



**Town of Atherton  
CITY COUNCIL AGENDA  
Thursday, February 8, 2001**



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

date

**SPECIAL MEETING**

- 7:00 P.M. 1. ROLL CALL McKeithen, Janz, Carlson, Fisher, Conwell**
- 7:05 P.M. 2. PRESENTATIONS**
- A. Sheryl Snyder, Koff & Associates – Classification and Compensation Study.**
- 7:30 P.M. 3. COUNCIL REPORTS**
- A. City Manager Recruitment**
- 7:40 P.M. 4. PUBLIC COMMENTS (only for items which are not on the agenda – limit of three minutes per person)**
- 7:50 P.M. 5. CITY MANAGER REPORT**
- A. Position for Building Department and Post Office – Discussion and possible action.**
- B. Tennis key fee schedule – Discussion and possible action.**
- C. Other Items.**
- 8:05 P.M. CONSENT CALENDAR (Item 6 through 8)**
- 6. APPROVAL OF MINUTES OF REGULAR AND SPECIAL MEETINGS OF JANUARY 10, 2001 AND JANUARY 17, 2001**
- 7. APPROVAL OF BILLS AND CLAIMS FOR JANUARY 9, 2001 THROUGH FEBRUARY 2, 2001, IN THE AMOUNT OF \$500,867.22**
- 8. INVESTMENT REPORT FOR QUARTER ENDING DECEMBER 31, 2000**

**REGULAR AGENDA (Item 9)**

- 8:10 P.M. 9. CONSIDERATION OF LEASE AGREEMENT WITH KNOX PLAYSCHOOL**

**Recommendation: Approve the Lease Agreement with Knox Playschool for an initial term of five (5) years with options for ten (10) additional years.**

**PUBLIC HEARING (Item 10)**

- 8:25 P.M. 10. PUBLIC HEARING – ADOPTION OF ORDINANCE NO. 520, AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON CALLING AN ELECTION TO SUBMIT TO THE VOTERS AN ORDINANCE AUTHORIZING THE LEVY OF A SPECIAL TAX FOR MUNICIPAL SERVICES AND FOR THE EXPENDITURE OF FUNDS DERIVED FROM SUCH TAX**

**Recommendation: 1) Open public hearing; hear testimony; close public hearing. 2) Adopt Ordinance No. 520.**

**REGULAR AGENDA (Items 11 through 14)**

- 9:15 P.M. 11. ADOPTION OF RESOLUTION NO. 01-01, A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON CALLING FOR AN ELECTION TO APPROVE THE SPECIAL MUNICIPAL TAX**

**Recommendation: 1) Adopt Resolution No. 01-01. 2) Authorize the City Manager to execute an agreement with the County of San Mateo for election services.**

- 9:30 P.M. 12. MID-YEAR BUDGET REVIEW**

- 10:15 P.M. 13. DISCUSSION OF SELECTION PROCESS FOR MAYOR AND VICE MAYOR**

- 10:30 P.M. 14. DISCUSSION OF BROADCASTING OF CITY COUNCIL MEETINGS ON TV AND/OR RADIO**

- 10:45 P.M. 15. PUBLIC COMMENTS**

- 10:55 P.M. 16. ADJOURN**

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

**Dated & Posted 02.02.01**



**Minutes  
CITY COUNCIL MEETING  
Wednesday, January 10, 2001  
5:00 p.m.**

**Town Administrative Offices  
91 Ashfield Road  
Atherton, California**

**SPECIAL MEETING**

**Mayor Fisher called the meeting to order at 5:00 p.m.**

**1. ROLL CALL**

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

**Interim City Manager Ralph Freedman and City Attorney Marc Hynes were also present.**

**2. PUBLIC COMMENTS**

**There were no public comments.**

**3. CLOSED SESSION**

**The Council adjourned to closed session at 5:35 p.m.**

**4. RECONVENE TO OPEN SESSION**

**The Council reconvened to open session at 6:50 p.m. The following action was taken:**

**A. Conference with Labor Negotiator – Labor Negotiations pursuant to Government Code Section 94957.6. Agency Negotiator: Ralph Freedman, Interim City Manager. Employee Organization: Management**

**No action.**

**B. Conference with Labor Negotiator – Labor Negotiations pursuant to Government Code Section 54957.6. Agency Negotiator: Ralph Freedman, Interim City Manager. Employee Organization: Local Union No. 856**

**Non-management miscellaneous employees**

**The Council voted unanimously to enter into an agreement to pay non-Management miscellaneous employees, Local Union No. 856, at the 60<sup>th</sup> percentile as it pertains to salary based on the Koff and Associates survey of twelve benchmark cities, for the period January 7, 2001 through June 30, 2001.**

- C. Public Employment pursuant to Government Code Section 54957  
Title: City Manager**

**No action.**

**5. ADJOURN**

**The meeting adjourned at 6:55 p.m.**

**Respectfully submitted,**

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**Sharon Barker, City Clerk**



**Minutes**  
**CITY COUNCIL MEETING**  
**January 10, 2001**  
**7:00 p.m.**  
**TOWN COUNCIL CHAMBERS**

94 Ashfield Road  
Atherton, California

**SPECIAL MEETING**

Mayor Fisher called the meeting to order at 7:05 p.m.

**1. ROLL CALL**

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

**2. COUNCIL REPORTS**

- Council Member Conwell reported on the San Francisco Airport Roundtable meeting. A new noise monitor will be installed in the Atherton area by June 30<sup>th</sup>. He also reported that a SFO Runway Plan Noise Forum will be held on January 11, 2001 at the Municipal Services Building in South San Francisco.
- Vice Mayor Carlson requested that Council Members receive agendas and minutes for all Town committees and commissions. He announced he will not be able to attend the regular Council meeting in February.
- Council Member McKeithen asked that the Interim City Manager report back on several items including the noise and lights issue brought up by a resident at 26 Southerland Drive, Heritage Tree permit enforcement, the post office contract, collection of sales tax from Menlo College Book Store, and information on maintenance of the Atherton Channel.
- Mayor Fisher announced that the Transportation Committee will not meet until April. She will not be available for the regular Council meeting in February.

City Manager Ralph Freedman announced that Sheryl Snyder of Koff and Associates is ill. Item Number 5 was removed from the agenda.

### **3. PUBLIC COMMENTS**

**The following members of the audience spoke:**

**John Ruggiero, 10 Stockbridge Avenue**

**John Sisson, 26 Belleau Avenue**

### **REGULAR AGENDA**

#### **4. DISCUSSION AND POSSIBLE ACTION – CITY MANAGER RECRUITMENT PROCESS**

**Vice Mayor Carlson commended Ralph Freedman on his accomplishments as Interim City Manager, and said he believes the City Council should plan to recruit for a new City Manager. He outlined his recommendations for the recruitment process including having the Screening Committee advertise the position and screen the applicants. He recommended that in addition to the City Council, a resident committee should interview top candidates.**

**After discussion, the City Council concurred that the search for a new City Manager should be conducted by the City Council, utilizing the procedure outlined by Vice Mayor Carlson.**

**Mayor Fisher stated that Mr. Freedman has done the best job of any City Manager in Atherton. She encouraged him to apply for the position. She stated that residents interested in serving on the interview committee should submit letters to the City Attorney.**

**Vice Mayor Carlson stated that the salary range for the City Manager’s position should be discussed. He asked the Interim City Manager to supply advertisements and information used in the last recruitment to the Screening Committee, and to place the discussion on next week’s agenda.**

**The following members of the audience spoke:**

**John Sisson, 26 Belleau Avenue**

**Sandy Crittenden, 117 Heather Drive**

**Robert Simonds, 26 Wilburn Avenue**

**Charles Marsala, 33 Emilie Avenue**

**MOTION – to engage in a search to fill the position of City Manager, that the search be conducted under the supervision of the Screening Committee, that the Screening Committee place advertisements using materials from the last recruitment, that resumes be submitted to a post office box to be set up by the Screening Committee, that the Screening Committee distribute the applications to the City Council, that a recommendation be made by the Screening Committee to the City Council of those applicants who should be interviewed, that interviews be conducted by the City**

Council, as well as by a resident screening committee, that the Screening Committee recommend to the City Council a method to include staff input in the process, and that a professional background check be performed on the final candidates. Further, that a discussion of salary range and benefits for the position of City Manager be placed on next week's agenda, and that a report be brought back to the Council on the condition of the house, and that a professional opinion of the rental value of the house be obtained.

M/S Carlson/McKeithen

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

**5. DISCUSSION WITH SHERYL SNYDER OF KOFF & ASSOCIATES – CLASSIFICATION AND COMPENSATION STUDY**

This item was removed from the agenda.

**6. DISCUSSION AND POSSIBLE ACTION – STREET AND STORM DRAINAGE PROJECTS**

Interim City Manager Ralph Freedman presented a calendar of dates necessary for placing a measure on the June ballot for funding street and storm drainage improvements. He also provided the Council with a financial analysis on general obligation and Mello Roos bonds prepared by Piper Jaffray, Inc.

Public Works Director Cliff Temps presented an integrated plan of street improvements and drainage, which was requested by the Council. He went over cost comparisons for road maintenance and complete road rehabilitation.

Vice Mayor Carlson expressed his concerns regarding the relationship between the Channel District and the Town, and how that affects raising funds for improvements.

Discussion ensued regarding the need for the Town to contact outside agencies that may be involved in some of the drainage issues. The Council suggested that State and Congressional representatives be contacted for information on any funding which may be available for improvements.

It was the consensus of the City Council not to put this issue to the voters in June. It was decided that the Council needs to set some priorities, and to obtain a legal opinion to clearly delineate the relationship of the Atherton Channel District and the Town.

The Council directed the City Attorney to do some preliminary research.

The following members of the audience spoke:

John Sisson, 26 Belleau Avenue

John Ruggeiro, 10 Stockbridge Avenue

Jim Dobbie, 124 James Avenue

Smith McKeithen, 11 Maple Leaf Way



**Sandy Crittenden, 117 Heather Drive  
Scott Feamster, 230 Park Lane**

**7. DISCUSSION – PARCEL TAX**

**Interim City Manager Ralph Freedman presented an outline of proposed budget items which would be funded by a parcel tax including funding for police overhires, compensation adjustments, miscellaneous capital improvements, and road maintenance. He discussed the timeline for placing the tax on the June ballot. Discussion ensued regarding the length of years a parcel tax should be imposed. The Council agreed that residents should be apprised that the parcel tax will not cover any major capital improvement projects. A bond measure may be put before the voters for streets and storm drainage improvements at a later time. The City Council asked the Interim City Manager to return to the Council with a four-year program for the expenditure of parcel tax funds in a broad outline.**

**John Sisson and Bob Jenkins from the audience spoke on this issue.**

**It was the consensus of the Council to place the parcel tax on the June ballot. A public hearing was set for February 8, 2001 to present the parcel tax ordinance. A mid-year budget review will also be presented at the February 8<sup>th</sup> special meeting. The Council canceled the February 21, 2001 regular meeting.**

**8. PUBLIC COMMENTS**

**There were no public comments at this time.**

**9. ADJOURN**

**The meeting adjourned at 11:00 p.m.**

**Respectfully submitted,**

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**Sharon Barker, City Clerk**



**Minutes  
CITY COUNCIL MEETING  
Wednesday, January 17, 2001**

**6:30 p.m.**

**Meeting Room  
Town Administrative Offices  
91 Ashfield Road  
Atherton, California**

**SPECIAL MEETING**

**Mayor Fisher called the meeting to order at 6:30 p.m.**

**1. ROLL CALL**

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

**Interim City Manager Ralph Freedman and City Attorney Marc Hynes were also present.**

**2. PUBLIC COMMENTS**

**There were no public comments.**

**3. CLOSED SESSION**

**The Council adjourned to closed session at 6:35 p.m. to discuss the following:**

- A. Conference with Legal Counsel – Existing Litigation pursuant to Government Code Section 54956.9  
Patricia O’Neal vs. Town of Atherton**
- B. Conference with Legal Counsel – Existing Litigation  
pursuant to Government Code Section 94956.9  
Jennifer Luthy vs. Town of Atherton**
- C. Public Employment pursuant to Government Code Section 54957  
Title: City Manager**

**4. RECONVENE TO OPEN SESSION**

**The Council reconvened to open session at 6:55 p.m. There was no action taken.**

**5. ADJOURN**

**The meeting adjourned at 6:55 p.m. to a continued closed session following the regular meeting at 7:00 p.m.**

**Respectfully submitted,**

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**Sharon Barker, City Clerk**



**Minutes**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**

**January 17, 2001**

**7:00 p.m.**

**TOWN COUNCIL CHAMBERS**

94 Ashfield Road  
Atherton, California

**REGULAR MEETING**

**Mayor Fisher called the meeting to order at 7:05 p.m.**

**1. ROLL CALL**

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

**Interim City Manager Ralph Freedman and City Attorney Marc Hynes were also present.**

**2. PRESENTATIONS - None**

**3. COUNCIL REPORTS**

- **Council Member Conwell reported on the Criminal Justice Commission meeting.**
- **Council Member Carlson asked for a written opinion from the City Attorney on closed session notification on agendas.**
- **Council Member McKeithen reported that the Screening Committee has set up a mailbox for the City Manager recruitment process.**
- **Mayor Fisher asked that a letter be sent to those employees who received awards last month thanking them for their years of dedicated service. She asked the City Manager for an explanation of certain checks listed on this month's bills and claims. Interim City Manager Ralph Freedman gave the explanations.**

**4. PUBLIC COMMENTS**

**The following members of the audience spoke:**

Sandy Kaye, 88 Shearer Drive, asked about the holidays referred to in the construction ordinance. The Council requested that a list of holidays be distributed to all contractors taking out building permits. The Council also requested that an article be placed in the next Athertonian regarding the requirements of the construction ordinance.

## **5. CITY MANAGER REPORT**

The City Manager reported on the following:

- A City Attorney Report has been added to the agenda.
- \$101,610 in Sales and Use Tax were received during the first six months of this fiscal year. Some tax is generated by point of sale transactions within the Town. Approximately \$4,300 has been received from taxable items sold at the Menlo College store and cafeteria.
- A proposal has been received from Susan Knox for expansion of the Playschool at Holbrook-Palmer Park. A new modular containing two new classrooms adjacent to the existing building are being proposed. The Park and Recreation Commission has approved the expansion. The Planning Commission will address this issue at their next meeting.
- The Audit Committee will meet January 31, at 5:00 p.m. The Committee will meet with the Town auditors in March.
- A meeting was held with Candace Hathaway from Menlo School regarding the School's Master Plan. A citizens committee of residents who live adjacent to the Menlo School has been formed so they will have a voice in the preparation of the Master Plan.
- A resident from Menlo Park has requested all public records involved with the December 20, 2000 City Council decision on the alignment of the Sacred Heart School driveway.
- Study sessions for the budget are scheduled for May 9, 2001 and May 16, 2001. Public hearings for the proposed budget are scheduled for June 16, 2001 and June 20, 2001, with final adoption on June 27, 2001.
- Bids have been let for a Fixed Asset inventory.
- Issues raised at the last Council meeting regarding the last City Manager recruitment were addressed.

Council Member McKeithen asked the City Manager to return with information on the status of the postal contract, sales tax generated by auctions at Menlo School, enforcement of the Heritage Tree ordinance, the selection of Mayor and Vice Mayor, and television and/or radio broadcasting of Council meetings.

## **5. CITY ATTORNEY REPORT**

City Attorney Marc Hynes reported on the Atherton Channel Drainage District, stating that it was formed in November, 1957, under Health and Safety legislation

adopted in 1956. The District is under the governing body of the Town. He will continue to check into obtaining more documents and report back to the Council.

**7. DEPARTMENT HEADS' REPORTS**

**Building Official Mike Hood reported on a complaint made by a resident on Southerland Drive regarding noise and lighting issues generated by neighbors playing sports on a patio.**

**8. COMMUNITY ORGANIZATION ROUNDTABLE REPORT- no report**

**CONSENT CALENDAR**

**MOTION – to approve the consent agenda as submitted.**

**M/S Carlson/Janz**

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

**9. APPROVAL OF MINUTES**

**Approved minutes of Special Meetings of 12/13/00 and 12/20/00, and Regular Meeting of 12/20/00.**

**10. APPROVAL OF BILLS AND CLAIMS**

**Approved bills and claims for December 9, 2000 through January 8, 2001, in the amount of \$500,867.22.**

**PUBLIC HEARING**

**11. PUBLIC HEARING – APPEAL OF PLANNING COMMISSION DECISION TO APPROVE LOT LINE REDESIGNATION – ONE BELBROOK WAY**

**Senior Planner Lisa Costa-Sanders presented overhead plans of the property and explained the decision of the Planning Commission approving the request for a lot line redesignation from Walsh Road to Belbrook Way. Staff feels there would be sufficient setbacks between the neighboring properties given the lot line redesignation. Staff recommended that the Council uphold the Planning Commission decision. Building Official Mike Hood stated that the narrowest portion of the lot is on Belbrook Way. He stated that the original building permit filed in 1958 had a note on the plot plan stating that Walsh Road was the front of the property, although there was no official Town action approving such designation. Staff felt that this issue should be resolved at this time.**

**Discussion ensued regarding the need to redesignate the front of the property and the problems involved in building structures over the Atherton Drainage Channel. Council Member McKeithen stated that she feels the same setbacks should be required on the Walsh Road side of the property as are required on the front of the property. She also expressed concerns regarding the two Heritage trees, which would be removed during construction, and landscape screening, which the neighbors have requested.**

**Mayor Fisher asked the City Attorney for Council's responsibilities in hearing an appeal. He stated that the Council should come to a public hearing with an open mind, hear all the evidence presented in connection with the appeal, and at the conclusion of the hearing to either uphold, reverse, or modify the decision of the Planning Commission.**

**Mayor Fisher was concerned that some Council Members had approached the property owner prior to the public hearing. She said that Council Members must remain impartial in these matters when they are hearing an appeal.**

**Mayor Fisher opened the public hearing at 9:13 p.m. The following testimony was heard:**

**Hossein Alaei, One Belbrook Way, homeowner  
John Stewart, 1351 Laurel Street, San Carlos, architect for the homeowners  
Andrew Tiu, landscape architect for the homeowners  
Alicia Guerra, attorney for the homeowner**

**Mayor Fisher closed the public hearing at 9:50 p.m.**

**Vice Mayor Carlson stated that the Council should make several conditions on the lot line redesignation certificate including restricting the construction of a bridge to a footbridge, and designating the tree to be saved as a Heritage Tree.**

**Council Member Janz stated that the Council should give the Planning Commission decisions great weight. He stated that he shares concerns with the homeowners regarding the appellants' reasons for appealing, but agreed with the restriction to construct a footbridge only across the channel.**

**Council Member Conwell stated his concerns with building structures over the Atherton Channel.**

**Mayor Fisher asked that container sizes be specified in the landscape screening plan.**

**MOTION – Deny the appeal and uphold the decision of the Planning Commission with the following conditions to the draft lot line redesignation certificate: Item 1. - No change. Item 2. - No change (except remove “Condition two (2) and” and replace with “Condition four (4)...”). Item 3. - Modified as follows - landscaping shall be in**

compliance with the plans reviewed by the Planning Commission at its December 6, 2000 meeting, and prior to the issuance of a building permit, that a Landscape Screening Plan be approved by the Town with the addition of the three oak trees to the December 6<sup>th</sup> plans reviewed by the Commission with container sizes noted and any significant changes to the plans shall be reviewed and approved by the Town. Item 4. - As written, modified to reflect that a pedestrian bridge may be built across the channel subject to approval of plans by the Town, and that there be a sixty foot setback from edge of the Walsh Rd. right of way and that within that sixty foot setback no construction shall occur within or over the channel with the exception of no more than one pedestrian bridge. Item 5. - As written, with the addition that an arborist be on site to observe and control the work around Tree No. 1, and that Tree No. 1 be designated as a Heritage Tree within the meaning of the Heritage Tree ordinance and shall enjoy all protections of the Heritage Tree ordinance. Item 6 – As written, and that these conditions and the lot line redesignation be recorded as a deed restriction.

M/S Carlson/Janz

**AMENDMENT TO MOTION – to require only the recording of Items 2 and 4 as deed restrictions.**

M/S Carlson/Janz

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

## **REGULAR AGENDA (Items 12 - 16)**

### **12. APPROVAL OF REPLACEMENT AND EXPANSION OF PLAYGROUND EQUIPMENT AT HOLBROOK-PALMER PARK**

Interim City Manager Ralph Freedman introduced this item stating that the Park and Recreation Commission approved the playground proposal at their January 3, 2001 meeting. He stated that the current playground does not meet safety requirements. The Town would solicit bids for the playground equipment and expansion, and all costs will be raised by the Children's Play Area Committee. The Town would be responsible for maintenance of the equipment and play area.

Michelle Dollinger and Dorothea Collins, representing the Children's Play Area Committee, gave a presentation of their proposal for new playground equipment and an extension of the existing play area. They are proposing to raise funds from Atherton residents to pay for the entire project.

Susan McKay of MIG, Inc., presented a plan of the proposed play area. Discussion ensued regarding the use of wood for the equipment, different types of safety surfacing, and product liability.

Council Member McKeithen asked how this project would fit in with the overall Park Master Plan, and if input had been solicited from the Atherton Dames and Park Foundation. Interim City Manager said that it was the Park and Recreation



Commission's contention that the play area's size is small enough that it will not infringe on other uses of the Park. He said that Estelle Hoffman of the Dames had been contacted early in the project discussions, and that Henry Cartan of the Park Foundation was also aware of the proposed project.

The following members of the audience spoke:

Alison Ross, 76 Ridge View Drive  
Sharon Harris, 67 Marymont Avenue  
Mark Ballestra, 97 Larch Drive  
Sandy Crittenden, 117 Heather Drive  
Charles Marsala, 33 Emilie Avenue  
Dorothea Collins, 98 Catalpa Drive  
Dave Dollinger, 241 Polhemus Avenue

The Council requested that the Playground Committee obtain input from the Atherton Dames and the Park Foundation by making presentations of the project at their respective meetings.

**MOTION – to approve the proposal for the replacement of the playground equipment and the expansion of the playground area in Holbrook-Palmer Park as presented to the Park and Recreation Commission with the proviso that the Park and Recreation Commission finalize the plans, and that the construction be designed to minimize maintenance costs.**

M/S Carlson/Janz

Ayes: 4 Noes: 0 Abstain: 1(Conwell) Absent: 0

**13. CONSIDERATION OF RENEWAL OF CONTRACT WITH J. EDWARDS & ASSOCIATES, INC. FOR WASTE DIVERSION TECHNICAL ASSISTANCE PROFESSIONAL SERVICES**

Mayor Fisher stated that the Waste Reduction Committee asked to have the contract for waste diversion technical assistance services extended. The Town does not have enough staff to ensure that contractors comply with recycling requirements.

**MOTION – to approve a six month extension to an existing twelve month professional services agreement with J. Edwards and Associates, Inc. for a total amount not to exceed \$54,600.**

M/S Janz/Conwell

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

**14. DISCUSSION AND POSSIBLE ACTION – CITY MANAGER RECRUITMENT, DISCUSSION OF SALARY AND BENEFITS FOR THE POSITION, AND IMPROVEMENTS TO THE HOUSE**

The Interim City Manager stated that Council should address repairs that are needed for the heating and air conditioning system and the plumbing in the house occupied by

the City Manager. The Council directed the Interim City Manager to obtain bids for the repairs, and to return with a report on the costs and recommendations for the repairs.

Council Member McKeithen requested that three appraisals of the rental value of the house be obtained. The Council agreed to have Council Member McKeithen view the house with realtors in order to obtain the appraisals.

Discussion ensued regarding the recruitment process and the need to attract qualified candidates. Council Member McKeithen asked the Interim City Manager to supply her with the resumes of those who had applied during the last recruitment.

**15. CONSIDERATION OF HIRING NEW STAFF ABOVE THE 60<sup>TH</sup> PERCENTILE, RECLASSIFY THE FINANCE ANALYST POSITION TO AN ASSISTANT FINANCE DIRECTOR POSITION, USE OF “POLICE ON THE STREET” FUND FOR LATERAL POSITIONS, AND THE PROGRESSION FOR ELEVATING POLICE SALARIES TO THE 70<sup>TH</sup> PERCENTILE FOR NEW POLICE OFFICERS**

Interim City Manager Ralph Freedman discussed the difficulty the Town has been experiencing in attracting qualified candidates for the three open positions. He proposed paying new hires for certain positions at the 70<sup>th</sup> percentile based on the Koff and Associates Study. He proposed using funds donated to the “Police on the Street” account as incentives to attract lateral Police Officers from other Police Departments.

**MOTION – to pay up to the 70<sup>th</sup> percentile for new hires, as stated in the Koff and Associates Classification and Compensation Study, and to advertise above the 70<sup>th</sup> percentile for an Assistant Finance Director position.**

**M/S McKeithen/Carlson Ayes: 5 Noes: 0 Abstain: 0 Absent: 0**

**MOTION – to use donated funds from “Police on the Street” for incentives to pay bonuses to newly hired Police Officers for three years, and to give credit for vacation commensurate with what they currently earn.**

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

**MOTION – to pay new Academy graduates at the bottom of the Police Officer salary range as specified in the Koff and Associates Compensation Study.**

**M/S Carlson/McKeithen Ayes: 5 Noes: 0 Abstain: 0 Absent: 0**

**16. DISCUSSION AND POSSIBLE ACTION – PARCEL TAX**

**Interim City Manager Ralph Freedman presented a proposal for expenditures to be funded by the proposed parcel tax. The Council discussed the need for public hearings prior to the election.**

**MOTION – to place the Parcel Tax measure on the June 5, 2001 ballot.**

**M/S Carlson/Fisher**

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

**The Council set a public hearing for February 8, 2001 for the proposed parcel tax ordinance.**

**17. PUBLIC COMMENTS – there were no public comments at this time.**

**18. ADJOURN TO CLOSED SESSION**

**The meeting adjourned at 1:05 a.m. to continued closed session from the 5:00 meeting.**

**19. RECONVENE TO OPEN SESSION**

**The Council reconvened to open session at 1:30 a.m. Action was taken on the following items:**

**A. Conference with Legal Counsel – Existing Litigation pursuant to Government Code Section 54956.9  
Patricia O’Neal vs. Town of Atherton**

**Direction was given to Counsel.**

**B. Conference with Legal Counsel – Existing Litigation  
pursuant to Government Code Section 94956.9  
Jennifer Luthy vs. Town of Atherton**

**Direction was given to Counsel.**

**D. Public Employment pursuant to Government Code Section 54957  
Title: City Manager**

**No action.**

**20. ADJOURN**

**The meeting was adjourned at 1:35 a.m.**

**Respectfully submitted,**

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**Sharon Barker, City Clerk**

**TOWN OF ATHERTON**  
CLAIMS LIST  
January 9 through February 2, 2001

Payroll Checks	14697	\$ 880.05
Payroll Checks	500124 – 500299	231,066.65
Electronic Transfers		70,764.99
A/P Checks	19472 – 19596	<u>223,765.94</u>

TOTAL \$ 526,447.63

I, Ralph Freedman, Interim City Manager of the Town of Atherton, do hereby certify under penalty of perjury that the demands listed above, check numbers 14697 and 500124 – 500299 (Payroll) and 19472 - 19596 (Accounts Payable), and Electronic Transfers for Employees Federal Payroll Taxes and fees, inclusive, amount to \$526,447.63 are true and correct, and that there are funds for payment.

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Ralph Freedman  
Interim City Manager

The above claims, Payroll check numbers 14697 and 500124 – 500299, Accounts Payable check numbers 19472 - 19471 and Electronic Transfers for employees federal payroll taxes and fees, amount to \$500,867.22; and are hereby approved for payment.

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Mayor, Town of Atherton

SOURCE OF FUNDS

101	General Fund	\$ 443,500.00
105	Tennis Fund	0
202	Transportation Fund	0
203	Gas Tax Fund	0
206	SLESF	0
401	GF Projects	11,525.00
402	Storm Drainage	0
403	Atherton Channel Drainage	23,452.96
611	Computer Maint & Replacem't	236.93
612	Administrative Services	2,842.14
614	Workers Compensation Insurance	43,378.66
715	Evans Estate	941.51
731	M-A Little League	0
730	H-P Park Improvement	0
740	Tree Committee	600.00
	Total	\$ 500,867.22

**Item No. 8**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
INTERIM CITY MANAGER RALPH FREEDMAN**

**FROM: HECTOR W. LWIN, INTERIM FINANCE DIRECTOR**

**DATE: FOR THE MEETING OF FEBRUARY, 2001**

**SUBJECT: TREASURER'S INVESTMENT REPORT FOR THE QUARTER ENDING  
DECEMBER 31, 2000**

**RECOMMENDATION:**

Note receipt and file.

**INTRODUCTION:**

This is the quarterly status report of the Town's investments in the Local Agency Investment Fund (LAIF) and the San Mateo County Investment Pool (SMCIP) for the quarter ending December 31, 2000.

**ANALYSIS**

As of December 31, 2000, the Town had a total investment of **\$6,410,312.37**. The total interest earning for the quarter ending December 31 is **\$102,032.88**. The funds are invested in the San Mateo County Investment Pool (SMCIP) and the Local Agency Investment Fund (LAIF).

**Investment at SMCIP:** San Mateo County Investment Pool is created and managed by the County Treasurer. The Pool has total portfolio of \$ 1.39 billion in market value as of December 31, 2000. The Town had an investment of **\$4,759,918.22** in the pool at the end of the quarter. The total interest earning on the Town's investment for the quarter is **\$61,514.14**. The copies of the monthly summary report of investments for the quarter are attached herewith for Council review. The reports reflect the deposits, withdrawals and the balance of the investment. Month- end balances and net interest earnings rates are as follows:

Month	Month End Balance	Net Earnings Rate
October, 2000	4,120,485.23	5.92%
November, 2000	3,979,164.16	5.92%
December, 2000	4,759,918.22	5.85%

**Investment in LAIF:** The Local Agency Investment Fund is created and managed by the State Treasurer. The fund had a total portfolio of \$ 43.5 billion as of December 31, 2000. The Town had an investment of **\$2,555,178.39** invested in the fund at the end of the quarter. The total interest

earning on the Town's investment for the quarter is **\$40,518.74**. The copies of the monthly statements of investment are attached herewith for Council review. Month-end balances and the effective yields are as follows:

Month	Month End Balance	Effective Yield
October, 2000	2,475,178.39	6.52%
November, 2000	2,455,178.39	6.54%
December, 2000	2,555,178.39	6.55%

**CONCLUSION**

The Town's investment portfolio is increased by \$904,784.24 during the quarter because of Property Tax revenues received from the County in mid-December. The yields on investment are gradually rising. The interest income for the quarter is \$5,781.58 higher than previous quarter. All investments are in compliance with law, regulations, and the Town's Investment Policy. Interest income continues to keep pace or exceed budget projections. All investments are comparably safe and liquid to meet Town's cash flow.

**ADDITIONAL INFORMATION**

**ATTACHMENTS:**

1. Monthly investment account statements from SMCIP and LAIF.

\_\_\_\_\_  
Hector Lwin, Interim Finance Director

\_\_\_\_\_  
Ralph Freedman, Interim City Manager

**Item No. 9**



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: RALPH FREEDMAN, INTERIM CITY MANAGER**

**DATE: FOR THE MEETING OF FEBRUARY 8, 2001**

**SUBJECT: CONSIDERATION OF LEASE AGREEMENT WITH KNOX PLAYSCHOOL**

#### **RECOMMENDATION:**

Approve the Lease Agreement with Knox Playschool for an initial term of five (5) years with options for ten (10) additional years.

#### **INTRODUCTION:**

The three (3) year Lease Agreement with Knox Playschool expires on June 30, 2001. In January, Susan Knox went before the Planning Commission seeking approval to place a new modular building next to the existing building. This new building would add two classrooms to the Playschool. The Planning Commission unanimously approved a Conditional Use Permit allowing for the expansion of the Playschool with conditions.

Tonight, the City Council is only considering a new Lease Agreement with Knox Playschool, Inc. beginning on July 1, 2001.

#### **ANALYSIS:**

This agreement is straightforward and covers monthly lease payments on both the existing building and the new modular building. The Agreement has been reviewed by the City Attorney, and provides the Town with adequate safeguards and the escalation of rental payments each year.

#### **FISCAL IMPACT:**

At the current time, Susan Knox pays a monthly rental to the Town of \$2,071 for ten months of the year, and reduced payments during the two summer months. Under the new Lease Agreement, she



will pay this amount plus a CPI adjustment for the existing building beginning on July 1, 2001. This then reflects additional revenue to the Town for the two summer months, which will now be rented to her at the full monthly amount.

The new modular building will be purchased and installed by Susan Knox, along with the relocation of the water line, the construction of a new fence, construction of stairs and a ramp to the new modular building, and the installation of new lattice and landscaping. For the first five (5) years, she will pay the Town \$500 per month plus the appropriate CPI adjustment. For any additional years, she will pay the full monthly lease amount on the new modular building that is levied on the existing building. Ms. Knox will also pay for her own janitorial services, for utilities, and a quarterly payment for floor maintenance.

**LEASE**

1. California municipal corporation, whose address is 91 Ashfield Road, Atherton, California 94027 ("Lessor") and Knox Playschools, Inc., a California corporation, whose address is 919 Cloud Avenue, Menlo Park, California 94025 ("Lessee").

2. Leased Premises. Lessor leases to Lessee those certain premises presently commonly known as the Creative Design Facility, together with the adjoining play yard, the tricycle track behind the Carriage House, and the non-exclusive use by adults of one restroom in the Carriage House and one (1) modular building ("new modular building") approximately 36 by 60 feet in size to be acquired by Lessee at Lessee's expense and located on property at Holbrook Palmer Park, 150 Watkins Avenue, Atherton, San Mateo County, California, and to eventually be transferred by Lessee to Lessor all as shown on Exhibit "A" and Exhibit "A-1" attached here and incorporated by this reference, ("Premises") on the following terms and conditions:

3. Term. The lease term shall be for a period of five (5) years commencing effective 12:01 a.m. on July 1, 2001, and ending at 11:59 p.m. on June 30, 2006. During the term of the lease and any extensions as described below, Lessee shall have the exclusive occupancy and use of the Premises from 7:30 a.m. until 6:00 p.m. each Monday through Friday provided, however, that classes should be scheduled and conducted in accordance with the terms and conditions of the Conditional Use Permit issued to Lessee by the Town of Atherton. Lessee shall not have occupancy or uses of the Premises at other hours nor on Saturdays, Sundays, school vacations and holidays, providing, however, that Lessee shall have the use and occupancy of the premises for up to four (4) night meetings per year for parent-teacher meetings and/or student family functions so long as these have been cleared with Lessor's City Manager in advance so as to avoid conflict with other programs or activities. Lessee shall use the new modular building during the initial term of this lease and, following its transfer to Lessor as described in Paragraph 4 below, for the purposes and subject to the limitations set forth in this lease and the Conditional Use Permit.

4. Ownership of New Modular Building. Lessee intends to acquire a new modular building approximately 36 by 60 feet in size to be located on the Holbrook Palmer Park property as shown in Exhibit "A" and Exhibit "A-1". No later than the expiration of the initial term of this lease, Lessee shall transfer to Lessor without charge and Lessor shall accept ownership of the new modular building. Upon transfer of ownership to Lessor, the new modular building shall be treated in all respects as Lessor owned property under the terms and provisions of this lease. Lessee shall execute any documents required to transfer ownership of the modular building from Lessee to Lessor.

5. Options to Extend Lease. No later than June 30, 2005, Lessee shall have the option to extend the term of this lease for two (5) year periods following the expiration of the initial term on all of the terms and conditions in this lease. During the first extended term, Lessee shall have the further option to extend the term for the second and final five (5) year period provided that notice of said extension is given on or before June 30, 2010. The rent during the extension terms shall be either the effective rent or as adjusted pursuant to Section 6 below. To exercise this option, Lessee must give Lessor written notice of exercise of the option ("option notice") no later than twelve (12) months prior to the expiration of the term then in effect. However, if, as of Lessor's receipt of the option notice, Lessee is in default under this lease, or has committed or failed to perform acts that with the giving of notice or the lapse of time would constitute a default under this lease ("potential default"), the option notice shall be of no effect. If after giving the option notice, Lessee is in default under this lease, or if a potential default has occurred, and that default or potential default remains uncured as of the expiration of the term then in effect, this lease shall, at the election of Lessor, terminate as of the expiration of the term then in effect.

6. Base Rent. Lessee shall pay to Lessor as base rent for the demised premises the sum of Two Thousand Seventy-one Dollars (\$2,071.00) to be increased on the basis of the calculations described below to establish the amount owing as of July 1, 2001 and for each month of the lease term hereafter in advance on the first day of each month commencing on July 1, 2001 and ending on June 30, 2002 and thereafter in increased amounts calculated as set forth below at such place as Lessor may from time to time specify by written notice served on Lessee; provided, however, that Lessee shall pay an additional sum of Five Hundred Dollars (\$500.00) per month for the new modular building commencing on July 1, 2001 and to be adjusted commencing on the "adjustment date" as hereinafter provided. Until changed by written noticed served on Lessee by Lessor, all rent payable hereunder shall be paid to Lessor at its address first specified in this lease.

The base rent described above including the \$500.00 per month charge for the new modular building shall be adjusted for the then remaining portion of the initial term of this lease or any extension thereof as of the first and following annual anniversary dates after the commencement date. Each such anniversary date is hereunder referred to as an "adjustment date." The base rent and new modular building rent shall be adjusted as of each adjustment date to an amount calculated by multiplying the base rent for the month in which the commencement date occurred, or the month in which the immediately preceding adjustment date occurred, whichever month is later, by a fraction, the numerator of which shall be the United States Department of Labor's Bureau of Labor Statistics Consumer Price Index, All Urban Consumers, All Items, San Francisco-Oakland-San Jose, California (1967 equals 100), or the successor of such index (the "CPI"), for the month immediately preceding such adjustment date, and the denominator of which shall be the CPI for the month in which the commencement date occurred, or the month in which the immediately preceding adjustment date occurred, whichever is later. If the CPI or successor index is changed so that the base year differs from that in effect on the commencement date, the CPI or successor index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. In the event that compilation and/or publication of the CPI shall be transferred to any other governmental department or agency or shall be discontinued, then the index most nearly the same as the CPI shall be used to make such calculation.

7. Security Deposit. On execution of this lease, Lessee shall deposit with Lessor the additional sum of Two Thousand Dollars (\$2,000.00) as security for the faithful performance of the provisions of this lease relating to rent, repairs or cleaning, and to be returned on full performance of those provisions. This deposit shall be governed in all respects by the provisions of Section 1950.7 of the California Civil Code. This deposit is in addition to an existing Two Thousand Dollars already deposited, receipt of which is hereby acknowledged for a total security deposit of Four Thousand Dollars (\$4,000.00).

8. Use Limitations. The demised Premises shall be used by Lessee only for a licensed play school, as described in Exhibit "B" attached here and incorporated by this reference. Children of Atherton residents will have priority to register and use the program. Children of Atherton residents will not be rejected except for good and sufficient reasons or because of class size and/or space limitations. Lessee shall not permit the Premises or any part thereof to be used for (1) the conduct of any offensive, noisy or dangerous activity that would increase the premiums for fire insurance on the Premises; (2) the creation or maintenance of a public or private nuisance (including, without limiting the generality of the foregoing, any noise nuisance to the occupants of adjoining or neighboring properties); (3) anything which is contrary to or prohibited by any laws or rules and regulations or any public authority (including Lessor) at any time applicable to the Premises; or (4) any purpose or in any manner which will obstruct, interfere with, or infringe on the rights of other tenants or users of adjoining property owned by Lessor. Lessee shall be solely responsible for the conduct of its activities on the Premises, and each party hereto does not in any way constitute itself the agent, partner, or joint venturer of the other. Lessee shall restrict its use of the Premises to those areas at least twenty-four (24) feet from the property line at the rear of the buildings on the Premises, and shall, at its sole cost and expense, maintain a substantial fence as now existing along a line twenty-four (24) feet from said rear line and at such other locations as are specified on Exhibit "A-1" attached hereto and by this reference incorporated herein, and remove the said fences, if requested to so do by Lessor, upon the termination of its occupancy hereunder. In accordance with this paragraph, Lessee shall extend the existing fence to comply with the design as shown on Exhibit "A-1".

9. Taxes and Assessments. Lessee shall be responsible for and shall timely pay before delinquency any and all taxes and assessments of every nature levied or assessed on any fixtures, furniture, appliances, or personal property belonging to Lessee including the modular building and located on the demised Premises.

10. Utilities. Lessee shall pay the sum of Two Hundred Dollars (\$200.00) per month for all water, electrical, sewer and garbage service provided to the Premises for the use of Lessee related to Lessee's occupancy. This sum shall be increased based upon the manner described in paragraph 6 and further provided that should any utility cost be incurred in excess of ten percent (10%) over the period preceding the adjustment date, the Lessee shall pay any such increase. Any charges for special garbage pickups shall be passed on to Lessee by Lessor and paid by Lessee. Lessee shall contract and pay for janitorial and cleaning service for the premises. Lessor will clean floors and carpeting on the premises on a quarterly basis and shall bill Lessee for this work. Lessee shall promptly pay these charges.

11. Alterations. Lessee shall make no alterations to the Premises nor construct any structures on the Premises without first having obtained the written consent of Lessor, provided that Lessor hereby consents to the addition of the modular building as described above.

12. Acceptance of Premises. Lessee stipulates that it has examined the Premises and all improvements located thereon and that they are all, at the date of this lease, in good order, repair, and a safe and clean condition. Lessor has, at no expense to Lessee, put the Premises into condition fit for occupation, and except as to the modular building as described above will, in a timely manner, repair any future dilapidations thereof which render it untenable and except when Lessee is in substantial violation of any obligation of Lessee hereunder, and except that Lessee shall at its sole cost and expense repair all deteriorations and injuries to the Premises caused by the want of ordinary care on the part of Lessee.

13. Signs. Lessor shall pay for the cost of any necessary directional signage, and shall have sole authority to control the content and location thereof. Lessee shall only erect or display signs on or about the Premises in compliance with regulations of the Town of Atherton.

14. Warranties of Lessee. Lessee has warranted and does hereby warrant to Lessor that Lessee has all necessary licenses and permissions required by any authorities having jurisdiction thereof to conduct the activities of Lessee contemplated by this lease, and Lessee will abide by and perform all requirements thereof. If, at any time during the term of this lease or any extension thereof, Lessee lacks such licenses and permissions, Lessee shall immediately notify Lessor of that fact, and this lease shall immediately be terminated. Any expenses resulting from licensing requirements imposed as a result of Lessee's occupancy hereunder shall be paid by Lessee. The maximum enrollment in the play school shall not exceed one hundred fifty (150) children and the maximum number of children occupying the Premises hereunder at any given time shall not exceed sixty-four (64) unless Lessor has first given written approval of a larger number.

15. Indemnity/Hold Harmless. Lessee agrees to and shall defend, indemnify and hold Lessor, its officers, agents and employees, and the demised Premises, free and harmless from any and all liability, costs and expenses of every nature for injury to or death of any person, including the officers, agents and employees of Lessee, and for damage to property arising from the use and occupancy of the Premises by Lessee or from the at or omission of any person or persons, including the officers, agents and employees of Lessee, who are in or about the Premises with the express or implied consent of Lessee.

16. Insurance. Lessee shall procure and maintain for the duration of the lease and any extension thereof, including any holdover occupancy by Lessee, insurance for claims for injuries to persons or damages to property which may arise from or in connection with Lessee's occupancy, operation and use of the Premises. During its ownership of the new modular building, Lessee shall fully insure said modular building against loss by fire. Lessor shall be named on such policy as an additional insured. The cost of all such insurance shall be paid by Lessee. All such insurance shall at least meet the minimum standards therefor which are specified in Exhibit "C" attached here and incorporated by this reference. For purposes of Exhibit "C", the term "Agency" shall mean the Lessee.

17. Damage/Destruction of Premises. Should the new modular building owned by Lessee, or any other part of the Premises be damaged or destroyed by fire, the elements, acts of God, or other causes not the fault of Lessee or any person in or about the Premises with the express or implied consent of Lessee, Lessor may, at its option, either repair and restore the building or building(s) owned by Lessor or cancel this lease and return any unearned rent previously paid under this lease by Lessee. If the new modular building is damaged or destroyed by any cause before title has been transferred to the Lessor, the Lessee will direct all proceeds of the insurance settlement to the Lessor to allow for the reconstruction of the building, whether or not the Lessee intends to continue the operation of this building as allowed for in this Lease Agreement.

18. Ownership of Property at Expiration of Lease. All alterations, changes and improvements built, constructed, or placed on the Premises by Lessee, other than trade fixtures or moveable personal property shall, unless otherwise provided by written agreement between the parties hereto, be the property of Lessor and remain on the Premises at the expiration or sooner termination of this lease. Provided, however, that should this lease terminate before the transfer of ownership of the modular building to Lessor, Lessee, at Lessee's expense, shall cause said building to be removed from the Holbrook Palmer Park property unless the parties otherwise agree. Nothing contained

in this paragraph shall, however, authorize Lessee to make or place any such alterations, changes or improvements on the Premises without having first obtained the written consent of Lessor.

19. Assignment. Lessee shall not assign this lease or sublet the Premises or any interest therein without the written consent of Lessor first had and obtained. A consent by Lessor to one assignment or subletting shall not be deemed to be a consent to any subsequent assignment or subletting. An assignment or subletting without the written consent of Lessor, or an assignment or subletting by operation of law, shall be void and shall, at the option of Lessor, terminate this lease. Lessor's consent here will not be unreasonably withheld.

20. Lessee's Default. Should Lessee be in default for a period of more than ten (10) days in the payment of any rent due under this lease or in the performance of any other provision of this lease, Lessor may terminate the lease and regain possession of the Premises in the manner provided by the laws of unlawful detainer of the State of California in effect at the date of such default.

21. Assignment for Benefit of Creditors. Should Lessee make an assignment for the benefit of creditors or allow a judgment rendered against it to stand unbonded and unsatisfied for sixty (60) days or more, this lease and all rights, privileges, and benefits of Lessee under this lease shall, at Lessor's option, terminate and not become a part of the estate subject to such assignment or judgment.

22. Continuation of Lease After Breach. At Lessor's option, if Lessee has breached this lease and abandoned the Premises, the lease shall continue in effect for so long as Lessor does not terminate Lessee's right to possession, and Lessor may enforce all of its rights and remedies under this lease, including the right to recover rent as it becomes due.

23. Lessor's Right of Entry. Lessor shall have the right to enter the Premises during the hours demised to Lessee under this lease only in the following circumstances:

- (a) In case of emergency.
- (b) To make necessary or agreed repairs, decoration, alterations or improvements, or supply necessary or agreed services.
- (c) After Lessee has abandoned or surrendered the Premises.

24. Holding Over. In the event that upon expiration of the term of this lease, or any extension Lessee holds over beyond the expiration of the term, such tenancy shall be deemed a month-to-month tenancy only at the current rental as adjusted pursuant to this lease, payable in advance on the first day of each month thereafter until the tenancy is terminated in a manner provided by law.

25. Notices. Any and all notices and other communications required or permitted by this lease to be served upon or given to either party by the other shall be in writing and, except as otherwise required by law or this lease, be deemed duly served and given when personally delivered to the party to whom it is directed, or in lieu of such personal service, when it is deposited in the United States mail, postage prepaid, addressed to the party at the address first stated for the party in this lease, or at such other address as a party may from time to time designate in a written notice delivered to the other party.

26. Arbitration. In the event of any dispute regarding the terms and provisions of this lease, the parties agree to arbitrate the dispute in accordance with the judicial arbitration procedures of the San Mateo County Superior Court.

27. Attorneys Fees. Should any arbitration or litigation be commenced between the parties concerning the demised Premises, this lease, or the rights or duties of either in relation thereto, the prevailing party in such arbitration or litigation shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for its attorneys' fees in such arbitration or litigation.

28. Waiver of Breach. The waiver by Lessor of any breach of any provision of this lease shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or a different provision of this lease.

29. Time of Essence. Time is expressly declared to be of the essence of this lease.

30. Successors and Assigns. Subject to the provision of this lease against assignment of Lessee's interests under this lease, all provisions of this lease shall extend to and bind, or inure to the benefit not only of the parties hereto but to each and every one of the representatives, successors and assigns of the parties hereto.

31. Integration. Lessor and Lessee agree that this lease document contains the sole and only agreement between them concerning the demised Premises and correctly sets forth their rights and obligations to each other concerning the Premises as of its date. Any agreement or representation respecting the demised Premises or the duties of Lessor or Lessee in relation to them not expressly set forth in this instrument is null and void.

EXECUTED on \_\_\_\_\_, 2001, at Atherton, California.

TOWN OF ATHERTON, Lessor

By: \_\_\_\_\_

Its: City Manager

KNOX PLAYSCHOOLS, INC., Lessee

By: \_\_\_\_\_

Its: President

**NOTARIAL ACKNOWLEDGMENT**

State of California )  
 )  
County of San Mateo )

On \_\_\_\_\_ - \_\_\_\_, 2001, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ - and \_\_\_\_\_

\_\_\_\_\_ personally known to me **OR** \_\_\_\_\_ proved to me on the basis of satisfactory

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary public



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: RALPH FREEDMAN, INTERIM CITY MANAGER**

**DATE: FOR THE MEETING OF FEBRUARY 8, 2001**

**SUBJECT: PUBLIC HEARING ON PARCEL TAX ISSUE**

### **RECOMMENDATION:**

Conduct the Public Hearing calling for an election authorizing the levy of a Parcel Tax on parcels within the Town of Atherton, and the use of the funds derived from this special tax.

### **INTRODUCTION:**

The Town of Atherton unsuccessfully tried to gain voter approval for the imposition of a Parcel Tax in November, 1999 and March, 2000. With the loss of approximately \$1.6 million, the Town reorganized and reduced the size of the Police Department, and eliminated almost all capital projects from the current fiscal year budget.

### **ANALYSIS:**

Staff is proposing for City Council approval the following:

1. The levying of the same assessments as in prior Parcel Tax levies, except an increase in levies for Private Clubs. Staff recommends a levy of \$7,650, which is double the amount that has been levied in the past. Staff also recommends a levy of \$285 per parcel of 1/4 acre to 1/2 acre in size without improvements on it. This is in line with the assessments that have been levied for other unimproved parcels in relation to improved parcels of the same size.

2. Allocating revenues from this proposed Parcel Tax for overhires in the Police Department, Compensation Adjustments for all Staff salaries and benefits to keep them competitive with other cities, Street and Storm Drainage maintenance, and miscellaneous capital improvements.
3. Indicating to the public why and how these funds will be allocated in general terms, but with enough detail so that residents understand how Parcel Tax revenues will be used.

**FISCAL IMPACT:**

The fiscal impact on the Town will be significant, and will enable the Town to run its operations in an effective way. Having a four-year term on this tax, makes it necessary for the Town to effectively and wisely expend these funds to address the needs of the community. The tax will generate approximately \$1.6 million at the levies that were utilized in the past. The City Council has the ability to raise the levy to the maximum amounts in the Ordinance if a need arises. In the past, City Councils have never levied the maximum amounts on parcels that they were empowered to do.



## PARCEL TAX REVENUES PROJECTED EXPENDITURES AND USES

	7/1/2001 to 6/30/2002	7/1/2002 to 6/30/2003	7/1/2003 to 6/30/2004	7/1/2004 to 6/30/2005
Police Dept. Overhires (2)	\$180,000	\$189,000	\$200,000	\$210,000
Compensation Adjustments	500,000	660,000	700,000	750,000
Miscellaneous Capital Improvements	670,000	476,000	400,000	315,000
Street and Storm Drainage Maintenance	250,000	275,000	300,000	325,000
Total	\$1,600,000	\$1,600,000	\$1,600,000	\$1,600,000

- Police Department overhires will help the Department keep staffing at adequate levels despite the ongoing turnover of staff.
- Compensation adjustments will keep staff salaries and benefits competitive in comparison to other cities, which should aid in the retention and recruitment of employees.
- Miscellaneous Capital Improvements will be determined on an ongoing basis by the City Council after public meetings. Proposed uses include the replacement of the Public Works Corporation Yard building, facility upgrades, and putting aside funds each year for a permanent Civic Center complex. This future facility would eliminate the need for the modular trailers utilized currently for the Police, Building, and Public Works Departments.
- Monies for Street and Storm Drainage maintenance would be used to augment Gas Tax and Measure A monies. With any significant infrastructure improvements to the Streets or Storm Drainage systems several years away, Town staff feels that maintenance should be increased until these improvements are funded.

**ORDINANCE NO. 520**  
**AN ORDINANCE OF THE TOWN OF ATHERTON**  
**CALLING AN ELECTION TO SUBMIT TO THE VOTERS**  
**AN ORDINANCE AUTHORIZING THE LEVY OF A SPECIAL TAX**  
**FOR MUNICIPAL SERVICES AND CAPITAL IMPROVEMENTS, AND FOR THE EXPENDITURE OF**  
**FUNDS DERIVED FROM SUCH TAX**

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

**SECTION 1. ELECTION CALLED.** The City Council of the Town of Atherton submits the following ordinance to the voters of the Town of Atherton at an election to be held on Tuesday, June 5, 2001.

**SECTION 2. FULL TEXT OF MEASURE.** The complete text of the proposed ordinance shall be:

“AN ORDINANCE OF THE TOWN OF ATHERTON  
AUTHORIZING THE LEVY OF A SPECIAL TAX FOR  
MUNICIPAL SERVICES AND CAPITAL IMPROVEMENTS AND FOR THE EXPENDITURE OF FUNDS  
DERIVED FROM SUCH TAX

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

**SECTION 1. AUTHORITY TO ADOPT MEASURE.** This ordinance and the tax authorized herein are adopted pursuant to the provisions of the California Constitution, Articles XIII A §4, XIII B §4 and XIII C §2, and pursuant to Sections 50075, 50076, 50077 and 53722 et. seq. of the California Government Code.

**SECTION 2. AUTHORIZATION TO LEVY SPECIAL TAX.** If, in any fiscal year commencing July, 2001, the City Council shall determine that municipal services such as police protection, street repair and maintenance, drainage facility repair and maintenance, building regulation and park maintenance, are necessary for the public good, welfare, and safety, and that the cost of providing such services will exceed the amount of funds generated through other revenue and income which are counted under the Gann limit of the Town for such services, as provided for in the adopted budget, and/or if capital improvements are required, the cost of which exceeds the amount of funds generated through other revenues and receipts, then it may levy a special tax for such fiscal year on each parcel of property within the Town in the manner provided herein. This special tax shall be in addition to the annual tax rate allowed by law.

**SECTION 3. DETERMINATION OF AMOUNT TO BE RAISED.** Each year following adoption of the Town’s annual budget, the City Council will determine the total amount of expenditures necessary to provide adequate levels of municipal services and capital improvements and deduct therefrom the projected revenue to be gathered from sources other than this special tax. The difference, if any, shall be the maximum amount of funds to be derived from the tax authorized by this ordinance for such year.

**SECTION 4. MAXIMUM TAX RATE/METHOD OF ASSESSMENT.** After determining the amount of tax to be raised under Section 3, the City Council shall apportion said amount among the parcels of real property within the Town not exempted by law as follows:

		MAXIMUM TAX IN GIVEN YEAR			
		2001-02	2002-03	2003-04	2004-05
1.	For each dwelling on a parcel with an area of less than 1/4 acre:	450.00	450.00	450.00	450.00
2.	For each unimproved parcel with an area of less than 1/4 acre:	225.00	225.00	225.00	225.00
3.	For each dwelling on a parcel with an area of 1/4 acre or more, but less than 1/2 acre:	570.00	570.00	570.00	570.00

4.	For each unimproved parcel with an area of 1/4 acre or more, but less than 1/2 acre:	570.00	570.00	570.00	570.00
5.	For each dwelling on a parcel with an area of 1/2 acre or more, but less than 2 acres:	750.00	750.00	750.00	750.00
6.	For each unimproved parcel with an area of 1/2 acre or more, but less than 2 acres:	375.00	375.00	375.00	375.00
7.	For each dwelling on a parcel with an area of 2 acres or more:	960.00	960.00	960.00	960.00
8.	For each unimproved parcel with an area of 2 acres or more:	480.00	480.00	480.00	480.00
9.	For each private club:	3,825.00	3,825.00	3,825.00	3,825.00
10.	For each parcel available for tax owned by a utility which serves the Atherton community:	450.00	450.00	450.00	450.00
11.	For each parcel available for tax owned by a utility which does not directly serve the Atherton community:	750.00	750.00	750.00	750.00

The records of the San Mateo County Assessor, as of each year, shall determine whether or not any particular lot is unimproved for purposes of this ordinance.

**SECTION 5. HEARING, TAX LIEN AND INCLUSION IN CITY TAXES.** Prior to levying a special tax under this ordinance in any fiscal year, the City Council shall conduct a public hearing on the proposed tax. Such hearing shall be conducted after the City Council has adopted an annual budget for that year. Notice of such hearing shall be posted on the four official bulletin boards of the Town of Atherton at least fifteen days prior to the hearing. All of the information and material which the City Council intends to consider at such hearing and the amount of tax to be raised shall be made available to the public by being on file in the office of the City Clerk for at least fifteen days prior to said hearing. Following said hearing, the City Council may adopt a resolution fixing the amount of tax to be raised which shall not exceed the amount contained in the material on file in the Clerk's office. Any tax levied under this ordinance shall become a lien upon the properties against which it is assessed and collectible in the manner provided by applicable law and by the levying resolution.

**SECTION 6. COLLECTION.** The City Council may elect to have any special tax authorized under this Chapter either collected by the Town or, in the alternative, by the Tax Collector of San Mateo County. If the services of the Tax Collector of the County of San Mateo are elected, the special tax may only be included on the annual tax bill set out by such Tax Collector. A certified copy of the resolution electing to use the service of the Tax Collector of San Mateo County shall be filed with said Tax Collector prior to September 1st of the fiscal year for which the tax is assessed and shall include a list of all parcels of real property to be taxed and the amount of each parcel.

**SECTION 7. INCREASE APPROPRIATIONS LIMIT.** Pursuant to California Constitution Article XIII B, the appropriations limit for the Town of Atherton will be increased by one and one-half times the aggregate sum authorized to be levied as a special tax in each of the years covered by this ordinance.

**SECTION 8. FUNDING AND EXPENDING PROCEEDS.** Proceeds of any tax levied under this ordinance shall be deposited in a Special Fund and expended only for the purposes stated in this ordinance.

**SECTION 9. UNEXPENDED RESIDUE.** In accordance with Section 2(b) of Article XIII B of the California Constitution, all revenues received by the Town in a fiscal year and the fiscal year immediately following it in excess of the amount which may be appropriated by the Town in compliance with Article XIII B during that fiscal year and the fiscal year immediately following it shall be returned by a revision of tax rates or fee schedules within the next two subsequent fiscal years.

**SECTION 10. SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid such invalidity shall not affect any other provision or applications, and to this end the provisions of this ordinance are declared to be severable.

**SECTION 11. DURATION AMENDMENT OR REPEAL.** The authorization to levy a tax under this ordinance shall commence with the Fiscal Year 2001-2002, beginning July 1, 2001. This ordinance or any provision thereof may only be amended or repealed by approval of two-thirds of the voters voting on the proposition at any initiative or referendum election.

This ordinance shall be adopted if approved as an initiative measure by two-thirds of the voters voting at a consolidation election to be held on Tuesday, June 5, 2001, and go into effect ten (10) days after the City Council has, by resolution, declared that such initiative measure was approved by two-thirds of the voters voting thereon.”

**SECTION 3. CONDENSED STATEMENT OF MEASURE.** The manner in which the proposed measure shall appear on the ballot shall be:

“Shall an ordinance entitled “An Ordinance of the Town of Atherton Authorizing the Levy of a Special Tax for Municipal Services and Capital Improvements and for the Expenditure of Funds Derived from such Tax, and numbered 520 be adopted?”

**SECTION 4. PUBLICATION.** This ordinance shall be posted in at least three public places within the Town of Atherton, and shall become effective immediately upon its passage and approval. The City Clerk is authorized and directed to give notice of election in accordance with Chapter 2 (commencing with section 12100) of Division 12 of the California Elections Code.

**SECTION 5. CONSOLIDATION.** The election on the proposed ordinance shall be consolidated with any and all other elections to be held on June 5, 2001.

**SECTION 6. SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid such invalidity shall not affect any other provision or application, and to this end the provisions of the ordinance are declared to be severable.

**SECTION 7. EFFECTIVE DATE.** This ordinance calling an election shall become effective immediately upon its adoption by the City Council of the Town of Atherton.

\* \* \* \* \*

*I hereby certify that the foregoing ordinance was adopted at a special meeting of the City Council of the Town of Atherton held on February 8, 2001, by the following roll call vote:*

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

\_\_\_\_\_  
Dianne M. Fisher, Mayor  
Town of Atherton

ATTEST:

\_\_\_\_\_  
Sharon Barker, City Clerk

**Item No. 11**



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: INTERIM CITY MANAGER RALPH FREEDMAN**

**DATE: FOR THE MEETING OF FEBRUARY 8, 2001**

**SUBJECT: ADOPTION OF RESOLUTION NO. 01-\_\_\_, PERTAINING TO THE JUNE 5, 2001 SPECIAL MUNICIPAL ELECTION**

#### **RECOMMENDATION:**

Adopt Resolution No. 01-\_\_\_ setting the date of a Special Election to be held on Tuesday, June 5, 2001, for the purpose of approving a Special Municipal Tax, and authorizing the City Manager to enter into a contract with the County of San Mateo Elections Division to provide election services.

#### **INTRODUCTION:**

In order for the County Elections Official to provide election services for the June election, it is necessary for the City Council to adopt a resolution authorizing the City Manager to enter into a contract with the County of San Mateo.

#### **ANALYSIS:**

In addition to the request for services, the Resolution also requests consolidation with any other elections which might be scheduled for the June ballot that would allow for reduced costs. The County Elections Official will monitor all polling places, canvass the returns and report results of said election. Timelines for accepting ballot arguments and rebuttal arguments are set up in the Resolution.

**RESOLUTION NO. 01-\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON CALLING  
FOR AN ELECTION ON JUNE 5, 2001 TO APPROVE  
THE SPECIAL MUNICIPAL TAX**

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

**WHEREAS**, the Town of Atherton has need to conduct a Special Municipal Election for the purpose of presenting to the qualified voters of the Town a measure authorizing a Special Municipal Tax to provide for municipal services and for the expenditure of funds derived from such tax; and

**WHEREAS**, due to the economies involved, the public interest would best be served by consolidating such Special Municipal Election with any other elections to be held on June 5, 2001, and by contracting with the County of San Mateo for election services.

**NOW, THEREFORE, IT IS HEREBY RESOLVED**, that the Town of Atherton does hereby request the Board of Supervisors of the County of San Mateo to consolidate said Special Municipal Election with any election to be held on June 5, 2001; and

**BE IT FURTHER RESOLVED**, that the City Manager be and he is hereby authorized and directed to enter into a contract with the Chief Elections Official of the County of San Mateo for the purpose of providing election services in connection with said Special Municipal Election; and

**BE IT FURTHER RESOLVED**, that arguments for or against the measure must be submitted to the City Clerk on or before Friday, March 9, 2001, and rebuttals to arguments must be submitted to the City Clerk on or before Tuesday, March 27, 2001.

\* \* \* \* \*

*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 special meeting thereof held on the \_\_\_ of February, 2001, by the following vote:*

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

\_\_\_\_\_  
Dianne M. Fisher, Mayor

ATTEST:  
  
\_\_\_\_\_  
Sharon Barker, City Clerk