



Minutes
Town of Atherton
CITY COUNCIL
July 25, 2012
4:00 p.m.
COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California
SPECIAL MEETING

ROLL CALL – Widmer, Lewis, Carlson, McKeithen, Dobbie

PUBLIC COMMENTS-

Sandy Crittenden, Heather Drive, announced that the Concert in the Park will be July 26, 2012 at 6:00 p.m. He noted that the previous month's concert was successful.

Mike McPherson, Watkins Avenue, stated that a broader definition of the little league proposal would be more illuminating. He added that the words "spectator bleachers" do not cover what he saw at Jennings Pavilion. He added that the language for the library was not ideal because the definition for open space is arguable. Mr. McPherson stated that he did respond to the Draft EIR and felt that the construction noise cannot be mitigated and that transportation, circulation and parking cannot be mitigated to a less than significant level.

City Attorney Connors explained that this time can be used for public comments on items that are on the agenda. Generally this time is for those who cannot remain at the meeting for the later agenda items.

Ann McNertney, Watkins Avenue stated moving the meeting to 4 p.m. from 7 p.m. was not acceptable and was an attempt to limit public input, as many people are at work and could not attend. She stated that the Library project would include destruction of rentals, and the main house, to make room for new library. She strongly supported that the ballot wording "not taking any open space" be removed unless the "because the main house is being removed" is added to the language. She believed that the ballot measure should talk about placement of the library. She added that the EIR should not be ratified because of circulation, parking and transportation issues. In addition, she believed the EIR did not address the commercial building on the other side of Watkins Avenue in Menlo Park.

Regarding the little league ballot language, Ms McNertney stated that the language should reference permanent structure that houses bleachers as they contain a restroom.

John Ruggerio, Stockbridge Avenue clarified that he would like to speak on items not on the agenda. He was informed he could not.

Bob Rosern, Wilburn, asked the Town Council to clarify the library situation with regards to the square footage and footprint of the proposed library and whether that included hardscape area.

1. RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR ATHERTON LIBRARY BUILDING PROJECT

Lisa Costa Sanders, Deputy Town Planner, introduced the project and noted that the final EIR was prepared by LSA. She stated that the EIR scoping hearing was held December 2011, the draft EIR was released in March at which point a 45 day public review comment period began and anyone could comment on the draft EIR and the adequacy of the analysis. The Planning Commission heard the Draft EIR at its April 25, 2012 meeting. LSA took all of the comments and prepared a response and additional analysis. The Final EIR was made available on June 15, 2012. The Planning Commission reviewed the Final EIR on June 27, 2012 and recommended the City Council certify the Final EIR based on CEQA regulations. The Commission did have three items listed in its recommendations (pg 5 of staff report) which included further review of Watkins/El Camino Real intersection, review the signal at Middlefield Road, and review trips based on card holder data.

Mayor Widmer indicated that the City Attorney sent a memo to make sure it is understood what the City Council is looking at in the EIR.

City Attorney Bill Connors noted that the EIR has nothing to do with the project other than it looks at the environmental impacts. The Council is asked to make broad findings and make sure the Final EIR was prepared in compliance in CEQA. He clarified that this does not mean that the EIR is perfect, and does not mean every issue was covered nor does it mean issues are covered so thoroughly that they cannot be questioned. Council should have certain amount of environmental information in front of them before making a decision on the project. The project may be deferred until the voters decide. Because of that, the Council is being asked to find that document is complete, based on analysis of the EIR consultants hired by the Town, and that Final EIR was presented prior to making any decision on the project. Oftentimes, a project and EIR all meet in confluence of procedures. However, this is not the case for this item. Is not about a proposal for the library in the park. It is about whether the EIR studied the library in various locations adequately.

Theresa Wallace, LSA, project manager, provided an overview of the EIR process. She stated that the CEQA process began in November 2011 with the release of a Notice of Preparation of EIR, a public scoping meeting December 8, 2011, the published Draft EIR March 28, 2012, and the Planning Commission public hearing April 25, 2012 to receive comments. The comment period ended May 7, 2012 and responses to the comments were published on June 15, 2012. The Draft EIR and comments constitute the Final EIR. On June 27, 2012, the Planning Commission considered the adequacy of the Final EIR, and made a recommendation to certify.

Ms. Wallace then presented the findings. She noted that an Initial Study was conducted which considered all CEQA topics, and identified those which did not need in depth analysis. The Initial Study is included in the document as an appendix. The Initial Study concluded that there were no impacts, or less-than significant impacts related to agriculture, forestry and mineral resources, historic resources, land use and planning, population and housing, fire, police, school and parks and recreation services, utilities and service systems and visual resources.

The document also includes standard construction period mitigation measures to reduce environmental impacts related to air quality, biological resources, cultural resources, geology and soils, greenhouse gas emissions, hazards, hydrology and water quality and noise.

The Draft EIR did identify potential project impacts related to circulation and parking. The draft EIR also identified impacts at the intersection of El Camino Real and Watkins Avenue and the Middlefield Road and Watkins Avenue intersection. Potential impacts to the available parking supply were also identified during periods of peak use at the park. Mitigation measures were recommended to reduce these impacts to a less-than significant level. Ms. Wallace stated that it is unlikely that the mitigation measure recommended for El

Camino Real and Watkins Avenue can be implemented. Although the relative impact of additional trips associated with the project at this intersection is very minor, the impact is considered significant and unavoidable because the right-turn lane may not be installed.

Ms. Wallace stated that the Draft EIR also considered other alternatives including a smaller, 10,000 square foot library within the park, a new library at the North Meadow site within the park, a new library at the existing site, and a new library at the Town Center. The environmentally superior alternative was found to be the smaller library at the park because it would reduce some of the impacts of the project, and not create new impacts. All the information is summarized in the "Summary" chapter of the Draft EIR. LSA then prepared a Response to comments prepared after the CEQA mandated comment period closed.

Ms. Wallace noted that LSA responded to verbal comments received at the Planning Commission hearing, as well as all written comments from local representatives and agencies (9 letters) and 40 letters from individuals. There was also one letter from Caltrans. The written responses and comments were included in Final EIR as well as any corrections and/or clarifications that were made in response to comments. She stated that the Final EIR contained eight master responses, which addressed variations of key issues and themes. This included comprehensive responses to Project Description, clarification of library operations and service areas, adequacy of alternatives analysis, evaluation of social and economic effects, questions about General Plan, Zoning, and Park Plan amendments, consistency with adopted planning policies, identification of intersection impacts associated with some alternatives, effect of recently occupied medical office building on traffic and circulation at El Camino Real and Watkins, comments and suggestions related to the right-turn lane suggestion at Watkins and El Camino Real, and requests for recirculation of the Draft EIR.

Ms. Wallace finished her presentation by noting that LSA and Town Staff had determined that the comments in the response did not disclose any new significant information, no new significant or substantially more severe environmental impacts have been identified, and no new feasible mitigation measures or alternatives were proposed which were considerably different than those that had been previously analyzed. It was therefore determined that the EIR did not require recirculation.

Ms. Wallace then summarized a portion of CEQA which addressed the adequacy of the EIR, stating that the EIR needs to have a sufficient degree of analysis, provide information to decision makers, and takes into account environmental consequences. She closed by stating that the EIR need not be exhaustive, but must be adequate, complete, and prepared in good faith.

Mayor Widmer explained that the City Council wanted everyone to be heard but asked that everyone remain mindful of repetitive comments. He noted that all Council members received letters from a number of residents asking to be read into the record. He instructed Council to say who the letters were from, an overview of the content and then file them with the City Clerk.

Councilmember Carlson asked the City Attorney why there was a need to act with a sense of urgency on Final EIR rather than waiting until after the vote.

City Attorney Bill Connors responded that the EIR was complete and that the Town is now asking voters to weigh in; most have not been to all meetings. He stated that the EIR may help answer some questions. He added that if the City Council puts this on the ballot it is appropriate that voters have access to the same information.

Interim City Manager Theresa Della Santa confirmed that a copy of the Final EIR is available on the Town website.

Councilmember Carlson asked of the consequences of postponing a decision on the EIR. The City Attorney responded that a potential downfall could be that someone believes it is time to file a lawsuit because the project is moving down the line.

Vice-Mayor Lewis asked if there was a deadline in which to certify the EIR and if it could be certified after the ballot. The City Attorney responded that it has to be certified before the final action on the project.

Vice-Mayor Lewis noted that the final action is typically approved at the same meeting as the EIR. City Attorney Bill Connors added that there is no specific date in terms of a deadline but that the information may go stale. For instance, if the Facebook proposal in Menlo Park enters its second phase, and there are traffic impacts, it may trigger a new traffic study. He stated that there is a minimal downside in waiting; however a purpose in reviewing now is to educate the City Council and public.

Vice-Mayor Lewis asked if there is a timeframe in which the project must be completed, if the FEIR is certified now. The City Attorney responded that the EIR can be used for years into the future once certified. The data may need to be refreshed but a large portion should remain the same. It may need to be re-circulated and re-reviewed.

Vice-Mayor Lewis clarified if the 180 day deadline to file a lawsuit began immediately and states she would prefer to wait to certify the FEIR until the project is approved.

Councilmember McKeithen indicated that if the findings can be met, there is no reason not to certify the EIR.

City Attorney Bill Connors indicated that the recommendation from Staff and the EIR consultants is that under the broad standard for CEQA, the EIR is final, complete and certifiable. From Staff's perspective there is no reason not to go forward today.

Councilmember Dobbie stated that the City Attorney had made it clear that approving the EIR does not make any decisions regarding the positioning of the library. He saw no reason to delay unless the Council feels the EIR is not adequate. It does not affect any other decision council may make regarding the library.

Public Comment:

Valerie Gardner, McCormick Lane asked for clarification on the EIR. She asked what people's rights are and how their statements during this period will affect their right to contest the EIR.

City Attorney Bill Connors responded that the legal framework is broad, vague, and does not approach perfect. It would need to be shown that something was not studied or incorrect, and was raised at the appropriate time in process.

Ms. Gardner asked whether this was an appropriate time to raise questions, so that later it can be used as an ability to sue. The City Attorney responded that the process began with a draft EIR. Comments needed to be made at that time for an issue to be addressed in draft EIR. But people can comment on if responses are inadequate or failed to comment on responses, as a basis for litigation. However, environmental issues cannot be raised today for the first time. The City Council is looking at if the process was adequate. Ms. Gardner asked LSA when the process first began from their perspective. Ms. Wallace responded that they responded to a request for proposal back in April 2011 and took direction from staff, worked with library steering committee, and also worked with Group 4 Architecture to obtain drawings as needed.

John Worthing, Euclid, indicated that the FEIR should be certified after the election. He stated that it will appear that the City Council is approving project and could be misleading to the average voter who has not been involved with the process.

Peter Harper, stated that he spent over four years as a Planning Commissioner in Palo Alto. He thanked City Attorney Bill Conners and LSA for describing where the Town is in the process. He described the EIR as a program EIR, not a building specific EIR as the consultants were asked to look at a number of sites. He added that nothing in the EIR says to use a particular site and urged the City Council to certify it. He said that the question is whether the analysis is complete, not what the Town should do. That decision is up to City Council and citizens as the project moves forward.

Councilmember Carlson asked if Mr. Harper was assuming there would be a project EIR. Mr. Harper responded that it would be done under the umbrella of this EIR and there would certainly be an action item when it comes to approving a particular building project.

City Attorney Bill Conners indicated that the biggest purpose of program EIR is to avoid multiple EIRs. It encompasses what would be a project but may look at a larger scope.

Councilmember Carlson asked why there was a reference to a “preferred site” and indicated the City Council had previously voted 3:2 to locate the library in the park. The City Attorney responded that is required by CEQA to have an “environmentally preferred site”. When looking at four or five sites, one may be slightly better than others, and none were found unacceptable.

Walter Sleeth, Catalpa stated that the Council should make a decision immediately and that there was no reason not to certify the EIR and that it was better to address questions as they arose rather than putting them off.

Jonathan Tiemann, McCormick Lane, stated that he thought the EIR was connected to a project and was not comforted that environmental review had been done adequately.

Rosemary Maulbetsch, 90 Lloyd Drive, commented that the process has been confusing and that the FEIR should not be certified at the meeting.

James Janz, Wilburn Avenue, a Land Use Real Estate Attorney, commented on the issue of time periods. He clarified that if no Notice of Determination of Approval of the project is filed, there is a 180 day time period which kicks in. He added that the project will not become stale and that certifying now may make people more confused about their time limits for filing a lawsuit. He urged the City Council to wait for the vote prior to certifying. He then made an objection to having the meeting at 4:00pm in the middle of the week.

Bob Roeser- clarified that if the library ends up being built in park, or one of the other sites listed in the EIR that the EIR would cover it. City Attorney Conners replied in the affirmative.

Rose Hau, Isabella Avenue, stated she was troubled by issue of the Watkins/El Camino Real intersection and does not agree with the answer “it is out of our hands”. She indicated that she attended a meeting at Menlo School and College to review a proposal which included a new field, swimming structure, and baseball fields as well as 208 parking spaces. The driveway will be located on across from the Watkins intersection. She stated it was important to look at this and asked whether traffic for little league figured in study. She added that there were concerns with pedestrian safety in that area and two deaths. She asked to Council to delay certification, wait for the election, and do a thorough traffic study if it passes.

Denise Kupperman, Atherton Avenue, directed a comment to the previous speaker. She stated that if they were aware of the Menlo School/College project they should have brought it up at hearings. She believed

that Menlo College will be doing an EIR on the aforementioned project. Ms. Kupperman indicated that voters should have all the information required to make a decision just as the Council would have. She suggested that the decision about whether or not to certify the EIR should be done before voters are asked to make a decision.

Vice-Mayor Lewis clarified that Council will be asking voters on whether they want the project in the park, not on the project as it stands or any other location of the project.

Valerie Gardner, McCormick, approached the podium. Mayor Widmer informed her that since she already spoke during the public comment period it was not appropriate for her to speak again.

Ann McNertney also approached the Council to speak. City Attorney Connors clarified that each person can speak on the issue one time during public comment period. The public comment period at the beginning of the meeting was for people who may need to leave early.

Gayle Aubry, asked for clarification from the LSA representative on the alternatives analysis. Ms. Wallace stated that the EIR looks at environmental impacts for a project as described in the project description. The alternatives analysis looks at potential alternatives to the project that may reduce impacts. LSA looked at several alternatives and the one that was environmentally superior was the proposal of a reduced library size. However, there is no preference for that as a project. The impacts are slightly less than the proposed project.

City Attorney Bill Connors added that the EIR consultant had to have a defined project to evaluate. The City Council picked maximum size and preferred location to be defined as the “project” and nothing has been approved in terms of site, size, look, or even if it is going to be built at all.

Vice-Mayor Lewis read letters into the record.

Councilmember Carlson remained concerned about going ahead. He indicated that he appreciated good discussion and the clarification. He stated there would be a lot of confusion among voters if the FEIR was certified today. He was concerned about the message that would get to voters, namely that Council is taking a step closer to approving the library in the park.

Councilmember Dobbie stated there have been a lot of public meetings and opportunities to discuss the EIR. He noted that the Planning Commission had recommended certification and that he saw no value in delaying certification.

Vice-Mayor Lewis stated that residents should have all of the information they can possibly get when it involves their Town and their tax money. She appreciated all of the work that has been done and understands EIRs cannot be failsafe. However, she noted that many residents feel the FEIR is lacking and has severe mitigation issues. She asked the Council members not to certify and added that they have the ability to approve it at a later date, once residents have the opportunity to vote on the location.

Councilmember McKeithen stated that almost \$200,000 had been spent on the EIR and the EIR provides a wealth of information. She clarified that when Theresa Wallace said that she had discussed with members of library steering committee, Councilmember. McKeithen indicated that she did not meet with her.

Councilmember McKeithen stated that the FEIR is in compliance with CEQA, reflects the lead organization and consultant’s judgment. People can still weigh the information and with certification of the document, comes validity that it has been prepared in accordance with CEQA and will allow residents to review the questions. The issues that the Planning Commission had were items that were not under the control of the Town. She supported finishing the process and certifying the FEIR.

Vice-Mayor Lewis indicated that the FEIR is posted and residents can review it now, whether or not it is certified. She asked why certify today, when it can be done at a later date.

Councilmember McKeithen responded that certification says it has been completed in compliance with California law under the CEQA process, and that it was completed in accordance with independent judgment and analysis.

Vice-Mayor Lewis stated that the EIR would continue to be important at a later date. Delaying certification does not negate what Councilmember McKeithen said. Councilmember McKeithen replied that it does when voters are going to look to it to determine the issue of credibility.

Vice-Mayor Lewis stated that Councilmember McKeithen was indicating that certification gives credibility to voters about the location of the library in the park.

Councilmember McKeithen responded that this was not the case. She stated that like a jury, voters can make own determination with regard to the facts. The EIR was prepared and determined without undue influence. Voters make the ultimate determination about whether they choose to believe the material in it and they are the people who will make own determination about what they desire to see.

Mayor Widmer stated the EIR adequately covers three locations in the park, one existing location and one at town center. Investigation on all five sites does not preclude voters from choosing one site over others. Mayor Widmer expressed hope it is not used as weapon one way or another during ballot as all five options are in the report.

MOTION by Councilmember Dobbie, second by Councilmember McKeithen to certify the Final Environmental Impact Report for the Atherton Library Building Project. The motion passed.

Ayes: 3 (Widmer, Dobbie, McKeithen)

Nays: 2 (Lewis, Carlson)

2. A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON, CALIFORNIA ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE TOWN OF ATHERTON A MEASURE RELATING TO THE LOCATION OF THE NEW LIBRARY AT HOLBROOK-PALMER PARK AT THE CONSOLIDATED GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2012 AS CALLED BY RESOLUTION NO. 12-XX

Interim City Manager Theresa Della Santa indicated that the City Council has the report and draft ballot language put forward by the City Attorney. The City Council can approve or modify the language and the measure will be submitted to the County by the deadline of August 10.

City Attorney Bill Connors explained what went into drafting the language. He stated that it was important to make it clear and concise, enough to make it clear to the voters. Issues such as interior, design, etc. will be made regardless of location and the public can have input and referendum if they wish at a future time. He added that his words were not influenced by anyone and that he thought it important to include the source of funds, and protection of open space. The wording was shared with the City Manager but she made no comments on it. He reiterated that he was not influenced by anyone or any point of view. There will be arguments for and against it and each side can argue why they think they are correct on the ballot measure.

Vice-Mayor Lewis asked whether fiscal impact needed to be included in ballot language. The City Attorney responded that this was only required for County or State initiatives, and bond initiatives.

Vice-Mayor Lewis indicated that the language should refer to if the library should be built in the park with a yes or no answer and qualifying language should not be used. She added that the language needs to be more straightforward, direct and not a compound sentence. The City Attorney responded that it was important to talk about the cost issue so that the project is limited to only using library designated funds.

Councilmember Carlson stated he had no disagreement on the central issue, but had a problem with the qualifiers. He indicated that he had received some communication about the qualifiers regarding funds and open space and that no information about the main house was included.

Councilmember Dobbie indicated that he trusted the City Attorney to draft something objective. In the ballot there will be a “for” and “against” and points will be made for both sides.

Councilmember McKeithen stated that when the Council supported bringing this forwarded, it agreed to stay out of the process. She supported letting the City Attorney draft the language.

Mayor Widmer stated he was fine with the language but agreed with Councilmember Carlson that some size description may be appropriate.

Councilmember McKeithen agreed with adding the language regarding size as well.

Public Comment:

Susan Speicher, Austin Avenue, commented that the language was biased toward moving the library to Holbrook-Palmer Park. It should read “Should the Atherton Public Library be moved to Holbrook-Palmer Park”. Neither funding nor use of open space is the issue. Using the proposed words suggests it is an advantage to move the library.

Peter Carpenter, Lilac Drive asked the Council to accept the recommendation and add the clarifier about replacing the main house.

Lauren Keena, Fair Oaks Lane, commented that the language should be as simple as possible and the details in the pros and cons arguments. The language should read, “Should the Atherton Public Library be moved from its existing location to Holbrook-Palmer Park.” She added that qualifier limit architectural design by mentioning open space, as does indicating square footage.

James Janz, Wilburn Avenue, noted that although he believed the City Attorney did craft the language on his own, it could be up for a challenge and summarized a case in Albany.

Jonathan Tiemann, McCormick Lane, applauded the Council for bringing this to the vote of the Town. He supported a clear and straightforward question. He also expressed concern about the timing of the meeting.

Eric Lane, Encina, stated that any wording beyond whether the library should be located in the park indicates a specific project.

Walter Sleeth, Catalpa Drive stated that those that would like to change the words about funding seem to indicate that there may not be funds already dedicated for the library. He supported Mr. Carpenter’s suggestion.

Sandy Crittenden, Heather Drive, stated that he thinks that the City Attorney’s opinion is unbiased and he would accept the language.

Earl Nielsen, Burns Avenue stated that open space is not violated because the library would be built in the space provided by demolishing the existing house. People who have not attended all of the meetings do not realize that.

Celia Walker, 36 Polhemus, stated that she keeps hearing about transparency, and wants the ballot to say who is going to pay for it and where it is going to be.

Bob Roeser, Wilburn Ave, stated that it is not possible for anyone to write an unbiased statement about the vote when open space is included. Everyone is going to be influenced by their perspective. The details can be in the pros and cons section. The ballot should indicate only whether the library should be in the park. He added that the ballot should say it would be no larger than the footer of the current building.

City Attorney Bill Connors cited a case out of Huntington Beach, where the court stated the ballot initiative has to lay out the parameters. Absence of the qualifiers could mean that other funds could be used, or the library could be located in another portion of the park.

Valerie Gardner, McCormick Lane, spoke to the fiscal impact, stating that the Town will be losing \$250,000-\$300,000 in revenue due to loss of rental space. She indicated that the entire park is designated open space. If the Town is asking to approve the library in the location of the main house it needs to say so.

Rose Hau, Isabella Avenue agreed with speakers who would like to simplify statement. She stated that as an architect, using the statement about “open space” is confusing. She asked about the size of the main house and the proposal.

Mayor Widmer responded that it included a 100 x 100 square foot space that goes around the main house and uses part of hardscape.

Katherine Janz, Wilburn Avenue, asked that the language be made clearer as it was difficult to determine what the question is.

Mr. Thomas, McBain Avenue stated that for the first time in almost 79 years the Council has the opportunity to move out of the time period where all communities were built on railroad. He added that one cannot hear conversations when trains come by and it would be beneficial to have the community within the park. He stated that many people cannot conceive of the size of the building in the park. It needs to be shown on a map. He commented that Athertonians have to pay for use of parts of the park, but the Little League has a lot of space and wants more (covered bleachers, etc.)

Ginny Nile, Carolina, wanted to comment about using the park for Google events and weddings in the park.

Mayor Widmer stated that comments may only be about the library and ballot measure.

Anne McNertney commented that the language should be kept simple and it is not so with the qualifiers. The language should include that the main house will be destroyed to make room for the library. The best option would be to remove the qualifiers, and the second option would be to indicate the main house will be destroyed. Her understanding was that the language would be “Should Library be in the park”, with a “yes” or “no” response.

Mayor Widmer stated that the Council requested a ballot measure be drafted by the City Attorney. He added there has been a petition circulated asking yes or no which has nothing to do with this meeting. The questions on that petition will be addressed at the August 13, 2012 City Council meeting.

Close Public Comments

Vice-Mayor Lewis- read letters from the public into the record. She stated she was in support of the voices of the residents to be heard. Letters were read from;

Marian Walters
Ed Goodstein
Paul Tonelli
Linda Lynch
Rick DeGoya
Scott and Carolyn Feemster
Arthur Bigam
Joanne Socov
Kitty Salara

Councilmember Carlson asked the City Attorney about the point that Mr. Janz raised. The City Attorney responded that it is safe to say at least 180 days from today and perhaps if there is no notice of determination would be 180 days until after November.

Councilmember Carlson asked the City Attorney if he heard anything that had changed his mind regarding the ballot wording. The City Attorney responded that Peter Carpenter and others made a point that concept of open space needs to be more restrictive. He stated it would be easy to reference the demolition of the main house. He added that the current language defines the proposal completely but limits the future of what the council can do.

Councilmember Dobbie stated he had seen hundreds of emails and the core issue is who is going to pay and how to protect open space. He indicated he would have no problem adding the wording about replacing the main house.

Vice-Mayor Lewis asked the City Attorney why the removal of heritage trees was not included in the language. The City Attorney responded that since there is no size for the library yet, the building could theoretically be designed without removing trees.

Vice-Mayor Lewis commented that the essential question is whether the library should be in the park.

The City Attorney responded that it could be argued by those that are not present that that language would allow the library to be located in other parts of the park. Vice-Mayor Lewis asked why that could not be part of the arguments accompanying the ballot. Mr. Conners responded that per the Huntington Beach decision this would not be allowed.

Councilmember McKeithen stated that the Council had agreed to stay out of it. She stated that with regards to the letter that was read from Mr. Tonelli, he said he wanted more specificity, not less. There were also additional letters that wanted the language the way it was.

MOTION by Councilmember Carlson, second by Councilmember Lewis to approve a Resolution stating “Should the Town construct a new library in Holbrook-Palmer Park”. The motion failed.

Ayes: 2 (Lewis, Carlson)

Nays:

3

(Widmer, Dobbie, McKeithen)

Mayor Widmer stated that he agreed and that most people don't read the prospectus, just the measure. He stated that he could agree with adding a few more words.

The City Attorney asked about whether the Council wanted to change the wording to talk about removing the structure.

The City Council discussed the process for authoring pros and cons. Interim City Manager, Theresa Della Santa explained that there is a hierarchy established by the election code. The City Council can choose to write as a group. If not, then they can write as individuals. Committees and commissions have the next priority. The Election Official decides which arguments are used amongst the various requests.

The City Attorney explained that the members have 14 days to decide whether they want to write separately.

The Council decided to allow rebuttals.

MOTION by Mayor Widmer, second by Councilmember Dobbie to approve a Resolution stating "Should the Town of Atherton construct a new library in Holbrook-Palmer Park using funds dedicated for library purposes only, by replacing the main house and some surrounding patios and walkways." The motion passed.

Ayes: 3 (Widmer, Dobbie, McKeithen)

Nays: 2

(Lewis, Carlson)

3. A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON, CALIFORNIA ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE TOWN OF ATHERTON A MEASURE RELATING TO THE MENLO-ATHERTON LITTLE LEAGUE PROPOSAL FOR HOLBROOK-PALMER PARK AT THE CONSOLIDATED GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2012 AS CALLED BY RESOLUTION NO. 12-XX

Councilmember Carlson asked what each ballot measure costs. Interim City Manager Theresa Della Santa responded it would cost approximately \$5,000 total because there is already an election scheduled.

Councilmember Carlson indicated he is unclear about what the little league is proposing, since the Planning Commission has not yet taken the matter up. He stated it was premature to vote on something that has not yet been clarified.

Councilmember Dobbie agreed with Councilmember Carlson. He has heard different proposals and is unclear about what is moving forward. He would like to postpone.

The City Attorney noted that a proposal was presented at the last meeting and that Staff shared the concern that the item was premature.

Councilmember McKeithen outlined the proposals as presented to the Planning Commission.

Mayor Widmer stated that many of the comments were similar to those of the library. He noted that the City Clerk had made information available to the Council as well.

Vice-Mayor Lewis was puzzled as to why the item came to City Council. She noted that the Planning Commission has not yet ruled on it and is in favor of postponing. She also noted that there was no fiscal information listed in the measure as there was in the library measure.

City Attorney Connors noted there is confusion because the Planning Commission may say no to certain or all aspects of the proposal. Mayor Widmer expressed support for referring it to the public.

Councilmember Dobbie stated he was not against putting it on the ballot, but would like to wait. The City Attorney responded it would need to be addressed before August 10, 2012 in order to put the measure on the November ballot.

There was discussion amongst the City Council about scheduling a meeting for a future date.

Councilmember McKeithen noted that the real issue seems to be the covered bleachers.

Vice-Mayor Lewis stated that it is premature as the Planning Commission has not yet decided anything.

The Council members discussed various possibilities with the proposal by the Little League.

The City Attorney stated that the Council has the right to wait to the next general election.

Councilmember Carlson indicated that the issues need a lot of homework and that the park Master Plan is a key step in coming up with a long term strategy.

Mayor Widmer stated the Council should take no action, or continue.

The Council discussed possible meeting dates. Interim City Manager reminded the City Council that the City Attorney needs enough time to draft the summary for the ballot.

MOTION by Mayor Widmer, second by Councilmember Dobbie to table the resolution relating to the Menlo-Atherton Little League proposal. The motion passed.

Ayes: 3 (Widmer, Dobbie, McKeithen)

Nays: 2 (Lewis, Carlson)

4. A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON, CALIFORNIA ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE TOWN OF ATHERTON A MEASURE RELATING TO THE NEW TOWN CENTER AT THE CONSOLIDATED GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2012 AS CALLED BY RESOLUTION NO. 12-XX

Councilmember McKeithen stated the language should read, "Should the Town of Atherton construct a New Town Center using funds donated for that purpose only together with Building Department funds that have been set aside for that purpose."

Councilmember Carlson asked why this should be on the ballot now. Councilmember McKeithen replied that it is a way for the people of the Town to decide.

Mayor Widmer stated it would be beneficial to ask the taxpayers. He noted that there are Building Department fees as well that could be used and asked how to account for that in the language.

Councilmember McKeithen asked if using the word “principally” private funds would make sense. The City Attorney responded that “principally” would indicate only 51% of the funds would need to be private. Councilmember McKeithen was not in agreement with the wording if this was the legal definition of “principally”.

Vice-Mayor Lewis stated that the new town center is a project that has been stopping and starting for many years. Three years ago a blue ribbon task force did a lot of work, and presented to the Town report at end of 2009. Council reappointed a new task force to take the report and research financing alternatives and hold a design competition. The only way a new town center can be built is through pocketbooks of private donors. She added it was premature to hold a vote at this time.

Councilmember McKeithen noted that the Town would go out for large private donations and campaign for smaller donations. She asked what would happen if the project did not move forward.

Councilmember Dobbie responded that it would be put in escrow fund and if the project does not move forward, people would get their money back.

Councilmember Carlson stated that talking about tax dollars was not a good thing. He would like to leave options open, but the committee was given a charter to test the waters to see if there were sufficient private donations to build a town center. He added that there are a lot of questions that have no answers yet and would not want to move forward.

The City Attorney stated that he was not comfortable coming up with language at the meeting and that he would like to do research outside of the meeting, especially on the estimated amount of available Building Department funds.

Discussion occurred about tabling the item until a future date and whether the full Council would need to be present or a meeting could occur with a quorum.

Vice-Mayor Lewis indicated that she would like to be present at the meeting and asked that the Council wait until she returns from vacation to have the meeting.

Councilmember Dobbie stated that if the Council wants to put it on ballot, it needs to be on by August 10.

MOTION by Councilmember Dobbie, second by Councilmember Carlson to table the resolution relating to the Town Center until a special meeting is called. The motion passed.

Ayes: 5 Nays: 0

ADJOURN – the meeting was adjourned.