



**MINUTES**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**  
**JUNE 20, 2007**  
**7:00 p.m.**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California

**REGULAR MEETING**

Mayor Alan Carlson called the meeting to order at 7:07 p.m.

1. **PLEDGE OF ALLEGIANCE**
2. **ROLL CALL**

**PRESENT:** James R. Janz  
Jerry Carlson  
Charles E. Marsala  
Alan B. Carlson  
Kathy McKeithen

City Manager Jim Robinson and City Attorney Marc Hynes were also present.

3. **PRESENTATIONS**

- A. **Proclamation Recognizing Public Works Supervisor Troy Henderson for his 30 years of service to the Town**

Mayor Alan Carlson said there were institutions and landmarks within the Town such as the water tower in Holbrook-Palmer Park and the Council Chambers and then there was Troy Henderson, another landmark in the Town. Everyone called on Troy, and he was known as truly a nice man who had given 30 years of service to the community.

Public Works Superintendent Steve Tyler said Troy started his service with the Town on June 1, 1977, rose through the ranks from part-time to full-time to Public Works Supervisor. He commended him for his 30 years of service.

Melinda Tevis, Tallwood Court, thanked Troy for all his smiles and waves throughout the years. She always knew she was home whenever she saw Troy.

**Council Members Charles Marsala, Janz, Jerry Carlson, McKeithen, and City Manager Jim Robinson added their comments and commendations.**

**Public Works Supervisor Troy Henderson said the Town had always been home to him. He attended Menlo-Atherton High School, traveled around the country, and returned to begin work for the Town. He appreciated all the kind words and derived great pleasure from his 30 years of service.**

**B. BKF Drainage Study**

**Ed Boscacci, BKF Engineers, gave a PowerPoint presentation regarding the Drainage Criteria for New Development. A workshop for Town residents had been conducted in May. The purpose of the study was to develop drainage criteria for on-lot development. The ability to control drainage issues was during the permit process. He reviewed the findings and responded to Council questions.**

**Public Works Director Duncan Jones said one of the next steps was to blend what CSG Consultants, Inc., was doing as part of its grading and drainage contract with what BKF was doing as far as the drainage criteria, review Atherton's Municipal Code for any changes that needed to be made, and implement regulations that could be changed by resolution. The item would most likely be returned to Council in September.**

**C. Darin Duncan from California Water Service**

**Darin Duncan, District Manager of California Water Service, gave a PowerPoint presentation regarding fire flows from fire hydrants, Fire Code requirements, water quality balance, what Cal Water had accomplished, and short- and long-term solutions to the fire flow issue. Most systems in Atherton were designed to handle 1,000 GPM, which was normal. There were other areas that were oversized with slightly better flows. Maximum flows occurred on major transmission lines. Dead-end streets were a problem because of lower flow. Ninety percent of the Town met the 1500-2000 GPM. Fire flows were based on house size. The average house size in Atherton was 11,000 to 23,000 sq. feet and required between 3000 and 4000 gallons of flow, with fire sprinklers, 1500 to 2000 GPM. He described the issues surrounding the dead-end lines and water quality. Cal Water had made major improvements such as rebuilding Pumping Station 5, installed new pipelines, and scheduled more improvements for the coming year. Mr. Duncan responded to Council questions.**

**4. PUBLIC COMMENTS**

**Mayor Alan Carlson said a member of the Planning Commission received an anonymous letter regarding the building of his home in the Year 2000. There was a letter from a surveyor in the Building Department files regarding his residence that indicated that the roof peak, for an 8-foot length, exceeded the height limit by 7 inches.**

He instructed the City Manager to make no attempt to find the identity of the person who obtained the information but believed he should disclose the information. Additionally, the City Attorney clarified that he need not recuse himself from discussions before the Council that dealt with height limitations.

## 5. STAFF REPORTS

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

**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**

There was not reportable action taken.

- Council Member Marsala asked the City Manager for the correct process regarding the Environmental Program Committee's budget request. City Manager Jim Robinson stated that the Finance Committee had the ability to review any financial issue. The Finance Committee could meet and review a draft budget and make recommendation.
- Council Member Marsala asked Finance Director John Johns whether any cases of overcharging were discovered in the Building Department audits. Finance Director Johns said he would review the working papers and report back.
- City Attorney Marc Hynes clarified the best way to avoid a problem of a possible quorum of Council Members being present at a committee meeting was to notice the meeting with the statement that a quorum of Council Members might be present. As long as the public was made aware, the requirements of the Brown Act would be met.

## 6. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

None

### CONSENT CALENDAR (Items 7–21)

Mayor Alan Carlson asked that Item No. 13 be removed from the Consent Calendar to be taken up immediately after the Consent Calendar, as his law firm had a relationship with Granite Construction Company. Additionally, he asked that Item No. 20 be removed from the Consent Calendar and placed at the end of the Regular Agenda.

Council Member McKeithen asked for clarification regarding Item No. 11. Assistant to the City Manager Wendé Protzman said the services were almost identical to those provided by the City of Palo Alto, with Redwood City possibly be able to provide more services. The base costs were approximately \$10,000 less than Palo Alto, and overall would probably be less.

**In response to Council Member Jerry Carlson, Assistant to the City Manager Protzman clarified that all of the modules were included and the Code Enforcement Officer had been identified as an end user, 10 licenses would be required and were included in the price, and data conversion would be assessed in the future. Finance Director John Johns said the financial issues would be worked out with CRW and absorbed within the Finance Department's operating budget.**

**In response to Council Member Jerry Carlson regarding Item No. 17, City Manager Jim Robinson clarified annual performance evaluations had not been completed on a yearly basis; however, Tennis Pro Alan Margot attended a Park and Recreation Commission meeting to review his program. Finance Director Johns said a review of remittances provided by Mr. Margot had been completed; however, substantive testing of the records had not been done.**

**MOTION – to approve the Consent Calendar as presented with the exception of Item No. 13, which was removed and placed at the end of the Consent Calendar for a separate vote; and Item No. 20, which was removed and placed at the end of the Regular Agenda for discussion.**

**M/S McKeithen/J.Carlson**

**Ayes: 5 Noes: 0 Absent: 0 Abstain: 0**

**7. APPROVED MINUTES OF THE SPECIAL CITY COUNCIL CLOSES SESSION OF MAY 7, 2007; THE SPECIAL CITY COUNCIL CLOSED SESSION AND REGULAR MEETINGS OF MAY 16, 2007; AND THE SPECIAL JOINT MEETING OF THE CITY COUNCIL AND THE MENLO PARK FIRE PROTECTION DISTRICT BOARD OF MAY 21, 2007**

**8. APPROVED BILLS AND CLAIMS FOR MAY 2007 IN THE AMOUNT OF \$ 1,113,305**

**9. ACCEPTED MONTHLY FINANCIAL REPORT FOR MAY 2007**

**10. AUTHORIZATION TO PURCHASE THE CRW PERMIT TRACKING SOFTWARE SYSTEM**

**Authorized staff to enter into an agreement and purchase the CRW Permit Tracking Software System.**

**11. APPROVAL OF PROFESSIONAL SERVICES AGREEMENT WITH REDWOOD CITY TO PROVIDE INFORMATION TECHNOLOGY SERVICES**

**Authorized the Mayor to execute an agreement with Redwood City for Information Technology Services.**

**12. APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT WITH URS, CORPORATION, FOR GEOTECHNICAL ENGINEERING SERVICES FOR THE MARSH ROAD CHANNEL WALL PROJECT**

Accepted the proposal and authorized the Mayor to sign a Professional Services Agreement with URS Corporation to provide Geotechnical Engineering services for the Marsh Road Channel Wall Project in an amount not exceed \$39,644.20, plus a 10% contingency, for a total authorization of \$43,608.62.

**~~13. AWARD OF CONTRACT FOR THE VALPARAISO AVENUE OVERLAY PROJECT, PROJECT NO. 06-001~~**

~~Recommendation: Award the contract for the Valparaiso Avenue Overlay Project, Project No. 06-001, to Granite Construction Company, the low bidder on the June 14, 2007, bids, for \$590,615.50, with a 10% construction contingency of \$59,061.55, for a total authorization of \$649,677.05; and authorize the Mayor to sign the contract on behalf of the Town. (Removed from the Consent Calendar and placed at the end of the Consent Calendar for a separate vote.)~~

**14. APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT WITH ANTONIA BAVA LANDSCAPE ARCHITECTS FOR LANDSCAPE DESIGN SERVICES FOR THE TOWN CENTER LANDSCAPE PROJECT**

Accepted the proposal and authorized the Mayor to sign a Professional Services Agreement with Antonia Bava Landscape Architects to provide landscape design services for the Town Center Landscape Project in an amount not to exceed \$18,005.00, plus a 10% contingency, for a total authorization of \$19,805.50.

**15. AWARD OF CONTRACT FOR THE EOC GENERATOR AND APPROVAL OF INFORMAL BIDDING PROCEDURES**

Awarded the contract for the EOC Generator to Intermountain Electric Company, the low bidder on informal bids, for \$67,250, with a 10% construction contingency of \$6,725, for a total authorization of \$73,975; to authorize the use of informal bidding procedures; and authorized the Mayor to sign the contract on behalf of the Town.

**16. APPROVAL OF AN AMENDMENT TO THE AGREEMENT BETWEEN THE TOWN OF ATHERTON AND TIM WULFF FOR PLAN CHECKING SERVICES FOR FISCAL YEAR 2007-08**

Approved the amendments proposed herein between the Town of Atherton and Mr. Tim Wulff for contract plan check services.

**17. RENEWAL OF THE PROFESSIONAL SERVICES AGREEMENT FOR TENNIS PRO ALAN MARGOT**

Approved the amended agreement to show an effective date of March 1, 2007, with the expiration date of June 30, 2009.

**18. APPROVE AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH CSG CONSULTANTS, INC. FOR MUNICIPAL CIVIL ENGINEERING SERVICES FOR THE REVIEW OF DEVELOPMENT PROJECTS**

**Approved an Amendment to the Professional Services Agreement with CSG Consultants, Inc. for Municipal Civil Engineering services for the review of development projects, in an amount not to exceed \$50,000 for Fiscal Year 2007-08.**

**19. AMENDMENT TO AGREEMENT BETWEEN SAN MATEO COUNTY AND TOWN OF ATHERTON FOR ANIMAL CONTROL SERVICES**

**Approved and authorized the Mayor to execute the agreement.**

~~**20. APPROVE THE RECOMMENDATION OF THE CITY COUNCIL SCREENING COMMITTEE TO INCREASE THE RESIDENT MEMBERS OF THE GENERAL PLAN COMMITTEE FROM FIVE MEMBERS TO SIX MEMBERS; ACCEPT THE RECOMMENDATION FOR APPOINTMENTS TO THE GENERAL PLAN COMMITTEE**~~ *(Removed from the Consent Calendar and placed at the end of the Regular Agenda for discussion.)*

~~**Recommendation: Approve the recommendation of the City Council Screening Committee to increase the resident members of the General Plan Committee from five members to six members; accept the recommendation of the Steering Committee for appointments to the General Plan Committee**~~

**21. THERE WAS NO ITEM NO. 21.**

**13. AWARD OF CONTRACT FOR THE VALPARAISO AVENUE OVERLAY PROJECT, PROJECT NO. 06-001 (Removed for a separate vote.)**

**Awarded the contract for the Valparaiso Avenue Overlay Project, Project No. 06-001, to Granite Construction Company, the low bidder on the June 14, 2007, bids, for \$590,615.50, with a 10% construction contingency of \$59,061.55, for a total authorization of \$649,677.05; and authorized the Mayor to sign the contract on behalf of the Town.**

**M/S McKeithen/Janz**

**Ayes: 4 Noes: 0 Absent: 0 Abstain: 1**

**PUBLIC HEARINGS (Items 22-29)**

**22. APPEAL REGARDING 94 TALLWOOD** Continued from May 16, 2007)

**Mayor Carlson noted, at the request of the appellant, the item was continued to the City Council meeting of July 18, 2007.**

**23. APPEAL REGARDING 55 BELBROOK WAY** (Continued from May 16, 2007)

Mayor Carlson noted, at the request of the appellant, the item was continued to the City Council meeting of July 18, 2007.

24. **APPEAL REGARDING 70 BARRY LANE** (Continued from May 16, 2007)

**Recommendation: Conduct the public hearing, affirm the Notice of Abatement, and deny the appeal. Direct staff to prepare written findings for consideration and adoption at a subsequent meeting.**

25. **INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 17 OF THE ATHERTON MUNICIPAL CODE REGULATING BASEMENTS** (Continued from the City Council Meeting of May 16, 2007. **PUBLIC HEARING CLOSED**)

Deputy Town Planner Lisa Costa Sanders presented the staff report. Council continued the item at its May 16, 2007, meeting and provided specific comments to staff regarding acquiring information from the drainage study, requiring sprinklers in all basements and basement remodels, adding a requirement for landscape screening for light wells, and adding a criteria for Planning Commission consideration of Conditional Use Permits (CUP). The ordinance before Council incorporated the items that Council requested. Section 17.36.190A1 included the requirement that the Planning Commission would need to make the finding that the basement would not impact heritage trees and there was sufficient room for landscape screening and related to the need for a CUP in order to go up to 120% of the first floor for the basement area. Under section B, floor area calculations, Item 3, added a finding for the CUP for the exception of hillside properties and the finding that there be sufficient landscape screening and that the basement would not impact heritage trees. Design requirements, section C1, “and shall be screened with landscaping to minimize the view from adjacent properties,” was added to the last line and applied to light wells. A memo from Ed Boscacci, BKF, was included in Council’s packet. Regarding hillside properties, there were not many applications; however, the percentage could be lowered if Council desired. Mr. Boscacci and Deputy Town Planner Costa Sanders responded to Council questions.

Council Member Marsala provided a history regarding the development of basement regulations. He questioned the need for the Planning Commission to review basements under accessory structures because he believed the previous intent of the Council did allow for basements under accessory structures anywhere within 10 feet. He wanted to eliminate the Planning Commission review of a CUP.

Deputy Town Planner Costa Sanders stated both the Planning Commission and the General Plan Committee recommended that both a basement under an accessory structure and a basement larger than the first floor of the main residence be required to obtain a CUP. There was potential for an impact on an adjacent neighbor. As an option, Council could develop objective criteria in the ordinance.

Council Member McKeithen suggested the need to set a reference in the ordinance that indicated that any basement built needed to meet the drainage criteria either as set

forth in the Municipal Code or as established by the Building Department drainage consultant on a case-by-case basis.

City Attorney Marc Hynes stated the ideal way would be to put a footnote in the Municipal Code indicating other requirements were contained in the Building title, Title 12, which also would give flexibility when amendments were needed.

Council Member McKeithen was concerned about finalizing the basement ordinance before drainage criteria were developed; although, she also did not want to impede the operations of the developers and development of basements. She noted the ordinance needed clarification regarding the 120% of the floor area and whether the extra 40% that was beyond the main dwelling could be placed anywhere or only under the fill-in area of a U-shaped house.

In response to Mayor Carlson, City Attorney Hynes clarified that the ordinance could be adopted with the usual effective date 30 days after the second reading, with an operative date when the drainage regulations were completed.

Mayor Carlson noted the public hearing was closed at the May 16, 2007, City Council meeting. He allowed comments on the item limited to 3 minutes. The Council received several letters from residents as well.

Charles King, Tallwood, said his residence was directly impacted by the definitions, restrictions, and limitations set forth in the ordinance. He believed the restrictions became illogical and created undo restriction when applied to a flag lot on a hillside like his. On page 2 of the staff report regarding modification for hillside properties, he believed the slope percentage could be lowered to perhaps 15% and still preserve the overall intent of the zoning ordinance. He suggested adding a subsection to section 17.36.190C stating, "Exemptions to the requirement for hillside properties where the average slope is greater than 15% as determined under section 16.24.050, or as may be evaluated at the discretion of the Town Planner, may be permitted upon issuance of a Conditional Use Permit."

Steve Ackley, Belbrook Way, commented on the drainage report by BKF regarding the 100-year overland flow and suggested a definition and how it was calculated be included. He supported the ordinance and urged Council to pass it.

Steve Dostart, Patricia Drive, spoke in support of the ordinance. He believed basements were simple and did not affect neighbors.

Carol Flaherty, Camino Por Los Arboles, spoke in favor of the ordinance. She agreed the 120% worked for most houses; however, it did not work for a 6,000 sq. ft. house that was basically the same size above and below and was "L" shaped. At a 130%, almost everything could be accommodated. She did not believe a CUP was needed if there was a good set of guidelines in place. She asked that clear guidelines for the soils engineer and architects be developed in advance.

**Jeff Wise, Linden Avenue, supported the idea of clear guidelines in the ordinance that would remove the need for a CUP. He believed the drainage study needed more discussion before adopting the recommendations.**

**Mary Ann Ackley, Belbrook Way, spoke in support of basements under accessory structures. Preserving heritage trees, considering neighbors, and taking a balanced approach from a cost benefit was necessary. Taking years to study the situation would not provide for every situation.**

**Scott Mitchell, Greenoaks, strongly supported the ordinance. Building basements in Atherton were technically easy to build.**

**Mayor Carlson noted that drainage issues would not be addressed that evening. In actuality, the Council was considering easing restrictions regarding basements. He believed, in some circumstances, a CUP was necessary for basements under accessory structures and did not believe a CUP necessarily delayed the project. He did not have a strong feeling whether the percentage should be 120% or 130%.**

**Council Member Jerry Carlson concurred with the Mayor's comments. There was reason to go to the Planning Commission for a CUP for basements under accessory structures because it gave neighbors an opportunity to see the plans and eliminated surprises. He believed the 120% was a result of compromises; however, he did not have a strong feeling one way or the other.**

**Vice Mayor Janz concurred with the Mayor as well. He believed if someone had two buildings, the main building and an accessory structure, within the main buildable area and wanted a full basement under the footprint of both, it should be allowed. As the ordinance was currently written, a basement was allowed under 80% of the main building and an underground structure could be built equaled to 20% of the main building footprint anywhere on the property. To clarify a comment by Council Member Marsala, he believed the change was to allow basements under accessory structures outside the main buildable area subject to CUP approval. Regarding the floor area calculation related to hillside properties, he suggested adding the following language for light well consideration: "The Planning Commission may impose reasonable conditions including but not limited to increased setbacks and limitations on size of light wells," to section B3 with respect to basements on hillside properties. He was concerned with the possibility of an appearance of a three-story building.**

**Council Member Marsala said Ordinance 523 adopted in 2001 allowed basements under accessory structures outside of the main building area. The General Plan Committee and Planning Commission added criteria a year later that basements had to be built under the footprint of the buildings. He did not believe anyone built an accessory structure that close to the main building. Pools were allowed within 10 feet of the fence, and accessory structures dug 10 feet down were allowed within 10 feet of the fence. Twenty-five people spoke in favor of the ordinance, with no one speaking in opposition. He could compromise on the CUP issue; however, he did not think it was needed. He was in favor of reducing the slope to 15% in section C.**

Council Member McKeithen agreed that the 100-year flood guidelines in the drainage criteria needed to be clear. She believed a CUP was necessary and would not delay projects. She did not have an objection to raising the percentage to 130% as long as it met the drainage criteria and went before the Planning Commission with regard to landscape screening and impact on heritage trees, with a footnote added that drainage criteria was satisfied with a CUP based on careful analysis in terms of cost benefit as well as specificity and provisions related to slope.

Mayor Carlson summarized Council's deliberations as follows: 1) a consensus to raise 120% to 130%; 2) retain CUP requirement under accessory structures outside the main buildable area and those utilizing the 130%; 3) add language regarding light wells on slopes; 4) no consensus to add language to section B3 to change 20% to 15% for hillside slopes; staff was directed to address the issue in the zoning code review; and 5) to allow basements under the main building and an accessory structure within the main buildable area.

**MOTION – to direct staff to make the following changes to the ordinance and return the item for a second reading: 1) In Section 4A1, increase the basement area percentage from 120 to 130% of the floor area of the first floor of the main dwelling...; 2) In Section 4A2, retain the requirement for a CUP for basements under accessory structures outside the main building area; 3) In Section 4B3, add language regarding hillside properties that states, “The Planning Commission may impose reasonable conditions including, but not limited to, increased setbacks and limitation in size of light wells; 4) In Section 4A1, change the language in the second sentence to , “A basement under the main dwelling in the main building area shall not exceed the floor area of the first floor of the main dwelling unless a CUP is obtained; and 5) In Section 7, add a clause that reads, “...but shall not be operative until drainage criteria for basements is adopted by ordinance,” with direction to Code Publishing to cross reference the drainage criteria**

M/S McKeithen/ J.Carlson

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

26. **ADOPTION OF A RESOLUTION MODIFYING FEES FOR SERVICES RELATED TO PLANNING AND BUILDING** *(If action is taken on June 18, 2007, this item will not be heard.)*

Mayor Carlson noted action was taken on June 18, 2007; therefore, the item was not heard.

27. **ADOPTION OF A RESOLUTION APPROVING THE FY 2007-08 OPERATING AND CAPITAL BUDGET** *(If action is taken on June 18, 2007, this item will not be heard.)*

Mayor Carlson noted action was taken on June 18, 2007; therefore, the item was not heard.

28. **ADOPTION OF A RESOLUTION APPROVING THE FISCAL YEAR 2007-08 APPROPRIATIONS LIMIT AND CALCULATIONS** (*If action is taken on June 18, 2007, this item will not be heard.*)

Mayor Carlson noted action was taken on June 18, 2007; therefore, the item was not heard.

29. **ADOPTION OF A RESOLUTION ESTABLISHING A SPECIAL TAX FOR MUNICIPAL SERVICES FOR THE FISCAL YEAR 2007-2008** (*If action is taken on June 18, 2007, this item will not be heard.*)

Mayor Carlson noted action was taken on June 18, 2007; therefore, the item was not heard.

**REGULAR AGENDA (Items 30-36)**

30. **DISCUSSION AND POSSIBLE ACTION REGARDING THE FIRE SPRINKLER ORDINANCE AND A REQUEST FROM THE MENLO PARK FIRE PROTECTION DISTRICT THAT THE TOWN OF ATHERTON FORMALLY AUTHORIZE THE RESPONSIBILITY FOR “FIRE DEPARTMENT ACCESS AND WATER SUPPLY” PER ARTICLE 9 TO THE MPFPD**

City Manager Jim Robinson said the item was addressed in the Joint meeting of the Town Council and Menlo Park Fire Protection District Board (MPFPD) and was continued to the current meeting. The proposed language was contained in the staff report and the draft ordinance presented by MPFPD. A request to eliminate certain sections that related to exemptions was included. Staff would return at a later meeting with a draft ordinance.

MPFPD Chief Harold Shapelhouman said there were two issues: 1) Article 9 issues; and 2) the sprinkler ordinance. In 2004, the Town of Atherton adopted a section of the MPFPD sprinkler ordinance that dealt with new construction of residential structures, any structure over 1,000 square feet would require sprinklers. The Town did not adopt sections pertaining to alterations or additions to any building greater than 2,500 square feet or larger when the alteration or addition exceeded 50% of the existing floor space of the building, and any existing occupancy intended to provide a basement greater than 250 square feet. MPFPD asked Council to reconsider the two sections and adopt them in the Town's ordinance.

Vice Mayor Janz clarified that Section 1.2b(ii)(1)A and 1.2b(ii)3 from the MPFPD Ordinance 29 needed to be added to the Town's ordinance. Section 1A stated when alterations or additions to any building with floor space greater than 2,500 square feet, when the alteration or addition exceeded (50%) of the existing floor space of the building, sprinklers were required in the entire structure. He agreed with Section b(ii)3 that any existing occupancy intending to provide a basement greater than 250 square feet should require sprinklers. He was in favor of the changes and believed a basement of 250 feet or less was obviously not intended for occupancy.

**Council Member McKeithen thought basements of 250 square feet or less might be intended for occupancy and should be sprinklered.**

**Mayor Carlson agreed and believed all basements should be required to have sprinklers regardless of size.**

**MOTION – to accept changes to the Town’s ordinance that would require sprinklers in the entire structure when alterations or additions to any building with floor space of 2,500 square feet or larger, when the alteration or addition exceeded (50%) of the existing floor space of the building, further sprinklers were required in all basements regardless of size**

**M/S McKeithen/Janz**

**Ayes: 5 Noes: 0 Absent: 0 Abstain: 0**

**Mayor Carlson said, historically, the Town had not been in the business of enforcing Article 9 requirements of fire apparatus access or fire hydrant flow. The MPFPD and the Town did not have a formalized division of authority for responsibility. He believed the responsibility should be delegated to the MPFPD.**

**In response to Council Member McKeithen, City Attorney Marc Hynes said the key distinction was because Atherton was a single-family, residential community. Single-family residences were always exempted from the standard authority given to fire marshals; therefore, all the authority resides with the Building Official. As a practical matter, the Building Official routinely deferred to the MPFPD when it came to fire flow and access. The issue before Council was to formalize the delegation.**

**Chief Harold Shapelhouman said although the MPFPD and Atherton were two separate entities, in actuality he worked for the Town as its Fire Chief. If policy was not set and formalized, issues could reoccur, at the whim of individuals, to deal or not deal with the MPFPD. A partnership was critical.**

**Brad Smith, Pacific Peninsula Group, echoed the Chief’s comments. He described what was the “new home, low flow lottery.” If you were the property owner doing a remodel and lived on one of the dead-end cul-de-sacs, you could be stuck paying the price to upgrade the entire system. He said another approach was to look at the 10 to 15% of those affected and make low flow areas a priority by having MPFPD, Cal Water, and the Town adopt a policy to correct the deficiencies.**

**Council Member McKeithen concurred with Mr. Smith’s comments. If there were other roads to defer in order to look at the areas where the 10 to 15% was applicable, the Town needed to do that.**

**Mayor Carlson said there were two issues: 1) with inadequate supply for existing homes, priority should be given in identifying those areas; and 2) with a street where water flow was adequate for the homes but someone decided to change the circumstances, the question was should that homeowner bare the burden.**

**MOTION – to direct the City Attorney to draft an appropriate resolution authorizing and assigning to the MPFPD and Fire Chief responsibility for Article 9 issues regarding Fire Department access and water supply, as well as the sections enumerated in the June 12, 2007, letter from the Fire Chief**

**M/S McKeithen/J. Carlson**

**Ayes: 5 Noes: 0 Absent: 0 Abstain: 0**

**31. DISCUSSION AND POSSIBLE ACTION REGARDING THE REVIEW OF OPEN BUILDING PERMITS BY MENLO PARK FIRE PROTECTION DISTRICT**

**Building Official Mike Wasmann made introductory comments and referred to the staff report before the Council.**

**Menlo Park Fire Protection District (MPFPD) Chief Harold Shapelhouman believed it was in the best interest of the public for the MPFPD and the Building Department to work together to review open building permits, reduce the numbers, disclose the issues, and solve any problems. Disclosure would be in the best interest of the residents in terms of life safety and fire safety.**

**Mayor Alan Carlson clarified life safety issues related to Article 9, only issues with respect to fire apparatus access and fire hydrant water flow.**

**A discussion ensued regarding which projects would be reviewed and which projects had already been reviewed and what “Pandora’s Box” might be uncovered. The MPFPD was willing to send its Fire Inspector to help in the review and was not looking for reimbursement. Flag lots were of the most concern for access issues. Entrance gates with the minimum of 14 feet and the required box for MPFPD access had been enforced for numerous years. The inside-the-lot turnaround had not been enforced because the MPFPD had not communicated to the Town that it was something in which they were particularly interested. Additionally, the Town had never been involved in water flow issues. There were many issues and the problem came down to, at the level of the two governing bodies, policy decisions were not made to recognize which agency had authority.**

**City Attorney Hynes clarified the MPFPD would not have any authority for at least 90 days before an ordinance could be effective. Until the delegation occurred, the Building Official had the authority. He suggested reviewing the files to determine whether there really were multiple problems. He was not concerned about indemnification because the Town had statutory immunity in the issuance of permits.**

**Vice Mayor Janz wanted a better reading on the number of projects but was loathe to opening a “Pandora’s Box” on situations that the MPFPD did not like; however, the building had already been built.**

**Council Member Marsala was in favor of having the review conducted. He believed once the non-issues were discarded, i.e. gazebos, etc., perhaps one or two problems might be uncovered. He believed it would prove that the Building Department had done its work.**

**Council Member McKeithen suggested using the same language as the sprinkler ordinance, i.e., new residences, basements of any size, remodels greater than 2,500 square feet where more than 50% of the home was remodeled. The number of projects to review would be reduced. She also suggested removing any projects that had been closed and constructed during the tenure of any prior Building Official. Any issue uncovered within Article 9, needed to be advisory within the determination of the Building Official until authority had been delegated to MPFPD.**

**Nicolas Jellins, represented Pacific Peninsula Group, spoke regarding inadequate fire hydrant flow for a resident. He wanted to bring to Council's attention the unique confluence of issues regarding delegation of authority to MPFPD which might include upgrading the water system in a particular area and imposing the cost on a single homeowner, which he believed to be unfair.**

**After further Council discussion, the following motion was made by Mayor Carlson:**

**MOTION – to direct staff to meet with the MPFPD staff to review those projects identified on the spreadsheet as having no access plans, with the 32 new residences to be reviewed in the next 30 days, and the remainder within the next 90 days.**

**After further discussion, Mayor Carlson withdrew the motion.**

**MOTION – to direct staff, in cooperation with the MPFPD, to review the 32 new active permits for new residences within the next 30 days with a report to Council regarding access issues; further, in the following 60 days, review all permits for any new basement, as well as all projects that had not been reviewed for access that were new or alterations/additions to any building with floor space greater than 2,500 square feet when the alteration or addition exceeded (50%) of the existing floor space**

**M/S McKeithen/Marsala**

**Ayes: 5 Noes: 0 Absent: 0 Abstain: 0**

**Mayor Carlson called for a recess at 11:30 p.m. The meeting was reconvened at 11:40 p.m.**

**32. DISCUSSION AND REVIEW OF SPECIAL EVENTS ORDINANCE AND GUIDELINES FOR NON-SCHOOL SPONSORED EVENTS**

**Mayor Alan Carlson suggested limiting action that evening to taking input and discussion from the public. He noted the issue was involved in some form of litigation and not subject to discussion.**

**Council Member Marsala reviewed the minutes and determined the main issue related to noise on Saturday and Sunday mornings for sports events. He expressed concern regarding the restrictions on indoor activities and noted there had been no request for permits and violations had occurred. Numerous requests to extend the 9:00 p.m. rule made sense since noise did not seem to be a factor.**

**Greg Baty, Atherton, Coach and Board Member of Pop Warner, submitted 50, signed letters from Lindenwood residents and 89 letters from other residents in support of expanding the Special Events Ordinance Guidelines for non-school use. Pop Warner would continue to work with the neighbors and improve the situation wherever possible.**

**Ruben Avilar, East Palo Alto, parent volunteer with the M-A Vikings, said his primary role was recruitment. The most positive outcome of the program was the camaraderie and friendships that crossed city borders.**

**Marshall Moore, Heather Drive, noted his sons played football in high school, enjoyed hearing kids having a good time and was supportive of Pop Warner. Pop Warner provided life lessons for kids and was a wonderful experience.**

**Todd Beardsley, Atherton, said the Menlo-Atherton High School field was a tremendous community asset, and spoke in support. Further, he thought folks should wait to see whether the Performing Arts Center was really an issue.**

**Lyle Hunigan, Ashfield Road, was new to the area but had watched Pop Warner operate and believed it did a great job. He asked Council to take a longer look at the guidelines.**

**Brad Smith, Menlo Park, owned partial interest in homes in Atherton, all but one of which was within earshot of schools. The schools were there when the homes were bought, and he also enjoyed listening to the kids. He spoke in support of Pop Warner, the AYSO, and softball and baseball programs.**

**Bob Plaschke, Toyon, coached in several organizations, supported all programs. However, he suggested not revisiting the entire ordinance but allow an exception for Pop Warner.**

**No action taken. Mayor Carlson stated the Council would take all comments under consideration and review the Special Events Ordinance at a future meeting.**

**33. DISCUSSION AND POSSIBLE ACTION REGARDING CODE ENFORCEMENT SERVICE ALTERNATIVES**

**Council Member McKeithen said a great deal of constructive work had been completed with regard to code enforcement. The current system was working and she was no longer getting complaints. The Code Enforcement Officer was doing a great job. The only consideration in going forward should be cost. She did not believe the alternative of using Police Department staff for code enforcement was appropriate because of the potential to become confrontational and cost effectiveness. She proposed that the monies should be appropriately allocated in the budget, i.e. taken out of the Police Department budget; and, in the future, perhaps look at a part-time position.**



**Mayor Alan Carlson was opposed to increasing the committee membership. He noted the committee had been increased in the past and subsequently reduced.**

**Council Member McKeithen recommended the increase because there was a great deal of work ahead for the committee such as the General Plan Update, the Housing Element, the greening ordinance, etc. Current members of the committee were unhappy that the committee was meeting more often than the quarterly meetings. There were three good candidates all willing to do the work.**

**Council Member Marsala read a letter from former Planning Commissioner Rose Hau, who was not in favor of increasing the membership. More importantly than increasing the membership was to make sure the resident members represented diversity. Council Member Marsala was not in favor of increasing the membership.**

**Council Member Jerry Carlson agreed with Council Member McKeithen noting major issues needed to be addressed. He suggested a subcommittee approach would facilitate moving issues along. He was in favor of increasing the membership.**

**Vice Mayor Janz believed the more people that were on the committee, the more time it would take to get things done. He thought perhaps the reason for recommending the increase had more to do with wanting all three candidates appointed.**

**Phil Lively, Hawthorne, spoke of the early General Plan Committees. The General Plan took a lot of work. Having six resident members could result in a stalemate. Members needed to know that oftentimes the committee met on a monthly basis. He suggested using an alternate as a way of utilizing an additional person.**

**Further Council discussion ensued regarding the merits of using a subcommittee process on the General Plan Committee and how beneficial it would be to add an additional member. One Council Member believed that the motivation for adding a member was not being driven by needing additional members, but rather by wanting these particular three candidates.**

**MOTION – to accept the recommendation of the Screening Committee to enlarge the General Plan Committee by one resident member and accept appoint three new members**

**M/S McKeithen/J.Carlson Ayes: 2 Noes: 3 (Janz, Marsala, A.Carlson) Absent: 0  
Abstain: 0**

**A discussion ensued regarding the three recommended candidates, Jim Massey, Carol Smith, and Betsy Plaschke, as well as other candidates who applied.**

**Mayor Carlson proposed Betsy Plaschke and Carol Smith be appointed to the General Plan Committee.**

**MOTION – to appoint Betsy Plaschke and Carol Smith to the General Plan Committee**

**M/S J.Carlson/A.Carlson Ayes: 4 Noes: 0 Absent: 0 Abstain: 1 (McKeithen)**

**37. COUNCIL REPORTS**

**Vice Mayor Janz noted he was the only one who responded to Sgt. Grimm regarding additional disaster preparedness training. He believed the issue was important; however, the entire Council needed to be involved. The San Mateo County Sub-Regional Housing Needs Allocation group came to the conclusion the easiest method was to draft an initial allocation among the jurisdictions based on ABAG’s criteria. Although March 31, 2008, was the date ABAG needed to finalize the allocations for the entire region, the sub-region needed to finalize by August. Additionally, low income allocations could not be traded.**

**38. PUBLIC COMMENTS**

**There were no public comments.**

**39. ADJOURNMENT**

**Mayor Alan Carlson adjourned the meeting at 1:23.a.m.**

**Respectfully submitted,**

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**Kathi Hamilton  
Acting City Clerk**