



MINUTES
Town of Atherton
CITY COUNCIL
ATHERTON CHANNEL DRAINAGE DISTRICT
JANUARY 16, 2008
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

Mayor Jim Janz called the meeting to order at 7:10 p.m.

1. PLEDGE OF ALLEGIANCE

2. ROLL CALL

PRESENT Jerry Carlson
 Charles E. Marsala
 James R. Janz
 Kathy McKeithen

City Manager Jerry Gruber and City Attorney Marc Hynes were also present.

3. PRESENTATIONS

Mayor Janz thanked Wendé Protzman for serving as Interim City Manager and commended her for her hard work. He introduced the new City Manager, Jerry Gruber, who came to Atherton from Big Bear Lake, and welcomed him to Atherton.

City Manager Jerry Gruber appreciated being selected as the City Manager. He thanked Wendé for her support and looked forward to working with everyone. His wife, Melanie, would be joining him in July.

4. PUBLIC COMMENTS

Kristi Waldron, Menlo Park-Atherton Education Foundation Member, requested permission to put up a banner on Marsh Road for the Foundation's Annual Fall Campaign. She asked that an exception or policy change be made to include the Foundation since it served Atherton residents.

Mayor Janz asked City Manager Jerry Gruber to look into the matter.

Vice Mayor Jerry Carlson said another organization (Peninsula Volunteers) was going to raise the issue as well.

Randy Lamb, Atherton, congratulated Council on its choice of City Manager, congratulated Mayor Janz on his recent letter to the editor of the *Almanac*, spoke regarding the need to continue discussions regarding former Finance Director John Johns, and the need for public participation in meetings and the possible use of postcards and the Teleminder. Additionally, he spoke regarding the traffic safety issues at Watkins and El Camino Real and encouraged discussions with Caltrans to install a signal.

Elizabeth Lewis, Atherton, announced notices were going out in the mail regarding a Special General Plan Committee meeting at Holbrook-Palmer on February 6 to discuss the Zoning Code revisions. The revisions could be found on the Town's website and public participation was encouraged.

John Ruggeiro, Atherton, complimented Mayor Janz on his letter to the editor. He spoke regarding flooding and drainage problems within the Town.

Melinda Tevis, Atherton, noted the City of Redwood City was blaming the Atherton drainage overflow for causing Redwood City's clogs.

5. STAFF REPORTS

- City Attorney Marc Hynes reported out of Closed Session as follows:

In Open Session, by unanimous vote of the Council, the following item was added to the Closed Session Agenda:

CONFERENCE WITH LEGAL COUNSEL – Existing Litigation pursuant to Subsection (a) of Government Code Section 54956.9

Lamb vs. Town of Atherton, et al.
Superior Court of California, San Mateo County, CIV 461630

A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subsection (b) of Government Code Section 54956.9:

Two (2) potential cases

B. CONFERENCE WITH LEGAL COUNSEL – Existing Litigation pursuant to Subsection (a) of Government Code Section 54956.9

John P. Johns Petitioner vs. Town of Atherton et. al. Respondent
Superior Court of California, San Mateo County, CIV 465782

Lamb vs. Town of Atherton, et al.
Superior Court of California, San Mateo County, CIV 461630

C. CONFERENCE WITH LABOR NEGOTIATOR
Government Code Section 54957.6

Agency designated representative: Bill Avery
Unrepresented employee: City Manager

With respect to Items A and B, there was no reportable action, discussion was held and the items were continued for further discussion to the end of the Regular City Council meeting. Item C was not heard and was continued to the end of the Regular City Council meeting.

- **Interim Finance Director Bill Yeomans said the annual audit results would be given next month, along with the Mid-Year Budget. Based on preliminary results, the Town was in good financial condition.**
- **Deputy Town Planner Lisa Costa Sanders announced three workshops would be held regarding the Zoning Code Update: Feb 6, March 5, and April 2, 2008, at 7:00 p.m., at Holbrook-Palmer Park. Postcards would be mailed and a press release would be published in the *Almanac*.**
- **Public Works Director Duncan Jones responded to Council Member Marsala regarding traffic issues. He believed the issues could be handled at each site rather than delay the benefit of all the work done on the Spruce Avenue intersection. A traffic study was underway in Menlo Park.**
- **Council Member Marsala asked Interim Finance Director Yeomans to review some expense reports and report back at the next meeting.**

Mayor Janz wanted to start his year as Mayor by addressing the long-term issues facing the Town. In the Council/City Manager form of government, the City Manager ran the Town. The new City Manager would provide new and aggressive administrative leadership for the Town and would be ably assisted by Wendé Protzman. The City Council's job was to address policy issues. The Town did not exist as an island as if regional and global issues did not affect it. The Town needed to focus on the real issues of infrastructure, transportation, drainage, and flooding. Train service, grade separations, and the impact of high-speed rail were also of concern. A Joint study session of the City Councils of Atherton and Menlo Park would be held on January 29, at Menlo Park City Hall to discuss grade separation. The Town Administration Building and the Police Department needed to be replaced by a modern, safe physical structure. With regards to community issues, the Town needed to maintain its own Police Department, continue to cooperate with the Menlo Park Fire Protection District, and to continue to develop and enhance working relationships with the schools in Town. The Town needed to reduce its environmental impacts, our individual carbon footprints. The General Plan needed to be updated and planning for our fair share of housing units would be necessary in the future. The parcel tax would expire in two years. Perhaps the time had come for incorporating some unincorporated areas adjacent to Town for commercial use and/or housing. Finally,

the relationship between Council and staff needed to be examined to streamline the administration while maintaining adequate public oversight. He was hopeful to move forward with a positive attitude to deal with the issues with which Council should deal. He asked Council to participate in a retreat workshop to address operational issues. He was confident the Town had the resources, ability, and commitment to achieve the goals.

6. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

None

Mayor Janz noted that Item No. 15 had been continued to the City Council meeting of February 20, 2008.

CONSENT CALENDAR (Items 7-13)

With respect to Item No. 11, Council Member McKeithen complimented Public Works Director Duncan Jones for securing a grant from C/CAG for \$85,110. Public Works Director Jones said since there were grants for a number of cities, lead time was approximately 6 weeks or more.

In response to Council Member Marsala regarding Item No. 9, Interim Finance Director Yeomans said the litigation charged to the Building Department was primarily related to abatement actions. Regarding Item No. 10, Public Works Director Jones said grant money and funds from the Atherton Dames funded the project. Regarding Item No. 13, Public Works Director Jones said new procedures would be in place that would allow staff to survey other residents.

MOTION – to approve the Consent Calendar as presented.

M/S J.Carlson/McKeithen

Ayes: 4 Noes: 0 Absent: 0 Abstain: 0

- 7. APPROVED MINUTES OF THE SPECIAL CITY COUNCIL CLOSED SESSION MEETINGS OF NOVEMBER 26, DECEMBER 3, AND DECEMBER 13, 2007; THE SPECIAL CITY COUNCIL CLOSED SESSION AND REGULAR MEETING OF DECEMBER 19, 2007; THE SPECIAL CLOSED SESSION MEETING OF DECEMBER 21, 2007**
- 8. APPROVED BILLS AND CLAIMS FOR DECEMBER IN THE AMOUNT OF \$769,470**
- 9. ACCEPTED MONTHLY FINANCIAL REPORT FOR DECEMBER 2007**
- 10. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$ 6,645.58 FOR THE HOLBROOK-PALMER PARK WALKING PATH PROJECT, PROJECT NO. 07-001**

Accepted work, authorized recording of a Notice of Completion and approved contract change orders in the amount of \$6,645.58 for the Holbrook-Palmer Park Walking Path Project, Project No. 07-001.

11. **APPROVAL OF FUNDING AGREEMENT WITH THE CITY/COUNTY ASSOCIATION OF GOVERNMENTS FOR AN \$85,000 GRANT FOR SIGNAL CONTROLLER UPGRADES AND VIDEO DETECTION AND AUTHORIZATION TO AWARD A CONTRACT TO REPUBLIC ITS TO INSTALL THE SIGNAL UPGRADE AND VIDEO DETECTION EQUIPMENT IN AN AMOUNT NOT TO EXCEED \$85,110**

Approved a funding agreement with the City/County Association of Governments (CCAG) for an \$85,000 grant for signal controller upgrades and video detection and authorized the City Manager to award a contract to Republic ITS to install the signal upgrade and video detection equipment in an amount not to exceed \$85,110.

12. **APPROVAL OF RESOLUTION TO MODIFY THE RULES, REGULATIONS AND PROCEDURES FOR MANAGING TRAFFIC (TRAFFIC PROGRAM)**

Adopted Resolution No. 08-01, "A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON TO MODIFY THE RULES, REGULATIONS AND PROCEDURES FOR MANAGING TRAFFIC (TRAFFIC PROGRAM)."

13. **FAIR OAKS TRAFFIC STUDY**

Directed staff to proceed with the Fair Oaks Traffic Study under the revised traffic procedures.

PUBLIC HEARINGS (Item 14 and 15)

14. **INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 8.14 OF THE ATHERTON MUNICIPAL CODE REGULATING HISTORIC ARTIFACTS**

City Attorney Marc Hynes presented the staff report. The proposed amendments before the Council came as a result of the court action by the San Mateo Superior Court. The Court made recommendations that were not binding on the Council but were changes the Council might wish to reconsider in connection with the Historic Artifacts Ordinance, i.e., defining the meaning of the Lindenwood Historic District, as well as clarifying the affect of an owner's objection to be included in the inventory of historical artifacts. Two principal changes were highlighted in the ordinance: 1) a newly defined term that referred to the Lindenwood Historic Artifact District and included a geographic definition of the boundaries; and 2) language was set out in the ordinance in Section 8.14.090 regarding a minor alteration permit which could be approved by the Building Official and appealed to the Planning Commission, e.g., small repairs and maintenance. Attorney Todd Williams and Consultant Laura Jones were both present to answer questions.

Mayor Janz read the petition email into the record that noted the signers wanted the Historic Artifact Ordinance overturned completely. Those in attendance who sent an email need not repeat it. Mayor Janz opened the public hearing.

Melinda Tevis, Atherton, questioned the fear about protecting what little history was left in Atherton. She encouraged Council to protect what was left.

Richard Agess, President of the Menlo Park Historical Association, stressed the importance of maintaining artifacts and historic buildings for future generations. He noted that the definition of an artifact did not mean it had to stay in its exact location. There were museums containing artifacts.

Randy Lamb, Atherton, agreed on the importance of preserving artifacts. He created the website with the email petition because Council and residents needed to know the facts. Surprisingly, in five days, he learned that people cared, took an interest, and over 220 people responded. He encouraged people to visit the website.

William Grindley, Atherton, was not against preservation; however, he believed the Town was Draconian in the way it went about it. The law was bad and the amendments worse. He pointed out several objections and inconsistencies in the law.

Bob Proctor, Atherton, said there were not enough artifacts left to worry about, as well as too much misinformation. He was completely against the ordinance as it pit neighbor against neighbor.

Jillian Manus Salzman, Atherton, was concerned that Council interjected itself into lives of Atherton residents. She queried how many tax dollars had been spent on one issue. She thought \$130 thousand dollars could be better spent to enhance the Town rather than encroach on people's lives.

Neil Rasmussen, Atherton, was an artifact owner impacted by the ordinance. He said he received no written notice of the meeting. He believed the ordinance seized private property. There were 17 artifacts on public property and no need to seize those on private property. He supported the preservation of Lindenwood artifacts; however, he supported the establishment of a nonprofit foundation to preserve artifacts.

Mel Britton, Atherton, quoted Gertrude Stein when talking about Oakland that "there is no 'there' there." He believed what people were trying to do was to preserve what "there" there was for future generations. He suggested crafting some way to preserve what was there and find a middle ground.

Marion Oster, Atherton, President of the Atherton Heritage Association, said the basic purpose of the Historic Artifact Ordinance was to stop the destruction and loss of artifacts in Atherton and was triggered by the demolition of the Stern gates. Many public meetings were held and the ordinance was created and adopted by Council. Homes were never discussed or part of the ordinance. There was no design review. To end confusion, the Lindenwood Historic District was newly defined as the Lindenwood Historic Artifact District. She encouraged Council to pass the amendment; the artifacts were valued as a link to the historic past of Atherton.

Malcom Dudley, Atherton, said everyone elected to Council ran on the same platform, i.e., to preserve the rural, nique character of Atherton. He believed the artifacts from the Flood estate related directly to the estate and related to a lifestyle of a bygone era. To move them to other areas, took them out of context that was relevant to their significance. In fairness to everyone, he suggested an exception be granted for the Lambs to move the urns to their new home with the condition the urns would be returned to Lindenwood if they moved out of Atherton.

Elizabeth Lewis, Atherton, General Plan Committee Member, did not support the ordinance when it was before the General Plan Committee and she did not support it currently. She believed the ordinance was divisive to the Town and was a bad ordinance without a bigger vision. She thought an alternative solution would be a voluntary Atherton Historic Foundation to raise money to preserve artifacts located on public property, etc.

Steve Ackley, Atherton, noted that the ordinance was impacting just 28 homes, one percent of the homes in Atherton. He was concerned that the rest of the residents were paying the bill. He suggested that a compromise was clearly needed. He was a personal property rights advocate.

Carol Flaherty, Atherton, believed the Town needed a historic ordinance, as it was the fundamental responsibility of every Town to preserve its heritage. What to do about the artifacts in Lindenwood that were not on a historic state registry and were privately owned was at issue. She thought the ordinance was narrow in scope. The issue was homeowners' rights over civic interest, and homeowners' rights took precedence.

Scott Mitchell, Atherton, was against the ordinance. He lived in Lindenwood and thought people who lived in Lindenwood and were directly impacted should vote on the ordinance.

MaryAn Ackley, Atherton, recently visited the San Mateo Historic Museum of San Mateo. The visit brought to light the importance of preserving history for future generations. However, she was concerned that the ordinance was about preserving a few artifacts in the backyards of Lindenwood. Compliance and defending lawsuits regarding the ordinance did not really help the entire community.

Nick Athens, Atherton, disagreed with the ordinance amendments. As long as the urns stayed in the Town of Atherton, he did not have a problem, and the issue was divisive.

Herman Christensen, Atherton, said property rights were not absolute. There were zoning codes, setback regulations, height, limitations, etc. Most communities had some type of historic preservation. He urged Council to adopt the amendments.

Kristi Waldron, Atherton, had two urns in her front yard and removing them would leave a gapping void. The urns were not artifacts from the Flood estate. She drew an analogy between the Lindenwood artifacts and heritage trees. She believed the artifacts within Lindenwood needed to be preserved within Lindenwood. She said a

process was followed, comments were heard at open meetings, 12 people spoke in support, and only the Lambs spoke to the contrary. She urged Council to adopt the amendments.

David Martin, Atherton, said he did not receive a notice of meeting. He supported preservation but was against the invasive, unilateral approach of the ordinance. He suggested the Town purchase the artifacts and put them in public view. Additionally, he believed property values would decrease because of restrictions of the ordinance.

Phil Lively, Atherton, said the Historic Artifacts Ordinance was developed after months of work by concerned citizens, staff, and consultants in order to balance the concerns of property owners with the community interest in preserving artifacts of the Town's past. He believed the ordinance was responsive to the General Plan. The amendments would clarify the ordinance. He noted that property values had actually risen.

Bob Oster, Atherton, said the Council affirmed in past actions that it wanted to preserve and protect the few historic artifacts that remained in the Town. There were only 53 artifacts, 42 of which were owned by private residents. Many of those present were not affected by the ordinance. He believed the vast majority of Lindenwood residents supported the ordinance, having spoke to over 100. He urged Council to approve staff's recommendation to clarify the ordinance by approving the amendments.

Lisa Lamb, Atherton, said the Historic Artifact Ordinance, which was intended to preserve artifacts, would end up dividing neighborhoods. She believed it was a personal property rights issue. The ordinance was poorly written, affected more than just historic artifacts, and gave power to those who might not have the knowledge necessary to determine what was historical. She and her husband hired an outside historian to research James Flood. There were no records indicating any urns had been sold at auctions in 1934, as well as no urns matching those of the Lambs.

John Ruggeiro, Atherton, suggested putting the item on the ballot in June.

Mayor Janz closed the public hearing.

Council Member Marsala said with everything that had happened up to this point and given the lawsuit with the Lambs, he was in favor of starting over and thought a voluntary ordinance was preferable. He cited several examples of donations to the Town. Additionally, there was the law of unintended consequences; going forward, there might be more lawsuits. Council Member Marsala made the following motion:

MOTION – to rescind the Historic Artifact Ordinance, pursue a voluntary Historic District, encourage residents to donate to a foundation and to donate their artifacts

Motion died for lack of a second.

Vice Mayor Carlson was in agreement that there should be preservation of artifacts. The Town had a role to play in the process that inferred some sort of rules or

ordinance. One alternative would be to approve the amendments that evening and send it to the General Plan Committee to come up with more of a compromise, e.g., voluntary vs. non-voluntary, establishing a foundation, etc. He was not in favor of dropping the ordinance; however, there was a need to reexamine it.

Council Member McKeithen said Council tried to save historic artifacts. She believed the resulting flawed ordinance might have turned out differently if everyone had become involved at the time the ordinance was being discussed more than a year ago. Very few people seemed against it at the time. Council needed to listen to the community. She believed what was clear that evening was that the community did not want the ordinance. She stated that everyone was at fault for the situation and encouraged everyone to become involved by working together to find a better solution. She suggested sending the ordinance back to the General Plan Committee.

Mayor Janz read a letter from David and Kathy Wisenberg, who lived in Lindenwood, into the record. Clearly, everyone was in favor of preserving artifacts and history. He believed the basic ordinance was the problem, not the amendments. Some alternatives might include sending the ordinance back to the General Plan Committee for review, appointing a committee comprised of some Council Members and residents to review it, or putting an ordinance on the ballot perhaps as an advisory issue.

Council Member Marsala was in favor of rescinding the ordinance to apply pressure to develop a better ordinance. Three years had past since the emergency ordinance was put in place, and nothing had been done to fix it. He was in favor of a voluntary ordinance and an advisory vote.

Vice Mayor Carlson wanted to put a vote on the back burner. He was in favor of sending the ordinance to the General Plan Committee for review.

Deputy Town Planner Lisa Costa Sanders said the General Plan Committee had established three outreach meetings regarding the Zoning Code Update. She suggested adding on the Historic Artifact Ordinance for discussion at one of the meetings in order to take advantage of PMC's expertise to facilitate a dialogue.

MOTION – to utilize one of the Zoning Code Update meetings, facilitated by PMC, to consider the preservation of historic artifacts and to draft an ordinance to be considered by the General Plan Committee and ultimately the Council

M/S McKeithen/J.Carlson Ayes: 3 Noes: 1 (Marsala) Absent: 0 Abstain: 0

Mayor Janz called for a recess at 9:31 p.m. The meeting was reconvened at 9:43 p.m.

15. APPEAL OF THE DECISION OF STAFF REGARDING 137 STOCKBRIDGE AVENUE – (APN 059-292-060)

Due to an error in the public notice, this item was continued to February 20, 2008.

REGULAR AGENDA (Items 16-21)

16. REQUEST FROM THE ATHERTON DISASTER PREPAREDNESS COMMITTEE FOR FUNDING FOR NEIGHBORHOOD DISASTER PREPAREDNESS ACTIVITIES

Bob Jenkins, Atherton, said the item was a follow-up to the progress report given at the December City Council meeting. He had also made a similar presentation to the Menlo Park Fire Protection District (MPFPD) Board. The Disaster Preparedness Committee also reviewed the item last week. He asked for clarification as to which two Council Members would be on the Town's Emergency Preparedness committee. The Disaster Preparedness Committee, all the C.E.R.T graduates, all the licensed radio operators, and all the medical personnel were ready to go to work during and after the recent rainstorm.

Council Member McKeithen said the Finance Committee discussed the possibility of putting money in the budget for disaster preparedness. She spoke to Carol Parker at the MPFPD who indicated there were no funds for equipment to set up the 16 neighborhood groups. She asked Ms. Parker to work with the citizens' committee to prepare a list of what was necessary once the community groups were ready. The MPFPD did offer some large container trailers.

John Maulbetsch, Atherton, said a few of the 16 neighborhood groups had made initial progress. They had gained experience with the Golden Shadow event. A major requirement was good communications between the neighborhood groups and the Emergency Control Center (ECC) in Menlo Park. There were differing opinions on the type of communication equipment needed. Based on the Golden Shadow experience, he believed the only clear, reliable communication vehicle on hand was a privately owned ham radio set. An alternate plan was that the neighborhood groups should have communication equipment that was adequate to get to the nearest fire station. The costs were comparable. If money were allocated, each neighborhood needed to run tests to see what was best for their neighborhood group. Some groups were ready and some were not. The request was actually for \$73,000 to be made available as groups were ready.

Council Member Marsala thought locating a trailer at Town Hall would enable the Police Department to bring it to a district or between two districts and would be preferable to having 16 storage sheds throughout the Town.

City Manager Jerry Gruber thought disaster preparedness was an important program. He clarified that \$120,000 had been allocated in 2006/07 and spent on such items as a new generator, well, and police car laptops. There was no money allocated for 2007-08.

Council Member McKeithen said the cost per location was \$4,600. Equipping 16 different caches, with various people having access, would be preferable because the Police Department and Public Works Department would be too busy in a disaster. At most, one or two groups would be ready in the next year to receive an allocation.

Vice Mayor Carlson quoted from a letter that the MPFPD would work with the Town to identify funding sources. He suggested allocating funds for up to five neighborhoods in

the current fiscal year and review the topic for next year's budget. Additionally, he suggested the committee talk to MPFPD to get additional funding.

John Sisson, Atherton, noted the trailers were sizable and not easily moved. The point needed to be stressed that every individual household was responsible for its own food and water. No neighborhood cache would have food or water.

Bob Jenkins, Atherton, said the committee had been working on the project for two years by getting volunteers to join the neighborhood groups, to take C.E.R.T. training, to become licensed radio operators, etc. They were running into problems because they were using personal radios and other equipment and there was not enough to go around. The request for funds was to furnish the appropriate equipment needed for a communications network.

Mayor Janz clarified that the schools were equipping their own caches. He stated the committee had done an excellent job in the past two years to organize the neighborhoods, working with the associations, etc.

A discussion ensued regarding funding sources and including the item in the mid-year budget process. City Manager Gruber recommended that the committee purchase the equipment and submit receipts to the Town.

MOTION - subject to speaking to the MPFPD for other supplemental funds, to approve an allocation of \$4,600 per Atherton district that showed readiness to receive communication equipment and disaster response supplies as listed in Appendices 1 and 2 of the staff report for Fiscal Year 2007/2008 up to a total of five districts

M/S McKeithen/J.Carlson

Ayes: 4 Noes: 0 Absent: 0 Abstain: 0

17. APPROVAL OF VIDEO MONITORING HARDWARE PURCHASE

Police Chief Bob Brennan presented the staff report. The Town wanted to partner with Ojo Technology that would provide the format to be expanded to monitor many different areas. The system was a web-based design to allow as many cameras as desirable. Cameras could be installed at intersections, or in the Atherton channel, or at the train station. The cameras were only activated when predetermined parameters were set and activated. There was an unlimited amount of parameters that could be used. Residents could also have cameras hooked up to the system. When an alarm went off, when water was rising in the creek, the cameras would be turned on. The system would enhance protection of the residents, as well as help with disaster preparedness. Anyone who wanted to link into the system would pay the cost to do so.

A short discussion ensued regarding the cameras' capabilities. The requested funds were to replace existing equipment. If additional cameras were desired, they would need to be purchased or an alternate funding source found. Ojo Technology would be responsible for programming the parameters, not the Police Department. Funds were included in the Fiscal Year 2007/2008 budget.

MOTION - to approve the purchase of new video cameras and accessories from Ojo Technology for the Police Department building and adjoining areas for a total cost not to exceed \$20,993.

M/S J.Carlson/McKeithen

Ayes: 4 Noes: 0 Absent: 0 Abstain: 0

**18. DISCUSSION OF POTENTIAL ERRORS IN BUILDING PERMIT FEES -
UNIFORM BUILDING CODE TABLE 1-A/ CALIFORNIA BUILDING CODE
TABLE 1-A**

City Attorney Marc Hynes presented staff report. An issue arose over whether the Building Department was overcharging fees based upon the tables being used when fees were calculated. He explained how the tables had become confused and that the fee being collecting under the Uniform Building Code Table 1-A was correct. In fact, for a time, the fees were collected under the California Building Code Table 1-A, which actually resulted in undercharges of \$28,333. More research needed to be done by the department to determine to what projects the undercharges related.

Council Member Marsala, for the record, related an incident noted in the Topliff report that indicated former Finance Director John Johns had thrown Council Member Marsala's public records request regarding this item in the wastebasket. He had difficulty securing the information.

Building Official Mike Wasmann clarified the new software would be ready to "go live" in late March. The program was setup with the correct table.

Carol Flaherty, Atherton, referred to an article in the Almanac regarding the possible overcharges in building permit fees. When she went to the Building Department to file, she was told she was probably undercharged. She thought there should be a time limit (180 days) on how far back the Town could go to secure undercharges.

Jeff Wise, Atherton, said there had been considerable improvement in the Building Department over the past year. He was not sure that trying to collect the undercharges would be cost effective and suggested the Council not pursue collecting the undercharges.

Council Member McKeithen thought Council Member Marsala had acted prematurely making a statement regarding the issue which caused a disservice to the community and the Council. In the future, protocol should be followed to deal with issues internally first.

No action taken.

**19. ADOPTION OF A RESOLUTION REQUIRING CANDIDATES TO PAY THE
COST OF PUBLICATION AND DISTRIBUTION OF THE STATEMENT OF
QUALIFICATIONS WITH THE SAMPLE BALLOT AND SPECIFYING THE
LENGTH OF THE STATEMENT**

Acting City Clerk Kathi Hamilton said the item was before related to the Special Election to be held on June 3, 2008, to fill the unexpired term of Alan Carlson. The Council needed to adopt regulations and to specify the length of the Candidate Statement to be submitted to voters. Traditionally, if candidates chose to submit a Candidate Statement, candidates borne the cost of having the statement printed in the Sample Ballot (a \$400 deposit collected at the time of filing) and the length of the statement had been set at 200 words.

MOTION - to adopt Resolution No. 08-02, "A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ADOPTING REGULATIONS FOR CANDIDATE STATEMENTS SUBMITTED TO THE VOTERS AT AN ELECTION TO BE HELD ON TUESDAY, JUNE 3, 2008," and specifying the length of the statement at 200 words

M/S J.Carlson/McKeithen

Ayes: 4 Noes: 0 Absent: 0 Abstain: 0

20. RESOLUTION GOVERNING COMMITTEES/COMMISSION (*Continued from the City Council meeting of December 19, 2007.*)

- A. ADOPTION OF A GOVERNING RESOLUTION REGARDING COMMITTEES AND COMMISSIONS**
- B. ADOPTION OF A RESOLUTION AMENDING COUNCIL'S RULES OF PROCEDURE**
- C. INTRODUCTION OF AN ORDINANCE RESCINDING SECTIONS 2.37 AND 2.40 OF ATHERTON'S MUNICIPAL CODE**
- D. ADOPTION OF A RESOLUTION RESCINDING RESOLUTION NO. 98-06 ESTABLISHING AN ARTS COMMITTEE**

City Attorney Marc Hynes suggested the item would be a good topic for an offsite workshop. He had obtained names of individuals who provided team-building workshops and would provide them to the Council.

Mayor Janz said traditionally, he would be appointing various Members of the Council to Council Committees that evening. During the City Manager recruitment process, he and other Council Members discovered that the Town had more committees than other communities. In an effort to clean up the organization and reduce workloads, he suggested keeping the structure and members in place at the present time until a workshop/retreat with the City Manager and a facilitator could be held. Once the committees were reviewed and a decision was made regarding the proper arrangement, the Mayor would make appointments.

Council Member McKeithen wanted to be sure to include how much staff time was used for committees.

No action was taken.

21. DISCUSSION OF RETREAT FOR CITY COUNCIL AND STAFF

City Manager Jerry Gruber said Assistant to the City Manager Wendé Protzman had obtained the names of several competent facilitators. The first step would be to determine what topics would be discussed. Supplemental questionnaires could be used before the retreat as well.

Mayor Janz said since part of the goal of the retreat was to work out how the Council related with the City Manager, he thought the City Manager was the appropriate one to select a facilitator.

Vice Mayor Jerry Carlson wanted to be sure the Code of Conduct would be discussed, as well as the evaluation process for the City Manager and the City Attorney.

A discussion ensued regarding an appropriate timeframe for the retreat, as well as an appropriate site.

Direction was given to the City Manager to find an appropriate site, to select a facilitator, and to poll the Council for specific dates.

21A. CONSIDERATION AND APPROVAL OF CITY MANAGER CONTRACT

The item was not heard as the related Closed Session discussion was continued to the end of the Regular meeting.

22. COUNCIL REPORTS

- Vice Mayor Carlson commended Mayor Janz for his article in the *Almanac* and for his statement that evening. He asked that staff look into the Watkins Avenue traffic issue. As a member of the Finance Committee, he preferred using parcel tax funds for infrastructure rather than on Town operations. In the past, estimates for revenues had been rather conservative and any surplus was added to reserve funds. He suggested a policy be established that parcel tax funds be used for infrastructure, as well as developing a policy for reserve funds. The Finance Department's finance software was DOS based and needed replacing. He met with Chief Brennan, Lieutenant Nielsen, and Assistant to the City Manager Wendé Protzman regarding the development of a pie chart for Police Department expenditures.
- Council Member Marsala said the Environmental Programs Committee (EPC) would be meeting on January 28, at 7:00 p.m. at Menlo College, to see any programs developed there. The EPC developed a resolution for "Spare the Air Day" and was working on an ordinance regarding wood-burning devices. He would be attending the League of Cities in Sacramento and would be representing the County on protecting employee rights.
- Mayor Janz met with the president of Menlo College who was eager to work with the Town on environmental issues, as well as working with issues of the aging population.
- Council Member McKeithen attended meetings of the Finance Committee and the Peninsula Traffic Congestion Relief Reliance, as well as meetings regarding drainage issues and disaster relief issues.

23. PUBLIC COMMENTS

Police Chief Bob Brennan reported the Atherton Police Department arrested a burglary suspect that morning on Ashfield Road.

William Grindley, Atherton, said the common theme seemed to be to get more information out to all Athertonians. He urged Council to be sure everyone was notified, especially regarding contentious issues.

24. ADJOURNMENT

Mayor Jim Janz adjourned the meeting to a *Continued* Closed Session at 11:15 p.m.

The Closed Session was reconvened at 11:20 p.m. By unanimous vote of the Council, with respect to Item C, City Attorney Marc Hynes replaced Bill Avery as the Agency Designated Representative.

Report of action taken.

City Attorney Marc Hynes reported out of Closed Session that there was no reportable action taken on either Item A or Item B. With respect to Item C, by unanimous vote of the Council, the City Council approved the City Manager contract between Jerome “Jerry” Gruber and the Town of Atherton.

ADJOURN

Mayor Jim Janz adjourned the *Continued* Closed Session meeting was at 11:50 p.m.

Respectfully submitted,

**Kathi Hamilton
Acting City Clerk**