



MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
September 9, 2004
6:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

SPECIAL MEETING

Mayor McKeithen called the meeting to order at 6:05 p.m.

1. PLEDGE OF ALLEGIANCE
2. ROLL CALL

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

ABSENT: William R. Conwell (excused absence)

City Manager Jim Robinson, City Attorney Marc Hynes, Finance Director John Johns, Building Official Mike Hood, Public Works Director Duncan Jones, and Lieutenant Glen Nielsen were also present.

3. PUBLIC COMMENTS

The following Atherton residents spoke regarding a possible homeless encampment on El Camino Real:

Jan Simonds
John Rugeiro
John Sisson

Mayor McKeithen asked the City Attorney to review the Town's contract with CalTrans regarding maintenance of El Camino Real and to look into what rights existed for the Town to remediate the issue as it related to a public nuisance and a safety hazard.

City Manager Jim Robinson stated the Town would be able to clean up the area if it was in the public right-of-way and said staff would investigate the situation.

Council Member Janz reported that members of Atherton's Caltrain Corridor Subcommittee attended the City of Menlo Park Transportation Committee meeting the previous evening regarding grade separations in Menlo Park. A positive outcome was a recommendation to the Menlo Park City Council to form a subcommittee of the City Council, the Transportation Committee, and the Planning Commission to work with Palo Alto and Atherton on a unified approach for dealing with the grade separation issue.

Council Member Carlson noted he was invited to a meeting with the editorial staff of the *San Mateo County Times* on Monday, September 13, to determine whether the *Times* would endorse the parcel tax and invited his colleagues to attend.

City Manager Robinson noted members of the City Council would be invited to attend the October 19, 2004, Menlo Park City Council Meeting to participate in a discussion of grade separation/Caltrain issues.

REGULAR AGENDA

4. DISCUSSION OF ALTERNATIVES RELATIVE TO SPECIAL MUNICIPAL TAX FOR SUPPORT OF OPERATING AND CAPITAL EXPENDITURES AND EVALUATION OF REVENUE ENHANCEMENTS AND COST-SAVING OPTIONS

Mayor McKeithen noted there would be several meetings on the item and not all members of Council or staff were able to attend every meeting. However, when the time came for a final decision, the entire group would be present.

Finance Director John Johns stated the staff report was a response to questions proposed by Council to staff during the August 24, 2004 meeting. A discussion of each area ensued. A summary of accumulated compensated absences by affected bargaining unit indicated 11 of the Town's 53 employees would be affected by the proposed 320-hour cap which was subject to negotiation by bargaining units. Any impact from implementation of the recommendation was projected to be in fiscal year 2007 or after expiration of current agreements.

Discussion centered on the different bargaining units and when Memorandums of Understanding (MOUs) or contracts expired. Changes in accounting methods required charging accumulated compensated absences as a liability. Debate ensued on whether the Town would realize an increase in funds by limiting accrual and requiring employees to use their vacation. Management would need to oversee the process to reduce excess hours over time. A one-time savings of \$213,090 would result from instituting a 320-hour cap, and future savings would result from employees no longer accruing excess hours. Council Member Carlson suggested that once the cap was reached, an employee should not be allowed to accrue any more time off. Additionally,

a management function would be to ensure employees took the current year's vacation allotment.

Jim Dobbie, Atherton, queried whether time off in lieu should be addressed differently than vacation.

Mayor McKeithen requested the Management representative submit a proposal to the Council for reducing accumulated leave balances among management employees and to encourage those employees with excess leave to utilize leave within the next 12 to 24 months.

Jerry Carlson, Atherton, encouraged Council/Staff to look at other municipalities for policies on caps. He asked Council to take action on those recommendations that were viable in order to determine whether more extreme measures might be necessary to fund the gap.

Mayor McKeithen asked staff to survey other municipalities in San Mateo County and the private sector for information on caps. Council Member Carlson requested a plan for each bargaining unit to implement a cap and suggested the appropriate venue would be in a Closed Session. Staff was asked to prepare a brief memo regarding implementation of a cap for each of the three bargaining units containing: 1) what was proposed; 2) what it would do; 3) how to implement it, including a timetable; and 4) why to do it, including a comparison of other jurisdictions.

Finance Director Johns reported on the Road Impact Fee. The pavement option study indicated an investment of \$11.1 million would be required over the next 6 years to upgrade the pavement condition index (pci) of the roads to the mid 80s, which was a desired standard recommended by the Metropolitan Transportation Commission (MTC). Given the amount of road impact fees currently collected over the past 3 years, the Town was at 24% of the annual investment. The \$11.1 million figure did not include an allocation for capital project administration (\$300,000 per year) nor ongoing maintenance and repair of the roads. Finance Director Johns believed the road impact fee could be increased to cover 27% of the annual operating budget to repair the streets.

Mayor McKeithen said the study did not take into account that larger homes were being constructed that caused more impact on the roads, and no fee was assessed for major demolition and landscaping.

Council Member Carlson suggested conducting an updated road pavement analysis that incorporated administrative and maintenance costs and queried whether such an analysis would be cost effective. He believed the road impact fee should be analyzed on an annual, or less, basis to determine whether the fee should be adjusted upward or downward to achieve the 27% level.

City Manager Jim Robinson noted the report was dated December 2003 and asked if a new study were conducted, whether the result would vary significantly.

Public Works Director Duncan Jones said MTC paid to have studies done every two years; the next one was scheduled for summer of 2005. A needs analysis could be updated at that time.

Discussions centered on the validity of MTC studies since they were based on a visual analysis while the study performed by Nichols resulted in more reliable data. Mayor McKeithen asked whether the Town could challenge MTC findings by using the Nichols study and, therefore, result in higher road impact fees. Council Member Carlson asked whether what was being spent needed to be increased proportionately with the increased fees.

City Attorney Marc Hynes clarified fees were based upon the impact being received; however, there was some discretion on how and when to spend the funds.

Discussion continued regarding whether the studies were favorable to the Town. Public Works Director Jones said a study was underway by San Mateo County to determine consistency among cities. Everyone agreed the Town needed to conduct an annual, or less, analysis of the road impact fees to determine whether the 27% was reached and conduct a further review of whether the 27% should be raised.

Mayor McKeithen asked staff to research the inflation rate, to reassess the 27%, the possibility of recovering the 3% not collected in the past, and whether the administrative and maintenance costs could be included to increase the amount of fees and percentage. Further, staff was asked to review the Nichols study, compare the numbers to the MTC study, and return to Council with a recommendation as to how to proceed, i.e., challenge the MTC, retain another consultant, etc.

Jerry Carlson, Atherton, noted considerable deterioration on his cul-de-sac due to construction over the past three years and offered his thoughts on consultants.

Sam Goodman, Atherton, suggested rather than recalculating the inflation rate, an attempt to re-cost on a replacement basis might be better.

Mayor McKeithen asked staff to research if a different percentage was used, and/or if there were a different pci, what that would mean to the Town in dollars.

Finance Director Johns suggested the Building Official review permit activity over the past several years to determine whether the nature of activity had changed and whether that affected the roads.

City Manager Robinson noted Council adopted an aggressive 4-year Capital Improvement Program (CIP) 3 years ago, and some projects were completed with road impact fees and others with grant monies. One advantage of having an up-to-date program was to qualify for grants. Middlefield Road was reconstructed with grant funds. As long as there was construction in Atherton, the Town should continue to seek grant funds.

Finance Director Johns referred to the summary of revenues and expenses by revenue source and program area of 13 municipalities deemed to be comparable to Atherton in population, geographic size or location, and household income. Possible explanations for the variances in per capita expenditures identified in the survey included population density, population characteristics, and jurisdiction size and service delivery configuration.

Council discussion ensued regarding differences between jurisdictions regarding particular services such as maintenance of roads and police calls. Differences in sales and use taxes among communities such as Tiburon and Los Altos Hills were attributed to retail businesses and, in the case of Tiburon, transient occupancy taxes.

Mayor McKeithen requested that staff research Los Altos Hills and Tiburon to determine the breakdown for sales and use taxes and the Business License Tax. Additionally, she requested that staff research the City of Los Altos regarding the Utility User's Tax (UUT) to determine: 1) what utilities were taxed; 2) whether a parcel tax was ever enacted and if so, did the UUT replace the parcel tax; 3) what rate was used for each utility; 4) what percentage of vote was required to pass it and by what percentage did it pass; and 5) what type of promotion was done and how was it received. Additionally, staff was asked to research other revenue sources, Motor Vehicle License fees, and intergovernmental fees as compared to Los Altos.

Finance Director Johns noted Los Altos did not codify a particular percentage for its UUT. The Council established the tax rate at the beginning of each fiscal year.

Mayor McKeithen said perhaps Los Altos was making up a budget shortfall through the UUT and developed percentages on that basis. She asked staff to inquire on whether the percentages had changed much over time. Additionally, staff was asked to research the cities of Pacific Grove and San Marino regarding the UUT.

Discussion continued on the possible collection of Business License fees or sales taxes from one-day events with vendors.

Mayor McKeithen asked for a response regarding Saratoga and Los Altos Hills on why they contracted for certain services, with whom they contracted, and whether they ever had in-house police.

City Manager Robinson stated that Los Altos Hills, Saratoga, and Cupertino were three cities that contracted with the Santa Clara County Sheriff's Office for police services and had always done so.

Council Member Janz asked staff to research whether the City of Piedmont was a Charter city and whether that was an explanation for the high Real Property Transfer Tax revenues.

Mayor McKeithen called for a recess at 8:00 p.m. The meeting reconvened at 8:05 p.m.

Finance Director Johns reported the amount of revenue that could be collected from changing the current Business License Tax ordinance was a function of what policy was set for the tax, i.e., as a replacement for the parcel tax or as a supplement to the parcel tax by adjusting the tax to be consistent with other municipalities. If the tax were adjusted to other municipalities, an additional \$100,000 a year would be collected.

Mayor McKeithen suggested a third option would be a hybrid to replace the parcel tax, i.e. a combination of a UUT, road impact fee, etc. Discussion continued on comparisons and methods to collect a tax on real estate sales.

Finance Director Johns said a comparative analysis with four municipalities regarding revenues and expenses of assessment of building and planning fees indicated that the Town was the only municipality recovering its costs. During the annual budget process, staff looked at what charges could be levied against the Building Department and currently absorbed approximately \$320,000.

Mayor McKeithen questioned the accuracy of the numbers because they included road impact fees. Based on the building permit fee alone, Atherton was the lowest and she queried why.

City Manager Robinson noted in the case of Portola Valley and Woodside, staff compared the actual Building Department operating budget and actual building fees and determined that recovery was only 85% of expenses. Discussion continued on the methods used to arrive at the comparisons. The prudent way was to determine what the cost was to provide the service and whether there were other things to be charged in that area.

Finance Director Johns noted staff acquired a copy of the City of Millbrae's Special Benefit Assessment for Public Safety. There were two types of assessment, one for fire departments, and one for police departments. A particular Government Code section for fire departments called for a simple majority vote, provided the option for a mail-in ballot, and did not apply to police. The assessment districts passed in Hillsborough and San Marino were simply "re-branded" parcel taxes, i.e., parcel taxes in the name of public safety and subject to a 2/3 vote.

Jean Schaaf, Atherton, had questions on how Police Department personnel were charged to the Building Department.

Finance Director Johns reported staff made inquiries with three consulting firms and one advised a Police Department management study would cost \$25,000.

Council Member Carlson noted the Brown Taylor report was comprehensive and asked for an explanation of where current staffing was in relationship to the

recommendations in the Brown Taylor study. The report recommended a model that provided basic services or a model that provided essential services. Police Lieutenant Glen Nielsen said initially, staffing was reduced to the level of essential services then, over time, raised by three officers to provide basic services. Currently, through attrition and one officer relocated to the Narcotics Task Force, the department was again down to providing the “essential” level of services. Discussion continued on staffing levels and how that might affect the ability of the Police Department to provide other types of investigative services such as identity theft.

Jean Schaaf, Atherton, commented on the Brown Taylor report.

Mayor McKeithen wanted to review the Brown Taylor report and revisit it at the next meeting. Discussion ensued on possible dates for an additional Special Meeting to take place either September 27 or 30, 2004.

Mike Barsotti, Atherton, questioned whether the items under review were intended for the ballot in March.

Mayor McKeithen said initially, Council desired to have a proposal in place before November for possible inclusion on the March ballot.

Jerry Carlson, Atherton, provided three recommendations to Council: 1) focus on types of enhancements to be used in conjunction with the parcel tax to provide sufficient funding over the next five years; 2) charge the Finance Committee with the responsibility to establish a strategic funding plan to replace the parcel tax and to undertake a professional review of the Police Department; and 3) establish a process that used citizen advisors, community polling/sampling, and encouraged broad community involvement.

5. ADJOURNMENT

The meeting was adjourned at 8:53 p.m.

Respectfully submitted,

Linda Kelly, Acting City Clerk

Minutes Prepared By:
Kathi Hamilton