



**DRAFT MINUTES**  
**Town of Atherton**  
**CITY COUNCIL**  
**ATHERTON CHANNEL DRAINAGE DISTRICT**  
**March 16, 2011**  
**7:00 p.m.**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California  
**REGULAR MEETING**

1. **PLEDGE OF ALLEGIANCE**

2. **ROLL CALL** Lewis, Dobbie, Widmer, McKeithen, Carlson - All present

3. **PRESENTATIONS**

Proclamation honoring Lou Paponis for service on the Transportation Committee – Council Member McKeithen presented Lou Paponis with a proclamation from Council honoring him for his years of service on the Transportation Committee.

Maintenance Supervisors Association Award to Steve Tyler – Public Works Superintendent of the Year  
Daly City Public Works Director Mike Peterson presented Steve Tyler with the Maintenance of the Year award. Peterson said Tyler is a valuable member of the community and has a passion for doing things the right way.

Mayor Dobbie congratulated Tyler and thanked him for his work.

Housing Endowment and Regional Trust (HEART)  
-presentation by Paula Stinson

Paul Stinson gave a presentation that included HEART's goals, funding sources and accomplishments.

4. **PUBLIC COMMENTS**

Sue Sardner, Los Lomitas School, expressed her gratitude to Public Works Director Duncan Jones and Assistant Engineer David Huyhn for their implementation on Safe Routes to School. Sardner said both did outstanding work and they were a true pleasure to work.

Michael Stogner, read a written statement on behalf of John P. Johns in regards to several citizens' complaints he submitted to the Town that assert misconduct.

Jon Buckheit, Atherton resident, said it is important to have a police compliant process that is fair. Buckheit said the rate of complaints that are sustained in California are well above zero, however in Atherton over the last ten years no resident complaint has seemed to be legitimate by the Police Department.

**5. REPORT OUT OF CLOSED SESSION**

**A. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION (Subsection (b) of Government Code Section 54956.9):**

*1. Pacific Peninsula Group v. Town of Atherton, and Does 1 through 50, San Mateo Superior Court, Case No. CIV 497841*

*2. Jonathan B. Buckheit v. Tony Dennis, Dean DeVlugt, Anthony Kockler, The Town of Atherton, The County of San Mateo, and Jerry Carlson U.S. District Court for the Northern District of California, San Francisco Division, Case No. CV 09-5000*

**B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Subsection (b) of Government Code Section 54956.9)**

*(1 Case)*

**C. CONFERENCE WITH LABOR NEGOTIATORS (Government Code Section 54957.6)**

Agency Designated Representatives: John Danielson, Glenn Berkheimer

Employee Organizations: Teamsters, APOA

Unrepresented Employees: All Management and Confidential Employees

**RECONVENE TO OPEN SESSION** - Report of action taken.

Acting City Attorney Ben Winig stated that there is no reportable action from Closed Session items A, B or C.

**6. CITY MANAGER'S REPORT**

Interim City Manager Danielson noted that the majority of complaints being received in regard to trash and garbage collection are on cans left out in excessive times. Danielson asked whether Council is interested in discussing some policy in the future.

Vice Mayor Widmer said he would like to see it in the future. Mayor Dobbie agreed. He added that a multitude of garbage cans are being left out for far longer than they should be.

Council agreed that staff should come back in the near future with options.

**7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT**

None.

**CONSENT CALENDAR** (Items 8-13)

Council Member McKeithen had a question on item 10 and pulled item 13.

- 8. **APPROVAL OF FEBRUARY 16, 2011 REGULAR MEETING MINUTES**  
**Recommendation:** Approve February 16, 2011 regular meeting minutes
- 9. **APPROVAL OF BILLS AND CLAIMS FOR FEBRUARY 2011 IN THE AMOUNT OF \$807,309**  
**Recommendation:** Approve Bills and Claims in the amount of \$807,309
- 10. **FINANCIAL REPORT FOR THE SEVEN MONTHS ENDED FEBRUARY 28, 2011**  
**Report:** Finance Director Louise Ho  
**Recommendation:** Receive the General Fund Financial Report for the seven months ended February 28, 2011

Council Member McKeithen reiterated her request to receive percentage comparisons to last year's data in the staff report.

Finance Director Ho said yes.

- 11. **ACCEPTANCE OF TREASURER'S REPORT FOR THE SECOND QUARTER ENDED DECEMBER 31, 2010**  
**Report:** Finance Director Louise Ho  
**Recommendation:** Accept the Treasurer's Report for the Second Quarter Ended December 31, 2010
- 12. **APPROVAL FOR THE FINANCE DIRECTOR TO ATTEND THE 2011 SPRINGBROOK SOFTWARE CONFERENCE**  
**Report:** Finance Director Louise Ho  
**Recommendation:** Approve the Finance Director to attend the Springbrook Software Conference in Portland, Oregon, in May 2011

**MOTION by Lewis, second by Widmer to approve the consent calendar with the exception of Item 13. The motion passed.**

Ayes: 5 Nays: 0 Abstain: 0 Absent: 0

**REGULAR AGENDA (Items 14-19)**

- 14. **APPROVE AN ACTION PLAN FOR A TRIAL CLOSURE OF HOLBROOK LANE AT THE TOWN LIMITS**  
**Report:** Public Works Director Duncan Jones  
**Recommendation:** Approve an action plan for a trial closure of Holbrook Lane at the Town Limits

Public Works Director Jones said the Transportation Committee has studied this for several years. Jones added that residents of Holbrook Lane have been trying for years to get some form of relief from cut-through traffic on their residential street.

Because the majority of residents surveyed favored closing the street, the Transportation Committee recommended that staff proceed with developing an action plan for a trial closure and seek Council

approval of the plan. Jones said the action plan is to include an outreach program, a method of closure, a timeframe for a trail period, and a means to assess the results of the closure.

Vice Mayor Widmer asked what the issues were in the past with this particular item.

Jones said he believes the lack of outreach, coordination and bad press caused it to fall through.

Widmer asked for clarification on how the Fire District would enter the street for emergency response. Jones said it would need to be coordinated with the Fire District but they would need to come from Fair Oaks or Middlefield in the event of an emergency.

Widmer asked where the traffic will be diverted in the event of an accident. Jones said the Fire Departments primary response route is Palmer and Fair Oaks Lane. Alternatively, Marsh Road could be used. Jones concluded that it still needs to be coordinated with the Fire District.

Chief Guerra said that the last time this issue came up the concern was that traffic would be diverted to Palmer in the event there is closure.

Mayor Dobbie opened it up for public comment.

Mya Perkins, San Mateo County Supervisor Rose Jacob Gibson's legislative aide, asked for clarity on the outreach program.

David Faulk, Atherton resident, said he has major concerns when walking on Holbrook Lane.

Joan Solari, Atherton resident, said the issue back in 1992 was lack of information dissemination to the North Fair Oaks residents. Solari said this is a safety issue that has gone on for over 20 years.

Anthony Waste, Atherton resident, said every time Marsh Road is closed drivers speed down Holbrook Lane.

Lou Paponis, Atherton resident, urged Council to find a temporary solution.

Margaret Conit, Atherton resident, said previously the issue was that people were afraid closure of the road would affect property values.

Jean W., Atherton resident, said streets are for people and not just cars. She added that something needs to be done to stop the steady stream of cars all day.

Christina Nasser, Atherton resident, said she has three children and they cannot safely walk to Encinal school.

Mayor Dobbie closed public comment.

Dobbie said he represents Atherton residents and nobody else. He said there are serious safety issues and something should be done promptly.

Council Member McKeithen said the Town needs to discuss these safety issues with the County so they support it as well.

Council Member Carlson said he prefers a two-step process where the outreach is more precise and includes input from the County, North Fair Oaks Council, and the Menlo Park Fire District. If they all agree then a trial closure should be conducted.

Council Member Lewis said safety is paramount to the residents. She requested more police presence and further studies and surveys coupled with public outreach before an actual trial closure.

Dobbie motioned to approve an action plan for a trial closure of Holbrook Lane at the Town Limits.

McKeithen asked if she can amend to add that the Town would do more outreach and receive input from Menlo Park Fire Department, plus receive a report back to Council before final determination.

Vice Mayor Widmer agreed with further outreach before an actual trial closure.

**MOTION by McKeithen, second by Carlson to approve an action plan for a trial closure of Holbrook Lane at the Town limits and amended to add outreach with North Fair Oaks, Police, Fire, and the County. The motion passed.**

Ayes: 4 Nays: 1 (Dobbie) Abstain: 0 Absent: 0

**15. UPDATE ON REFUSE AND RECYCLING COLLECTION RATES FOR 2011  
Report: Interim City Manager John Danielson**

**Recommendation:** Review the attached material responding to questions and issues from the February 16, 2011 Council discussion related to adoption of refuse and recycling collection rates for 2011. Staff recommends Council provide further direction to staff.

Interim City Manager John Danielson said staff has conducted extensive research on the retracing process and reviewing reports related to the costs of Recology's service. Danielson said the purpose of the meeting is to discuss the underlying costs and how it affects the rates. Service levels will not be discussed.

Mike Kashiwagi, Interwest Group Inc., said the solid waste cost is composed of three components. There is the collection cost which goes to Recology, disposal costs which go to the South Bay Waste Management Authority and the franchise fee which comes to the Town of Atherton.

Kashiwagi said for the fiscal year 2010/11 the collection costs will increase by 24.6%, and disposal costs increase by 27%, which represents a total solid waste cost increase of approximately 25% increase over 2010.

Kashiwagi said the service provider is required to have capital expenditures of approximately 57 million for the purchase of new vehicles and carts and that capital equipment and depreciation and interest costs associated with the investment must be recovered through the allocation of the costs through the SBWMA members. In addition to the new capital expenditures, the new solid waste contract increases some of the service levels, particularly there is now weekly and green waste services.

Kashiwagi said the main concern was the overall 25% increase and staff learned that the reasons Atherton's costs are so much higher is due to the lack of commercial revenues to offset residential

costs, the size and layouts of the street which increase operating time and costs. It costs Recology about \$11.30 per week per residential account and the amount of green waste generated is about 115lb per home per week, as compared to Menlo Park who is about \$5.90 per week per residential account and approximately 40lbs of green waste per week per resident.

Kashiwagi said that annual revenues derive from the monthly fees collected from residential and commercial accounts and the monthly fees are a product of the rates that Council sets. Using the existing rates, the projected 2011 revenue is about 1.9 million; of which about 85% comes from residential customers.

Kashiwagi said rates are a function of costs, anticipated revenue and reserve. Estimated 2011 revenue compared to the estimated costs shows a deficit of \$600,000 which does not include the \$334,000 estimate which is due to “true up” with Allied. Kashiwagi said when the Town had previously increased rates the revenue was exceeding costs and the reserve was used to keep the rates flat up until 2009 when the reserve was depleted.

Council Member McKeithen said she would like to discuss why the Town can’t go back to bi-weekly service. She added that levels of service are the main component which drove up the cost. McKeithen did not support the food scraps pail.

Mayor Dobbie said he wants to set rates as soon as possible so the Town doesn’t owe substantial amount of money at the end of the year. Dobbie added that he wants to see a figure that shows exactly how much it costs Recology to pick up waste in Atherton.

Vice Mayor Widmer said he checked the RFP sent out several years ago for this service and it shows that 44% of Atherton residents are using backyard service and that each City would be able to select the service that it wanted. Widmer said Recology is experiencing an employee shortage and it may be worthwhile to cut the weekly service in half.

Council Member Lewis said she doubts Council knows what services the majority of residents want for refuse and recycling services. Lewis said she is not in favor of three different trucks picking up the three different color bins. Lewis concluded that Council needs more information of what the costs of picking up the garbage actually are to get a handle on it.

Council Member Carlson said that overhead costs have driven up the costs and in theory all portions of that cost should be the same for every member city. Carlson said there are still many ambiguities on where some of the figures come from but Council needs to embark on an interim plan to really get to the bottom of it.

Council Member Lewis suggested polling resident’s again before any decisions are made in regard to service levels.

Mayor Dobbie opened up for public comment.

Don Aratta, Atherton resident, said the residents are doing all of the work now that they actually have to roll their carts out to the curb.

Betsy Colby, Atherton resident, suggested Council consider an increase on green waste cans which residents who have smaller lots subsidize for.

Kristin Waldron, Atherton resident, said she approves of the service the Town currently has and loves the single stream recycling.

Cary Weist, Atherton resident, suggested that the Town focus on a comparable city such as Hillsborough during their review of service and costs. Weist concluded that the food scraps pail is to help alleviate the overall waste going down the drain lines.

John Ruggiero, Atherton resident, said the amount of garbage bins left out before and after their scheduled pick is getting out of hand.

Mayor Dobbie closed the public comment.

Mayor Dobbie said he would like to see rates set as soon as possible and he prefers raising the rate for green waste containers to somewhere around \$5.00 per bin.

City Manager Danielson said there are several inconsistencies that the team was not able to define in the rate variance costs and the Town continues to fall about \$50,000 behind every month that rates are not set. Danielson said that based on Proposition 218 it will take about 3 months from first reading of rates to effective date.

Council Member Carlson's reiterated how important it is for oversight on the SBWMA Board.

Mayor Dobbie suggested approving the rates noticed by the Town, recognizing that Council is not in favor of the rates, but realizes the impact of the financial burden if not approved outweighs approval of the rates they are not in favor of. Dobbie added that he is in favor of an additional \$5.00 per green waste bin.

There was a discussion on whether or not to notice the rates again.

Acting City Attorney Ben Winig said no rates can be imposed that were not noticed. Since Council did not take any action at the last meeting staff would need to re-notice the rates since the public hearing was not continued; this would push back the timeline. If Council wants to change the rate that would push it back even further. He suggested Council direct the City Manager to initiate a new notice.

City Manager Danielson said rates can only be approved without the \$5.00 per green waste bin.

Vice Mayor Widmer said he would like to see the rates presented as an alternative option at the December 2010 meeting with the addition of the \$5.00 per can of green waste.

Winig said the rates cannot be changed without going back and getting a new rate study that is in compliance with the Proposition 218 requirements. To adopt the rates that were previously noticed Council would need to direct the City Manager to initiate the notice requirement which takes 45 days.

**MOTION by McKeithen, second by Dobbie to adopt the rates presented in the December, 2010 staff report. The motion failed.**

Ayes: 2      Nays:            3 (Lewis, Carlson, Widmer)    Abstain:      0      Absent:      0

Council Member Carlson said he doesn't favor a 60% increase.

Council Member Lewis said the Environmental Programs Committee option was reasonable with the addition of \$5.00 per green waste bin.

**MOTION by Widmer, second by Lewis to accept and notice the Environmental Programs Committee rates and add in the \$5.00 per bin for green waste.**

Ayes: 3      Nays:            2 (Dobbie, McKeithen)      Abstain:      0      Absent:      0

**16.      PROGRESS REPORT ON CONSTRUCTION, 297 POLHEMUS**

**Report:** Interim Building Official Dennis Lockard

**Recommendation:** To Be Determined

Interim Building Official Dennis Lockard said the property owner continues to make progress and is moving forward in an expeditious fashion.

Mayor Dobbie said he has one more month to show that he has made significant progress before Council can choose to impose fines.

Council Member McKeithen asked why it took so long to re-submit his grading and drainage plan. Lockard said the property owner has run into several financial difficulties.

Vice Mayor Widmer said he visited the property and based on his assessment the property owner is about two weeks behind schedule. Widmer said he is concerned the owner is not prioritizing his project tasks.

Council Member Lewis said she has driven by the property several times and she is very concerned that there are not enough people available to get the work done on time. Lewis said she wants to be as lenient as possible based on the economy but she is not very optimistic that he will meet the deadline.

**17.      ACCEPT THE RECOMMENDATION OF THE FINANCE COMMITTEE TO SET A BUDGET POLICY OF ALLOCATING 60% OF PARCEL TAX FUND FOR POLICE SERVICES AND 40% FOR CAPITAL IMPROVEMENT PROJECTS (CIP)**

**Report:** Finance Director Louise Ho

**Recommendation:** Accept the recommendation from the Finance Committee to set a budget policy of allocating 60% of parcel tax fund for police services and 40% for capital improvement projects

Finance Director Ho said the Finance Committee met on March 7<sup>th</sup> to set up a budget policy to for use of the parcel tax to help the Town budget in the future. It will also help with the 5-year financial forecast because it gives a baseline to work from.

Council Member McKeithen asked for further clarification on the figures for the Upper Atherton Channel repair Phase I, particularly if the money is available in the account. He will get that information to Council.

Council Member Lewis said this is an excellent approach for planning to be able to allocate funds so Finance can depend on it for budgeting.

**MOTION by Dobbie, second by McKeithen to accept the recommendation from the Finance Committee to set a budget policy of allocating 60% of parcel tax fund for police services and 40% for capital improvement projects. The motion passed.**

**18. APPROVAL TO PUBLISH REQUEST FOR PROPOSAL FOR LABOR NEGOTIATION SERVICES**

**Report:** Interim City Manager John H. Danielson

**Recommendation:** Approve publishing a request for proposal for Labor Negotiation services for the Town of Atherton and authorization for City Manager to execute an agreement

**MOTION by Lewis, second by McKeithen to approve publishing a request for proposal for Labor Negotiation services for the Town of Atherton and authorize the City Manager to execute an agreement. The motion passed.**

Ayes: 5      Nays:            0      Abstain:        0      Absent:        0

**19. ADOPT A RESOLUTION APPROVING THE SETTLEMENT AGREEMENT BETWEEN THE TOWN OF ATHERTON AND PACIFIC PENINSULA GROUP**

**Report:** City Attorney Wynne Furth

**Recommendation:** Adopt the resolution (Attachment 1) approving the Settlement Agreement (Attachment 2) between the Town of Atherton (“Town”) and Pacific Peninsula Group (“PPG”)

Item 19 was removed from the Agenda.

**13. RECOMMENDATION TO DIRECT THE GENERAL PLAN COMMITTEE TO CONSIDER REVISIONS TO CHAPTER 6.04.250 OF THE ATHERTON MUNICIPAL CODE**

**Report:** Town Arborist Kathy Hughes Anderson

**Recommendation:** Direct the General Plan Committee to review and consider revisions to Chapter 6.04.250 of the Atherton Municipal Code relating to zoning provisions for the housing of rabbits and fowl

Council Member McKeithen questioned whether the costs to revise the code will justify the interest.

Vice Mayor Widmer said he was not in favor of spending funds for this.

Council Member Lewis said the current ordinance is onerous and needs to be revised.

Council Member Carlson said he supports the directing the General Plan Committee to review the ordinance.

Kristin Waldron, Atherton resident said the Committee meets quarterly and it won't hurt to ask them to review the ordinance. She added that she has already conducted all of the research.

Betsy Colby, Atherton residents, said having chickens is a great project for kids.

**MOTION by Widmer, second by Dobbie to support not sending review of Ordinance to the General Plan. The motion passed.**

Ayes: 3      Nays:            2 (Lewis, Carlson)      Abstain:      0      Absent:      0

**20.      COUNCIL REPORTS**

Council Member Carlson said Ravi Mehta, Town's High Speed Rail lobbyist is supporting a bill to redirect HSR funds for other use. Carlson said he will pass on more information after the upcoming hearings in Sacramento.

Mayor Dobbie said staff should begin setting up meetings in the near future with Senators and other Peninsula Mayors to discuss the Cargill project.

**21.      FUTURE AGENDA ITEMS**

None.

**22.      PUBLIC COMMENTS**

**23.      ADJOURN**

MOTION by Widmer, second by Carlson to adjourn the meeting. The motion passed unanimously.

Mayor Dobbie adjourned the meeting at 10:12 p.m.

**Respectfully submitted,**

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**Theresa DellaSanta  
Deputy City Clerk**