



MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL DRAINAGE
DISTRICT
September 30, 2010
9:45 A.M.
Town Council Chambers
94 Ashfield Road
Atherton, California
Special Meeting

Mayor McKeithen called the meeting to order at 9:45 a.m.

ROLL CALL **Lewis, Dobbie, Marsala, McKeithen, Carlson**

Council Member Marsala was absent.

REGULAR

1. AUTHORIZE FILING OF A TEST CLAIM WITH THE CALIFORNIA COMMISSION ON STATE MANDATES FOR COSTS ASSOCIATED WITH UNFUNDED MANDATES IMPOSED BY NPDES PERMIT NO. CAS612008

Report: Public Works Director Duncan Jones

Recommendation: Authorize filing of a test claim with the California Commission on State Mandates for costs associated with unfunded mandates imposed by NPDES Permit No. CAS612008, the 2009 Municipal Regional Stormwater Permit (MRP)

City Attorney Furth said the Town discharges water through the drainage system to the bay which makes us subject to a regional water quality permit which requires that we take certain steps to reduce pollution into the bay. Furth said C/CAG has come up with a model form to file a claim with the State Commission on mandates asking for the State to either pay for the additional costs or get rid of them.

Mayor McKeithen asked what the actual costs of participating are.

Public Works Director Duncan Jones said the cost of not participating is \$68,000 for the 2010 permit and \$136,000 for 2011. The cost to participate is preparing the claim which amounts to staff time only.

Vice Mayor Dobbie asked if it is possible to wait to pay the amounts until the money is received from the State.

City Manager Gruber said when staff was preparing the budget for FY2010/11 they were hopeful that this would not be implemented this year. Gruber added that Council could potentially look at some capital expenditures that are within the existing budget to defer some of these costs.

Council Member Lewis asked if any other cities are looking to their residents for funding.

Jones said the Town has its hands tied with Propositions 13 and 218 as far as increasing fees and taxes.

Council Member Carlson said at the C/CAG meeting he asked how much it would cost the Town to participate in this and they said it is only staff time. Carlson said it makes sense to participate.

Mayor McKeithen asked how long the Town has known these criteria would be put into effect.

Jones said the Town has known since last October and the various cities and counties have been objecting the idea and working on the issue and did not feel it would come this fast.

Mayor McKeithen questioned whether the decision can be challenged or has anyone thought to file a lawsuit insofar as the money can not be recovered.

Furth said she is not familiar with any litigation but will check into and get back to Council.

McKeithen said it seems that if the State can not fund it then they should not be able to impose the fees.

Furth said the Town has no right to discharge polluted water into the bay, so under the state and federal clean water acts government agencies are required to bring dischargers into compliance with water standards; there is no federal requirement that the increased costs are to be funded by the state.

ADJOURN

MOTION by Lewis, second by Dobbie to adjourn the meeting. The motion passed unanimously.

Mayor McKeithen adjourned the meeting at 10:06 a.m.

Respectfully submitted,

Theresa DellaSanta
Deputy City Clerk