



Minutes
Town of Atherton
CITY COUNCIL
ATHERTON CHANNEL DRAINAGE DISTRICT
January 18, 2012
7:00 p.m.
COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California
REGULAR MEETING

Mayor Widmer called the meeting to order at 7:00 p.m.

1. **PLEDGE OF ALLEGIANCE**
2. **ROLL CALL** Lewis, Dobbie, Widmer, McKeithen, Carlson – All Present
3. **PRESENTATIONS**

Proclamation to Tim Lynch – Retired Atherton Sergeant

Mayor Widmer read the proclamation to Lynch. Chief Flint congratulated Lynch on his retirement, commended him on 31 years of faithful and dedicated service to the citizens of Atherton. Tim hired on with the Atherton Police Department in July of 1984 as a Reserve Officer and was eventually hired as a fulltime police officer. Tim worked his way through the ranks in the Department from patrol, detectives, corporal, and finally sergeant.

Phil Lively, Atherton resident, thanked the Atherton Police Department and Tim Lynch for a specific incident he assisted Lively's family with more than four years ago.

Introduction of Brad Mills - Atherton Sergeant

Chief Flint introduced Brad Mills who was promoted from Police Officer to Sergeant on December 25, 2011 to fill the sergeant's vacancy created by Sergeant Tim Lynch's retirement. Mills has been with the Atherton Police Department for more than 20 years and has served in a variety of capacities such as Field Training Officer (FTO), Motorcycle Officer, Acting Sergeant, and with the San Mateo County Gang Task Force (GTF). Chief Flint introduced Mills' wife and daughter.

4. **PUBLIC COMMENTS**

Jon Buckheit, Atherton resident, suggested that Council reconsider an ethics committee. He added that an oversight board might have prevented the death of K-9 Lotty who ingested a sago palm. Buckheit noted all of the expenses and wage increase that were involved in maintenance and training this dog, and he felt there should be more accountability.

Denise Kupperman, Atherton Dames, noted that the Dames are holding their annual Valentine's Day dance on Saturday, February 11th in the Pavilion at the park.

Melinda Tevis, Atherton resident, urged Council not to allow the new town center project to take over the library project. Tevis questioned why there is no push for a town-wide vote on the new town center project.

Kathy McKeithen, who spoke as a resident from the dais, said she doesn't believe anyone could possibly fathom how difficult the job of being on Council really is. McKeithen said she always puts the best interest of the Town before her own self-interest. The livelihood of her family has been threatened and her home vandalized. McKeithen said that on top of this the insults, threats, and petty remarks she has had to endure from a fellow Council Member have been inappropriate. McKeithen requested that the Mayor push Council to conduct themselves in accordance with the Town's code of conduct.

Sean Barstadt, speaking on behalf of resident Willie Mays, requested that Council consider renaming Mt. Vernon Lane to Willie Mays Way. Barstadt said Mays is a great asset to the Town and it is time to give back to him.

5. **REPORT OUT OF CLOSED SESSION** – None.

6. **CITY MANAGER'S REPORT**

Vice Mayor Lewis asked what the two-wire system conversion in the park is and questioned where residents can pick up sandbags.

Kashiwagi said the two-wire system refers to the updated sprinkler system.

David Huynh, Assistant Engineer noted that the sand and the bags can be picked up behind the permit center trailers.

Lewis noted that the building department fees for the first half of the year demonstrates positive fee revenue and the new department is doing a great job turning things around.

Jon Buckheit, Atherton resident, suggested that Council consider holding a closed session in the near future.

7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT** - None.

CONSENT CALENDAR (Items 8-17)

Council Member McKeithen removed item 16 and commented on item 11.

Vice Mayor Lewis had corrections to item 8, comments on 10 and 11, recused herself from item 14, and removed items 16 and 17.

Council Member Dobbie also removed items 16 and 17.

Public Works Director Kashiwagi noted that for item 10, the former Public Works Director's name was on the notice of completion and staff will change it to reflect the current director.

Council Member Carlson noted that Executive Director Richard Napier was present in the audience in case anyone has questions regarding item 12.

8. APPROVAL OF DECEMBER 21, 2011 REGULAR MEETING

Recommendation: Approve December 21, 2011 regular meeting minutes

9. APPROVAL OF BILLS AND CLAIMS FOR DECEMBER, 2011 IN THE AMOUNT OF \$1,173,541

Recommendation: Approve Bills and Claims in the amount of \$1,173,541

12. APPROVE THE OWNERSHIP, OPERATIONS, AND MAINTENANCE AGREEMENT BETWEEN THE CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY AND THE COUNTY OF SAN MATEO AND THE TOWN OF ATHERTON FOR THE SAN MATEO COUNTY SMART CORRIDORS PROJECT

Report: Public Works Director Mike Kashiwagi

Recommendation: Approve and authorize the City Manager to execute the Ownership, Operations, and Maintenance Agreement between the City/County Association of Governments (C/CAG) of San Mateo County and the County of San Mateo and the Town of Atherton for the San Mateo County Smart Corridor Project

13. APPROVE RECOMMENDATION OF ATHERTON TRANSPORTATION COMMITTEE TO ELIMINATE STREET PARKING AT ADDRESS 273 ALAMEDA DE LAS PULGAS

Report: Public Works Director Mike Kashiwagi

Recommendation: Approve recommendation of Atherton Transportation Committee to eliminate stopping in front of residence at 273 Alameda de las Pulgas

15. EXTEND CONTRACT BETWEEN TOWN AND JOHN DANIELSON FOR INTERIM CITY MANAGER SERVICES

Report: Deputy City Clerk Theresa DellaSanta

Recommendation: Approval amendment to extend services with John Danielson for interim city manager services

MOTION by Dobbie, second by Carlson to approve the consent agenda excluding items 10, 11, 14, 16, and 17. The motion passed.

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

Council then took up items that were removed.

10. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$80,930.34 FOR THE UPPER ATHERTON CHANNEL CREEK STABILIZATION AND SLOPE RESTORATION PHASE II PROJECT

Report: Public Works Director Mike Kashiwagi

Recommendation: Accept work and authorize recording of a notice of completion and approving contract change orders in the amount of \$80,930.34 for a total project cost of \$643,905.34 for the Upper Atherton Channel Creek Stabilization and Slope Restoration Project, Project Number 56037

MOTION by McKeithen, second by Lewis to approve recording of a notice of completion and approving contract change orders in the amount of \$80,930.34 for a total project cost of \$643,905.34 for the Upper Atherton Channel Creek Stabilization and Slope Restoration Project, Project Number 56037. The motion passed.

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

11. APPROVE A CONTRACT AMENDMENT FOR BKF ENGINEERS FOR DESIGN SERVICES IN THE AMOUNT OF \$28,443.59 AND CONSTRUCTION AND PERMIT COMPLIANCE SERVICES IN THE AMOUNT OF \$24,400.00 FOR THE UPPER ATHERTON CHANNEL CREEK STABILIZATION AND SLOPE RESTORATION PHASE II PROJECT

Report: Public Works Director Mike Kashiwagi

Recommendation: Approve 2 Contract Amendments for BKF Engineers; one for design services in the amount of \$28,443.59 and one for construction and permit compliance services in the amount of \$24,400 on the Upper Atherton Channel Creek Stabilization and Slope Restoration Phase II Project, project number 56037 and increase the Upper Atherton Channel Creek Stabilization and Slope Restoration Project budget by \$52,843.59

McKeithen noted that the numbers in the staff report do not add up. McKeithen said the \$197,983.00 for construction services should be changed to \$197,783.00. Staff will make the changes.

MOTION by Carlson, second by Lewis to approve 2 Contract Amendments for BKF Engineers; one for design services in the amount of \$28,443.59 and one for construction and permit compliance services in the amount of \$24,400 on the Upper Atherton Channel Creek Stabilization and Slope Restoration Phase II Project, project number 56037 and increase the Upper Atherton Channel Creek Stabilization and Slope Restoration Project budget by \$52,843.59. The motion passed.

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

Vice Mayor Lewis said the Town has been pestered by the San Francisco Dusky-Footed Woodrats and the Town's budget has been skewed because staff had to relocate about 10 nests.

14. APPROVE THE RECOMMENDATION OF THE ATHERTON TRANSPORTATION COMMITTEE TO INSTALL A NEW SCHOOL CROSSWALK AT THE INTERSECTION OF EMILIE AND MACBAIN

Report: Public Works Director Mike Kashiwagi

Recommendation: Approve the installation of a new school crosswalk on Emile Avenue at the intersection of Emile Avenue and MacBain Avenue

Kashiwagi said the item was approved at the last Transportation meeting.

John Ruggeiro, Transportation member, said the committee agreed they were going to wait until school officials had met with their neighbors.

MOTION by Widmer, second by Dobbie to send the item back to the Transportation Committee. The motion passed.

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

16. APPROVAL OF BUDGET AMENDMENT TO HIRE AN EXECUTIVE SEARCH FIRM TO RECRUIT A PERMANENT CITY MANAGER

Report: City Manager John Danielson

Recommendation: Approve budget amendment to hire an executive search firm to recruit a permanent City Manager in the amount not to exceed \$25,000

McKeithen said she is not in favor of hiring a recruiting firm. She added that the Town should hold off until they hear from CalPERS on the request to extend John Danielson's contract. McKeithen added that Council should conduct the search themselves to save money and because search firms in the past have not proved much success for the Town.

Dobbie agreed that recruitment should not begin until the Town receives a response from CalPERS.

Lewis said that Council worked very well together when they conducted the search which brought Danielson on board. Lewis said it would save the Town a lot of money and added that the process should start right away.

Carlson felt that Danielson's input would be extremely valuable to the recruitment process.

Melinda Tevis, Atherton resident, said that Danielson was hired to do the recruitment and was happy to hear that Council doesn't support a recruitment firm.

John Ruggeiro, Atherton resident, said he would love to see Danielson stay with the Town. He added that Council has run into problems in the past with executive recruiters.

Mayor Widmer said that because the Town does not know how CalPERS will respond, he felt recruitment should begin immediately. Widmer said he agreed that Danielson is an integral part of the recruitment process, but felt that the process needs to get started and Council should authorize an expenditure to do so.

Danielson said that advertising, travel and background checks will cost the Town and suggested authorization of approximately \$10,000. He added that Council might consider appointing a subcommittee in the event CalPERS rejects the Town's request.

Mayor Widmer said a job description and potential help from a recruiting firm will be prudent in preparation for initiating the search regardless of how CalPERS responds to the Town's appeal.

Vice Mayor Lewis mentioned that there was a candidate that Council interviewed in 2010 that everyone seemed to like. She suggested contacting that person for the permanent position.

MOTION by McKeithen, second by Lewis to provide direction to the City Manager to establish a timeline and process for the in-house recruitment of a permanent City Manager. The City Manager will work with Council to develop the criteria and attributes necessary to be a viable candidate for City Manager. The City will proceed with advertising and recruitment of candidates and recommend the top candidates to the Council to be interviewed with an authorization of up to \$10,000 for recruitment expenses. The motion passed.

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

Widmer said he felt the Town should be conducting a parallel path in order to be prudent.

17. APPROVAL OF CITY COUNCIL COMMITTEE ASSIGNMENTS

Report: Deputy City Clerk Theresa DellaSanta

Recommendation: Approve Council Committee Assignments prepared by Mayor Widmer

Council Member Dobbie suggested that he be removed from the Atherton 2020 Gateway committee. Vice Mayor Lewis was substituted.

Widmer said all of Atherton's committees have two Council Members except the Library committee and he suggested Council consider expansion in the future.

MOTION by McKeithen, second by Lewis to approve Council Committee Assignments prepared by Mayor Widmer with the change noted. The motion passed.

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

PUBLIC HEARINGS - None

REGULAR AGENDA – (Items 18-20)

18. TOWN CENTER TASK FORCE RECOMMENDATION TO APPROVE NICHOLS, MELBURG AND ROSETTO TO WORK WITH THE TOWN ON THE NEW TOWN CENTER PROJECT

Report: Town Center Task Force

Recommendation: 1. Approve Nichols Melburg & Rossetto AIA & Associates, Inc. (NM&R) as the architectural firm to work with the Town of Atherton on the new town center project. 2. Authorize the TCTF to notify NM&R of their selection and to meet with them to determine cost of public outreach program. 3. Authorize the TCTF to review with City Manager and staff current head count and verify space needs as compared with those of 2010.

Vice Mayor Lewis reported on behalf of the Task Force. She said the committee is requesting that Council approve Nichols Melburg & Rossetto AIA & Associates, Inc. (NM&R) as the architectural firm to work with the Town on the new town center project, authorize the TCTF to meet with MM&R to determine cost of public outreach program and authorize the TCTF to review with City

Manager and staff current head count and verify space needs as compared with those of 2010. Lewis presented historical information on the committee's progress. Lewis concluded that the committee is not requesting any funding until a plan for public outreach is in place and private donation efforts are underway.

Council Member Carlson said the committee is hoping to get reaffirmation from Council so that residents would be encouraged to begin donating. Carlson added that in parallel to Council approving NM&R as the architect, he suggested the Town go to resident groups for help with fundraising efforts so the Task Force can come back with plans.

Council Member Dobbie said with so few employees left he is afraid the Town may build something that is no longer needed.

Council Member McKeithen felt a town center can be a very positive thing for this town. McKeithen noted that the feedback responses on the concept designs were low, and she was concerned that one of the diagrams from NM&R included a library and felt it puts them at an unfair advantage. She added that the process in which the project will be financed is a principal concern. McKeithen concluded that a clear view and analysis of financial realities and options should be done so the Town knows where it is headed.

Council Member Carlson said the TCTF is evaluating financial options as authorized in its charter.

Council Member Dobbie said he prefers to have a better understanding of how much space is needed before an architect is selected.

Council Member Carlson said that the TCTF would like NM&R to work with the Town on determining updated space needs. Carlson felt that NM&R would be helpful in getting the best input to engage the Town.

Vice Mayor Lewis said Council's concerns are well taken and that the TCTF's program document was created to provide a flexible program including verifying and recounting current space needs.

Council Member McKeithen asked where the money will come from.

Council Member Carlson said Council needs to demonstrate that they are serious about this project by selecting an architect and working on a plan to move forward. Carlson said there are serious citizens who are prepared to donate and all they need is reaffirmation from Council.

Council Member Carlson asked his colleagues if they are serious about this project. Council Members McKeithen and Dobbie said they are absolutely serious about the project, but they would like to analyze additional financing mechanisms and a plan for funding.

Council Member McKeithen said she prefers to have a plan for funding in front of her before she approves an architect.

Steve Dostart, Task Force member, said the TCTF has worked well together and have their heart and soul in it for all the right reasons. Dostart said the TCTF prefers to work with the recommended architect and get information based on their professional input.

John Ruggeiro, Atherton resident, said the funds should be established before architects are selected. He added that a vote should be put out to all residents on whether they want a new town center.

Pat Dobbie, Atherton resident, clarified that Council Member Dobbie believes that there is no question that the current town center is in dire shape and a new one is needed. She concluded that she prefers not want to stop at the opinion of only two architects.

Denise Kupperman, Atherton resident, said the current facilities are inadequate. Kupperman said that as a resident she doesn't feel like she has been asked for her opinion on funding options and outsourcing ideas.

Sandy Crittenden, Atherton resident, said he has concerns about spending town funds because the project has been marketed entirely by acceptance of private donors. He concluded that the money paid through for building permits should go to the Town and not be earmarked for the building department portion of the facility.

Council Member McKeithen said that in the spirit of cooperation she would like to support the TCTF by selecting NM&R as the preferred architect and authorize the TCTF to meet with NM&R to come up with an outreach plan to bring back to Council for approval.

MOTION by McKeithen, second by Dobbie to select Nichols Melburg & Rossetto AIA & Associates, Inc. (NM&R) as the architectural firm to work with the Town of Atherton on the new town center project and authorize the TCTF to notify NM&R of their selection and to meet with them to determine cost of public outreach program and come back to Council with a plan for approval.

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

Council Member Dobbie said there is no doubt that we are all in favor of a new town center, but we need to be mindful of where the money will come from. Dobbie thanked the TCTF for all their work.

19. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$ 322,483.18 FOR THE FLETCHER DRIVE/RIDGEVIEW DRIVE PAVEMENT AND DRAINAGE IMPROVEMENT PROJECT

Report: Public Works Director Mike Kashiwagi

Recommendation: Accept work and authorize recording of a notice of completion and approving contract change orders in the amount of \$322,483.18 for a total project cost of \$1,689,946.65 for the Fletcher Drive/Ridgeview Drive Pavement and Drainage Project, Project Number 56033

Public Works Director Kashiwagi said the design errors and the excessive change orders are a result of issues with the design consultant and not the contractor. Kashiwagi said staff is working with the City Attorney to begin investigating the cause and damages to the Town resulting from staff believes to be design errors and omissions. Staff also notified the design consultant of the Town's intent to seek recovery from responsible parties.

Kashiwagi concluded that staff will continue to keep Council informed as they work through the process of quantifying the amount of damages attributed to design error and omissions with the design consultant and their insurance carrier.

Council Member Dobbie said the Town should be embarrassed that it allowed change orders to increase this high. Dobbie pointed out that it is the design engineer's problem and not the Town.

City Attorney Connors said staff has reviewed the issue and the consultant is on notice to alert their insurance carrier because this is a very serious matter.

Mayor Widmer asked the City Attorney to provide the Council with regular updates as to the progress of the claims being filed with the design engineering firm and their insurance carriers.

MOTION by Dobbie, second by Lewis to accept work and authorize recording of a notice of completion and approving contract change orders in the amount of \$322,483.18 for a total project cost of \$1,689,946.65 for the Fletcher Drive/Ridgeview Drive Pavement and Drainage Project, Project Number 56033. The motion passed.

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

20. CONSIDER RECOMMENDATION OF THE ATHERTON TRANSPORTATION COMMITTEE TO INSTALL THREE "KEEP CLEAR" ZONES ON MIDDLEFIELD ROAD AT THE INTERSECTIONS WATKINS, JAMES AND LINDEN AVENUES FOR A 3 MONTH TRIAL PERIOD

Report: Public Works Director Mike Kashiwagi

Recommendation: Consider recommendation of Atherton Transportation Committee to install three (3) keep clear zones on Middlefield Road at the intersections of Watkins, James and Linden Avenues for a 3 month trial period

Council Member McKeithen said this was brought to the Transportation Committee by a Lindenwood resident who said she and many other residents are having difficulty getting out of the gates. McKeithen said this would be a trial basis to see if it helps.

Carlson said that on Middlefield in the Fair Oaks area it can be dangerous so it may be fitting for the Town to look into other areas as well.

Dobbie supported the recommendation and noted that it is almost impossible to make a left turn out of James Avenue onto Middlefield.

Carlson asked how the trial will be evaluated. McKeithen said the Transportation Committee will be prepared to make a recommendation to Council based on input from Public Works and the Police Department.

Kashiwagi said it costs about \$750 to implement. He added that there are not a lot of mechanisms for evaluation except traffic enforcement.

Vice Mayor Lewis said the PD raised the issue of safety hazards because of the potential of blind spots with the keep clear signs.

Kashiwagi said that was mainly for people turning left off of Watkins. He said all three locations will have visibility problems, but none of it will affect foot or bicycle pedestrians.

Mayor Widmer said the majority of the times the intersections are not full and he wondered whether this was actually necessary. Widmer said Council seems to send mixed messages on what they spend town funds on. He asked if a traffic survey is needed.

Kashiwagi said a traffic survey is not needed. Staff can do a survey of the affected residents, but that can cost just as much, if not more.

MOTION by McKeithen, second by Dobbie to approve installation of three (3) keep clear zones on Middlefield Road at the intersections of Watkins, James and Linden Avenues for a 3 month trial period, and report back to the Transportation committee. The motion passed.

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

21. COUNCIL REPORTS

Council Member Carlson noted that during Governor Brown's state of the State address he stated his desire for high speed rail funding and continues to push for it. Carlson said William Grindley has come up with a list of issues to address in the business plane.

Council Member Dobbie thanked the Rail Committee and all residents involved in their work against the high speed rail.

Vice Mayor Lewis said she received a message from the Community Coalition against High Speed Rail which encourages everyone to contact the Governor with their concerns.

22. FUTURE AGENDA ITEMS

Council Member McKeithen requested a closed session in the near future for verbal updates and discussions.

Mayor Widmer said he forwarded an email he received with Photoshop pictures of the Council chambers where it shows a nice enhancement to the Chambers by just hanging curtains on the wall behind the dais. No objections from the Council members were expressed. The APOA film director indicated it would be an aid to the filming and suggested additional audio enhancements to improve the YouTube video recordings (recorded in public comments below).

Council agreed that the Facebook EIR in Menlo Park should be an agenda item in the near future and that staff should be very involved in it.

23. PUBLIC COMMENTS

Mark Pertenski, member of the public, made suggestions for changes with the audio and video equipment.

24. ADJOURN

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

Mayor Widmer adjourned the meeting at 9:45 p.m.

Respectfully submitted,

**Theresa DellaSanta
Deputy City Clerk**