



MINUTES
Town of Atherton
CITY COUNCIL
September 16, 2020
CLOSED SESSION &
REGULAR MEETING

Mayor DeGolia called the meeting to order at 7:00 pm

6:00PM CLOSED SESSION MEETING

ROLL CALL - Wiest, Widmer, Lempres, Vice Mayor Lewis, Mayor DeGolia

PUBLIC COMMENTS - Public Announcement of Closed Session Items

A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION - Significant exposure to litigation pursuant to Government Code Section 54956.9 (b) (one potential case)

7:00PM REGULAR SESSION MEETING – *Convene as the City Council*

1. PLEDGE OF ALLEGIANCE

2. ROLL CALL - Wiest, Widmer, Lempres, Vice Mayor Lewis, Mayor DeGolia– Present

3. PRESENTATIONS

Retired K-9 Qancy – Mayor DeGolia read and presented the proclamation to Police K-9 Qancy for his years of service. Qancy was accompanied by his handler Sergeant Krystal Pronske.

Norma Fogelberg, A.D.A.P.T Member – Mayor DeGolia read and presented the proclamation to Norma Fogelberg, former A.D.A.P.T. Vice President for her service to the community.

4. PUBLIC COMMENTS - *None*

5. REPORT OUT OF CLOSED SESSION by City Attorney, Mona Ebrahimi

City Attorney Ebrahimi noted that Council met in Closed Session and direction was provided to staff.

6. CITY MANAGER'S WRITTEN REPORT

City Manager Rodericks briefly introduced the item.

Town Planner Costa Sanders responded to Council questions related to Regional Housing Needs Allocation (RHNA) numbers in Atherton versus other jurisdictions noting factors included in the methodology.

CONSENT CALENDAR (Items 7 – 15)

7. APPROVAL OF MINUTES – JULY 15, JULY 27, SEPTEMBER 2, 2020

8. APPROVAL OF BILLS AND CLAIMS FOR JULY IN THE AMOUNT OF \$ 4,914,756 AND AUGUST IN THE AMOUNT OF \$ 3,427,022

9. ADOPT A RESOLUTION DESIGNATING A VOTING DELEGATE AND UP TO TWO ALTERNATES FOR THE LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE, OCTOBER 7-9, 2020 – BEING HELD VIRTUALLY

Pulled for discussion by Vice Mayor Lewis

Vice Mayor Lewis initiated a discussion on the Resolution that will be voted on at the League of California Cities Annual Conference (League) related to social media censorship. presented noted that she pulled this item to discuss resolution at the event, having to do with social media censorship.

After a brief Council discussion City Manager Rodericks indicated that the Resolution being introduced by the League for voting will be presented to Council at the October 7, 2020 Study Session for discussion.

MOTION by Lewis, Second by Widmer to adopt a Resolution No. 20-20 designating Mayor Rick DeGolia as the voting delegate and Vice Mayor Lewis as the alternate for the League of California Cities Annual Conference, October 7-9, 2020.

AYES: Wiest, Widmer, Lempres, Vice Mayor Lewis, Mayor DeGolia

NOES:

ABSTAIN:

ABSENT:

10. ADOPTION OF RESOLUTION ACCEPTING EXPENDITURES FOR BALANCE OF FISCAL YEAR 2020-2021 SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND (SLESF), CITIZEN'S OPTION FOR PUBLIC SAFETY (COPS) GRANT

Adopted Resolution No. 20-21

- 11. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION FOR THE 2020 STREET PATCHING PROJECT, PROJECT NUMBER 56092**
- 12. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION FOR THE 2020 OVERLAY PROJECT, PROJECT NUMBER 56093**
- 13. ADOPT A RESOLUTION APPROVING APPLICATION(S) FOR PER CAPITA GRANT FUNDS**

Adopted Resolution No. 20-22

- 14. CERTIFICATION OF CONTINUING EMERGENCY AND RATIFICATION OF SUCH RULES AND REGULATIONS ENACTED BY THE DIRECTOR OF EMERGENCY SERVICES IN RESPONSE TO COVID-19 PUBLIC COMMENT**
- 15. ACCEPTANCE OF TREASURER'S REPORT FOR THE FOURTH QUARTER ENDED JUNE 30, 2020**

MOTION by Wiest, Second by Widmer to approve the Consent Calendar with the exception of Item 9, which was pulled for discussion.

AYES: Wiest, Widmer, Lempres, Mayor DeGolia, Vice Mayor Lewis

NOES:

ABSTAIN:

ABSENT:

PUBLIC HEARING (Item 16)

- 16. INTRODUCTION OF MUNICIPAL CODE ORDINANCE AMENDMENTS TO ATHERTON MUNICIPAL CODE CHAPTERS 17.52 ACCESSORY DWELLING UNITS AND CHAPTER 17.60 DEFINITIONS**

Principal Planner Davis presented the item detailing the history and proposed amendments within the Ordinance. She noted that the planning commission voted 3-1 to recommend the City council reject the amendments.

Council discussed the proposed Ordinance in detail and sought clarification on when the properties need to be occupied by the owner, compliance, and enforcement.

Davis clarified the 5-year rule that requires a property owner to occupy at least one of the residences on a property where an Accessory Dwelling Unit or Junior Accessory Dwelling Unit exist.

City Manager Rodericks highlighted areas of concern for enforcement or compliance for Council consideration.

Council Member Widmer noted his opposition to the State's position and encouraged Council advocate at the State level to object to legislation imposing this type of requirement onto the Town.

Council collectively expressed concerns for mandates from the State imposing on local jurisdiction control.

City Attorney Ebrahimi noted that Council maintains the ability to modify the Ordinance which could including adding certain deed restrictions.

The Public Hearing was opened and closed, there was no public comment.

Council requested City Attorney draft language to be included in the Ordinance noting the Town's position and other substantive limitations.

MOTION by Widmer, Second by Lewis to introduce Municipal Code Ordinance amendments to Chapter 17.52 "Accessory Dwelling Units" and Chapter 17.60 "Definitions" of the Atherton Municipal Code inclusive of added language to be provided by the City Attorney.

AYES: Wiest, Widmer, Lempres, Mayor DeGolia, Vice Mayor Lewis

NOES:

ABSTAIN:

ABSENT:

REGULAR AGENDA (Items 17-25)

17. DIRECTION REGARDING TOWN PARTICIPATION IN THE HEROES PROJECT

City Manager Rodericks presented the item.

Mayor DeGolia added some context and background on how this was introduced to him.

Council provided direction that this will not be a Town sponsored project.

18. DIRECTION TO STAFF REGARDING NEXT STEPS ON WITHDRAWAL FROM THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY (SBWMA)

City Manager George Rodericks provided an update on the item including the activity and ongoing conversations with Greenwaste Recovery. Rodericks noted the additional funds offered by GWR to close the deficit of the cost of withdrawal from the South Bayside

Waste Management Authority (SBWMA). He concluded that staff's recommendation remains that moving forward with GWR is the best option for the Town in the long-term.

Council Member Widmer added details related to figures of the GWR agreement.

Council discussed the specifics clarifying that the numbers from SBWMA for exit are final and unable to be appealed.

City Manager Rodericks provided an overview of his response to correspondence received by the Town from Recology.

Garth Schultz, R3 Consulting responded to Council inquires noting that R3 did not perform analysis on contracts with other jurisdictions. He noted some assumptions and projections variances with the R3 numbers versus the SBWMA.

PUBLIC COMMENT

Mike Kelly, Recology General Manager spoke in support of the Town retaining their partnership with the SBWMA / Recology and highlighted figures contained within the correspondence he provided to the Town.

MOTION by Lempres, Second by Wiest to continue with the negotiations with Greenwaste Recovery and authorize the City Attorney to prepare an agreement with Greenwaste Recovery and authorize the City Manager to execute and take all necessary steps to proceed with the exit from the SBWMA / Recology.

AYES: Wiest, Lempres, Mayor DeGolia, Vice Mayor Lewis

NOES:

ABSTAIN: Widmer

ABSENT:

19. AUTHORIZATION TO RELEASE A REQUEST FOR PROPOSALS FOR THE OPERATION AND MAINTENANCE OF THE PROPOSED LIBRARY CAFÉ

Public Works Director Ovadia presented the item and reviewed the Request for Proposal (RFP). He noted that the goal was for a lease to be executed with the selected vendor beginning December 2021.

Council inquired about allowing For-Profit entities respond to the RFP. Ovadia noted that the RFP can be revised to allow for vendors other than Non-Profits to respond and added a clear process for evaluating and ranking submissions will need to be included.

Council requested that staff be conscious of pricing and directed staff to broaden the RFP allowing For-Profit and Non-Profit vendors to respond.

Vice Mayor Lewis exited the meeting at 9:15 PM.

Council directed that staff revise the RFP and bring the item back for consideration at the October 21, 2020 Council Regular meeting.

20. DIRECTION ON MILLION-DOLLAR DONOR NAMING REQUESTS

City Manager Rodericks introduced the item.
Council collectively discussed a desire to finalize this item and reached a consensus.

MOTION by Wiest, Second by Lempres to accept the three (3) \$1 MIL donor naming requests as indicated by Atherton Now.

**AYES: Wiest, Widmer, Widmer, Lempres, Mayor DeGolia,
NOES:
ABSTAIN:
ABSENT: Vice Mayor Lewis**

21. DIRECTION REGARDING REVISIONS TO THE CITY COUNCIL HANDBOOK AND RULES OF PROCEDURE

City Manager Rodericks introduced the item and noted a few key proposed revisions.

Council discussed the need for an appeal process to decisions made by the Mayor, the idea of term limits for Council seats, the creation and dissolution committees and subcommittees and the powers held within, and a general clarification of the role and authorities of the Mayor and Council Members.

City Manager Rodericks and City Attorney Ebrahimi proposed revisions to how Committees and Subcommittees are created and operate.

City Attorney Ebrahimi noted that the Mayor was afforded the power to establish subcommittees so as to not be subject to the Brown Act. Council can add a section for Council to develop standing committees without the Mayor having to bring it forward first. As such, any Councilmember can bring it up and Council can then approve.

Council Member Lempres commented that the Mayor should implement the decision of the Council even if the Mayor gives a dissenting vote.

Council directed staff revise the Council Handbook with provided suggestions and bring the item back to Council for approval.

22. TOWN CENTER PROJECT UPDATE: AUTHORIZE THE CITY ATTORNEY TO PREPARE AND THE CITY MANAGER TO EXECUTE AN AGREEMENT ADMENDMENT WITH WRNS STUDIO FOR ADDITIONAL CONSTRUCTION ADMINISTRATION FUNDING; AUTHORIZE THE CITY ATTORNEY TO PREPARE AND THE CITY MANAGER TO EXECUTE A SETTLEMENT AGREEMENT WITH S.J. AMOROSO CONSTRUCTION COMPANY INC., AND

APPROVE THE PRELIMINARY FUTURE FOUNTAIN DESIGN OPTIONS AND LOCATIONS

Project Manager Hanneman provided an update on the Town Center Project and noted the completion date will move to late October 2021. Hanneman responded to inquiries related to the project budget.

Council Member Widmer noted the unavoidable impacts of COVID-19 on the project. He added that he supports the WRNS amendment.

Hanneman reviewed the term sheet provided for Council approval. He noted that the Library Fountain will remain as conceived.

MOTION by Lempres, Second by Wiest to authorize the City Attorney to prepare and the City Manager to execute an agreement amendment with WRNS Studio for additional Construction Administration funding in the amount of \$367,900.

AYES: Wiest, Widmer, Lempres, Mayor DeGolia,

NOES:

ABSTAIN:

ABSENT: Vice Mayor Lewis

Hanneman presented the second item concerning the dispute with S.J. Amoroso settling both CPE #13 and CPE#51. Hanneman presented the settlement agreement and term sheet for Council consideration.

MOTION by Wiest, Second by Lempres to authorize the City Attorney to prepare and the City Manager to execute a Settlement Agreement with S.J. Amoroso Construction Company Inc., to settle CPE#13 for \$112,000, and CPE#51 for \$245,000 for a total of \$357,000 and to extend the project completion schedule to October 29, 2021.

AYES: Wiest, Widmer, Lempres, Mayor DeGolia,

NOES:

ABSTAIN:

ABSENT: Vice Mayor Lewis

MOTION by Wiest, Second by Lempres to approve the preliminary future fountain design options and locations as presented.

AYES: Wiest, Widmer, Lempres, Mayor DeGolia,

NOES:

ABSTAIN:

ABSENT: Vice Mayor Lewis

23. COUNCIL REPORTS/COMMENTS

Council Member Widmer requested staff send out information to residents to complete the Census and provided information about COVID-19 available testing.

Mayor DeGolia noted communications to establish a regional group for Stanford development projects. He added that he intends to establish an ad-hoc committee to work on this topic.

24. PUBLIC COMMENTS – *None*

25. ADJOURN

Mayor DeGolia adjourned the meeting at 10:40 p.m.

Anthony Suber
City Clerk



MINUTES
Town of Atherton
CITY COUNCIL
October 7, 2020
SPECIAL MEETING

Mayor DeGolia called the meeting to order at 3:00 pm

3:00PM REGULAR AGENDA – *Convene as the City Council*

1. **ROLL CALL** - Wiest, Widmer, Lempres, Mayor DeGolia, Vice Mayor Lewis – Present
2. **PUBLIC COMMENT** - *None*
3. **CONSIDERATION OF AND APPOINTMENT TO THE AUDIT AND FINANCE COMMITTEE**

City Clerk Suber presented the item noting that the Audit and Finance Committee had one vacancy due to a mid-term resignation. reviewed the Audit and Finance Committee which has one vacancy, which once appointed the appointment would expiring on June 30, 2022

MOTION by Lewis, Second by Widmer to appoint Bob Polito to the Audit and Finance for a term expiring on June 30, 2022. Committee.

AYES: Wiest, Widmer, Lempres, Vice Mayor Lewis, Mayor DeGolia.

NOES:

ABSTAIN:

ABSENT:

4. **REVIEW, DISCUSSION AND DIRECTION REGARDING THE LEAGUE OF CALIFORNIA CITIES VOTING RESOLUTION**

City Manager Rodericks reviewed the report. He outlined the Resolution which urge Congress to amend Section 230 of the federal Communications Decency Act of 1996 to limit the immunity provided to online platforms where their forums enable criminal activity to be promoted.

Council discussed the merits and benefits of the Resolution noting monitoring this type of activity and enforcement will be a challenge.

There was consensus amongst the Council to support the League of California Cities Resolution.

STUDY SESSION

5. MEMORANDUM OF UNDERSTANDING WITH THE JOINT POWERS BOARD (JPB) REGARDING CLOSURE OF THE ATHERTON CALTRAIN STATION AND ASSOCIATED MAINTENANCE AND USE AGREEMENT FOR THE ATHERTON CALTRAIN STATION PROPERTY

Public Works Director Ovadia presented an overview noting the difficult financial challenges faced by Caltrain due to the COVID-19 pandemic. He added that Caltrain has initiated its process to potentially close the Atherton Station, including environmental review, Title VI Equity Analysis, a public outreach meeting and, most recently, a public hearing on September 3, 2020, to receive input on the potential closure of the station. Ovadia added that the measure on the November 3, 2020 ballot will assist with operations conceding that if it does not pass Caltrain may have issues maintaining operations.

Council questioned if improvements noted in the agreement would be completed regardless of if the Atherton Station is closed or not.

Sabastian Petty, Deputy Chief of Planning with Caltrain responded to Council inquires indicating what Caltrain budget is for improvements.

Council discussed safety improvements because of the closure, the potential for a reduction in noise, and the possibility of removing the station platform.

City Attorney Ebrahimi commented on the relationship established by the MOU between the Town and Caltrain and noted some ambiguity with certain terminology still being addressed by both parties.

Council collectively requested that the MOU language be refined and clarified and requested some additional terms be included. Council found consensus in moving forward with the closure and the MOU.

PUBLIC COMMENTS

Roger Mehrtens shared his opposition for the closure of the Atherton Train Station.

Nerissa Dexter spoke in support of the closure and commented on the great work the Council had done.

Roland Lebrun commented on safety concerns related to the station and ridership.

Frank Burke spoke in support of the closure and his pleasure with the work done by Council and staff.

Bijal Vakil spoke in support of the station closure.

This item will return to Council on the October 21, 2020 agenda for further action.

6. PROVIDE DIRECTION TO STAFF REGARDING EVENT MANAGEMENT SERVICES AT HOLBROOK-PALMER PARK

Public Works Director Ovadia briefly reviewed the staff report. He noted these facilities have been closed because of COVID-19. Ovadia noted that in order to maintain the availability of rental facilities and services at Holbrook-Palmer Park the Town requires the services of an event manager. He noted the temporary arrangement with Karina Harianto to provide event management services to continue operations.

City Manager Rodericks added that staff is recommending the extension of this temporary arrangement with the current event manager to allow time to craft an RFP designed to account for the current climate.

Council Member Widmer noted that there should be an option for vendors at the Library Café to also potential provide these services within the RFP.

City Manager Rodericks stated that staff can provide this as an option. Council provided direction to revise the RFP to include the specific vendors.

MOTION by Wiest, Second by Lewis to authorize an assignment agreement with Karunia Harianto with a Town option for an additional 6 months and prepare a Request for Proposal for Council consideration.

AYES: Widmer, Wiest, Lempres, Lewis, DeGolia

NOES:

ABSTAIN:

ABSENT:

7. BAYFRONT CANAL / ATHERTON CHANNEL FLOOD PROTECTION AND RESTORATION PROJECT MEMORANDUM OF UNDERSTANDING AND ASSOCIATED FUNDING AGREEMENT

Public Works Director Ovadia provide an update on the project. He noted project design is near completion and the project will be ready for public bid soon. He noted that a new agreement is needed to begin construction and funding arrangements. Ovadia noted key areas being worked out between the participating cities, which include short- and long-term ownership of the facility and long-term maintenance responsibility.

Council asked for clarification about the County Loan, the reserve requirements, and additional grant opportunities.

Ovadia clarified what the Town require contributions would be at \$1.35 MIL through the first 5-years of construction. He added that the County project funding would be provided by a lease-lease back provision that would be able to go into effect in December 2021 after Town Center construction is completed and the collateral properties are available .

Len Materman, CEO of the San Mateo County Flood and Sea Level Rise Resiliency District noted that his belief is the 15% is not needed and the entire funding could be done with the County funding. The entirety of the contribution can come in December 2021. Len Materman

clarified that time sensitive part is the mandate by the State for flood protection features, which should be concluded by December 2021.

Vice Mayor Lewis asked about the life expectancy of this improvement.

Ovadia clarified that it would be operational indefinitely, but there are components that need maintenance and replacement at various intervals.

Council continued to discuss the items including details about the easements and permits, clarification of ongoing maintenance costs,

Council collectively agreed with the MOU however is not in support of being responsible for ongoing maintenance and operations expenses beyond the 5-year agreement. Council provided direction and feedback requesting that it be incorporated into the MOU and come back to Council for approval.

PUBLIC COMMENTS

Public Comments were received in writing and posted for public review.

Gita Dev, Sierra Club noted that flooding is an environmental concern and will worsen unless action is taken.

Dave Pine, San Mateo County Board of Supervisor spoke in support of the Town of Atherton's participation in the project and the need for regional collaboration.

8. ADJOURN

Mayor DeGolia adjourned the meeting at 5:36 p.m.

Anthony Suber
City Clerk