOR TO EXECUTE AGREEMENTS WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION APPLICABLE TO THE MIDDLEFIELD ROAD REHABILITATION PROJECT

14. ADOPTED RESOLUTION NO. 02-17 RECOMMENDING THAT THE SAN MATEO COUNTY FLOOD CONTROL DISTRICT IMPOSE CHARGES FOR FUNDING THE 2002/03 COUNTYWIDE NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) GENERAL PROGRAM

15. ADOPTED RESOLUTION NO. 02-18 STATING INTENT TO CONSIDER THE VACATION OF A PUBLIC UTILITIES EASEMENT AT 57 BROAD ACRES ROAD AND SET A PUBLIC HEARING FOR AUGUST 21, 2002

16. APPROVED A POLICE TOWING CONTRACT WITH SPECIALTY TOWING COMPANY

PUBLIC HEARING

17. PUBLIC HEARING AND ADOPTION OF RESOLUTION NO. 02-19 ORDERING VACATION OF A PORTION OF MCCORMICK LANE RIGHT-OF-WAY

This public hearing was set by the City Council at the May 15, 2002 regular meeting for the vacation of the section of McCormick Lane street right-of-way between Burns Avenue and the barricade across McCormick Lane that separates Villa Oaks and Mariana Park Subdivisions. Public Works Director Cliff Temps reported that the residents of 65 McCormick Lane who requested the vacation, have presented a petition to the Council from neighbors who are in support of the action.

Mayor Carlson opened the public hearing at 8:20 p.m. The following members of the audience spoke:

Regis Anderson, 65 McCormick Lane, in favor of the vacation.
Richard Novak, 70 McCormick Lane
Dr. Barrett Anderson, 65 McCormick Lane, in favor of the vacation.
A letter was e-mailed from Gloria Darke, 49 McCormick Lane, who is supportive of the vacation, but has concerns about liability she may have relevant to a strip of property she owns that connects with the portion of land being vacated.

Mayor Carlson closed the public hearing at 8:35 p.m.

Liability issues were discussed. Vice Mayor Janz requested that several corrections be made to the resolution and that Paragraph 3 of the resolution be amended to read: “Said vacation is subject to the condition that improvements or landscaping of all or any portion of the area being vacated shall be constructed or installed in such a way as to permit reasonable access by bicyclists and pedestrians, and by utility workers…”.

MOTION – to adopt Resolution No. 02-19 ordering the vacation of a portion of McCormick Lane right-of-way, with reservation of easements for bicycles, pedestrians, public utilities and sanitary sewers, said portion and easement reservations being more particularly described in Exhibits “A” and “B” attached hereto and made a part hereof, with minor corrections and with changes to Paragraph 3 as requested.

M/S Janz/Fisher Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

Vice Mayor Janz requested that staff pursue with the property owner the question of acquiring a public access easement across the Darke property.

REGULAR AGENDA

18. APPROVAL OF AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES FOR FISCAL YEAR 2002/03 - NEAL MARTIN AND ASSOCIATES

City Manager Jim Robinson stated that the only change proposed in the agreement for professional services from Neal Martin and Associates is recognition of the title of Deputy Town Planner with a $10.00 per hour salary adjustment for Lisa Costa Sanders.

MOTION - to approve the agreement with Neal Martin and Associates for the Fiscal Year 2002-03 and authorize the Mayor to execute the agreement.

M/S Fisher/Janz Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

The following item was taken out of order.

27. DISCUSSION AND DIRECTION TO STAFF – ENFORCEMENT OF CONSTRUCTION NOISE AND MATERIALS AND DELIVERY ORDINANCES

Mayor Carlson asked that this item be put on the agenda. Police Chief Robert Brennan was asked to give a statistical overview of enforcement of the Ordinances related to construction noise and delivery, and retrieval of construction materials. He
reported on the number of written citations given, filed and convicted for the last three months.

Discussion ensued on what enforcement strategy would be most effective. Both civil and criminal penalties were discussed. City Attorney Marc Hynes discussed the cost of taking these cases to court, and how the Town can recover the costs.

Building Official Mike Hood informed the Council of the process the Building Department uses to notify contractors of times that construction is allowed under the ordinance. The Council asked that the Building Department require signage at construction sites which would inform workers of legal construction times.

The following members of the audience spoke:

Bob Huber, One Frederick Avenue  
James Dobbie, 124 James Avenue  
Sandy Kaye, 88 Shearer Drive  
John Ruggeiro, Stockbridge Avenue

The Council gave direction to the City Attorney to return to the next meeting with a proposal for an ordinance amendment outlining changes as discussed. The Council also requested that the City Attorney meet with the police officers to educate them on enforcement of the ordinances.

19. APPROVAL OF PLANS AND SPECIFICATIONS AND AWARD OF CONTRACT FOR 2002 STREET RECONSTRUCTION – PHASE I, PROJECT 2001-01

Public Works Director Cliff Temps presented this item. Ten bids were received for reconstruction of three streets, Irving and James Avenue cul-de-sacs, and Magnolia Drive, between Irving and James, and including its cul-de-sac. He recommended the award of the contract go to low bidder, Bortolotto and Co., Inc.

MOTION – to approve the plans and specifications and award a contract for construction of the 2002 Street Reconstruction – Phase I, Project 02-002, to Bortolotto and Co., Inc. in an amount not to exceed $187,592.57.

M/S McKeithen/Fisher  
Ayes: 5  Noes: 0  Absent: 0  Abstain: 0

(Item No. 19 was reconsidered later in the meeting after Item No. 26.)

20. DISCUSSION OF PROPOSED FISCAL YEAR 2002-03 INTEGRATED OPERATING/CAPITAL BUDGET

This item was removed from the agenda since the budget was adopted at a special meeting on June 17, 2002.
21. CONSIDER SETTING A DATE FOR A PUBLIC HEARING TO ADOPT A RESOLUTION ESTABLISHING A SPECIAL TAX FOR MUNICIPAL SERVICES FOR THE FISCAL YEAR 2002/03

Ordinance No. 520 requires that the Special Tax for Municipal Services be set by resolution following the adoption of the Town budget. Since the County’s deadline for receiving the resolution is July 15, 2002, it is necessary to set a special meeting for consideration of the resolution.

MOTION – to set a date for a special meeting on July 9, 2002 at 8:00 a.m. to adopt a resolution establishing a Special Tax for Municipal Services.

M/S Fisher/Conwell Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

22. ADOPTION OF RESOLUTION CALLING FOR A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2002 FOR THE ELECTION OF THREE MEMBERS OF THE CITY COUNCIL, REQUESTING THE SERVICES OF THE REGISTRAR OF VOTERS, REQUESTING CONSOLIDATION OF ELECTIONS, AND REQUIRING PAYMENT OF PRORATED COSTS OF CANDIDATES’ STATEMENTS

MOTION – to adopt Resolution No. 02-20 calling for a General Municipal Election to be held on Tuesday, November 5, 2002 for three members of the City Council, requesting the services of the Registrar of Voters, requesting consolidation of elections, and requiring payment of prorated costs of candidates’ statements, and authorize the Mayor to sign the service agreement with the County Elections Officer.

M/S Fisher/McKeithen Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

23. DISCUSSION AND POSSIBLE ACTION – REVIEW OF UPDATED CITY COUNCIL RULES OF PROCEDURE

City Attorney Marc Hynes provided the Council with an updated version of the City Council Rules of Procedure. Council Member McKeithen asked for changes to Section 12.3.1, on page 11, removing the words “to amend” in the second and third sentences. She also noted the need to correct several typographical errors.

MOTION – to approve the updated City Council Rules of Procedure as amended.

M/S McKeithen/Fisher Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

24. UPDATE ON CITY COUNCIL GOALS AND OBJECTIVES
City Manager Jim Robinson gave a status report on the progress to date of the goals and objectives established by the Council.

MOTION – to accept the report on the goals and objectives as presented in the staff report.

M/S McKeithen/Fisher  Ayes: 5  Noes: 0  Absent: 0  Abstain: 0

25. APPROVAL OF LETTER REGARDING PROPOSED SKATE PARK IN FLOOD PARK, CITY OF MENLO PARK

As requested by the Council at the last regular meeting, City Manager Jim Robinson presented a draft letter to be sent to the City of Menlo Park regarding the Council’s concerns with the proposal to build a skate park in Flood Park. He recommended that staff check with Menlo Park to see if they are going to proceed with the project. The Council asked for a minor change in the draft letter and directed staff to send the letter only if the City of Menlo Park is going to proceed with the project.

MOTION – authorize the Mayor to sign a letter to the City of Menlo Park as amended if Menlo Park is going to proceed with the Skate Park project in Flood Park.

M/S Fisher/Conwell  Ayes: 5  Noes: 0  Absent: 0  Abstain: 0

26. CONSIDER RESPONSE TO LETTER FROM ASSOCIATION OF BAY AREA GOVERNMENTS (ABAG) – COUNCIL POSITION ON SB 1243

A letter has been received from the Association of Bay Area Governments (ABAG) asking cities to send a letter to the Assembly Local Government Committee opposing SB 1243. SB 1243 proposes to merge ABAG with the Metropolitan Transportation Commission.

MOTION – to authorize the Mayor to sign a letter in opposition to SB 1243, and send it to the Assembly Local Government Committee.

M/S Fisher/Janz  Ayes: 5  Noes: 0  Absent: 0  Abstain: 0

19. Mayor Carlson asked to reconsider Item No. 19 on the agenda: Approval of plans and specifications and award of contract for 2002 Street Reconstruction – Phase I, Project 02-002. The project includes reconstruction of the street on which Mayor Carlson resides.

MOTION - to reconsider Item No. 19 on the agenda.
M/S Carlson/Fisher  
Ayes: 5  Noes: 0  Absent: 0  Abstain: 0

MOTION – to approve the plans and specifications and award a contract for construction of the 2002 Street Reconstruction – Phase I, Project 02-002, to Bortolotto and Co., Inc. in an amount not to exceed $187,592.57.

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

28. PUBLIC COMMENTS

The City Manager will report at the next meeting on the sound barrier wall and the safety of the cell phone tower. He will also report on the Cal Train electrification project.

The City Manager stated he will keep the Council apprised of the status of the Menlo Park grade separation study.

29. ADJOURNMENT

The meeting adjourned at 10:45 p.m.

Respectfully submitted,

Sharon Barker, City Clerk
TOWN OF ATHERTON
CLAIMS LIST
June, 2002

Payroll Checks  827 - 919  $52,887
Electronic Transfers  248,725
A/P Checks  12952 - 17897  335,234

TOTAL  $636,846

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 827 through 919 (Payroll) and 12952 through 17897 (Accounts Payable), and Electronic Transfers for Employees Federal Payroll Taxes and fees, inclusive, amount to $636,846 are true and correct, and that there are funds for payment.

James H. Robinson
City Manager

The above claims, Payroll check numbers 827 through 919, Accounts Payable check numbers 12952 through 17897 and Electronic Transfers for employees federal payroll taxes and fees, amount to $636,846; and are hereby approved for payment.

Alan Carlson
Mayor, Town of Atherton

SOURCE OF FUNDS

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CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: JOHN P. JOHNS, FINANCE DIRECTOR
DATE: FOR THE MEETING OF WEDNESDAY JULY 17, 2002
SUBJECT: MONTHLY FINANCIAL REPORT, JUNE, 2002

RECOMMENDATION:


INTRODUCTION:

The attached schedules show revenues and expenditures and fund balance for all funds as of June 30, 2002.

HIGHLIGHTS

To date General Fund revenues and other sources of funds have exceeded expenditures and other uses of funds by $71,000. Accordingly the General Fund balance has increased from $5,070,783 to $5,141,505. This represents a favorable variance of $145,833 from the year-end fund balance projection prepared as part of the FY 2002-03 budget.

It should be noted that the tabulation of expenditures do not include year-accruals and adjusting entries, nor have been they been subject to the review of the Town’s independent auditors.

FISCAL IMPACT:
TOWN OF ATHERTON
Revenue Summary
For the Twelve Months ended June 30th, 2002

<table>
<thead>
<tr>
<th>Fund</th>
<th>Revenue Source</th>
<th>2001-02 Estimate</th>
<th>Current Period Revenues</th>
<th>Year to Date Revenues</th>
<th>% Received</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Property Tax</td>
<td>$2,624,563</td>
<td>95,972</td>
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<td>117%</td>
</tr>
<tr>
<td></td>
<td>Sales and Use Tax</td>
<td>306,000</td>
<td>18,256</td>
<td>147,072</td>
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<tr>
<td></td>
<td>Other Taxes</td>
<td>481,133</td>
<td>28,704</td>
<td>518,134</td>
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</tr>
<tr>
<td></td>
<td>Licenses &amp; Permits</td>
<td>1,316,200</td>
<td>196,884</td>
<td>1,506,074</td>
<td>114%</td>
</tr>
<tr>
<td></td>
<td>Fines &amp; Forfeitures</td>
<td>110,000</td>
<td>10,007</td>
<td>101,834</td>
<td>93%</td>
</tr>
<tr>
<td></td>
<td>Investment &amp; Rental Income</td>
<td>358,200</td>
<td>(23,714)</td>
<td>304,372</td>
<td>85%</td>
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<tr>
<td></td>
<td>Revenue from Other Agencies</td>
<td>484,124</td>
<td>47,833</td>
<td>535,957</td>
<td>80%</td>
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<tr>
<td></td>
<td>Charges for Services</td>
<td>502,700</td>
<td>21,534</td>
<td>440,229</td>
<td>88%</td>
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<tr>
<td></td>
<td>Other Revenues</td>
<td>12,150</td>
<td>5,213</td>
<td>7,480</td>
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<td>Total General Fund Revenues</td>
<td>6,195,070</td>
<td>400,689</td>
<td>6,475,849</td>
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<td></td>
<td>Interfund (Operating) Transfers In</td>
<td>450,000</td>
<td>454,940</td>
<td>385,957</td>
<td>80%</td>
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<td>Total General Fund Total</td>
<td>6,645,070</td>
<td>855,629</td>
<td>6,930,789</td>
<td>104%</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>105 Tennis</td>
<td>9,000</td>
<td>1,400</td>
<td>11,874</td>
<td>132%</td>
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<td></td>
<td>201 Special Parcel Tax</td>
<td>1,600,000</td>
<td>59,643</td>
<td>1,530,446</td>
<td>96%</td>
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<tr>
<td></td>
<td>202 Transportation</td>
<td>270,000</td>
<td>23,227</td>
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</tr>
<tr>
<td></td>
<td>203 Street Improvement (Gas Tax)</td>
<td>200,000</td>
<td>15,128</td>
<td>154,203</td>
<td>77%</td>
</tr>
<tr>
<td></td>
<td>208 Police on the Street</td>
<td>-</td>
<td>1,254</td>
<td>24,754</td>
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<td></td>
<td>209 Law Enforcement</td>
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<td>4,751</td>
<td>104,751</td>
<td>105%</td>
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<td></td>
<td>210 Road Construction Impact Fees</td>
<td>450,000</td>
<td>126,967</td>
<td>321,234</td>
<td>116%</td>
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<tr>
<td></td>
<td>211 State Park Grants Fund</td>
<td>89,910</td>
<td>-</td>
<td>-</td>
<td>0%</td>
</tr>
<tr>
<td></td>
<td>213 Library</td>
<td>-</td>
<td>400,000</td>
<td>400,000</td>
<td>0%</td>
</tr>
<tr>
<td></td>
<td>Sub Total</td>
<td>2,718,910</td>
<td>632,370</td>
<td>2,956,707</td>
<td>109%</td>
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<td>Capital Project Funds:</td>
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<td></td>
</tr>
<tr>
<td></td>
<td>401 Capital Improvement</td>
<td>10,000</td>
<td>18,119</td>
<td>11,189</td>
<td>181%</td>
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<tr>
<td></td>
<td>402 Storm Drainage</td>
<td>10,000</td>
<td>5,047</td>
<td>5,277</td>
<td>53%</td>
</tr>
<tr>
<td></td>
<td>403 Channel Drainage District</td>
<td>38,000</td>
<td>20,260</td>
<td>59,237</td>
<td>156%</td>
</tr>
<tr>
<td></td>
<td>404 Park Playground Improvement</td>
<td>325,000</td>
<td>12,473</td>
<td>42,015</td>
<td>13%</td>
</tr>
<tr>
<td></td>
<td>405 Middlefield Road Grants</td>
<td>600,000</td>
<td>-</td>
<td>-</td>
<td>0%</td>
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<tr>
<td></td>
<td>406 Facilities Construction</td>
<td>220,000</td>
<td>229,269</td>
<td>229,269</td>
<td>104%</td>
</tr>
<tr>
<td></td>
<td>Sub Total</td>
<td>1,201,000</td>
<td>285,168</td>
<td>353,917</td>
<td>29%</td>
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<td></td>
<td>Internal Service Funds:</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>610 Vehicle Replacement</td>
<td>243,020</td>
<td>106,693</td>
<td>249,713</td>
<td>103%</td>
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<tr>
<td></td>
<td>611 Information Technology</td>
<td>77,610</td>
<td>1,479</td>
<td>79,316</td>
<td>102%</td>
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<tr>
<td></td>
<td>612 Administrative Services</td>
<td>213,300</td>
<td>(4,363)</td>
<td>208,934</td>
<td>98%</td>
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<tr>
<td></td>
<td>614 Workers Compensation Insurance</td>
<td>170,000</td>
<td>-</td>
<td>35,056</td>
<td>21%</td>
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<tr>
<td></td>
<td>Sub Total</td>
<td>703,930</td>
<td>103,809</td>
<td>572,819</td>
<td>81%</td>
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</tr>
<tr>
<td></td>
<td>Total Revenues</td>
<td>$11,270,910</td>
<td>1,876,976</td>
<td>$10,814,232</td>
<td>96%</td>
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</table>

<table>
<thead>
<tr>
<th>Trust and Agency Funds:</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>715 Evans Creative Design</td>
<td>53,040</td>
<td>16,594</td>
<td>97,808</td>
<td>184%</td>
<td></td>
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<tr>
<td>720 Library Extension</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>0%</td>
<td></td>
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<tr>
<td>727 Colley Trust Fund</td>
<td>-</td>
<td>-</td>
<td>1,000</td>
<td>100%</td>
<td></td>
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<tr>
<td>730 H-P Park Improvement</td>
<td>-</td>
<td>-</td>
<td>0%</td>
<td>0%</td>
<td></td>
</tr>
<tr>
<td>731 MA Little League</td>
<td>-</td>
<td>-</td>
<td>0%</td>
<td>0%</td>
<td></td>
</tr>
<tr>
<td>740 Tree Committee</td>
<td>-</td>
<td>-</td>
<td>0%</td>
<td>0%</td>
<td></td>
</tr>
<tr>
<td>Sub Total</td>
<td>53,040</td>
<td>16,594</td>
<td>98,808</td>
<td>186%</td>
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<tr>
<td>Total Revenues</td>
<td>$11,323,950</td>
<td>1,893,570</td>
<td>$10,913,040</td>
<td>96%</td>
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## TOWN OF ATHERTON
### Expenditure Summary
#### For the Twelve Months Ended June 30th, 2002

<table>
<thead>
<tr>
<th>Fund</th>
<th>Description</th>
<th>Department</th>
<th>2001-02 Department Budget</th>
<th>Current Period Expenditures</th>
<th>Year to Date Expenditures</th>
<th>% Spent</th>
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<tbody>
<tr>
<td>101</td>
<td>General Fund</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>City Council</td>
<td>City Council</td>
<td>$21,739</td>
<td>(934)</td>
<td>20,589</td>
<td>95%</td>
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<tr>
<td>12</td>
<td>City Manager</td>
<td>City Manager</td>
<td>442,708</td>
<td>9374</td>
<td>419,653</td>
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<tr>
<td>16</td>
<td>City Attorney</td>
<td>City Attorney</td>
<td>196,199</td>
<td>9,438</td>
<td>150,244</td>
<td>77%</td>
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<tr>
<td>18</td>
<td>Finance</td>
<td>Finance</td>
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<td>26,625</td>
<td>342,910</td>
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<tr>
<td>25</td>
<td>Building</td>
<td>Building</td>
<td>713,814</td>
<td>66,577</td>
<td>812,717</td>
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</tr>
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<td>40</td>
<td>Police</td>
<td>Police</td>
<td>3,371,582</td>
<td>251,339</td>
<td>3,252,783</td>
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<td>50</td>
<td>Public Works</td>
<td>Public Works</td>
<td>1,632,102</td>
<td>128,148</td>
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<td></td>
<td>Contingency</td>
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<td>100,000</td>
<td></td>
<td></td>
<td>0%</td>
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<td></td>
<td>Total General Fund Expenditures</td>
<td></td>
<td>6,840,742</td>
<td>510,567</td>
<td>6,540,067</td>
<td>96%</td>
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<td>Interfund (Operating) Transfers Out</td>
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<td>320,000</td>
<td>320,000</td>
<td>100%</td>
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<td>General Fund Total</td>
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<td>$830,567</td>
<td>$6,860,067</td>
<td>96%</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>105</td>
<td>Tennis</td>
<td></td>
<td>7,500</td>
<td>111</td>
<td>9,065</td>
<td>121%</td>
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<tr>
<td>201</td>
<td>Special Parcel Tax</td>
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<td>1,600,000</td>
<td>350,000</td>
<td>636,231</td>
<td>40%</td>
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<td>202</td>
<td>Transportation</td>
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<td>267,950</td>
<td>28,310</td>
<td>257,330</td>
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<tr>
<td>203</td>
<td>Street Improvement (Gas Tax)</td>
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<td>330,700</td>
<td>100,000</td>
<td>333,997</td>
<td>101%</td>
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<tr>
<td>208</td>
<td>Police on the Street</td>
<td></td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>209</td>
<td>Law Enforcement</td>
<td></td>
<td>199,424</td>
<td>33,797</td>
<td>188,438</td>
<td>94%</td>
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<td>Road Impact Fees</td>
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<td>2,845</td>
<td>1%</td>
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<td>State Park Grants</td>
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<td>89,910</td>
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<td>-</td>
<td>0%</td>
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<td>Total Special Revenue Funds</td>
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<td>2,945,484</td>
<td>512,218</td>
<td>1,427,906</td>
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<td></td>
<td></td>
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<td>Capital Improvement</td>
<td></td>
<td>-</td>
<td>-</td>
<td>472</td>
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<tr>
<td>402</td>
<td>Storm Drainage</td>
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<td>162,409</td>
<td>5,049</td>
<td>70,189</td>
<td>43%</td>
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<td>403</td>
<td>Channel Drainage District</td>
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<td>251,000</td>
<td>-</td>
<td>32</td>
<td>0%</td>
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<tr>
<td>404</td>
<td>Park Playground Fund</td>
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<td>27,825</td>
<td>215,288</td>
<td>66%</td>
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<td>Middlefield Road Grants</td>
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<td>173</td>
<td>0%</td>
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<td>1,338,409</td>
<td>32,874</td>
<td>286,154</td>
<td>21%</td>
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<td>Internal Service Funds:</td>
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<td></td>
</tr>
<tr>
<td>610</td>
<td>Vehicle Replacement</td>
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<td>106,041</td>
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<td>133,697</td>
<td>126%</td>
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<td>90,166</td>
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<td>Administrative Services</td>
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<td>233,756</td>
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<td>90%</td>
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<td>614</td>
<td>Workers Compensation Insurance</td>
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<td>135,000</td>
<td>56,800</td>
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<td>88%</td>
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<td></td>
<td></td>
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<td></td>
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<tr>
<td></td>
<td>Total Internal Service Funds</td>
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<td>564,963</td>
<td>5,837</td>
<td>525,465</td>
<td>93%</td>
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<tr>
<td></td>
<td>Total</td>
<td></td>
<td>$12,009,598</td>
<td>$1,381,496</td>
<td>$9,099,592</td>
<td>76%</td>
</tr>
<tr>
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<td>Trust and Agency Funds:</td>
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<td></td>
</tr>
<tr>
<td>715</td>
<td>Evans Creative Design</td>
<td></td>
<td>54,010</td>
<td>13,443</td>
<td>107,738</td>
<td>199%</td>
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<td>727</td>
<td>Colley Reward Fund</td>
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<td>-</td>
<td>67,582</td>
<td>67,852</td>
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<td>730</td>
<td>H-P Park Improvement</td>
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<td>-</td>
<td>-</td>
<td>583</td>
<td></td>
</tr>
<tr>
<td>731</td>
<td>MA Little League</td>
<td></td>
<td>-</td>
<td>-</td>
<td>480</td>
<td></td>
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<tr>
<td>740</td>
<td>Tree Committee</td>
<td></td>
<td>-</td>
<td>-</td>
<td>1,376</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total Trust and Agency Funds</td>
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<td>54,010</td>
<td>81,025</td>
<td>178,029</td>
<td></td>
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<tr>
<td></td>
<td>Total Expenditures</td>
<td></td>
<td>$12,063,608</td>
<td>$1,462,521</td>
<td>$9,277,621</td>
<td>77%</td>
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### TOWN OF ATHERTON

**Budget Summary**

**Fiscal Year 2001-02**

**As of June 30th, 2002**

<table>
<thead>
<tr>
<th>Fund</th>
<th>Description</th>
<th>Beginning Fund Balance</th>
<th>Revenues to Date</th>
<th>Transfers to Date</th>
<th>Expenditures to Date</th>
<th>Ending Fund Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>101</td>
<td>General Fund</td>
<td>5,070,783</td>
<td>6,475,849</td>
<td>134,940</td>
<td>6,540,067</td>
<td>5,141,505</td>
</tr>
</tbody>
</table>

#### Special Revenue Funds:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Description</th>
<th>Beginning Fund Balance</th>
<th>Revenues to Date</th>
<th>Transfers to Date</th>
<th>Expenditures to Date</th>
<th>Ending Fund Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>105</td>
<td>Tennis</td>
<td>19,496</td>
<td>11,874</td>
<td>9,065</td>
<td>22,305</td>
<td></td>
</tr>
<tr>
<td>201</td>
<td>Special Municipal Tax</td>
<td>-</td>
<td>1,530,446</td>
<td>636,231</td>
<td>894,215</td>
<td></td>
</tr>
<tr>
<td>202</td>
<td>Transportation</td>
<td>235,556</td>
<td>209,445</td>
<td>257,330</td>
<td>187,671</td>
<td></td>
</tr>
<tr>
<td>203</td>
<td>Street Improvement (Gas Tax)</td>
<td>257,225</td>
<td>154,203</td>
<td>333,997</td>
<td>77,431</td>
<td></td>
</tr>
<tr>
<td>208</td>
<td>Police on the Street</td>
<td>20,235</td>
<td>24,754</td>
<td>-</td>
<td>44,989</td>
<td></td>
</tr>
<tr>
<td>209</td>
<td>Law Enforcement</td>
<td>105,350</td>
<td>104,751</td>
<td>188,438</td>
<td>21,663</td>
<td></td>
</tr>
<tr>
<td>210</td>
<td>Road Construction Impact Fees</td>
<td>378,028</td>
<td>521,234</td>
<td>2,845</td>
<td>896,417</td>
<td></td>
</tr>
<tr>
<td>211</td>
<td>State Park Grants Fund</td>
<td>-</td>
<td>-</td>
<td>21,663</td>
<td>21,663</td>
<td></td>
</tr>
</tbody>
</table>

**Sub Total** 1,015,890 2,556,707 - 1,427,906 2,144,691

#### Capital Projects Funds:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Description</th>
<th>Beginning Fund Balance</th>
<th>Revenues to Date</th>
<th>Transfers to Date</th>
<th>Expenditures to Date</th>
<th>Ending Fund Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>401</td>
<td>Capital Improvement</td>
<td>432,662</td>
<td>18,119</td>
<td>472</td>
<td>450,309</td>
<td></td>
</tr>
<tr>
<td>402</td>
<td>Storm Drainage</td>
<td>120,286</td>
<td>5,277</td>
<td>70,189</td>
<td>55,374</td>
<td></td>
</tr>
<tr>
<td>403</td>
<td>Channel Drainage District</td>
<td>377,396</td>
<td>59,237</td>
<td>32</td>
<td>436,601</td>
<td></td>
</tr>
<tr>
<td>404</td>
<td>Park Playground Improvement</td>
<td>305,774</td>
<td>42,015</td>
<td>215,288</td>
<td>132,501</td>
<td></td>
</tr>
<tr>
<td>405</td>
<td>Middlefield Road Grants</td>
<td>-</td>
<td>-</td>
<td>173</td>
<td>(173)</td>
<td></td>
</tr>
<tr>
<td>406</td>
<td>Facilities Construction</td>
<td>220,000</td>
<td>229,269</td>
<td>-</td>
<td>449,269</td>
<td></td>
</tr>
</tbody>
</table>

**Sub Total** 1,456,118 353,917 - 286,154 1,523,881

#### Internal Service Fund

<table>
<thead>
<tr>
<th>Fund</th>
<th>Description</th>
<th>Beginning Fund Balance</th>
<th>Revenues to Date</th>
<th>Transfers to Date</th>
<th>Expenditures to Date</th>
<th>Ending Fund Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>610</td>
<td>Vehicle Replacement</td>
<td>147,415</td>
<td>249,713</td>
<td>133,697</td>
<td>263,431</td>
<td></td>
</tr>
<tr>
<td>611</td>
<td>Information Technology</td>
<td>19,890</td>
<td>79,316</td>
<td>63,942</td>
<td>35,264</td>
<td></td>
</tr>
<tr>
<td>612</td>
<td>Administrative Services</td>
<td>9,125</td>
<td>208,734</td>
<td>299,335</td>
<td>8,524</td>
<td></td>
</tr>
<tr>
<td>614</td>
<td>Workers Compensation Insurance</td>
<td>(31,794)</td>
<td>35,056</td>
<td>118,491</td>
<td>(115,229)</td>
<td></td>
</tr>
</tbody>
</table>

**Sub Total** 144,616 572,819 - 525,465 191,990

#### Trust and Agency Funds

<table>
<thead>
<tr>
<th>Fund</th>
<th>Description</th>
<th>Beginning Fund Balance</th>
<th>Revenues to Date</th>
<th>Transfers to Date</th>
<th>Expenditures to Date</th>
<th>Ending Fund Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>715</td>
<td>Evans Creative Design</td>
<td>110,464</td>
<td>97,808</td>
<td>107,738</td>
<td>100,534</td>
<td></td>
</tr>
<tr>
<td>727</td>
<td>Colley Reward Fund</td>
<td>66,931</td>
<td>-</td>
<td>-</td>
<td>66,931</td>
<td></td>
</tr>
<tr>
<td>730</td>
<td>H-P Park Improvement</td>
<td>6,339</td>
<td>-</td>
<td>-</td>
<td>6,339</td>
<td></td>
</tr>
<tr>
<td>731</td>
<td>MA Little League</td>
<td>(1,571)</td>
<td>-</td>
<td>-</td>
<td>(1,571)</td>
<td></td>
</tr>
<tr>
<td>740</td>
<td>Tree Committee</td>
<td>1,137</td>
<td>-</td>
<td>-</td>
<td>1,137</td>
<td></td>
</tr>
</tbody>
</table>

**Sub Total** 183,300 97,808 - 107,738 173,370

**Grand Total** $ 7,870,727 $ 10,057,100 $ 134,940 $ 8,887,330 $ 9,175,437
CITY COUNCIL STAFF REPORT

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

FROM: LINDA KELLY, ASSISTANT TO THE CITY MANAGER

DATE: FOR THE MEETING OF JULY 17, 2002

SUBJECT: AUTHORIZATION TO ISSUE PURCHASE ORDER TO NORTH CENTRAL SERVICE COOPERATIVE FOR TWO SHARP BRAND PHOTOCOPY MACHINES AND ENTER INTO MAINTENANCE AGREEMENT WITH PINNACLE DOCUMENT SYSTEMS FOR SAID MACHINES

RECOMMENDATION

It is recommended that the City Council authorize the issuance of a purchase order for two Sharp brand photocopy machines from the North Central Service Cooperative and authorize entering into a maintenance agreement for said machines with Pinnacle Document Systems.

BACKGROUND

The 2002-03 Fiscal Year Budget which was adopted by the City Council on July 17, 2002 included an appropriation of $34,500 for the purchase of two new photocopy machines. One machine is to be located in the Town Administrative Offices, and is a replacement machine for the Administration photocopy machine which has come to the end of its five-year lease. The other machine is a new photocopier to be utilized by the Public Works and Building Departments (Permit Center Modular Building). One small table top copier is currently located in the Permit Center, but it is meant for small jobs and is not a high-volume piece of equipment. By locating this new 45-page per minute machine on-site at the Public Works and Building Departments, staff in those departments will realize greater efficiency in not having to take photocopy jobs to the Administration Building. Customers to the Permit Center also will not experience “downtime” waiting for large copy jobs to be completed at the Administrative Offices building.
Among the new features of these digital photocopy machines is the ability to “network” them, or connect to the Town’s existing computer network. This connection will enable staff to utilize the machines as computer printers as well as traditional photocopiers, increasing the flexibility and value of the machines to everyday Town staff needs. Furthermore, the large machine (65 pages per minute) to be located in the Administrative Offices will have a built-in hole-punch feature which will eliminate the need for staff to order 3-hole punch paper for City Council packets. This will result in a savings over time since 3-hole punch paper is more costly than regular copy paper. In addition, the 45-page per minute machine can also be used as a scanner, which will increase the usage of the machine for other office functions in the Public Works and Building Departments.

In order to streamline the purchasing process and take advantage of other governmental agencies’ cooperative bidding agreements, staff utilized Section 3.16.110 of the Atherton Municipal Code, which exempts purchases from the formal bidding process when “participating in state and county cooperative contracts or utilizing other municipal government’s competitive bids.”

Staff contacted vendors who had existing cooperative government pricing contracts. Staff received responses from three vendors, met with these vendors, and visited the showrooms to evaluate the demonstration models. The pricing received was as follows:

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Model</th>
<th>Price</th>
<th>Annual Maintenance Agreement Cost*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minolta Business Solutions</td>
<td>45 page per minute</td>
<td>$11,627.00</td>
<td>$1,045.56</td>
</tr>
<tr>
<td>(Minolta Brand Photocopiers)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>65 page per minute</td>
<td>$22,191.00</td>
<td>$2,782.56</td>
</tr>
<tr>
<td>Konica Business Technologies</td>
<td>35 page per minute</td>
<td>$11,011.00</td>
<td>$792.00</td>
</tr>
<tr>
<td>(Konica Brand Photocopiers)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>65 page per minute</td>
<td>$19,668.00</td>
<td>$2,412.00</td>
</tr>
<tr>
<td>Pinnacle Document Systems</td>
<td>45 page per minute</td>
<td>$8,495.00</td>
<td>$750.00</td>
</tr>
<tr>
<td>(Sharp Brand Photocopiers)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>65 page per minute</td>
<td>$17,217.00</td>
<td>$2,064.00</td>
</tr>
</tbody>
</table>

*Based on 5,000 copies per month for the 45 page per minute model and 20,000 copies per month for the 65 page per minute model.

Since Pinnacle Document Systems submitted the lowest price, staff contacted several references for this vendor, and all were very favorable regarding equipment and service. Therefore, staff is recommending that the Town purchase the two budgeted photocopiers and annual maintenance agreement through Pinnacle Document Systems.

Pinnacle Document Systems is offering the government and non-profit agency pricing through the North Central Service Cooperative (NCSC). The NCSC is a Joint Powers Authority (JPA) formed in the State of Minnesota for the purposes of establishing a purchasing mechanism for cities, counties, school districts, and other political subdivisions of any State in the United States to benefit from volume discounts. The Town of Atherton is not required to join the JPA in order to take
advantage of this special pricing. The City of Daly City recently purchased equipment through the NCSC and reported a positive experience with no problems.

As the attached letter from the NCSC states, NCSC has entered into an exclusive national agreement with Sharp Electronics Corporation (SEC) as a result of a national competitive bidding process. As the bid-awarded exclusive national vendor, SEC has established a program that offers some of the lowest prices in the country. The NCSC handles the purchase of equipment; Pinnacle Document Systems is the local SEC vendor and will deliver the equipment and handle the maintenance agreement.

City Attorney Marc Hynes has reviewed and approved the proposed maintenance agreement and the NCSC purchasing system proposal.

**FISCAL IMPACT**

A total of $34,500 was authorized for this purchase in the FY 2002-03 Budget. Pinnacle Document Systems’ bid totals $30,647 (including sales tax on the equipment), or $3,853 less than the budgeted amount.

**CONCLUSION**

In order that the Town may realize the price savings available through the NCSC, it is recommended that the City Council authorize the issuance of a purchase order for two Sharp Brand photocopy machines from the North Central Service Cooperative and authorize entering into a maintenance agreement for said machines with Pinnacle Document Systems.

Prepared by:      Approved by:
________________________   _________________________
Linda Kelly      James H. Robinson
Assistant to the City Manager    City Manager

Attachments:  Copier Quotations from Pinnacle Document Systems
Letter from NCSC
Maintenance Agreement with Pinnacle Document Systems
CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF JULY 17, 2002

SUBJECT: ADOPTION OF SIDE LETTER TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN OF ATHERTON AND THE ATHERTON POLICE OFFICERS’ ASSOCIATION FOR THE PERIOD JULY 1, 2000 THROUGH JUNE 30, 2005 REGARDING HOLIDAY PAY

RECOMMENDATION

It is recommended that the City Council adopt the attached Side Letter to the Memorandum of Understanding between the Town of Atherton and the Atherton Police Officers’ Association for the period of July 1, 2000 through June 30, 2005 regarding a holiday pay issue.

DISCUSSION

In 1996, the Atherton Police Officers’ Association and the Town agreed to change the work schedule in from an 8-hour day to a 12-hour work day. At that time, the following was agreed upon: a) employees who did not work on a designated holiday would accrue 8 hours of holiday time; b) employees would accrue vacation and sick time as if they had worked an 8-hour day; and c) employees who worked 12 hours on a designated holiday would receive, in addition to regular pay, either 12 hours of holiday time accrual or 12 hours pay.

On November 20, 2000, the Atherton Police Officers’ Association filed a “Holiday Pay Grievance” which contended that those employees who worked 12 hours on a designated holiday were only accruing 8 hours of holiday time.

The City Manager has met with representatives of the Atherton Police Officers’ Association, and the following change to the Memorandum of Understanding has been negotiated and agreed upon:

(added language in shaded text and language removed in lined out text)
“Section 14: Holidays

The Town’s designated holidays are as follows:
January 1
February 12
Third Monday in February
Last Monday of May
July 4
First Monday of September
Second Monday of October
November 11
Thanksgiving Day
December 25

A personal holiday as determined by the employee subject to approval of the Chief of Police or his/her designee.

Employees who are required to work on a holiday shall be entitled to a compensatory day off or time and one-half (1.5) pay in lieu of a compensatory day off.

Employees who are required to work eight or more hours on a designated holiday shall be entitled to either 12 hours credit to their holiday time accrual, or 12 hours pay, in addition to regular pay.

Employees who are required to work on a designated holiday for less than eight hours shall be entitled to the number of holiday hours worked in the form of either a credit to their holiday time accrual for the number of holiday hours worked or as holiday pay for the number of hours worked.

Employees who do not work on a holiday, shall be entitled to 8 hours of holiday pay only.”

In June 2002, the Atherton Police Officers Association (APOA) informed the City Manager that the attached proposed Side Letter on Holiday Pay had received enough votes from the APOA members to consider the proposal accepted by the APOA.

FISCAL IMPACT

The estimated cost of the retroactive pay from January 1, 2000 for the employees who would be covered by this side letter agreement is $27,666. This amount represents the maximum liability if all covered employees subsequently “cashed out” the amount of hours added to their holiday pay pool as a result of the side letter agreement.

The estimated ongoing cost per fiscal year to implement the new holiday pay agreement is up to approximately $12,000. This amount can be less based on the number of employees who take the holiday pay in salary as opposed to those who opt to take it as credit for holiday time accrual (to be used for time off at a later date).
CONCLUSION

In order to resolve the grievance, it is recommended that the City Council approve the attached side letter to the MOU and authorize the deposit of outstanding holiday pay hours to the affected employees’ payroll accounts.

Attachment: Side Letter to the Memorandum of Understanding
SIDE LETTER TO THE
MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN OF ATHERTON AND
THE ATHERTON POLICE OFFICERS’ ASSOCIATION FOR THE PERIOD JULY 1, 2000
THROUGH JUNE 30, 2005

WHEREAS, the POA and the Town agreed to change the work schedule in 1996 from an 8-hour day to a 12-hour work day, provided that: a) employees who did not work on a designated holiday would accrue 8 hours of holiday time; b) employees would accrue vacation and sick time as if they had worked an 8-hour day; and c) employees who worked 12 hours on a designated holiday would receive, in addition to regular pay, either 12 hours of holiday time accrual or 12 hours pay;

WHEREAS, “Section 14: Holidays” in the July 1, 2000 through June 30, 2005 Memorandum of Understanding (MOU) provides in part that: “Employees who are required to work on a holiday shall be entitled to a compensatory day off or time and one-half (1.5) pay in lieu of a compensatory day off;

WHEREAS, the POA filed a “Holiday Pay Grievance” on November 21, 2000 which contended that those who worked 12 hours on a designated holiday were only accruing 8 hours of holiday time;

WHEREAS, the POA and the Town have negotiated a resolution to the grievance as follows:

A. Retroactive Resolution:

1. The Town agrees to retroactively make up the difference between holiday hours accrued and received, on the terms described in section B below, for the period between January 1, 2000 and the date that this Side Letter is adopted by the City Council, but only upon the following conditions:

   a. Eligible employee: The employee's classification is one that is represented by the APOA and the employee is still employed with the Atherton Police Department as of the date that the City Council adopts this Side Letter.

   b. The retroactive credit (hours) for holiday pay shall be deposited into each eligible employee's holiday hour pool, and is not offered on a cash-out basis. However, nothing in this Side Letter shall prevent an eligible employee from thereafter applying for a cash-out of accrued compensatory time as provided for in the MOU and applicable Town policies and procedures.

B. Prospective Resolution:

1. "Section 14: Holidays” in the July 1, 2000 through June 30, 2005 MOU is amended, effective only as of the date this Side Letter is adopted by the City Council and thereafter, as to
those who are employed in the Atherton Police Department on the date that this Side Letter is adopted by the City Council or thereafter:

The Town’s designated holidays are as follows:
January 1
February 12
Third Monday in February
Last Monday of May
July 4
First Monday of September
Second Monday of October
November 11
Thanksgiving Day
December 25

A personal holiday as determined by the employee subject to approval of the Chief of Police or his/her designee.

Employees who are required to work eight or more hours on a designated holiday shall be entitled to either 12 hours credit to their holiday time accrual, or 12 hours pay, in addition to regular pay. Employees who are required to work on a designated holiday for less than eight hours shall be entitled to the number of holiday hours worked in the form of either a credit to their holiday time accrued for the number of holiday hours worked or as holiday pay for the number of hours worked. Employees who do not work on a holiday, shall be entitled to 8 hours of holiday pay only.

_________________________  _______________________
APOA Representative    Mayor, Town of Atherton

_________________________  _______________________
Date       Date

Approved as to form:

_________________________
City Attorney

Approved by the City Council on _______________________

Town of Atherton City Council/Channel Drainage District Agenda –July 17, 2002
Page 32 of 67                                      Dated and Posted: 07/12/02
CITY COUNCIL STAFF REPORT

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

FROM: LINDA KELLY, ASSISTANT TO THE CITY MANAGER

DATE: FOR THE MEETING OF JULY 17, 2002

SUBJECT: ADOPTION OF RESOLUTION AUTHORIZING HOURLY SALARY RANGES FOR PART-TIME AND TEMPORARY EMPLOYEES FOR FISCAL YEAR 2002-03

RECOMMENDATION

It is recommended that the City Council adopt the proposed resolution authorizing hourly salary ranges for part-time and temporary employees for Fiscal Year 2002-03, effective for the payroll period beginning July 7, 2002.

BACKGROUND

For many years, the Town has utilized part-time employees in a number of capacities throughout the organization to fill temporary, seasonal or permanent positions that require less than a full-time employee. The salaries for these positions were traditionally set by the City Manager or Department Head and were based on either market conditions or the need of the Town for specific levels of talent. In addition, many existing part-time and temporary positions have not seen a salary increase in several years and thus, it has become more difficult for the Town to attract and retain the best qualified part-time employees.

Proposed is a resolution which would set part-time employee hourly salary ranges for Fiscal Year 2002-03. It is recommended that these rates become effective as of the first payroll period which begins after July 1, 2002, which would be the payroll period beginning July 7, 2002. These hourly rates were set by either utilizing comparator positions in other agencies or setting salaries as a percentage of existing full-time positions. The resolution has been reviewed and approved by the Town’s labor relations counsel, Liebert Cassidy Whitmore, and City Attorney Marc Hynes.
The positions covered by this resolution are: Per Diem Police Dispatcher, Reserve Officer – Level 1, Administrative Assistant to the Police Chief, Part-Time Maintenance Worker, Part-Time Recreation Assistant, and Temporary Employee. The “Temporary Employee” class is a new classification that would be used in the infrequent situations when the Town may need to hire a temporary employee to fill a vacancy or for a special project. The range is wide to allow for flexibility in hiring. Typical examples of temporary employees would be a college intern; office support staff to fill a temporary vacancy; a professional-level employee with technical skills to work on a special project or fill a temporary vacancy; or bringing a retired public employee on staff to fill a vacant department head position while a recruitment is ongoing.

The City Manager and Assistant to the City Manager invited the part-time and temporary employees to a meeting in order to “meet and confer” regarding this matter and to answer any questions that the employees may have. This meeting was held on July 10, 2002 and no employees attended the meeting.

**FISCAL IMPACT**

It has been determined that implementing the proposed increases would cost the Town approximately $5,500 for FY 2002-03 for the part-time and temporary employees currently employed by the Town. The potential increase was budgeted and sufficient funds exist in departmental budgets to cover the increased cost.

**CONCLUSION**

In order for the Council to take official action authorizing the new hourly salary ranges, it is recommended that the City Council adopt the attached Resolution.

Prepared by: Linda Kelly
Assistant to the City Manager

Approved by: James H. Robinson
City Manager

Attachment: Proposed Resolution
RESOLUTION NO. 02-___

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ADOPTING
HOURLY SALARY RANGES FOR PART-TIME AND TEMPORARY EMPLOYEES FOR
FISCAL YEAR 2002-03

The City Council of the Town of Atherton hereby resolves as follows:

WHEREAS, the City Council has determined that it is in the best interests of the Town to
bring uniformity to the salaries of Part-time and Temporary employees in the form of a resolution;
and

WHEREAS, Attachment A to this Resolution specifies the hourly salary ranges for Part-
time and Temporary employees for the Fiscal Year 2002-03.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the Town of Atherton
that the hourly salary ranges for Part-time and Temporary employees of the Town of Atherton shall
be as stated in Attachment A.

* * * * * * * * * *

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 ___ day of
_________, 2002, by the following vote.

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

_______________________
Alan B. Carlson, Mayor
Town of Atherton

ATTEST:

__________________________
Sharon Barker, City Clerk

APPROVED AS TO FORM:

__________________________
Marc Hynes, City Attorney
## TOWN OF ATHERTON
### PART-TIME AND TEMPORARY EMPLOYEES
#### HOURLY SALARY RANGES
##### FISCAL YEAR 2002-03

<table>
<thead>
<tr>
<th>Position</th>
<th>Step A</th>
<th>Step B</th>
<th>Step C</th>
<th>Step D</th>
</tr>
</thead>
<tbody>
<tr>
<td>Per Diem Police Dispatcher</td>
<td>$27.97</td>
<td>29.61</td>
<td>31.26</td>
<td>32.90</td>
</tr>
<tr>
<td>Reserve Police Officer – Level 1*</td>
<td>$24.16</td>
<td>25.58</td>
<td>27.00</td>
<td>28.42</td>
</tr>
<tr>
<td>Administrative Assistant to the Police Chief</td>
<td>$23.13</td>
<td>24.49</td>
<td>25.85</td>
<td>27.21</td>
</tr>
<tr>
<td>Part-Time Maintenance Worker</td>
<td>$15.35</td>
<td>16.25</td>
<td>17.16</td>
<td>18.06</td>
</tr>
<tr>
<td>Part-Time Recreation Assistant</td>
<td>$13.44</td>
<td>14.23</td>
<td>15.02</td>
<td>15.81</td>
</tr>
<tr>
<td>Temporary Employee (open range; no steps)</td>
<td>$10.00</td>
<td></td>
<td></td>
<td>$60.00</td>
</tr>
</tbody>
</table>

*Note: Reserve Police Officer – Level 2 is an unpaid volunteer position.*
CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS
FROM: MARC G. HYNES, CITY ATTORNEY
DATE: CITY COUNCIL MEETING OF JULY 17, 2002
SUBJECT: RESOLUTION AMENDING CONFLICT OF INTEREST CODE

RECOMMENDATION:

Adopt Resolution Amending the Town's Conflict of Interest Code to add additional positions as described in the Resolution.

BACKGROUND:

In 1991, the Town adopted a standard form of conflict of interest code which has been approved by the State of California. The Political Reform Act requires a bi-annual review of every city's conflict of interest code followed by a report to the Fair Political Practices Commission confirming the review and advising of any changes.

In conducting the review of the Town's Conflict of Interest Code, it was determined that additional positions should be added. These positions are described in the attached Resolution and include:

- Assistant Finance Director
- Building Official/Planning Administrator
- Town Planner
- Deputy Town Planner
- Associate Engineer
- Town Arborist/Public Works Specialist
The attached Resolution amends the Town's Conflict of Interest Code by changing Exhibit" A ". This is the attachment to the Conflict of Interest Code which designates the positions subject to the code and describes the disclosure categories for those positions.

**FISCAL IMPACT:**

None.

Respectfully,

Marc G. Hynes

Marc G. Hynes

Attachment
RESOLUTION NO. 020—

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
AMENDING THE CONFLICT OF INTEREST CODE
FOR DESIGNATED EMPLOYEES

WHEREAS, the City Council of the Town of Atherton did adopt a Conflict of Interest Code, Resolution 91-6, on the 19th day of June, 1991; and

WHEREAS, the City Council has previously amended said Conflict of Interest Code to reflect additional designated positions by Resolution No. 94-8 on the 23rd day of March, 1994; and Resolution No. 00-26 on the 20th day of September, 2000; and

WHEREAS, it is now necessary to amend said Conflict of Interest Code to reflect additional designated positions as follows:

Assistant Finance Director
Building Official/Planning Administrator
Town Planner
Deputy Town Planner
Associate Engineer
Town Arborist/Public Works Specialist

NOW, THEREFORE, BE IT RESOLVED by the City Council of the Town of Atherton that the amendment as described shall appear as Appendix "A" to the Town of Atherton Conflict of Interest Code along with the designated positions previously described and as amended by Resolution No. 94-8 and No. 00-26 and this Resolution. Except as amended, all other terms and provisions of the Conflict of Interest Code shall continue to remain in effect.

* * * * * * * * * * * * * *

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)___ day of __________, 2002, by the following vote:

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

________________________
Alan B. Carlson, Mayor
TOWN OF ATHERTON

ATTEST:

________________________
Sharon Barker, City Clerk

APPROVED AS TO FORM:

________________________
Marc G. Hynes, City Attorney
APPENDIX "A"

TOWN OF ATHERTON
CONFLICT OF INTEREST CODE

LIST OF DESIGNATED POSITIONS

| Department: Administration and Police |
| Date: September 20, 2000 |

<table>
<thead>
<tr>
<th>JOB TITLE</th>
<th>DISCLOSURE CATEGORY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accountant</td>
<td></td>
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<tr>
<td>Assistant Finance Director</td>
<td>1</td>
</tr>
<tr>
<td>Assistant to the City Manager</td>
<td>1</td>
</tr>
<tr>
<td>Building Official/Planning Administrator</td>
<td>1</td>
</tr>
<tr>
<td>Chief of Police</td>
<td>1</td>
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<tr>
<td>City Clerk</td>
<td>1</td>
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<tr>
<td>City Town Planner</td>
<td>1</td>
</tr>
<tr>
<td>Deputy Town Planner</td>
<td>1</td>
</tr>
<tr>
<td>Consultants*</td>
<td>1*</td>
</tr>
<tr>
<td>Finance Assistant</td>
<td>1</td>
</tr>
<tr>
<td>Park Program Manager</td>
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<tr>
<td>Police Lieutenant</td>
<td>1</td>
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<tr>
<td>Public Works Director/City Engineer</td>
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<tr>
<td>Associate Engineer</td>
<td>1</td>
</tr>
<tr>
<td>Public Works Superintendent</td>
<td>1</td>
</tr>
<tr>
<td>Public Works Supervisors (2)</td>
<td>1</td>
</tr>
<tr>
<td>Town Arborist/Public Works Specialist</td>
<td>1</td>
</tr>
</tbody>
</table>

*Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The City Manager may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements described in this section. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The City Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.
CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: CITY COUNCIL MEETING OF JULY 17, 2002

SUBJECT: RESOLUTIONS RECOMMENDING THAT SAN MATEO COUNTY FLOOD CONTROL DISTRICT IMPOSE CHARGES FOR FUNDING THE 2002-2003 COUNTY-WIDE NATIONAL POLLUTANT DISCHARGE AND ELIMINATION SYSTEM GENERAL PROGRAM/

RESOLUTION IMPOSING ADDITIONAL CHARGES/ AGREEMENT FOR SAID PROGRAM REGARDING CHARGES/ RESOLUTION 02-17 TO BE RESCINDED

Recommendation:
It is recommended that the Council adopt the two resolutions attached to this memorandum and approve the agreement regarding charges for funding the National Pollutant Discharge and Elimination System Program for the County of San Mateo and authorizing the Mayor to sign that agreement on behalf of the Town.

Background:
At its regular meeting on June 19, 2002, the City Council adopted Resolution No. 02-17. That Resolution requested the San Mateo County Board of Supervisors acting as the governing board of the San Mateo County Flood Control District, to impose those charges necessary to fund the county-wide National Pollutant Discharge Elimination System General Program. The Town has previously adopted and committed to implement the San Mateo County Storm Water Management Plan for 1998-2003 and has previously requested the Board of Supervisors to impose charges necessary to fund the program. Resolution No. 02-17 is being rescinded and will be replaced by the two resolutions attached. The purpose for utilizing two resolutions is to recognize the distinction between charges first approved by ordinance of the San Mateo County Flood Control District in 1995. These are basic charges described in the first Resolution. The second Resolution imposes additional annual charges.
Basic charges are in an amount of $3.44 per single-family residential parcels; $1.72 for agricultural, vacant, condominium and "miscellaneous" parcels. All other land use parcels are charged a base rate of $3.44 for the first 11,000 square feet and an additional $0.3127 for each 1,000 additional square feet of parcel area. The additional charges impose an additional $2.4842 for a single-family residential parcel; $1.2421 for agricultural, vacant, condominium and miscellaneous parcels; $2.4842 for all other land use parcels for the first 11,000 square feet plus an additional $0.2240 for each additional 1,000 square feet of parcel area.

The agreement proceeds in accordance with the Joint Powers Agreement continuing the establishment of the City/County Association of Governments ("C/CAG."). C/CAG has the responsibility of implementing county-wide, state-mandated plans such as the San Mateo County-wide Storm Water Management Plan. Under the agreement, each member of the JPA contributes its pro-rata share of revenues to the annual budget. This includes amounts needed to obtain required permits under the National Pollutant Discharge and Elimination System and to implement the NPDES program.

In recognition of this pro-rata participation, the agreement confirms that in the event the District is obliged to refund any amounts which it has collected on behalf of the Town, relative to the NPDES program, the Town will indemnify and save the district harmless from all amounts collected by the district on the Town's behalf.

**Fiscal Impact:**
Approval of the Resolutions will result in the continued collection of funds required to operate the county-wide NPDES General Program. Costs associated with commitments under the agreement are not presently known, but would be determined based upon charges which had been collected and required to be refunded plus the Town's pro-rata share of any attorneys fees related to litigation regarding the refund.

Respectfully,

Marc G. Hynes
MARC G. HYNES
RESOLUTION NO. 02-___

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF AHERTON
RECOMMENDING THAT THE SAN MATEO COUNTY FLOOD CONTROL DISTRICT
IMPOSE CHARGES FOR FUNDING THE 2002-2003 COUNTYWIDE NATIONAL
POLLUTANT DISCHARGE ELIMINATION SYSTEM GENERAL PROGRAM AND
RESCINDING RESOLUTION NO. 02-17

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

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

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

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

WHEREAS, the San Mateo Countywide Stormwater Management Plan was submitted to
the San Francisco Bay Regional Water Quality Control Board and the Management Plan was
approved by the Board and made part of the NPDES Waste Discharge Permit CA 0029921, issued
September 13, 1993 and remaining in effect through June 30, 1998, and

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

WHEREAS, the San Mateo County NPDES Technical Advisory Committee prepared the
San Mateo Countywide Stormwater Management Plan for 1998-2003; and

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

WHEREAS, the San Francisco Bay Regional Water Quality Control Board, after Public
Hearing, approved the Renewed NPDES Permit effective July 21, 1999 and which expires July 20,
2004; and
WHEREAS, the San Mateo County Flood Control District Act, as amended by the State Legislature in 1992 (Assembly Bill 2635), authorized the San Mateo County Flood Control District (“District”) to impose charges to fund storm drainage programs such as the NPDES Program; and

WHEREAS, in 1995, District adopted, by ordinance, charges (“Basic Charges”) to fund the Countywide General Program at the following rates: Single Family Resident: $3.44/APN; Miscellaneous, Agriculture, Vacant and Condominium: $1.72/APN; all other land uses a base rate of $3.44/APN for the first 11,000 square feet plus $0.3127 per 1,000 additional square feet of parcel area; and

WHEREAS, District has requested all cities to indicate, by resolution, whether they wish to have District collect the Basic Charges on behalf of the city to fund a portion of the $1,295,348 Budget for FY 2002-2003; and

WHEREAS, the charges are in the nature of a sewer service charge in that they are intended to fund a federally mandated program the purpose of which is to create waste treatment management planning processes to reduce the amount of pollutants in discharges from property into municipal storm sewer systems which, in turn, discharge into the waters of the United States.

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

1. The Town of Atherton respectfully requests the San Mateo County Board of Supervisors, acting as the governing board of the San Mateo County Flood Control District, to impose those charges necessary to fund the Countywide NPDES General Program.

2. The Town of Atherton respectfully requests that all properties within the territorial limits of the City be charged the annual charges in accordance with said charges stated above.

3. The City Clerk is hereby directed to forward a copy of this Resolution to the San Mateo County Board of Supervisors and to the NPDES Coordinator of C/CAG.

4. Resolution No. 02-17 is hereby rescinded.

* * * * * * * * * * * * *

I hereby certify that the foregoing Resolution was duly and regularly adopted at a regular meeting of the City Council held on the ______ day of July, 2002, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
RESOLUTION NO. 02-___

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF
ATHERTON RECOMMENDING THAT THE SAN MATEO COUNTY
FLOOD CONTROL DISTRICT IMPOSE ADDITIONAL CHARGES FOR
FUNDING THE EXPANDED SCOPE OF WORK FOR THE 2002-2003
COUNTYWIDE NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM GENERAL PROGRAM AND REPEALING
RESOLUTION NO. 02-17

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

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

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

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

WHEREAS, the San Mateo Countywide Stormwater Management Plan was submitted to
the San Francisco Bay Regional Water Quality Control Board and the Management Plan was
approved by the Board and made part of the NPDES Waste Discharge Permit CA 0029921, issued
September 13, 1993 and remaining in effect through June 30, 1998; and

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

WHEREAS, The San Mateo County NPDES Technical Advisory Committee prepared the
San Mateo Countywide Stormwater Management Plan for 1998-2003; and

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

WHEREAS, the San Francisco Bay Regional Water Quality Control Board, after Public
Hearing, approved the Renewed NPDES Permit effective July 21, 1999 and which expires July 20,
2004; and
WHEREAS, the San Francisco Bay Regional Water Quality Control Board (RWQCB) has imposed additional requirements on the NPDES General Program beyond those required in the current Renewed NPDES Permit; and

WHEREAS, the San Mateo County Flood Control District Act, as amended by the State Legislature in 1992 (Assembly Bill 2635), authorized the San Mateo County Flood Control District ("District") to impose charges to fund storm drainage programs such as the NPDES Program; and

WHEREAS, in 1995, the District adopted a basic NPDES charge to fund the Countywide General Program; and

WHEREAS, in order to meet expanded requirements of the NPDES General Program, the District adopted and imposed additional annual charges that, when added to the previously adopted Basic Charges, will be necessary to fund the Program; and

WHEREAS, District has requested all cities to indicate, by resolution, whether they wish to have District collect the additional charges on behalf of the city to fund a portion of the $1,295,348 Budget for Fiscal Year 2002-2003 at the following rates: Single Family Resident: $2.4842/APN; Miscellaneous, Agriculture, Vacant and Condominium: $1.2421/APN; all other land uses a base rate of $2.4842/APN for the first 11,000 square feet plus $0.2240 per 1,000 additional square feet of parcel area; and

WHEREAS, the charges are in the nature of a sewer service charge in that they are intended to fund a federally mandated program the purpose of which is to create waste treatment management planning processes to reduce the amount of pollutants in discharges from property into municipal storm sewer systems which, in turn, discharge into the waters of the United States.

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

1. The Town of Atherton approves the expanded Scope of Work imposed on the NPDES General Program and respectfully requests the San Mateo County Board of Supervisors, acting as the governing board of the San Mateo County Flood Control District, to impose those additional charges necessary to fund the County-wide NPDES General Program; and

2. The Town of Atherton requests that all properties within the territorial limits of said City be charged the additional annual charges in accordance with said additional charges stated above; and

3. The City Clerk is hereby directed to forward a copy of this Resolution to the San Mateo County Board of Supervisors and to the NPDES Coordinator of C/CAG.
4. Resolution No. 02-17 is hereby rescinded and declared to be of no further force or effect.

* * * * * * * * * * * * *

I hereby certify that the foregoing Resolution was duly and regularly adopted at a regular meeting of the City Council held on the ______ day of July, 2002, by the following vote:

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

________________________
Alan B. Carlson, Mayor
TOWN OF ATHERTON

ATTEST:

________________________
Sharon Barker, City Clerk

APPROVED AS TO FORM:

________________________
Marc G. Hynes, City Attorney
CITY COUNCIL STAFF REPORT

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

FROM: CLIFF TEMPS, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF JULY 17, 2002

SUBJECT: ACCEPTANCE OF WORK AND AUTHORIZATION TO RECORD NOTICE OF COMPLETION – MIDDLEFIELD ROAD PATCHING PROJECT 02-001

RECOMMENDATION

Accept the work and authorize recording a notice of completion for Middlefield Road Patching Project No 02.001.

INTRODUCTION

The Council awarded a contract to G Bartolotto Company for Middlefield Road pavement patching, between Fair Oaks and the northwest city limit line. Work under the contract has been completed.

ANALYSIS

The final contract amount for the work is $48,417.76. Patching will be followed by an asphalt concrete overlay, tapering shoulder slopes with base rock and drainage improvements, under a separate contract.

FISCAL IMPACT

Funding for the project was provided from parcel tax under the FY 01-02 budget.

CONCLUSION:

It is appropriate for the Council to accept the work and authorize recording a Notice of Completion at this time.

Respectfully submitted: Reviewed/Approved:
CITY COUNCIL STAFF REPORT

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

FROM: CLIFF TEMPS, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF JULY 17, 2002

SUBJECT: APPROVAL OF PLANS AND SPECIFICATIONS FOR WEST MIDDLEFIELD ROAD OVERLAY PROJECT 02-003

RECOMMENDATION

Approve the plans and specifications for West Middlefield Road Overlay Project No. 02-003.

INTRODUCTION

The Council directed that pavement rehabilitation work on Middlefield Road be extended from the end of the current grant project, 100 feet north of Fair Oaks Lane, to the northwest City limit. This work was not included in the grant project because it wasn’t known at the time the grant was applied for that there would be sufficient Town funds to provide 50% in matching money, and because the distress in this area was less severe than in the grant area. Passage of the parcel tax has provided funding to rehabilitate this section of road, and the work is being undertaken in two phases: patching, which was completed last month, and resurfacing, which is covered by this West Middlefield Road Overlay Project.

ANALYSIS

The project consists of overlaying the existing pavement with a 3-inch thick asphalt concrete overlay reinforced with paving fabric, eliminating edge of pavement drop-offs by filling shoulders with base rock tapers, replacing the deep valley gutter at Jennings Lane with twin 6-inch diameter, shallow drain pipes, and restriping the new pavement surface with centerlines and bicycle stripes that will match the striping in the grant project. Bids will be opened on August 6, and contract award is expected on August 21, 2002. A copy of the plans and specifications is available at the Town Hall reception area for Council review.

FISCAL IMPACT
The project, which is estimated to cost between $75,000 and $85,000, will be funded with parcel tax and gas tax funds.

CONCLUSION:

It is appropriate for the Council to approve plans and specifications for the work.

Respectfully submitted: Reviewed/Approved:

Cliff Temps James Robinson
Public Works Director City Manager
CITY COUNCIL STAFF REPORT

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

FROM: CLIFF TEMPS, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF JULY 17, 2002

SUBJECT: APPROVAL OF PLANS AND SPECIFICATIONS FOR POLICE GARAGE
          STORAGE BUILDING AND FENCE - PROJECT 02-004

RECOMMENDATION

Approve the plans and specifications for the Police Garage Storage Building, Project No. 02-004.

INTRODUCTION

The budget provides $75,000 to construct a garage storage building for the Police Department in the area presently occupied by the metal storage container and DARE car shed. The storage container and shed will be removed as part of the project. The new facility will be used for evidence storage, a home for the DARE car, and as an enclosed shelter for the motorcycle fleet.

ANALYSIS

The building will be single story, 40’ x 36’, covered with wood siding and a composition shingle roof that matches the roof on the Administration/Police building. Its design has been reviewed and approved by the Planning Commission, and the Planning Commission’s approval was reviewed and approved by the Council. At the time of the Council’s approval, there were outstanding issues regarding fencing and buffering between the new building and the rear yard of the property at 76 Fair Oaks Lane. After two meetings between staff and the property owner, these issues have been resolved. A new fence will be built on the Town’s side of the line between the two properties, and the area between the new fence and new building will be fenced, with access only from the Fair Oaks Lane side. This is to discourage the Town’s use of this area for storage. The area will be dug out and filled with drain rock, to the extent possible while avoiding pine tree roots, and used to retain runoff from the new building’s roof. A set of the plans is available in the Town Hall reception area for review.
FISCAL IMPACT

The project is budgeted to be funded with facility construction funds.

CONCLUSION:

It is appropriate for the Council to approve plans and specifications for the work.

Respectfully submitted: Reviewed/Approved:

Cliff Temps James Robinson
Public Works Director City Manager
ITEM NO. 19

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: JAMES H. ROBINSON, CITY MANAGER
DATE: CITY COUNCIL MEETING JULY 17, 2002
SUBJECT: APPEAL OF BUILDING OFFICIAL DECISION ISSUANCE OF BUILDING PERMIT FOR A RETAINING WALL AT 85 ORCHARD HILLS DRIVE

RECOMMENDATION:

That the City Council hear the appeal and uphold the decision of the Building Official and determine that the Building Official acted within his authority to interpret and apply the rules of the Atherton Municipal Code regarding building permit matters.

ANALYSIS:

On June 25, 2002 a building permit was issued for a retaining wall to be located at 85 Orchard Hills. The retaining wall was to be eleven feet high with a three foot high guardrail located at the top. The retaining wall was to be approximately 200 feet long and located 10 feet from and parallel to the rear property line.

On June 26, 2002 Mr. Eric Amadei, the owner of the property to the rear, known as 291 Stockbridge Avenue, filed an appeal and paid the appropriate fees. Mr. Amadei alleges that there are heritage trees in the vicinity of the proposed construction and that those trees are not shown on the construction drawings. Further, Mr. Amadei alleges that the proposed retaining wall is subject to Planning Commission review.

On June 26, 2002, Building Official Mike Hood met with the contractor on the site of 85 Orchard Hills and measured all large trees in the vicinity of the proposed construction. The largest tree was 45 inches in circumference when measured 48 inches above the
ground. The next largest tree was 42 inches in circumference. The definition of a heritage tree in the Atherton Municipal Code is a tree that is greater than 48 inches in circumference when measured 48 inches above the ground. Therefore, no heritage trees exist within the vicinity of the proposed construction. Regardless, the property owner plans to preserve and maintain these trees.

Although Planning Commission review is not required, the general rules that apply to retaining walls are as follows:

1. If located at the property line, a retaining wall is regulated like a fence, that is, limited to 6 feet in height.

2. If located 10 feet or more from the property line, a retaining wall is regulated like an accessory structure and limited to 11 feet in height with a maximum of a 4 foot high guard railing at the top.

Landscape screening requirements have been discussed with the retaining wall applicant and a landscape screening plan will be required prior to the pouring of the retaining wall. Generally, the retaining wall applicant is proposing trees and scrubs at the base of the retaining wall and ivy to cover the wall itself.
CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE MEETING OF JULY 17, 2002

SUBJECT: CONSIDERATION AND POSSIBLE ACTION OF A REQUEST FOR REIMBURSEMENT OF PERMIT FEE FOR DEAD OR DANGEROUS TREE

RECOMMENDATION

It is recommended that the City Council consider the request of Douglas M. Heller for reimbursement of a $250.00 tree removal permit, and give direction to staff.

BACKGROUND

The Town of Atherton received the attached letter from Douglas M. Heller requesting a refund of the $250.00 permit fee paid for the removal of a “dangerous 200 year old live oak tree.” Mr. Heller claims that the fee is an unnecessary expense.

The Town of Atherton previously charged a $250.00 fee to issue a permit for the removal of a dead or dangerous tree. An amended fee resolution was adopted February 13, 2002 which established a $100.00 fee to issue a permit for the removal of a dead or dangerous tree. Currently, the adopted Fee Resolution does not provide any discretion to staff to waive or reimburse fees. Mr. Heller is aware of this and has requested that the City Council consider his request for reimbursement.

FISCAL IMPACT

The reimbursement of one $250.00 fee would obviously have a minimal impact. The question is the precedent set and how the Town of Atherton would respond for other requests for reimbursements of fees previously established by the Town. For the 2001 calendar year the Town of Atherton issued some 161 Tree Removal Permits. At that time the fee was $250.00 for the first tree and $150.00 for the second tree. The amended fee currently in place is $100.00 for the first tree and $50.00 for the second tree.
CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: JAMES H. ROBINSON, CITY MANAGER
DATE: FOR THE MEETING OF JULY 17, 2002
SUBJECT: DISCUSSION RE: ATHERTON CHANNEL DRAINAGE DISTRICT – LIABILITY INSURANCE, WATER TESTING, EASEMENTS

RECOMMENDATION

Consider specific issues related to the Atherton Drainage Channel and give direction to staff.

BACKGROUND:

At its meeting held July 1, 2002, the Atherton Drainage Channel Council Subcommittee requested that several issues be referred to the Atherton Drainage Channel District Board for consideration and possible action. Issues included Liability Insurance Coverage, a proposal from EOA to conduct Water Quality Reconnaissance of the Atherton Channel, and issues related to easements along the Atherton Drainage Channel. The following is attached to help facilitate this discussion:

1. A memo from the City Clerk outlining the existing Liability coverage for the District which is part of the same liability insurance for the Town of Atherton. Both the Town and the District are self insured up to $5 million with an excess insurance pool coverage of up to $10 million.

2. A proposal from EOA to conduct water testing in the amount of $34,700. This would appear to be a significant expense and any issues related to water quality could be referred to the Regional Water Quality Control Board.

3. A Creek Practice Survey outlining how other communities are dealing with creek issues including easements, maintenance, inspections, homeowner responsibilities and encroachment permits. In addition, Marc Hynes will be available to discuss issues related to easements along the Atherton Drainage Channel.
CITY COUNCIL STAFF REPORT

TO:     HONORABLE MAYOR AND CITY COUNCILMEMBERS
FROM:  MARC G. HYNES, CITY ATTORNEY
DATE:  CITY COUNCIL MEETING OF JULY 17, 2002
SUBJECT:  AMENDMENT TO CHAPTER 5.20 OF THE ATHERTON MUNICIPAL CODE – REVISIONS OF SECTION 5.20.010 REGARDING PERMITS

Recommendation.
It is recommended that the Council consider the attached Ordinance amending regulations pertaining to soliciting activities and introduce the ordinance for first reading.

Background.
The attached ordinance amends Section 5.20.010 of the Atherton Municipal Code by deleting from Section 5.20.010 certain activities including soliciting information; soliciting donations of clothing, goods, wares, merchandise, or any other thing for charitable organizations or for charitable purposes; and soliciting "for any other purpose or purposes at all." The reason for deletion of this language is to bring Town regulations into compliance with standards which have recently been announced by the United States Supreme Court in the case of Watchtower Bible and Tract Society of New York, Inc., et al. v. Village of Stratton, et al. (June 17, 2002). In that case, the Court held that city ordinances requiring a permit prior to engaging in door-to-door advocacy as it applies to religious proselytizing, anonymous political speech and the distribution of handbills related thereto was invalid on First Amendment grounds. The revision proposed to Section 5.20.010 is intended to ensure conformance of Atherton's regulations with the supreme Court's decision.

Fiscal Impact.
None.

Respectfully,

Marc G. Hynes
MARC G. HYNES

Attachment
ORDINANCE NO.

AN ORDINANCE OF THE TOWN OF ATHERTON AMENDING CHAPTER 5.20 OF THE
ATHERTON MUNICIPAL CODE BY REVISIGN SECTION 5.20.010 PERTAINING TO
PERMITS REQUIRED FOR SOLICITING

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

SECTION 1. Amendment of Code.
Section 5.20.010 of the Atherton Municipal Code is hereby amended to read as follows:

"Section 5.20.010 Permit — Required.
It is unlawful for any person or persons to enter in or upon any private residence, apartment
or premises in the town for the purpose of soliciting or canvassing the owner or occupants thereof
for orders for goods, wares, merchandise or services of any character or description, or for the
purpose of offering to give or furnish any goods, wares, merchandise or services to any such owner
or occupant in order to induce or invite any such order or orders, or for the purpose of soliciting
subscriptions for books, newspapers, periodicals, magazines, or any other thing, or donations of
money unless such person or persons shall have first applied for and received from the chief of
police of the town a permit so to do.

SECTION 2. Continued Effect of Chapter 5.20.
Except as amended by this ordinance, all other provisions of Chapter 5.20 of the Atherton
Municipal Code shall continue to remain in effect.

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

SECTION 4. Posting.
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 ________ day of __________, 2002.

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the ________ day of _____________, 2002, by the following vote:

AYES:  COUNCILMEMBERS

NOES:  COUNCILMEMBERS

ABSTAIN:  COUNCILMEMBERS

ABSENT:  COUNCILMEMBERS

____________________________________
Alan B. Carlson, Mayor
TOWN OF ATHERTON

ATTEST:

______________________________
Sharon Barker, City Clerk

APPROVED AS TO FORM

____________________________________
Marc G. Hynes, City Attorney
CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCILMEMBERS

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: CITY COUNCIL MEETING OF JULY 17, 2002

SUBJECT: AMENDMENT TO CHAPTER 15.40 OF THE ATHERTON MUNICIPAL CODE –CONSTRUCTION REGULATIONS

Recommendation:

It is recommended that the ordinance amending Chapter 15.40 regarding demolition sales, operations of vehicles and required signs and penalties for violation be considered and introduced for first reading.

Background:

Based upon comments received regarding the operation of the Town's rules regarding construction, revisions to Section 15.40.110 (Definitions); Section 15.40.140 (Operation of Vehicles – Pick-Ups and Deliveries); Section 15.40.160 Violations and a new Section 15.40.155 regarding Posting of Signs have been prepared for consideration by the Council. They are set out in Sections 1 through 4 of the attached ordinance.

Fiscal Impact.

None.

Respectfully,

Marc G. Hynes

MGH:cwb

Attachment
ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
AMENDING CHAPTER 15.40 OF THE ATERHTON MUNICIPAL CODE,
CONSTRUCTION REGULATIONS, REGARDING DEMOLITION SALES, OPERATIONS
OF VEHICLES, REQUIRED SIGNS AND PENALTIES FOR VIOLATION

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

SECTION 1.
Section 15.40.110 of the Atherton Municipal Code is amended to revise Subparagraph A to read as follows:

"15.40.110 Definitions.
As used in this chapter:

A. Except as otherwise provided in this chapter, "Construction" means the act or process of building, including, but not limited to landscape installation, site preparation, alteration, repair, remodeling, assembly, erection, or similar action, of buildings, structures, pavement, flat work and other works including the use of power equipment in connection with activities therewith. Site preparation includes demolition and the removal of materials in connection with the demolition and/or removal of materials including landscape plantings, by any means including "demolition sales" or invitations to the public to retrieve and remove any material from the site."

SECTION 2.
Section 15.40.140 of the Atherton Municipal Code is hereby amended to read as follows:

"15.40.140 Operation of Vehicles – Pick-Ups and Deliveries.
Vehicles engaged in the delivery or pick-up of supplies and materials to or from construction projects shall be loaded or unloaded on the construction site whenever possible. Vehicles are not to arrive at the construction site before the hour of 8:00 a.m. and must depart the construction site no later than 5:00 p.m. The engines of delivery and pick-up vehicles shall be shut off upon arriving at the site and shall remain shut off during the time supplies, materials, or equipment are being loaded onto or unloaded from the vehicle unless the operation of the engine is required to load or unload the vehicle."

SECTION 3.
Section 15.40.155 is hereby added to the Atherton Municipal Code to read as follows:

"15.40.155  Posting of Signs.
Signs advising of the provisions of this Chapter and prepared by the Town shall be purchased from the Town by the person acquiring any building permit or engaging in construction as defined above. Signs shall be posted at locations and in the manner prescribed by the City Manager or designee."

SECTION 4.
Section 15.40.160 of the Atherton Municipal Code is hereby amended to read as follows:

"15.40.160  Violations.
A. A violation of this ordinance is a misdemeanor and shall be punished as provided in Section 1.20.040. A civil action may be commenced to abate, enjoin, or otherwise compel the cessation of violation of any provision in this Chapter. In a civil action brought pursuant to this Chapter in which the Town prevails, the court may award to the Town all costs of investigation and preparation for trial, the costs of trial, reasonable expenses including overhead and administrative costs incurred in prosecuting the action, and reasonable attorney fees.

B. As part of a civil action brought by the Town, a court may assess against any person who commits, allows, or maintains a violation of any provision of this Chapter a civil penalty in an amount not to exceed five thousand dollars per violation.

C. Upon any guilty plea or judgment or conviction, in any criminal proceeding brought for the violation of this ordinance, where the defendant is entitled by law to probation, then the court may require the payment to the Town of the costs and expenses as described above and the code provision incorporated by reference as one of the conditions of such probation."

SECTION 5.
Except as added and amended, all other terms and provisions of Chapter 15.40 continue to remain in effect.

SECTION 6.
The City Council hereby declares it would have passed this ordinance sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that the provisions 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 7.
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 ________ day of __________, 2002.

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the ____ day of _________, 2002, by the following vote:

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

___________________________________________________________________
Alan B. Carlson, Mayor
TOWN OF ATHERTON

ATTEST:

________________________
Sharon Barker, City Clerk

APPROVED AS TO FORM:

________________________
Marc G. Hynes, City Attorney
CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: JAMES H. ROBINSON, CITY MANAGER
DATE: FOR THE CITY COUNCIL MEETING OF JULY 17, 2002
SUBJECT: ACCEPTANCE OF STATUS REPORT BY CITY MANAGER OF ANNUAL REVIEW OF LITTLE LEAGUE COMPLIANCE WITH PARK LICENSE AGREEMENT

RECOMMENDATION:

1.) Accept status report from the City Manager regarding compliance by the Little League to the terms of the "License Agreement" between the Town of Atherton and the Menlo-Atherton Little League. 2.) Receive input from City Council regarding the Little League’s compliance with the agreement and mitigation measures. 3.) Direct the City Manager to meet with the President of the Little League to ensure compliance with the attached agreement and conduct an annual review.

BACKGROUND:

In August of 2000 the Town of Atherton entered into a license agreement with the Menlo-Atherton Little League Inc. The intent of the agreement was to grant a license to the Little League to permit the construction and operation of a Little League ball field on a portion of the Holbrook-Palmer Park during a period of late February through June. The agreement (see attached) also provided for reimbursement of certain maintenance costs, restrictions for hours and days of use, contributions for restroom facilities, and restrictions on outfield fencing and the removal of the backstop fencing and players seating area at the end of the Season.

The agreement also provided that the City Manager and Little League would conduct an annual review of use and operation of the Park improvements to ensure that the Little League was in compliance. It also provided that, prior to this meeting, the City Manager would seek input from both the City Council and Park and Recreation Commission on compliance with the agreement.
The City Manager met with the Park and Recreation Commission July 10, 2002 to solicit comments on compliance with the agreement and mitigation measures adopted for the project. No comments were received, however, the Commission complimented the Little League for removal of the backstop in a timely manner.

The City Manager also contacted all City departments regarding issues of noise, parking, conflicts with other park activities, compliance with the License agreement and mitigation measures, etc. to determine if any complaints were filed in relation to the use of the field by the Little League. I did not receive any confirmation of complaints from staff, nor were any noted in the Police Log during the entire season. It was also noted that the Town did not receive any complaints about the use of the field area following the prescribed Little League season.

**CONCLUSION:**

As noted above, it would appear that the Menlo-Atherton Little League has complied with all of the terms of the license agreement for the Holbrook-Palmer Park Little League Baseball Field, with the Town of Atherton, subject to review and comment by the City Council.