



**DRAFT MINUTES**  
**Town of Atherton**  
**CITY COUNCIL**  
**ATHERTON CHANNEL DRAINAGE DISTRICT**  
**September 15, 2010**  
**7:00 p.m.**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California  
**REGULAR MEETING**

1. **PLEDGE OF ALLEGIANCE**

2. **ROLL CALL** Lewis, Dobbie, Marsala, McKeithen, J. Carlson

3. **PRESENTATIONS**

4. **PUBLIC COMMENTS**

Jon Buckheit, Atherton resident, questioned what kind of “house cleaning” has been accomplished within the Town since he was awarded a factual innocence declaration. Buckheit concluded that said Council’s silence has been deafening.

Craig Falkenhagen, Atherton resident, spoke in support of Menlo-Atherton High School lights.

Colleen Anderson, requested that Council Members recuse themselves from voting matters if they are on medication.

Marshall Moore, spoke in support of the lights at the Menlo-Atherton football field.

Menlo-Atherton Pop Warner President spoke in favor of lights at the M-A field.

Denise Kupperman, Atherton resident, said the annual Swing in the Park will be held on Sunday, September 19<sup>th</sup> to benefit the park and the entire community.

Peter Carpenter, Atherton resident, felt Council was using the Brown Act as an inappropriate cover on items specific to public interest and the community.

5. **REPORT OUT OF CLOSED SESSION**

**Public Comment:**

Peter Carpenter said he believed Council was overusing the Brown Act for closed sessions. Carpenter could not understand why the Town chose to put High Speed Rail on a closed session

agenda when the Council's position is well known and it is in the public's best interest to be able speak on it.

Jon Buckheit said he supports having his litigation case on an open session agenda. Buckheit added that there have been multiple complaints by multiple residents about the particular officer who is responsible for his lawsuit.

**A. CONFERENCE WITH LABOR NEGOTIATOR – Labor negotiations pursuant to Government Code Section 54957.6**

Agency Negotiators: Jerry Gruber, City Manager; Glenn Berkheimer, I.E.D.A.  
Employee Organization: Miscellaneous - Teamsters Local Union 856

Agency Negotiators: Jerry Gruber, City Manager; Glenn Berkheimer, I.E.D.A.  
Employee Organization: Management Employees

Agency Negotiators: Jerry Gruber, City Manager; Assistant City Manager Eileen Wilkerson  
Employee Organization: Confidential Employees

No Reportable Action.

**B. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION (Subsection (b) of Government Code Section 54956.9):**

1. *Pacific Peninsula Group v. Town of Atherton, and Does 1 through 50*, San Mateo Superior Court, Case No. CIV 497841

2. *Jonathan B. Buckheit v. Tony Dennis, Dean DeVlugt, Anthony Kockler, The Town of Atherton, The County of San Mateo, and Jerry Carlson* U.S. District Court for the Northern District of California, San Francisco Division, Case No. CV 09-5000

No Reportable Action.

**C. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Subsection (a) of Government Code Section 54956):**

*Atherton et al v. High-Speed Rail Authority* Case No. 34-2008-80000022

City Attorney Furth reported that Council directed staff to set a public meeting on Monday, September 30<sup>th</sup> at 8:00 a.m. for further consideration of next steps the Town should take in regard to High Speed Rail Authority's decision that their CEQA document is fine.

**D. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION (Subsection (c) of Government Code Section 54956.9)**

City Attorney Furth said the Sequoia Union High School District (SUHSD) adopted a resolution exempting itself from the Town's zoning regulations for the temporary football stadium lights program. Furth said the Town can sue asking a court to hold the judgment aside on the grounds that it is arbitrary. Council concurred not to file that lawsuit.

Furth said there is a lawsuit against SUHSD filed by residents challenging the CEQA procedures followed by the school in adopting the temporary program.

**E. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION:  
(Significant exposure to litigation pursuant to subsection (b) of Government Code  
Section 54956.9): One potential case:**

No Reportable Action.

**6. CITY MANAGER’S REPORT**

City Manager Gruber said the finance department closed out the books for FY2009/10 and general funds ended with better than expected results. Finance was able to carry over the un-reconciled balances from the old software to the new software. Gruber said the building department revenues have augmented due to increased activity. Gruber thanked the Department Managers for “tightening their belts,” all around.

**7. COMMUNITY ORGANIZATION ROUNDTABLE REPORT**

None.

**CONSENT CALENDAR (Items 8-24)**

Council Member Marsala removed items 8, 10 and 20.

Vice Mayor Dobbie said he spoke with Finance Director Ho on item 10 earlier that day on expanding the report.

Mayor McKeithen removed items 19, 22, 23 and 24. McKeithen gave typographical edits for item 21 to staff.

Loren Gruner, Atherton resident, requested removal of item 16.

Jon Buckheit requested removal of item 9.

**8. APPROVAL OF AUGUST 18, 2010 REGULAR MEETING**

**Recommendation:** Approve August 18, 2010 regular meeting minutes

Council Member Marsala requested expanding items 31 and 33 on the minutes, particularly to include the fact that the Finance Committee made the recommendation. Lewis added that the Public Works and Finance Directors should be included since they worked hard to scrub the numbers which end up totaling \$902,000. The Finance Committee researched the recommendation and approved it. Council concurred.

**9. APPROVAL OF BILLS AND CLAIMS FOR AUGUST 2010 IN THE AMOUNT OF  
\$1,271,543**

**Recommendation:** Approve Bills and Claims in the amount of \$1,271,543

Buckheit questioned a \$154.00 dinner reimbursement and K-9 training in the police budget, and the specific amounts spent on environmental programs. Council Member Lewis said the Environmental Programs Committee budgeted for these items. Council Member Marsala added that some of the materials purchased are hats and caps for kids to take home and educate their parents.

Denise Kupperman, Atherton resident, asked for everyone to realize that K-9's are an incredibly important asset and Town residents should be thankful to have the luxury.

Council Member Lewis added that the K-9's were donated by Town residents and it costs money to continually train the dogs.

Mayor McKeithen said K-9's are expensive to maintain and the K-9 handler gets extra money which goes into the individual's pension.

Chief Guerra said P.O.S.T has caps for breakfast lunch and dinner reimbursement, so the \$154.00 is more than likely for one entire week.

[\*It was later determined that the \$153.94 charge was for an Employee of the Quarter dinner which is included in the approved fiscal year 2010/11 budget].

Mayor McKeithen concluded that the Town should not be purchasing coffee any longer. McKeithen believes that people should buy their own coffee.

**10. FINANCIAL REPORT FOR THE TWO MONTHS ENDED AUGUST 31, 2010**

**Recommendation:** Receive the General Fund Financial Report for the two months ended August 31, 2010

Council Member Marsala questioned whether there will be a surplus this year. Finance Director Ho said it is too early to tell overall but the increase in building department activity has helped, plus the certified assessment roll from San Mateo County for secured property tax has not gone up the normal 2% under proposition 13.

**11. TREASURER'S REPORT FOR THE FOURTH QUARTER ENDED JUNE 30, 2010**

**Report:** Finance Director Louise Ho

**Recommendation:** Accept the Treasurer's Report for the Fourth Quarter Ended June 30, 2010

**12. APPROVAL OF A RESOLUTION ADOPTING THE FINAL FISCAL YEAR 2009-2010 BUDGET AMENDMENT FOR POLICE ON THE STREET, STATE GRANTS, GENERAL CAPITAL IMPROVEMENT PROJECTS, AND EVAN CREATIVE DESIGN FUNDS**

**Report:** Finance Director Louise Ho

**Recommendation:** Approve Resolution 10-50 of the City Council of the Town of Atherton adopting the final FY2009-2010 budget amendment for Police on the Street, State Grants, Capital Improvement Projects, and Evan Creative Design Funds

**14. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$ 19,822.32 FOR THE PROJECT NUMBER 09-006**  
**Report:** Public Works Director Duncan Jones  
**Recommendation:** Accept work, authorize recording of a notice of completion and approve contract change orders in the amount of \$19,822.32 for the Holbrook-Palmer Park Master Irrigation and Well Installation Project Number 09-006

**15. APPROVE A CONTRACT CHANGE ORDER FOR GALLAGHER AND BURK, INC. FOR THE FLETCHER DRIVE/RIDGEVIEW DRIVE PAVEMENT AND DRAINAGE IMPROVEMENT PROJECT NUMBER 08-010 IN THE AMOUNT OF \$140,300**  
**Report:** Public Works Director Duncan Jones  
**Recommendation:** Approve a Contract Change Order for Gallagher and Burk, Inc. for the Fletcher Drive/Ridgeview Drive Pavement and Drainage Improvement Project, project number 08-010 in the amount of \$140,300

**16. ADOPT A RESOLUTION APPROVING A NO PARKING ANY TIME ZONE ON SURREY LANE AND ON MIDDLEFIELD ROAD FROM 157 FEET NORTH OF SURREY LANE TO 100 FEET SOUTH OF SURREY LANE**  
**Report:** Public Works Director Duncan Jones  
**Recommendation:** Adopt Resolution 10-43 approving a “No Parking Any Time” zone on Surrey Lane and on Middlefield Road from 157 feet north of Surrey Lane to 100 feet south of Surrey Lane

Loren Gruner said the City Manager put together a productive meeting with the Fire Department, Menlo Park, the School District and parents to discuss resolutions. Gruner said the school has over 700 students and she asked Council to seriously consider allow parking along the side of Encinal School which was used for staff during the past year.

Mayor McKeithen suggested Gruner speak with Public Works Director Jones who can explain the ideas that were discussed at the previous night’s Transportation meeting.

**17. AMENDMENT TO CENTERLINE MARKING LIST TO INCLUDE TOYON ROAD**  
**Report:** Public Works Director Duncan Jones  
**Recommendation:** Amend the Centerline Marking List to include a double yellow stripe with reflectors on the Toyon Road s-curve in front of 153 Toyon Road

**18. RECOMMENDATION FROM THE ENVIRONMENTAL PROGRAMS COMMITTEE TO SUPPORT CALIFORNIA’S CLEAN CARS PROGRAM**  
**Report:** Town Arborist Kathy Hughes-Anderson  
**Recommendation:** The Environmental Programs Committee recommends that the City Council support California’s Clean Cars Program and that the Mayor sign a letter of endorsement to the California Air Resources Board

**19. RECOMMENDATION FROM THE ENVIRONMENTAL PROGRAMS COMMITTEE TO ADOPT RESOLUTION NO. 10-51 IN OPPOSITION OF PROPOSITION 23**  
**Report:** Town Arborist Kathy Hughes Anderson

**Recommendation:** The Environmental Programs Committee recommends that the City Council adopt Resolution 10-51 in opposition to Proposition 23

Mayor McKeithen said she supports the intent but the resolution language needs to be seriously toned down. Council concurred.

**20. APPROVE THE SELECTION OF AN ATTORNEY TO REVIEW THE OLIVE PALMER WILL FOR A LIBRARY IN THE PARK**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Approve the selection of McCracken, Byers & Haesloop to review the Olive Palmer will for a library in the Holbrook-Palmer Recreational Park. In the event staff is unable to negotiate a scope of work and fee with the selected firm, the scope and fee will be negotiated with the firm of Siegle McClure, followed by Hannig Law firm if unable to negotiate with the second firm

Council Member Marsala asked what the justification is for going outside the retainer of the Town's current legal services. Mayor McKeithen said the Committee wanted someone apart from the Town so the opinion would withstand any potential scrutiny or bias in the future.

Council supported the justification.

**21. TOWN RESPONSE TO CIVIL GRAND JURY REPORT ON THE SEX OFFENDER LAW ENFORCEMENT IN SAN MATEO COUNTY**

**Report:** Police Chief Mike Guerra

**Recommendation:** Accept the attached final proposed draft as the Town's response to the civil grand jury sex offender law enforcement in San Mateo County

**22. APPROVAL TO PUBLISH REQUEST FOR PROPOSAL FOR CODE ENFORCEMENT SERVICES**

**Report:** City Manager Jerry Gruber

**Recommendation:** Approve publishing a request for proposal for Code Enforcement services for the Town of Atherton

Mayor McKeithen said she believed Redwood City should be able to give a straightforward presentation on what services they would offer the Town if selected. McKeithen added that the RFP shuts the door for outsourcing because the language is not "inviting" to a non profit agency. McKeithen said Council is hoping to partner with another agency or jurisdiction to save money and that would be very hard based on the criteria included in this RFP.

City Manager Gruber said staff supports the recommended process because the current municipal code is being adhered to. Gruber added that the Town is creating a competitive environment by putting out an RFP and he is receptive to changing the language in order to avoid eliminating anyone from the process.

Vice Mayor Dobbie requested a verbal proposal from Redwood City on what they have to offer.

Council Member Lewis said that in an outsource situation you should go out to all commercial for-profit services who have the infrastructure to do the services you are requesting. Lewis said this will bring competitive bids and the current RFP is fine the way it is.

McKeithen said she wants to make sure all agencies are included and nobody is eliminated based on experience and capabilities.

City Attorney Furth said the Town can follow the staff recommendation with revised language in the RFP or Council can waive its own procedure and negotiate directly with another agency.

Council concurred to direct staff to revise the language so as not to foreclose or eliminate any agency. Staff will bring the RFP back to Council at a special meeting on September 30<sup>th</sup>.

**23. APPROVAL TO PUBLISH REQUEST FOR PROPOSAL FOR BUILDING OFFICIAL SERVICES**

**Report:** City Manager Jerry Gruber

**Recommendation:** Approve publishing a request for proposal for Building Official services for the Town of Atherton

Mayor McKeithen felt the position of Building Official has too many responsibilities and duties to handle in only three days per week.

Council Member Lewis said she agreed that the Town needs a full time building official. Lewis felt the RFP starts the position out for three days per week and slowly works its way into more hours, for current budget reasons.

Council Member Carlson said he would leave this up to the City Manager's discretion. Council Member Marsala concurred.

Vice Mayor Dobbie said he assumed the current interim official is temporary until the Town is able to find a full time employee.

City Manager Gruber said the Town currently has a consultant from CSG Consultants which is working out very well at the moment. Gruber added that he would like to go out for an RFP and come back to Council with the understanding that there will be no unfunded liability associated with the position. Gruber said if he can not find someone who is qualified he will suggest Council waive their procedures to hire the current CSG consultant.

Mayor McKeithen said she has heard very good things about the current consultant.

Loren Gruner said she believes the Building Department is professional, but the permits need to get through quicker then they have been.

Bill Widmer suggested being more specific on the Building Official qualifications desired.

Cary Wiest said this is a crucial time to redevelop confidence in the community and an adequate search for a proper building official would help reduce risk and liability and bring assurance back to the public.

Assistant City Manager Wilkerson said in the past this normally would have been an Atherton employee but staff is choosing to contract this position out and is not intending to hire an employee in the future.

Council Member Lewis suggested adding a certain amount of years of experience in certain fields.

Council Member Carlson asked how the performance of the position will be measured.

City Manager Gruber said the master fee schedule was passed based on analysis done to determine how long it really takes to review sets of plans and staff is in the process of measuring this now.

Mayor McKeithen requested a report on the turn-a-round time for reviewing a set of plans.

**The Mayor moved on to motion for the consent item.**

**Motion by McKeithen, second by Carlson to approve item 8 with additional language, item 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, with a rewrite of the language subject to Mayor review, item 20, 21 with typographical corrections. [Items 22 and 23 will come back to Council on September 30]. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**24.      ADOPTION OF A RESOLUTION APPROVING BUDGET AMENDMENT FOR FY 2010-11 – CIP & ADMIN SERVICE ROAD IMPACT FEE FUND**

**Report:** Finance Director Louise Ho

**Recommendation:** Adopt Resolution 10-52 approving the budget amendment for FY 2010-11 for the General Fund

**MOTION by Carlson, second by Lewis to approve adoption of Resolution 10-52 approving the budget amendment for FY 2010-11 for the General Fund. The motion passed.**

Ayes: 4      Nays: 1 (McKeithen)      Abstain: 0      Absent: 0

**PUBLIC HEARINGS (25)**

**25.      INTRODUCTION OF AN ORDINANCE REZONING PROPERTIES ON PARKER AVENUE FROM R1-A TO R1-B**

**Report:** Deputy Town Planner Lisa Costa Sanders

**Recommendation:** To Be Determined – Options:

1.      Do not rezone Parker Avenue from R1-A to R1-B.
2.      Introduce Ordinance Amending the zoning map to Title 17 of the Atherton Municipal code to rezone twenty-two (22) legal lots on Parker Ave from R1-A Zoning District to R-1B Zoning District. Three votes are required to introduce the Ordinance. A second vote, scheduled at least ten days from the date of this meeting, is required to pass the ordinance.

Deputy Planner Costa Sanders said the Planning Commission recommended against rezoning Parker Avenue. If Council does decide to rezone Parker Ave to R1-B primarily the changes would include changes in the allowed floor area, the setbacks and a change in the height limits. It would not require a change in the general plan.

Mayor McKeithen feels this is a unique neighborhood with small lots and should be treated differently, but since the issue is so divisive a compromise should be given which would give each person something they desire. McKeithen said the compromise would include retention of the R1-A rear yard setbacks, a 28 foot overall height limit, slightly reduce the allowable building space on a second-floor addition, but, overall, give homeowners an additional 547 square feet of floor space.

Mayor McKeithen suggested assurance from Planning Commissioners that they will be open to reviewing this and having a final recommendation to Council no later the November so the current Council can make the last and final determination on this issue.

Council Member Carlson said he met with some of the residents on Parker Ave and he learned there is a 70-foot right-of-way on the street even though the street is only 40-feet wide and so the compromise the Mayor has given would be uniquely fitted to Parker residents.

Vice Mayor Dobbie said he voted against the rezoning because the support for and against was not a good ratio, but he believes the compromise the Mayor has put forth is reasonable and he will support it.

Council Member Marsala said he and Council Member Lewis took this exact same position last March of 2009 to give additional square footage to be same as R1-B without setbacks because of the yard situation, and allow a second floor and garage.

Council Member Lewis said in March of 2009 she gave an overhead presentation and she and Marsala on their idea to keep the rear setbacks at 39 feet, the side setbacks as is now, decrease the height limit to 28 feet rather than the current 30-feet and allow the front to be enlarged to have more room to build on.

Herm Christensen, Planning Commissioner, said the Planning Commission is willing to look into the idea.

Phil Lively, Planning Commission agreed that this is the framework of a good solution to an ongoing and contentious situation.

Mayor McKeithen opened up for public comment.

The following residents spoke:

John Freschini

Bill Widmer

Loren Gruner

Jon Buckheit

Ann Anderson

Colleen Anderson

Duane Wadsworth

Michael Bennett

Art Martin

Kathy Huo

Denise Kupperman

Cary Weist

The Mayor closed public comment.

**MOTION by McKeithen, second by Marsala to prepare a resolution to keep the rear setbacks the same, front setbacks to 23 feet 3 inches, height decrease to 28 feet and a second story to have an additional building area of approximately 457 feet which would increase the buildable area, to go to Planning Commission and come back to City Council no later than November 2010. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

City Attorney Furth recommended sending flexible variations to the Planning Commission for review. Council concurred.

**REGULAR AGENDA (Items 26-30)**

City Manager Gruber requested that Council table item 29 until the October agenda.

**26. TOWN CENTER TASK FORCE UPDATE AND REPORT**

**Report:** Town Center Task Force Members

**Recommendation:** To Be Determined

Council Member Lewis said the Town Center Task Force was formed in March of 2010 to refine the scope of the project outlined in the Blue Ribbon Task Force report and to research finance alternatives, choose an architect through an RFQ process to create a design, create public outreach and engage the community in the process. Council requested the Task Force report back to Council no later than September 2010. Lewis thanked the Task Force members for all of their help and Phil Warnes who created valuable cost estimates for the project on a pro bono basis. Lewis concluded that the Task Force created a Statement of Qualifications (SOQ) and all associated exhibits, cost estimates and a financing alternatives report.

Steve Dostart, Task Force member, stated that the Committee was productive and worked amicably together. He thanked Council, Town Center Task Force members and Phil Warnes. Dostart said the Task Force worked with staff on the legalities of the SOQ. The Task Force interviewed all of the department heads and reviewed their space need numbers to establish a current and accurate picture in light of the new economic climate and discussed where positions can share offices, counter space and break rooms. Dostart said the Task Force took into consideration how staff and the public would feel about spacing needs. Dostart said after speaking with department staff the underground parking concept outlined in the Blue Ribbon Task Force report was eliminated which saves the Town millions of dollars. Dostart said the Task Force looked exhaustively at several different scenarios for the project which Phil Warnes gave cost estimates for. Dostart concluded that the documents created by the Task Force can be used now or in the future.

Phil Lively, Town Center Task Force member, said he tasked with creating the matrix for scoring the architects. Lively said the matrix creates a process which eliminates any bias in choosing an architect.

Dostart said the said the cost benefit for renovating a new town center as opposed to rebuilding is about three to five percent. Dostart added that the Task Force is recommending building a new

facility because it will have a significant reduction of construction time versus the phasing construction time of remodeling or renovating an existing structure; i.e., approximately 18 months for new construction versus three to four years for renovation. Dostart said the Task Force had regular input from the Library Task Force liaison and took into consideration the possible opportunity of that building becoming available to the Town. The Task Force recommends using it as Town storage if it were to become available to free up space in the proposed new facilities. Dostart discussed possible financing options outlined in the report which include potential donations and a ballot measure for Build America Bonds or traditional tax-exempt bonds.

Phil Warnes, SigmaTech, said he went through documents at Planning and Building and toured the entire facilities within the Town to create the cost estimates in the report. Warnes said he completed a similar project in San Carlos for the Police Department.

Mayor McKeithen said she recently toured the new Portola Valley facilities and questioned whether their process could work for the Town.

Council Member Lewis said the process document was carefully looked at and the Task Force looked at several different options and all steps that need to be taken in order to complete the project from beginning to end.

Council Member Marsala said the Town Center Task Force did great work. He encouraged the Task Force to look at Build America Bonds and review the work done on new facilities in the Town of Orinda.

Council Member Carlson thanked the Town Center Task Force members for their professional interaction with each other and Town staff.

Mayor McKeithen suggested that the Task Force go ahead with the SOQ and continue to research financing options while taking into consideration potential outsourcing.

Mayor McKeithen opened up public comment.

Jon Buckheit said he would not want to see the Town spend money on new facilities if they are choosing to outsource the Police Department in the near future.

Mayor McKeithen explained that if the Police Department is ever outsourced they could still be housed in Atherton.

Denise Kupperman encouraged Council to look at options of pursuing the SOQ because staff needs more appropriate work space.

Pat Haines, Town Center Task Force member said she is very proud of the process document and added that a timeline needs to be established.

Bill Widmer said that at the last Council meeting Council said the Town is heading for a financial disaster; Widmer questioned why they are thinking of spending this money.

Mayor McKeithen questioned whether there needs to be a design to move forward.

Rose Hau, Task Force member, said an honorarium is being recommended for three architects.

Council Member Marsala said the building department has raised \$1.8 million in a reserve for the building department for the new facilities. Marsala said it would be fair to give the residents the option on whether they will support Build America Bonds.

Dostart concluded that the developing process takes a long time and now is the Town's chance to lock in lower costs.

**MOTION by McKeithen, second by Marsala to approve the Town Center Task Force to move to next phase by issuing a request for statement of qualifications for purposes of selecting a design of a new Town Center and continue to research and collect financing options and create public outreach and to bring back the SOQ to the next Council meeting with specific direction on the agenda for final approval.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**27. A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF REAFFIRMING THE TOWNS COMMITMENT TO THE PUBLIC RECORDS ACT**

**Report:** City Manager Jerry Gruber

**Recommendation:** Approve Resolution 10-54 reaffirming the Towns commitment to the Public Records Act

Jon Buckheit said the Town's history with the Public Records Act has been horrible. Buckheit said he made a request for a police report that is now the worst example of a response in California. Buckheit said a YouTube video of the City Manager reading from a script to obstruct records is horrendous and there is a pattern of this within the Town. Buckheit concluded that the legal fees associated with reviewing and redacting public records is not a good use of taxpayers' dollars.

Vice Mayor Dobbie felt a paralegal ought to be doing the redacting.

Council Member Lewis said if the majority of the Town knew how much some of these requestors are asking for they would not be happy; in some cases entire databases full of resident names and personal information and phone numbers are being requested.

City Attorney Furth said typically most requests are handled by staff. Furth said her firm will review special circumstances such as review and redaction of a police report and personnel issues and balancing privacy matters with the general public. Furth concluded that responding to public records request can be complicated when you have competing goods such as transparency and privacy.

Council Member Marsala supports staff efforts and pointed out that a lot of the hours spent on the responding are done at the lower level.

Council Member Carlson said the underlying issue is that the Town is committed to becoming more efficient from here forward.

**MOTION by Lewis, second by Carlson to approve Resolution 10-54 reaffirming the Towns commitment to the Public Records Act. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**28. FIRST PROGRESS REPORT FROM THE FINANCE COMMITTEE ON THE FIVE-YEAR FINANCIAL FORECAST AND APPROVE THE USE OF ACTUARY**

**Report:** Finance Director Louise Ho

**Recommendation:** Receive the first progress report from the Finance Committee and approve the use of actuary

Finance Director Ho said The Finance Committee met on September 7, 2010, to discuss the materials distributed by Committee Member Alain Enthoven on pension, post retirement health care and alternative sources of police services for the Town. The Committee is requesting approval of an outside actuary, an intern for special projects and software for financial forecasting.

Council Member Lewis asked how much the actuary would cost. Ho said the Committee needs to meet to further discuss costs and a detailed scope of work.

Assistant City Manager Wilkerson said the use of an intern would require fingerprinting and background checks for security purposes and the Town would need to offer the proper amount of college credits. Wilkerson said an intern needs to recognize the seriousness of the environment they will be working in.

Mayor McKeithen and Vice Mayor Dobbie both expressed concerns with the amount of time it takes for the Town to process free services.

**MOTION by Carlson, second by Lewis to receive the first progress report from the Finance Committee and approve the use of actuary, an intern for special projects and software for financial forecasting. The motion passed.**

Ayes: 5      Nays: 0      Abstain: 0      Absent: 0

**29. RECLASSIFICATION OF THE “TEMPORARY” ADMINISTRATIVE ASSISTANT TO THE POLICE CHIEF TO “REGULAR” EXECUTIVE ASSISTANT/POLICE DEPARTMENT**

**Report:** City Manager Jerry Gruber

**Recommendation:** Reclassify the employment status of the temporary Administrative Assistant to the Police Chief to regular employment status, approve designation to the job classification Executive Assistant, set full time equivalent to 1.0 FTE and Set the Bargaining Unit as Confidential

Council tabled this item to a future agenda.

**30. CODE OF CONDUCT TRAINING**

**Report:** City Manager Jerry Gruber

**Recommendation:** To Be Determined

Mayor McKeithen recommended waiting for code of conduct training until the new Council is in place in January.

Council Member Carlson agreed.

Vice Mayor Dobbie said he does not believe he needs the training.

Council agreed to table this until 2011 when a new Council is in place.

**31. COUNCIL REPORTS**

Nothing further to add to written reports.

**32. FUTURE AGENDA ITEMS**

None.

**33. PUBLIC COMMENTS**

None.

**34. ADJOURN**

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

Mayor McKeithen adjourned the meeting at 10:47 p.m.

**Respectfully submitted,**

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**Theresa DellaSanta  
Deputy City Clerk**