



MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
JULY 18, 2007
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

Mayor Alan Carlson called the meeting to order at 7:00 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. Certificates of Appreciation for Outgoing Members of the General Plan Committee**

Mayor Alan Carlson presented Certificates of Appreciation to outgoing General Plan Committee Members James Ransohoff and Barbara Shoor (not present) and thanked them for their service to the Town.

- B. Citizens for Clean Air in Atherton**

Vada Lee Jones, represented Citizens for Clean Air in Atherton, and gave a presentation regarding the dangers of wood smoke.

Mayor Alan Carlson referred the matter to the Environmental Programs Committee for review.

- C. Annual Tree Awards – Atherton Tree Committee**

On behalf of the Tree Committee, Town Arborist Kathy Hughes Anderson presented the Annual Tree Awards to Marylue Timpson, a Live Oak; Rafi Bamdad, Olive trees; and Zach Whitman, Black Walnuts. Tree Committee Members, Denise Kupperman and Marion Oster were also present.

4. PUBLIC COMMENTS

Rosemary Maulbetsch, Atherton, encouraged members of the audience to attend Menlo College's event, [Musice@Menlo](#). She requested Council send a representative to the final concert.

Shirley Carlson, Park and Recreation Commissioner, announced an upcoming fundraiser to be held at Holbrook-Palmer Park, "Swing in the Park" Barbecue, September 9, 2007, at 2 p.m.

Denise Kupperman, Tree Committee Member, said the committee was working on a project, Trees for El Camino. A community surette was scheduled for September 18, 2007, at Holbrook-Palmer Park, at 7 p.m. She encouraged everyone to attend.

Melinda Tevis, Atherton, spoke regarding the most recent Grand Jury report and what the Town's policy was regarding emails between the City Manager and Council Members.

City Attorney Marc Hynes stated one needed to make a public records request for particular records. The Town had an Email Policy and ordinarily emails were not considered records in a traditional sense. Any emails retained by the Town as records would be disclosed.

5. STAFF REPORTS

- City Attorney Marc Hynes reported out of Closed Session that no reportable action was taken on Items A – E.

A. 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

Town of Atherton vs. Sequoia Union High School District, et al.

Superior Court of California, San Mateo County, CIV 458899

B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Initiation of litigation pursuant to subsection (c) of Government Code Section 54956.9:

One (1) potential case

C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

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

One (1) potential case

D. LIABILITY CLAIMS – pursuant to Government Code Section 54956.95

Claimant: Mavel Guitron

Agency Claimed Against: Town of Atherton

E. PUBLIC EMPLOYMENT/PUBLIC PERFORMANCE EVALUATION – pursuant to Government Code Section 54957(b)(1)

Title: City Manager

PUBLIC EMPLOYEE PERFORMANCE EVALUATION – pursuant to Government Code Section 54957(b)(1)

Title: City Attorney

- **City Manager Jim Robinson noted that the recent accident that occurred on Watkins Avenue and El Camino Real was discussed at the Menlo Park City Council meeting where the item was referred to the Planning Commission for further traffic study. Regarding Item No. 16 on the Consent Calendar, he noted the Screening Committee met to interview an additional candidate after the agenda was posted and requested adding the recommendation that Bob Oster be appointed to the Audit Committee. He announced the South Bayside Waste Management Agency (SBWMA) was holding a reception celebrating its 25th Anniversary. He noted that the Town was required to respond to the most recent Civil Grand Jury report by October 1, 2007.**

6. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

MID-PENINSULA COMMUNITY MEDIA CENTER

Annie Folger, Executive Director, gave an overview of activities at the Mid-Peninsula Community Media Center. The Media Center was a public access organization serving Atherton, Palo Alto, East Palo Alto, and Menlo Park. She introduced Michael DiBattista, the Atherton resident who served on the Board.

CONSENT CALENDAR (Items 7–21)

Council Member Marsala noted a minor correction in the Regular Minutes of June 20, 2007. The word “not” was in error and would be removed from page 7, second paragraph, second sentence of Item No. 25.

Regarding Item No. 10, Council Member McKeithen requested another performance evaluation report in six months. Regarding Item No. 15, she requested the insurance be raised to \$2 million. She requested Item No. 12 be removed for discussion.

Regarding Item No. 17, Vice Mayor Janz clarified that Patrol Car #5 would be retired from patrol service but be utilized for non-patrol activity.

In response to Council Member Jerry Carlson regarding Item No. 15, Code Enforcement Officer Bob Cushing clarified if he were called for service, he would work a full four hours and work less hours on another day.

MOTION – to approve the Consent Calendar as presented, with the exception of Item No. 12, which was removed from the Consent Calendar and placed at the end of the Regular Agenda for discussion; that the required insurance be raised to \$2 million with respect to Item No. 15; and with respect to Item No. 16, Bob Oster was recommended by the Screening Committee and appointed to the Audit Committee

M/S Janz/J.Carlson

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

7. **APPROVED MINUTES OF THE SPECIAL CITY COUNCIL CLOSED SESSION OF JUNE 18, 2007; THE SPECIAL CITY COUNCIL MEETING OF JUNE 18, 2007; THE SPECIAL CITY COUNCIL CLOSED SESSION OF JUNE 20, 2007, AND THE REGULAR CITY COUNCIL MEETING OF JUNE 20, 2007**
8. **APPROVED OF BILLS AND CLAIMS FOR JUNE 2007 IN THE AMOUNT OF \$ 939,950**
9. **ACCEPTED MONTHLY FINANCIAL REPORT FOR JUNE 2007**
10. **PERFORMANCE REPORT OF TOWN LANDSCAPING CONTRACT WITH COMMERCIAL ENVIRONMENTAL LANDSCAPE**

Approved that Commercial Environmental Landscape (CEL) is retained to continue performing landscaping duties in various locations in the Town of Atherton. Further, another performance report would be due in six months.

11. **APPROVAL OF PLANS AND SPECIFICATIONS AND AUTHORIZATION TO ADVERTISE THE HOLBROOK PALMER PARK WALKING PATH PROJECT, PROJECT NO. 07-001**

Approved the plans and specifications and authorize advertisement for bids for the Holbrook Palmer Park Walking Path Project, Project No. 07-001.

~~12. APPROVAL OF AN AMENDMENT TO THE AGREEMENT WITH NEAL MARTIN AND ASSOCIATES FOR PLANNING SERVICES~~

~~Recommendation: Consider request for increase in rates for professional Planning services. If the City Council desires to approve the proposed increase, the existing contract will be amended by replacing existing Exhibit B with new Exhibit B containing the revised rates providing a 5% increase. (Removed and placed at the end of the Regular Agenda for discussion.)~~

13. SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING CHAPTER 17 OF THE ATHERTON MUNICIPAL CODE REGULATING BASEMENTS

Adopted Ordinance 571, “ AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ADDING SECTION 17.08.032 and AMENDING SECTIONS 17.08.0020, 17.08.54 and 17.36.190 OF THE ATHERTON MUNICIPAL CODE PLACING LIMITS ON BASEMENTS WITHIN THE TOWN OF ATHERTON.”

14. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION, AND APPROVAL OF SPRING MICRO-SURFACING PROJECT, PROJECT NO. 06-003

Accepted work, authorized recording of a Notice of Completion, and authorized payment of retainer for a total contract amount of \$68,863.30.

15. APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE TOWN OF ATHERTON AND CSG CONSULTANTS, INC., FOR CODE ENFORCEMENT SERVICES

Approved the attached Agreement for Professional Services with CSG Consultants, Inc., to provide Code Enforcement Services to the Town of Atherton.

16. ACCEPT AND APPROVE THE RECOMMENDATION OF THE CITY COUNCIL SCREENING COMMITTEE FOR APPOINTMENTS TO THE AUDIT COMMITTEE, THE PARK AND RECREATION COMMISSION, AND THE ENVIRONMENTAL PROGRAMS COMMITTEE

Accepted and approved the recommendation of the City Council Screening Committee to appoint members to Town commissions and committees

17. POLICE DEPARTMENT PURCHASE OF POLICE VEHICLES FOR FY 2007-08

Authorized the Town to “piggy back” on the City and County of San Francisco’s bid in order to purchase two police vehicles (one marked, one unmarked) for the fiscal 2007-2008 budget cycle for a total cost not to exceed \$45,568.00.

18. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$173,663.50 FOR THE PROJECT NUMBER 05-003

**Accepted the work, authorized recording of a Notice of Completion and approved contract change orders in the amount of \$173,663.50 for the Valparaiso Avenue Street Reconstruction Project, Project No.05-003.
PUBLIC HEARINGS (Items 19-21)**

19. APPEAL REGARDING 55 BELBROOK WAY (Continued from June 20, 2007)

Mayor Carlson noted, at the request of the appellant, the item was continued to the City Council meeting of September 19, 2007.

20. APPEAL REGARDING 94 TALLWOOD (Continued from June 20 2007)

Mayor Carlson noted, the item was continued to the City Council meeting of September 19, 2007.

21. INTRODUCTION OF AN ORDINANCE RATIFYING ORDINANCE NO. 29 OF THE MENLO PARK FIRE PROTECTION DISTRICT AMENDING DISTRICT FIRE PREVENTION CODE PERTAINING TO AUTOMATIC FIRE SPRINKLER SYSTEM REQUIREMENTS IN THE TOWN OF ATHERTON AND ACTION REGARDING MENLO PARK FIRE PROTECTION DISTRICT REVIEW AND APPROVAL OF ACCESS AND WATER SUPPLY

City Attorney Marc Hynes presented the staff report. The first item before the Council was the ordinance which would ratify the provisions of Ordinance No. 29 of the Menlo Park Fire Protection District (MPFPD) relative to fire sprinkler requirements, with the clarification in section 2 that sprinkler systems would be required in any new basement constructed regardless of size. If the ordinance was adopted, it would supplant the previous ordinance adopted by the Town. Secondly, the letter delegating authority to the MPFPD relative to approval of access and water supply was in draft form to enable any changes, comments, or revisions. The last paragraph was designed to not only provide what the MPFPD was authorized to do, but also to point out the MPFPD would be responsible for collecting charges, monitoring conditions, and final approval signoffs.

Council Member McKeithen clarified that Ordinance 551 would be superseded by the proposed ordinance.

Mayor Alan Carlson suggested adding a paragraph to the letter giving authorization to MPFPD for fire apparatus access and water supply that said the authorization was effective until revoked by the Town Council.

Council Member Jerry Carlson asked how the fees were set by MPFPD.

Council Member Marsala suggested the item be referred to the Park and Recreation Commission.

Council Member McKeithen thought if the item were referred to the Park & Recreation Commission, the Commission should verify there were no other costs borne by the Town that were not reimbursed.

Shirley Carlson, Park and Recreation Commissioner, had a concern regarding the backstop remaining up throughout the year. She believed the backstop was in poor condition because of the way it was stored. She wanted the item referred to the Commission.

Mayor Carlson was not opposed to referring the item to the Park and Recreation Commission; however, pending final action of the Council in September, the backstop could remain.

Council Member Jerry Carlson thought it was appropriate to refer the item to the Park and Recreation Commission and that the Commission consider a condition that the backstop be kept in good condition and not become an eyesore.

MOTION – to refer the item to the Park and Recreation Commission to consider the request from Menlo-Atherton Little League to maintain the baseball backstop at Holbrook-Palmer Park on a year-round basis, to maintain it in good condition, and to consider whether any cost savings should be remitted to the Town

M/S McKeithen/J.Carlson

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

23. REPORT REGARDING THE REVIEW OF OPEN BUILDING PERMITS BY MENLO PARK FIRE PROTECTION DISTRICT AND THE TOWN OF ATHERTON BUILDING DEPARTMENT

Building Official Mike Wasmann presented the staff report. At its June 20, 2007, Council meeting, Council directed staff to work in cooperation with the Menlo Park Fire Protection District (MPFPD) to review open building permits. He and Bob Blach, MPFPD, reviewed 257 open permits.

Bob Blach, MPFPD, indicated that 7 out of the 32 new construction permits Council directed to be reviewed had not been reviewed by the MPFPD, with some of the 7 being pre-sprinkler ordinance enactment. Out of the 257 open permits, there were 21 that warranted further investigation. Of those, some were below the criteria of 50%, some were above, and some were flag lot situations. The 21 permits were looked at by suppression personnel who noted some of the worse conditions were that of existing nonconforming conditions. The MPFPD would use the information to update preplans, i.e. fire suppression personnel would know where problems of access or water flow existed ahead of time in order to change strategies.

Council Member Jerry Carlson was pleased that the Town and MPFPD worked together to accomplish the task, and the other members of Council commended both staff members.

Council Member McKeithen clarified that the MPFPD would not contact the homeowners of the 21 properties and mandate changes to accommodate the needs. She queried whether the MPFPD would notify the homeowners of the issues.

MPFPD Chief Harold Shapelhouman stated the MPFPD did not intend to notify homeowners currently because Council indicated that any information gathered from the review was to be advisory only. If Council so desired, the MPFPD would notify property owners of any tactical issues.

A discussion ensued regarding the merits of notifying homeowners of access and water flow issues without making any requirements. Building Official Wasmann believed notifying homeowners, especially nonconforming and legally created sites, would be beneficial to those homeowners who were unaware of any problems.

Mayor Carlson was pleased with the new era of cooperation between the Town and MPFPD. He suggested devoting an issue of the *Athertonian* to MPFPD to inform residents of the issues the MPFPD would be concerned about if there were a fire at their home, e.g., “Do you live down a driveway that is more than 20 feet long?” The article could also inform residents they could call the MPFPD/Town if they had concerns and someone would inspect the property.

MPFPD Chief Shapelhouman appreciated the Mayor’s comments. On behalf of the MPFPD, he believed both jurisdictions had come a long way. Additionally, working together with Cal Water regarding areas where water pressure was not good was essential to solving the problems.

Council Member McKeithen requested that Building Official Wasmann work with MPFPD to notify those homeowners what the pitfalls were around their property with regard to water access and water flow.

Council Member Jerry Carlson concurred with Mayor Carlson’s suggestion to use the *Athertonian* to inform residents. Contacting individuals to point out any risk on their properties as a point of information was also appropriate.

Discussion ensued on the appropriateness of notifying residents of issues. The consensus was to only notify those residents identified in the review.

MOTION – to direct staff to cooperate with the MPFPD in devoting an issue of the *Athertonian* to fire prevention, specifically designed to ask/elicit information from homeowners that would be of value to them and the MPFPD; to direct staff to request the MPFPD notify those property owners with fire issues and send a copy of the letters to the Town

M/S A.Carlson/McKeithen

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

24. CONSIDERATION OF TOWN PARTICIPATION IN AN AMOUNT UP TO \$100,000 IN THE COST OF INSTALLING A TRAFFIC SIGNAL ON MIDDLEFIELD ROAD AT ENCINAL AVENUE

Public Works Director Duncan Jones presented the staff report. In the preliminary findings in the BKF Engineers report indicated that the Encinal intersection was a level of service F. The Menlo Park School District (MPSD, in its preliminary report presented to the Transportation Committee, indicated the Encinal intersection would need a traffic signal with the increase in traffic generated from school improvements; however, the MPSD thought the cost should be borne by all the entities that contributed traffic to the intersections. Ahmad Sheikholeslami, MPSD, was also present to respond to questions.

Mayor Alan Carlson said MPSD made a lengthy presentation at the Transportation Committee which included a traffic signal and the parking lot entrance. Because the MPSD needed answers quickly, Mayor Carlson brought the item forward. With respect to the traffic signal, the MPSD had done all its planning to date on the basis that a signal would be installed. Neither entity had the funds to pay for the signal on its own.

Public Works Director Jones said the staff recommendation of \$100,000 was intended to be a maximum, with the traffic studies to develop a proportionate share based on the traffic of each entity.

Ahmad Sheikholeslami, Facility Planner, MPSD, said the current situation indicated the area warranted a traffic signal and was an important mitigation for increasing the school to K-5. The MPSD wanted to work cooperatively with the Town and the City of Menlo Park to signalize the intersection with a solution that worked for everyone.

Discussion ensued regarding proportional costs and how they would be divided, as well as the ongoing traffic study by MPSD and the effects on any intersections being added, school entrances, and other existing intersections.

Mayor Carlson said there were two issues before the Council that evening: 1) to accept the fact that the intersection warranted a traffic signal; and 2) whether the Town would financially participate on some degree/basis.

Ahmad Sheikholeslami said the MPSD's mission was to educate children. The growth in the community resulted in the need to increase capacity at Encinal School. Laurel School was reconfigured to K-3 with a reduction in enrollment to 400 students. Encinal School was reconfigured to K-5 with an increased enrollment to a peak capacity of 700. Some of the largest growth was occurring in the Lindenwood area. If the traffic signal could not be mitigated, the MPSD's option would be to embark on a full Environmental Impact Report process, which would take longer and cost more.

Lou Paponis, Atherton, spoke regarding the Transportation Committee meeting held on July 10, 2007, and the request by the Menlo Park School District for partial funding of a traffic signal. He believed there was a small percentage of Atherton students attending Encinal School; therefore, the Town was not benefiting from the educational opportunity and should not be responsible for the cost of the traffic signal.

Vice Mayor Janz said the intersection warranted a signal currently, there was an opportunity to negotiate with all parties, and he wanted to pursue the matter.

Council Member Marsala concurred with his colleague and said traffic came from Menlo Park as well and the Town needed to seek help from neighbors to offset costs.

Council Member McKeithen had a number of concerns. The preliminary results from the BKF study were not included for review. She traveled Middlefield Road often and believed the problem at Encinal School occurred three times a day for 15 minutes. For the Town to pay \$100,000 for a traffic signal to basically clear up their problem was wrong. She believed the obligation belonged to the City of Menlo Park and the MPSD, first and foremost, to correct any problems. She needed more information as the matter went forward.

Mayor Carlson accepted the fact that the study indicated a traffic signal was warranted. The first question was whether the Council would give permission for the installation of a traffic signal. The second question was that installation of the traffic light would be contingent upon a financial plan among the three entities.

Council Member Carlson agreed a traffic signal was needed and queried whether there was an opportunity for a grant. He thought the three entities should participate and would all benefit from the installation of a traffic signal.

Public Works Director Jones said staff was looking into a new grant that funded traffic signals and was determining when the grant cycle began. Additionally, there was the Hazard Elimination Safety Grant, which was very competitive and staff was considering.

MOTION – to agree to the installation of a traffic light at the intersection of Middlefield Road and Encinal Avenue contingent upon acceptable financial participation and agreement among the three jurisdictions, the City of Menlo Park, Menlo Park School District, and the Town of Atherton, with the understanding whatever was resolved with respect to an entrance/exit on Middlefield Road could be done in a safe manner

Council Member Carlson clarified the proportional splitting of costs should only apply to the traffic signal.

M/S A.Carlson/J.Carlson

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

25. CONSIDERATION AND POSSIBLE ACTION TO ALLOW AN ENTRANCE TO MIDDLEFIELD ROAD FROM THE NEW TEACHERS' PARKING LOT AT ENCINAL SCHOOL

Mayor Alan Carlson said when the Menlo Park School District (MPSD) first began its planning, it came to the Town to talk about the north parking lot. Because the General Plan discouraged adding more entrances to Middlefield Road, Town staff recommended putting the entrance on Prior Lane, which brought the neighbors to the forefront who had concerns with it. The MPSD went back to the drawing board and came back with two plans: 1) Plan A had the entrance on Prior Lane; and 2) Plan B had the entrance on Middlefield. Plan B added four parking spaces to the lot over what would be if the entrance was on Prior Lane. The MPSD indicated the Town should select what was best for the Town; either plan would be acceptable to MPSD.

Public Works Director Duncan Jones said based on the concerns of the Prior Lane residents, the fact the General Plan wanted to limit access to both Middlefield Road and Alameda de las Pulgas for residential entrances, and the fact that MPSD's request was a special case, staff believed the Council could justify approving Plan B as an exception to the General Plan.

Ahmad Sheikholeslami, MPSD, said from MPSD's viewpoint, the benefit of Plan B would be clearing parent/event traffic off of Prior Lane and being a good neighbor.

Council Member McKeithen clarified the north parking lot would only be used by staff during events as well. Other issues regarding possible traffic tie-ups were discussed.

Vice Mayor Janz did not believe there was a problem allowing the access off of Middlefield Road because the General Plan also promoted keeping residential cul-de-sacs quiet and residential, which took precedence over access points off of Middlefield Road.

Herb Burkard, Atherton, thought the MPSD had shown consideration for neighbors and was very cooperative. He favored Plan B.

Council consensus favored the Plan B. Council Member Marsala made the following motion:

MOTION – that the Council recommend the entrance be off of Middlefield Road as described in Plan B

Mayor Carlson recommended the following amendment:

AMENDMENT – to direct staff to withhold an Encroachment Permit with respect to any plan other than the entrance of Middlefield Road

The maker of the motion accepted the amendment.

AM/S Marsala/Janz

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

Mayor Alan Carlson called for a recess at 9:54 p.m. The meeting was reconvened at 10:00 p.m.

26. CONSIDERATION AND POSSIBLE ACTION REGARDING ESTABLISHING A BUDGET FOR THE ENVIRONMENTAL PROGRAMS COMMITTEE

Council Member Marsala noted the Environmental Programs Committee (EPC) was allotted \$6,000 in the past fiscal year of which the EPC spent \$3,250. The EPC received in-kind donations of \$9,500 and cash donations of \$4,500, totally \$15,000 in donations for programs. He reviewed some of the activities of the EPC. Valerie Gardner, EPC member, started a Yahoo group on the EPC website where people had begun to ask questions regarding solar alternatives. Additionally, out of the \$13,800 budget request, \$3,800 was needed for Jill Boone to perform the study for a baseline regarding CO2 emissions. The remaining \$10,000 was needed for expenses. He believed the EPC would be very frugal and wise on how to use the funds for outreach.

Council Member McKeithen believed the request for a CO2 emissions study had come before the Council twice, and twice the Council did not wish to consider it. At the past two Finance Committee meetings, the issue of wanting to see what happened regarding Earth Day expenses was raised. Only recently, had warrants been paid and the account had not been closed. The Finance Committee had repeatedly asked to see a budget request and would like to approve a budget for the EPC. She believed the item should go back to the Finance Committee for review.

Mayor Alan Carlson did not agree. He did not believe the Finance Committee had the scope of authority it might believe it had. He did not find the budget request excessive or lacking in detail that would prevent the Council from acting that evening.

Council Member Jerry Carlson experienced some frustration with the lack of response to the Finance Committee's request for information to expedite the budget request process. He thought the \$1,750 that was not needed should be taken out of the total request. He was pleasantly surprised at the level of detail that was presented that evening. He wanted to see a structure, a reasonable charter for the EPC and the Town, the Council could approve.

Vice Mayor Janz said he was not aware that the Council was against CO2 being called a greenhouse gas. In fact, the Council approved joining ICLEI, one of the tasks of which was to measure the Town's greenhouse footprint to develop proposals to find solutions. Additionally, the Council ratified the U.S. Mayors' Climate Protection Agreement which specifically addressed that cities should call on state and federal governments to deal with global warming, etc. He was in favor of approving the budget request.

Council Member Marsala recalled that the request to fund the CO2 emissions study that came before the Council in April had actually been deferred, rather than rejected, until the budget hearing. He explained the difficulties in trying to finalize expenses

12. APPROVAL OF AN AMENDMENT TO THE AGREEMENT WITH NEAL MARTIN AND ASSOCIATES FOR PLANNING SERVICES

Council Member McKeithen said the staff report suggested the 5% increase was included in the budget; however, the budget included a 3% increase. Additionally, Neal Martin and Associates had been providing the Town an Assistant Planner at the rate of \$55.00/hour and she clarified that would be increased as well. She had some reservations of approving an increase in the contract amount given the fact that the Town hired a zoning specialist for work she believed should have been done by Neal Martin and Associates over the years. She queried who oversaw the work.

City Manager Jim Robinson clarified a 3% was built into the budget as a placeholder for Town-wide salary adjustments through negotiations or the 70th percentile adjustment. He was unaware that a 3% figure was in the budget for the Neal Martin contract, since contract employees were not normally figured in the budget along with percentage increases for regular employees

Council Member Jerry Carlson was disappointed in the discrepancy between the 3% and 5%. He suggested the new City Manager review the Planning area. He agreed with Council Member McKeithen that the Town's ordinances were not the quality they should be and too much rework was needed.

Council Member Marsala believed Neal Martin and Associates did a great job for the Town. The Council modified many ordinances over the years and created some of the ambiguities itself. He did not think the budget was an issue. He was in favor of the 5% increase.

Mayor Carlson believed Professional Services Agreements, whether in the budget or not, ultimately became what the parties agreed upon. He agreed with Council Member Marsala's view that staff presented ordinances in recommended form and Council "tweaked" them into something else. He did not find the request unreasonable, nor was it unreasonable to review the Town Professional Services Agreements from time to time.

Council Member McKeithen clarified that Neal Martin and Associates did not receive an increase in 2005. She did not agree with Council Member Marsala's perception that the Town had received good advice; in fact, she believed that some of the advice had put the Town in a litigious position. She and was not in favor of a 5% increase that was essentially a reward.

Vice Mayor Janz agreed that the money in the budget was a placeholder and not the contract. He was in favor of the increase.

Council Member Jerry Carlson said he would approve the increase although he had reservations.

MOTION – to approve an Amendment to the Agreement with Neal Martin and Associates for Planning Services

M/S Marsala/Janz Ayes: 4 Noes: 1 (McKeithen) Absent: 0 Abstain: 0

28. COUNCIL REPORTS

- **Council Member Jerry Carlson had received many comments regarding the Atherton Train Station repairs. City Manager Jim Robinson said the Town offered to utilize its own contractor to expedite the process; however, Caltrain was reluctant to do that.**
- **Vice Mayor Janz said the CETS group was scheduled to meet later in the month.**
- **Council Member Marsala said 60 people attended the solar night presentation and another presentation was scheduled. He noted in the Town of Woodside, basements on hillside slopes were measured to the ceiling rather than the floor. He queried when the Non-School Event Guidelines would return to Council. City Attorney Marc Hynes noted negotiations with the Sequoia Union High School District might be resolved by September.**

29 PUBLIC COMMENTS

There were no public comments.

30. ADJOURNMENT

Mayor Alan Carlson adjourned the meeting at 11:08 p.m.

Respectfully submitted,

**Kathi Hamilton
Acting City Clerk**