



MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT

August 24, 2004

6:30 p.m.

TOWN COUNCIL CHAMBERS

94 Ashfield Road
Atherton, California

SPECIAL MEETING

Mayor McKeithen called the meeting to order at 6:45 p.m.

1. PLEDGE OF ALLEGIANCE

2. ROLL CALL

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

ABSENT: Charles Marsala (excused absence)

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

3. PUBLIC COMMENTS

None.

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

Finance Director John Johns provided an update to the Intermediate Financial Plan based on recent information from the auditors and San Mateo County, determined what was within the Town's capabilities to increase revenues or reduce expenses over the next several years, and identified other sources of revenue to support or supplant the parcel tax.

Vice Mayor Conwell had questions regarding the business license tax revenues, projections for interest income, the dependability of the \$100 thousand in supplemental law enforcement funding from the State, and Capital Improvement Program (CIP) projects from parcel tax money.

Finance Director Johns noted revenue from the business license tax last year was greater than expected, and the trend was likely to continue over the next several years. Staff attempted to separate how much was a one-time source of revenue versus additional revenue that could be counted on in the future. Staff was projecting an increase in interest rate from 1/4 to 1/2 point per year over the next several years. Legislation regarding law enforcement funding was long-term in nature; however, if action were taken to eliminate it, further reductions in the Police Department would be necessary. Finance Director Johns noted the Financial Plan projected \$1 million per year from the parcel tax would continue to go to capital improvements and was consistent with the current year allocation.

City Manager Jim Robinson noted staff was in the process of developing a CIP for FY 2005-2009. Assuming the parcel tax was approved in November 2004, Council would consider a CIP. Each year, the Council had discretion over how much would be spent on what in terms of the budget.

Council Member Carlson suggested developing the CIP before November. The two most important issues were: 1) how to deal with the anticipated budget shortfall over the next four years; and 2) how to find a funding/stable revenue source that would continue to fund the Town without being dependent upon a parcel tax every four years.

Mayor McKeithen asked staff to research new revenues not listed in the report: 1) a road impact fee for major landscaping; 2) building permit fees to the magnitude of Portola Valley, how were revenues spent, how were fees determined, and how were fees collected and justified; and 3) a road impact fee for use by heavy vehicles such as construction vehicles.

Finance Director Johns reported staff surveyed 14 agencies comparable to Atherton by revenue category from the State Controller's Office, reviewed the total amount of revenue on a per-capita basis for each function including building fees, and reviewed each entity's financial statement. No municipality was identified that was realizing revenues in excess of building and planning related expenses. Additionally, Atherton appeared to be more successful in attaining full cost recovery.

Mayor McKeithen noted the report by Lisa Costa-Sanders was based on building value, and Atherton had the lowest value of any of the other jurisdictions. She suggested that if Atherton charged building permit fees that were comparable to those of Portola Valley, the Town would collect as much \$2 million per year. City Manager Robinson noted Atherton collected revenues equal to its expenditures, and excess revenues were put into a fund for future building inspection costs. Mayor McKeithen requested the jurisdictions cited in Lisa Costa-Sanders' report to be surveyed on building fees.

Finance Director Johns reported a study commissioned several years ago determined that 27% of the deterioration of roads was attributed to construction projects. The consultant suggested that 27% of the total budget for road repairs should come from road impact fees. The nature of construction today was significantly different from several years ago; and based on the methodology used in the study, a higher road impact fee could be justified.

Mayor McKeithen stated road impact fees should be assessed on construction projects since construction vehicles were damaging Town roads. Anyone who was causing damage to the roads should share the burden and be assessed a fee. Council discussion continued on how much the Town should charge for road impact fees, whether the fees could be higher than 27%, and whether the fee could be based on the budgeted amount or actual damages.

City Attorney Marc Hynes stated fees must relate to the services provided. An agency usually brought in a consultant to do a study on the basis of damage and impact, not on how much was being spent on repairs.

Finance Director Johns said a defensible mechanism for increasing the fee would be to evaluate whether \$2 million was sufficient to maintain streets at a desirable level. Discussion continued.

Mayor McKeithen noted the prior study was comprehensive and included a pavement test on every road. Construction had become heavier over time and the figures should be reassessed. She requested staff conduct further study.

Finance Director Johns reported on opportunities to bring revenues and expenditures into balance from 2005 to 2009. The first area was a reduction in workforce. Currently, there were two vacancies in the Police Department (PD) and two vacancies in Administration (the City Clerk and Assistant Finance Director). The current plan assumed that all or most of the positions would be filled within the next 12 to 24 months. If the two positions in the PD were not filled and the two positions in Administration were reduced to halftime, a \$280 thousand savings per year would result. A second opportunity was to reduce through attrition one additional police officer if alternative funding was not identified by the time the officer assigned to the Narcotics Task Force returned to the Town in two years.

Council Member Carlson was concerned that by reducing positions in the PD, any savings would be diminished by resulting overtime costs.

Finance Director Johns stated Police Chief Bob Brennan advised him a permanent reduction of three full-time police officer equivalents would not impact patrol, but rather special programs.

Mayor McKeithen asked whether the Town could share an investigations officer with another agency if the need arose. Discussion ensued on the current sharing practices

with neighboring jurisdictions, the merits of future sharing possibilities, and the ability to shift resources within the PD.

Vice Mayor Conwell stated the PD was operating efficiently with three less officers without incurring additional overtime costs. However, he believed an efficiency expert could further streamline/refine the largest and costliest department.

Regarding the Finance Department's staffing levels, Finance Director Johns indicated the Town's external auditors had recommended creating the Assistant Finance Director position in order to provide for adequate checks and balances and to provide for continuity of experience. However, these attributes could still be maintained in Finance if the Department's authorized staffing level were reduced by one half-time position. Discussion continued regarding restructuring possibilities with the City Clerk and Assistant Finance Director positions.

Mayor McKeithen asked staff to research the cost for a study to determine how well the PD was functioning and serving the Town.

Mayor McKeithen opened the discussion to members of the public regarding Reduction in Workforce. Council and Staff responded to questions and comments. The following Atherton residents spoke from the audience.

Jerry Carlson suggested a comparative analysis of the Town with other municipalities on a cost-per-household basis for types of services received would better determine the benefits and types of services as well as the costs. He believed the proper venue for looking at the details of revenue and expenditures should reside in the Finance Committee.

Sam Goodman was concerned about escalating costs of the pension fund to meet future obligations and asked whether the report anticipated a higher rate of funding for the pension plan because the return on the investment was not as high as it should be. Finance Director Johns said yes.

Jim Dobbie thought the \$280 thousand cost for two police officers and an administrative position was excessive and asked whether the police officers were 20-year veterans or new recruits. Finance Director Johns said the cost was \$65 to \$70 thousand a year for a "junior" level officer and \$30 to \$35 thousand a year for benefits.

Mike Barsotti, Audit Committee Chair, believed objectives for the Town budget were missing and the discussion was just about numbers, not objectives of spending. City Manager Robinson replied there was an adopted budget for Fiscal Year 2004-05 and an aggressive CIP budget that was approved four years ago. In order to develop a strategy, the Town needed an evaluation of CIP spending for the next four years, what level of services were needed from an operating standpoint, and how to provide those services given existing resources or other resources. There were many "ifs" regarding additional loss of revenue in the future. Council discussion continued on the state of the Town's finances and possible alternatives/solutions for additional revenue sources.

Mr. Barsotti reiterated that the Town should determine what its objectives were, what was the most optimum way of getting satisfaction of services at the least cost, and suggested more evaluation was needed.

Mayor McKeithen requested that staff pursue a cost comparison of police services in other jurisdictions, the feasibility of a cost/efficiency study of the PD, and provide the information to Council at the next meeting.

Finance Director Johns reported approximately \$80 thousand a year would be generated by increasing solid waste franchise fees from 5 to 10% of gross receipts and represented a \$40 per-household, per-year increase. A survey of other communities indicated no one was collecting more than 5% nor anticipated raising the fee; however, there was no impediment for raising the fee. Council discussion indicated an \$80 thousand savings was not significant enough, but the item should remain on the table for study.

Finance Director Johns reported the advantage of taking money from cash reserves to reduce unfunded liability in Public Safety pensions was that the Public Employee Retirement System (PERS) would invest the money at a greater interest rate generating a savings of \$40 thousand per year. The unfunded liability for the past fiscal year was \$1.9 million, the majority of which was a result of the increase in benefit from 2% to 3% at age 50. Council discussion continued on the merits of using cash to pay down liability and whether an actual reduction in pension payments would result. Finance Director Johns stated by paying down \$1 million, a \$40 thousand savings would begin after one or two years, July 2007 or January 2008, and savings would parallel or be approximately the same if interest rates increased. If the entire \$1.9 million was paid, an \$80 thousand per year savings resulted and lowered cash reserves to \$4.4 million vs. \$5.4 million. A no-cost financing mechanism called tax anticipation notes was available in order to maintain cash-flow requirements.

Sam Goodman, Atherton, doubted the wisdom of spending \$1 million to save \$40 thousand and was concerned with drawing down reserves. Finance Director Johns stated the \$1.9 million was an obligation, and the question was whether to pay now or later. Council discussion centered on the merits of using reserves to pay down the pension obligation, i.e., payment obligations would be decreased in the future and a greater rate of return would be realized. City Manager Robinson reiterated the Town would need to evaluate the pros and cons of each recommendation. Mayor McKeithen asked staff to examine tax anticipation notes in the event of a cash-flow problem.

Finance Director Johns reported the Adopted Budget for Fiscal Year 2003-04 appropriated an operating transfer from the Gas Tax and Road Impact Fee funds of \$352,000, representing 50% of the Public Works Department's budget for street maintenance. By making the operating transfer effective for the duration of the intermediate-range financial plan, an additional \$152,000 per year would be available to finance current operations.

Mark Hebert, Menlo Park (former Chair of the Audit Committee), noted the Audit Committee had not considered increasing road impact fees as a revenue enhancement in its original recommendations but thought an aggressive stance within legal requirements could generate significant additional revenue.

Finance Director Johns suggested establishing a “payment-in lieu-of-rent” to assess the Library Fund an annual fee to cover the costs of facility depreciation and the opportunity cost of exclusive use of 2 Dinklespiel Lane. The operating transfer from the Library Fund to the General Fund would generate an additional \$36,000 annually. Based upon the current agreement with the Library Joint Powers Authority (JPA), the recommendation was subject to approval by the Library JPA. Additionally, no other city was currently charging the JPA. City Manager Robinson explained the Towns of Atherton and Woodside were “donor cities,” meaning any property taxes collected in excess of operating the libraries came back to the towns as a “donor city fund.” A new JPA agreement was recently adopted and was silent on the issue of charging rent. He believed less donor city money would come to the Town as a result of charging rent. The funds were specifically earmarked for the library and could be used to maintain the grounds and make improvements to the library itself. Council discussion ensued regarding possible ways to utilize the funds. Mayor McKeithen questioned the ownership of Emilie Avenue and requested a copy of the material designating ownership to be placed in Council’s Friday packet. Additionally, Mayor McKeithen requested a copy of the comparison study regarding other jurisdictions and the study staff completed on the 27% fee.

Jerry Carlson, Atherton, requested a copy of the comparison study.

John Sisson, Atherton, stated the Town needed the parcel tax and was concerned that discussion of other potential sources of revenue might cause people not to vote for the parcel tax.

Finance Director Johns reported in Fiscal Year 2003-04 the amount of accumulated compensated absences amounted to \$561 thousand, and the liability was expected to grow by an average of \$40 thousand per year for each of the next four years. A solution was to implement a cap on accumulated balances and to require employees with large balances to work them off within a specified time period. Implementation of the provisions would generate a \$450 thousand savings. Any changes would need a meet-and-confer process with affected bargaining units. Discussion continued regarding the number of employees with accumulated hours, the total number of hours over 320 hours, the need for reporting in financial documents, etc. Mayor McKeithen requested a report on the figures. Finance Director Johns indicated he would provide the Council with an analysis of accumulated vacation by employee bargaining unit.

Jim Dobbie, Atherton, asked whether an employee with more than 320 hours could insist on being paid off rather than taking vacation.

Council Member Carlson responded an employer could lawfully require an employee to take vacation to reduce accrual; conversely, an employee could not request pay in

lieu of taking the time off. He asked what the Memorandum of Understandings (MOU) specified and whether the Town was ignoring the MOU cap if a cap existed in the contracts. He requested the Council receive copies of the MOU.

Mike Barsotti, Atherton, supported a cap, perhaps even lower than 320 hours.

Mark Hebert, Atherton, supported a cap, noting a common practice was to require employees to take vacation each year with no carryover.

Mayor McKeithen called for a short break at 8:58 p.m. The Council reconvened at 9:10 p.m.

Finance Director Johns reported between \$2 million and \$2.7 million would be required from supplemental funding to maintain current service levels and the current level of investment in the Towns CIP beyond Fiscal Year 2008-09. Discussion centered on financing issues beyond Fiscal Year 2008-09. Staff surveyed 14 California municipalities on financing sources. Two had implemented a special benefit assessment for public safety, the Town of Hillsborough (by a two-thirds vote) and the City of San Marino, and derived approximately \$2 million per year from the assessment. City Attorney Hynes noted regarding property tax assessments, a two-thirds vote was required; however, there was a mail-in assessment procedure, which allowed for a majority protest system. Discussion centered on the feasibility of passing such an assessment, whether it could replace the parcel tax in the future, and what types of financing mechanism could be included.

Mayor McKeithen asked staff to research whether an inflationary measure could be included in the assessment and for how long; the availability and cost of an expert attorney to advise the Council, to research whether Hillsborough maintained its parcel tax, or replaced it with the assessment tax, and how the monies were spent; and to request information on Millbrae's successful mail-in procedure.

Finance Director Johns reported the Town's business license tax ordinance required businesses to pay the lesser of a flat fee ranging from \$50 to \$250 per business, depending on the nature of the business, or 5 percent of gross receipts. By eliminating the "lesser of" language and implementing a graduated schedule depending on the nature of the business, an additional \$500 thousand to \$2 million could be generated annually. If the tax were converted to 5 percent of gross receipts, \$5 million annually would be generated from contractors. With respect to Realtors, assuming \$15 million in commission revenue was generated from \$300 million in annual sales, 5 percent totaled \$750 thousand. Council discussion centered on the merits of converting to 5 percent of gross receipts, requested a schedule of graduated percentages with a "fudge" factor for Realtors, and to include the survey of other jurisdictions regarding their business license tax. City Manager Robinson noted the Town used a different methodology and actually collected a substantial amount of business license taxes compared to other communities with significant retail businesses that generated significant sale tax.

Natalie Cardenas, Silicon Valley Association of Realtors, queried how the current business license tax was administered with regard to Realtors. Finance Director Johns responded a \$250 fee was assessed for each real estate office with the assumption they were independently owned and operated. Discussion ensued regarding the merits and collection method of a business license tax on real estate transactions. Members of the public inquired and commented on how the business tax would apply to real estate transactions, i.e., would the fee be assessed on commissions, title insurance, etc. Council asked staff to check with Hillsborough on how its tax was calculated. City Attorney Hynes stated that as long as a business license fee was used to raise revenue, it shouldn't matter to the Town whether the realtor or property owner paid the fee.

Finance Director Johns reported the City of Fremont had a proposed Utility Users Tax (UUT) measure on the upcoming November election which was estimated to generate \$22 million annually assuming a 6 percent levy of gross receipts of telecommunications, energy, water, and waste-water utilities. The UUT could be implemented by the approval of a simple majority of the electorate and there was no charter city requirement. Using Fremont's model and assuming an average utility consumption of \$800 per month per household, a UUT would generate approximately \$1,267,000 annually. Mayor McKeithen asked how UUT would be assessed on each utility. City Attorney Hynes indicated the ordinance contained sections for each utility to collect the tax on its billing and then remit to the Town. Discussion continued on the methods of assessing some or all utilities and at what percentage.

Finance Director Johns reported by eliminating the current four-year sunset provision of the parcel tax and by providing an allowance for inflationary adjustments to the maximum levy, a future version of the parcel tax could generate an estimated \$2.1 million in supplemental funding as compared to the \$1.85 million currently provided. Discussion ensued by Council on the merits/methods for modifying the parcel tax.

Council Member Carlson stated the Council needed more guidance from staff regarding future expenditure projections and a mechanism to keep revenues in pace with rising expenses. He requested staff to present a plan on how to address the issue in the future. Discussion continued with the Council and members of the audience on revenue sources.

Mayor McKeithen requested a meeting be scheduled for the second week of September to address the issues raised that evening. City Manager Robinson said staff would look at setting another meeting on September 8 or 9.

Shirley Carlson, Atherton, requested possible dates from the Council for a joint meeting with the Park and Recreation Commission. After discussion, October 6, 2004, was set for a Joint Meeting of the City Council and the Park and Recreation Commission.

ADJOURNMENT

The meeting was adjourned at 10:00 p.m.

Respectfully submitted,

Kathi Hamilton
Interim City Clerk

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