



**MINUTES**  
**Town of Atherton**  
**February 27, 2018**  
**8:00 A.M.**  
**Council Chambers**  
94 Ashfield Road  
Atherton, California  
**Special Meeting**

**Mayor Wiest called the meeting to order at 8:00 a.m.**

**Councilmember DeGolia was excused.**

**ROLL CALL** Council Members: Lewis, DeGolia, Lempres, Vice Mayor Widmer, Mayor Wiest

**PUBLIC COMMENT** – *For items on the agenda.*

Resident Sharon Hume thanked Council for listening to the concerns from the residents, especially from the Lloyd Park neighborhood.

Resident Frank Burke made four comments: First was regarding the proposed height of the poles not being conducive to the rural look and feel of Atherton. Second, he believes the height of the poles was retribution from Caltrain. Third, he stated that Town Staff should have been aware of the beam in August 2017. Finally, the 45' crossbeams would be visible to many residents. He concluded by expressing support for the expenditures to lower the pole height.

**STUDY SESSION AGENDA**

- 1. REVIEW AND APPROVE A FINANCIAL CONTRIBUTION AND DEAL POINTS WITH CALTRAIN FOR THE CHANGE OF DOUBLE-CANTILEVER POLES TO SINGLE-CANTILEVER POLES ALONG A SECTION OF RAIL CORRIDOR IN ATHERTON**  
**Report:** City Manager George Rodericks

City Manager Rodericks distributed the most current Caltrain agreement received before the start of this meeting. Rodericks summarized the agreement and noted the new indemnification inclusion.

Councilmember Lewis recommended that the open-ended cost of \$200,000 should be revised to an amount not to exceed \$200,000. Lewis received confirmation that no one from Jennings Lane was in attendance and the three properties referenced on the landscape screening have been contacted by Caltrain regarding the pruning and/or removing of trees. Lewis made a couple of comments regarding the proposed Caltrain agreement. One, the indemnification clause was too broad and could potentially cost the Town an immeasurable amount of funds. Second, the Town is unable to compel residents to comply with Caltrain requests. Also, the timeline set by Caltrain is impossible to adhere to. She followed up with noting that the current design has five taller poles and the proposed change would shorten them but also double the amount to 10. Lewis also

commented that Town staff should not be blamed for the higher poles, as this was a collaborative effort. She expressed concern about paying \$200,000 for a small percentage of the Atherton population and the possibility of backlash for not expending the same funding for other neighborhood issues. Lewis offered an option to revise the proposed agreement that the Town would be comfortable with and present it as a “best and final” offer. She received confirmation that no other jurisdiction along the Caltrain corridor has indemnified.

Councilmember Widmer echoed Lewis’ edit to add the not to exceed \$200,000 language. He received clarification that no discussions had taken place since the February 21 Council meeting. Widmer suggested modifying the agreement to support the tree pruning and/or removal of trees on Jennings Lane but noting the Town could not guarantee the consent of the properties on Jennings with Caltrain requests and also conceded that indemnification would not be granted. He thanked City Manager Rodericks for suggesting the use of the \$200,000 as a deposit opposed to a flat fee. Widmer also expressed concern for the indemnification and did not support it. He stated that if after the Town made changes to the agreement and if Caltrain decides not to approve, then contact the Caltrains Board of Directors to discuss the inappropriate conditions set before Council.

Councilmember Lempres received clarification that no negotiations have transpired between the Council or Town staff with Caltrains Board of Directors. He agreed with Councilmembers Widmer and Lewis on the indemnification and stated the Town has no legal authority to force residents to sign Caltrain agreements. Lempres stressed the need to make sure residents on Jennings were informed.

Mayor Wiest confirmed that the properties on Jennings Lane had been kept in the loop. He also stated that one residents in particular was having issues with track noise and Caltrain did confirm they would repair the track but no date for that work had been set. Wiest commented that how the Town got to this point is not important, but finding a solution was. He concurred with the other Council Members about limiting the \$200,000, the lack of authority to force residents into signing Caltrains agreements, and the indemnification clause as unreasonable. Wiest suggested a compromise regarding the indemnification by limiting it to just the Atherton residents along the High-Speed Rail corridor.

### **Mayor Wiest Re-Opened Public Comment**

Frank Burke commented that no push would come from Lloyd Park and would support and assist the Town in obtaining signatures from Lloyd Park residents. He also stated that one of the Caltrain proposed eucalyptus trees marked for removal on a private Jennings Lane property was a fire hazard.

Resident Robert Roeser concurred with the Council that the indemnification required by Caltrain is unreasonable and something the Town cannot agree to. He also commented that projects are consistently delayed, and Caltrain’s price tag of \$50,000 per day of delay, in conjunction with the proposed shorter poles, is too broad. Roeser also questioned if Caltrain had done sufficient studies to ensure the safety of the poles.

Nerissa Dexter commented that according to the letter from Caltrain and the included map, the eucalyptus in question is not set for removal. Dexter stated that the shorter poles increase the pruning margins along Jennings Lane.

Resident Jim Janz commented that the indemnification required by Caltrain is a result of concerns over being sued because of the new poles. However, he believes the Town would be liable.

Resident John Maulbetsch commented that Caltrain included the indemnification as a tactic to not proceed with the redesign of the poles.

The Council agreed to allow the subcommittee, which meets at 12:00 p.m. today, to adjust the proposed agreement received from Caltrain. One, write language so, the \$200,000 is a not to exceed amount. Two, change language to require resident's compliance to supporting Caltrain in obtaining those resident signatures. Three, remove indemnification.

### **ADJOURN**

Mayor Wiest adjourned the meeting at 9:11 a.m.

**Respectfully submitted,**

**Judi Herren  
Deputy City Clerk**