



Minutes
Town of Atherton
CITY COUNCIL
August 15, 2012
7:00 p.m.
COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California
REGULAR MEETING

1. PLEDGE OF ALLEGIANCE –

2. ROLL CALL – Lewis, Widmer, Carlson, McKeithen, and Dobbie

3. PRESENTATIONS –

Mayor Widmer presented a proclamation to Richard Moore. Many citizens and councilmembers paid tribute and gave thanks to Mr. Richard Moore for his years of services to the Town of Atherton.

4. PUBLIC COMMENTS –

Kathy Shrenk, Menlo Park School District Traffic Safety Coordinator, introduced herself to the Council and gave a brief outline of her goals of getting more children walking, biking, and carpooling to school and getting more cars off of the roads near the schools. She looks forward to working with the Town to create safer school streets.

Jon Buckheit, Selby Lane, spoke in support of Councilmember McKeithen, and her dedicated service to the Town during her time as an Atherton Council Member.

5. REPORT OUT OF CLOSED SESSION –

There were two items discussed in closed session: the first was a conference with the labor negotiator. It was an advisory briefing and there was no action. The second item was a conference with the City Attorney regarding pending litigation. Council gave direction to the City Attorney and no action was taken.

6. CITY MANAGER'S REPORT –

Vice Mayor Lewis asked about the Town's inability to meet the 15-year criteria for road surfaces. Public Works Director Mike Kashiwagi answered that the Town's road surfacing process is meant to last about 10 years and has been found to be much more cost effective.

Vice Mayor Lewis asked about the year to date vs. budgeted on page five and what the timing is. Public Works Director Mike Kashiwagi answered that this was just the year-to-date numbers and moving forward there will be year-to-date numbers provided.

7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT –

San Mateo Vector Control District gave a report. Samuel Lerner, president of the Board of Trustees of the

San Mateo Vector Control District spoke. Samuel Lerner is an Atherton City Council appointee to the District. Mr. Lerner introduced Robert Gay, manager of the San Mateo Vector Control District.

Robert Gay spoke about Vector Control in San Mateo County. Most of the mosquitos in San Mateo County are in storm drains and Vector Control is usually successful in treating those areas. Atherton has had two birds and one squirrel diagnosed with chronic (low levels) of West Nile. Vector Control will not fog unless they find mosquitos with West Nile virus, which to this point they have not. Vector Control also performs yellow jacket abatement.

Mayor Widmer asked what citizens should do should they find a dead squirrel or bird. Mr. Gay responded that they should call Vector Control. Residents should not touch the animal and should immediately call Vector Control. The phone number is on the web site.

Vice Mayor Lewis asked about mosquitos breeding in underground retention trenches. Mr. Gay will work with Public Works Director Kashiwagi to check into it.

Councilmember Dobbie asked how effective fogging is. Mr. Gay answered that fogging is effective but difficult to do.

Councilmember Dobbie asked what the best product is for mosquito repellent. Mr. Gay answered that DEET is still the best product.

Councilmember Dobbie asked about squirrels and how to get rid of them. Mr. Gay answered that there have been squirrels found with bubonic plague and hanta virus. Squirrels are a concern. Residents should call Vector Control if a dead squirrel is found.

Councilmember Carlson asked where their funding comes from. Mr. Gay answered that most of the funding come from property taxes, special taxes and benefit assessment.

John Ruggiero, Stockbridge, commended Vector Control and the work that they do.

Lou Paponis, MacBain Avenue, expressed concern about drainage onto Emily Avenue from Sacred Heart School. Mr. Paponis is concerned about the proposed gulch for drainage. Mr. Gay would work with Public Works Director Kashiwagi to look into it.

Vice Mayor Lewis is also concerned about Sacred Heart's proposal to control water with a marsh.

A resident asked if fountains and ponds should be drained. Mr. Gay answered that all ponds and fountains are in a database that the field technicians have at their disposal. They are using a product that keeps the mosquitos in a juvenile stage. Residents should notify Vector Control if an abandoned swimming pool is noticed or if a new fountain or pond is installed.

Councilmember McKeithen asked about the Atherton Channel. Mr. Gay isn't sure about it specifically but they do survey and treat all creeks in the area.

A resident suggested that the Vector Control be publicized more.

CONSENT CALENDAR (ITEMS 8-12)

8. APPROVAL OF JUNE 29, 2012 SPECIAL MEETING MINUTES AND JULY 18 REGULAR MEETING MINUTES

Recommendation: Approve meeting minutes

9. **APPROVAL OF BILLS AND CLAIMS FOR JULY, 2012 IN THE AMOUNT OF \$931,388**
Recommendation: Approve Bills and Claims in the amount of \$931,388

10. **FINANCIAL REPORT FOR THE MONTH ENDED JULY 31, 2012**
Report: Finance Director Debra Auker
Recommendation: Receive the General Fund Financial Report

11. **QUARTERLY TREASURERS REPORT**
Report: Interim Finance Director Debra Auker
Recommendation: Approve quarterly treasurers' report through June 30, 2012

12. **ANNEXATION OF LANDS OF SONMEZ, 70 CAMINO POR LOS ARBOLES (APN 070-302-300) TO THE ATHERTON CHANNEL DRAINAGE DISTRICT – PROPERTY TAX EXCHANGE RESOLUTION**
Report: Planner Neal Martin
Recommendation: Adopt the attached resolution entitled "A RESOLUTION AGREEING TO AN EXCHANGE OF PROPERTY TAX REVENUES PURSUANT TO THE PROVISIONS OF CHAPTER 282, SECTION 59, PART 0.5, IMPLEMENTATION OF ARTICLE XIII A OF THE CALIFORNIA CONSTITUTION, COMMENCING WITH SECTION 95, DIVISION I, OF THE REVENUE AND TAXATION CODE."

MOTION by Carlson, second by Lewis to approve items 8 through 12 of the Consent Calendar.

Ayes: 5 Nays: 0 Abstain: 0 Excused: 0

PUBLIC HEARINGS - (Item 13)

13. **APPEAL OF THE DECISION OF THE PLANNING COMMISSION TO APPROVE A VARIANCE TO ALLOW AN ATTACHED RAISED DECK TO ENCROACH IN THE MAIN BUILDING SETBACKS AND A HERITAGE TREE REMOVAL PERMIT TO ALLOW THE REMOVAL OF FOUR (4) TREES AT 38 SUTHERLAND DRIVE (APN 073-202-420)**
Report: Planner Lisa Costa Sanders
Recommendation: Conduct the public hearing and deny the Appeal, thereby upholding the Planning Commission's decision to approve the Variance at 38 Sutherland Drive.

Deputy Town Planner Lisa Costa Sanders presented the staff report. The appeal originates from the resident at 26 Sutherland.

Councilmember Carlson visited the site. He asked if replacement trees will be required. Deputy Town Planner Lisa Costa Sanders answered in the affirmative. Councilmember Carlson questioned how four trees will fit in to the current wooded landscape and asked if the applicant could donate to a tree fund instead. Deputy Town Planner Lisa Costa Sanders answered that the Planning Commission had discussed the same idea but since there is nothing in place currently to mandate such a fee, it was determined that it will be discussed as part of the updated Heritage Tree Ordinance.

Councilmember Carlson asked about the potential for a pool failure as specified by the appellant. Deputy Town Planner Lisa Costa Sanders answered that this type of structural detail is not addressed at the Planning Commission level but will be handled by the Building and Engineering Departments. The applicant will have an underground retention system in place.

Councilmember Carlson asked about the tree removal decisions. The decision by the Planning Commission

in this case was reached since it was believe to be a minimal number of trees removed relative to the number of trees on the site.

Vice Mayor Lewis asked if the Planning Commission was considering changing the ordinance. Deputy Town Planner Lisa Costa Sanders answered that they were not considering changing the ordinance based on this item. The code attempts to encompass most of the properties in Town.

Councilmember McKeithen expressed concern about water spilling over the side of the pool in an earthquake. Deputy Town Planner Lisa Costa Sanders answered that this would also be addressed by the Building Department at that point in the project. Councilmember McKeithen questioned this process and offered concern about the water spillover in the event of an earthquake.

City Attorney Bill Connors addressed the issue by saying that laypeople cannot overrule an engineer's report unless they have another engineer's report dispute the issue. It is incumbent upon the appellant to hire an independent engineer to dispute the engineer's report.

Councilmember McKeithen asked for clarification as to "uniquely surrounded" in the variance. Deputy Town Planner Lisa Costa Sanders answered that it was the Planning Commission's opinion that the lot in question is in fact uniquely surrounded by neighboring properties whereas most lots in Atherton have much more street frontage than this lot.

Councilmember McKeithen asked about tree #8 and was surprised at the rating. Town Arborist Kevin Keilty explained that the report came from Advanced Tree Care and the report was done in March and the health of that tree has declined substantially since the report was submitted.

Councilmember McKeithen asked about the tree protection plan. There is no provision for monitoring or if there is a violation of the tree protection plan. Ms. McKeithen asked if it could be part of the variance that the tree protection program be made part of the variance with some monitoring and for a bond to be posted with a report to be done on a regular basis. City Attorney Bill Connors explained that a bond would not be a good idea since other variances have been granted without bonds.

Mayor Widmer asked about the site and during his visit he noticed that the pool water would have to go up slightly in order to then flow down the slope. Town Arborist Kevin KIELTY answered that he noticed the same thing. Mayor Widmer continued that additionally, water would have to go through another neighbor's yard before it reached the appellant's property. This too was affirmed by staff.

Mayor Widmer asked about the choice of trees that are being removed and asked why some trees that were rated lower were not removed. Town Arborist Kevin KIELTY answered that it was more a matter of taking trees for the purpose of building the planned house than of removing trees for the sake of removal.

Mayor Widmer would also like to make sure that the trees are cared for during the construction phase. Town Arborist Kevin KIELTY answered that having the water off (during construction) will only improve the state of the oaks. Their problem right now is overwatering from drainage and runoff. As for the fire implication, Town Arborist KIELTY thinks conditions will improve once the project gets underway.

The appellant declined comment.

The applicant explained the project. He showed a map detailing the surrounding properties and explained where excess water would go. He explained the engineering of the pool deck and the drains in place to handle spillover.

Councilmember McKeithen would like the tree protection plan added to the variance.

Vice Mayor Lewis commented that she wanted to commend the applicant on having the engineer report and the care taken by the applicant. Lewis would like to reassure the appellant that great care has been taken to allay her fears about the safety of the pool.

MOTION by Dobbie, second by Carlson to deny the Appeal of the decision of the Planning Commission to Approve a Variance to allow an attached raised deck to encroach in the main building setbacks and a Heritage Tree Removal Permit to allow the removal of four (4) trees at 38 Sutherland Drive (APN 073-202-420).

Ayes: 4 Nays: 0 Abstain: 1 (McKeithen) Excused: 0

REGULAR AGENDA – (Item 14)

14. ADOPT REVISIONS TO RESOLUTION 12-16 TO EXPAND AUDIT/FINANCE COMMITTEE

Report: Interim City Manager Theresa DellaSanta

Recommendation: Adopt revisions to Resolution 12-16 to expand the Finance Committee with recommendations from the Audit/Finance Committee

Lou Paponis, MacBain, spoke about his trouble hearing the Councilmembers due to the sound system. Interim City Manager Theresa DellaSanta will address this issue.

MOTION by McKeithen, second by Lewis to expand the Audit/Finance Committee.

Ayes: 5 Nays: 0 Abstain: 0 Excused: 0

CONSENT CONTINUED

15. COUNCIL REPORTS/COMMENTS – there were no questions about any of the Council reports that were submitted.

16. FUTURE AGENDA ITEMS – Mayor Widmer asked if the sound system issue should be put on a future agenda. City Attorney Bill Connors responded that there are very strict laws regarding ADA accommodations. The sound system will be looked into and will be addressed and dealt with as soon as possible.

17. PUBLIC COMMENTS – Councilmember Dobbie spoke about his disappointment that William Grindley resigned from the Planning Commission and the Transportation Commission. Councilmember Dobbie feels that Mr. Grindley did a lot for the community and will be missed. Councilmember Carlson and Vice Mayor Lewis agreed with the sentiments of Councilmember Dobbie.

18. ADJOURN –

MOTION by Lewis, second by Dobbie to adjourn.

Ayes: 5 Nays: 0 Abstain: 0 Excused: 0

Respectfully submitted

**Theresa DellaSanta
Interim City Manager**