



MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
MONDAY, APRIL 9, 2007

7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

SPECIAL 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.

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

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

Town of Atherton v. Johnson Trust, et.al. Superior Court of California, County of San Mateo, CLJ 460946

No reportable action.

- B. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (*Continued from the City Council Closed Session meeting of February 21, 2007.*)

City Attorney
City Manager

Continued to the Special City Council Closed Session of April 18, 2007, at 5:00 p.m.

3. EMERGENCY PREPAREDNESS - INCIDENT COMMAND SYSTEM (ICS) 1 & 2 TRAINING (Continued from the City Council meeting of March 21, 2007.)

Police Chief Bob Brennan said a discussion took place at the last Atherton Emergency Preparedness Subcommittee meeting regarding the possibility of providing additional training to the City Council and interested members of the public. The proposed training was an 8-hour session that Town staff had completed in October.

Council Member McKeithen said members of the Council were not really prepared for an emergency in the Town; and as a member of the Office of Emergency Services for the County and the Emergency Preparedness Subcommittee for the Town, she believed Council would benefit from additional training.

Council Member Jerry Carlson wanted to know how the training would make him more effective in an emergency and whether the training would educate him in his role.

Chief Brennan did not believe the training would be specific to the Council Members' role; however, it would provide an understanding of what the emergency response personnel would be doing. The Council did not have an active role in any of the command posts during an emergency.

A discussion ensued on whether a shorter training session would be more appropriate given the fact that Council's role was primarily one of public relations. Council Members agreed that an abbreviated session would be better.

Mayor Carlson suggested that staff review the training materials, select those areas pertinent to the Council, and develop a 3-hour session to be held on a Saturday.

Council Member Marsala believed most of the material had been covered in a previous training session and might be repetitive.

John Sisson, Belleau Avenue, said the recurring question at neighborhood meetings was what role people would have in an emergency. He suggested the focus of the training should be Council's role.

Mayor Carlson agreed and said the title of the training could be, "What is the role of the City Council in an Emergency and How Does the City Council fulfill that Role?"

Direction to staff was to canvass the Council for a possible date on a Saturday in July for the training.

4. DISCUSSION AND POSSIBLE DIRECTION TO STAFF REGARDING THE COMMITTEE/COMMISSION APPOINTMENT PROCESS (Continued from the City Council meeting of March 21, 2007.)

Council Member Jerry Carlson had concerns regarding the current method of consecutive terms of office for appointed members on those committees with 1-year terms. He believed staggered terms would make more sense. Using the Audit Committee as an example, he stated if all five resident members decided not to reapply, the committee would lose continuity and institutional knowledge.

City Attorney Marc Hynes clarified that some commissions/committees were required to file a Form 700 Statement of Economic Interests, e.g., City Councils, Planning Commissions, and generally those committees that recommended expenditures of money.

Council Member Carlson believed each committee should have an authorized role and list of duties. He wanted clarification regarding the types/definition of committees and what they could or could not do (advisory vs. ad hoc). Additionally, he said there was merit in the current Screening Committee process in regards to asking certain questions that might not be asked in an open session with the full Council. He suggested that perhaps two Screening Committees with two Council Members each could interview the candidates, without violating the Brown Act, and four members would become more knowledgeable about the qualifications of the candidates.

Council Member Marsala raised the issue of expenditure of funds regarding the Arts Committee and the Environmental Programs Committee with respect to Form 700.

City Attorney Hynes said he would research the statutes and provide Council with the information regarding who should file Form 700.

City Manager Jim Robinson clarified there was a resolution that established the Arts Committee. The Arts Committee maintained the Rita Corbett-Evans fund and a budget was established and incorporated into the Town's budget. The Council did approve the expenditures.

City Attorney Hynes acknowledged that the committees/commissions had been formed in different ways; some by ordinance, the Arts Committee by resolution, others in the Council's Rules of Procedure. At one time, the Brown Act treated bodies differently depending upon the mode of their creation. Over time, the Brown Act has been expanded to treat every committee the same way. He suggested developing a master ordinance/resolution that would set out each committee, its charter, etc.

Mayor Carlson agreed having everything described in one place, either by resolution or ordinance, made sense. A fundamental problem was the lack of resident interest to fill vacancies. He did not think the current 1-year term concurrent with Council Member terms on some of the committees made sense. A multi-year, staggered term would provide continuity. He believed oftentimes the selection process was purely perfunctory because there were not enough applicants from which to choose. He suggested for committees such as the Arts Committee, Traffic Committee, and Rail Committee, that the current screening process be used. For the Planning Commission or the General

Plan Committee, the full Council should interview those candidates at a Special meeting. He also thought term limits should be eliminated.

Council Member McKeithen also agreed that a 1-year term on the Audit Committee was inappropriate. A level of expertise, continuity, familiarity with the balance sheet, etc., was necessary. A staggered 4-year term would be appropriate. The Environmental Programs Committee also needed staggered terms. Having everything in one resolution or ordinance was appropriate. She was concerned about the screening process and the possible change to the full Council interviewing candidates. She believed it might have an even greater adverse effect on the number of residents willing to apply. Despite the screening process' imperfections, she believed it was the better method and members serving on it rotated over time.

Vice Mayor Janz agreed with most of Mayor Carlson's suggestions; however, he concurred with Council Member McKeithen's argument with continuing the current Screening Committee process. Additionally, he did not agree with eliminating term limits because he did not believe it solved the problem of a lack of applicants.

Lou Paponis, MacBain Avenue, believed the reason people did not volunteer for positions on the committees/commissions was because responsibilities were not defined in notices. He did not believe the 1-year terms were adequate. Additionally, he did not believe people should sit on more than one committee at the same time because a conflict of interest could arise. No person should sit on a committee for more than four years.

John Sisson, Belleau Avenue, said face-to-face recruitment had worked well for neighborhood issues and might be effective in recruiting committee/commission applicants. He hoped the Council should maintain some control over commission members and their service.

Bob Jenkins, Irving Avenue, thought emphasis should be put on the recruitment process and someone should be responsible for actually recruiting members. The quality of the members deteriorated over time.

Council Member Carlson concurred that the current applicant screening process should continue, with the full Council's approval. He thought one 4-year term was not sufficient for most committees. However, the second term should not be automatic. Recruitment efforts needed improvement.

Council Member Marsala also thought rotating Council Members' service on the Screening Committee was important. Committees/commissions should reflect different views within the Town. He favored term limits because it allowed people to retire gracefully and allowed for rotation and new members to volunteer. Recruitment efforts needed to be improved.

Mayor Carlson suggested that staff develop a draft resolution consisting of those committees that were not controlled by ordinance that outlined terms, duties, selection

process, etc. As much as the committees/commissions could be standardized, they should be standardized.

City Attorney Hynes indicated staff would return with a draft master resolution at the May 16th City Council meeting which would include all the categories in a uniform process for Council's approval.

Mayor Carlson believed the current Screening Committee process should remain since the members changed every year. A Council Member was free to call any prospective applicant for further information at any time.

After a short discussion, Council concurred that with respect to the current Planning Commission vacancies, that the Screening Committee conduct interviews and recommend prospective appointees to the full Council at the April 18th City Council meeting. Additionally, the Screening Committee would suggest that any unsuccessful applicants for the Planning Commission apply to the General Plan Committee.

City Manager Jim Robinson noted that current recruitment efforts did include advertising in the *Almanac* and the *Athertonian*, as well as on the Town's website. He welcomed any suggestions for other methods of getting the word out.

5. **DISCUSSION OF COUNCIL PROCEDURES (NO WRITTEN REPORT)**
(Continued from the City Council meeting of March 21, 2007.)

Mayor Alan Carlson suggested a standardized format for staff reports and presentations in an effort to streamline meetings. He suggested a check-off area on the staff report designating whether there was a legal issue or a policy change, as well as a one paragraph executive summary at the beginning of the report, wording for motions, and alternative resolutions for the issue. He believed the Council and the public had an obligation to read the reports when they became available; therefore, staff should only present information that was not included in the staff reports. Another issue was Council Reports. Originally, the purpose was for Council Members to ask questions of one another because the Brown Act prevented such dialogue outside of the Council Chambers. He believed reporting on his activities was a waste of time and not the original intent, i.e., addressing Council not the public. Council needed to address the issue of what Council Reports should be and suggested moving the item to the end of the meeting agenda.

Vice Mayor Janz agreed Council Reports should be moved to the end of the agenda. He thought the purpose was for reporting the substance of what an individual Council Member was doing/attending to his/her colleagues. He also agreed staff members should not present what was written in the staff reports. The written report should specifically delineate the action items and alternatives, and the oral presentation should restate those items.

Council Member Jerry Carlson concurred with his colleagues regarding staff reports. He also suggested that other department heads might have comments that should be

included, such as the financial officer. Council also needed to do its homework before meetings and clarified that it was appropriate to contact staff members for questions and clarification before meetings.

In response to Council Member Carlson, City Attorney Marc Hynes explained that *Robert's Rules of Order* were designed for the U.S. Congress; however, the Town used a similar format but one that was smaller-body friendly. There was a booklet available for distribution.

Council Member Carlson wanted the Public Comment section of the agenda standardized. For example, if there were a large contingency wishing to speak, speaker cards should be utilized. Additionally, new topics should not be agendized beyond a specific time in the meeting and perhaps another meeting should be scheduled to handle those items not discussed.

Council Member Marsala believed there should always be some type of written report included in the packet. He agreed with moving Council Reports to the end of the meeting. Time should be allowed for the City Manager to announce upcoming events at the beginning of the meeting. He suggested scheduling Public Hearings after the Regular agenda since they were more individual in nature. Additionally, he suggested a short study session before the meeting for Council and the public to ask questions regarding the Consent Calendar could facilitate that part of the meeting.

Council Member McKeithen concurred with moving Council Reports to the end of the meeting. She believed staff should present a summary staff report at meetings since the public might not have read all the staff reports, perhaps just the one they came to discuss. She concurred with including whether a legal opinion was required. On items that came before the Council that were repetitious renewals/updates, she wanted to know what was different from the previous version. She believed repetition was the biggest problem in elongating meetings, including comments by the Council. She concurred with a time limit on meetings for all items, e.g., 11:00 p.m., which included setting another meeting time. Informing the public of upcoming events should be through a single source, i.e. the City Manager.

Mayor Carlson asked the City Manager to develop a format for staff reports for Council consideration at its next regular meeting and to move Council Reports to the end of the agenda starting with the meeting of April 18th. Other issues for discussion were the possibility of utilizing speaker cards for public comments, setting a time limit of 11:00 p.m. at Council meetings at which time the Council would decide to continue the meeting or schedule a Special meeting (predetermined date) for the remaining items. Additionally, he requested an additional tab be created in Council's packet for all other meeting agendas that occurred since the previous Council meeting. He suggested a subcommittee of Council review Council's Rules of Procedure for revision.

Vice Mayor Janz wanted a "running" list that maintained the open items that staff was working on, at any one time, to be included in the packet as well.

6. DISCUSSION AND POSSIBLE ACTION REGARDING CITY COUNCIL GOALS AND OBJECTIVES

Council Member McKeithen said an item missing from the list of Goals and Objectives was, “Evaluate Methodology for Expediting Building Plan Review, dated January 16, 2002. She wanted to put it back on the list. Item No. 17, “Revise Employee Personnel Rules and Procedures,” had not been done. She suggested the need for someone to head a Personnel Department and the need to develop an Evaluation Policy.

City Manager Jim Robinson noted the Evaluation Policy was part of Item No. 17 and was assigned to the Assistant to the City Manager. A list of the previously listed goals, as well as the list of new goals, had been placed before Council that evening and included a sheet to add new goals.

Council Member McKeithen reiterated that Item No. 17 be expanded to include potential need for a department head for Personnel and specifically to add development of an Evaluation Policy. With regard to emergency preparedness, she wanted an all-inclusive update with a checklist of all the issues and the completion of the emergency preparedness booklet.

Mayor Alan Carlson thought a list of the Goals and Objectives should also be included in a separate section of Council’s packet, a running tally sheet of items to be returned to Council, were ongoing, or were action oriented.

Council Member Jerry Carlson wanted a goal added for Environmental Planning and Implementation. Additional items included review of the Permit Fee Schedule, implementing an outside annual audit of the Building Department, the zoning code update, and permit software implementation.

City Manager Jim Robinson asked for clarification as to what the goals were and what the priorities were.

Mayor Carlson suggested that Council Members needed to rank the goals and through that process goals would be prioritized. There were two categories: goals and action items. He asked staff to list all the established goals, previous and new, give the list to Council to add any new goals and to rank the goals, and return with the results at the next meeting.

Council Member Carlson believed the City Manager needed to estimate the amount of time action items would take to complete based upon the amount of funds and available staff. A timeline should accompany the goals delineating the amount of time needed, e.g., three months, one year, two years, etc.

Vice Mayor Janz emphasized the 5-year General Plan Review and Update and the Housing Element needed to be kept in the forefront as the Town went forward with the Regional Housing Needs Allocation process.

Mayor Carlson asked staff to review the City Council minutes from the past six to nine months to determine whether any items had slipped through the cracks. A format should be developed by which the information could be inserted into Council's packet on the status of goals and action items.

City Manager Robinson asked Council Members to submit any additional goals to him so they could be included in the list to be distributed among Council for ranking. After a brief discussion, Council requested an item be placed on next month's agenda for finalization of the list. After the meeting, the list could be circulated for ranking and returned at the June 20th meeting with the results.

7. DISCUSSION, POSSIBLE DECISION TO RECONSIDER THE DENIAL OF AN APPEAL AT 84 WALNUT AVENUE (ASSESSOR'S PARCEL NUMBER 060-332-230), AND TO SET A DATE FOR SAID RECONSIDERATION

Mayor Alan Carlson requested the item be placed on the agenda for that evening. The purpose of the discussion was to provide the Council with the opportunity to schedule a hearing for reconsideration. Under the Rules of Procedure for the Council, Section 11.6, a motion for reconsideration could be made by any member who voted in favor of the motion that passed but had to be made before the close of that meeting. However, Section 10.1 allowed the Council, upon motion by majority vote, to vote to suspend its rules. At the end of the appeal hearing on March 21, 2007, minutes of the January City Council meeting were presented regarding the action Council took on a similar appeal. Mayor Carlson believed if he had had an opportunity to review the minutes before he voted, he would have voted differently in the appeal of 84 Walnut Avenue. He wanted to place that before the Council to allow Council the opportunity to reconsider its action and grant the appeal.

Council Member Jerry Carlson believed the discussion had taken place and was not able to support a reconsideration.

Council Member Marsala would support the motions.

Council Member McKeithen believed the two appeals were distinguishable based upon the facts and did not see a basis for reconsideration.

The merits of the appeal were not before the Council that evening. The only item before Council was the opportunity to reconsider.

Vice Mayor Janz did not believe the action taken by the Council in January was discussed at the meeting in March, nor did he believe the action or the situation was accurately described.

MOTION – to suspend the rules under Section 10.1 of the Council's Rules of Procedure with respect to the appeal of 84 Walnut Avenue

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

MOTION – to reconsider the denial of the appeal with respect to 84 Walnut Avenue based upon Section 11.6 of the Council’s Rules of Procedure, and to set the public hearing for the City Council Meeting of April 18, 2007.

Council Member Carlson said there was no background information in the staff report to prepare him to be sympathetic to the issue. Council had taken action on the item and should move forward. He was not convinced that the reconsideration was appropriate and might set a precedent.

Mayor Carlson said the information was presented by the appellant but had not been given to Council to consider during the meeting. The issue was one of fundamental fairness.

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

8. ENVIRONMENTAL PROGRAMS COMMITTEE BUDGET

City Manager Jim Robinson said the Town had an enthusiastic Environmental Programs Committee (EPC) that developed a comprehensive program for Earth Week. Council needed to determine what level of support should be given for the immediate event and what amount of support should be allocated for future years. Two sources of revenue were identified in the budget: 1) Liquidated Damages; and 2) Forfeiting Recycling Deposits. Council should determine the priorities and the needs and allocate accordingly. The EPC identified estimated expenditures for the Earth Week events, along with possible revenues. The EPC had received approximately \$1500 to support the programs. The EPC was requesting approval of a \$10,000 budget and approval for future ongoing funding.

Council Member Jerry Carlson wanted to see the EPC’s master plan. He thought the Earth Week events were to be self-supporting through donations and fundraising. He queried how much staff time was utilized for the program.

City Manager Robinson said the Town Arborist and he attended meetings, staff prepared agendas, and staff’s involvement in creating the program. The EPC was making the request to Council.

Council Member Carlson was concerned that all the costs were not being represented. In the future, cost accounting for staff resources needed to be taken into consideration for all the committees/commission. Perhaps budgeting by committees should be developed. He did not want to authorize expenditures for the next year until he saw a plan.

Council Member Marsala clarified that some of the events during Earth Week required a fee to attend and would match the expenses. By using the Forfeiting Recycling Deposits for the EPC, money would not be coming out of Council’s budget or tax dollars from residents. Additionally, damages from Allied Waste that were

received by the Town could help create a budget for the EPC. Future revenues would match Forfeiting Recycling Deposits.

Mayor Carlson was concerned about the EPC making statements in the press that sounded like policy statements of the Town or the City Council.

Council Member McKeithen asked what the revenues in Liquid Damages and Forfeiting Recycling Deposits would have been used for if not used for the EPC.

City Manager Robinson said the revenues from both sources would have been allocated to the General Fund.

Council Member McKeithen noted that the EPC was not charged any rental fees for using Holbrook-Palmer Park facilities which might have resulted in a loss of revenue because the facilities were not available for rental for four days; another cost that needed to be included. Additionally, there was a cost of staff time associated with oversight at the events, i.e. park personnel. She was concerned about all the hidden costs. She thought the EPC was a little too ambitious, too fast.

Vice Mayor Janz agreed with Council Member McKeithen that the EPC was exuberant. He believed there were funds to support the activities and a great deal had been accomplished in a short period of time. He was in favor of supporting the budget request for the upcoming event; however, he was not in favor of approving an annual budget.

Finance Director John Johns believed the estimate of expenses and revenues were reasonable. He suggested, if Council believed the activities were worthwhile, money should be appropriated from the Reserves rather than a specific revenue source.

Council Member Marsala clarified there were no rental bookings for the Pavilion for the four days in question. He described many of the events that would take place and believed the event could be cash positive. A discussion ensued regarding costs for park personnel, energy costs, etc. Council Member Marsala said success would be measured by: 1) the annual report by San Mateo County that measured annual gas and energy consumption per household; 2) attendance at the events; 3) how many units of solar were installed; and 4) a non-quantifying method of favorable comments.

Council Member Carlson was not pleased. In the future, he wanted ample opportunity to give input, know what the numbers were, and see a plan before being placed in a position to approve a budget. A discussion ensued regarding how much money should be allocated to the event.

MOTION – to approve a budget of \$6,000 for Earth Week activities

M/S McKeithen/J.Carlson

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

10. PUBLIC COMMENTS

11. ADJOURNMENT

Mayor Carlson adjourned the meeting at 9:17 p.m.

Respectfully submitted,

Kathi Hamilton
Acting City Clerk