



**MINUTES**  
**Town of Atherton**  
**CITY COUNCIL**  
**ATHERTON CHANNEL DRAINAGE DISTRICT**  
**NOVEMBER 18, 2009**  
**7:00 p.m.**  
**JENNINGS PAVILION**  
150 Watkins Avenue  
Atherton, California  
**REGULAR MEETING**

Mayor Carlson called the meeting to order at 7:10 p.m.

**1. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by 4<sup>th</sup> grade Atherton resident Daniel Longaker.

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

**3 PRESENTATIONS**

**RED RIBBON WEEK AWARDS –Police Lieutenant Mike Guerra**

Lieutenant Mike Guerra presented awards to poster contest winners for the D.A.R.E. program from St. Joseph's and Encinal Schools. The theme for the Red Ribbon Week contest was, "I have better things to do than drugs." First place recipients received a D.A.R.E. ball of their choice and \$50 in gold coins. Second place recipients received a D.A.R.E. ball of their choice.

**4. PUBLIC COMMENTS**

Peter Carpenter, Atherton resident, stated that the Police Chief is a very critical position and in his opinion should have broad community support. Carpenter added that a Police Chief appointed in a non-competitive process can not have the support of the citizens he serves.

Jean Shaaf, Atherton resident, expressed her tremendous sadness at her recent experience with the Town Administration regarding the Atherton Arts Committee. Shaaf asked for a rationale and clear explanation of the tactics employed by the Town Administration in holding up the Arts gallery.

Colleen Anderson, Atherton resident, stated she was surprised by Chief Nielsen's retirement. Anderson said she requested through email the reason for Nielsen's retirement and the reason for hiring the new Police Chief.

Melinda Tevis, Atherton resident, said she wanted to know what the selection process was for hiring the new Police Chief. Tevis asked why the former Finance Director John Johns situation has not been resolved and why it is being carried on for so long.

**5. REPORT OUT OF CLOSED SESSION**

**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; Eileen Wilkerson, Assistant City Manager  
Employee Organization: Confidential Employees

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

*John P. Johns v. the Town of Atherton*, San Mateo County Superior Court Case No. CIV 479972

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

**Title: City Attorney**

City Attorney Wynne Furth reported that there was no reportable action from the Regular Closed Session and that the Closed Session is continued until later that evening.

**6. CITY MANAGER’S REPORT – Written Report**

City Manager Jerry Gruber said he will begin to keep the Council and community apprised of the High Speed Rail technical working group, the Gateway project and Specific Plan project in Menlo Park, and the Saltworks project in Redwood City.

City Manager Gruber stated that Chief of Police Glenn Nielsen has announced his retirement effective November 28, 2009. Gruber said he has appointed Lieutenant Mike Guerra as the next Chief of Police effective November 29, 2009. Gruber said that the transition will be smooth and the level of Police service for Atherton residents will continue at the highest level.

Council Member Marsala thanked Chief Nielsen for his work in Atherton which lasted over 30 years and added that Nielsen has worked past his retirement age. Marsala welcomed Mike Guerra in his new position.

Mayor Carlson said he asked Chief Nielsen why he was retiring. Chief Nielsen said it was purely economics and that he maxed out on his pension.

Council Member Lewis said she is disappointed Chief Nielsen is retiring but knows that it is based on his pension. Lewis added that Lieutenant Mike Guerra is highly educated and qualified and brings skills that the office of the Chief has never had before.

7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT** - None

**CONSENT CALENDAR** (Items 8-19)

Mayor Carlson tabled item 14 to a future meeting.

Vice Mayor McKeithen had an edit to the resolution in Item 15.

8. **APPROVAL OF OCTOBER 21, 2009 REGULAR MEETING MINUTES**

**Recommendation:** Approve October 21, 2009 Regular Meeting Minutes

9. **APPROVAL OF BILLS AND CLAIMS FOR SEPTEMBER 2009 IN THE AMOUNT OF \$917,569**

**Recommendation:** Approve Bills and Claims in the amount of \$917,569

10. **APPROVAL OF CALPERS RESOLUTION FOR EMPLOYER PAID MEMBER CONTRIBUTIONS – MISCELLANEOUS CATEGORY**

**Report:** Assistant City Manager Eileen Wilkerson

**Recommendation:** Adopt Resolution 09-42 Employer Paid Member Contributions – Miscellaneous Category

11. **APPROVAL OF CALPERS RESOLUTION FOR EMPLOYER PAID MEMBER CONTRIBUTIONS – SAFETY CATEGORY**

**Report:** Assistant City Manager Eileen Wilkerson

**Recommendation:** Adopt Resolution 09-43 Employer Paid Member Contributions – Safety Category

12. **APPROVAL OF CALPERS RESOLUTION – EMPLOYER PICK UP**

**Report:** Assistant City Manager Eileen Wilkerson

**Recommendation:** Adopt Resolution 09-44 Employer Pick Up

13. **ADOPT RESOLUTION 09-45 APPROVING POLICY – 3.4 MODIFIED (LIGHT) DUTY**

**Report:** Assistant City Manager Eileen Wilkerson

**Recommendation:** Adopt Resolution 09-45 Approving Policy 3.4 Modified (Light) Duty

14. **ADOPT RESOLUTION 09-46 APPROVING POLICY – 3.3 WORKERS' COMPENSATION AND RESCIND "STANDARD OPERATING PROCEDURES SUBJECT: WORKER'S COMPENSATION" DATED MARCH 19, 1997**

**Report:** Assistant City Manager Eileen Wilkerson

**Recommendation:** Adopt Resolution 09-46 Approving Policy 3.3 Workers' Compensation

15. **ADOPT RESOLUTION 09-47 APPROVING ADOPTION OF CALIFORNIA PUBLIC EMPLOYEES' SUPPLEMENTAL INCOME 457 PLAN**

**Report:** Assistant City Manager Eileen Wilkerson

**Recommendation:** Approve Resolution 09-47 approving adoption of California Public Employees' Supplemental Income 457 Plan and authorize the City Manager to enter into an Employer Adoption Agreement on behalf of the Town of Atherton

Vice Mayor McKeithen suggested that the third paragraph in the resolution be removed so the Town doesn't make any financial representation that might come back to haunt us.

**MOTION by McKeithen, second by Lewis to approve Item 15 with removal of the third paragraph in resolution 09-47. The motion passed.**

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

**16. CLARIFYING AMENDMENTS TO CITY MANAGER CONTRACT AMENDMENTS**

**Report:** City Attorney Wynne Furth

**Recommendation:** Approve the clarifying amendments to the Employment Agreement between the Town of Atherton and Jerome "Jerry" Gruber

**17. RESOLUTION AUTHORIZING AN ADJUSTMENT IN MUNICIPAL CODE PARKING FINES DUE TO SENATE BILL 1407**

**Report:** Police Chief Glenn Nielsen

**Recommendation:** Approve Resolution 09-48 authorizing an adjustment to increase Municipal Code parking violation fines in the amount of \$5

**18. RESOLUTION IN SUPPORT OF THE LOCAL TAXPAYER, PUBLIC SAFETY AND TRANSPORTATION PROTECTION ACT OF 2010**

**Report:** City Manager Jerome D. Gruber

**Recommendation:** Adopt Resolution 09-49 in support of the Local Taxpayer, Public Safety and Transportation Protection Act of 2010

**19. POLICE DEPARTMENT VEHICLE PURCHASE**

**Report:** Police Lieutenant Mike Guerra

**Recommendation:** Authorize the purchase of one Ford Crown Victoria patrol car not to exceed \$25,094.00.

MOTION by Lewis, second by Dobbie to approved the Consent calendar with the exception of Items 14 and 15. The motion passed.

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

**PUBLIC HEARINGS (20)**

**20. ADOPT RESOLUTION 09-32 TO APPROVE MASTER FEE SCHEDULE SETTING MISCELLANEOUS FEES FOR TOWN SERVICES**

**Report:** Finance Director Louise Ho

**Recommendation:** Conduct a Public Hearing and Adopt resolution 09-32 approving Master Fee Schedule for miscellaneous fees for Town services

Finance Director Ho said that Council continued this item from September Council meeting in order to give the public last opportunities for input and education into the master fee schedule. Ho added that staff is requesting the Building Department fees be continued to the next Council meeting.

Jeanette Hahn, NBS, gave a brief presentation on the November 5 Community meeting attended by a small but representative group of residents and was a very productive. Hahn said she did not modify the fee schedule based on the community meeting but is prepared to give recommendations based on the meeting.

Hahn said that concern for the burdens placed on individual residents within the community was a recurring concern at the Community meeting. Some of the basic concerns of the residents were the predictability of total costs to a project. Hahn felt that it is a policy decision for Council to consider whether to reflect budget considerations and the burden on individual residents in the final fee schedule.

Hahn said the second concern that came up was the balance of whether the Town is paying for these services with general tax resources in the community or the fees that are being collected. Hahn said that the consensus of the group was that community-based programs should be paid for by the community as a whole. Hahn added that another concern was that fees may be taxes and that the cost might make the community too exclusive.

Hahn concluded that the third and final concern from residents at the community meeting was the cost of service basis itself which include that indirect costs loaded in the fees are unreasonable, fees should cover the incremental cost and not attempt to recover “sunk” costs such as overhead.

Hahn said specific fees that were discussed were the concern for reasonable cost deposits on landscape screening deposits, second utility deposits and temporary occupancy deposit. Hahn said that the fees were proposed to be increased to \$10,000 in September but since then staff has recommended keeping the deposit fees at \$5,000. Hahn concluded that residents are still concerned that \$5,000 is too high.

Hahn said that residents were worried that encroachments permit fees would be a burden to smaller projects in the community. Hahn added that residents weighed in on Park fees and the emphasis on public versus private benefit of a community park. A concern was brought up on whether recovering costs through fees contradicts having a community public space; and that the community residents do specific fundraising to benefit the park and whether or not this should be considered in the fee schedule.

Marsala asked why there is a difference in rate during the week and the weekend. Hahn said that on a non-peak period you can rent it for a small period of time whereas during the weekend you are renting it for an entire day.

Hahn stated that when renting the facilities in the Park the Town actually loses money and will continue to do so unless they choose to change the level of service on an annual basis and the services provided for setting up and tearing down for a meeting.

Vice Mayor McKeithen stated that residents who feel that recovering costs through fees contradicts having a community public space have not read the gift document by which the Park was given to the Town which states that the Park is supposed to be self-supporting and for a long time it has not been.

Hahn said that in the Building Department fees Council will continue to face the question about valuation-based fees. Specific comments made were that the current and proposed fee structure

which is a basis for differentiation costs incurred to review and inspect a project does not accommodate the wide range of construction types or the inherent costs in Atherton.

Hahn concluded that the modifications should be considered before approving the master fee schedule. The modifications include banner fees which should be a fee of \$0 for anything town-related, in the Planning fees the word “initial” be added in front of the word deposit, and the second utility deposit, landscape screening deposit, temporary occupancy deposits and excavation road damage deposit remain at the current level of \$5,000 with an administrative fee attached to it.

Mayor Carlson pointed out that in the Council Agenda packets where both a proposed fee schedule for all Departments and a proposed schedule excluding the Building Department fees. Council concurred to look at the proposed schedule excluding the Building Department fees only and defer the Building Department fees to a future Council meeting.

Carlson opened up for public comment.

Loren Gruner, Atherton resident, said that the November 5<sup>th</sup> meeting was a good meeting and she thanked the Town for holding it. Gruner asked what kind of focus can be put on marketing events in the park so that the cost could be spread over more events.

Carlson suggested that this be explored at the 2010 Council strategic planning workshop.

Denise Kupperman, Atherton Dames, said that the Dames have been a part of just about every improvement project in the park from the generosity of citizens through fundraising events. Kupperman concluded that there is a clause in the Park Will that states the Park is to be self-sufficient.

Joe Comartin, thanked the Town for the Community meeting and added that it was well run and well advertised. He added that it demonstrated Council’s willingness to hear the residents.

Colleen Anderson, said she did not know about the November 5 Community meeting and had she known she would have been there to talk about the R1A lots. She asked Council to consider anything 10,000 feet and smaller in an R1A lot be looked at.

Carol Flaherty, Atherton resident, complimented the Town on their advertisements of the Community meeting and said she doesn’t see how the Town could have done more to advertise. Flaherty said indirect costs can be recouped only if they are directly attributable to direct costs. The most she has ever heard of is a 35% indirect calculation.

Carlson closed for public comment.

Council Member Lewis felt there were two things Council needed to consider before approving the fee schedule; what is the Towns overall basic philosophy for charging fees to Town residents and what is the minimum fee the Town can charge to provide services and not lose money or become financially insolvent. A Government entity is not a profit center and fees must be reasonable and justifiable. Lewis concluded that Council needs to look at the underlying costs of providing services and come up with the most cost-effective approach.

Council Member Marsala said he would like to review the Park Will. Marsala felt that Council should explore what services residents are entitled too. Marsala requested that if the Town is in a situation where they have used up all the money in their contract with NBS, that NBS come to them for a request for an amendment before the money is depleted. Hahn stated that the Town is still well within their scope of work that was agreed to.

McKeithen felt that the banner installation policy should be rectified with regards to the Town's Committee and Commissions not being charged, planning fees should be modified as requested and the second utility deposits and excavation deposits should be sustained at the current levels. McKeithen felt that the encroachment fee should include one or two inspections costs in the fee schedule.

Carlson asked how depreciation and fixed fees were factored in with regard to Park fees. Hahn stated that she did not factor in depreciation in the true accounting sense. She treated the program like an enterprise, wherein, funding "depreciation" means that you factor in the ongoing costs of asset renewal and replacement. Hahn said in the case of the Town's Parks program, she has factored into the cost of service basis for fees the annual cost of facility maintenance - which keeps the facilities in a condition to be rented - not just the incremental cost of the event

Carlson brought up the banner installation policy. Council Member Marsala felt that if staff is already out taking one banner down then they should not charge to put another banner up if the crew is already out there. Marsala added that banners allow people to promote the Park for recreational use.

Lewis raised concern on the encroachment fees and what the minimum number of inspections is. Public Works Director Duncan Jones said that staff went through all of the different types of driveways Atherton has and the basic minimum is three inspections and possibly more if a drainage system is going in or a concrete driveway is being installed.

Lewis said that Council should study the philosophy of how they treat the residents and come up with new ways of keeping the public involved. Lewis felt that the fee schedule should be held off until the Building Department fees are completed.

Carlson said the master fee schedule will be constantly evolving and continually evaluated and Council should always be looking for efficiencies and ways to reduce the costs that result in fee reductions.

City Attorney Furth recommended changes to Resolution 09-32 approving the master fee schedule.

**MOTION by McKeithen to adopt the master fee schedule with changes to the Planning fees to modify "deposit" to say "initial deposit", to designate no charge for banner installation or removal for any town-related banner and defer the building department fees to a future meeting and approved changes to the resolution made by City Attorney Furth. The motion passed.**

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

**REGULAR AGENDA (Items 21-27)**

**21. SCHEDULE OF INTERVIEWS AND/OR APPOINTMENTS TO THE AUDIT COMMITTEE**

**Report:** City Manager Jerome D. Gruber

**Recommendation:** To Be Determined

Both candidates, Atherton residents Randy Lamb and Bill Widmer, gave the Council a brief background of their qualifications.

A short discussion ensued regarding expansion of the Audit Committee to allow both candidates to sit on the Committee.

**MOTION by Marsala, second by Carlson to bring expansion of the Audit Committee to the December Council meeting. The motion passed.**

Ayes: 3      Nays: 2 (Dobbie, McKeithen)      Abstain: 0      Absent: 0

Council voted by ballot to select the Audit Committee candidate. The following are results of the vote:

Bill Widmer - 4 votes (Carlson, McKeithen, Marsala, Dobbie)

Randy Lamb - 1 vote (Lewis)

**MOTION by Marsala, second by Carlson to appoint Bill Widmer to complete term of Chairman Sam Goodman (who resigned) for a term which expires April 30, 2010. The motion passed.**

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

**22. APPOINTMENT OF EDWIN ULLMAN TO THE ARTS COMMITTEE**

**Report:** City Manager Jerome D. Gruber

**Recommendation:** Appoint Edwin Ullman to the Arts Committee for a term to expire April 30, 2012

Betty Ullman spoke on behalf of her husband Edwin Ullman who is requesting to serve on the Art Committee as an official member since he has been working closely with the Arts Committee in the last year.

Jean Shaaf, Arts Committee member, was concerned about a possible Brown Act violation having a husband and a wife both serve on the same Committee.

City Attorney Wynne Furth said that the Brown Act allows less than a quorum to meet and discuss official Committee business. In this case a quorum would be three and therefore the Ullman's are not violating the Brown Act.

**MOTION by Lewis, second by Carlson to appoint Edwin Ullman to the Arts Committee for a term to expire on April 30, 2012. The motion passed.**

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

**23. APPROVAL OF BLUE RIBBON TASK FORCE REPORT ON NEED FOR ADDITIONAL PUBLIC SERVICES SPACE**

**Report:** City Manager Jerome D. Gruber

**Recommendation:** Accept and Approve Blue Ribbon Task Force Report on Additional Spacing Needs for Public Service and Provide Possible Future Direction or Potential Disbandment

William Grindley, Atherton resident and Blue Ribbon Task Force member, gave a Power Point presentation on the spacing needs for public service. [A copy of the presentation is available in the City Clerks office].

Grindley said that originally the Task Force was given the charge to look at the political, economic and financial feasibility of a new town center. Grindley said that the Town has buildings that do not conform to California's seismic, fire, or other codes; nor provide the space for nearly twice as many employees as in 1965 when Atherton last built a center for its police, administration and other functions.

Grindley said the Task Force estimates the town needs about 27,000 square feet (it now has about 14,000) that will conform with federal ADA and EEOC requirements; and to the specialty construction and furnishing needed to meet the State's Essential Facilities requirements, as well as an Emergency Operations Center. Grindley said that currently, no Town restroom meets ADA requirements, and the sole bathroom in the police and dispatch area serve male and female officers, suspects, witnesses as well as intoxicated and often ill individuals. Active storage, now in the attic of the 1965 building is both an earthquake and fire risk, and the 12 year old 'temporary' modules are at the end of their useful lives.

Grindley said the 70 page report reflects community ideas indicating the town center should stay near its present location, should be either contemporary or Mission style architecture (like the 1920s chambers); and be a series of linked pavilions if construction must be staged due to financial challenges. Total costs were estimated around \$15M including parking, landscaping and professional fees.

The Blue Ribbon Task Force was led by Council Members Marsala and Dobbie, and included representatives from four community organizations.

Grindley said that the Task Force does not support building extra expansion space for rent because that would cause a traffic impact.

Grindley said there has been a lot of political will in Town to do something about the inadequate Police facilities and to preserve and protect the town center.

Grindley suggested that Council move forward with putting together a finance committee to look at options for funding the new town center.

Council Member Marsala said that the Blue Ribbon Task Force did vote to recommend that Council put a bond on the ballot which would be roughly \$200 to \$300 per household.

Vice Mayor McKeithen asked how Grindley envisions a Committee for financing options for the town center and what kind of time table does he expect. Grindley said the Committee will need experts who know what options and ideas are best for financing the town center. Grindley added that there has been controversy with library donor funds and stated for the record that the Blue Ribbon Task Force voted down using any library donor funds for financing the town center.

Marsala said the Task Force had very heated conversations and not all of the votes were unanimous. Marsala added that there was controversy with the library funds and that Council gave clarification that the library funds could be used if recommended. Marsala concluded that Council should work with the residents on either renovating the library or expanding it to the Council Chambers. Marsala said the Task Force voted for this at one point and then against it and felt that more outreach to the public for their opinion should be done.

Council Member Dobbie thanked the Blue Ribbon Task Force members for their work and said everyone did a great job. Dobbie said that his opinion is there are two option to finance a new town center with one being bonds and one being mortgages. He recommended Council appoint a finance committee specifically for this purpose.

Council Member Lewis commended the Blue Ribbon Task Force who were very instrumental in finalizing the report through lots of oppositions, opinions and setbacks. Lewis said Council should look at creating a two-prong approach which would consist of a public outreach campaign and a finance committee.

Mayor Carlson thanked Grindley for his help in putting together the report and presenting it to Council. Carlson said the Heritage artifacts are a library type situation where they library could possibly dedicate a room to the Heritage Foundation. Carlson concluded that a mortgage or bond could be a possibility for financing a new town center.

Carol Flaherty, Atherton resident, stated that \$15 million dollars to build a new town center at 27,000 square feet would cost approximately \$550 per square foot.

Bill Widmer, Atherton resident, said that there are other ways to finance a new town center besides bonds, mortgages and taxes. He added that the United States Parks Association does some funding for historical building renovations. Widmer concluded that beginning with architectural studies, public outreach, and grant development which can be completed in 12 months is a start then move onto financing options.

Kimberly Sweidy, Atherton resident, suggested that Council look at what the mission of the Town is and find out how they can best serve their residents before they ask the residents to fund a new town center.

Marsala said that the Task Force researched potential donors and felt that the finance committee should test waters with people interested in private donations. Lewis reiterated that two Committees should be formed, one for public outreach and one for finance options of a new town center.

**MOTION by McKeithen, second by Carlson to accept the Blue Ribbon Task Force Report on Additional Spacing Needs for Public Service and direct the formation of a finance committee to look at finance options for a new town center in which Council will submit names to the City Manager and direct the finance committee to explore a potential public outreach**

**Committee or any other Committee which needs to be formed for the purpose of a new town center. The motion passed.**

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

**24. DRAINAGE CRITERIA UPDATE**

**Report:** Public Works Director Duncan Jones

**Recommendation:** Receive information and give direction to staff for future actions to update the Drainage Criteria and to modify the Grading, Erosion and Sediment Control ordinance.

Public Works Director Duncan Jones gave a Power Point presentation on the Drainage Criteria. [A copy of the presentation is available in the City Clerks Office.]

Jones said the drainage criteria was first studied in 2006 when several public workshops were held and the ordinance was modified, the criteria was adopted effective at the end of 2007 calendar year. Jones said the primary goal of the drainage criteria is to protect the downstream neighbors of any project that is being done. Jones said the drainage criteria methodology to do this comes from the Regional Water Quality Control Boards manual which is to mimic site's predevelopment hydrology and protect property from 100 years flow.

Jones reviewed the requirements of provisions C.3 which is promulgated by the Regional Water Quality Control Board who were mandated to promulgate the requirement by the Federal Environmental Protection Agency. The provision is to prevent pollution. Jones concluded that Atherton's provision is to prevent flooding downstream. [Further information regarding the C.3 provision and drainage criteria is included in the presentation and staff report].

Council Member Dobbie departed the meeting at 10:41 p.m.

Mayor Carlson opened up for public comment.

Gustavo Edelstyn, Atherton resident, asked what method the Town is using for streets that need improvements.

Jones said the Town is currently implementing projects that have retention to include pipes in the street. He added that in the future Town streets will need more elaborate detention systems. Jones concluded that the streets that are being resurfaced or reconstructed are not covered by the C.3 requirements.

Colleen Anderson, Atherton resident, stated that a young boy had an accident and did not survive in the Town's drains back in the 1960's.

Jon Venverloh, Atherton resident, said his Civil Engineer is still confused by these requirements. Venverloh said provisions require that each system on an individual homeowners property handle the rain water in a 25-year flood whereas provisions in C.3 say that these systems need to be required to handle a typical flood. Venverloh asked how many years it will take before all homes in Atherton have this system in place, will future generations of Atherton have to deal with this, and how will the Town prevent water from uphill properties from using privately funded systems.

Jon Venverloh read a letter for the record written by Ned Patchett, a certified Arborist in Moss Beach, California.

Carol Flaherty, Atherton resident, said detention ponds are good for properties with a lot of land. She added that the issue is the magnitude of what is being asked.

Walter Sleeth, Atherton resident, said he is amazed at what some residents have had to go through to meet the requirements of these systems and doesn't understand the science behind it.

Kimberly Sweidy, Atherton resident, said that she spoke with Town staff about the requirements and still does not understand them. Sweidy added that she has a retention system that does not drain and she is impacting all the oaks because her property is flooding. Sweidy said somebody needs to bring a mandate to handle these situations the right way.

Loren Gruner, Atherton resident, said she is concerned with the amounts of money being spent to engineer the system. Gruner suggested looking at ways to fix this and make the requirements less detrimental to property owners

Jeff Wise, Atherton resident, said the presentation did not deal with the Ordinance put in place covering the drainage criteria and felt that Council should look into this and find something that is less restrictive and more reasonable for Atherton residents.

Joe Comartin, Atherton resident, said from his experience with building these retention systems they do not work well in the Town of Atherton because most properties are characterized by very dense clay soil. Comartin concluded that the maintenance agreement is onerous and unreasonable and should be revised.

Denise Kupperman, Atherton resident, thanked Duncan for the presentation. Kupperman added that the drainage channel was built in the 1950's to handle the Towns drainage system and there was no system put into place to drain from the properties. The amount of development has changed over time and now we must decide if it is the individual property owner's responsibility or the Town's and are the Town's requirements overly onerous.

Mayor Carlson closed the public comment.

**25. PRESENTATION OF THE RESULTS OF ATHERTON'S GOVERNMENT OPERATIONS EMISSIONS INVENTORY**

**Report:** Kathy Hughes Anderson

**Recommendation:** No Action Required

This item was tabled to a Special City Council meeting.

**26. COUNCIL OF CITIES DECEMBER MEETING – COUNCIL GUIDANCE ON VOTING MATTERS**

**Report:** City Manager Jerome D. Gruber

**Recommendation:** Council to give guidance direction to San Mateo County Council of Cities representative (Vice Mayor McKeithen) and alternate representative (Council Member Lewis) on voting matters at the December 18, 2009 annual holiday dinner

This item was tabled to a Special City Council meeting.

**27. APPROVAL OF RESOLUTION RESCINDING RESOLUTION 05-34 AND DIRECTING REFUND OF FEES PAID ON OR AFTER AUGUST 20, 2009**

**Report:** City Attorney Wynne Furth

**Recommendation:** Adopt Resolution 09-50 Rescinding Resolution No. 05-34 (Establishing a Road Impact Fee) and Directing Refund of Fees Paid on or after August 20, 2009

This item was tabled to a Special City Council meeting.

**28. COUNCIL REPORTS**

Nothing further to add to written reports.

**29. FUTURE AGENDA ITEMS**

Council Member Marsala asked that review of the seismic upgrades and concerns be added to a future agenda.

Council Member Lewis requested that expansion of the Finance Committee be added to a future agenda.

Mayor Carlson suggested that these items be discussed at the 2010 strategic planning workshop. Council concurred.

**30. PUBLIC COMMENTS**

None.

**31. ADJOURN**

Mayor Carlson adjourned the meeting at 11:31 p.m.

**Respectfully submitted,**

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**Theresa DellaSanta**  
**Deputy City Clerk**