



SPECIAL AND REGULAR MEETING AGENDA

Date: 11/10/2020

Time: 5:00 p.m.

Closed Session: Teleconference

Regular Meeting Location: Joinwebinar.com – ID# 371-149-155

NOVEL CORONAVIRUS, COVID-19, EMERGENCY ADVISORY NOTICE

On March 19, 2020, the Governor ordered a statewide stay-at-home order calling on all individuals living in the State of California to stay at home or at their place of residence to slow the spread of the COVID-19 virus. Additionally, the Governor has temporarily suspended certain requirements of the Brown Act. For the duration of the shelter in place order, the following public meeting protocols will apply.

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According to City Council policy, all regular meetings of the City Council are to end by midnight unless there is a super majority vote taken by 11:00 p.m. to extend the meeting and identify the items to be considered after 11:00 p.m.

Closed Session (Teleconference)

A. Call To Order

B. Roll Call

C. Closed Session

Public Comment on these items will be taken before adjourning to Closed Session.

- C1. Conference with Legal Counsel – Anticipated litigation: Significant exposure to litigation pursuant to § 54956.9(b)
Number of cases – 1

Regular Meeting (Joinwebinar.com – ID# 371-149-155)

D. Call To Order

E. Roll Call

F. Report from Closed Session

G. Public Comment

Under “Public Comment,” the public may address the City Council on any subject not listed on the agenda. Each speaker may address the City Council once under public comment for a limit of three minutes. Please clearly state your name and address or political jurisdiction in which you live. The City Council cannot act on items not listed on the agenda and, therefore, the City Council cannot respond to non-agenda issues brought up under public comment other than to provide general information.

H. Presentations and Proclamations

- H1. Proclamation: Ruby Bridges Walk to School Day ([Attachment](#))

I. Consent Calendar

- I1. Accept the City Council meeting minutes for September 29, October 5, 6, 13, 15 and 21, 2020 ([Attachment](#))
I2. Extend the San Mateo County Mosquito and Vector Control District term to December 31, 2023 ([Staff Report #20-241-CC](#))

- I3. Adopt Resolution No. 6597 dissolving the City's Sister City Committee and authorizing committee members to form a nonprofit to support the ongoing sister city program ([Staff Report #20-245-CC](#))

[Web form public comment on item I3.](#)

J. Regular Business

- J1. Consider the funding options for the City requested work to accompany Facebook's offer to rebuild community facilities located at 100-110 Terminal Avenue and the plan for interim services during construction ([Staff Report #20-243-CC](#) [Informe de Personal #20-243-CC](#))

[Web form public comment on item J1](#)

- J2. Amend the City Council adopted 2020-21 budget and salary schedule ([Staff Report #20-244-CC](#)) ([Presentation](#))

- J3. Adopt Resolution No. 6598 approving the Town of Atherton withdrawal from the South Bayside Waste Management Authority ([Staff Report #20-246-CC](#))

K. Informational Items

- K1. City Council agenda topics: November 2020 to January 2021 ([Staff Report #20-242-CC](#))

L. City Manager's Report

M. City Councilmember Reports

N. Adjournment

At every regular meeting of the City Council, in addition to the public comment period where the public shall have the right to address the City Council on any matters of public interest not listed on the agenda, members of the public have the right to directly address the Council on any item listed on the agenda at a time designated by the chair, either before or during the City Council's consideration of the item.

At every special meeting of the City Council, members of the public have the right to directly address the City Council on any item listed on the agenda at a time designated by the chair, either before or during consideration of the item. For appeal hearings, appellant and applicant shall each have 10 minutes for presentations.

If you challenge any of the items listed on this agenda in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Menlo Park at, or prior to, the public hearing.

Any writing that is distributed to a majority of the City Council by any person in connection with an agenda item is a public record (subject to any exemption under the Public Records Act) and is available by request by emailing the city clerk at jaherren@menlopark.org. Persons with disabilities, who require auxiliary aids or services in attending or participating in City Council meetings, may call the City Clerk's Office at 650-330-6620.

Agendas are posted in accordance with Government Code Section 54954.2(a) or Section 54956. Members of the public can view electronic agendas and staff reports by accessing the City website at menlopark.org/agenda and can receive email notification of agenda and staff report postings by subscribing to the "Notify Me" service at menlopark.org/notifyme. Agendas and staff reports may also be obtained by contacting City Clerk at 650-330-6620. (Posted: 11/5/2020)

PROCLAMATION

RUBY BRIDGES WALK TO SCHOOL DAY November 18, 2020

WHEREAS, Ruby Bridges is an icon of the American civil rights movement, who at the age of six years old in 1960, became the youngest member to integrate public schools in the American South; and

WHEREAS, segregation continued to exist in various states despite the Supreme Court of the United States' 1954 ruling in *Brown v. Board of Education* barring any state laws allowing racial segregation in public schools; and

WHEREAS, Ruby Bridges was the lone student of her group of African-American students to integrate William Frantz Elementary School in the City of New Orleans on November 14, 1960, being escorted by four federal agents while bravely walking amongst protesters full of vitriol; and

WHEREAS, the San Mateo County Board of Education adopted a resolution in 2019 declaring November 14, or the following Wednesday if it should fall on a weekend, to be henceforth annually known as Ruby Bridges Walk to School Day in the County of San Mateo, to celebrate the spirit of inclusivity; and

WHEREAS, up to 100 community members participated in Ruby Bridges Walk to School Day on November 14, 2019 in the Belle Haven neighborhood; and

WHEREAS, the City of Menlo Park Safe Routes to School program encourages children to bicycle and walk to school to develop life-long skills and independence in their community; and

WHEREAS, the County of San Mateo will participate in its second annual countywide Ruby Bridges Walk to School Day, partnering with local schools and the community in promoting walking to school and inclusive communities.

NOW THEREFORE, BE IT PROCLAIMED that I, Cecilia Taylor, Mayor of the City of Menlo Park, on behalf of the City Council, do hereby proclaim November 18, 2020 as Ruby Bridges Walk to School Day in the City of Menlo Park.

DocuSigned by:

4A373F6C54BE48A
Cecilia Taylor, Mayor
November 2020



SPECIAL MEETING MINUTES – DRAFT

Date: 9/29/2020
Time: 4:00 p.m.
Closed Session: Teleconference

CITY OF
MENLO PARK

Closed Session (Teleconference)

A. Call To Order

Mayor Taylor called the meeting at 4:14 p.m.

B. Roll Call

Present: Carlton, Combs, Nash, Taylor
Absent: Mueller
Staff: City Manager Starla Jerome-Robinson, Assistant City Manager Nick Pegueros,
Interim City Attorney Cara Silver, Interim Police Chief David Spiller

C. Closed Session

C1. Government Code Section 54957(b)

PUBLIC EMPLOYEE PERFORMANCE CHECK-IN

Title: City Manager

No reportable actions.

D. Adjournment

Mayor Taylor adjourned the meeting at 6:51 p.m.

Judi A. Herren, City Clerk

NOVEL CORONAVIRUS, COVID-19, EMERGENCY ADVISORY NOTICE

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menlopark.org/publiccommentSeptember29*
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SPECIAL MEETING MINUTES – DRAFT

Date: 10/5/2020
Time: 4:00 p.m.
Closed Session: Teleconference

Closed Session (Teleconference)

A. Call To Order

Mayor Taylor called the meeting at 4:07 p.m.

B. Roll Call

Present: Carlton, Combs, Nash, Mueller, Taylor
Absent: None
Staff: City Manager Starla Jerome-Robinson (arrived at 5:42 p.m.), Interim City Attorney
Cara Silver

C. Closed Session

C1. Government Code Section 54957(b)

PUBLIC EMPLOYEE PERFORMANCE CHECK-IN

Title: City Manager

No reportable actions.

D. Adjournment

Mayor Taylor adjourned the meeting at 5:45 p.m.

Judi A. Herren, City Clerk

NOVEL CORONAVIRUS, COVID-19, EMERGENCY ADVISORY NOTICE

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- How to participate in the meeting
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SPECIAL MEETING MINUTES – DRAFT

Date: 10/6/2020

Time: 5:30 p.m.

Special Meeting Location: Joinwebinar.com – ID# 874-990-331

Special Meeting ([Joinwebinar.com](#) – ID# 874-990-331)

A. Call To Order

Mayor Taylor called the meeting to order at 5:35 p.m.

B. Roll Call

Present: Carlton, Combs, Nash, Taylor

Absent: Mueller

Staff: City Manager Starla Jerome-Robinson, Interim City Attorney Cara Silver, City Clerk Judi A. Herren

C. Presentations and Proclamations

C1. Proclamation: John Preyer ([Attachment](#))

Mayor Taylor read the proclamation ([Attachment](#)).

D. Regular Business

D1. Consider modifications to the Downtown street closure and temporary outdoor use permit pilot program and adopt urgency Ordinance No. 1073 ([Staff Report #20-221-CC](#)) ([Presentation](#))

City Clerk Judi Herren made the presentation ([Attachment](#)).

- Sandra Ferer spoke in support of the Ryans Lane closure.

The City Council discussed funding for Ryans Lane closure, current City assistance for barriers to current outdoor users, and cost-sharing options. The City Council received clarification on the timeline and review period.

ACTION: Motion and second (Carlton/ Nash) to adopt Ordinance No. 1073, including the closure of Ryans Lane pending permits, and extending the temporary outdoor use permit through Labor Day 2021 (September 6, 2021), passed 4-0-1 (Mueller absent).

D2. Consider an update on the housing innovation fund and confirm use of the housing inventory and local supply study ([Staff Report #20-204-CC](#)) – continued from the September 15, 2020 City Council meeting

Principal Planner Kyle Perata made the presentation.

- Kevin Gallagher requested clarification on the oversight board and the group managing funding relationship and how the oversight board is created.

The City Council received clarification on the oversight board and the group managing funding relationship and how the oversight board is created. The City Council discussed the development agreement with Facebook, the housing innovation fund and number of members appointed by each group. The City Council also discussed updating the Y-Plan data to include 2017-2020, revisiting the recommendations based on that updated Y-Plan, and utilizing the Y-Plan study in the housing element as background.

ACTION: Motion and second (Carlton/ Nash) to adopt staff's recommendation, reach out to Y-Plan for methodology, additional time and costs to update study including 2017-2020, return to City Council as a possible priority, and request that the Housing Commission look at Y-Plan recommendation in conjunction with their workplan, passed 4-0-1 (Mueller absent).

The City Council took a break at 7:42 p.m.

The City Council reconvened at 8:09 p.m.

E. City Council Initiated Items

Mayor Taylor reordered the agenda.

Mayor Taylor combined items E2. and E3.

- E2. Discuss endorsement of Proposition 15 on the November 3 ballot ([Staff Report #20-220-CC](#)) ([Presentation](#))

[Web form public comment received on item E2](#) (Attachment).

- E3. City Council consideration on Propositions 16, 17, and 18 on the November 3 ballot ([Attachment](#)) ([Presentation](#))

- Jovan Agee spoke in support of Proposition 16.
- Tony Alexander spoke in support of Proposition 16.
- Alex Melendrez spoke in support of Proposition 15.

The City Council received clarification on required action to initiate items and endorse propositions. The City Council has unanimous consensus around taking no action in the endorsement of propositions.

- E1. Refocus City Council 2020-21 priorities and direct specific land use planning work ([Staff Report #20-199-CC](#)) – **continued from the September 15, 2020 City Council meeting** ([Presentation](#))

[Web form public comment received on item E1](#) (Attachment).

Mayor Taylor and City Councilmember Nash made the presentation (Attachment).

The City Council discussed the public process when updating the amenities list by a subcommittee.

ACTION: Motion and second (Combs/ Nash) to create and appoint Mayor Taylor and City Councilmember Nash to a subcommittee, charged with 1) updating the adopted amenities list to more appropriately serve existing and future residents; 2) inventorying existing, proposed and potential citywide development (amount and type); and 3) maintain the amenities list data, passed 4-0-1 (Mueller absent).

F. Informational Items

F1. Update on City advisory body workplans ([Staff Report #20-219-CC](#))

G. Adjournment

Mayor Taylor adjourned the meeting at 9:24 p.m.

Judi A. Herren, City Clerk

NOVEL CORONAVIRUS, COVID-19, EMERGENCY ADVISORY NOTICE

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Special Meeting ID 857-035-652 (# – no audio pin)
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REGULAR MEETING MINUTES – DRAFT

Date: 10/13/2020

Time: 4:00 p.m.

Closed Session: Teleconference

Regular Meeting Location: Joinwebinar.com – ID# 140-382-555

Closed Session (Teleconference)

A. Call To Order

Mayor Taylor called the meeting to order at 4:06 p.m.

B. Roll Call

Present: Carlton, Combs, Nash, Mueller, Taylor

Absent: None

Staff: City Manager Starla Jerome-Robinson, Assistant City Manager Nick Pegueros,
Human Resources Director Theresa DellaSanta

C. Closed Session

C1. Public employment (Gov. Code section 54957.) City attorney recruitment

Mayor Taylor adjourned to the regular session at 4:45 p.m.

Regular Meeting (Joinwebinar.com – ID# 140-382-555)

D. Call To Order

Mayor Taylor called the meeting to order at 5:10 p.m.

E. Roll Call

Present: Carlton, Combs, Mueller, Nash, Taylor

Absent: None

Staff: City Manager Starla Jerome-Robinson, Interim City Attorney Cara Silver, City Clerk
Judi A. Herren

Report from Closed Session

No reportable action.

F. Public Comment

None.

G. Presentations and Proclamations

- G1. Proclamation: United Nations 75th Anniversary ([Attachment](#))

Mayor Taylor read the proclamation ([Attachment](#)).

- G2. Presentation: Stanford University regarding the land, buildings, and real estate (LBRE) replacement project

Public Works Director Nikki Nagaya and Stanford University representatives Lesley Lowe, Jean McCown, and Ellen Poling made the presentation ([Attachment](#)).

The City Council received clarification on the functions of the truck vehicles on the site, the number or daily trips, and the timing of the traffic study. The City Council requested information on the impacts to Alpine Road and directed staff to provide a comment letter to Stanford.

- G3. Presentation: San Mateo County Flood and Sea Level Rise Resiliency District

Public Works Director Nikki Nagaya and Chief Executive Office of One Shoreline Len Materman made the presentation ([Attachment](#)).

The City Council received clarification on plan review and Menlo Park's funding commitment. The City Council discussed estimated sea level rise projections and the funding formula for the Atherton Channel project.

H. Regular Business

- H1. Consider which City requested work to accompany Facebook's offer to rebuild community facilities located at 100-110 Terminal Avenue ([Staff Report #20-228-CC](#) [Informe de Personal #20-228-CC](#))

[Web form public comment on item H1](#) ([Attachment](#)).

Deputy City Manager Justin Murphy made the presentation ([Attachment](#)).

- Adina Levin spoke in support of MenloSpark's recommendations and increased community outreach.
- Josie Gaillard spoke in support of the use of solar.
- Tom Kabat spoke in support of the use of solar.
- Sheryl Bims spoke in support of the project and expressed concerns related to funding.

The City Council received clarification on project funding, LEED (Leadership in Energy and Environmental Design) ratings, and solar power upgrade. The City Council discussed the use of generators and their purpose, and the installation of electric vehicle (EV) charges. The City Council requested detailed information on the past use of Measure T funds and to explore the repurposing of aquatic funding.

The City Council took a break 7:01 p.m.

The City Council reconvened at 7:20 p.m.

The City Council had consensus around City requested work (Attachment).

ACTION: Motion and second (Carlton/ Taylor) to direct staff to return with information on all potential funding options proposed, prioritizing the least impactful to the City, and a further discussion on future community amenities, passed unanimously.

Vice Mayor Combs was recused because Facebook is his employer and exited the meeting at 8:40 p.m.

The City Council discussed the reimbursement of design costs.

ACTION: Motion and second (Nash/ Mueller) to approve the reimbursement of the design costs, passed 4-0-1 (Combs recused).

The City Council took a break 8:48 p.m.

The City Council reconvened at 8:51 p.m.

Vice Mayor Combs rejoined the meeting at 8:51 p.m.

Mayor Taylor reordered the agenda.

H4. Adopt Resolution No. 6593 and approve the 2019 Citywide engineering and traffic survey and adopt resolution no. to establish recommended speed limits ([Staff Report #20-230-CC](#))

[Web form public comment on item H4](#) (Attachment).

Associate Transportation Engineer Rene Baile made the presentation (Attachment).

- Angela Evans spoke in support of including Olive Street on the list of 25 miles per hour (mph).
- John Brigden spoke in support of the adoption of a 25-mph speed limit citywide and increase in traffic measured.
- Katie Behroozi spoke in support of the adoption of a 25-mph speed limit citywide.
- Henry Riggs spoke on the impacts of slower moving vehicles to the environment.
- Adina Levin the adoption of a 25-mph speed limit citywide.
- Pamela Jones made comments on Chilco Street and the timing of the study.

The City Council received confirmation that Olive Street was added to the list of 25-mph streets. The City Council discussed Palo Alto's 25-mph regulation on all city streets and implementing that into Menlo Park. The City Council also discussed reducing Middle Avenue and Chilco Street to 25-mph and alternative traffic calming measures.

ACTION: Motion and second (Mueller/Combs) to adopt Resolution No. 6593, direct staff to return with options for traffic calming on Middle Avenue to achieve a 25-mph zone, include Olive Street on the 25-mph list, reduce O'Brian Drive to 25-mph, reduce Chilco Street to 30-mph, and look at expanding the 25-mph school zones to the further extent of law, passed 4-0-1 (Carlton abstaining).

H2. Consider applicants and make an appointment to fill a vacancy on the Environmental Quality Commission ([Staff Report #20-222-CC](#))

City Clerk Judi Herren introduced the item.

The City Council appointed Leah Elkins to fill the vacancy on the Environmental Quality Commission (Attachment).

- H3. Authorize initiation of a Proposition 218 notification process in preparation to adopt maximum waste rate increases for the next five years (2021-2025) at a public hearing on December 8 ([Staff Report #20-229-CC](#))

Sustainability Manager Rebecca Lucky and R3 Consulting Group representative Garth Schultz made the presentation (Attachment).

ACTION: By acclamation, the City Council extended the meeting beyond 11 p.m., passed unanimously.

The City Council discussed the 2021 commercial rate outcomes and discount rate analysis. The City Council received clarification on the calculated rate of a city funded backfilling and the subsidy.
Clarify

ACTION: Motion and second (Mueller/ Carlton) to approve the mailing of the Proposition 218 notices inclusive of a \$500,000 subsidy and that the City Council is considering further subsidies to lower the rates, passed unanimously.

I. Regular Business – no staff presentations

- I1. Authorize the city manager to enter into a contract with Dudek to prepare an environmental impact report and housing needs analysis for the proposed mixed-use project at 123 Independence Drive for the amount of \$251,701 and future augments as may be necessary to complete the environmental review and housing needs assessment for the proposed project ([Staff Report #20-226-CC](#))

The City Council continued item I1. to a future meeting.

- I2. Receive and file the City Council's fiscal year 2020-21 priorities and workplan quarterly updates as of September 30 ([Staff Report #20-224-CC](#))

[Web form public comment on item I2](#) (Attachment).

The City Council continued item I2. to a future meeting.

- I3. Adopt Resolution No. 6592 authorizing the city manager to safely reopen public playgrounds with restrictions to comply with public health orders and prevent the spread of COVID-19; and appropriate \$49,500 for required playground cleaning, handwashing stations, and signage ([Staff Report #20-227-CC](#))

[Web form public comment on item I3](#) (Attachment).

ACTION: Motion and second (Mueller/ Nash) to adopt Resolution No. 6592 authorizing the city manager to safely reopen public playgrounds with restrictions to comply with public health orders and prevent the spread of COVID-19; and appropriate \$49,500 for required playground cleaning, handwashing stations, and signage, passed unanimously.

J. Informational Items

- J1. Annual inflation protection adjustment to the local minimum wage effective January 1, 2021 ([Staff Report #20-225-CC](#))
- J2. City Council agenda topics: October 2020 to December 2020 ([Staff Report #20-223-CC](#))

K. City Manager's Report

None.

L. City Councilmember Reports

None.

M. Adjournment

Mayor Taylor adjourned the meeting at 11:46 p.m.

Judi A. Herren, City Clerk

NOVEL CORONAVIRUS, COVID-19, EMERGENCY ADVISORY NOTICE

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Subject to Change: Given the current public health emergency and the rapidly evolving federal, state, county and local orders, the format of this meeting may be altered or the meeting may be canceled. You may check on the status of the meeting by visiting the City's website www.menlopark.org. The instructions for logging on to the webinar and/or the access code is subject to change. If you have difficulty accessing the webinar, please check the latest online edition of the posted agenda for updated information (menlopark.org/agenda).

According to City Council policy, all regular meetings of the City Council are to end by midnight unless there is a super majority vote taken by 11:00 p.m. to extend the meeting and identify the items to be considered after 11:00 p.m.



SPECIAL MEETING MINUTES – DRAFT

Date: 10/15/2020
Time: 5:15 p.m.
Closed Session: Teleconference

Closed Session (Teleconference)

A. Call To Order

Mayor Taylor called the meeting at 5:22 p.m.

B. Roll Call

Present: Carlton, Combs, Nash, Mueller, Taylor
Absent: None
Staff: City Manager Starla Jerome-Robinson, Assistant City Manager Nick Pegueros, Interim Police Chief David Spiller, Interim City Attorney Cara Silver

C. Closed Session

C1. Conference with Legal Counsel – Anticipated Litigation: Significant exposure to litigation pursuant to § 54956.9(b)
Number of cases – 1

No reportable actions.

C2. Closed session conference with labor negotiators pursuant to Government Code §54957.6 regarding labor negotiations with the Menlo Park Police Sergeants Association (PSA) and Menlo Park Police Officers’ Association (POA)

Attendees: City Manager Starla Jerome-Robinson, Assistant City Manager Nick Pegueros, Interim City Attorney Cara Silver, Interim Police Chief David Spiller

No reportable actions.

D. Adjournment

Mayor Taylor adjourned the meeting at 6:21 p.m.

Judi A. Herren, City Clerk

NOVEL CORONAVIRUS, COVID-19, EMERGENCY ADVISORY NOTICE

On March 19, 2020, the Governor ordered a statewide stay-at-home order calling on all individuals living in the State of California to stay at home or at their place of residence to slow the spread of the COVID-19 virus. Additionally, the Governor has temporarily suspended certain requirements of the Brown Act. For the duration of the shelter in place order, the following public meeting protocols will apply.

Teleconference meeting: All members of the City Council, city staff, applicants, and members of the public will be participating by teleconference. To promote social distancing while allowing essential governmental functions to continue, the Governor has temporarily waived portions of the open meetings act and rules pertaining to teleconference meetings. This meeting is conducted in compliance with the Governor Executive Order N-25-20 issued March 12, 2020, and supplemental Executive Order N-29-20 issued March 17, 2020.

- How to participate in the meeting
 - Submit a written comment online:
menlopark.org/publiccommentOctober15*
 - Record a comment or request a call-back when an agenda topic is under consideration:
Dial 650-474-5071*
*Written and recorded public comments and call-back requests are accepted up to 1-hour before the meeting start time. Written and recorded messages are provided to the City Council at the appropriate time in their meeting. Recorded messages may be transcribed using a voice-to-text tool.

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SPECIAL MEETING MINUTES – DRAFT

Date: 10/21/2020
Time: 4:00 p.m.
Closed Session: Teleconference

Closed Session (Teleconference)

A. Call To Order

Mayor Taylor called the meeting at 4:05 p.m.

B. Roll Call

Present: Carlton, Combs, Nash, Mueller (arrived at 6:08 p.m.), Taylor
Absent: None
Staff: City Manager Starla Jerome-Robinson, Assistant City Manager Nick Pegueros, Interim City Attorney Cara Silver, Interim Police Chief David Spiller

C. Closed Session

C1. Public employment (Gov. Code section 54957) city attorney recruitment

[Web form public comment on item C1.](#) (Attachment).

No reportable actions.

C2. Conference with legal counsel – Anticipated litigation: Significant exposure to litigation pursuant to § 54956.9(b)

Number of cases – 1

No reportable actions.

C3. Closed session conference with labor negotiators pursuant to Government Code §54957.6 regarding labor negotiations with the Menlo Park Police Sergeants Association (PSA) and Menlo Park Police Officers' Association (POA)

[Web form public comment on item C3.](#) (Attachment).

No reportable actions.

D. Adjournment

Mayor Taylor adjourned the meeting at 6:34 p.m.

Judi A. Herren, City Clerk

NOVEL CORONAVIRUS, COVID-19, EMERGENCY ADVISORY NOTICE

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- How to participate in the meeting
 - Submit a written comment online:
menlopark.org/publiccommentOctober21*
 - Record a comment or request a call-back when an agenda topic is under consideration:
Dial 650-474-5071*
*Written and recorded public comments and call-back requests are accepted up to 1-hour before the meeting start time. Written and recorded messages are provided to the City Council at the appropriate time in their meeting. Recorded messages may be transcribed using a voice-to-text tool.

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STAFF REPORT

City Council Meeting Date: 11/10/2020
Staff Report Number: 20-241-CC

Consent Calendar **Extend the San Mateo County Mosquito and Vector Control District term to December 31, 2023**

Recommendation

Staff recommends that the City Council extend the San Mateo County Mosquito and Vector Control District (SMCMVCD) term to December 31, 2023.

Policy Issues

City Council procedure CC-19-004 (Attachment A) establishes the policies, procedures, roles and responsibilities for the City's appointed commissions and committees, including the manner in which members are selected.

Background

The previous term of office for the SMCMVCD, representative to the board of trustees of this district from the City of Menlo Park, expired December 31, 2019.

SMCMVCD requested the City Council make an appoint for the ensuing term of January 2020 through December 2021 or December 2023. According to the California Health and Safety Code, Section 2020-2030, which dictates appointments to vector control district boards:

- The city council of each city or town may appoint one person to the board of trustees
- The term of office for a member of the board of trustees shall be a term of two or four years, at the discretion of the appointing authority
- Term of office began at noon on the first Monday in January

The common law incompatibility of office doctrine was addressed in SB 1588, (2002) and now a city councilmember may be appointed to the board of trustees.

At the January 14 City Council meeting, Ron Shepherd was appointed for a two-year term, expiring December 31, 2021, to the SMCMVCD. Subsequently, Mr. Shepherd was unable to serve on the district's board and at the June 9 City Council meeting, City Councilmember Carlton was appointed to the SMCMVCD with a term expiration of December 31, 2021.

Analysis

Pursuant to City Council Policy CC-19-004, members serve through the completion of an unexpired term or as otherwise designated. Given the robust and extensive training required of a SMCMVCD member, staff is requesting the term of the position be extended through December 31, 2023; totaling a four-year term.

Impact on City Resources

There is no impact on City resources.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

A. City Council procedure CC-19-004

Report prepared by:

Judi A. Herren, City Clerk



COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES

City Council Procedure #CC-19-0004

Effective 3/5/2019

Resolution No. 6477

<p>Purpose</p>
<p>To define policies and procedures and roles and responsibilities for Menlo Park appointed commissions and committees.</p>
<p>Authority</p>
<p>Upon its original adoption, this policy replaced the document known as “Organization of Advisory Commissions of the City of Menlo Park.”</p>
<p>Background</p>
<p>The City of Menlo Park currently has eight active Commissions and Committees. The active advisory bodies are: Complete Streets Commission, Environmental Quality Commission, Finance and Audit Committee, Housing Commission, Library Commission, Parks and Recreation Commission, Planning Commission, and the Sister City Committee. Those not specified in the City Code are established by City Council ordinance or resolution. Most of these advisory bodies are established in accordance with Resolution 2801 and its amendments. Within specific areas of responsibility, each advisory body has a primary role of advising the City Council on policy matters or reviewing specific issues and carrying out assignments as directed by the City Council or prescribed by law.</p> <p>Seven of the eight commissions and committees listed above are advisory in nature. The Planning Commission is both advisory and regulatory and organized according to the City Code (Ch. 2.12) and State statute (Government Code 65100 et seq., 65300-65401).</p> <p>The City has an adopted Anti-Harassment and Non-Discrimination Policy (CC-95-001), and a Travel and Expense Policy (CC-91-002), which are also applicable to all advisory bodies.</p>
<p>Policies and Procedures</p>
<p><u>Relationship to City Council, staff and media</u></p> <ul style="list-style-type: none"> • Upon referral by the City Council, the commission/committee shall study referred matters and return their recommendations and advise to the City Council. With each such referral, the City Council may authorize the City staff to provide certain designated services to aid in the study. • Upon its own initiative, the commission/committee shall identify and raise issues to the City Council’s attention and from time to time explore pertinent matters and make recommendations to the City Council. • At a request of a member of the public, the commission/committee may consider appeals from City actions or inactions in pertinent areas and, if deemed appropriate, report and make recommendations to the City Council. • Each commission/committee is required to develop an annual work plan which will be the foundation for the work performed by the advisory body in support of City Council annual work plan. The plan, once finalized by a majority of the commission/committee, will be formally presented to the City Council for direction and approval no later than September 30 of each year and then reported out on by a representative of the advisory body at a regularly scheduled City Council meeting at least annually, but recommended twice a year. The proposed work plan must align with the City Council’s adopted work plan. When modified, the work plan must be taken to the City Council for approval. The Planning Commission is exempt from this requirement as its functions are governed by the Menlo Park municipal code (Chapter 2.12) and State law (Government Code 65100 et seq., 65300-65401). • Commissions and committees shall not become involved in the administrative or operational matters of City departments. Members may not direct staff to initiate major programs, conduct large studies or establish department policy. City staff assigned to furnish staff services shall be available to provide general staff assistance, such as preparation of agenda/notice materials and minutes, general review of

COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES

City Council Policy #CC-19-0004

Effective 3/5/2019

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department programs and activities, and to perform limited studies, program reviews, and other services of a general staff nature. Commissions/Committees may not establish department work programs or determine department program priorities. The responsibility for setting policy and allocating scarce City resources rests with the City's duly elected representatives, the City Council.

- Additional or other staff support may be provided upon a formal request to the City Council.
- The staff liaison shall act as the commission/committee's lead representative to the media concerning matters before the commission/committee. Commission/Committee members should refer all media inquiries to their respective liaisons for response. Personal opinions and comments may be expressed so long as the commission/committee member clarifies that his or her statements do not represent the position of the City Council.
- Commission/Committee members will have mandatory training every two years regarding the Brown Act and parliamentary procedures, anti-harassment training, ethics training, and other training required by the City Council or State Law. The commission/committee members may have the opportunity for additional training, such as training for chair and vice chair. Failure to comply with the mandatory training will be reported to the City Council and may result in replacement of the member by the City Council.
- Requests from commission/committee member(s) determined by the staff liaison to take one hour or more of staff time to complete, must be directed by the City Council.

Role of City Council commission/committee liaison

City Councilmembers are assigned to serve in a liaison capacity with one or more city commission/committee. The purpose of the liaison assignment is to facilitate communication between the City Council and the advisory body. The liaison also helps to increase the City Council's familiarity with the membership, programs and issues of the advisory body. In fulfilling their liaison assignment, City Councilmembers may elect to attend commission/committee meetings periodically to observe the activities of the advisory body or simply maintain communication with the commission/committee chair on a regular basis.

City Councilmembers should be sensitive to the fact that they are not participating members of the commission/committee, but are there rather to create a linkage between the City Council and commission/committee. In interacting with commissions/committee, City Councilmembers are to reflect the views of the City Council as a body. Being a commission/committee liaison bestows no special right with respect to commission/committee business.

Typically, assignments to commission/committee liaison positions are made at the beginning of a City Council term in December. The Mayor will ask City Councilmembers which liaison assignments they desire and will submit recommendations to the full City Council regarding the various committees, boards, and commissions which City Councilmembers will represent as a liaison. In the rare instance where more than one City Councilmember wishes to be the appointed liaison to a particular commission, a vote of the City Council will be taken to confirm appointments.

City Staff Liaison

The City has designated staff to act as a liaison between the commission/committee and the City Council. The City shall provide staff services to the commission/committee which will include:

- Developing a rapport with the Chair and commission/committee members
- Providing a schedule of meetings to the City Clerk's Office and commission/committee members, arranging meeting locations, maintaining the minutes and other public records of the meeting, and preparing and distributing appropriate information related to the meeting agenda.
- Advising the commission/committee on directions and priorities of the City Council.
- Informing the commission/committee of events, activities, policies, programs, etc. occurring within the scope of the commission/committee's function.

COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES

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- Ensuring the City Clerk is informed of all vacancies, expired terms, changes in offices, or any other changes to the commission/committee.
- Providing information to the appropriate appointed official including reports, actions, and recommendations of the committee/commission and notifying them of noncompliance by the commission/committee or chair with City policies.
- Ensuring that agenda items approved by the commission/committee are brought forth in a timely manner taking into consideration staff capacity, City Council priorities, the commission/committee work plan, and other practical matters such as the expense to conduct research or prepare studies, provided appropriate public notification, and otherwise properly prepare the item for commission/committee consideration.
- Take action minutes; upon agreement of the commission, this task may be performed by one of the members (staff is still responsible for the accuracy and formatting of the minutes)
- Maintain a minute book with signed minutes

Recommendations, requests and reports

As needed, near the beginning of City Council meetings, there will be an item called "Commission/Committee Reports." At this time, commissions/committees may present recommendations or status reports and may request direction and support from the City Council. Such requests shall be communicated to the staff liaison in advance, including any written materials, so that they may be listed on the agenda and distributed with the agenda packet. The materials being provided to the City Council must be approved by a majority of the commission/committee at a commission/committee meeting before submittal to the City Council. The City Council will receive such reports and recommendations and, after suitable study and discussion, respond or give direction.

City Council referrals

The City Clerk shall transmit to the designated staff liaison all referrals and requests from the City Council for advice and recommendations. The commissions/committees shall expeditiously consider and act on all referrals and requests made by the City Council and shall submit reports and recommendations to the City Council on these assignments.

Public appearance of commission/committee members

When a commission/committee member appears in a non-official, non-representative capacity before the public, for example, at a City Council meeting, the member shall indicate that he or she is speaking only as an individual. This also applies when interacting with the media and on social media. If the commission/committee member appears as the representative of an applicant or a member of the public, the Political Reform Act may govern this appearance. In addition, in certain circumstances, due process considerations might apply to make a commission/committee member's appearance inappropriate. Conversely, when a member who is present at a City Council meeting is asked to address the City Council on a matter, the member should represent the viewpoint of the particular commission/committee as a whole (not a personal opinion).

Disbanding of advisory body

Upon recommendation by the Chair or appropriate staff, any standing or special advisory body, established by the City Council and whose members were appointed by the City Council, may be declared disbanded due to lack of business, by majority vote of the City Council.

Meetings and officers

1. *Agendas/notices/minutes*

- All meetings shall be open and public and shall conduct business through published agendas, public notices and minutes and follow all of the Brown Act provisions governing public meetings. Special, canceled and adjourned meetings may be called when needed, subject to the Brown Act provisions.

COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES

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- Support staff for each commission/committee shall be responsible for properly noticing and posting all regular, special, canceled and adjourned meetings. Copies of all meeting agendas, notices and minutes shall be provided to the City Council, City Manager, City Attorney, City Clerk and other appropriate staff, as requested.
 - Original agendas and minutes shall be filed and maintained by support staff in accordance with the City's adopted records retention schedule.
 - The official record of the commissions/committees will be preserved by preparation of action minutes.
2. *Conduct and parliamentary procedures*
- Unless otherwise specified by State law or City regulations, conduct of all meetings shall generally follow Robert's Rules of Order.
 - A majority of commission/committee members shall constitute a quorum and a quorum must be seated before official action is taken.
 - The chair of each commission/committee shall preside at all meetings and the vice chair shall assume the duties of the chair when the chair is absent.
 - The role of the commission/committee chair (according to Roberts Rules of Order): To open the session at the time at which the assembly is to meet, by taking the chair and calling the members to order; to announce the business before the assembly in the order in which it is to be acted upon; to recognize members entitled to the floor; to state and put to vote all questions which are regularly moved, or necessarily arise in the course of the proceedings, and to announce the result of the vote; to protect the assembly from annoyance from evidently frivolous or dilatory motions by refusing to recognize them; to assist in the expediting of business in every compatible with the rights of the members, as by allowing brief remarks when undebatable motions are pending, if s/he thinks it advisable; to restrain the members when engaged in debate, within the rules of order, to enforce on all occasions the observance of order and decorum among the members, deciding all questions of order (subject to an appeal to the assembly by any two members) unless when in doubt he prefers to submit the question for the decision of the assembly; to inform the assembly when necessary, or when referred to for the purpose, on a point of order to practice pertinent to pending business; to authenticate by his/her signature, when necessary, all the acts, orders, and proceedings of the assembly declaring it will and in all things obeying its commands.
3. *Lack of a quorum*
- When a lack of a quorum exists at the start time of a meeting, those present will wait 15 minutes for additional members to arrive. If after 15 minutes a quorum is still not present, the meeting will be adjourned by the staff liaison due to lack of a quorum. Once the meeting is adjourned it cannot be reconvened.
 - The public is not allowed to address those commissioners present during the 15 minutes the commission/committee is waiting for additional members to arrive.
 - Staff can make announcements to the members during this time but must follow up with an email to all members of the body conveying the same information.
 - All other items shall not be discussed with the members present as it is best to make the report when there is a quorum present.
4. *Meeting locations and dates*
- Meetings shall be held in designated City facilities, as noticed.
 - All commissions/committees with the exception of the Planning Commission, Finance and Audit Committee and Sister City Committee shall conduct regular meetings once a month. Special meetings may also be scheduled as required by the commission/committee. The Planning Commission shall hold regular meetings twice a month. The Finance and Audit Committee and Sister City Committee shall hold quarterly meetings.
 - Monthly regular meetings shall have a fixed date and time established by the commission/committee. Changes to the established regular dates and times are subject to the approval of the City Council. An exception to this rule would include any changes necessitated to fill

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a temporary need in order for the commission/committee to conduct its meeting in a most efficient and effective way as long as proper and adequate notification is provided to the City Council and made available to the public.

The schedule of Commission/Committee meetings is as follows:

- Complete Streets Commission – Every second Wednesday at 7 p.m.
- Environmental Quality Commission – Every third Wednesday at 6:00 p.m.
- Finance and Audit Committee – Third Wednesday of every quarter at 5:30 p.m.,
- Housing Commission – Every first Wednesday at 6:30 p.m.
- Library Commission – Every third Monday at 6:30 p.m.
- Parks and Recreation Commission – Every fourth Wednesday at 6:30 p.m.
- Planning Commission – Twice a month at 7 p.m.
- Sister City Committee – Quarterly; Date and time to be determined

Each commission/committee may establish other operational policies subject to the approval of the City Council. Any changes to the established policies and procedures shall be subject to the approval of the City Council.

5. *Off-premises meeting participation*

While technology allows commission/committee members to participate in meetings from a location other than the meeting location (referred to as “off-premises”), off-premises participation is discouraged given the logistics required to ensure compliance with the Brown Act and experience with technological failures disrupting the meeting. In the event that a commission/committee member believes that his or her participation is essential to a meeting, the following shall apply:

- Any commission/committee member intending to participate from an off-premise location shall inform the staff liaison at least two weeks in advance of the meeting.
- The off-premise location must be identified in the notice and agenda of the meeting.
- Agendas must be posted at the off-premise location.
- The off-premise location must be accessible to the public and be ADA compliant.
- The commission/committee member participating at a duly noticed off-premises location does not count toward the quorum necessary to convene a meeting of the commission/committee.
- For any one meeting, no more than one commission/committee member may participate from an off-premise location.
- All votes must be by roll call.

6. *Selection of chair and vice chair*

- The chair and vice chair shall be selected in May of each year by a majority of the members and shall serve for one year or until their successors are selected.
- Each commission/committee shall annually rotate its chair and vice chair.

G. Memberships

Appointments/Oaths

- The City Council is the appointing body for all commissions/committees. All members serve at the pleasure of the City Council for designated terms.
- All appointments and reappointments shall be made at a regularly scheduled City Council meeting, and require an affirmative vote of not less than a majority of the City Council present.
- Before taking office, all members must complete an Oath of Allegiance required by Article XX, §3, of the Constitution of the State of California. All oaths are administered by the City Clerk or his/her designee.
- Appointments made during the middle of the term are for the unexpired portion of that term.

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Application and selection process

- The application process begins when a vacancy occurs due to term expiration, resignation, removal or death of a member.
- The application period will normally run for a period of four weeks from the date the vacancy occurs. If there is more than one concurrent vacancy in a Commission, the application period may be extended. Applications are available from the City Clerk's office and on the City's website.
- The City Clerk shall notify members whose terms are about to expire whether or not they would be eligible for reappointment. If reappointment is sought, an updated application will be required.
- Applicants are required to complete and return the application form for each commission/committee they desire to serve on, along with any additional information they would like to transmit, by the established deadline. Applications sent by email are accepted; however, the form submitted must be signed.
- After the deadline of receipt of applications, the City Clerk shall schedule the matter at the next available regular City Council meeting. All applications received will be submitted and made a part of the City Council agenda packet for their review and consideration. If there are no applications received by the deadline, the City Clerk will extend the application period for an indefinite period of time until sufficient applications are received.
- Upon review of the applications received, the City Council reserves the right to schedule or waive interviews, or to extend the application process in the event insufficient applications are received. In either case, the City Clerk will provide notification to the applicants of the decision of the City Council.
- If an interview is requested, the date and time will be designated by the City Council. Interviews are open to the public.
- The selection/appointment process by the City Council shall be conducted open to the public. Nominations will be made and a vote will be called for each nomination. Applicants receiving the highest number of affirmative votes from a majority of the City Council present shall be appointed.
- Following a City Council appointment, the City Clerk shall notify successful and unsuccessful applicants accordingly, in writing. Appointees will receive copies of the City's Non-Discrimination and Sexual Harassment policies, and disclosure statements for those members who are required to file under State law as designated in the City's Conflict of Interest Code. Copies of the notification will also be distributed to support staff and the commission/committee chair.
- An orientation will be scheduled by the City Clerk following an appointment (but before taking office) and a copy of this policy document will be provided at that time.

Attendance

- An Attendance Policy (CC-91-001), shall apply to all advisory bodies. Provisions of this policy are listed below.
- A compilation of attendance will be submitted to the City Council at least annually listing absences for all commissions/committee members.
- Absences, which result in attendance at less than two-thirds of their meetings during the calendar year, will be reported to the City Council and may result in replacement of the member by the City Council.
- Any member who feels that unique circumstances have led to numerous absences can appeal directly to the City Council for a waiver of this policy or to obtain a leave of absence.
- While it is expected that members be present at all meetings, the chair and staff liaison should be notified if a member knows in advance that he/she will be absent.
- When reviewing commissioners for reappointment, overall attendance at full commission meetings will be given significant consideration.

Compensation

- Members shall serve without compensation (unless specifically provided) for their services, provided, however, members shall receive reimbursement for necessary travel expenses and other expenses

COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES

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incurred on official duty when such expenditures have been authorized by the City Council (See Policy CC-91-002).

Conflict of interest and disclosure requirements

- A Conflict of Interest Code has been updated and adopted by the City Council and the Community Development Agency pursuant to Government Code §87300 et seq. Copies of this Code are filed with the City Clerk. Pursuant to the adopted Conflict of Interest Code, members serving on the Planning Commission are required to file a Statement of Economic Interest with the City Clerk to disclose personal interest in investments, real property and income. This is done within 30 days of appointment and annually thereafter. A statement is also required within 30 days after leaving office.
- If a public official has a conflict of interest, the Political Reform Act may require the official to disqualify himself or herself from making or participating in a governmental decision, or using his or her official position to influence a governmental decision. Questions in this regard may be directed to the City Attorney.

Qualifications, compositions, number

- In most cases, members shall be residents of the City of Menlo Park and at least 18 years of age.
- Current members of any other City commission/committee are disqualified for membership, unless the regulations for that advisory body permit concurrent membership. Commission/Committee members are strongly advised to serve out the entirety of the term of their current appointment before seeking appointment on another commission/committee.
- Commission/Committee members shall be permitted to retain membership while seeking any elective office. However, members shall not use the meetings, functions or activities of such bodies for purposes of campaigning for elective office.
- There shall be seven (7) members on each commission/committee with the exception of:
 - Finance and Audit Committee – five (5) members
 - Housing Commission – seven (7) members
 - Complete Streets Commission – nine (9) members
 - Library Commission – eleven (11) members

Reappointments, resignations, removals

- Incumbents seeking a reappointment are required to complete and file an application with the City Clerk by the application deadline. No person shall be reappointed to a commission/committee who has served on that same body for two consecutive terms; unless a period of one year has lapsed since the returning member last served on that commission/committee (the one year period is flexible subject to City Council's discretion).
- Resignations must be submitted in writing to the City Clerk, who will distribute copies to City Council and appropriate staff.
- The City Council may remove a member by a majority vote of the City Council without cause, notice or hearing.

Term of office

- Unless specified otherwise, the term of office for all commission/committee shall be four (4) years unless a resignation or a removal has taken place.
- If a person is appointed to fill an unexpired term and serves less than two years, that time will not be considered a full term. However, if a person is appointed to fill an unexpired term and serves two years or more, that time will be considered a full term.
- Terms are staggered to be overlapping four-year terms, so that all terms do not expire in any one year.
- If a member resigns before the end of his/her term, a replacement serves out the remainder of that term.

COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES

City Council Policy #CC-19-0004

Effective 3/5/2019

Resolution No. 6477

Vacancies

- Vacancies are created due to term expirations, resignations, removals or death.
- Vacancies are listed on the City Council agenda and posted by the City Clerk in the City Council Chambers bulletin board and on the city website.
- Whenever an unscheduled vacancy occurs in any commission/committee, a special vacancy notice shall be posted within 20 days after the vacancy occurs. Appointment shall not be made for at least 10 working days after posting of the notice (Government Code 54974).
- On or before December 31 of each year, an appointment list of all regular advisory commissions/committees of the City Council shall be prepared by the City Clerk and posted in the City Council Chambers bulletin board and on the City’s website. This list is also available to the public. (Government Code 54972, Maddy Act).

Roles and Responsibilities

Complete Streets Commission

The Complete Streets Commission is charged primarily with advising the City Council on multi-modal transportation issues according to the goals and policies of the City’s general plan. This includes strategies to encourage safe travel, improve accessibility, and maintaining a functional and efficient transportation network for all modes and persons traveling within and around the City. The Complete Streets Commission's responsibilities would include:

- Coordination of multi-modal (motor vehicle, bicycle, transit and pedestrian) transportation facilities
- Advising City Council on ways to encourage vehicle, multi-modal, pedestrian and bicycle safety and accessibility for the City supporting the goals of the General Plan
- Coordination on providing a citywide safe routes to school plan
- Coordination with regional transportation systems
- Establishing parking restrictions and requirements according to Municipal Code sections 11.24.026 through 11.24.028

Environmental Quality Commission

The Environmental Quality Commission is charged primarily with advising the City Council on matters involving environmental protection, improvement and sustainability. Specific focus areas include:

- Preserving heritage trees
- Using best practices to maintain city trees
- Preserving and expanding the urban canopy
- Making determinations on appeals of heritage tree removal permits
- Administering annual Environmental Quality Awards program
- Organizing annual Arbor Day Event; typically a tree planting event
- Advising on programs and policies related to protection of natural areas, recycling and waste reduction, environmentally sustainable practices, air and water pollution prevention, climate protection, and water and energy conservation.

Finance and Audit Committee

The Finance and Audit Committee is charged primarily to support delivery of timely, clear and comprehensive reporting of the City’s fiscal status to the community at large. Specific focus areas include:

- Review the process for periodic financial reporting to the City Council and the public, as needed
- Review financial audit and annual financial report with the City’s external auditors
- Review of the resolution of prior year audit findings
- Review of the auditor selection process and scope, as needed

COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES

City Council Policy #CC-19-0004

Effective 3/5/2019

Resolution No. 6477

9

Housing Commission

The Housing Commission is charged primarily with advising the City Council on housing matters including housing supply and housing related problems. Specific focus areas include:

- Community attitudes about housing (range, distribution, racial, social-economic problems)
- Programs for evaluating, maintaining, and upgrading the distribution and quality of housing stock in the City
- Planning, implementing and evaluating City programs under the Housing and Community Development Act of 1974
- Members serve with staff on a loan review committee for housing rehabilitation programs and a first time homebuyer loan program
- Review and recommend to the City Council regarding the Below Market Rate (BMR) program
- Initiate, review and recommend on housing policies and programs for the City
- Review and recommend on housing related impacts for environmental impact reports
- Review and recommend on State and regional housing issues
- Review and recommend on the Housing Element of the General Plan
- The five most senior members of the Housing Commission also serve as the members of the Relocation Appeals Board (City Resolution 4290, adopted June 25, 1991).

Library Commission

The Library Commission is charged primarily with advising the City Council on matters related to the maintenance and operation of the City's libraries and library systems. Specific focus areas include:

- The scope and degree of library activities
- Maintenance and protection of City libraries
- Evaluation and improvement of library service
- Acquisition of library materials
- Coordination with other library systems and long range planning
- Literacy and ESL programs

Parks and Recreation Commission

The Parks and Recreation Commission is charged primarily with advising the City Council on matters related to City programs and facilities dedicated to recreation. Specific focus areas include:

- Those programs and facilities established primarily for the participation of and/or use by residents of the City, including adequacy and maintenance of such facilities as parks and playgrounds, recreation buildings, facilities and equipment
- Adequacy, operation and staffing of recreation programs
- Modification of existing programs and facilities to meet developing community needs
- Long range planning and regional coordination concerning park and recreational facilities

Planning Commission

The Planning Commission is organized according to State Statute.

- The Planning Commission reviews development proposals on public and private lands for compliance with the General Plan and Zoning Ordinance.
- The Commission reviews all development proposals requiring a use permit, architectural control, variance, minor subdivision and environmental review associated with these projects. The Commission is the final decision-making body for these applications, unless appealed to the City Council.
- The Commission serves as a recommending body to the City Council for major subdivisions, rezoning's, conditional development permits, Zoning Ordinance amendments, General Plan amendments and the environmental reviews and Below Market Rate (BMR) Housing Agreements associated with those projects.
- The Commission works on special projects as assigned by the City Council.

COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES

City Council Policy #CC-19-0004

Effective 3/5/2019

Resolution No. 6477

Sister City Committee

The Sister City Committee is primary charged with promoting goodwill, respect and cooperation by facilitating cultural, educational and economic exchanges

- Develop a mission statement and program plan consisting of projects, exhibits, contacts and exchanges of all types to foster and promote the objectives of the mission statement
- Implement the approved program plan upon request of the City Council
- Keep the community informed concerning the Sister City program
- Advise the City Council on matters pertaining to any sister city affairs
- Perform other duties as may be assigned to the committee by the City Council

Special Advisory Bodies

The City Council has the authority to create standing committees, task forces or subcommittees for the City, and from time to time, the City Council may appoint members to these groups. The number of persons and the individual appointee serving on each group may be changed at any time by the City Council. There are no designated terms for members of these groups; members are appointed by and serve at the pleasure of the City Council.

Any requests of city commissions or committees to create such ad hoc advisory bodies shall be submitted in writing to the City Clerk for City Council consideration and approval.

Procedure history

Action	Date	Notes
Procedure adoption	1991	Resolution No. 3261
Procedure adoption	2001	
Procedure adoption	2011	
Procedure adoption	2013	Resolution No. 6169
Procedure adoption	2017	Resolution No. 6377



STAFF REPORT

City Council

Meeting Date: 11/10/2020

Staff Report Number: 20-245-CC

Consent Calendar:

Adopt Resolution No. 6597 dissolving the City's Sister City Committee and authorizing committee members to form a nonprofit to support the ongoing sister city program

Recommendation

Staff recommends that the City Council adopt Resolution No. 6597 dissolving the City's Sister City Committee and expressing support for the creation of a nonprofit to support the ongoing sister city program.

Policy Issues

Resolution No. 6294, adopted November 17, 2015, established the Sister City Committee. The proposed resolution rescinds the portion of Resolution No. 6294 that established a Sister City Committee and dissolves the existing Sister City Committee in favor of the creation of an independent nonprofit to support the ongoing sister city program. The City Council policy outlining procedures for the city's advisory bodies would also be modified to remove references to the Sister City Committee as a City Council-appointed body.

Background

Sister Cities International

Sister Cities International (SCI) is a nonpartisan 501(c)(3) nonprofit which serves as the national membership organization for individual sister cities, counties and states across the U.S. This network unites tens of thousands of citizen diplomats and volunteers in nearly 500 U.S. cities with over 1,800 partnerships in 138 countries on six continents. Sister city relationships offer members the opportunity to form connections between communities that are mutually beneficial and which address issues that are most relevant for partners. Programs vary greatly from basic cultural exchange programs to shared research and development projects.

Sister City program governance

There are a variety of ways that cities organize sister city programs. Sister city organizations may be run by a group of volunteers, the municipal government or by some combination of these. Most often, sister city organizations are incorporated as 501(c)(3) nonprofits, although the municipal government may have representation or a formal relationship with the group. Many are governed by a board of directors or commission, although the majority of members are volunteers from all sectors of the community. Most municipal contacts for sister city organizations are in the city manager or economic development offices.

More than 87 California cities have sister city programs and partnerships with more than 380 cities worldwide. Not all of these are affiliated with Sister Cities International, but most are and they benefit from the program support, networking and membership resources of the national organization. Below is a list of the 27 sister city programs in San Mateo and Santa Clara counties. Approximately 2/3 of the programs are

governed by an independent nonprofit.

San Mateo County and Santa Clara County Sister City programs		
Local agency	County	Governance
Belmont	San Mateo County	n/a
Brisbane	San Mateo County	City
Daly City	San Mateo County	Nonprofit
East Palo Alto	San Mateo County	n/a
Foster City	San Mateo County	Nonprofit
Half Moon Bay	San Mateo County	Nonprofit
Menlo Park	San Mateo County	City
Millbrae	San Mateo County	City
Pacifica	San Mateo County	Nonprofit
Redwood City	San Mateo County	Nonprofit
San Bruno	San Mateo County	City
San Carlos	San Mateo County	Nonprofit
San Mateo	San Mateo County	Nonprofit
South San Francisco	San Mateo County	Nonprofit
Cupertino	Santa Clara County	Nonprofit
Gilroy	Santa Clara County	Nonprofit
Los Altos	Santa Clara County	Nonprofit
Los Gatos	Santa Clara County	n/a
Milpitas	Santa Clara County	City
Morgan Hill	Santa Clara County	Nonprofit
Mountain View	Santa Clara County	Nonprofit
Palo Alto	Santa Clara County	Nonprofit
San Jose	Santa Clara County	Nonprofit
Santa Clara	Santa Clara County	Nonprofit
Santa Clara County	Santa Clara County	County
Saratoga	Santa Clara County	Nonprofit
Sunnyvale	Santa Clara County	Nonprofit

Analysis

Current status of the sister city program

Two of the City's four relationships are currently active (Bizen, Japan and Galway, Ireland) and the program is guided by a City Council-appointed advisory body (Brown Act body) known as the Sister City Committee. The Committee consists of five public members and two City Councilmembers. The current program is entirely funded by the City of Menlo Park with an annual program budget up to \$15,000; however, the budget is mostly used during years where the City hosts a delegation from our Japanese sister city, Bizen. On years where there is no delegation visit, the program expenditures are much less and typically under \$2,000. The Changzhou (Xinbei), China and Kochi, India affiliations, both of which are friendship cities, are relatively inactive at this time.

Moving forward with creation of a nonprofit

In February 2020, the City Council requested the staff and the Sister City Committee explore options to shift the administration of the city's sister city program to an independent nonprofit. The Sister City Committee further discussed this at its August 21, 2020, special meeting, and agreed that this would be a positive change going forward.

For several months, a subcommittee including Chair George Yang, Vice Chair Kristy Holch and City Councilmember Catherine Carlton met to discuss the path forward. Following the City Council's approval and direction of dissolving the Sister City Committee, volunteers plan to begin the process of forming the nonprofit, adopting governing documents and recruiting additional volunteers.

The information and recommendations below are largely taken as best practices from the Sister Cities International Member Toolkit: Building Your Sister Cities Program (Attachment B):

Nonprofit incorporation

The corporation is a legal entity with its own name. It is made up of individuals that must follow the laws regarding corporations. Both city staff and Sister Cities International strongly suggest incorporation of the nonprofit corporation and registration with the Secretary of State and Internal Revenue Service. The incorporated nonprofit structure also provides flexibility as an umbrella organization that could have individual committees supporting the individual city affiliations of Bizen, Galway, Kochi and Changzhou (Xinbei), in the future.

A sister cities program has 15 months to apply for tax-exempt status after it initiates the process of incorporation. Importantly, all contributions made during this time are retroactively tax-exempt. SCI advises the sister cities program to follow the steps below efficiently in order to legalize and to protect itself:

- Obtain a federal employer identification number from the Internal Revenue Service (IRS.)
- Write the articles of incorporation and the bylaws.
- Call an organizational meeting to approve articles of incorporation and ratify bylaws, select board of directors and officers and decide on a bank for the program's account.
- File the articles of incorporation with the Secretary of State in the program's state or a commissioner of corporations to become a nonprofit corporation. Although statutes vary from state to state, the corporation becomes a legal entity when chartered in one state.
- File the certificate of incorporation with the city/county recorder of deeds.
- Open a checking account. If the program will be soliciting funds from the U.S. Government, it may have to establish a non-interest bearing account. As a rule, the government requires that any grants be placed in these accounts. The program may also wish to open accounts for each sister cities affiliation.
- Obtain an income tax exemption from the federal government under section 501 (c)(3) of the IRS tax

code. Although this is not necessary, tax exemption is very beneficial. The sister cities program will be exempt from all forms of tax including state, local, sales, use and property taxes. In addition, donors may be able to deduct their contribution from their federal taxes. In addition, by claiming tax-exempt status, the sister cities program will qualify to receive funds from private foundations.

Bylaws should state the name of the current sister city affiliations as subcommittees and should allow for future sister cities to be included in the framework.

- The nonprofit should be the sole group to recommend new sister cities to the City Council. Proposals for new sister cities should be addressed to the sister cities program and should meet certain criteria established by the program as a quality control measure. Only after the sister cities program approves of the proposal should a recommendation be made to the City Council for approval.
- Some organizations have established separate checking accounts for each of the sister city affiliation committees and for the coordinating body. Others cities operate with just one account for the entire organization. The nonprofit will need to decide which option will most efficiently and effectively move and keep funds for the program and facilitate proper financial record keeping.
- Rather than dividing energies by establishing an individual youth group for each affiliation, SCI recommends that the sister city program form one youth chapter, if desired. There should be at least one adult adviser for the chapter, ideally one from each sister city affiliation. The chairperson of the youth chapter should be on the board of directors, carrying an equal voice and vote with the adult directors.

Currently, the subcommittee of Yang, Holch and Carlton has secured volunteer professional legal and accounting assistance to help with the process of forming the nonprofit

Insurance

City staff recommends that the nonprofit also seek and secure general liability insurance, as well as consider Directors and Officers (D&O) insurance. This will protect the corporation from damages that occur or lawsuits that result from a sister cities-sponsored event that involves the public. This liability insurance is not meant to replace the individual exchangee's accident or sickness insurance while on a sister cities sponsored exchange. Each participant should secure appropriate insurance coverage while on an exchange or the group as a whole can purchase insurance for the duration of the exchange. Liability insurance is meant to protect the program and its events in the community. The Directors and Officers liability insurance covers damages for which the nonprofit is liable, which result from bad decisions, errors or omissions made by the nonprofits' directors, appointed officers, employees or volunteers.

Relationship between the nonprofit and the city government

The nonprofit should continue to maintain close communication and positive relations with the city government. This could be through a liaison to the City Council or City Council representation on the board of the nonprofit.

Other considerations

City staff also recommends that the nonprofit or the City make a firm commitment to continue its membership in Sister Cities International and involvement with the Northern California Chapter of Sister Cities International (state affiliate.) The annual SCI dues are approximately \$610 and payable annually in June. The nonprofit will need to plan and adopt an annual budget and then consider whether financial support from the city will be needed.

Impact on City Resources

The existing sister city program budget has included a budget of not more than \$15,000 per year. This covers annual membership costs in Sister Cities International and related local program expenses related to delegation visits (transportation, meals, admission fees, etc.), Sister City Committee operations and ceremonial gifts. Once a nonprofit is formed, the City Council may choose to provide a grant or other financial support to the organization.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. Resolution No. 6597
- B. Hyperlink – Sister Cities International’s Member Toolkit: Building Your Sister Cities Program:
<https://sistercities.org/wp-content/uploads/2018/02/Building-Your-Local-Program.pdf>

Report prepared by:
Clay J. Curtin, Public Engagement Manager

RESOLUTION NO. 6597

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
DISSOLVING THE SISTER CITY COMMITTEE AND AUTHORIZING
COMMITTEE MEMBERS TO FORM A NONPROFIT TO SUPPORT THE
ONGOING SISTER CITY PROGRAM**

WHEREAS, Sister Cities International is a nonpartisan 501(c)(3) nonprofit which serves as the national membership organization for individual sister cities, counties, and states across the U.S.; and

WHEREAS, in 2015, Menlo Park joined this network that unites tens of thousands of citizen diplomats and volunteers in nearly 500 communities with over 1,800 partnerships in 138 countries on six continents; and

WHEREAS, the City Council adopted Resolution No. 6294 on November 17, 2015, establishing the Sister City Committee, which has worked to support the City's sister city program and its international affiliations with sister cities Galway, Ireland and Bizen, Japan, as well as friendship cities Changzhou (Xinbei), China and Kochi, India; and; and

WHEREAS, in February 2020, the City Council recommended the Sister City Committee and staff evaluate and return with a plan to transition the governance of the sister city program to an independent nonprofit organization; and

WHEREAS, the Sister City Committee met August 21, 2020, for a special meeting to consider and approve a recommendation to form an independent nonprofit to support sister city program activities; and

NOW, THEREFORE, IT IS RESOLVED that the City Council hereby rescinds the portion of Resolution No. 6294 that established a Sister City Committee, dissolves the existing Sister City Committee and supports and authorizes the formation of an independent nonprofit to support the City's ongoing sister city program and related activities.

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the tenth of November, 2020, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this tenth day of November, 2020

Judi A. Herren, City Clerk

Agenda Item I3

Jim Lewis

Page 1 of 2

Honorable Mayor Taylor and Council Members:

While I support the Sister City Program, I'd like to suggest that you consider several topics in making your decision tonight.

1. HISTORICAL ASSOCIATION

Did you run this by the Historical Association first? In 2012, the Historical Association, a 501(c)3 non-profit corporation with an active eleven member Board of Directors did the heavy lifting in starting this program. It's an insult not to have asked for their opinion, as they may have wanted to bid to oversee the continuation of this important program. After all, it was through their efforts that the MENLO GATES were built and a MENLO SISTERS website was built and maintained.

2. SISTER CITY AND FRIENDSHIP AGREEMENTS

Has there been a legal analysis of duties and responsibilities under the contractually agreed upon Agreements with the cities in Ireland, China, Japan and India? Are you violating any clauses? Will the Agreements need to be amended? Should the courtesy of informing the four cities of this intention occur first, versus simply announcing afterwards that you have unilaterally changed the structure of the program?

3. PARKS, RECREATION AND LIBRARY COMMISSIONS

Should this proposal have been run by any of the City Commissions first? For instance, Chair George Yang appeared before the Library Commission with a proposal? It may become a surprise to many that the Sister City Committee has been DISSOLVED, thus potentially pulling the rug out from under them- with no notice.

Page 2 of 2

4. PREMATURE DISSOLUTION

Five of the seven appointed members of the Sister City Committees terms of office ENDED on October 1, 2020 and the remaining two Council Members term on this Committee ends December 22, 2020. With no one left on the Committee, who will guide the process into a newly formed organization? There may be a VOID. Who will be RESPONSIBLE in the interim? Should the Committee continue until such time as the new group is up and running?

Several years ago the City Council terminated the Menlo Park Art Commission. It has never come back. Despite efforts otherwise, the program has remained DORMANT. Thus keeping the existing Committee going until such time as the new group is formed, and up and running, actively and successfully may be advisable.

5. ACTIFACTS

Since the program began in 2013, many artifacts have been obtained. This has been from BOTH gifts from dignataries visiting Menlo Park and from Menlo Park dignataries visiting foreign countries. The Staff Report makes no mention on what is to become of these items. They consist of a variety of valued items.

6. CONSENT CALENDAR

It's difficult to understand why you have chosen to place this on the Consent Calendar vs. as a Regular Business item. It's like the topic is being ram rodded through, with little notice or respect to many persons that have been supportive of the program. This topic needs to be vetted out more fully. There are pros and cons to every decision. Stake holders should have an opportunity to share their thoughts.

For this and a host of similar reasons, I urge the Council to CONTINUE this topic so that a broader spectrum of issues can be addressed. Thank you for your consideration.

Oficina del Administrador de la Ciudad

**INFORME DE PERSONAL**

Consejo Municipal	
Fecha de la reunión:	11/10/2020
Número de informe del personal:	20-243-CC
Negocios regulares:	Considerar las opciones de financiación de las obras solicitadas por la Ciudad para acompañar la oferta de Facebook de reconstruir las instalaciones comunitarias ubicadas en 100-110 Terminal Avenue y el plan de servicios provisionales durante la construcción

Recomendación

El personal recomienda que el Consejo Municipal confirme lo siguiente para el campus comunitario de Menlo Park (MPCC) ubicado en 100 de la Terminal Ave.:

1. Las fuentes de financiación y la estrategia de la Ciudad solicitaron un trabajo compuesto de tres niveles como se describe a continuación y que totalizan \$9.8 millones.
2. Plan de servicios provisionales durante la construcción del nuevo edificio que se describe a continuación, incluyendo un aumento de la autoridad de contratación del administrador de la ciudad a \$250,000 para los portafolios del programa extraescolar y \$125,000 para el trabajo de sitio asociado.

Temas de política

Esta generosa oferta de construir una nueva instalación pública en el barrio de Belle Haven proporciona una emocionante oportunidad para la comunidad para las generaciones venideras. En múltiples ocasiones durante los últimos diez meses, el Consejo Municipal ha establecido este proyecto como una de las principales prioridades de la ciudad, la más reciente el 18 de agosto.

Antecedentes

En octubre de 2019, Facebook anunció su intención de colaborar con la comunidad y la Ciudad para construir un nuevo centro comunitario multigeneracional y una biblioteca en el sitio del actual Centro Comunitario Onetta Harris (OHCC), el Centro para Ancianos de Menlo Park y el Centro Juvenil de Belle Haven ubicado en la 100-110 Terminal Avenue. El alcance del proyecto se ha ampliado para incluir la reconstrucción de la piscina de Belle Haven. La información relacionada con el proyecto, incluyendo todas las reuniones anteriores, puede consultarse en la página web administrada por la Ciudad (Anexo A.)

Proceso y calendario de revisión del proyecto

Los pasos restantes del proceso de revisión del proyecto son los siguientes:

- 10 de noviembre - Revisión del Consejo Municipal de la estrategia de financiación del proyecto y el plan final de servicios provisionales
- 7 o 14 de diciembre - Audiencia pública de la Comisión de Planificación para hacer una recomendación sobre el proyecto
- 12 de enero de 2021 - Audiencia pública del Consejo Municipal sobre la determinación de la Ley de

Calidad Ambiental de California (CEQA), la aprobación del proyecto y el acuerdo vinculante con Facebook para la construcción del proyecto, incluyendo cualquier paso restante para solidificar la financiación del proyecto para el trabajo solicitado por la Ciudad.

Si el proyecto se aprueba en enero de 2021, el resultado sería el siguiente calendario para la finalización del proyecto, suponiendo que este siga siendo un proyecto de alta prioridad para la Ciudad:

- Junio de 2021 – Cierre de instalaciones
- Julio a agosto de 2021 – Remediación y demolición
- Primavera de 2023 – Reapertura de las instalaciones

Análisis

Más recientemente, el 13 de octubre, el Consejo Municipal confirmó que todos los elementos de trabajo solicitados por la Ciudad en la hoja de plazos deberían incorporarse al diseño del proyecto, como se muestra generalmente en el Anexo B. El Consejo Municipal también autorizó el reembolso de las tasas de diseño a Facebook hasta un máximo de \$500,000 por el trabajo hasta enero de 2021. Las mejoras del proyecto y los costos estimados, que incluyen costos blandos como el diseño, son los siguientes:

1. Nueva piscina: \$7.400 millones
2. Centro de evacuación de la Cruz Roja: \$0.750 millones
3. Energía de reserva de emergencia (generador diésel): \$0.150 millones
4. Cubiertas solares para coches: \$0.750 - \$1.500 millones
5. LEED Platino (Liderazgo en Energía y Diseño Ambiental), además de la mejora de la cubierta solar adicional: \$0.350 - \$0.600 millones de dólares.
6. Micro red de energía renovable (batería de reserva): \$0.600 - \$1.200 millones
7. Deconstrucción de edificios contra demolición: \$0.400 millones
8. Reemplazo de la tubería principal de agua: \$0.800 millones (ya financiados)
9. Conexión de agua reciclada de la calle Chilco: \$0.414 millones
10. Subterráneo de servicios públicos: \$0.250 millones

Además de la opción de compra en efectivo, los puntos 4, 5 (parcial) y 6 tienen el potencial de "pagarse a sí mismos" efectivamente mediante un acuerdo de compra de energía. En un acuerdo de compra de energía no habría ningún costo de capital inicial para la Ciudad. Una entidad externa financiaría y construiría las mejoras y tendría la responsabilidad del mantenimiento durante el período de vigencia del acuerdo. Un acuerdo de compra de energía permite a la entidad financiera aprovechar los créditos fiscales no disponibles para la Ciudad ayudando a compensar el "beneficio" construido en el acuerdo. La Ciudad firmó un acuerdo de tipo similar para las instalaciones solares existentes en el techo de OHCC y varios edificios del Campus del Centro Cívico. El resto de los puntos que necesitan financiación (los puntos 1, 2, 3, el resto de 5, 7, 9 y 10) suman aproximadamente \$9.714 millones.

Adicionalmente, el personal está buscando opciones para asegurar los derechos para continuar usando las tierras que actualmente son propiedad de la PG&E, incluyendo la opción de adquirir la tierra para dar más certeza al proyecto y beneficios a largo plazo para la Ciudad. Los costos de adquisición de la tierra no se incluyen en las estimaciones anteriores.

Financiación del proyecto

El 13 de octubre, el Consejo Municipal ordenó al personal de la Ciudad que identificara varias opciones de financiación para los \$9.714 millones necesarios para la piscina y otras adiciones al proyecto MPCC. El personal de la Ciudad recomienda una enmienda al presupuesto del proyecto de \$9.8 millones que identifica tres fuentes de financiación. El personal de la Ciudad maximizará los fondos disponibles en los

niveles bajos (nivel 1) antes de extraer fondos en los niveles más altos (nivel 3.) La solicitud de enmienda al presupuesto se incluye en un punto separado de la agenda del 10 de noviembre.

Nivel 1 - Subsidios, donaciones y contribuciones de servicios comunitarios: \$1 millón.

Como una asociación público-privada con Facebook para mejorar las instalaciones disponibles para las poblaciones vulnerables, el proyecto MPCC es competitivo para subvenciones regionales, estatales y federales. El personal de la ciudad ha identificado una subvención de \$200,000 para compensar la construcción de la piscina. Es posible que en los próximos meses se disponga de más oportunidades de subvención o de futuros fondos federales de estímulo. Si el Consejo Municipal lo ordena, el personal de la Ciudad contratará a organizaciones sin fines de lucro como la Fundación de la Biblioteca de Menlo Park para identificar la voluntad de contribuir al proyecto para los gastos de mobiliario, accesorios y equipo. Como opción adicional, algunos aspectos del proyecto forman parte de la lista de servicios comunitarios adoptada por el Consejo Municipal para compensar el impacto del desarrollo del nivel de bonificación en la zona de la bahía. Un promotor debe proponer una amenidad, y el Consejo de la Ciudad debe aceptar la amenidad como parte del proceso de derecho de desarrollo. El personal de la Ciudad no considera que las amenidades de la comunidad sean una opción viable para compensar los costos de este proyecto basado en el calendario actual del proyecto. Los fondos de nivel 1 de más de \$1 millón reducirán los fondos de nivel 3 en este proyecto.

Nivel 2 - Uso del saldo no asignado del fondo general: \$2 millones.

El saldo de fondos no asignados de la ciudad de \$6.4 millones al 30 de junio de 2020, es un superávit de ingresos que no está restringido por la fuente o la política del Consejo Municipal. La política del Consejo Municipal mantiene un adicional de \$35.1 millones en el balance del fondo asignado y comprometido. El uso de \$2 millones para el proyecto MPCC no impondría una dificultad en las finanzas de la Ciudad.

Nivel 3 - Bonos de obligación general de la medida T - \$6.8 millones.

Aprobada en 2001 por los votantes de Menlo Park para mejorar las instalaciones recreativas, la Medida T tiene una capacidad de fianza restante estimada en \$14 millones. La calificación crediticia de Menlo Park, las reservas sustanciales y el presupuesto estructuralmente equilibrado probablemente resulten en costos de préstamo increíblemente favorables. Desde la perspectiva del flujo de efectivo, el personal de la Ciudad recomienda iniciar el proceso de bonos en el verano de 2021 para dar tiempo a identificar la cantidad de fondos de nivel 3 necesarios. Si el Consejo Municipal decide emitir \$14 millones en bonos de la Medida T para financiar este y otros proyectos del plan maestro de Parques y Recreación, los propietarios comenzarán a pagar aproximadamente \$45 por cada millón de valor tasado en diciembre de 2022.

Hasta la fecha, se han gastado aproximadamente \$24 millones de fondos de la Medida T en proyectos de recreación. La ciudad llevó a cabo dos rondas de proyectos. De 2002 a 2006, la Ciudad gastó aproximadamente \$13 millones de los fondos de la Medida T en varios proyectos de parques y recreación. Ninguno de los proyectos se ubicó al norte de la US 101, en lo que actualmente es el Distrito 1. De 2009 a 2012, la Ciudad gastó aproximadamente \$11 millones de los fondos de la Medida T como contribuciones de la Ciudad a la serie de proyectos filantrópicos que resultaron en el Gimnasio de la Familia Arrillaga, el Centro de Recreación de la Familia Arrillaga y el Centro de Gimnasia de la Familia Arrillaga. Durante el período de 2002 a 2011, la antigua Agencia de Reurbanización gastó aproximadamente \$7.5 millones en mejoras de parques y recreación al norte de la US 101. Se puede obtener información adicional relacionada con los bonos de la Medida T mediante un informe del personal del 27 de agosto de 2019 relativo a la refinanciación de los bonos (Anexo C).

El personal se reunió con el Subcomité del Consejo Municipal compuesto por el alcalde Taylor y el concejal Carlton para discutir la estrategia de financiación. El Subcomité expresó su apoyo general al

enfoque escalonado, pero mantuvo diferentes puntos de vista relacionados con la consideración de los servicios comunitarios como una posible fuente de financiación.

Otra opción identificada en el informe del personal del 13 de octubre fue la de volver a examinar la financiación de los proyectos de mejoras de capital existentes. El Consejo Municipal podría considerar la posibilidad de desfinanciar o retrasar la ejecución de otros proyectos de capital. En el Anexo D figura una lista de proyectos con fuentes de financiación elegibles. Ni el personal ni el Subcomité consideran que sería productivo volver a examinar la lista a los efectos de este proyecto, pero se incluye como referencia.

Plan de servicios provisionales

Tal como se consideró en la reunión del Consejo de la Ciudad del 21 de abril y se esbozó en el informe del personal del 28 de julio, los servicios provisionales durante la construcción de la nueva instalación incluyen los siguientes componentes suponiendo que los cierres de la instalación y las principales restricciones de la pandemia ya no están en vigor:

Servicios para la tercera edad

- Localizar el programa en las habitaciones existentes en el Centro de Recreación Familiar Arrillaga, lo que resultaría en un acceso reducido a ciertas habitaciones para los otros programas/ usos de 8 a.m. a 3 p.m. los días de semana.
- Considerar la posibilidad de hacer pequeñas modificaciones en la cocina si es necesario para el cumplimiento del departamento de salud del condado.
- Aumentar la oferta de transporte al Campus del Centro Cívico (Burgess Park) para los ancianos de Menlo Park.
- Explorar las opciones en Burgess Campus para los campamentos de verano que históricamente han utilizado el Centro de Recreación Familiar Arrillaga durante el día.

Clases de recreación

- Acomodar la demanda a través de la oferta existente o ampliada en las diversas instalaciones del campus del Centro Cívico (Burgess Park).
- Modificar la estructura del programa de tarifas de forma experimental para fomentar la participación de los residentes de Menlo Park interesados en las clases, independientemente de la capacidad de pago.
- Aumentar las opciones de transporte entre el vecindario de Belle Haven y el campus del Centro Cívico (Burgess Park) a través de un transporte de actividades.
- Explorar la posible mejora de los espacios existentes en la biblioteca principal o en el Centro de Gimnasia de la Familia Arrillaga para las salas de reuniones de la comunidad u otra programación.

Cuidado de niños después de la escuela

- Explorar la asociación con la Escuela Beechwood para instalar portátiles temporales en su campus para albergar el programa. El personal exploró esta oportunidad. Aunque la Escuela Beechwood estaba abierta a permitir que la Ciudad localizara temporalmente los portátiles en su propiedad, la logística de la instalación real de los portátiles resultó ser demasiado difícil dadas las limitaciones del sitio. Por lo tanto, la ubicación identificada para los portátiles es ahora el extremo lejano del estacionamiento de Kelly Park como se muestra en el Anexo E.

El personal cree que este plan alcanza los niveles de servicio establecidos por el Consejo Municipal el 25 de febrero y parece ser alcanzable dentro del presupuesto de \$1 millón para servicios interinos. Dicho esto, es probable que haya otras oportunidades y desafíos que surjan antes de la construcción y durante la construcción. El personal mantendrá informado al Consejo Municipal de todo lo que pueda impactar materialmente en los niveles de servicio o en el presupuesto de los servicios interinos.

A fin de asegurar que la comunidad de personas de la tercera edad conociera el plan de servicios provisionales, varios funcionarios de la Biblioteca y Servicios Comunitarios realizaron una encuesta con los aspectos más destacados que se resumen a continuación:

- La encuesta se realizó en inglés y español por teléfono
- La lista de llamadas estaba compuesta por los 184 usuarios del centro de ancianos de los que tenemos información de contacto en el archivo
- Ciento once usuarios respondieron a la encuesta (tasa de respuesta del 60 por ciento)
- El 88% dijo que sí, que utilizarían los servicios del centro de ancianos cuando se encuentren temporalmente en el Centro de Recreación Familiar Arrillaga.
- El 70 por ciento dijo que sí, que necesitarían transporte
- El 58 por ciento dijo que vivía en Menlo Park; el 37 por ciento en East Palo Alto; el 3 por ciento en Redwood City.

El personal tiene la intención de llevar a cabo una encuesta similar a los participantes del programa OHCC para determinar la mejor manera de satisfacer sus necesidades. Una vez concluida esta encuesta, el personal tendrá una mejor idea de las necesidades generales de transporte para los servicios provisionales y se informará al Consejo Municipal en enero de 2021.

El personal recomienda, y el Subcomité está de acuerdo, que se aumente la autoridad de contratación del administrador municipal del nivel actual de \$78,000 a niveles específicos para determinados contratos. El personal recomienda un máximo de \$250,000 para el contrato relacionado con la entrega, instalación y alquiler de los portátiles por un período de 24 meses. Además, el personal recomienda que la autoridad contratante para las obras generales del sitio para acomodar los portátiles se aumente a \$125,000. El personal no prevé ningún otro contrato único que exceda la autoridad de contratación del administrador de la ciudad. Si surgen otros posibles contratos que excedan los \$78,000, el personal regresará para la aprobación del Consejo Municipal.

Impacto en los recursos de la Ciudad

El personal estima que el valor de la oferta es de aproximadamente \$40 millones. El 28 de julio, el Consejo Municipal aprobó el presupuesto del plan de mejoras de capital (CIP) para el año fiscal 2020-21, que asignó \$3.850 millones adicionales, más fondos de remanentes de \$2.132 millones para un presupuesto total del proyecto de aproximadamente \$5.982 para los compromisos de nivel básico de la Ciudad, incluidos los servicios provisionales, como se detalla en la Tabla 1.

Tabla 1: financiación presupuestaria de nivel básico	
Artículo	Presupuesto
Fondo general CIP	\$2.098
Fondo para la mejora del sistema de bibliotecas	\$1.484
Fondo de recreación en lugar de la diversión	\$1.570
Fondo de capital para recursos hídricos	\$0.800
Total	\$5.952

Como se ha descrito anteriormente, el personal estima que los fondos adicionales necesarios para el trabajo solicitado por la Ciudad son de \$9.8 millones. La solicitud de presupuesto se incluye en un punto separado de la agenda del 10 de noviembre.

Revisión Ambiental

Esta acción no es un proyecto en el sentido de las directrices de la CEQA secciones 15378 y 15061(b)(3) ya que no dará lugar a ningún cambio físico directo o indirecto en el medio ambiente. El edificio propuesto es un proyecto en cumplimiento con la CEQA y el personal cree que el proyecto es elegible para una exención de clase 2 para la sustitución de las instalaciones existentes (sección 15302). La determinación final de la CEQA se producirá posteriormente en el proceso al momento de la aprobación del proyecto.

Aviso público

El aviso público se logró mediante la publicación de la agenda, con la enumeración de los puntos de la misma, al menos 72 horas antes de la reunión. Además, la Ciudad envió avisos electrónicos a través de Nextdoor, Facebook y directamente a los suscriptores del proyecto por correo electrónico y actualización de texto desde la página del proyecto (Anexo A).

Anexos

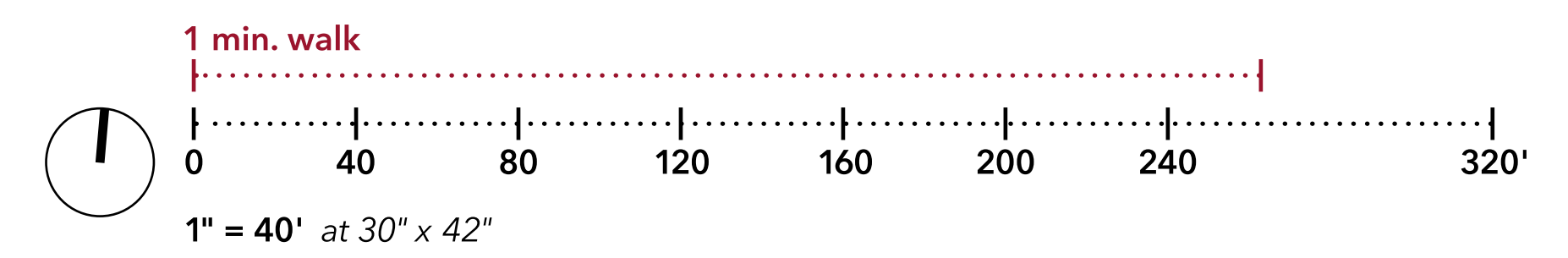
- A. Hipervínculo – página del proyecto: menlopark.org/communitycampus
- B. Plano ilustrativo del lugar en el que se muestra el trabajo solicitado por la Ciudad
- C. Hipervínculo - 27 de agosto de 2019 informe del personal:
menlopark.org/DocumentCenter/View/22628/H5---20190827-Approve-GO-Bond-refunding-CC
- D. Resumen del proyecto del CIP
- E. Plan conceptual propuesto para un programa extracurricular temporal en Kelly Park

Informe preparado por:

Justin Murphy, Subgerente de la Ciudad



1. A new swimming pool and all associated support systems
2. Upgrading the building to a Red Cross Evacuation Center
3. Deploying emergency backup power (e.g., diesel generator)
4. Installing solar carports
5. Pursuing Leadership in Energy and Environmental Design (LEED) Platinum or equivalent
6. Designing and installing a microgrid
7. Deconstructing the existing buildings (instead of demolishing them)
8. Replacing the On-site water main
9. Extending a recycled water main to serve the site in the future
10. Undergrounding overhead utilities



Overall Illustrative Site Plan

Menlo Park Community Campus, Menlo Park, California

L0.00

General Fund, Rec In Lieu, Library System Improvements Fund Sources Only

Project	Prior Year Funds (carryover as of	FY 20/21 Funds	Total Funds	Status
City Building and Systems				
Menlo Park Community Campus	\$2,104,425	\$3,850,000	\$5,954,425	In Design
Info Tech Master Plan & Implementation	\$1,764,404	\$0	\$1,764,404	Ongoing
HVAC Improvements	\$531,650	\$0	\$531,650	In Design
City Buildings (Minor)	\$1,261,774	\$250,000	\$1,511,774	Ongoing
Fire Plans & Equipment Replacement	\$170,116	\$0	\$170,116	In Design
Gatehouse Fence Replacement	\$70,031	\$0	\$70,031	In Design

Environment

Climate Action Plan	\$282,529	\$100,000	\$382,529	Ongoing
Sea Level Rise Resiliency Plan	\$150,000	\$0	\$150,000	Study
EV Charging at City Facilities	\$97,130	\$400,000	\$497,130	In Design

Parks and Recreation

Aquatic Center Maintenance (Annual)	\$643,174	\$400,000	\$1,043,174	In Design
Civic Center Campus Improvements	\$61,924	\$0	\$61,924	On Hold
Tennis Court Maintenance	\$63,471	\$120,000	\$183,471	Not Started
Park Pathways Repairs	\$666,027	\$250,000	\$916,027	In Design
Sport Field Renovations	\$300,000	\$300,000	\$600,000	Not Started
Bedwell Bayfront Park Master Plan Implementation	\$143,456	\$1,350,000	\$1,493,456	In Design
Willow Oaks Park Improvements	\$910,829	\$0	\$910,829	In Design
Park Playgrounds	\$0	\$200,000	\$200,000	In Design
Park Projects (Minor)	\$167,407	\$200,000	\$367,407	Ongoing

Stormwater

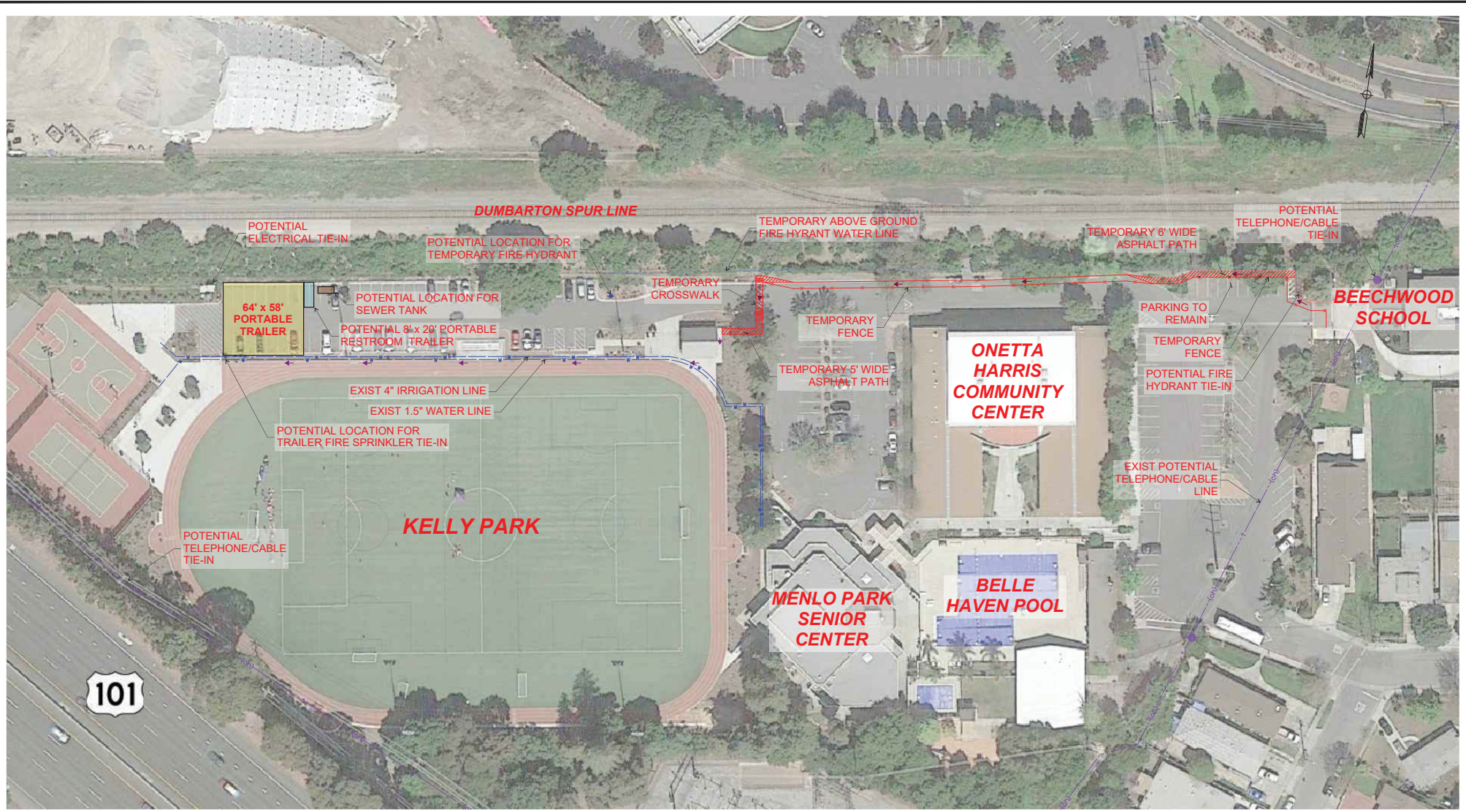
Bayfront Canal / Atherton Channel	\$217,391	\$1,200,000	\$1,417,391	In Design
Chrysler Pump Station	\$10,654,223	\$0	\$10,654,223	In Design
San Francisquito Creek Improvements	\$82,995	\$0	\$82,995	In Design
Stormwater Master Plan	\$330,061	\$0	\$330,061	Study

Streets and Sidewalks

Downtown Streetscape Improvements	\$297,269	\$0	\$297,269	On Hold
Street Resurfacing Project	\$296,709	\$0	\$296,709	Ongoing
Sidewalk Repair Program	\$5,004	\$300,000	\$305,004	Ongoing
Chilco Street and Sidewalk Improvements	\$31,896	\$0	\$31,896	Complete
Oak Grove Sidewalk & Green Infrastructure Project	\$4,650	\$0	\$4,650	Complete
Sharon Road Sidewalks	\$888,001	\$0	\$888,001	In Design

Transportation

Willow - 101 Interchange Landscaping Design	\$204,652	\$0	\$204,652	In Design
Ravenswood Ave/Caltrain Grade Separation Study	\$325,933	\$0	\$325,933	Study
Transportation Master Plan	\$24,157	\$0	\$24,157	Study
Transportation Projects - Minor	\$172,119	\$0	\$172,119	Ongoing
Streetlight Series Circuit Conversion	\$75,000	\$650,000	\$725,000	In Design



**KELLY PARK TEMPORARY AFTERSCHOOL
PROPOSED CONCEPT PLAN**

IN THE CITY OF MENLO PARK, SAN MATEO COUNTY, CALIFORNIA



NO SCALE
OCTOBER 29, 2020

P:\2020\201812-15_Kelly_Park_Afterschool_Temporary_Concept_Plan\20181215_Kelly_Park_Afterschool_Temporary_Concept_Plan.dwg 28 Oct 2020 11:13:00am Ben

**STAFF REPORT****City Council****Meeting Date:** 11/10/2020**Staff Report Number:** 20-243-CC

Regular Business: Consider the funding options for the City requested work to accompany Facebook's offer to rebuild community facilities located at 100-110 Terminal Avenue and the plan for interim services during construction

Recommendation

Staff recommends that the City Council confirm the following for the Menlo Park community campus (MPCC) located at 100 Terminal Ave.:

1. Funding sources and strategy for the City requested work comprised of three tiers as described below and totaling \$9.8 million.
2. Interim services plan during construction of the new building outlined below, including an increase of the city manager contracting authority to \$250,000 for the after school program portables and \$125,000 for the associated site work.

Policy Issues

This generous offer to build a new public facility in the Belle Haven neighborhood provides an exciting opportunity for the community for generations to come. On multiple occasions over the past 10 months, the City Council has established this project as one of the City's top priorities, most recently August 18.

Background

In October 2019, Facebook announced its intent to collaborate with the community and the City to build a new multigenerational community center and library on the site of the current Onetta Harris Community Center (OHCC), Menlo Park Senior Center and Belle Haven Youth Center located at 100-110 Terminal Avenue. The scope of the project has expanded to include reconstruction of the Belle Haven Pool. Information related to the project, including all previous meetings, is available on the City-maintained webpage (Attachment A.)

Project review process and schedule

The remaining steps of the project review process are as follows:

- November 10 – City Council review of the project funding strategy and final interim services plan
- December 7 or 14 – Planning Commission public hearing to make a recommendation on the project
- January 12, 2021 – City Council public hearing on the California Environmental Quality Act (CEQA) determination, project approvals, and binding agreement with Facebook for construction of the project, including any remaining steps to solidify project funding for City requested work.

If the project is approved in January 2021, this would result in the following schedule for project completion assuming this remains a high priority project for the City:

- June 2021 – Facility closures
- July to August 2021 – Remediation and demolition
- Spring 2023 – Facilities re-opening

Analysis

Most recently October 13, the City Council confirmed that all City requested work items from the term sheet should be incorporated into the project design as generally shown in Attachment B. The City Council also authorized the reimbursement of designs fees to Facebook up to a maximum of \$500,000 for work through January 2021. The project enhancements and estimated costs, which include soft costs such as design, are as follows:

1. New swimming pool: \$7.400 million
2. Red Cross evacuation center: \$0.750 million
3. Emergency backup power (diesel generator): \$0.150 million
4. Solar carports: \$0.750 - \$1.500 million
5. LEED Platinum (Leadership in Energy and Environmental Design) upgrade plus additional rooftop solar: \$0.350 - \$0.600 million
6. Renewable energy microgrid (battery backup): \$0.600 - \$1.200 million
7. Building deconstruction versus demolition: \$0.400 million
8. Water main replacement: \$0.800 million (already funded)
9. Recycled water connection from Chilco Street: \$0.414 million
10. Utility undergrounding: \$0.250 million

In addition to a cash purchase option, Items 4, 5 (partial), and 6 have the potential to effectively “pay for themselves” through a power purchase agreement. In a power purchase agreement there would be no upfront capital cost to the City. An external entity would finance and construct the improvements and have maintenance responsibility through the term of the agreement. A power purchase agreement allows the financing entity to take advantage of tax credits not available to the City helping to offset the ‘profit’ built into the agreement. The City entered into a similar type agreement for the existing solar installations at the roof of the OHCC and various buildings at the Civic Center Campus. The remaining items in need of funding (Items 1, 2, 3, remainder of 5, 7, 9 and 10) total approximately \$9.714 million.

Additionally, staff is pursuing options for securing rights to continue to use lands currently owned by PG&E, including the option to acquire the land to provide more certainty for the project and long-term benefits for the City. The land acquisition costs are not included in the estimates above.

Project funding

On October 13, City Council directed City staff to identify various funding options for the \$9.714 million required for the pool and other additions to the MPCC project. City staff recommend a \$9.8 million project budget amendment that identifies three funding sources. City staff will maximize funds available at the low tiers (tier 1) before drawing funds at higher tiers (tier 3.) The budget amendment request is included in a separate agenda item on the November 10 agenda.

Tier 1 - Grants, donations and community amenity contributions: \$1 million.

As a public-private partnership with Facebook to enhance facilities available to vulnerable populations, the MPCC project is competitive for regional, state and federal grants. City staff has identified a \$200,000

grant to offset the pool construction. Additional grant opportunities or future federal stimulus funds may be available in the next several months. If the City Council directs, City staff will engage nonprofits such as the Menlo Park Library Foundation to identify willingness to contribute to the project for furniture, fixtures and equipment expenses. As an additional option, aspects of the project are part of the City Council's adopted community amenities list to offset the impact of bonus level development in the Bayfront area. A developer must propose an amenity, and the City Council must accept the amenity as part of the development entitlement process. City staff does not consider community amenities a viable option to offset this project's costs based on the current project schedule. Tier 1 funds over \$1 million will reduce tier 3 funds on this project.

Tier 2 - Use of General fund unassigned fund balance: \$2 million.

The City's unassigned fund balance of \$6.4 million as of June 30, 2020, is surplus revenue that is not restricted by source or City Council policy. City Council policy maintains an additional \$35.1 million in assigned and committed fund balance. The use of \$2 million for the MPCC project would not impose a hardship on City finances.

Tier 3 - Measure T general obligation bonds - \$6.8 million.

Approved in 2001 by Menlo Park voters to improve recreational facilities, Measure T has a remaining bonding capacity estimated at \$14 million. Menlo Park's credit rating, substantial reserves, and structurally balanced budget would likely result in incredibly favorable borrowing costs. From a cash flow perspective, City staff recommends initiating the bond process in summer 2021 to allow time to identify the amount of Tier 3 funds required. If the City Council decides to issue \$14 million in Measure T bonds to fund this and other Parks and Recreation master plan projects, property owners will begin paying approximately \$45 per 1 million assessed value in December 2022.

To date, approximately \$24 million of Measure T funds has been spent on recreation projects. The City pursued two rounds of projects. From 2002 to 2006, the City spent approximately \$13 million of Measure T funds in various park and recreation projects. None of the projects were located north of US 101, in what is currently District 1. From 2009 to 2012, the City approximately \$11 million of Measure T funds as the City contributions toward the series of philanthropic projects that resulted in the Arrillaga Family Gymnasium, Arrillaga Family Recreation Center and the Arrillaga Family Gymnastics Center. During the period from 2002 until 2011, the former Redevelopment Agency spent approximately \$7.5 million on park and recreation improvements north of US 101. Additional information related to Measure T bonds is available through an August 27, 2019 staff report regarding the refinancing of the bonds (Attachment C.)

Staff met with the City Council Subcommittee comprised of Mayor Taylor and City Councilmember Carlton to discuss the funding strategy. The Subcommittee expressed general support for the tiered approach, but maintained differing views related to the consideration of community amenities as a potential funding source.

One other option identified in the October 13 staff report was revisiting funding of existing capital improvement projects. The City Council could consider defunding or delaying implementation of other capital projects. Attachment D provides a listing of projects with eligible fund sources. Neither staff nor the Subcommittee believe it would be productive to revisit the list for purposes of this project, but it is included for reference.

Interim services plan

As considered at the April 21 City Council meeting and outlined in the July 28 staff report, the interim services during construction of the new facility includes the following components assuming that facility closures and major restrictions from the pandemic are no longer in effect:

Senior services

- Locate the program in existing rooms in the Arrillaga Family Recreation Center, which would result in reduced access to certain rooms for the other programs/uses from 8 a.m. to 3 p.m. on weekdays.
- Consider potential minor modifications to kitchen if needed for county health department compliance.
- Increase transportation offering to the Civic Center Campus (Burgess Park) for Menlo Park seniors.
- Explore options on Burgess Campus for summer camps that historically have used the Arrillaga Family Recreation Center during the day.

Recreation classes

- Accommodate demand through existing or expanded offerings at the various facilities on Civic Center (Burgess Park) campus.
- Modify the program fee structure on a pilot basis to encourage participation of Menlo Park residents interested in classes regardless of ability to pay.
- Increase transportation options between the Belle Haven neighborhood and the Civic Center (Burgess Park) campus through an activity shuttle.
- Explore possible enhancement to existing spaces in the main library or Arrillaga Family Gymnastics Center for community meeting rooms or other programming.

After school child care

- Explore partnership with Beechwood School to install temporary portables on its campus to house the program. Staff did explore this opportunity. Although Beechwood School was open to potentially allowing the City to locate portables temporarily on its property, the logistics of actually installing the portables proved too challenging given site constraints. As such, the identified location for the portables is now the far end of the Kelly Park parking lot as shown in Attachment E.

Staff believes that this plan achieves the target service levels established by the City Council February 25 and appears to be achievable within the \$1 million budget for interim services. That said, it is likely there might be other opportunities and challenges that arise leading up to construction and during construction. Staff will keep the City Council apprised of anything that could materially impact the service levels or budget of interim services.

In order to ensure that the senior community was aware of the plan for interim services, a number of staff from Library and Community Services conducted a survey with the highlights summarized as follows:

- The survey was conducted in English and Spanish by telephone
- The call list was comprised of the 184 senior center users for whom we have contact information on file
- One hundred and eleven users responded to the survey (60 percent response rate)
- Eighty-eight percent said yes, they would use the senior center services when temporarily located at the Arrillaga Family Recreation Center
- Seventy percent said yes, they would need transportation
- Fifty-eight percent said they live in Menlo Park; 37 percent in East Palo Alto; 3 percent in Redwood City

Staff intends to conduct a similar survey of OHCC program participants to determine how best to meet their needs. Upon the conclusion of this survey, staff will have a better feel for the overall transportation needs for interim services and will report out to the City Council in January 2021.

In order to ensure that the portables for the after school program are available in May 2021, staff is recommending and the Subcommittee concurs that the city manager's contracting authority be increased from the current level of \$78,000 to specific levels for certain contracts. Staff is recommending a maximum

of \$250,000 for the contract related to the delivery, installation, and rental of the portables for a 24-month term. In addition, staff recommends that the contracting authority for the general site work to accommodate the portables be increased to \$125,000. Staff does not anticipate any other single contract to exceed the city manager’s contracting authority. If other potential contracts arise that exceed \$78,000, staff will return for City Council approval.

Impact on City Resources

Staff estimates the value of the offer at approximately \$40 million. On July 28, the City Council approved the capital improvement project (CIP) budget for fiscal year 2020-21, which allocated an additional \$3.850 million, plus carry-over funds of \$2.132 million for a total project budget of approximately \$5.982 for the City’s base-level commitments, including interim services, as detailed in Table 1.

Table 1: Base level budget funding	
Item	Budget
General fund CIP	\$2.098
Library system improvement fund	\$1.484
Recreation in lieu fund	\$1.570
Water capital fund	\$0.800
Total	\$5.952

As described above, staff estimates that the additional funding needed for the City requested work is \$9.8 million. A budget request is included in a separate item on the November 10 agenda.

Environmental Review

This action is not a project within the meaning of the CEQA Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment. The proposed building is a project under CEQA and staff believes that the project is eligible for a Class 2 exemption for the replacement of existing facilities (§15302.) The final CEQA determination will occur later in the process at the time of project approval.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting. In addition, the City sent electronic notices via Nextdoor, Facebook and directly to project email and text update subscribers from the project page (Attachment A.)

Attachments

- A. Hyperlink – project page: menlopark.org/communitycampus
- B. Illustrative site plan showing City requested work
- C. Hyperlink – August 27, 2019 staff report: menlopark.org/DocumentCenter/View/22628/H5---20190827-Approve-GO-Bond-refunding-CC
- D. CIP project summary

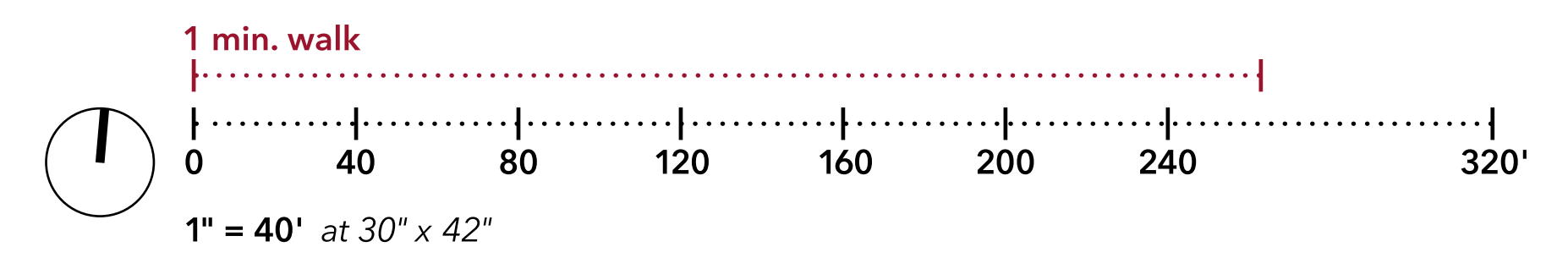
Staff Report #: 20-243-CC

E. Proposed concept plan for temporary afterschool program at Kelly Park

Report prepared by:
Justin Murphy, Deputy City Manager



1. A new swimming pool and all associated support systems
2. Upgrading the building to a Red Cross Evacuation Center
3. Deploying emergency backup power (e.g., diesel generator)
4. Installing solar carports
5. Pursuing Leadership in Energy and Environmental Design (LEED) Platinum or equivalent
6. Designing and installing a microgrid
7. Deconstructing the existing buildings (instead of demolishing them)
8. Replacing the On-site water main
9. Extending a recycled water main to serve the site in the future
10. Undergrounding overhead utilities



Overall Illustrative Site Plan

Menlo Park Community Campus, Menlo Park, California

L0.00

General Fund, Rec In Lieu, Library System Improvements Fund Sources Only

Project	Prior Year Funds (carryover as of	FY 20/21 Funds	Total Funds	Status
City Building and Systems				
Menlo Park Community Campus	\$2,104,425	\$3,850,000	\$5,954,425	In Design
Info Tech Master Plan & Implementation	\$1,764,404	\$0	\$1,764,404	Ongoing
HVAC Improvements	\$531,650	\$0	\$531,650	In Design
City Buildings (Minor)	\$1,261,774	\$250,000	\$1,511,774	Ongoing
Fire Plans & Equipment Replacement	\$170,116	\$0	\$170,116	In Design
Gatehouse Fence Replacement	\$70,031	\$0	\$70,031	In Design

Environment

Climate Action Plan	\$282,529	\$100,000	\$382,529	Ongoing
Sea Level Rise Resiliency Plan	\$150,000	\$0	\$150,000	Study
EV Charging at City Facilities	\$97,130	\$400,000	\$497,130	In Design

Parks and Recreation

Aquatic Center Maintenance (Annual)	\$643,174	\$400,000	\$1,043,174	In Design
Civic Center Campus Improvements	\$61,924	\$0	\$61,924	On Hold
Tennis Court Maintenance	\$63,471	\$120,000	\$183,471	Not Started
Park Pathways Repairs	\$666,027	\$250,000	\$916,027	In Design
Sport Field Renovations	\$300,000	\$300,000	\$600,000	Not Started
Bedwell Bayfront Park Master Plan Implementation	\$143,456	\$1,350,000	\$1,493,456	In Design
Willow Oaks Park Improvements	\$910,829	\$0	\$910,829	In Design
Park Playgrounds	\$0	\$200,000	\$200,000	In Design
Park Projects (Minor)	\$167,407	\$200,000	\$367,407	Ongoing

Stormwater

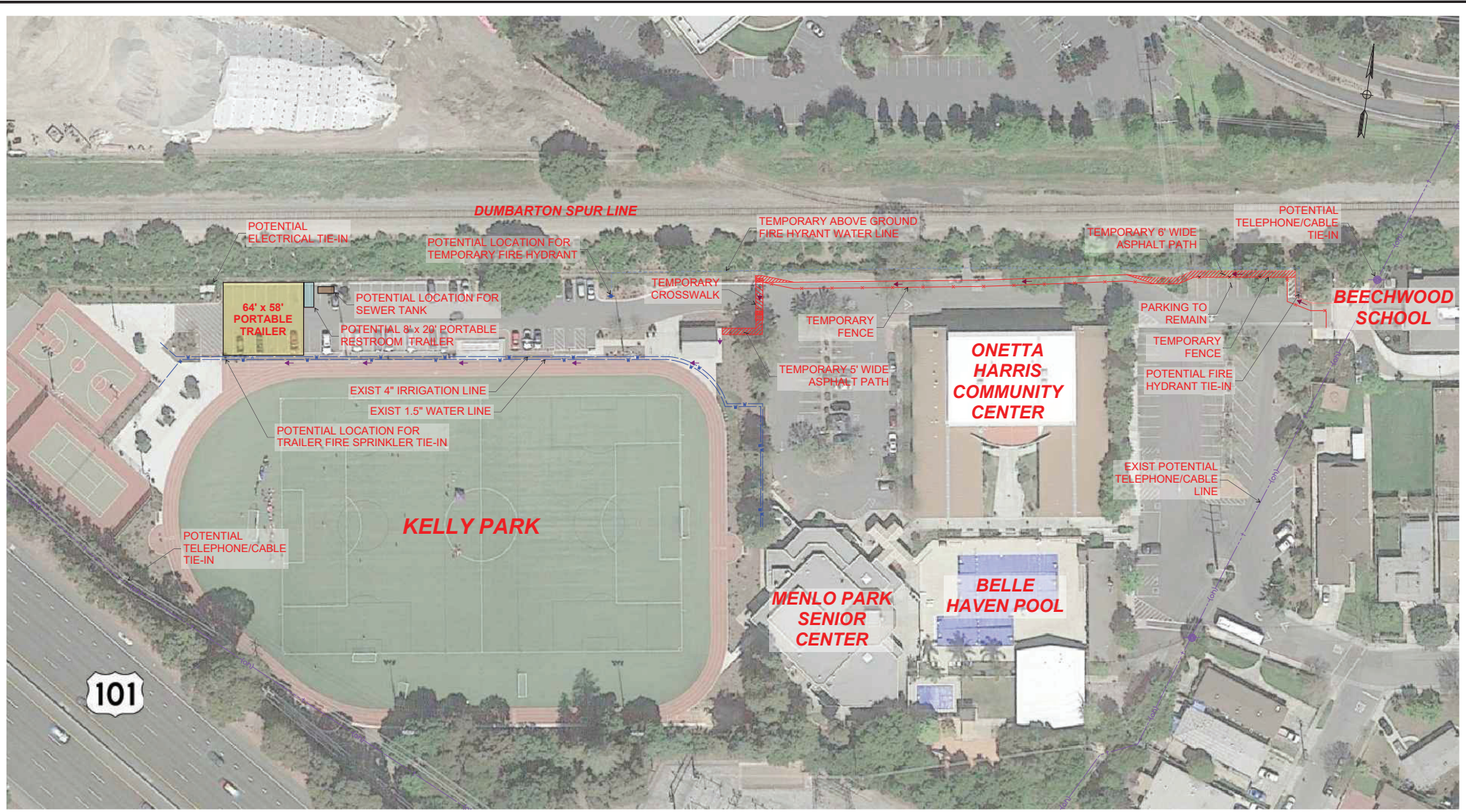
Bayfront Canal / Atherton Channel	\$217,391	\$1,200,000	\$1,417,391	In Design
Chrysler Pump Station	\$10,654,223	\$0	\$10,654,223	In Design
San Francisquito Creek Improvements	\$82,995	\$0	\$82,995	In Design
Stormwater Master Plan	\$330,061	\$0	\$330,061	Study

Streets and Sidewalks

Downtown Streetscape Improvements	\$297,269	\$0	\$297,269	On Hold
Street Resurfacing Project	\$296,709	\$0	\$296,709	Ongoing
Sidewalk Repair Program	\$5,004	\$300,000	\$305,004	Ongoing
Chilco Street and Sidewalk Improvements	\$31,896	\$0	\$31,896	Complete
Oak Grove Sidewalk & Green Infrastructure Project	\$4,650	\$0	\$4,650	Complete
Sharon Road Sidewalks	\$888,001	\$0	\$888,001	In Design

Transportation

Willow - 101 Interchange Landscaping Design	\$204,652	\$0	\$204,652	In Design
Ravenswood Ave/Caltrain Grade Separation Study	\$325,933	\$0	\$325,933	Study
Transportation Master Plan	\$24,157	\$0	\$24,157	Study
Transportation Projects - Minor	\$172,119	\$0	\$172,119	Ongoing
Streetlight Series Circuit Conversion	\$75,000	\$650,000	\$725,000	In Design



**KELLY PARK TEMPORARY AFTERSCHOOL
PROPOSED CONCEPT PLAN**

IN THE CITY OF MENLO PARK, SAN MATEO COUNTY, CALIFORNIA



NO SCALE
OCTOBER 29, 2020

P:\2020\201812-15_Kelly_Park_Afterschool_Temporary_Concept_Plan\20181215_Kelly_Park_Afterschool_Temporary_Concept_Plan.dwg 28 Oct 2020 11:13:00am Ben

Agenda Item J1
Elyse Stein, Resident

Council members,

It's nice to hear/see you all and we're pleased to be representing the Menlo Park Library Foundation. As you know, the Foundation is a small group of volunteers who drives the fundraising efforts for capital campaigns. In the last few months, we have supported several library programs: a Youth Poster Exhibition; a Books By Mail service in partnership with Friends of the MP Library and Kepler's Books; and the Seed Lending Library.

We are now preparing for a major fundraising effort to support Library needs in the Menlo Park Community Campus. We began our preparations early in 2019, before the Facebook offer was made. We want to bring to the community an effective, productive, professional campaign that aligns with the community. In May, our external consultants completed a Capital Campaign Feasibility Study. The research was completed through individual interviews with community members and conversations with representatives from the Silicon Valley Community Foundation. We suspended the Study because of Covid, but fortunately, the consultants had already compiled enough data to provide a substantive report.

The feasibility study determined that we could raise between \$2- \$3 million in a capital campaign. The campaign includes 3 phases: (1) Leadership and major gifts; (2) Institutional Support and (3) a Community campaign. Engaging the community is a critical part of this campaign, to build community pride and ownership.

The Foundation is ready to move forward in concert with the City Council's timeline. The ideal time to kick off the Campaign is when there are approved drawings to take to potential donors. We anticipate sometime in Jan. of 2021.

We look forward to the future with excitement.

Elyse Stein, President, Menlo Park Library Foundation
Monica Corman, Past President, Menlo Park Library Foundation
Lynne Fovinci, Treasurer, Menlo Park Library Foundation.

Agenda Item J1

Janelle London

Honorable mayor and Commissioners. This is Janelle London vice-chair of the Environmental Quality commission today. I speak on behalf of the eqc regarding item J to this is to urge you to approve the \$155,000 to analyze options for adding EV charging in existing multi-family units off the city must figure out a way to meet this challenge in order to reach its twenty Thirty goal of carbon neutrality moreover adding EV charging in apartments is key to an equitable transition away from gasoline. We will have extensive financial support \$100,000 and partnership from Peninsula clean energy in this endeavor as well as access to their \$24 in incentives for adding charging infrastructure. The gain is enormous and the price tag is cheap for what will be getting for the price of a few consultants for a limited time. We will gain expert advice dead. On the most effective efficient and viable options for achieving sufficient EV charging for multi-unit dwellings to prepare for a gasoline free future. The climate crisis is not waiting making a small pack now will be much cheaper and smoother than waiting until we are faced with the ravages of a warming planet or are forced to take emergency action under a state or federal mandate, which may be unfunded in conclusion. I hope you approve this important budget item. Thank you for your continued leadership on climate change.



STAFF REPORT

City Council

Meeting Date: 11/10/2020

Staff Report Number: 20-244-CC

Regular Business: Amend the City Council adopted fiscal year 2020-21 budget and salary schedule

Recommendation

City staff recommends that the City Council adopt Resolution No. 6599, Attachment G, to amend the City Council adopted fiscal year 2020-21 budget and the City Council adopted salary schedule:

1. City Council adopted priorities
 - a. Revenue of \$9.95 million and includes \$9.8 million revenue budget for the Menlo Park community campus project funded through a combination of grants, donations, use of assigned fund balance, and Measure T bond proceeds.
 - b. Expenditures of \$11.96 million and includes \$9.8 million expenditure budget for the Menlo Park community campus project and \$1.69 million for the 2022 housing element, zoning code update and related work. The expenditure budget also includes partial-year funding for 2.0 full-time equivalent personnel (FTE.)
2. Identified work plan projects
 - a. Revenue of \$0.16 million to reflect grants for long-range planning efforts
 - b. Expenditures of \$0.68 million to fund 3.25 FTEs and contract services support for work plan projects.
3. Department requests
 - a. Expenditures of \$0.54 million to fund 4.0 FTEs and several professional services and equipment needs.
4. Non-departmental adjustments
 - a. Revenues of \$7.26 million including \$3.68 million in higher than budgeted revenue, and \$3.57 million of interfund transfers necessary to move monies from the general fund to the funds where expenditures will be recorded.
 - b. Expenditures of \$3.21 million to record transfers from the general fund to other funds where expenditures will be recorded.
5. Salary schedule amendments to update classification titles and establish three new flexible classifications.

The recommended amendments' net impact increases the fiscal year 2020-21 general fund surplus by \$1.05 million.

Policy Issues

City Council adopts an annual budget in advance of each fiscal year, and City staff transmit periodic financial updates to reflect new information. The fiscal year 2020-21 budget anticipated the need for budget amendments in recognition that the pandemic's impacts on revenue and expenditures were largely unknown.

Background

At their June 23 meeting, City Council adopted a balanced budget reflecting expenditure reductions totaling \$14.08 million compared to the prior year. The adopted budget considered the best information available to City staff at the time and embraced the budgetary principle that Menlo Park must balance its budget for fiscal year 2020-21 the way residents are required to balance their household budgets. City Council authorized minimal use of reserves for economic uncertainty in fiscal year 2020-21. Throughout the budget process, City staff anticipated the need for fiscal year 2020-21 budget amendments to adjust to the latest information available.

Analysis

The budget amendment provides for several adjustments that include new revenue, increases to interfund transfer activity, and both one-time and recurring expenditures. Of particular note in this budget amendment is the recommendation to fund the Menlo Park community campus project using a combination of grants, donations, unassigned fund balance, and bond proceeds from Measure T. An updated summary of City Council priorities and work plan (Attachment A) reflects the addition of Ref #22 Middle Avenue traffic calming project per City Council direction at their October 23 meeting.

Table 1 summarizes the budget amendments with detailed descriptions provided in the attachments. Department heads submitted budget requests in one of three categories: City Council adopted priorities (Attachment B), identified work plan projects (Attachment C), and department-specific requests (Attachment D.) Tax revenues and salary savings are recorded in the non-departmental budget to maintain departmental budget comparability (Attachment E.)

Attachment	2020-21 Revenue amendment	2020-21 Expenditure amendment	FTE request
City Council adopted priorities (Attachment B)	9,950,000	11,964,957	2.00
Identified work plan projects (Attachment C)	160,000	681,793	3.25
Department requests (Attachment D)	-	537,032	4.00
Non-departmental adjustments (Attachment E)	7,260,916	3,211,348	-
Total budget amendment	17,370,916	16,395,130	9.25

Federal stimulus

For 2020-21, the City received an unbudgeted CARES (Coronavirus Aid, Relief, and Economic Security) Act distribution from the State totaling \$0.44 million as reimbursement for COVID-19 pandemic expenditures. The effect of the unanticipated revenue in fiscal year 2020-21 may either return to fund balance or appropriated to additional COVID-19 pandemic relief programs. Budget amendments included in Attachment B for City Council priority Reference No. 4 are potential uses for the unanticipated revenue.

Personnel requests

Of most significance to the City’s long-term financial stability is the request for 9.25 FTE personnel. Recruitment of new personnel requires approximately four to six months, and the proposed amendment

includes partial year costs for the new positions. The new positions, however, create structural spending that continues into future years. To offset the increases in structural expenditures of \$1.82 million requires a corresponding increase in tax revenues of at least \$1.82 million.

Table 2 summarizes the personnel requests presented in their respective attachments and includes both the fiscal impact for the current year and annual implications for future years.

Table 2: New personnel request summary				
Position	Priorities/Work plan Ref #	2020-21 Amendment*	Annualized cost	FTE request
City Council priorities, Attachment B				
Community Development Director	Ref #2	115,343	276,602	1.00
Senior Planner	Ref #2	95,664	229,409	1.00
Subtotal		211,007	506,012	2.00
Identified work plan projects, Attachment C				
Assistant Public Works Director - Transportation	Ref #19	92,037	220,713	1.00
Associate Transportation Engineer	Ref #22	72,531	173,935	1.00
Associate Planner	Ref #9, 10, 11, 12	72,613	174,133	1.00
Assistant Planner	Ref #9	28,008	56,015	0.25
Subtotal		265,189	624,796	3.25
Department requests, Attachment D				
Police Officer	N/A	162,177	388,915	2.00
Community Services Officer	N/A	50,773	121,757	1.00
Senior Management Analyst	N/A	89,734	179,469	1.00
Subtotal		302,684	690,140	4.00
Total		778,881	1,820,949	9.25

*positions budgeted for partial year to allow time for recruitment and selection

Salary schedule amendment

Attachment F transmits the salary schedule amendments to incorporate the following:

- Update the classification titles for public works supervisor – city arborist and water system supervisor with no salary ranges adjustment. This amendment does not increase authorized FTEs.
- Establish flexible classifications to provide employees with progressive career growth opportunities and improve employee retention. Specifically, building inspector I/II, human resources technician I/II/senior, construction inspector I/II/senior, transportation planner assistant/associate/senior. This amendment does not increase authorized FTEs.

Impact on City Resources

The net change in fund balance, across all funds, is \$975,786 with the amendments necessary to provide for interfund transfers and use of unassigned fund balance for the Menlo Park community campus project. After all transfers, the general fund has \$1.05 million available for future amendments.

Table 3 summarizes the budget amendments by fund.

Table 3: Budget amendment summary, by fund			
Fund number and name	2020-21 Revenue amendment	2020-21 Expenditure amendment	Net change
(100) General Fund	5,845,916	4,790,130	1,055,786
(453) Menlo Park Community Campus Fund	9,800,000	9,800,000	-
(832) Below Market Rate Housing Fund	-	80,000	(80,000)
(851) General Capital Improvement Fund	1,725,000	1,725,000	-
	17,370,916	16,395,130	975,786

Table 4 summarizes the interfund transfers to comply with governmental fund accounting standards.

Table 4: Interfund transfers	
Transfer to:	Transfer from: (100) General Fund
(453) Menlo Park Community Campus Fund	2,000,000
(851) General Capital Improvement Fund	1,575,000
	3,575,000

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 24 hours prior to the meeting.

Attachments

- A. City Council priorities and identified work plan updated November 10, 2020
- B. Recommended budget amendments - City Council adopted priorities
- C. Recommended budget amendments - Identified work plan projects
- D. Recommended budget amendments - Department requests
- E. Recommended budget amendments - Non-departmental adjustments
- F. Salary schedule amendments effective November 22, 2020
- G. Resolution No. 6599

Report prepared by:

Dan Jacobson, Assistant Administrative Services Director

Nick Pegueros, Assistant City Manager

2020-21 City Council Priorities and Work Plan
Updated November 10, 2020

10 20 30 40 50 60 70 80 90 100

Ref #	Priority projects (Approved August 18, 2020)	Lead Department	0	--	% Complete	--	100
1	Transportation master plan (TMP)	Public Works					
2	2022 Housing Element, zoning code update and related work	Community Development					
3	Menlo Park community campus	City Manager's Office					
4	COVID-19 pandemic local emergency response	City Manager's Office					
5	Information Technology Master Plan implementation	Administrative Services					
Ref #	Identified work plan projects (No action taken on August 18, 2020)	Lead Department	0	--	% Complete	--	100
6	Transportation management association (TMA) formation	Public Works					
7	Middle Avenue pedestrian & bicycle rail crossing planning	Public Works					
8	Short-term rental ordinance	Community Development					
9	Accessory dwelling unit ordinance update	Community Development					
10	ConnectMenlo community amenities list update	Community Development					
11	ECR/Downtown Specific Plan area housing development incentives	Community Development					
12	Development and environmental review process education series	Community Development					
13	Santa Cruz Ave closure and economic development initiatives	Community Development					
14	Citywide communication program development	City Manager's Office					
15	Climate Action Plan implementation	City Manager's Office					
16	NLC Race, Equity, And Leadership (REAL) program Institutional bias reform	City Manager's Office					
17	Menlo Park SAFER Bay project, phase 2	Public Works					
22	Middle Avenue traffic calming project	Public Works					
Ref #	Suspended projects (Approved August 18, 2020)	Lead Department	0	--	% Complete	--	100
18	Near-term downtown parking and access strategies	Public Works					
19	Ravenswood Avenue Caltrain grade separation study	Public Works					
20	Single-Family residential design review	Community Development					
21	City Council procedures update	City Manager's Office					

Attachment B: Recommended budget amendment - City Council adopted priorities

Priority	2020-21 Revenue Amendment	2020-21 Expenditure Amendment	FTE request
<p>2022 Housing element, zoning code update and related work (Ref #2.) Currently, there are insufficient budgeted and staffing resources to advance this project in full, but staff is initiating pre-project planning. The housing element will be a multi-year, multi-component project, including the preparation of an Environmental Justice Element, updates to the Land Use and Safety Elements, and the preparation of a fiscal impact analysis and environmental impact report. Staff is requesting budget augmentations for both contract services and staffing. While staff anticipates being awarded a \$150,000 Local Early Action Planning (LEAP) grant to help fund the housing element, the estimated budget to complete the Housing Element and associated documents is \$1.5 million. This amount does not reflect additional staffing resources. Staff is requesting an additional one FTE (senior planner) to support this top City Council priority. In addition, given the number and complexity of land use, housing and economic development projects on the City Council's priority and work plan, staff is also requesting to recruit for the community development director position. The two requested FTE positions were eliminated as part of the FY2020-21 budget because they were vacant at budget adoption.</p>	150,000	1,687,957	2.00
<p>Menlo Park Community Campus (Ref #3.) Reference City Council staff report #20-244-CC on City Council November 10 meeting agenda.</p>	9,800,000	9,800,000	-
<p>COVID-19 local emergency response (Ref #4.) - Building and facility adaptations. As the City continues to operate critical services during the COVID-19 pandemic and works to reactivate on-site services as restrictions loosen in the future, staff anticipates additional support is needed in the Public Works facilities maintenance section. While several City buildings are closed to the public today, the facilities section must continue to maintain and service those buildings to ensure the useful life of the buildings are preserved. For example, regular maintenance of the City Council chambers roof is needed annually to prevent water intrusion and remove debris from the gutters and drainage system even though the chambers are not in use by the public. In addition to this regular, ongoing maintenance, this section also oversees the custodial services and modifications needed to the buildings in response to the pandemic. For example, to reopen the City's libraries, modifications such as adjusting public entry access, installation of physical dividers or shields, and other such improvements would be needed. Support from a consultant to provide project management and support for design plans, construction oversight, and on-call assistance to reactivate these public-facing buildings would better allow the City to be ready to reopen buildings when appropriate.</p>	-	125,000	-
<p>COVID-19 local emergency response (Ref #4.) - Outdoor dining grant program - The recommendation is to identify a local non-profit to develop and manage a grant program for expedited construction of new outdoor dining facilities. The program will be modeled after the Downtown street cafe program, as outlined in Attachment B.1, and be available to qualifying restaurants in Menlo Park.</p>	-	100,000	-
<p>COVID-19 local emergency response (Ref #4.) - Water and solid waste customer rate assistance. The solid waste and water rate assistance program presents opportunities for residents who generally face financial hardship and those specifically affected by COVID-19. City Council supported a 20 percent discount for solid waste during the August 25 study session and expressed support for a discount for water customers during the September 8 study session. The solid waste discount would apply to all residential container sizes and is comparable to the Pacific Gas and Electric (PG&E) California Alternative Rates for Energy (CARE) program discount rate. The water discount would apply to qualified Menlo Park Municipal Water customers. The monthly discount would be a fixed amount equal to 50 percent of the 5/8-inch meter service charge. California Water (Cal Water)'s low income rate assistance program offers the same discount criteria. Staff identified a non-profit that has experience with assisting low-income households and the estimated annual administration cost is \$30,000. Therefore, staff seeks City Council's approval to appropriate \$152,000 to run the solid waste and water rate assistance program from January 1 to June 30, 2021 as a pilot program in order to better determine resident participation levels and better estimate long term costs and funding options.</p>	-	152,000	-

Attachment B: Recommended budget amendment - City Council adopted priorities (continued)

Priority	2020-21 Revenue amendment	2020-21 Expenditure amendment	FTE request
Information Technology master plan implementation (Ref #5.) Website replacement/design and first year operating expenses	-	100,000	-
Attachment B total	9,950,000	11,964,957	2.00



STAFF REPORT – CONTINUED FROM 10/29/2019 AND 11/5/2019

City Council

Meeting Date: 11/12/2019

Staff Report Number: 19-224-CC

Informational Item: Downtown street café program update

Recommendation

This is an informational item and does not require City Council action.

Policy Issues

The Downtown street café program was developed following the adoption of the El Camino Real/Downtown specific plan to support the City Council's goal of enhancing vibrancy in the downtown.

Background

During the 2014 City Council goal setting meeting, the City Council discussed opportunities to enhance outdoor seating as a valuable tool for increasing vibrancy on Santa Cruz Avenue and supporting local merchants. On March 25, 2014, the City hosted a meeting with a number of downtown merchants who were interested in discussing opportunities for improving downtown. The discussion included additional public events, capital improvement projects and enhanced outdoor seating opportunities. The merchants were supportive of the concept of an outdoor seating pilot program and pointed to Mountain View as a model. On May 13, 2014, the City Council unanimously approved the establishment and appropriation of the Santa Cruz Avenue enhanced on-street pilot program. As part of the pilot program, the City installed planters and landscaping to section off a seating area in front of Left Bank restaurant at 635 Santa Cruz Avenue.

On January 27, 2015, the City Council provided direction for the expansion of the enhanced on-street dining pilot program. Based on community input, business feedback and preliminary observation, sites that City Council considered included: Santa Cruz Avenue in front of Starbucks/Una Mas, Miyo Yogurt/Angelo Mio and Amici's, and Crane Street in front of Refuge. The City Council agreed that the existing Left Bank pilot program successfully enlivened the downtown retail experience. As a result, the City Council directed staff to expand the pilot program. The City Council direction was that the expansion be semi-permanent, include cost-sharing, and be open to all businesses.

The City retained the services of Ian Moore Design, Inc. (IMD) to provide a prototype design and initial cost estimates for a typical street café. Two base designs were developed to match the parking configurations downtown: one for parallel parking spaces and one for angled parking spaces. After extensive outreach, the general consensus of interested business owners was that a \$10,000 - \$15,000 investment would be feasible, and a \$20,000 investment would preclude most of those small businesses from participating. To keep the street cafe affordable for small businesses, staff presented a series of cost sharing options based on the initial cost estimates of \$30,000 for a parallel installation and \$40,000 for an angled installation.

On June 2, 2015, the City Council approved the base design concept and a cost-sharing requirement of 75 percent for parallel parking and 70 percent for angled parking with the participating business paying its

share upfront. An alternative payment option was also approved which would allow a business to pay through installments over a two-year timeframe with the City contributing 70 percent for parallel parking and 60 percent for angled parking. Both payment options carried a City maximum contribution of \$30,000 for any one street cafe. The cost for any enhancements beyond the base design were to be borne solely by the business.

Subsequently, final designs were developed, which accounted for site-specific conditions. The estimated construction costs had increased due to a general increase in the size of the café, safety features and disabled accessibility requirements. For the various designs, the costs for the street cafes ranged from \$39,000 to \$88,000. The increased costs also affected the feasibility of businesses to participate. Recognizing the value of the program, the cost-sharing approach was modified to increase the maximum City contribution amount. On May 24, 2016, the City Council approved the following:

1. Increased the Downtown streetscape improvement budget for fiscal year 2016-17 based on the engineer's estimate;
2. Authorized the city manager to award construction contracts up to the budgeted amount;
3. Authorized the city manager to enter into license and funding agreements with the business owners;
4. Approved a 80-20 percentage cost split with the City contributing 80 percent and the business 20 percent for the base design with a City maximum contribution of \$45,000; and
5. Directed staff to advance the project into construction.

On September 13, 2016, the City Council authorized the city manager to eliminate the cap on the City's contribution and increase the term of the agreements from three years to five years. Additionally, two options for repayment were established. Business owners could pay upfront and receive an 80-20 cost-share with the City or over three years with a 75-25 split.

Currently, the City has seven street cafés along Santa Cruz Avenue in the downtown area. The program has successfully enhanced downtown vibrancy and character while also improving the retention of downtown businesses, particularly restaurants.

Analysis

Following the latest round of street cafés completed in 2017, the City has not actively sought out suitable sites to expand the program. However, staff has received and followed up on a few inquiries for expanding the program. Among those inquiries, there are two locations that have expressed interest in moving forward: the Refuge at 1143 Crane Street and Coffeebar at 1149 Chestnut Street. The Refuge was first explored as a potential site for a street café in 2014 while Coffeebar expressed interest in the program in 2018. However, key vacancies with the City did not allow for execution on any additional street cafés until now. Additional street cafes would contribute to vibrancy and economic activity in Downtown Menlo Park. A street café at these locations would meet the original intent in regards to downtown vibrancy while also helping the City retain desirable and popular business establishments.

The following sets out the relevant milestones and timeline that staff has estimated for the completion of the street café at these sites:

- The City will contract with a designer to prepare construction-ready drawings and specifications for the project. The proposed street cafes would be the first on side streets, which may provide an opportunity to explore different designs. (Estimated completion: four to five months)
- Staff will return to City Council to authorize the city manager to enter into a funding/licensing agreement with each business owner for the street cafe. (November-December 2019)

- Staff will present to the Complete Streets Commission for approval to remove the necessary parking spots to complete the cafes. It is anticipated that 2 parallel spaces at each location would require removal. (January – February 2020)
- City issues a request for bids and City Council awards construction contracts. (Estimated completion: three-months)
- Funding agreements are executed and street cafés are built. (Estimated completion: two to three months)
- Total estimated time to completion nine to 11 months

Staff proposes to take a similar approach in cost-sharing as with previous street café locations. While the exact costs will not be known until bids are accepted, early estimates put the business contributions somewhere between \$15,000 and \$18,000 each depending on the funding option the merchants chooses. They will have the option of paying up front with an 80-20 split with the City or paying over the course of three years with a 75-25 split. The business owners have indicated that this is an acceptable cost. At a total estimated cost of \$150,000 for construction of the street cafés, this would leave the City's obligation in the range of \$112,500 to \$120,000.

The City will enter into a five-year agreement with each business. The funding/licensing agreements outline how the City would be reimbursed for its upfront construction costs as well as how the use of the street café would be licensed. Use of city utilities (such as electricity for lighting) would be granted based on a yearly fee paid by the business owner to cover costs. Maintenance of the street cafés would be the responsibility of the business owner. In the event of a change in ownership or un-renewed agreement, use and maintenance of the café would be returned to the City until a new agreement is completed.

Staff will return before the end of the year to seek the authority to award a construction contract and the authority to enter into an agreement with the business owner. In the meantime, construction-ready and site-specific designs will be developed for both sites in preparation for a request for bids. Staff is not aware of any other businesses interested in the program and will not actively pursue further street café sites unless given City Council direction to do so.

Impact on City Resources

Preparation of construction-ready and site-specific designs will cost approximately \$20,000. Preparation and management of the project will require staff time and resources. Adequate funding is available in the Capital Improvement Program as part of the Downtown Streetscape Improvement project.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

None

Report prepared by:

John Passmann, Management Analyst II

Christopher Lamm, Assistant Public Works Director

Report reviewed by:

Deanna Chow, Interim Community Development Director

Attachment C: Recommended budget amendments - Identified work plan projects

Identified work plan project	2020-21 Revenue amendment	2020-21 Expenditure amendment	FTE request
<p>Accessory dwelling unit ordinance update (Ref #9.) The production of accessory dwelling units (ADUs) is an important part of adding to the City's housing stock. To further promote ADUs and assist the public in navigating through the City's ADU regulations, staff will continue to enhance the City's website with information and explore other education materials and tools to aid ADU production as part of an SB2 grant. Funds awarded as part of the SB2 grant could help fund these activities that support additional ADU production. As a second step, staff will be initiating "cleanup" amendments for internal consistency in the Zoning Ordinance for increased clarity for applicants. A third phase to explore additional modifications could align with work on the upcoming housing element in the latter part of 2021 and 2022. These work efforts are not typically considered "baseline" work and would require additional staff resources to complete.</p>	80,000	51,924	0.50
<p>ConnectMenlo community amenities list update (Ref #10.) On October 6, the City Council appointed Mayor Taylor and City Councilmember Nash to a subcommittee to review the community amenities list and to suggest revisions to the list for consideration by the Council at a future date. City staff in the city manager's office has been assigned to work with the subcommittee. Once the subcommittee completes their recommendation to the City Council, the subcommittee will review geographic information system (GIS) maps that staff is in the process of compiling to reflect known development projects currently in the pipeline for presentation to the City Council at a future date. Planning staff assistance may be needed during or as a follow up to the subcommittee's work, depending on the direction. In an effort to be able to respond to work that may be needed, staff is requesting an additional .25 FTE planners. This partial position would be combined with other work plan efforts, and would reinstate an associate planner position eliminated during the FY 2020-21 budget process.</p>	-	23,916	0.25
<p>ECR/Downtown specific plan area housing development incentives (Ref #11.) Staff anticipates that the work would be limited in scope to focus on housing production, and would neither increase the residential cap nor explore larger policy issues that the City Council contemplated as part of its 2018 and prior specific plan biennial reviews. Therefore, the proposed outreach would focus on feedback from the development community to better understand the development challenges to housing production in the Specific Plan Area. Any work that would trigger a general plan amendment, preparation of EIR, or extensive public outreach would require an extended timeline. No work has yet to commence on this project. Additional staffing and consultant resources would be needed to assist with this project and/or backfill for the planner work who would focus on this work plan item. Staff is requesting .25 FTE (Associate Planner) and \$25,000 for contract services to assist with design work. The project would be partially supported (\$35,000) with funding from an SB2 grant and would need to be completed by June 30, 2022.</p>	80,000	48,916	0.25
<p>Development and environmental review process education series (Ref #12.) The idea for an education series on the development and environmental review processes was an outcome of work done by the City Council subcommittees to help educate the public and interested parties about the City's development review process given the number of large, complex development projects occurring in the City. At the October 27, 2020 City Council meeting, Mayor Taylor suggested that the series would commence with a California Environmental Quality Act (CEQA) webinar. The following steps have yet to be determined, but depending on the Council's direction, additional staffing and consultant resources would likely be needed. Work on this effort would be timely as the preparation of multiple environmental impact reports (EIR) are underway, and staff is requesting an additional .25 FTE (Associate Planner) to support work on an educational series. Additional consultant resources are to be determined depending on the next steps.</p>	-	23,916	0.25
<p>Santa Cruz Avenue closure and economic development initiatives (Ref #13.) Attachment C.1 summarizes a scope of work with HdL EconSolutions to backfill the vacant management analyst position in Community Development assigned to economic development. HdL EconSolutions has worked with Redwood City, Cupertino, Belmont to conduct business analytics and staff economic development support.</p>	-	8,553	-
<p>Climate Action Plan Implementation (Ref #15.) Attachment C.2 summarizes the budget request.</p>	-	155,000	-

Attachment C: Recommended budget amendments - Identified work plan projects

Identified work plan project	2020-21 Revenue amendment	2020-21 Expenditure amendment	FTE request
<p>National League of Cities' Race, Equity, And Leadership (REAL) program (Ref #16.) The National League of Cities' (NLC) Race, Equity, and Leadership (REAL) initiative strengthens local leaders' knowledge and capacity to eliminate racial disparities, heal racial divisions and build more equitable communities. Through training, technical assistance, tools, resources, assessment work, and capacity building for city leaders, REAL has worked with over 400 cities who are committed to using an equity lens in the design and delivery of city services and pursuing equitable access to those services for all residents.</p>	-	80,000	-
<p>Ravenswood Caltrain grade separation study (Ref #19.) As described during the City Council's approval of the scope of work for the Ravenswood Caltrain grade separation project on January 14, this project has been on hold due to a frozen position in the transportation division that has been vacant since late 2019. Adding a staff person, Assistant Public Works Director – Transportation, to oversee this work would allow the project to proceed. This project would complete an evaluation of a fully elevated railroad alternative between Ravenswood and Oak Grove Avenues to separate train and vehicle, bicycle, and pedestrian traffic along the Caltrain line.</p>	-	92,037	1.00
<p>Middle Avenue traffic calming project (Ref #22.) At the City Council's October 13 meeting, the City Council directed staff to develop a traffic calming and speed reduction plan for Middle Avenue. Staff anticipates this work would build on the recommendations in the draft Transportation Master Plan (projects 92 and 118 in the draft plan) to add bicycle lanes and improved pedestrian facilities, to also consider traffic calming improvements such as curb extensions/bulb-outs, raised or other crosswalk enhancements, improved signage, or other devices to slow vehicle traffic. It is expected this work would also build on a petition received in mid-2019 from Middle Avenue residents, and as such, community engagement will be a critical component of developing conceptual plans for this project. Staff proposes that this project would be developed in three phases: conceptual design and community engagement; trial installation using "quick-build" materials; and final installation using permanent materials. This three-phase approach is consistent with the process currently underway in the Belle Haven neighborhood traffic calming plan, where the trial installation is currently in place. This budget request would fund the staff time and consultant support anticipated for the first phase, to begin in fiscal year 2020-21. The later phases could be budgeted in the capital improvement program in future fiscal years.</p>	-	197,531	1.00
Attachment C total	160,000	681,793	3.25

Proposal

Scope of Work

Fixed Fee Products & Services

INSIGHT Market Analytics Package

- Use of INSIGHT Market Analytics package for Menlo Park which includes 1) Consumer Demographic Profile, 2) Household Segmentation Profile, 3) Employment Profile and 4) Consumer Demand & Market Supply Assessment (Gap Analysis). The INSIGHT package includes the City and up to four trade areas.

Compensation \$5,000

Market Study for Downtown Menlo Park

- Preparation of a Market Study for Downtown Menlo Park to help understand existing conditions and opportunities to better position the area to compete with surrounding communities and enhance the performance of the area.

Compensation \$20,000

Economic Recovery Action Plan (ERAP)

- Preparation an ERAP to help assess the impact of the COVID-19 Pandemic, as well as identify near term and longer-term objectives to help businesses and the city to recover.

Compensation \$8,000

Time & Material Services

Economic Development (ED) Staffing Services

- Provide the following services:
 - Create a business concierge service for new businesses, business expansion, reuse possibilities and/or development opportunities.
 - Create customized materials and marketing packets.
 - Facilitate establishing meaningful relationships with retailers, site selectors and real estate professionals to promote retail and business opportunities in Menlo Park
 - Advise and coordinate economic development efforts and opportunities with city staff, local business groups including Downtown Merchant Alliance, Menlo Park Chamber of Commerce, San Mateo County, San Mateo County Economic Development Association.
 - Engage and work with local businesses through a business roundtable program.

Compensation – Not to Exceed \$115,000 in FY 2020/21 (based on hourly rates of \$235/hr. for Barry Foster-Principal, \$175/hr. for Angela Tsui-Senior Advisor (primary staff person for Menlo Park's Staffing Services) and \$100/hr. for Fienna Cheng-Analyst)

Total Compensation for FY 2020/21 shall not exceed \$148,000

Term

The Term of the Services will from when the Agreement is executed and through June 30, 2021 (end of FY 2020/21)

Representatives

The Project Manager for the Economic Development Services representing HdL shall be Barry Foster, Principal/Managing Director for HdL-ECONSolutions. The primary person working on Menlo Park's ED Staffing Services shall be Angela Tsui, with some limited staff support from Fienna Cheng-Analyst. The staff representative for the City of Menlo Park will be Justin Murphy, Deputy City Manager.

Accepted by HdL:

Accepted by City of Menlo Park:

Barry Foster, Managing Director Date

Starla Jerome-Robinson, City Manager Date



MEMORANDUM

Date: 11/10/2020
To: Starla Jerome-Robinson, City Manager
From: Rebecca Lucky, Sustainability Manager
Re: Climate Action Plan Budget for FY 20-21

On October 27, staff presented a strategy for No.3 of the adopted 2030 Climate Action Plan (CAP), which is to expand electric vehicle (EV) charging infrastructure.

As a result of the community EV infrastructure gap analysis, the City Council provided direction to proceed with the development of viable policy requirements for EV charging at existing multifamily properties. The report estimated that an additional \$200,000 would be needed to execute the project. (Note: based upon receiving further cost estimates, this estimate has been revised to \$155,000.)

At the meeting, Councilmember Nash requested an overview of the approved 2030 Climate Action Plan implementation budget with this additional budget request. This memorandum outlines the resources needed, current approved budget, and shortfall to implement the following CAP strategies this year:

- No.1- Building Electrification
- No.3- EV infrastructure
- No.5- eliminating fossil fuel use in city buildings and operations

These three strategies were approved by City Council in July to complete within one year. However, there are resource gaps that would fail to meet this ambitious timeline, and additional budget appropriations are necessary.

It is also important to note that when the 2030 CAP was adopted there were cost/expense items yet to be determined, particularly around EV charging infrastructure resourcing needs. This was due to awaiting the results of the community EV infrastructure gap analysis to determine next steps for this CAP strategy. See attachment A.

The resources needed to execute the significant work associated with CAP strategies No.1 and No.3 are captured in the table on the next page. Both projects have similar policy approaches and require similar resources, which gain some overall efficiency and savings as a result.

CAP action No.5 to eliminate fossil fuels from city operations is already budgeted and is being implemented through the new Menlo Park Community Campus project.

Resources Needed for CAP Strategy No. 1 & 3 FY 20-21	Cost	In-Kind
Energy Analyst	-----	Potential \$100,000 from Peninsula Clean Energy to be anticipated to be finalized November 2020
Assistant Building Official	\$70,000	
Senior Planner	\$80,000	
Public Engagement Professional	\$175,000	
Legal Analyst	\$70,000-\$90,000	Additional legal analysis support from the Building Decarbonization Coalition
Project Analyst Support	\$140,000	
Total Cost	\$555,000	\$100,000-\$200,000
Approved CAP Budget FY 20-21	\$400,000	
Budget Gap (Shortfall)	(\$140,000 to 155,000)	

As mentioned, similar resources are required and can be leveraged between CAP strategy No.1 (building electrification) and No.3 (EV infrastructure). CAP strategy No.3 has an additional resource need that includes a Senior Planner to assist with parking impacts/requirements as a result of EV infrastructure requirements for existing multifamily properties. Pending further legal analysis, a Senior Planner may or may not be needed.

Attachment A: July 14, 2020 staff report resulting in the adoption of the 2030 Climate Action Plan and approved CAP action items to be worked on in FY 20-21.
<https://menlopark.org/DocumentCenter/View/25680/F1-20200714-CC-CAP>



Attachment D: Recommended budget amendments - Department requests

Department request	2020-21 Revenue amendment	2020-21 Expenditure amendment	FTE request
<p>Replace automatic license plate reader equipment. Automatic license plate readers (ALPR's) are high speed, computer controlled camera systems which are mounted onto patrol vehicles. The devices are used to capture license plate numbers that come within close range and also capture the time date and location of that plate. The devices have assisted officers in locating stolen vehicles as well as locating vehicles that have been associated with crimes. The current ALPR's used by the department were purchased in 2014 and are reaching the end of their service life. In addition, they are currently affixed to vehicles that are being rotated out of the police fleet. The department is requesting replacement of three automatic license plate readers, their components and maintenance.</p>	-	59,848	-
<p>Restore police department community services officer position. Due to budget reductions resulting from a decrease in revenue in FY 19/20, the police department experienced efficiencies of several personnel positions. These efficiencies have directly impacted the department's ability to provide the services that have an effect on the quality of life in the community. One significant position elimination was that of community services officer. The position of community services officer (CSO) is instrumental in assisting the department in many areas. By responding to reports of lower level crimes, collecting information, and writing reports related to those lower level crimes, CSO's are able to ensure that police officers are available to respond to more severe crimes or to patrol the city proactively. In addition, a CSO can assist with processing crime scenes and issuing parking citations in different neighborhoods throughout the city as they patrol and respond to calls. CSO's have often been utilized to coordinate with organized neighborhood efforts in relation to the Neighborhood Watch Program, the Bicycle Registration Program and they are heavily involved in assisting with highly publicized citywide events. Although this is a non-sworn position, it has been an essential position in the department. The position of community services officer represents a significant loss of the services offered to the residents of our community.</p>	-	50,773	1.00
<p>Restore police department traffic unit. Due to budget reductions resulting from a decrease in city revenue in FY 19/20, the police department experienced efficiencies of several personnel positions. These efficiencies have directly impacted the department's ability to provide the services that have an effect on the quality of life in the community. Most significant was the elimination of the recently developed traffic unit. During the time the department was able to implement the traffic unit, there were several enforcement opportunities organized throughout the community which included alcohol and drug impaired driving enforcement, distracted driving enforcement, pedestrian and bicycle safety enforcement, and saturation patrols in collaboration with other county agencies. All of these efforts were achieved in cooperation with the Office of Traffic Safety who awarded the City of Menlo Park a grant which reimbursed overtime costs incurred for details focused in these areas. The coordinated efforts of the traffic unit resulted in a decrease in the number of people injured in traffic collisions, a decrease in the number of pedestrians injured or killed in traffic collisions, and a decrease in the number of bicyclists injured in traffic collisions. Additionally, there was a reduction in the number of people injured in alcohol and drug related collisions. Out of the 9,338 citations issued in 2019, the traffic unit was responsible for 3,164 of those issued citations. The efforts of a unit directly dedicated to traffic seemed to have the desired results in the City of Menlo Park. Officers assigned to the traffic unit were trained in specialized areas related to traffic, certified to operate special equipment utilized only by the traffic unit, and the unit also participated with other south county agencies to respond to major traffic collisions and traffic fatalities. In addition, the City was able to finalize the purchase of two fully outfitted motor units that were assigned to officers in the traffic unit and certify two motor officers. The department would like to restore a portion of the services provided to the community by reestablishing a condensed version of the traffic unit which would include two officers dedicated to traffic related incidents, enforcement details, and continuing collaborative countywide efforts.</p>	-	162,177	2.00

Attachment D: Recommended budget amendments - Department requests (continued)

Department request	2020-21 Revenue amendment	2020-21 Expenditure amendment	FTE request
<p>Upgrade to incident reporting software. The National Incident Based Reporting System (NIBRS) has been created to improve the overall quality of crime data collected by law enforcement agencies. The vision for NIBRS is for it to become the law enforcement community's standard for quantifying crime, which will help law enforcement and communities around the country use resources more strategically and effectively. In 2018, approximately 44 percent of U.S. law enforcement agencies that participated in the UCR Program submitted data via NIBRS. Since then, the FBI has received thousands of commitments from law enforcement across the nation to be NIBRS-compliant by 2021. CIBRS is the California version of the system and the department is utilizing Sun Ridge Systems to incorporate the collection of information into our current computer aided dispatch system in order to become compliant within the time constraints provided nationally.</p>	-	25,000	-
<p>Below market rate (BMR) housing administration services. BMR administration services: Annual BMR administration contract services will increase in 2020-2021 due to additional inclusionary units being produced and the addition of compliance monitoring services for current inclusionary units and new units.</p>	-	80,000	-
<p>Six Sigma Black Belt. This proposal leverages the current state of regular operational change to implement special projects and make process improvements organization-wide. The proposal includes the creation of a 3-year provisional senior management analyst position, expiring June 30, 2024, to stand up and lead an internal consulting office. Reporting to the assistant city manager, the internal consulting engagement manager would serve as Six Sigma Black Belt and lead regularly-changing project teams to implement process improvement projects of varying scope. Requesting departments will provide staffing on a temporary basis to advance individual projects and cost reductions in any functional area will be shared with the general fund. Projects will be primarily sourced from within the organization and to be approved must either lower the cost of service to the community or provide additional levels of service to the community at a similar cost, validated by an internal benchmarking analysis. Initial funding will be provided as an appropriation from the general fund unassigned fund balance for two quarters of the internal consulting engagement manager's personnel costs and a modest discretionary budget for project needs. Future position costs would be charged to departments through an internal service fund, allocated according to regular process improvement projects based on overall expenditures and with cost savings shared between the general fund and the departmental budget.</p>	-	99,234	1.00
<p>Enhance building permit processing. The Building Division has made great strides in the implementing the new land management system Accela, especially in light of the challenges presented by the pandemic. In order to continue making progress, staffing assistance on a temporary basis through the end of the fiscal year is needed to maintain and potentially reduce permit turnaround times.</p>	-	60,000	-
Attachment D total	-	537,032	4.00

Attachment E: Recommended budget amendments - Non-departmental adjustments

Line item	2020-21 Revenue amendment	2020-21 Expenditure amendment	FTE request
Property taxes - The fiscal year 2020-21 adopted budget assumed zero growth in property taxes in recognition of the uncertainty of the effect of the pandemic. Actual assessed valuation grew by 9.2 percent, exceeding this assumption by significant enough a number that a budget amendment is required. In addition, the County of San Mateo was undergoing review with the State for the validity of its formula for distribution of excess Educational Revenue Augmentation Fund (excess ERAF), a review which has since been completed and which results in the anticipation of a second half distribution to the City.	2,768,144	-	-
Sales taxes - Sales taxes in fiscal year 2020-21 were expected to drop by approximately 25 percent compared to similar periods and trends in prior years. The City has seen some reduction in sales tax receipts through the end of fiscal year 2019-20 and into the beginning of fiscal year 2020-21, but not of the magnitude anticipated, requiring an amendment to better align with this experience.	482,486	-	-
CARES Act distribution from State of California - One assumption of budget preparation was that there would be no Federal or State aid to counteract losses in revenue or increases in expenditure by the City. Subsequent to adoption, the State distributed a portion of its Federal Coronavirus Aid, Relief, and Economic Security (CARES) Act receipts to the City, resulting in unanticipated revenue.	435,286	-	-
Unanticipated personnel savings - The traditional vacancy savings incorporated into the budget was suspended in fiscal year 2020-21 due to the elimination of most vacant positions and expectation that turnover would be somewhat lower than previous years. During the first quarter of fiscal year 2020-21, however, several staff members have left positions, resulting in unanticipated savings. In addition, the City received a Federal tax credit for required expenditures incurred due to the Families First Coronavirus Response Act (FFCRA), further reducing actual personnel costs.	-	(363,652)	-
Use of unassigned fund balance and transfers out - The General Fund's contribution to the Menlo Park Community Campus requires appropriation of the unassigned fund balance as a revenue, \$2.00 million, and an offsetting transfer out expenditure of \$2.0 million. In addition, \$1.575 million of budget amendments included in Attachments B, C, and D will be charged to the General Capital Improvement Program Fund. This line complies with internal accounting procedures and governmental fund accounting standards.	2,000,000	3,575,000	-
Transfers in - This line item reflects revenue in the General Capital Improvement Program Fund to offset budget amendments in Attachments B, C, and D.	1,575,000	-	-
Attachment E total	7,260,916	3,211,348	-

Attachment F: Salary schedule amendments effective November 22, 2020

Classification	Step A (Minimum)	Step B	Step C	Step D	Step E (Maximum)	Action
Retitle						
Water System Supervisor Chief Water Operator	96,222	100,808	105,624	110,678	115,975	Update title, no salary change
Public Works Supervisor —City Arborist	99,813	104,598	109,582	114,817	120,311	Update title, no salary change
Flexibly staffed						
Building Inspector I	87,424	91,627	95,995	100,584	105,386	10% below Building Inspector II
Building Inspector II	96,166	100,790	105,594	110,642	115,925	Update title, no salary change
Construction Inspector I	82,475	86,442	90,561	94,891	99,421	10% below Construction Inspector II
Construction Inspector II	90,722	95,086	99,617	104,380	109,363	Update title, no salary change
Senior Construction Inspector	99,794	104,595	109,579	114,832	120,574	10% above Construction Inspector II
Human Resources Technician I	68,162	71,387	74,574	78,213	81,891	Update title, no salary change
Human Resources Technician II	74,978	78,526	82,031	86,034	90,080	Add, 10% above HR Technician I
Senior Human Resources Technician	82,476	86,378	90,235	94,638	99,088	Add, 10% above HR Technician II
Assistant Transportation Planner	90,459	94,713	99,253	103,983	108,950	Align with Assistant Planner
Associate Transportation Planner	99,253	103,983	108,950	114,163	119,627	Align with Associate Planner
Senior Transportation Planner	108,950	114,163	119,627	125,329	131,384	Align with Senior Planner

Amends salary schedule effective September 19, 2020

RESOLUTION NO. 6599**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
AMENDING THE FISCAL YEARS 2020–21 BUDGET AND THE SALARY
SCHEDULE**

WHEREAS, in March, 2020 the novel coronavirus COVID-19 pandemic and pursuant economic effects substantially altered the fiscal year 2020-21 budget development cycle and necessitated unprecedented assumptions using the best available data and conservative estimates of both revenues and expenditures expected to be materially affected; and

WHEREAS, the City of Menlo Park, acting by and through its City Council, having considered the proposed budget document dated June 9, 2020 and related written and oral information at the meeting held June 23, 2020, adopted the fiscal year 2020-21 operating budget and carryover appropriations; and

WHEREAS, the City of Menlo Park, acting by and through its City Council, having considered the capital improvement plan for fiscal years 2020-2024 at its public meeting on July 28, 2020 adopted the fiscal years 2020-24 capital improvement plan; and

WHEREAS, the reconciliation of the adopted carryover appropriations and adopted capital improvement plan was amended on September 22, 2020 in order to allocate carryover appropriations to projects; and

WHEREAS, new information about factors affecting the budget including available and likely revenues and unanticipated savings in expenditures, the operating budget requires amendment; and

WHEREAS, progress made on City Council priority projects and work plan items may be more rapidly advanced with judicious use of scarce resources; and

WHEREAS, opportunities for additional service to the community requiring resources have been identified in addition to the outlined City Council work plan items; and

WHEREAS, the Menlo Park Community Campus project represents a significant and substantial effort on the part of the City of Menlo Park in collaboration with Facebook, Inc., the Library Systems Improvement Fund is fully rededicated to that project and renamed to the Menlo Park Community Campus Fund;

WHEREAS, the salary schedule requires amendments to establish flexible classification that promotes career development and improves employee retention in recognition of increasingly complex responsibilities and service to the community;

WHEREAS, the salary schedule requires classification title changes with no adjustment to the previously approved salary range;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Menlo Park that the City Council does hereby

1. Amend the fiscal year 2020-21 budget as summarized in Exhibit A and as modified according to majority City Council direction at approval; and
2. Amend the salary schedule to include classifications and salary ranges as summarized in Exhibit B.

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the tenth day of November, 2020, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this tenth day of November, 2020.

Judi A. Herren, City Clerk

Exhibit A: November 10, 2020 budget amendment

Fund number and name	2020-21 Revenue amendment	2020-21 Expenditure amendment	Net change
(100) General Fund	5,845,916	4,790,130	1,055,786
(453) Menlo Park Community Campus Fund	9,800,000	9,800,000	-
(832) Below Market Rate Housing Fund	-	80,000	(80,000)
(851) General Capital Improvement Fund	1,725,000	1,725,000	-
	17,370,916	16,395,130	975,786

City of Menlo Park
PROPOSED Salary Schedule Amendments - Effective 11/22/2020

Classification Title	Minimum (Step A)	Step B	Step C	Step D	Maximum (Step E)
Assistant Transportation Planner	\$ 90,459	\$ 94,713	\$ 99,253	\$ 103,983	\$ 108,950
Associate Transportation Planner	\$ 99,253	\$ 103,983	\$ 108,950	\$ 114,163	\$ 119,627
Building Inspector I	\$ 87,423	\$ 91,627	\$ 95,995	\$ 100,584	\$ 105,386
Building Inspector II	\$ 96,166	\$ 100,790	\$ 105,594	\$ 110,642	\$ 115,925
Construction Inspector I	\$ 82,474	\$ 86,441	\$ 90,561	\$ 94,891	\$ 99,421
Construction Inspector II	\$ 90,722	\$ 95,086	\$ 99,617	\$ 104,380	\$ 109,363
Human Resources Technician I	\$ 68,162	\$ 71,387	\$ 74,574	\$ 78,213	\$ 81,891
Human Resources Technician II	\$ 74,978	\$ 78,526	\$ 82,032	\$ 86,034	\$ 90,080
Public Works Supervisor —City Arborist	\$ 99,813	\$ 104,598	\$ 109,582	\$ 114,817	\$ 120,311
Senior Construction Inspector	\$ 99,794	\$ 104,594	\$ 109,579	\$ 114,832	\$ 120,574
Senior Human Resources Technician	\$ 82,476	\$ 86,378	\$ 90,235	\$ 94,637	\$ 99,088
Senior Transportation Planner	\$ 108,950	\$ 114,163	\$ 119,627	\$ 125,329	\$ 131,384
Water System Supervisor —Chief Water Operator	\$ 96,222	\$ 100,808	\$ 105,624	\$ 110,678	\$ 115,975



FISCAL YEAR 2020-21 BUDGET AMENDMENTS

November 10, 2020

REQUESTED ACTION

- Consider amending the fiscal year 2020-21 budget
 - \$17.37 million revenues across all funds
 - \$16.40 million expenditures across all funds
 - Includes transfers between funds
 - Includes 9.25 FTE staff position requests
 - Addresses City Council priorities, work plan items, and department requests
- Consider amending the salary schedule
 - Adjusts two position titles
 - Incorporates flexibly staffed positions to promote advancement
 - No FTE changes from this action

AGENDA

- City council priorities and work plan amendments
- Department requested amendments
- Non-departmental amendments
- Salary schedule amendments
- Clarifying questions from City Council
- Public comment
- City Council deliberations and direction





CITY COUNCIL PRIORITIES AND WORK PLAN

PRIORITY PROJECTS (ATTACHMENT B)



Ref #	Project	Fund	Amount \$million	FTEs
2	2022 Housing Element	General Capital	\$1.69	2.0
3	Menlo Park Community Campus	MPCC	9.80	-
4	COVID-19 pandemic local emergency			
	City Buildings and facilities adaptations	General Capital	0.12	-
	Outdoor dining grant program	General Fund	0.10	-
	Water and solid waste rate assistance	General Fund	0.15	-
5	IT Master plan implementation – website	General Capital	0.10	-
	Subtotal		\$11.96	2.0

IDENTIFIED WORK PLAN PROJECTS (ATTACHMENT C)



Ref #	Project	Fund	Amount \$million	FTEs
9	Accessory dwelling unit ordinance	General Fund	\$0.05	0.50
10	Community amenities list update	General Fund	0.02	0.25
11	ECR/Downtown specific plan housing	General Fund	0.05	0.25
12	Development and EIR education series	General Fund	0.02	0.25
13	Economic development initiatives	General Fund	0.01	-
15	Climate Action Plan Implementation	General Fund	0.16	-
16	Race, Equity, And Leadership program	General Fund	0.08	-
19	Ravenswood grade separation study	General Fund	0.09	1.00
22	Middle Avenue traffic calming project	General Fund	0.13	1.00
	Subtotal		\$0.68	3.25



DEPARTMENT AND NON-DEPARTMENTAL REQUESTS



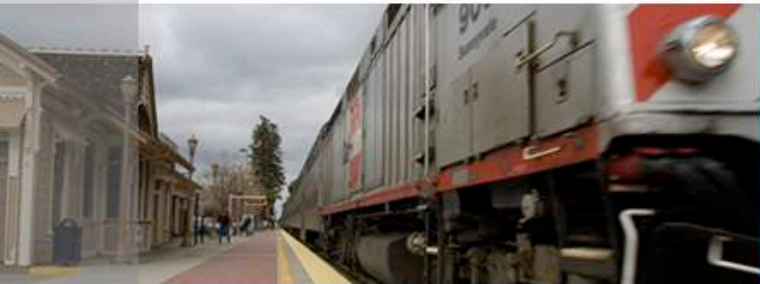
DEPARTMENT REQUESTS (ATTACHMENT D)



Request	Fund	Amount \$ millions	FTEs
Update police equipment	General Fund	\$0.09	-
Restore Community Service Officer position	General Fund	0.05	1
Restore police traffic unit	General Fund	0.16	2
Below market rate (BMR) housing administration services	BMR Fund	0.08	-
Process improvement initiatives	General Fund	0.16	1
Building permit process improvement	General Fund	0.06	-
Subtotal		\$0.54	4

NON-DEPARTMENTAL AMENDMENTS (ATTACHMENT E)

Request	Fund	Revenue \$ millions	Expenditure \$ millions
Property taxes	General Fund	\$2.77	-
Sales taxes	General Fund	0.48	-
CARES Act reimbursement	General Fund	0.44	-
Unanticipated personnel savings	General Fund	-	(0.36)
Use of assigned fund balance, transfers out	General Fund	2.00	3.56
Transfers in	General Capital	1.58	-
Subtotal		\$7.26	\$3.21



SUMMARY OF REQUESTS

Request	Revenue \$ millions	Expenditure \$ millions	FTEs
City Council priority items	\$9.95	\$11.96	2
Identified work plan items	0.16	0.68	3.25
Department requests	-	0.54	4
Non-departmental requests	7.26	3.21	0
Total	\$17.37	\$16.40	9.25

Fund	Revenue	Expenditure	Net change
General Fund	\$5.85	\$4.79	\$1.06
Menlo Park Community Campus	9.80	9.8	-
Below Market Rate Housing	-	0.08	(\$0.08)
General Capital Improvement Plan	1.73	1.73	-
Total	\$17.37	\$16.40	\$0.98



SALARY SCHEDULE



SALARY SCHEDULE (ATTACHMENT F)



Classification	Annual max	Notes
Chief Water Operator Water System Supervisor	\$115,975	Title change; no salary change
City Arborist Public Works Supervisor – City Arborist	\$120,311	Title change; no salary change
Building Inspector I/II/Sr	\$115,925	Add level I; flexible staffing
Construction Inspector I/II/Sr	\$120,574	New flexible staffing series
Human Resources Technician I/II/Sr	\$99,088	New flexible staffing series
Transportation Planner Asst./Assoc./Sr.	\$131,384	New flexible staffing series

REQUESTED ACTION

- Consider amending the fiscal year 2020-21 budget
 - \$17.37 million revenues across all funds
 - \$16.40 million expenditures across all funds
- Consider amending the salary schedule



THANK YOU



STAFF REPORT

City Council
Meeting Date: 11/10/2020
Staff Report Number: 20-246-CC

Regular Business: **Adopt Resolution No. 6598 approving the Town of Atherton withdrawal from the South Bayside Waste Management Authority**

Recommendation

Adopt a resolution (Attachment A) approving the Town of Atherton's withdrawal from the South Bayside Waste Management Authority (SBWMA), provided it liquidates its proportionate share of debt, obligation, and liability as determined by the SBWMA Board, and that it do so before December 31, 2020, with no net new costs to the City of Menlo Park.

Policy Issues

Menlo Park is an equity member of the SBWMA, which is a joint powers agency consisting of 12 entities in San Mateo County to provide waste collection and processing services within their jurisdictions. If an entity desires to withdraw from the SBWMA, it must meet certain criteria and requirements, one of which is to receiving approval from 4/5s of the SBWMA's equity members.

Background

Menlo Park is an equity member of the SBWMA, which is a joint powers agency consisting of 12 entities in San Mateo County to provide waste collection and processing services within their jurisdictions. The members include Atherton, Belmont, Burlingame, East Palo Alto, Foster City, Hillsborough, Menlo Park, Redwood City, San Carlos, San Mateo, County of San Mateo, and West Bay Sanitary District.

In June, the Town of Atherton formally notified the SBWMA of its intent to withdraw effective December 31, 2020.

In response, the SBWMA Board held a special meeting in August, and determined that to liquidate in full Atherton's proportion of any existing debts, obligations and liabilities incurred, earned, or expected to be earned by the date of withdrawal, Atherton would be required to pay approximately \$2,203,016 to the SBWMA (Attachment B.) The Town Council of Atherton agreed to pay the liquidation costs determined by the Board, and voted to go forward with the withdrawal in September.

The next step in the process under the Joint powers agreement (JPA agreement) is for Atherton to obtain the approval to withdraw from 4/5s (or 10) of the Member Agencies by December 31. The SBWMA board recommends that the member agencies, including Menlo Park, approve Atherton's withdraw provided Atherton pays the \$2.2 million by end of this year.

Analysis

Under the JPA Agreement (Article 15.1), a SBWMA member may not withdraw unless and until that member achieves the following:

- A. The liquidation in full of its proportion of any and all existing debts, obligations and liabilities incurred, earned, or expected to be earned by the date of withdrawal, including but not limited to the revenue bonds, as determined by the Board.
- B. The provision to the SBWMA of a written notice of intent to withdraw from the SBWMA at least six (6) months prior to the end of the current rate year, specifying the date on which the member intends to withdraw.
- C. The approval of such withdrawal by a 4/5s affirmative vote of equity members.

Atherton’s June 2020 letter submitted to the SBWMA satisfied its Article 15.1.b. obligation to give notice of its intent to withdraw. The SBWMA Board determined that in order to fully liquidate its debts, obligations and liabilities under Article 15.1.a., Atherton must fully defease its proportional share of SBWMA’s 2019A and 2019B series bonds by payment of approximately \$2,203,016 (\$2,103,016 to defease and \$100,000 in costs) no later than December 31, 2020. This amount is subject to adjustment based on market conditions at the time of defeasance. SBWMA’s bond counsel (Stradling Yocca Carlson & Rauth) raised no additional legal issues relating to the defeasance. KNN Public Finance (SBWMA’s financial consultants) indicated that Atherton’s withdrawal should have no rating impact, as it was known as a risk at the time of the bond issuance in 2019. Article 15.1.c. must be approved by at least 10 agencies for Atherton to withdraw.

SBWMA operational fiscal impacts

According to the terms of the JPA agreement, once a member agency withdraws, it is no longer a part of SBWMA and thus no longer responsible for ongoing expenses. This will have a fiscal impact on the remaining 11 member agencies, commencing January 1, 2021. The remaining member agencies will be responsible for the ongoing operational costs of SBWMA. Tip fee revenue from each member agency covers SBWMA’s fixed and variable costs.

After adjusting for Atherton’s variable costs, SBWMA staff calculates that Atherton’s withdrawal will result in a net shortfall in operating funds of approximately \$146,760 per year that would need to be reallocated amongst the members. SBWMA staff will recommend that the SBWMA Board address this shortfall through a tip fee adjustment of \$0.52 per ton for all franchise material. To put this in perspective, the 52 cents would be added to current franchise tip fees, which range from \$127/ton to \$141/ton. The projected impact of this increase to the individual member agencies is shown in Table 1:

SBWMA member agency	Total tip fee tons	Percentage of allocation	Dollar amount of allocation
Belmont	13,240	5%	\$6,898
Burlingame	33,910	12%	\$17,668
Unincorp. County	8,457	3%	\$4,407
No. Fair Oaks	8,603	3%	\$4,482
East Palo Alto	16,370	6%	\$8,529
Foster City	16,345	6%	\$8,516

Recology operational fiscal impacts

In September, Recology presented the SBWMA Board with a request for additional compensation in the amount of \$368,000 per year in the event Atherton exits. SBWMA staff recommended against this request because the franchise agreements between Recology and all SBWMA member agencies do not contain contractual language regarding member agencies to compensate Recology upon the withdrawal of another member agency.

The SBWMA Board met in October and approved Recology's 2021 compensation application. In doing so, the Board denied Recology's request for added annual compensation. Thus, there is no fiscal impact related to Recology operations for Menlo Park.

Alternative actions

1. Take no action.
2. Provide staff with direction and bring back this item for consideration.

Both of these alternatives could cause delays in the ability for Atherton to exit the SBWMA by December, and may require reevaluation of costs to exit, and create further financial implications for the Town of Atherton.

Impact on City Resources

The SBWMA fiscal impacts have been described above. There are no further resources needed to complete this activity if the City Council approves.

Environmental Review

Approval of Atherton's withdrawal from SBWMA is a governmental organizational activity and is therefore exempt from California Environmental Quality Act (CEQA) review because it is not a project within the meaning of CEQA. CEQA Guideline 15378 defines "Project" for CEQA purposes; Section 15378 (b) states that Project does NOT include: (5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment."

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. Resolution approving the Town of Atherton's withdrawal from the SBWMA
- B. August SBWMA report

Report prepared by:
Rebecca Lucky, Sustainability Manager

RESOLUTION NO. 6598

RESOLUTION OF THE MENLO PARK CITY COUNCIL APPROVING THE TOWN OF ATHERTON'S WITHDRAWAL FROM THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY (SBWMA), PROVIDED ATHERTON SATISFIES ITS OBLIGATION TO LIQUIDATE ITS PROPORTIONAL SHARE OF DEBT AS DETERMINED BY THE SBWMA BOARD OF DIRECTORS ON AUGUST 20, 2020, AND THIS LIQUIDATION OCCURS PRIOR TO DECEMBER 31, 2020

WHEREAS, the SBWMA is a joint powers agency established through a Joint Exercise of Powers Agreement on December 9, 1999 by 12 San Mateo County entities to provide a regional approach to the collection and disposition of solid waste, recyclable materials, and organic materials; the Agreement has been amended and restated several times over the years, the current governing document, dated June 19, 2013, is entitled the "Second Amended and Restated Joint Exercise of Powers Agreement" ("JPA"), and

WHEREAS, the SBWMA issued bonds in 2000 to acquire and reconstruct the Shoreway Environmental Center Facility, to be operated by the Authority to meet the regulatory requirements for solid waste and recyclables for its member agencies. The original bonds were defeased and new bonds issued in 2009. In 2019, the SBWMA refunded the 2009 bonds, saving the Authority money and, at the same time, raising new funds for certain capital improvements (the 2019A and 2019B bonds), and

WHEREAS, the SBWMA is comprised of 12 member agencies, including the Town of Atherton ("Atherton"), all of which are founding members of the SBWMA, and as such, "Equity Members" under the JPA. On June 29, 2020, Atherton sent the SBWMA a Notice of Intent to Withdraw from the SBWMA, specifying December 31, 2020 as the date of withdrawal, and

WHEREAS, Article 15.1 of the JPA provides that a Member may not withdraw from the SBWMA unless and until that Member achieves the following:

- a. The liquidation in full of its proportion of any and all existing debts, obligations, and liabilities incurred, earned, or expected to be earned by the date of withdrawal, including but not limited to the Revenue Bonds, as determined by the Board.
- b. The provision to the SBWMA of a written notice of intent to withdraw from the SBWMA at least six (6) months prior to the end of the current Rate Year, specifying the date on which the Member intends to withdraw.
- c. The approval of such withdrawal by a 4/5 affirmative vote of Equity Members, and

WHEREAS, pursuant to Article 15.1.a. of the JPA, the Board of Directors of the SBWMA ("Board") is required to determine the amount necessary for Atherton to achieve "the liquidation in full of its proportion of any and all existing debts, obligations, and liabilities incurred, earned, or expected to be earned by the date of withdrawal," and

WHEREAS, pursuant to Article 15.1.c. of the JPA, four-fifths (10) of the Member Agencies are then required to approve the withdrawal in order for it to be effective, and

WHEREAS, on August 20, 2020, the Board held a properly noticed hearing to determine Atherton's liquidation obligation, and considered the staff report and all evidence, oral and documentary, presented to it at the hearing, and

WHEREAS, the Board, having reviewed and considered the evidence presented, and based thereon, determines that in order to satisfy its requirement under Article 15.1.a., Atherton must fully defease its proportionate share of the 2019A and 2019B bonds which is 3.24 percent, based on Atherton's share of the SBWMA's overall franchise tonnage in 2019. The cost to defease Atherton's bond share is estimated to be \$2,203,016 (\$2,103,016 to defease + \$100,000 costs). The actual amount is subject to adjustment depending on market conditions at the time of defeasance, and

WHEREAS, having made this determination, the SBWMA Board directed its staff to work with SBWMA's financial consultants and Atherton staff to ensure the defeasance of the bonds occurs prior to December 31, 2020, and

WHEREAS, the Board further recommended to its Member Agencies that they review and approve Atherton's withdrawal from the SBWMA, effective December 31, 2020, provided that on or before December 31, 2020, Atherton satisfies its obligation to liquidate its proportionate share of debt, as determined by the Board, and

WHEREAS, pursuant to JPA Section 15.1.c, 4/5 of the Member Agencies, defined as Equity Members, must, before December 31, 2020, approve Atherton's withdrawal in order for it to be effective, and

WHEREAS, the City of Menlo Park is an Equity Member of the SBWMA empowered by the JPA to consent to Atherton's withdrawal; and

WHEREAS, approval of Atherton's withdrawal from SBWMA is a governmental organizational activity and is therefore exempt from California Environmental Quality Act (CEQA) review because it is not a project within the meaning of CEQA. CEQA Guideline 15378 defines "Project" for CEQA purposes; Section 15378 (b) states that Project does NOT include: (5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment."

NOW, THEREFORE, BE IT RESOLVED, by the Menlo Park City Council that having considered Atherton's request, now approves Atherton's withdrawal from SBWMA, provided it satisfies its obligation to liquidate its proportional share of debt as determined by the SBWMA Board on August 20, 2020, and said liquidation to occur prior to December 31, 2020.

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the tenth day of November, 2020, by the following votes:

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AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this tenth day of November, 2020.

Judi A. Herren, City Clerk



STAFF REPORT

To: SBWMA Board Members
From: Joe LaMariana, Executive Director
Date: August 20, 2020 Board of Directors Special Meeting
Subject: Potential Withdrawal of Town of Atherton from Membership in the SBWMA: Consideration of a Resolution to Determine Atherton's Liquidation Costs and Recommend Member Agencies Approve the Withdrawal Based on Certain Conditions

Executive Summary

On June 29, 2020, the Town of Atherton formally notified SBWMA of its intent to withdraw from membership in the SBWMA, effective December 31, 2020. Pursuant to the Second Amended and Restated Joint Powers Agreement ("JPA Agreement"), Article 15, "Withdrawal from SBWMA", a Member may not withdraw from the SBWMA unless and until that Member achieves the following:

- a. **The liquidation in full of its proportion of any and all existing debts, obligations, and liabilities incurred, earned, or expected to be earned by the date of withdrawal, including but not limited to the Revenue Bonds, as determined by the Board.**
- b. The provision to the SBWMA of a written notice of intent to withdraw from the SBWMA at least six (6) months prior to the end of the current Rate Year, specifying the date on which the Member intends to withdraw.
- c. The approval of such withdrawal by a 4/5 affirmative vote of Equity Members.

Atherton's June 29, 2020 letter satisfies its Article 15.1.b. obligation. Next, it must satisfy its Article 15.1.a. obligation, highlighted above. In order for it to do so, the Board is required to determine the amount Atherton must pay to liquidate "its proportion of any and all existing debts, obligations, and liabilities incurred, earned, or expected to be earned by the date of withdrawal," which is the purpose of this meeting. Finally, pursuant to Article 15.1.c., Atherton's withdrawal must be approved by four-fifths (10) of the JPA's Equity Members (i.e., Member Agencies) to become effective.

Staff recommends that the Board adopt the attached resolution determining the amount necessary for Atherton to liquidate its portion of existing debt obligations based on calculating the amount required to defease Atherton's portion of SBWMA's outstanding 2019 bonds plus costs, which is approximately \$2.2 million dollars,¹ and further recommending to the Member Agencies that they approve Atherton's withdrawal from the JPA, as required by

¹ The actual amount will vary slightly based on the date of defeasance and interest rates on Treasury obligations at the time. For example, as calculated on July 14, 2020, the defeasance cost would be \$2,203,016; if interest rates dropped to zero by the date of defeasance (worst case scenario), the defeasance cost would be \$2,271,183. If rates were to go up, on the other hand, the defeasance cost would be less.

Article 15.1.c. Atherton's withdrawal will become effective December 31, 2020, provided 10 Equity Members have approved the withdrawal and the liquidation amount has been paid by Atherton to the SBWMA.

Background

The original JPA for SBWMA was adopted effective December 9, 1999. It was established by a number of San Mateo County entities to provide a regional approach to the collection and disposition of solid waste, recyclable materials, and organic materials. Initially, SBWMA issued bonds in 2000 to acquire and reconstruct the Shoreway Environmental Center Facility, to be operated by SBWMA to meet the regulatory requirements for solid waste and recyclables for its Member Agencies. The original bonds were defeased and new bonds issued in 2009. In 2019, SBWMA took action to refund the 2009 bonds, thereby saving SBWMA money and, at the same time, raising new funds for certain capital improvements. The JPA has been amended and restated several times over the years; the current governing JPA document dated June 19, 2013, is entitled the "Second Amended and Restated Joint Exercise of Powers Agreement South Bayside Waste Management Authority".²

Atherton is one of the original founding members of SBWMA, and as such, is an "Equity Member."³ Expressing concern that SBWMA's work no longer aligns with the needs and demands of its residents, Atherton has been considering withdrawing from SBWMA for some time, and has been exploring alternative options for waste management. It has now reached a tentative agreement with GreenWaste to provide those services, contingent upon its withdrawal from SBWMA. Atherton and SBWMA exchanged letters related to the withdrawal process on March 18th and April 27th (Attachment 1), and Atherton sent a formal Notice of Intent to Withdraw on June 29, 2020, specifying December 31, 2020 as the exit date. (Attachment 2.) Assuming it goes forward, Atherton will be the first entity to withdraw from SBWMA since it was formed. The City of Burlingame considered withdrawal in 2009, but ultimately decided to remain a member. Thus, there is no institutional precedent on how the conditions specified in Article 15 are to be met.

Calculation of Liquidation Amount

A. Bond Costs

KNN Public Finance Analysis: In preparation for responding to Atherton's anticipated notice to withdraw, KNN Public Finance ("KNN"), SBWMA's financial advisor, was asked late last fall to calculate the portion of SBWMA's outstanding bond obligations attributable to Atherton, and to describe a method for retiring Atherton's proportional share of the bond obligations through a legal defeasance. In a letter dated December 6, 2019, KNN provided its Bond Allocation and Defeasance Analysis, which was shared with Atherton. (Attachment 3.) KNN concluded that because the outstanding bond obligations are for capital and equipment improvements at the Shoreway facility, a reasonable means for allocating a Member Agency's proportionate share is to measure their historic use of the facility, based on franchise tonnage. KNN looked at Atherton's share of overall franchise tonnage for years 2016, 2017, and 2018, and proposed three scenarios for determining Atherton's proportional share of bond obligations:

² A proposed Third Amended and Restated JPA is currently being circulated for consideration among member agencies, making a number of clerical and administrative updates to the JPA document; none of the proposed changes impact Article 15, Withdrawal, of the Agreement.

³ Under the SBWMA, JPA membership is divided into "equity members" and "non-equity members"; there are no non-equity members at this time, nor have there ever been. The primary difference between an Equity Member and Non Equity Member is described in Section 6.3 of the JPA: basically, non-equity members are not entitled to vote on any matter before the board, and do not have the rights and liabilities of equity members, particularly under Section 15, Withdrawal, or Section 16, Termination of the JPA.

- 1) 2018 calendar year tonnage – 3.25%;
- 2) three-year average tonnage – 3.27%; and
- 3) three-year average tonnage rounded – 3.30%.

The cost ranged from a high of \$2,019,383 to a low of \$1,987,908. KNN also recommended that SBWMA include an additional amount of \$100,000 for costs related to work that would be required by bond counsel, verification agent, escrow agent, and municipal advisor related to the defeasance transaction. KNN's analysis was based on market conditions as of December 4, 2019. After receiving Atherton's June Notice of Intent to Withdraw, KNN was asked to update its earlier analysis. In a July 22, 2020 letter, KNN provided an updated analysis based on July 14, 2020 market conditions. (Attachment 4.) As shown in that updated opinion, Atherton's 2019 franchise tonnage percentage was 3.24, slightly smaller than the 3.25% from 2018. Additionally, interest rates have fallen since December 2019, so the cost of the defeasance escrow has increased. Based on these changes, KNN determined that the updated amount of Atherton's proportionate share of the bond obligations, using the 3.24% figure from 2019, equals \$2,103,016. Adding the \$100,000 for defeasance costs, the liquidation number equals \$2,203,016.

Atherton/NHA Advisors Analysis: Atherton engaged a different financial advisor, NHA Advisors ("NHA"), to review the December KNN analysis and to "take another look" at its financial obligations in the event of withdrawal. The NHA analysis was included in the June 29th Notice of Intent to Withdraw. (Attachment 2.) In its analysis, NHA acknowledged that KNN's approach, using franchise tonnage as the measure of proportionality, is "the simplest and most straightforward," but proposed that other factors should be used in the calculation in order to reduce Atherton's exit costs. Most of the other factors proposed by NHA are revisionist in nature, essentially stemming from an assumption that, based on its waste generation profile, Atherton paid more than its fair share during the entirety of its membership in SBWMA, and that this unfairness should be addressed retroactively by way of a reduced exit cost. Within this context, NHA suggested five different scenarios that could be utilized to determine what proportionality to assign to Atherton in calculating its exit costs, which are discussed below. Each of the five scenarios include a deduction labeled as "overpayment" in the amount of \$581,386. NHA contends this deduction is justified because Atherton, which has mostly single-family homes, did not itself need the build-out part of the Shoreway facility that accommodates multifamily and commercial recycling and processing, and that therefore its portion of the payments for the 2009 bonds was higher than it should have been. NHA notes that the \$581,386 "represents a calculated total amount overpaid in the last ten years." The actual analysis NHA utilized to reach this number is not included in its letter.

The five scenarios proposed by NHA, which result in exit costs from Atherton ranging from \$1,677,498 to negative \$79,573 (where SBWMA would owe money to Atherton), are summarized below for the Board's convenience.⁴ They are contained in their entirety in Attachment 2.

- **Scenario 1:** this scenario uses the same methodology as the KNN analysis, but includes the \$581,386 deduction for "overpayment" discussed above. Based primarily on this adjustment, NHA concludes the amount owed is \$1,677,498.
- **Scenario 2:** this scenario assumes that in the future Atherton's share of the franchise tonnage will decline from 3.25% to 1.5% because it will remain stable while other member agencies will see population growth. Using this hypothetical reduced percentage would reduce the cash required to defease Atherton's portion of the bonds from \$2.26 million to \$1.5 million. After deducting the overpayment, the amount owed is \$933,748.

⁴ All of NHA's scenarios include the \$100,000 defeasance costs.

- **Scenario 3:** the 2019 bonds consist of two series: 2019A, which refunded the 2009 bonds, and 2019B, which raised capital (new money) for future improvements. In this scenario NHA proposes the exclusion of defeasance costs related to the 2019B (new money) bonds, on the basis that the bond proceeds will be used for future improvements that will not benefit Atherton. If the defeasance costs for the 2019B (new money) bonds are excluded (\$1,566,259) and the overpayment deducted (\$581,386), the amount owed is \$984,874.
- **Scenario 4:** this scenario combines Scenario 2 (taking into account a presumed future reduction in Atherton's proportion of the waste stream), and Scenario 3 (exclusion of the cost to defease the 2019B (new money) bonds, reducing the proportionate share to \$903,623 (\$322,238 with the overpayment deduction). This is the Scenario that Atherton proposes SBWMA accept in its Notice of Intent to Withdraw, without the deduction for overpayment.
- **Scenario 5:** this scenario includes Scenarios 2 and 3 and proposes additional reductions in the allocation of the 2019A bonds relating to the 2009 projects, similar to the argument made for the "overpayment" deduction, but in addition thereto. Under this scenario, SBWMA would end up owing \$79,573 to Atherton.

B. Other Costs

HF&H Consultants, LLC: In addition to KNN, staff retained HF&H Consultants to determine whether there are other (unrelated to the bonds) financial obligations attributable to Atherton that should be included in the liquidation amount pursuant to Article 15.1.b. which requires the withdrawing Member to liquidate in full "its proportion of any and all existing debts obligations, and liabilities incurred, earned, or expected to be earned by the date of withdrawal." After examining SBWMA's financial records, HF&H concluded that there are no other existing debt obligations or liabilities that Atherton would be responsible for after its withdrawal on December 31, 2020, the only exception would be an insurance claim, were one to be filed prior to that time. (Attachment 5.) As discussed in the Fiscal Impact section below, after Atherton's withdrawal, ongoing operational expenses would be apportioned between the remaining Members, because under the JPA, once a Member withdraws, it is no longer responsible for SBWMA's continued operational expenses.

Discussion

Under the terms of the JPA, a Member Agency may not withdraw *unless and until* it has liquidated in full its proportion of any and all existing debts, obligations, and liabilities of, as determined by the Board. The JPA does not specify the formula to be used when calculating this liquidation cost, so it falls upon the Board to make a determination based on the information presented. Based on the analyses prepared by the financial consultants for SBWMA and Atherton, there are basically three options for the Board to consider:

- 1) the KNN analysis which fully defeases the 2019A and B bonds based on franchise tonnage,
- 2) the NHA analysis which calculates the amount based on franchise tonnage but excludes the 2019 (new money) bonds proposed by Atherton, or
- 3) the NHA Scenario 4 analysis (without the overpayment deduction), proposed by Atherton.

Option 1 – Full Defeasance of all 2019 bonds based on franchise tonnage (estimated cost \$2,203,016).

SBWMA's consultant, KNN, utilizes franchise tonnage to determine Atherton's share of liabilities, noting that "In our opinion, franchise tonnage is the most reasonable measure to use in determining a member's proportionate share of liability because it mirrors the long-standing practice of allocating costs." (Attachment 3, page 1.) Atherton's consultant, NHA, in its analysis, acknowledges that using franchise tonnage to calculate proportionate liability is the "simplest and most straightforward approach." (Attachment 2, page 2.) Staff recommends this option because it

provides a reasonable approach, based on established business practice, to determine Atherton's proportionate share of outstanding debt as of December 31, 2020, in conformance with the requirements of the JPA. Because the JPA requires a withdrawing Member Agency to liquidate *in full* its proportionate share of debt. This option assures that Atherton will be responsible for its full share of existing debt, which it agreed to when it became a member of the JPA; it is thus fair to both Atherton and the JPA's remaining Member Agencies. Under this option, the liquidation amount Atherton is required to pay is approximately \$2,203,016.

Option 2 – Partial Defeasance of 2019 bonds (exclusion of 2019B (new money) bonds) based on franchise tonnage (estimated cost \$1,543,090). Atherton's consultant, NHA, suggests that Atherton should not be responsible for defeasing its portion of the 2019B (new money) bonds because, by leaving in December, it will not reap the future benefits of the capital raised by these bonds. In its review of NHA's analysis, KNN calculated what Atherton's liquidation amount would be if the 2019B (new money) bonds were excluded from the debt calculation. (Attachment 3, page 3.) The result of excluding the 2019B (new money) bonds is shown in the chart below.

	All bonds defeasance	Atherton Share (3.24%)
2019A (Refunding)	\$44,511,685	\$ 1,443,090
2019B (New Money)	20,355,228	659,926
Total	\$64,866,913	\$2,103,016

As the chart shows, Atherton's cost to defease its proportionate share of the 2019B (new money) bonds is \$659,926; subtracting that amount from its full liability would mean that Atherton's liquidation amount would be \$1,443,090 (plus the \$100,000 for defeasance costs), for a total estimated cost of \$1,543,090.⁵

If the Board agreed to exclude the 2019B (new money) bonds from the calculation, Atherton's portion of the debt would be assumed by the remaining Member Agencies. KNN provided a chart, shown below, in its updated analysis that breaks down the additional amount of debt each member agency would incur if Atherton's portion of the 2019B (new money) bonds were allocated amongst them (the total difference in the remaining members' debt service, \$677,912, is somewhat higher than cost of defeasance, \$661,545, because the cost of defeasance is calculated to the first call date on the bonds, whereas the debt service on the bonds goes through final maturity of the bonds). The far right column entitled "Total Difference" shows the additional amount each individual entity would pay:

⁵ NHA's analysis calculates the amount necessary for defeasing Atherton's share of only the 2019A refunding bonds as \$1,466,259, rather than \$1,443,090. This difference likely reflects different assumptions as to timing and interest rates. KNN's number is the more current, and therefore the better number to rely on for purposes of the Board's determination.

Reallocation of 2019B New Money Debt Service (DS) to Member Agencies

	Avg. Annual DS with Atherton Prepayment	Avg. Annual DS without Atherton Prepayment	Annual Difference	Total DS with Atherton Prepayment	Total DS without Atherton Prepayment	Total Difference
Belmont	\$89,419	\$92,415	\$2,996	\$983,609	\$1,016,566	\$32,958
Burlingame	\$216,415	\$223,666	\$7,251	\$2,380,560	\$2,460,325	\$79,765
County	\$57,028	\$58,939	\$1,911	\$627,313	\$648,332	\$21,019
No. Fair Oaks	\$55,600	\$57,463	\$1,863	\$611,601	\$632,094	\$20,493
East Palo Alto	\$98,752	\$102,061	\$3,309	\$1,086,269	\$1,122,666	\$36,397
Foster City	\$108,280	\$111,908	\$3,628	\$1,191,077	\$1,230,987	\$39,909
Hillsborough	\$53,707	\$55,506	\$1,800	\$590,776	\$610,571	\$19,795
Menlo Park	\$227,894	\$235,530	\$7,636	\$2,506,830	\$2,590,826	\$83,996
Redwood City	\$360,318	\$372,391	\$12,073	\$3,963,495	\$4,096,299	\$132,804
San Carlos	\$142,452	\$147,225	\$4,773	\$1,566,970	\$1,619,474	\$52,504
San Mateo	\$401,268	\$414,713	\$13,445	\$4,413,948	\$4,561,846	\$147,897
West Bay Sanitary	\$28,149	\$29,092	\$943	\$309,640	\$320,015	\$10,375
Total	\$1,839,281	\$1,900,909	\$61,628	\$20,232,088	\$20,910,000	\$677,912

Staff recommends the Board reject this option because there is no contractual support for this approach in the language of the JPA. Under Article 15, if debt is issued prior to withdrawal (“any and all existing debts, ... by the date of withdrawal”), that debt is to be included in the calculation of proportionate share of debt obligations. Atherton was a Member Agency in 2019 when the bonds were issued by SBWMA; thus, it is responsible for its share of the debt. The fact that it will not reap the benefit of future improvements if it withdraws from the JPA is not a reason to excuse Atherton from responsibility for its share. In withdrawing from SBWMA, Atherton is choosing to forego future benefits - the JPA language does not provide for remaining Member Agencies to subsidize this choice.

Option 3 – Partial Defeasance of 2019 bonds based on exclusion of 2019B (new money) bonds plus a hypothetically-reduced franchise tonnage percentage (estimated cost \$903,623). Option 3 is Atherton’s proposed approach. It consists of determining Atherton’s proportionate share by first excluding the 2019B (new money) bonds (discussed above), and then factoring in a hypothetical reduction in Atherton’s future portion of the franchise tonnage if it were to remain a member. Under this approach, in Scenario 4, NHA estimates that Atherton’s liquidation amount would be \$903,623. In its Notice of Intent to Withdraw, Atherton asks that SBWMA consider this amount as the appropriate liquidation cost.

Staff believes this number does not comply with the requirements of Article 15 for several reasons. First, as discussed above, Atherton’s obligation to defease its portion of the 2019B (new money) bonds should not be excused because this is an indebtedness incurred while Atherton was a Member of SBWMA, and Atherton is contractually obligated to liquidate its portion of the debt in full as a condition of withdrawal. Secondly, the assumption that Atherton’s share of the franchise tonnage would decline in the future if it were to remain a Member of SBWMA is speculative and unsupported by any evidence; it does not constitute a reasonable basis to reduce its current, definable debt obligation. If the Board were to select this option, the \$1,204,552 balance of Atherton’s debt obligation would be apportioned amongst the remaining Member Agencies. Similar to the chart above, the far right column of the chart below shows what each Member Agency’s additional cost would be:

	Avg. Annual DS with Total Atherton Prepayment (3.242%)	Avg. Annual DS with Partial Atherton Prepayment (1.393%)	Annual Difference	Total DS with Total Atherton Prepayment (3.242%)	Total DS with Partial Atherton Prepayment (1.393%)	Total Difference
Belmont	\$171,264	\$174,537	\$3,273	\$3,767,818	\$3,839,820	\$72,002
Burlingame	\$414,500	\$422,420	\$7,921	\$9,118,990	\$9,293,251	\$174,260
County	\$109,227	\$111,314	\$2,087	\$2,402,988	\$2,448,909	\$45,920
No. Fair Oaks	\$106,491	\$108,526	\$2,035	\$2,342,805	\$2,387,575	\$44,770
East Palo Alto	\$189,140	\$192,754	\$3,614	\$4,161,069	\$4,240,586	\$79,516
Foster City	\$207,389	\$211,352	\$3,963	\$4,562,550	\$4,649,738	\$87,189
Hillsborough	\$102,865	\$104,831	\$1,966	\$2,263,031	\$2,306,277	\$43,246
Menlo Park	\$436,486	\$444,827	\$8,341	\$9,602,682	\$9,786,185	\$183,503
Redwood City	\$690,118	\$703,306	\$13,188	\$15,182,594	\$15,472,727	\$290,133
San Carlos	\$272,838	\$278,052	\$5,214	\$6,002,445	\$6,117,149	\$114,704
San Mateo	\$768,550	\$783,237	\$14,687	\$16,908,103	\$17,231,210	\$323,107
West Bay Sanitary	\$53,914	\$54,944	\$1,030	\$1,186,108	\$1,208,774	\$22,666
Total	\$3,522,781	\$3,590,100	\$67,319	\$77,501,185	\$78,982,202	\$1,481,017

Legal or Credit Implications Created by Atherton's Withdrawal: Bond counsel (Stradling Yocca Carlson & Rauth) has raised no additional legal issues relating to the bonds that the Board needs to be aware of. KNN Public Finance has indicated that Atherton's withdrawal should have no rating impact, as it was known as a risk at the time of the last bond issuance, but allowing a Member Agency to exit without a full defeasance of its obligation could result in a rating impact in the future if additional Member Agencies were to withdraw from SBWMA.

Fiscal Impact

Assuming that Atherton's withdrawal is approved, the fiscal impact to SBWMA will depend on the liquidation amount determined by the Board, as discussed above. If the Board chooses Option 1, Atherton's share of the existing debt obligation will be paid. If the Board chooses Option 2 or 3, the remaining Member Agencies will each be responsible for a higher amount of debt service on the bonds.

Otherwise, under all options, commencing January 1, 2021, the remaining eleven Member Agencies will be responsible for the ongoing operational costs of SBWMA because, pursuant to the terms of the JPA, once a Member Agency withdraws, it is no longer a part of SBWMA and thus no longer responsible for ongoing expenses. Tip fee revenue from each Member Agency covers SBWMA fixed and variable costs. After adjusting for Atherton's variable costs, Staff calculates that Atherton's withdrawal will result in a net shortfall in operating funds of approximately \$146,760 from fixed costs that would need to be reallocated. Staff anticipates recommending the Board address this shortfall through a tip fee adjustment of \$0.52 per ton for all franchise material. To put this in perspective, the 52 cents would be added to current franchise tip fees, which range from \$127/ton to \$141/ton. The projected impact of this increase to the individual Member Agencies is shown in the chart below:

	Total Tip Fee Tons	Percentage of Allocation	Dollar Amount of Allocation
Belmont	13,240	5%	\$6,898
Burlingame	33,910	12%	\$17,668
County	8,457	3%	\$4,407
No. Fair Oaks	8,603	3%	\$4,482
East Palo Alto	16,370	6%	\$8,529
Foster City	16,345	6%	\$8,516
Hillsborough	8,208	3%	\$4,277
Menlo Park	34,995	12%	\$18,234
Redwood City	55,248	20%	\$28,786
San Carlos	21,061	7%	\$10,973
San Mateo	60,957	22%	\$31,761
West Bay Sanitary	4,276	2%	\$2,228
SBWMA	281,671	100%	\$146,760

Next Steps

The Board's determination of the liquidation costs is a final administrative decision which is not subject to appeal. Once the Board makes this determination, Atherton is then required to secure approval of withdrawal by "a 4/5 affirmative vote of Equity Members." (Article 15.1.c.) Approval by the governing board of each Member Agency is required because Article 15 makes a distinction between the process for determination of the liquidation amount, which is made by the SBWMA Board, and the approval to withdraw, which is made by the Equity Members. Given that SBWMA consists of twelve Equity Members, ten of them will need to approve the withdrawal before it can become effective. This means that each Member Agency's governing board will need to place the matter on its agenda for consideration, mirroring the process used when the JPA itself was amended.

Atherton has suggested that Article 15.1.c be interpreted differently, and that the approval to withdraw does not need to go to each Member Agency, rather, it can be made by a 4/5 vote of the Board, because the Board consists of representatives from each Member Agency. Staff does not agree with this interpretation. As noted above, the JPA makes a distinction in Article 15 between the Board and Equity Members. The Board is required to determine the liquidation amount, the Equity Members are required to approve the withdrawal. Under the JPA, "Board" is defined as the governing Board of Directors of the SBWMA, comprising one Director from each of the Members. "Member" is defined as the public entity itself. If the parties had intended that the Board to make the decision, they would have written the JPA to say that; instead, the JPA language requires the final approval for withdrawal go to the individual entities. In staff's opinion, if the Board were to take action to approve the withdrawal, that action would be void because the Board has no authority to approve a Member's withdrawal under the terms of the JPA.

The Board is asked to adopt the resolution attached to the staff report, Attachment 6, determining the method to be used to calculate Atherton's proportionate share of outstanding debt. The resolution further recommends to the Equity Members (Member Agencies) that they approve Atherton's withdrawal upon payment of the exit obligations as determined by the Board. Pursuant to Section 15.1a., each Member Agency's approval will be contingent upon and not effective until Atherton has liquidated its obligations calculated in accordance with the

Board's determination. To assist the Member Agencies as they consider this request, staff will prepare a staff report and resolution which can be utilized by each Member Agency as it considers Atherton's request.

Timing Considerations

As noted above, once the Board determines the amount necessary for Atherton to liquidate its proportional debt, Atherton will need to secure the approval of at least ten of the Member Agencies in order to effectuate the withdrawal. This needs to occur before the end of the year, and with enough time for Atherton to complete its negotiations with GreenWaste and to make its liquidation payment to SBWMA no later than December 31, 2020. Staff understands this is a daunting task, which is why this item has been scheduled for this special meeting rather than waiting to have it placed on the Board's next regular meeting in September. Once ten Member Agencies approve the withdrawal, staff will work with its consultants and Atherton's staff to effect the defeasance.

Recommendation

It is recommended the Board take action to determine the amount necessary for Atherton to liquidate its proportionate share of debt so that it can move forward in the withdrawal process. Staff recommends the Board select Option 1 - full defeasance of Atherton's share of both 2019A and B bonds (approximately \$2,203,016), as the liquidation amount. It is further recommended the Board adopt the attached Resolution, setting forth the liquidation process and recommending that Member Agencies approve Atherton's withdrawal contingent and effective upon its payment of the determined amount.

Attachments:

- 1) March 18, 2020 Letter from Atherton re Intent to Withdraw; April 27, 2020 response letter from Authority to Atherton
- 2) KNN Public Finance Analysis dated December 6, 2019
- 3) June 26, 2020 Notice of Intent to Withdraw including NHA Advisors Analysis
- 4) KNN Public Finance Additional Analysis dated July 22, 2020
- 5) HF&F Consultants Analysis dated August 11, 2020
- 6) **Resolution 2020-34** - Determining the Amount Required for the Town of Atherton to Liquidate its Proportionate Share of SBWMA Existing Debt in Connection with the Town's Notice of Intent to Withdraw from Membership in SBWMA; and Recommending Member Agencies Approve the Withdrawal, Subject to Certain Conditions.



**Town of Atherton
Office of the City Manager
150 Watkins Avenue
Atherton, California 94027
Phone: (650) 752-0500
Fax: (650) 614-1212**

March 18, 2020

VIA E-MAIL AND U.S. MAIL

Joe La Mariana
Executive Director
South Bayside Waste Management Authority
610 Elm Street, Suite 202
San Carlos, CA 94070
E-Mail: jlamariana@rethinkwaste.org

Re: Town of Atherton's Notice of Withdrawal from SBWMA JPA

Dear Director La Mariana:

This letter is to notify you that the Town of Atherton ("Atherton" or "Town") is considering withdrawal from the South Bayside Waste Management Authority ("SBWMA" or "JPA"). The Town is principally concerned that the JPA's work no longer aligns with the needs and demands of the Town's residents, so it is exploring alternative options for waste management.

The general rules of governance for SBWMA are laid out in the Second Amended and Restated Joint Exercise of Powers Agreement dated June 19, 2013 ("JPA Agreement"). Therein, and as discussed below, Article 15 – *Withdrawal from SBWMA* provides certain procedures to withdraw from the JPA:

15.1 Withdrawal Conditions. A Member may not withdraw from the SBWMA unless and until that Member achieves the following:

- a. The liquidation in full of its proportion of any and all existing debts, obligations, and liabilities incurred, earned, or expected to be earned by the date of withdrawal, including but not limited to the Revenue Bonds, as determined by the Board.
- b. The provision to the SBWMA of a written notice of intent to withdraw from the SBWMA at least six (6) months prior to the end of the current Rate Year, specifying the date on which the member intends to withdraw.
- c. Approval of such withdrawal by a 4/5 affirmative vote of Equity Members.

Notice of intent to withdraw is due to the Board at least six (6) months before the end of a rate year. (JPA Agreement, Section 15.1(b).) A rate year, as defined in the JPA Agreement, ends on December 31 so notice must be provided by the end of June in the member's final rate year. This

Joe La Mariana, SBWMA Executive Director
March 18, 2020
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letter shall serve as Atherton's notice of intent to withdraw pursuant to Section 15.1; however, the Town reserves the right to remain as a Member as long as withdrawal does not actually occur.

As part of the process for withdrawal from the JPA, the Town would like to clarify its obligations for the payment of the Town's proportionate share of SBWMA's liabilities required for withdrawal under Section 15.1(a).

The Town understands that its obligations to the JPA are a function of the assets which it has invested in the JPA and any bond indebtedness that it has signed and remain outstanding at the time of withdrawal.

As a founding member of the JPA, Atherton has been an Equity Member since 1999. During that time, the Town has financially supported each of the JPA's initiatives, predominately including the development, construction, and management of the Shoreway Environmental Center. If the Town was to withdraw from the JPA, the value of the Center—proportionate to the Town's contribution to the Center's development—would properly be valued as an asset owed to the Town, less the value of the Town's use of the Center until the time of withdrawal.

The JPA Agreement provides, in the event the JPA is terminated without naming a successor agency, "all assets and liabilities shall be apportioned to each Member in proportion to the contribution of each current Member's ratepayers' total contribution [until termination]." (JPA Agreement, section 16.1(b).) This means that, at the termination of the JPA, each remaining member will receive a portion of the assets of the JPA, less the amount of outstanding JPA obligations.

It follows that the same principle applies if the Town was to withdraw from the JPA. The JPA's portfolio of assets includes, in part, those only made possible by the Town's contributions. Assuming the Town withdraws from the JPA, assets due to the Town would be reallocated to the remaining members until such time that those members withdraw, via termination of the JPA or otherwise. Thus, the Town is owed the same consideration and entitled to the value of its assets at the time that it withdraws from the JPA, if it so chooses to withdraw.

Outside the express language of the JPA Agreement, principles of equity call for the Town to be paid its share of the JPA assets – the Town will no longer benefit from use of the Center and other JPA initiatives. These assets, part of which were fostered by the Town's contributions, will only be utilized by the remaining members; to ignore the Town's contributions would unjustly benefit and enrich the remaining members.

It is true at the creation of the JPA, the assets, rights, and liabilities of the JPA "shall not constitute assets, rights, debts, liabilities, or obligations of any of the Agencies [of] the SBWMA." (JPA Agreement, Section 3.3.) However, this is contradicted in the plain language of the JPA Agreement that repeatedly and expressly provides each member is allocated responsibility to the JPA proportionate to its contributions and needs. We believe that the intent of this section was more appropriately to highlight the fact that the JPA is a separate legal entity and therefore, members are not individually liable for the contractual obligations of the JPA. And, in any event, if the Town is not entitled to the benefits of the JPA (proportionate share of assets), it should be followed that it is also not burdened by its debts and liabilities.

Joe La Mariana, SBWMA Executive Director
 March 18, 2020
 Page 3

As a founding principle, indeed prior to the section quoted above, the recitals of the JPA Agreement provide "the costs for planning and implementing Solid Waste and Recycling Programs will be based on a fair and equitable allocation system that considers the relative benefits to each Agency and the additional costs of services provided to each Agency." (JPA Agreement, Recital (D).) This means that a driving factor in the allocation of financial responsibilities within the JPA was the proportionate use and benefit gleaned by each member. Thus, each member was assessed for costs at a rate with consideration of their proportionate use and benefit from the JPA.

SBWMA's predominant direction, especially in recent years, has been to fund projects that target and benefit commercial growth and diversion. Atherton is a built-out residential community with no commercial development or uses. Therefore, the Town does not benefit from this targeted approach in any way, and it never has. To avoid this divergence from the JPA's founding principle articulated above, Atherton expressly requested that processing costs for commercial and residential uses be apportioned equitably. Unfortunately, the request, and even discussion of the request, was unilaterally declined. Consequently, it comes as no surprise that while Atherton has benefited the JPA, the JPA has predominantly served at the pleasure of, and for the advantage of, the other members.

In addition, Section 12.1 – *Debts and Liabilities* provides that a member agency's obligation is "expressly limited only to the appropriation and contribution of such funds as may be levied pursuant to this agreement or as the Members hereto may agree." Furthermore, Section 13.2 – *Attributing Solid Waste* provides "the SBWMA shall establish a fair and equitable method of attributing Solid Waste, Recyclable Materials, and Plant Materials to the Members that are delivered to the Facilities." These further support that the Town is entitled to its share of the JPA's assets. Indeed, despite these established principles of fair allocation, the Town has never utilized the JPA's full suite of services, nor received a discount for not doing so – as explained, the Town does not produce multi-family unit or commercial waste like other members and was denied its request to equitably apportion costs related to each.

If the SBWMA were to abide by the exact language of the JPA Agreement, "Revenue Bonds" is expressly defined as only "those certain revenue bonds titled 'South Bayside Waste Management Authority (San Mateo County, California) Solid Waste System Revenue Bonds, Series 2000,' and issued in the amount of \$20,090,000 on March 1, 2000." (JPA Agreement, Ex. C, "Definitions.") There is no mention or consideration for future revenue bonds. Thus, a plain reading provides room for an argument to be made that the JPA Agreement does not apply to bonds issued beyond the Series 2000 bonds and the Town, or really any JPA member, has no obligation to revenue bonds except for the Series 2000 bonds pursuant to the JPA Agreement.

The Town is entitled to certain assets of the JPA proportionate to its financial contributions to JPA initiatives until the time of the Town's withdrawal. However, the requisite liquidation prior to withdrawal is a measure of both the Town's assets and liabilities in the JPA. The total assets of the JPA as of the 2017/18 Audited Financial Statements is \$74,506,626. The JPA's stated total liabilities in that same Report is \$54,235,476. Allocating the Town's responsibility at 3.25% for both assets and liabilities result in a net to the Town of \$658,812. The Town does not expect the JPA to refund the Town in that amount nor liquidate its assets; however, the Town asks for the

ATTACHMENT 1

Joe La Mariana, SBWMA Executive Director
March 18, 2020
Page 4

Board's response on the Town's outstanding assets and obligations to liquefy in the event the Town decides to withdraw from the JPA.

The Town appreciates the Board's assistance in this matter as the Town considers its options for waste management.

Sincerely,

A handwritten signature in black ink, appearing to read "George J. Rodericks". The signature is stylized with a large loop and a horizontal line extending to the left.

George J. Rodericks
City Manager
Town of Atherton

cc: City Council



A Public Agency

April 27, 2020

Mr. George J. Rodericks, City Manager
Town of Atherton
150 Watkins Avenue
Atherton, CA 94027
grodericks@ci.atherton.ca.us

VIA email and U.S. Postal Service

RE: TOWN OF ATHERTON'S NOTICE OF INTENT TO WITHDRAW FROM SBWMA JPA

Dear Mr. Rodericks:

The South Bayside Waste Management Authority (SBWMA or Authority) is in receipt of your letter dated March 18, 2020 advising SBWMA that the Town of Atherton is considering withdrawing from the Authority. The letter states that it serves as Atherton's six month Notice of Intent to Withdraw, which is required under the terms of the Joint Powers Agreement (JPA) governing the SBWMA. The letter notes that the end of the rate year is December 31, 2020; it does not, however, state a specific date on which Atherton intends to withdraw, which is also required under the JPA. We assume if Atherton moves forward with withdrawing from the Authority, it will provide the specific notice in a timely manner. Additionally, the letter requests clarification of Atherton's obligations for the liquidation of its proportionate share of SBWMA's liabilities as required by the withdrawal process set forth in the JPA.

The original JPA for SBWMA was adopted effective December 9, 1999. The Authority was established by a number of San Mateo County entities to provide a regional approach to the collection and disposition of solid waste, recyclable materials and organic materials. Initially, the Authority issued bonds in 2000 (the "Revenue Bonds" defined in the original JPA) to acquire and reconstruct the Shoreway Environmental Center Facility, to be operated by the Authority to meet the regulatory requirements for solid waste and recyclables for its member agencies. In 2019, the Authority took action to refund previously issued bonds, thereby saving the Authority money and, at the same time, raising funds for certain capital improvements. The JPA has been amended and restated several times over the years; the current governing JPA document dated June 19, 2013, is entitled the "Second Amended and Restated Joint Exercise of Powers Agreement South Bayside Waste Management Authority" (the JPA).¹

The Town of Atherton is one of the original founding members of the JPA, and as such is an "Equity Member."² Article 15 of the JPA sets forth the process for withdrawing as a Member of the JPA. It provides:

- 15.1 Withdrawal Conditions.** A Member may not withdraw from the SBWMA unless and until that Member achieves the following:
- a. The liquidation in full of its proportion of any and all existing debts obligations, and

¹ A proposed Third Amended and Restated JPA is currently being circulated for consideration among member agencies, making a number of clerical and administrative updates to the JPA document; none of the proposed changes impact Article 15, Withdrawal, of the Agreement.

² Under the SBWMA, JPA membership is divided into "equity members" and "non-equity members"; there are no non-equity members at this time, nor have there ever been. The primary difference between an Equity Member and Non Equity Member is described in Section 6.3 of the JPA: basically, non-equity members are not entitled to vote on any matter before the board, and do not have the rights and liabilities of equity members, particularly under Section 15, Withdrawal, or Section 10, Termination of the JPA.

610 Elm Street, Suite 202 P: 650-802-3500
San Carlos, CA 94070 F: 650-802-3501 RethinkWaste.org

MEMBER AGENCIES: Town of Atherton • City of Belmont • City of Burlingame • City of East Palo Alto • City of Foster City • Town of Hillsborough
City of Menlo Park • City of Redwood City • City of San Carlos • City of San Mateo • County of San Mateo • West Bay Sanitary District

- liabilities incurred, earned, or expected to be earned by the date of withdrawal, including but not limited to the Revenue Bonds, as determined by the Board.
- b. The provision to the SBWMA of a written notice of intent to withdraw from the SBWMA at least six (6) months prior to the end of the current Rate Year, specifying the date on which the Member intends to withdraw.
 - c. The approval of such withdrawal by a 4/5 affirmative vote of Equity Members.

Liquidation Amount: The substantive question raised by Atherton's potential withdrawal from the JPA is how to calculate the "liquidation in full of its proportion of any and all existing debts, obligations, and liabilities incurred, earned or expected to be earned by the date of withdrawal, including, but not limited to the Revenue Bonds, as determined by the Board." While Burlingame considered withdrawing in 2009, it did not do so and no other Member has proposed withdrawing from the Authority since it was established in 1999, so there is no specific precedent to consider when addressing this question.

Based on communications from Atherton that it might consider withdrawing, the Authority, in late 2019, asked its bond consultants, KNN Public Finance, LLC., to calculate the portion of SBWMA's outstanding bond obligations attributable to the Town, and to describe a method for retiring that proportional share through a legal defeasance of the bonds. A copy of KNN's letter was provided to Atherton in December 2019. KNN calculated Atherton's proportionate bond share based on its proportion of overall franchise tonnage, which over the past three years has been approximately 3.25%. Applying this factor to the outstanding bond obligations, and calculating the costs for legal defeasance, KNN calculated that Atherton's proportionate share for liquidating its bond obligations upon withdrawal would be approximately \$2,087,908.00. This number only takes into account Atherton's share of bonded indebtedness; it does not include other obligations and liabilities.³ Staff is in the process of calculating that number.

We note that Atherton has made a number of arguments in its letter of intent suggesting that it is entitled to a proportionate share of the Authority's assets upon its withdrawal, and that its liability obligations should be offset from this share. These arguments are based on Article 16, Termination, of the JPA, which provides that upon mutual termination of the Authority by the members, if there is no successor agency to the Authority, "all assets and liabilities shall be apportioned to each Member in proportion to the contribution of each current Members' ratepayers' total contribution during the Term of this Agreement. A reference to ratepayers' contribution means payment of Collection fees under each jurisdiction's respective Uniform Franchise Agreement."

The Authority does not agree that the provisions of Article 16, dealing with termination of the agency, impliedly apply to Article 15 when a Member decides to withdraw. It is a fundamental principle of contract interpretation that when something is not included in a term, it is meant to be excluded. In this case, Article 15 does not include any language related to the Authority's assets, it very specifically refers to its liabilities. If the Members had desired to include assets in Article 15, they would have done so, as evidenced by the fact that they are included in Article 16. Nor does the Authority view Article 15's requirement that a Member pay its proportionate share of debt and liabilities upon its withdrawal as violative of the equitable principle of unjust enrichment. The Members entered the JPA in furtherance of their mutual interests, and incurred debt in reliance upon each Member's participation. The JPA document, which the Members approved, provides that the burden created by the withdrawal of a Member should fall on the Member, not the Authority.

Process: According to Article 15, the withdrawal process requires that the Board determine the amount required to liquidate the withdrawing member's share. Once that number is determined by the Board, 4/5 (four-fifths) of the Member Agencies are required to approve the withdrawal. This process is similar to that required when the JPA is amended: upon approval by the Board of the liquidation amount, and Atherton's commitment to pay that amount, each Member Agency's governing board will be required to place the matter on its agenda for consideration. We believe the individual Member Agency's must approve the withdrawal based upon their own local rules, typically by a majority of members present. We do not believe the

³ This number was calculated based on interest assumptions that were current in December 2019. The number would have to be recalculated based on the current market to determine a final number for withdrawal.

4/5 requirement applies to the individual Member Agency actions. Once 4/5 of the Member Agencies' governing boards have approved the withdrawal, it may go forward upon the agreed-upon terms.

While we are sorry to learn that Atherton intends to withdraw from the Authority, please be assured we will make every effort to cooperate with you in this process. Please do not hesitate to contact me if you have any questions.

A handwritten signature in black ink, appearing to read "Joe La Mariana". The signature is fluid and cursive, with a large loop at the beginning of the first name.

Joe La Mariana
Executive Director
jlamariana@rethinkwaste.org

Date: December 6, 2019

To: **South Bayside Waste Management Authority**
Joe La Mariana, Executive Director
John Mangini, Finance Director

From: **KNN Public Finance**
David Brodsky and Melissa Shick

Re: **Bond Allocation and Defeasance Analysis**

You have advised us that the Town of Atherton is considering withdrawing from the South Bayside Waste Management Authority (SBWMA). No Member Agency has ever requested to withdraw from the Joint Powers Authority.

Section 15.1 of the Joint Powers Authority Agreement sets forth the terms and conditions pursuant to which a Member Agency may withdraw from the SBWMA: i) notice at least six months prior to the end of the rate year; ii) approval of four-fifths (4/5) of the members; and iii) the payment of a proportionate share of the Authority's liabilities. Specifically, Section 15.1(a) states that, prior to its exit, a Member Agency must "achieve...the liquidation in full of its proportion of any and all existing debts, obligations, and liabilities incurred, earned, or expected to be earned by the date of withdrawal, but not limited to the Revenue Bonds, as determined by the Board." The particular method of calculating (and liquidating) a Member Agency's proportional share of any such outstanding obligation is not specified under the Joint Powers Authority Agreement.

While there would likely be other obligations and liabilities for which a Member Agency would be responsible, the largest such liability, and the focus of this memo, is likely to be the outstanding revenue bonds of the SBWMA. While Atherton has not yet requested information on its obligations and liabilities, you have requested that we calculate the portion of SBWMA's outstanding bond obligations attributable to the Town of Atherton and describes a method for retiring Atherton's proportional share of the bond obligations through a legal defeasance so that this information can be shared with Atherton as it considers whether or not to withdraw from SBWMA. We again emphasize that this memo addresses only that obligation.

Bond Allocation Methodology

SBWMA's outstanding bond obligations consist of two series – \$31,860,000 Solid Waste Enterprise Refunding Revenue Bonds, Series 2019A (Non-AMT) and \$16,915,000 Solid Waste Enterprise Revenue Bonds, Series 2019B (AMT) – together, totaling \$48,775,000 in outstanding par amount (the Series 2019 Bonds).

- The Series 2019A Bonds were issued to refund in full the SBWMA's Solid Waste Enterprise Revenue Bonds (Shoreway Environmental Center), Series 2009A, which originally financed the construction of a new scale house, a new materials recovery facility (MRF) to be used for the

processing of recyclables, the expansion and renovation of the transfer station, and the acquisition of equipment to be utilized in the MRF.

- The Series 2019B Bonds were issued to finance certain costs in connection with the construction of various improvements and acquisition and installation of certain associated equipment, including MRF equipment improvements, organics-to-energy pilot projects, and other capital improvements at Shoreway Environmental Center.

Because proceeds from the SBWMA’s outstanding bond obligations have been or are expected to be directly invested in capital and equipment improvements at the Shoreway Environmental Center, a reasonable means to allocate such obligations is a Member Agency’s historical use of the facility – measured by tonnage. Below is a summary of SBWMA total franchise tonnage by Member Agency over the last three calendar years. The Town of Atherton’s tonnage as a percentage of SBWMA’s total franchise tonnage has remained fairly consistent over the last three calendar years – ranging from 3.25% to 3.29%.

SBWMA Total Franchise Tonnage by Member Agency (Last Three Calendar Years)						
	2016		2017		2018	
	Total Tons	% of Total	Total Tons	% of Total	Total Tons	% of Total
Member Agency						
Town of Atherton	11,892	3.29%	12,089	3.28%	11,964	3.25%
City of Belmont	17,236	4.76%	17,624	4.78%	17,189	4.67%
City of Burlingame	41,111	11.36%	42,194	11.43%	41,870	11.36%
County Unincorporated	11,103	3.07%	11,356	3.08%	11,200	3.04%
North Fair Oaks	10,651	2.94%	10,605	2.87%	10,638	2.89%
City of East Palo Alto	19,208	5.31%	19,207	5.21%	19,030	5.17%
City of Foster City	20,287	5.61%	20,837	5.65%	20,843	5.66%
Town of Hillsborough	9,837	2.72%	10,165	2.75%	10,025	2.72%
City of Menlo Park	39,515	10.92%	42,360	11.48%	44,251	12.01%
Redwood City	70,562	19.50%	71,057	19.26%	70,558	19.15%
City of San Carlos	27,189	7.51%	27,731	7.52%	27,092	7.35%
City of San Mateo	77,841	21.51%	78,265	21.21%	78,320	21.26%
West Bay Sanitary	5,421	1.50%	5,510	1.49%	5,432	1.47%
SBWMA Total	361,854	100.0%	369,000	100.0%	368,413	100.0%

Source: South Bayside Waste Management Authority.

Each Member Agency’s percentage of total franchise tonnage can be used as a proxy for their proportional share of SBWMA obligations under the Joint Powers Agreement. Because existing debts, obligations, and liabilities of the SBWMA are shared only among the Member Agencies, we have focused on franchise tonnage to calculate a Member Agency’s proportional share and do not include non-franchise and general public tonnage as part of the percentage calculus.

Town of Atherton Bond Allocation and Defeasance Analysis

While the Authority’s revenue bonds cannot be redeemed for ten years, the SBWMA can legally retire the Town of Atherton’s allocable percentage of the Series 2019 Bonds by executing a partial bond defeasance of this outstanding obligation. We discuss this approach below.

Defeasance Description

The term “defeasance” refers to a method in which an outstanding bond issue can be discharged, both legally and financially and in whole or in part, prior to the time at which the bonds can be prepaid or “called.” Bonds are defeased by the creation of an irrevocable escrow that pays the bonds. Although a defeasance is generally utilized as part of a refunding transaction (when the refunded bonds cannot be redeemed on the date of issuance of refunding bonds), a defeasance can also be accomplished with available cash rather than the proceeds of the issuance of refunding bonds.

Mechanics of Defeasance

In a defeasance, the issuer purchases federal government securities for deposit in an escrow account. The escrow account is held by a bank or trust company that serves as escrow agent (this would be your existing Series 2019 Bond trustee). Under the terms of an escrow agreement, the government securities are irrevocably pledged to the payment of the outstanding bonds. The specific government securities are selected so that the principal maturities and interest earned are sufficient to pay the principal of and interest on the outstanding bonds as they come due, and to pay the remaining principal on the call date. It is common to purchase a specific type of Treasury security that was designed specifically for this purpose, called State and Local Government Series (or “SLGS”), as they allow for tailoring the maturity of the investments to the specific needs of the defeasance escrow.

Under the Authority’s bond documents, a defeasance of the bonds in the amount allocated to Atherton would result in those bonds being deemed “paid” (even though they would not be actually redeemed until the first available redemption date on September 1, 2029). Once the government securities are deposited in escrow on the date of the defeasance, the defeased bonds would no longer be payable from the revenues of the Solid Waste System. In order for a bond issue to be legally defeased, the types of investment securities selected and the terms of how and where the securities are held must meet the requirements set forth in the documents that authorized the outstanding bonds. If the defeasance is consistent with generally accepted accounting principles and complies with the outstanding bond document requirements, the bonds will no longer be treated as debt for accounting purposes and will not be considered debt for purposes of setting your rates.

Defeasance Analysis for the Town of Atherton Obligation

The cost of defeasance for the Town of Atherton’s proportional share of the outstanding Series 2019 Bonds will be driven by the calculation of their share of the debt and the specific cost of the escrow required to defease that debt. In addition, the execution of the defeasance will also involve third-party costs (similar to cost of issuance on a bond offering) that should also be considered in the overall cost of the defeasance transaction.

Allocable Debt Service. The total par amount (principal) of the outstanding Series 2019 Bonds is \$48,775,000. Of this total, bonds maturing from 2020 – 2029, representing \$14.575 million in outstanding par amount, are non-callable, and bonds maturing from 2030 – 2042, representing \$34.200 million in par amount, are callable and subject to optional redemption on September 1, 2029. Inclusive of principal and interest, total debt service through the first call date of September 1, 2029 equates to \$36,410,513.89 and total debt service through the September 1, 2042 maturity equates to \$83,739,013.89.

In **Attachment A** we provide a schedule of the outstanding maturities of the Series 2019 Bonds. The schedule to the right details the Town of Atherton’s allocable debt service based on the assumption that 3.25% of the outstanding Series 2019 Bonds are attributable to the Member Agency.

Because Series 2019 Bonds maturing after 2029 are callable and can be optionally redeemed by SBWMA, a defeasance escrow would therefore be structured to the first call date of September 1, 2029. The escrow sufficiency would be the amount necessary to pay principal and interest on the non-callable maturities through their respective maturity dates plus the total amount of callable principal to be redeemed on the September 1, 2029 call date.

Escrow Cost. Assuming an escrow invested in SLGS bearing interest rates as of December 4, 2019 and an escrow period from March 2, 2020 (a Monday) to the September 1, 2029 call date, a defeasance of all outstanding Series 2019 Bonds would require an escrow that costs \$61,193,433.24. The table below calculates the Town of Atherton’s proportional defeasance cost based on varying approaches to the application of their allocable percentage of total outstanding bond obligations.

City of Atherton's Portion of the 2019 Solid Waste Revenue Bonds Based Allocable Share of 3.25%					
Period Ending	Principal	Coupon	Interest	Annual Debt Service	Call Date
9/1/2020	30,000	5.000%	39,625	69,625	
9/1/2021	40,000	5.000%	77,750	117,750	
9/1/2022	40,000	5.000%	75,750	115,750	
9/1/2023	45,000	5.000%	73,750	118,750	
9/1/2024	50,000	5.000%	71,500	121,500	
9/1/2025	50,000	5.000%	69,000	119,000	
9/1/2026	50,000	5.000%	66,500	116,500	
9/1/2027	55,000	5.000%	64,000	119,000	
9/1/2028	60,000	5.000%	61,250	121,250	
9/1/2029	60,000	5.000%	58,250	118,250	
9/1/2030	60,000	5.000%	55,250	115,250	9/1/2029
9/1/2031	65,000	5.000%	52,250	117,250	9/1/2029
9/1/2032	70,000	5.000%	49,000	119,000	9/1/2029
9/1/2033	70,000	5.000%	45,500	115,500	9/1/2029
9/1/2034	75,000	5.000%	42,000	117,000	9/1/2029
9/1/2035	80,000	5.000%	38,250	118,250	9/1/2029
9/1/2036	85,000	5.000%	34,250	119,250	9/1/2029
9/1/2037	90,000	5.000%	30,000	120,000	9/1/2029
9/1/2038	90,000	5.000%	25,500	115,500	9/1/2029
9/1/2039	100,000	5.000%	21,000	121,000	9/1/2029
9/1/2040	100,000	5.000%	16,000	116,000	9/1/2029
9/1/2041	110,000	5.000%	11,000	121,000	9/1/2029
9/1/2042	110,000	5.000%	5,500	115,500	9/1/2029
	1,585,000		1,082,875	2,667,875	

**Town of Atherton Defeasance Analysis
(Preliminary - Market Conditions as of December 4)**

Total Cost of Defeasance - Series 2019 Bonds	\$ 61,193,433.24
Scenario 1: Most Recent Calendar Year 2018 Tonnage Allocable Percentage = 3.25%	\$ 1,987,908.71
Scenario 2: Average Tonnage Percentage - Last Three Years Allocable Percentage = 3.27%	\$ 2,001,025.27
Scenario 3: Three-Year Historical Tonnage Rounded Allocable Percentage = 3.30%	\$ 2,019,383.30

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We note that the above calculations of the cost of a defeasance escrow are driven by a number of assumptions. For example, the interest rates earned on the investments are based on today's market conditions. Depending on market conditions at the time a defeasance may be executed, the results will vary. For example, the portfolio of securities that comprises the defeasance escrow may yield more or less in the future than from what is assumed today – SLGS investments yielding an average of 1.686% – based on market conditions and/or the package of securities utilized. If the escrow yield is higher, the cost to the Town of Atherton would be lower and, conversely, if the escrow yield is lower, the cost to the Town of Atherton would be higher.

Another factor contributing to the escrow cost is its duration. The current analysis assumes an escrow purchase date of March 2, 2020 and an escrow maturity of September 1, 2029 – a modified duration of 7.04 years. Given the actions that must be taken by the Town of Atherton and SBWMA prior to a defeasance, next March is likely an optimistic assumption for execution. A later defeasance would shorten the length of the defeasance escrow, lowering the total cost (assuming no changes in the interest rates earned by the defeasance securities).

Execution Cost. Similar to a bond issuance and related cost of issuance, there are several parties that would be required to formally execute a defeasance transaction – summarized as follows:

- *Bond Counsel:* Bond Counsel drafts the escrow agreement and renders an opinion that the outstanding bonds have been legally defeased.
- *Verification Agent:* The Indenture of Trust for the outstanding bonds requires an independent certified public accountant to provide an opinion that the escrow account is sufficient to retire the outstanding bonds.
- *Escrow Agent:* The bank or trust company that holds the government securities and makes payments to the paying agent for the outstanding bonds is referred to as the escrow agent. The bond trustee on the SBWMA Series 2019 Bonds would serve this function.
- *Municipal Advisor:* An advisor typically assists with the financing plan. The advisor assists in identifying the government securities to be placed in the escrow account, assists in the arrangements for the acquisition of the government securities, reviews the terms of the escrow agreement, and assists the issuer in the transfer of funds to the escrow agent.

In addition to payments to outside consultants there may be other ancillary costs of the defeasance transaction (i.e. subscriptions for new CUSIP numbers, which identify bonds for the market). We recommend that SBWMA estimate approximately \$75,000 - \$100,000 for the additional cost of execution when communicating the total cost to the Town of Atherton to liquidate is proportional share of the Series 2019 Bonds. We have assumed \$100,000 in such costs in our analysis.

In **Attachment B** we provide illustrative cash flows of a partial defeasance of the Series 2019 Bonds for the Town of Atherton utilizing a 3.25% allocable percentage of total SBWMA obligations to the Town of Atherton.

We understand that SBWMA management, its Board committees, and their legal counsel are beginning the process and dialogue around this topic. As the Town of Atherton's plans become more definitive, we are available for further discussion and analysis around the defeasance analysis and execution. In the interim, however, should you have any questions or desire further information, please do not hesitate to contact David (510-208-8205) or Melissa (510-208-8226).

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Attachment A: Series 2019 Bonds

Bond Pricing
South Bayside Waste Management Authority
Solid Waste Enterprise Revenue Bonds
(Shoreway Environmental Center)
Series 2019A and Series 2019B

Maturity Date	Amount	Rate	Yield	Call Date	
Non Callable Maturities					
9/1/2020	850,000	5.000%	1.500%	NC	Escrow pays non-callable bond principal and interest through September 1, 2029
9/1/2021	1,245,000	5.000%	1.520%	NC	
9/1/2022	1,305,000	5.000%	1.530%	NC	
9/1/2023	1,370,000	5.000%	1.540%	NC	
9/1/2024	1,440,000	5.000%	1.570%	NC	
9/1/2025	1,515,000	5.000%	1.620%	NC	
9/1/2026	1,590,000	5.000%	1.680%	NC	
9/1/2027	1,670,000	5.000%	1.810%	NC	
9/1/2028	1,750,000	5.000%	1.900%	NC	
9/1/2029	1,840,000	5.000%	2.020%	NC	
	14,575,000				
Callable Maturities					
9/1/2030	1,930,000	5.000%	2.140%	9/1/2029	Escrow redeems callable principal on September 1, 2029
9/1/2031	410,000	5.000%	2.270%	9/1/2029	
9/1/2031	1,620,000	5.000%	1.820%	9/1/2029	
9/1/2032	2,130,000	5.000%	1.940%	9/1/2029	
9/1/2033	2,235,000	5.000%	2.010%	9/1/2029	
9/1/2034	2,345,000	5.000%	2.080%	9/1/2029	
9/1/2035	2,465,000	5.000%	2.160%	9/1/2029	
9/1/2036	2,590,000	5.000%	2.210%	9/1/2029	
9/1/2037	2,715,000	5.000%	2.280%	9/1/2029	
9/1/2038	2,855,000	5.000%	2.320%	9/1/2029	
9/1/2039	2,995,000	5.000%	2.360%	9/1/2029	
9/1/2040	3,145,000	5.000%	2.390%	9/1/2029	
9/1/2041	3,300,000	5.000%	2.460%	9/1/2029	
9/1/2042	3,465,000	5.000%	2.460%	9/1/2029	
	34,200,000				

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Attachment B: Cash Flows of Partial Defeasance of the Series 2019 Bonds

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SOURCES AND USES OF FUNDS

South Bayside Waste Management
 Proposed Cash Defeasance
 City of Atherton's Portion of the 2019 Solid Waste Revenue Bonds
 Reflects Market Conditions as of December 4, 2019
 Preliminary. Subject to Change with Market Conditions

Dated Date 03/02/2020
 Delivery Date 03/02/2020

Sources:

<u>Other Sources of Funds:</u>	
Cash Defeasance	1,987,908.71
Cost of Issuance	100,000.00
	<u>2,087,908.71</u>

Uses:

<u>Refunding Escrow Deposits:</u>	
Cash Deposit	0.71
SLGS Purchases	<u>1,987,908.00</u>
	1,987,908.71
<u>Delivery Date Expenses:</u>	
Cost of Issuance	100,000.00
	<u>2,087,908.71</u>

SUMMARY OF BONDS REFUNDED

South Bayside Waste Management
 Proposed Cash Defesance
 City of Atherton's Portion of the 2019 Solid Waste Revenue Bonds
 Reflects Market Conditions as of December 4, 2019
 Preliminary, Subject to Change with Market Conditions

Bond	Maturity Date	Interest Rate	Par Amount	Call Date	Call Price
2019 Solid Waste Enterprise Revenue Bonds, 19ATH:					
ATH	09/01/2020	5.000%	30,000.00		
	09/01/2021	5.000%	40,000.00		
	09/01/2022	5.000%	40,000.00		
	09/01/2023	5.000%	45,000.00		
	09/01/2024	5.000%	50,000.00		
	09/01/2025	5.000%	50,000.00		
	09/01/2026	5.000%	50,000.00		
	09/01/2027	5.000%	55,000.00		
	09/01/2028	5.000%	60,000.00		
	09/01/2029	5.000%	60,000.00		
	09/01/2030	5.000%	60,000.00	09/01/2029	100.000
	09/01/2031	5.000%	65,000.00	09/01/2029	100.000
	09/01/2032	5.000%	70,000.00	09/01/2029	100.000
	09/01/2033	5.000%	70,000.00	09/01/2029	100.000
	09/01/2034	5.000%	75,000.00	09/01/2029	100.000
	09/01/2035	5.000%	80,000.00	09/01/2029	100.000
	09/01/2036	5.000%	85,000.00	09/01/2029	100.000
	09/01/2037	5.000%	90,000.00	09/01/2029	100.000
	09/01/2038	5.000%	90,000.00	09/01/2029	100.000
	09/01/2039	5.000%	100,000.00	09/01/2029	100.000
	09/01/2040	5.000%	100,000.00	09/01/2029	100.000
	09/01/2041	5.000%	110,000.00	09/01/2029	100.000
	09/01/2042	5.000%	110,000.00	09/01/2029	100.000
			1,585,000.00		

PRIOR BOND DEBT SERVICE

South Bayside Waste Management
 Proposed Cash Defeasance
 City of Atherton's Portion of the 2019 Solid Waste Revenue Bonds
 Reflects Market Conditions as of December 4, 2019
 Preliminary, Subject to Change with Market Conditions

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
09/01/2020	30,000	5.000%	39,625	69,625	69,625
03/01/2021			38,875	38,875	
09/01/2021	40,000	5.000%	38,875	78,875	117,750
03/01/2022			37,875	37,875	
09/01/2022	40,000	5.000%	37,875	77,875	115,750
03/01/2023			36,875	36,875	
09/01/2023	45,000	5.000%	36,875	81,875	118,750
03/01/2024			35,750	35,750	
09/01/2024	50,000	5.000%	35,750	85,750	121,500
03/01/2025			34,500	34,500	
09/01/2025	50,000	5.000%	34,500	84,500	119,000
03/01/2026			33,250	33,250	
09/01/2026	50,000	5.000%	33,250	83,250	116,500
03/01/2027			32,000	32,000	
09/01/2027	55,000	5.000%	32,000	87,000	119,000
03/01/2028			30,625	30,625	
09/01/2028	60,000	5.000%	30,625	90,625	121,250
03/01/2029			29,125	29,125	
09/01/2029	60,000	5.000%	29,125	89,125	118,250
03/01/2030			27,625	27,625	
09/01/2030	60,000	5.000%	27,625	87,625	115,250
03/01/2031			26,125	26,125	
09/01/2031	65,000	5.000%	26,125	91,125	117,250
03/01/2032			24,500	24,500	
09/01/2032	70,000	5.000%	24,500	94,500	119,000
03/01/2033			22,750	22,750	
09/01/2033	70,000	5.000%	22,750	92,750	115,500
03/01/2034			21,000	21,000	
09/01/2034	75,000	5.000%	21,000	96,000	117,000
03/01/2035			19,125	19,125	
09/01/2035	80,000	5.000%	19,125	99,125	118,250
03/01/2036			17,125	17,125	
09/01/2036	85,000	5.000%	17,125	102,125	119,250
03/01/2037			15,000	15,000	
09/01/2037	90,000	5.000%	15,000	105,000	120,000
03/01/2038			12,750	12,750	
09/01/2038	90,000	5.000%	12,750	102,750	115,500
03/01/2039			10,500	10,500	
09/01/2039	100,000	5.000%	10,500	110,500	121,000
03/01/2040			8,000	8,000	
09/01/2040	100,000	5.000%	8,000	108,000	116,000
03/01/2041			5,500	5,500	
09/01/2041	110,000	5.000%	5,500	115,500	121,000
03/01/2042			2,750	2,750	
09/01/2042	110,000	5.000%	2,750	112,750	115,500
	1,585,000		1,082,875	2,667,875	2,667,875

ESCROW COST

South Bayside Waste Management
 Proposed Cash Defesance
 City of Atherton's Portion of the 2019 Solid Waste Revenue Bonds
 Reflects Market Conditions as of December 4, 2019
 Preliminary, Subject to Change with Market Conditions

Type of Security	Maturity Date	Par Amount	Rate	Total Cost
SLGS	09/01/2020	53,368	1.560%	53,368.00
SLGS	03/01/2021	22,599	1.550%	22,599.00
SLGS	09/01/2021	62,949	1.550%	62,949.00
SLGS	03/01/2022	22,437	1.540%	22,437.00
SLGS	09/01/2022	62,609	1.540%	62,609.00
SLGS	03/01/2023	22,092	1.540%	22,092.00
SLGS	09/01/2023	67,262	1.540%	67,262.00
SLGS	03/01/2024	21,654	1.540%	21,654.00
SLGS	09/01/2024	71,822	1.540%	71,822.00
SLGS	03/01/2025	21,124	1.550%	21,124.00
SLGS	09/01/2025	71,288	1.560%	71,288.00
SLGS	03/01/2026	20,594	1.590%	20,594.00
SLGS	09/01/2026	70,758	1.630%	70,758.00
SLGS	03/01/2027	20,085	1.660%	20,085.00
SLGS	09/01/2027	75,251	1.670%	75,251.00
SLGS	03/01/2028	19,505	1.680%	19,505.00
SLGS	09/01/2028	79,668	1.690%	79,668.00
SLGS	03/01/2029	18,842	1.700%	18,842.00
SLGS	09/01/2029	1,184,001	1.710%	1,184,001.00
		1,987,908		1,987,908.00

Purchase Date	Cost of Securities	Cash Deposit	Total Escrow Cost	Yield
03/02/2020	1,987,908	0.71	1,987,908.71	1.685784%
	1,987,908	0.71	1,987,908.71	

ESCROW CASH FLOW

South Bayside Waste Management
 Proposed Cash Defesance
 City of Atherton's Portion of the 2019 Solid Waste Revenue Bonds
 Reflects Market Conditions as of December 4, 2019
 Preliminary, Subject to Change with Market Conditions

Date	Principal	Interest	Net Escrow Receipts	Present Value to 03/02/2020 @ 1.6857844%
09/01/2020	53,368.00	16,256.95	69,624.95	69,046.21
03/01/2021	22,599.00	16,275.44	38,874.44	38,229.08
09/01/2021	62,949.00	15,926.12	78,875.12	76,917.37
03/01/2022	22,437.00	15,438.27	37,875.27	36,626.45
09/01/2022	62,609.00	15,265.51	77,874.51	74,677.39
03/01/2023	22,092.00	14,783.42	36,875.42	35,065.94
09/01/2023	67,262.00	14,613.31	81,875.31	77,206.91
03/01/2024	21,654.00	14,095.39	35,749.39	33,429.24
09/01/2024	71,822.00	13,928.65	85,750.65	79,515.18
03/01/2025	21,124.00	13,375.62	34,499.62	31,723.54
09/01/2025	71,288.00	13,211.91	84,499.91	77,051.00
03/01/2026	20,594.00	12,655.86	33,249.86	30,065.37
09/01/2026	70,758.00	12,492.14	83,250.14	74,647.70
03/01/2027	20,085.00	11,915.46	32,000.46	28,453.94
09/01/2027	75,251.00	11,748.75	86,999.75	76,711.22
03/01/2028	19,505.00	11,120.40	30,625.40	26,777.95
09/01/2028	79,668.00	10,956.56	90,624.56	78,577.13
03/01/2029	18,842.00	10,283.37	29,125.37	25,042.43
09/01/2029	1,184,001.00	10,123.21	1,194,124.21	1,018,143.97
	1,987,908.00	254,466.34	2,242,374.34	1,987,908.00

Escrow Cost Summary

Purchase date	03/02/2020
Purchase cost of securities	1,987,908.00
Target for yield calculation	1,987,908.00

ESCROW STATISTICS

South Bayside Waste Management
 Proposed Cash Defesance
 City of Atherton's Portion of the 2019 Solid Waste Revenue Bonds
 Reflects Market Conditions as of December 4, 2019
 Preliminary, Subject to Change with Market Conditions

Total Escrow Cost	Modified Duration (years)	Yield to Receipt Date	Yield to Disbursement Date	Perfect Escrow Cost	Value of Negative Arbitrage	Cost of Dead Time
Global Proceeds Escrow: 1,987,908.71	7.040	1.685784%	1.685784%	2,242,375.05	-254,466.34	
1,987,908.71				2,242,375.05	-254,466.34	0.00

Delivery date 03/02/2020

BOND DEBT SERVICE AFTER DEFEASANCE

South Bayside Waste Management
 Proposed Cash Defeasance
 City of Atherton's Portion of the 2019 Solid Waste Revenue Bonds
 Reflects Market Conditions as of December 4, 2019
 Preliminary. Subject to Change with Market Conditions

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
09/01/2020	820,000	5.000%	1,179,750	1,999,750	1,999,750
03/01/2021			1,159,250	1,159,250	
09/01/2021	1,205,000	5.000%	1,159,250	2,364,250	3,523,500
03/01/2022			1,129,125	1,129,125	
09/01/2022	1,265,000	5.000%	1,129,125	2,394,125	3,523,250
03/01/2023			1,097,500	1,097,500	
09/01/2023	1,325,000	5.000%	1,097,500	2,422,500	3,520,000
03/01/2024			1,064,375	1,064,375	
09/01/2024	1,390,000	5.000%	1,064,375	2,454,375	3,518,750
03/01/2025			1,029,625	1,029,625	
09/01/2025	1,465,000	5.000%	1,029,625	2,494,625	3,524,250
03/01/2026			993,000	993,000	
09/01/2026	1,540,000	5.000%	993,000	2,533,000	3,526,000
03/01/2027			954,500	954,500	
09/01/2027	1,615,000	5.000%	954,500	2,569,500	3,524,000
03/01/2028			914,125	914,125	
09/01/2028	1,690,000	5.000%	914,125	2,604,125	3,518,250
03/01/2029			871,875	871,875	
09/01/2029	1,780,000	5.000%	871,875	2,651,875	3,523,750
03/01/2030			827,375	827,375	
09/01/2030	1,870,000	5.000%	827,375	2,697,375	3,524,750
03/01/2031			780,625	780,625	
09/01/2031	1,965,000	5.000%	780,625	2,745,625	3,526,250
03/01/2032			731,500	731,500	
09/01/2032	2,060,000	5.000%	731,500	2,791,500	3,523,000
03/01/2033			680,000	680,000	
09/01/2033	2,165,000	5.000%	680,000	2,845,000	3,525,000
03/01/2034			625,875	625,875	
09/01/2034	2,270,000	5.000%	625,875	2,895,875	3,521,750
03/01/2035			569,125	569,125	
09/01/2035	2,385,000	5.000%	569,125	2,954,125	3,523,250
03/01/2036			509,500	509,500	
09/01/2036	2,505,000	5.000%	509,500	3,014,500	3,524,000
03/01/2037			446,875	446,875	
09/01/2037	2,625,000	5.000%	446,875	3,071,875	3,518,750
03/01/2038			381,250	381,250	
09/01/2038	2,765,000	5.000%	381,250	3,146,250	3,527,500
03/01/2039			312,125	312,125	
09/01/2039	2,895,000	5.000%	312,125	3,207,125	3,519,250
03/01/2040			239,750	239,750	
09/01/2040	3,045,000	5.000%	239,750	3,284,750	3,524,500
03/01/2041			163,625	163,625	
09/01/2041	3,190,000	5.000%	163,625	3,353,625	3,517,250
03/01/2042			83,875	83,875	
09/01/2042	3,355,000	5.000%	83,875	3,438,875	3,522,750
	47,190,000		32,309,500	79,499,500	79,499,500



Town of Atherton

Town Administrative Offices
150 Watkins Avenue
Atherton, California 94027
650-752-0500
Fax 650-688-6528

June 29, 2020

VIA E-MAIL – ORIGINAL BY U.S. MAIL

Joe La Mariana, Executive Director
South Bay Waste Management Authority
610 Elm Street, Ste. 102
San Carlos, California 94070
Email: jlamariana@rethinkwaste.org

**RE: Town of Atherton's Notice of Intent to Withdraw from SBWMA Effective
December 31, 2020**

Director La Mariana,

This letter is in response to your letter dated April 27, 2020, sent on behalf of the South Bay Waste Management Authority, a joint powers authority formed and organized pursuant to the Joint Powers Act, Government Code section 6500 et seq. ("SBWMA") and regarding the Town of Atherton's Notice of Intent to Withdraw from SBWMA.

This letter is to inform you that the Town of Atherton ("Town" or "Atherton") intends to withdraw from SBWMA effective December 31, 2020. Pursuant to the "Second Amended and Restated Joint Exercise of Powers Agreement [of SBWMA]" dated June 19, 2013, a member seeking to withdraw from SBWMA must provide "written notice to withdraw from SBWMA at least six (6) months prior to the end of the current Rate Year, specifying the date on which the Member intends to withdraw." (Art. 15.1(b).) The current Rate Year will end on December 31, 2020. By way of this correspondence, the Town is notifying you of the date of withdrawal prior to six months of the end of the current Rate Year and, therefore, meets the requirements of Article 15.1(b).

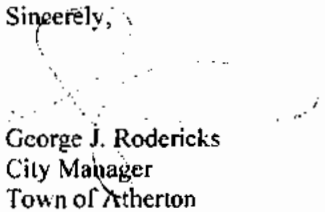
In a further effort to aid SBWMA in separating its assets from the Town's, the Town has engaged a consultant, NHA Advisors, to determine an estimated cost of withdrawal from SBWMA. NHA Advisors has experience in public financing, especially related to a range of bond obligations held and managed by public entities. With this background and particular

Joe La Mariana, Executive Director
Re: Notice of Intent to Withdraw from SBWMA
June 29, 2020
Page 2

knowledge of the project, NHA Advisors has determined that the approximate cost of withdrawal could range from a low of \$501,812 to a high of \$2,258,883, depending on how one treats the 2019 Bonds, community waste demographic, and declining debt service. The Town could also fold in a deduction for overpayment of prior bonds based on its waste generation profile reducing the Town's exit obligation considerably further. The Town is willing to consider a withdrawal cost of \$903,623, Scenario #4, without a deduction for overpayment. This amount is supported by the JPA's financial records, obligations, and the Town's fair share. The Town foresees engaging in further discussions with SBWMA leadership and staff to agree on a final plan to separate the JPA's assets from the Town's assets. However, the Town is not interested in a protracted exit plan and expects an agreement for exit in a timely fashion.

The Town of Atherton thanks you for your assistance and anticipates your response.

Sincerely,



George J. Rodericks
City Manager
Town of Atherton

Attached: NHA Associates Final Report

CC: Mona G. Ebrahimi, City Attorney, Town of Atherton

196-4568.2 14537-018

June 26, 2020

Mr. George J. Rodericks, City Manager
Town of Atherton
150 Watkins Avenue
Atherton, CA 94027

RE: Town of Atherton – SBWMA JPA Withdrawal Analysis

Dear Mr. Rodericks:

NHA Advisors and I are pleased to provide this letter report analyzing the Bond Allocation and Defeasance Analysis prepared by KNN Public Finance (“KNN”) for the JPA dated December 6, 2019, the April 27, 2020 response to the Town of Atherton’s (the “Town”) Notice of Withdrawal from the South Bayside Waste Management Authority (JPA) and the March 18, 2020 letter from the Town to the JPA. Although we understand the KNN methodology used, we still believe that the analysis provided by the SBWMA’s financial advisor does not consider all factors that should be considered when evaluating the financial impacts of the Town withdrawing from the JPA. As stated, the JPA agreement gives very little direction as to how any costs incurred by a withdrawing member shall be calculated. To that end, the Town has asked us to take another look at its reasonable financial obligations in the event of a withdrawal.

The **Table** below summarizes five different approaches that should be considered when determining the amount required to defease the Town’s liability related to the outstanding bonds, all of which we believe have merit under the broad withdrawal terms. A description of each is provided in the paragraphs following the table.

Town of Atherton Withdrawal Scenarios

Scenario	1	2	3	4	5
Effective Share of 2019 Bonds	3.25%	2.15%	2.13%	1.17%	0.58%
A Rate	0.570%	0.557%	0.597%	0.597%	0.597%
Escrow Requirement to Defeasance	2,158,883	1,415,133	1,466,259	803,623	401,812
Estimated Fees	100,000	100,000	100,000	100,000	100,000
Total Cash Required	2,258,883	1,515,133	1,566,259	903,623	501,812
Amount Overpaid (2009-2018)	581,386	581,386	581,386	581,386	581,386
Net Amount Owed	1,677,498	933,748	984,874	322,238	-79,573
Difference from Scenario 1	-	(743,750)	(692,624)	(1,355,260)	(1,757,071)
	3.25% annual share	3.25% in first year, 0.25% decline every 3 years until 1.5% share	No benefit from 2019 Bonds and nets out New Money	Scenario 2 and share related to 2019A Bonds	Scenario 2, no Multi-Family or Commercial, only 2019A Bonds

Financial & Policy Strategies.
Delivered.

Scenario 1

In Scenario 1, the methodology used by SBWMA's financial advisor was simply updated to reflect current conditions in the market. Key assumptions to Scenario 1 are unchanged from the KNN analysis which took the simplest and most straight forward approach. The scenario continues to assume that the Town is responsible for 3.25% of the total debt service on the 2019A and B bonds through final maturity based on its current share of the solid waste stream. This resulted in an increased cost to withdraw under this approach.

However, we believe that in addition to the future liabilities, the Town merits consideration for amounts overpaid in the past related to the current and prior bonds. Given the Town's waste generation profile, we believe that there was little to no need to build out the facility to accommodate for multifamily and commercial recycling capabilities. As a result, the prior payments on the 2009 and 2019 Bonds represented annual over-payments on the Town's part. Accordingly, we have included a line item in each scenario that shows an amount of \$581,386 which represents a calculated total amount overpaid in the last ten years. The Town has consistently stated that the facility is larger than is needed and therefore we believe that this amount should be deducted from any scenario discussed because none of the recent bond issuances have had an impact on the Town's diversion rates although you have paid for them each year through the rates. The Town has paid a portion of these issuances through customer rates without a benefit to their rate payers, we do not believe the Town should have had to pay a portion of the debt service amounts associated to these newer programs that did not benefit the Town.

Scenario 2

In this scenario, it is assumed that the share of the 2019 Bonds Debt Service given projected growth in neighboring communities would decline over the life of the bonds (3.25% in first year, 0.25% decline every 3 years until it reaches a 1.5% share). It is our understanding that the Town is a built-out residential bedroom community with no plans for higher density residential multi-family or commercial development like most of its neighboring communities. As a result, the Town's proportional share of the solid waste stream will slowly decrease over time. Without readily available and reliable information, it is impossible to know the exact amount or timing of the growth so, we tried to use a conservative, straight line approach that does not go below a 1.5% share. According to this analysis the total cash required to defease the Town's obligation is reduced from \$2.26 million to \$1.5 million, before accounting for amounts overpaid in prior years.

Scenario 3

As stated in prior correspondence between the Town and the JPA, we agree that the Town should not be financially accountable for bond costs that provided them with no benefit, especially the two most recent issuances where your objections were raised repeatedly. In this scenario, we have assumed that the Town does not benefit from improvements financed with the 2019 Bonds and nets out a portion of the Series B (the new money component) from the Town's 3.25% share as the benefits from this portion of the proceeds will be realized in the future after the Town is no longer a member of the Authority. The Town has stated numerous times in the past that these bonds will have no impact on the Town's diversion rate which we concur. While most of the member agencies will need to increase programs for the multi-family and commercial growth that is occurring and projected in the future and need to increase its overall waste diversion in these sectors, we believe the Town should not have to pay back any portion of these 2019 Series B Bond proceeds as they provide limited to no benefit to The Town. Additionally, the Town has already reached the mandated diversion rates that will be required in the future. As a result of not including the unused and unnecessary components related to the 2019 Series B debt Service, the Town's net defeasance amount decreases from \$2.259 million to \$1.6 million, before accounting for amounts overpaid in prior years.

Scenario 4

Scenario 4 combines Scenario 2 and 3. We believe that the premises of scenarios 2 and 3 are reasonable and should be considered in any calculation of the Town's buy-out cost and are not inconsistent with the JPA Agreement language. By any projection, the Town's share of the solid waste generated in the service area will decrease over time. As part of our analysis, we were unable to find any local or regional projections that would create a material change to this approach, but we welcome any other projection information that you may be aware of.

As stated above, in regard to the most recent bond issuances, we believe the Town should not pay a share of debt service on the new money, Series B component of the 2019 Bonds as that would result in double counting given those funds will remain in possession of the JPA after the Town's departure. As you are aware, the Town voted no to the last issuance and has continually claimed that there is little to no benefit to these improvements for the Town. As the JPA Agreement is silent on this issue, we feel that it should not pay for any additional funds from which it will receive no benefit or will be controlled by the JPA. When these adjustments are done, the total cash required to meet the Town's obligation is reduced from \$2.259 million to \$904,000, before accounting for amounts overpaid in prior years.

Scenario 5

Finally, this scenario assumes that the Town would pay a declining percentage share of debt service in the future (3.25% to 1.5%) due to growth in other sectors throughout the JPA service area (See Scenario 2 above) Additionally, it includes the deduction described in Scenario 3 where the Town pays only the 2019A bond costs. Additionally, this scenario excludes those costs associated with multifamily and commercial bond proceeds back to 2010 in which the Town has consistently claimed should not be apportioned to it as there is no benefit gained and leaves your small town subsidizing the other members diversion efforts in these sectors. We do not object to the related costs included in the rates but do not believe the Town should have to pay again upon withdrawal. As the methodology in the JPA is not clear, we believe that this adjustment is not unreasonable. When these three adjustments are made, the total cash required to meet the Town's obligation is reduced from \$2.259 million to \$502,000, before accounting for amounts overpaid in prior years.

Summary

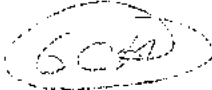
Should the Town proceed with withdrawal from the JPA, we concur that the JPA agreement is vague as to the methodology to be used to calculate any funds due the JPA by the Town. We believe that the Town has contributed a greater share of revenue than justified by its overall share of expenses since formation of the JPA and that those prior contributions should be considered. As shown in the summary table, just taking that fact into account back to 2010 along with our two methodological adjustments shows that the Town not only does not owe the JPA funds but is due a payment.

If desired, we would be happy to meet and walk JPA staff through our analysis and discuss the different scenarios. Because the JPA agreement does not specifically define a method for calculating any funds due the JPA upon withdrawal, and that our approaches yield outcomes that are approximately \$2.2 million apart, we understand that the final amount will largely be subject to negotiation based on a justifiable and supported approach. Further, should the Town proceed with withdrawal from the JPA, the Town will be switching to a new franchised collector and may incur unforeseen costs to the rate payers in order to ensure a successful transition and the recycling reserve funds, less any amount paid back to the JPA could be used to buffer any initial rate impacts or unforeseen costs of the transition. Therefore, it is very important that the buy-out costs be kept as low as possible.

Finally, we feel that the Town has paid more than its fair share of the capital costs associated with all of the bond issuances to date regardless of the impact they have had on its diversion rate which we believe to be minimal. It is our hope that through further discussions you can come to an amicable solution that allows you to move forward in a positive manner.

We thank you for the opportunity to be of assistance. Please let us know if there are any questions or if additional analysis is required.

Very truly yours,



Craig Hill
Managing Principal



Scott Hanin
Senior Consultant

NHA ADVISORS
NORTH HAVEN ASSOCIATES

PAGE 4

Date: July 22, 2020

To: **South Bayside Waste Management Authority**
Joe La Mariana, Executive Director
John Mangini, Finance Director

From: **KNN Public Finance**
David Brodsky and Melissa Shick

Re: **Additional Cost Analysis for the Town of Atherton's Withdrawal**

Below are some additional thoughts regarding exit costs for the Town of Atherton to withdraw from the South Bayside Waste Management Authority (SBWMA). This memo updates our December 2019 bond allocation defeasance analysis to incorporate current rates and a January 2021 transaction date, analyzes the cost if only the 2019A refunding bonds were used as the basis of determining outstanding liabilities, and provides comments on the memo prepared by NHA Financial Advisors (NHA) for the Town of Atherton.

Background

The Town of Atherton has submitted its official notice of its intent to withdraw from the Authority at the end of the current rate year, which ends on December 31, 2020.

Section 15.1 of the Joint Powers Authority Agreement states that, prior to its exit, a Member Agency must “achieve...the liquidation in full of its proportion of any and all existing debts, obligations, and liabilities incurred, earned, or expected to be earned by the date of withdrawal, but not limited to the Revenue Bonds, as determined by [approval of four-fifths (4/5) of the members of] the Board.”

The agreement does not specifically define liabilities. We have focused our analysis strictly on the SBWMA's outstanding Revenue Bonds, consisting of \$31,860,000 in 2019A refunding bonds (refunding a 2009 bond issue that financed various capital improvements) and \$16,915,000 in 2019B bonds, issued to finance various new capital improvements (referred to as “new money” bonds).

The agreement is also silent on how any member's “proportion” should be determined. In our December 2019 memo, we utilized the same methodology used by the Authority in its annual rate setting - franchise tonnage - to determine Atherton's share of liabilities. In our opinion, franchise tonnage is the most reasonable measure to use in determining a member's proportionate share of liability because it mirrors the long-standing practice of allocating costs. The NHA memo explores other approaches to proportionality, which we discuss below.

Update of December 2019 Defeasance Analysis

We have updated our December 2019 analysis, using current interest rates for a defeasance escrow, and assuming that the transaction is executed not in March 2020 (as was the case in our prior analysis), but instead on January 15, 2021, two weeks after the end of the rate year. As before, we relied on

tonnage as the basis for allocating proportionate share. The following compares this updated analysis to the analysis used in our memo dated December 6, 2019.

Market Conditions as of	December 4, 2019	July 14, 2020
Basis of Atherton's proportional allocation	2018 tonnage	2019 tonnage
Atherton proportion	3.25%	3.24%
Closing date	March 2, 2020	January 15, 2021
Atherton's proportionate cost of defeasance ¹	\$1,987,908.71	\$2,103,016.34

Because a defeasance occurs when federal securities are deposited into an escrow, the dollar cost is in inverse relationship to interest rates. When rates are higher, the dollar cost to buy securities that generate the debt service and redemption costs will be lower. Because interest rates have fallen since our analysis in December 2019, the cost of the defeasance escrow has increased. The change in interest rates is a more significant factor than the minor decrease in Atherton's tonnage percentage.

NHA Memo

Attached to the Town of Atherton's letter notifying the Authority of its intent to withdraw was an analysis by NHA Advisors, a firm that performs advisory services similar to KNN. The analysis suggested five scenarios that could be utilized to determine the appropriate proportionality to assign to Atherton in calculating its exit costs. In all of the five scenarios, Atherton's consultant suggests that the Authority should consider other factors "when evaluating the financial impacts of the Town withdrawing from the JPA" in order to determine the Town's "reasonable financial obligations." The exit payment would be reduced under all five scenarios if the Board were to accept Atherton's assumptions and methodology.

While some of the arguments raised by the memo are based on information and forecasts we have not reviewed, we can make the following observations regarding the various alternative allocation approaches discussed in the NHA memo.

"Overpayment"

In all five scenarios described below, Atherton's consultants have included a deduction labeled as an "overpayment" in the amount of \$581,386. NHA argues that Atherton is entitled to this equitable adjustment because it has overpaid its share of Agency obligations during its membership in the JPA. They argue that Atherton did not need the build-out of the Agency's facility that accommodates multifamily and commercial recycling and processing because the Town's waste generation profile consists mainly of single family homes, and that therefore their portion of the payments for the 2009 bonds were higher than they should have been. NHA notes that the \$581,386 "represents a calculated total amount overpaid in the last ten years." The actual analysis NHA utilized to reach this conclusion is not included in the memo.

¹ Represents only the cost of defeasance and does not include execution costs, which we estimate to be approximately \$100,000. NHA has accepted this amount as a reasonable estimate and includes it in all of its scenarios.

Our analysis does not include such a deduction, and we note that the JPA Agreement does not contemplate what would be, in effect, a retroactive adjustment of rates.

Five Scenarios

- **Scenario 1:** this analysis simply updates our prior analysis based on changing market conditions and timing and makes the \$581,386 adjustment for “overpayment.” Based primarily on this adjustment, NHA concludes the amount owed is \$1,677,498 rather than \$2,103,016 as shown in our calculation done for this memo. NHA notes in this scenario that our analysis uses the “simplest and most straight forward approach.”
- **Scenario 2:** this analysis assumes that in the future Atherton’s share of the members’ waste stream will decline; if this proved to be true, and the Town remained in the Authority, indeed their share of debt service would decline. We have no insight into that possibility, but we will note that when the original 2009 bonds were issued, the official statement reported that Atherton’s share of the waste stream was 2.6%. In 2019, it was 3.2%. In our opinion, the use of speculative future assumptions is an unusual basis for calculating “in full [Atherton’s] proportion of any and all existing debts.”
- **Scenario 3:** in this scenario, NHA proposes the exclusion of defeasance costs related to the 2019B new money bonds, on the basis that the bond proceeds will be used for future improvements that will not benefit Atherton. For informational purposes, we have broken out the cost of defeasing both individual series of bonds, and calculated Atherton’s proportionate cost of defeasing only the 2019A bonds, which refunded the Authority’s 2009 bond issue. We have used the same timing and interest rate assumptions updated above and 2019 tonnage as the basis for the allocation of Atherton’s “proportionate” share. If Atherton were only liable for the cost of liquidating its share of the 2019A refunding bonds, then its share of cost would be \$1,443,090.²

	All bonds defeasance	Atherton Share (3.24%)
2019A (Refunding)	\$44,511,685	\$ 1,443,090
2019B (New Money)	20,355,228	659,926
Total	\$64,866,913	\$2,103,016

Limiting Atherton’s liquidation cost to the 2019A bonds would mean that what would have been their portion of debt service on the 2019B bonds would be allocated among the remaining members. We have prepared the following table to put into perspective the relative

² Note that the amount NHA calculates would be necessary for defeasing Atherton’s share of only the 2019A refunding bonds is \$1,566,259, while ours is \$1,443,090. We assume this reflects different assumptions as to timing and interest rates.

impact on each of the members if Atherton's pro-rata share of the 2019B bonds is deducted from the calculation of the Town's liability:

Reallocation of 2019B New Money Debt Service (DS) to Member Agencies

	Avg. Annual DS with Atherton Prepayment	Avg. Annual DS without Atherton Prepayment	Annual Difference	Total DS with Atherton Prepayment	Total DS without Atherton Prepayment	Total Difference
Belmont	\$89,419	\$92,415	\$2,996	\$983,609	\$1,016,566	\$32,958
Burlingame	\$216,415	\$223,666	\$7,251	\$2,380,560	\$2,460,325	\$79,765
County	\$57,028	\$58,939	\$1,911	\$627,313	\$648,332	\$21,019
No. Fair Oaks	\$55,600	\$57,463	\$1,863	\$611,601	\$632,094	\$20,493
East Palo Alto	\$98,752	\$102,061	\$3,309	\$1,086,269	\$1,122,666	\$36,397
Foster City	\$108,280	\$111,908	\$3,628	\$1,191,077	\$1,230,987	\$39,909
Hillsborough	\$53,707	\$55,506	\$1,800	\$590,776	\$610,571	\$19,795
Menlo Park	\$227,894	\$235,530	\$7,636	\$2,506,830	\$2,590,826	\$83,996
Redwood City	\$360,318	\$372,391	\$12,073	\$3,963,495	\$4,096,299	\$132,804
San Carlos	\$142,452	\$147,225	\$4,773	\$1,566,970	\$1,619,474	\$52,504
San Mateo	\$401,268	\$414,713	\$13,445	\$4,413,948	\$4,561,846	\$147,897
West Bay Sanitary	\$28,149	\$29,092	\$943	\$309,640	\$320,015	\$10,375
Total	\$1,839,281	\$1,900,909	\$61,628	\$20,232,088	\$20,910,000	\$677,912

We note that the total difference in the remaining members' debt service is higher than the cost of defeasing Atherton's share of the 2019B bonds. This is because the cost of defeasance is calculated to the first call date on the bonds and the above chart assumes the 2019B bonds remain outstanding through the final maturity of the bonds.

In our opinion, the argument that Atherton would not benefit from the new projects if they were to remain a member is less than compelling—the projects are expected to increase both the efficiency of the diversion of recyclables and organics from the waste stream (lowering operating costs) as well as increasing the amount of material diverted from landfills.

It is true that, with its withdrawal, Atherton will not receive benefit from the new improvements. Whether that is relevant to the calculation of the amount required to finance “the liquidation in full of its proportion of any and all existing debts” will be a matter for the Authority members to decide.

- **Scenario 4:** this analysis combines Scenario 2 (taking into account a presumed future reduction in Atherton's proportion of the waste stream, and thus a reduction in their share of their appropriate cost to defease a portion of the 2019A refunding bonds) and Scenario 3 (exclusion of the cost to defease the 2019B new money bonds), reducing the proportionate share to \$903,623. This is the Scenario that Atherton proposes the Authority accept in its Notice of Intent to Withdraw. We believe this approach is flawed for the reasons discussed above regarding Scenario 2.

- **Scenario 5:** this Scenario includes Scenarios 2 and 3 and proposes additional reductions in the allocation of the 2019A bonds relating to the 2009 projects, similar to the argument made for the “overpayment” credit, but in addition thereto. Under this Scenario, the Authority would end up owing money to Atherton. This Scenario makes additional assumptions relative to past cost-allocation, which strikes us as inappropriate at this point in time. We assume that the additional adjustments for past expenditures relating to multifamily and commercial generations are not double counted, but there is insufficient information for us to tell.

Conclusion

The Joint Powers Authority Agreement for SBWMA provides that the Authority's Board is tasked with determining Atherton's exit cost. The Board's determination should be based on a reasoned approach that achieves a fair and equitable result. Our analysis calculates Atherton's proportionate share based on the formula used by the Authority over the years in setting its rates – percentage of franchise tonnage of the member agencies. This methodology is straightforward and consistent with the plain language of the joint powers agreement and past rate setting practices; in our opinion, it constitutes a reasonable basis for determining a member's proportionate share of liabilities.

The situation before the Authority - calculating the cost for a member to exit the JPA - is not usual in our practice. But what is common is that when agreements are terminated before the end of their term there is some penalty, premium, breakage fee, or make-whole payment made by the party exercising their option. Whether that analogy is relevant to the Authority's situation is better answered by the Authority.

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MEMORANDUM

Date: August 11, 2020
To: Joe LaMariana – Rethink Waste
From: Marva Sheehan and Colleen Costine – HF&H Consultants, LLC
Copy to: John Mangini- Rethink Waste
Subject: Review of the Town of Atherton's Exit Obligation as of December 31, 2020

At the request of the South Bayside Waste Management Authority (SBWMA) HF&H Consultants, LLC (HF&H) has reviewed financial information related to the potential withdrawal of the Town of Atherton (Town) from the Joint Powers Authority (JPA).

BACKGROUND

Request for Withdrawal from the JPA

The Town of Atherton has notified the SBWMA of its intent to withdraw from the JPA as of December 31, 2020, the end of the current agreement between Recology San Mateo County (Recology) and the Town. According to the Second Amended and Restated Joint Exercise of Powers Agreement dated June 19, 2013 (Agreement) between the Member Agencies, including the Town, there are specific conditions that must be met. Article 15 lists the following conditions:

15.1 Withdrawal Conditions. A Member may not withdraw from the SBWMA unless and until that Member achieves the following:

- a. The liquidation in full of its proportion of any and all existing debts obligations, and liabilities incurred, earned, or expected to be earned by the date of withdrawal, including but not limited to the Revenue Bonds, as determined by the Board.
- b. The provision to the SBWMA of a written notice of intent to withdraw from the SBWMA at least six (6) months prior to the end of the current Rate Year, specifying the date on which the Member intends to withdraw.
- c. The approval of such withdrawal by a 4/5 affirmative vote of Equity Members

SBWMA engaged KNN Public Finance, LLC (KNN) to determine the debt obligations related to the Revenue Bonds attributable to the Town. Additionally, HF&H was engaged to determine if there were other

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financial obligations attributable to the Town at the date of withdrawal. This memorandum summarizes our findings.

Findings

General

Debts and liabilities for members of the JPA fall into three categories of expenses:

- Collection Expenses which are governed by the individual franchise agreements between Recology and the individual member agencies of the JPA.
- South Bayshore Recycling Center (Shoreway) Expense - Shoreway is operated by South Bay Recycling, LLC (SBR) on behalf of the SBWMA and receives the materials collected by Recology as well as 3rd party materials delivered directly to the facility. Shoreway charges a per ton/yard rate for all materials collected to cover its costs of operation. The operating agreement for the facility is between the SBWMA and SBR.
- SBWMA Expense – Each fiscal year an operating budget is approved by the Board of the JPA which includes budgeted expenses (e.g., disposal expense, franchise fees paid to the City of San Carlos, debt service, SBWMA program budget, administrative, insurance etc.) and revenues (e.g., tip fees, grants, etc.) The approved compensation for SBR is bundled with all other SBWMA operating budget expenses to establish the Shoreway tip fee.

As previously stated, we understand the SBWMA has engaged KNN to determine the financial impact to the Town related to the SBWMA's Revenue Bonds. Therefore, we are not including any potential liability from the Town's withdrawal related to the Revenue Bonds.

Based on our review, of potential financial obligations of the Town, as a result of its request to withdraw, we have broken our comments into the three categories as shown above.

Limitations

Our review included the review of financial information provided by the SBWMA. It is based on our interpretation of various agreements (JPA agreement, SBR agreement and the member agency agreement with Recology). We are not providing legal advice and suggest the SBWMA's legal counsel review and comment on this document.

Recology Related Costs/Obligations

For the collection rights and responsibilities as outlined in the current agreement between the Town and Recology, Recology is entitled to bill and collect rates established through resolution by the Town. Each year, (with the exception of the final year of the agreement), there is a revenue reconciliation to reconcile net revenues billed for the year with Recology's approved compensation. Should there be any excess revenue or a shortfall of revenue in the final year no obligation or rebate will occur.

MEMORANDUM

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Comment

Due to the request for withdrawal coinciding with the end of the term of the current collection agreement, HF&H did not identify any financial obligations as of December 31st, 2020 owed to the JPA from the Town. The current collection agreement is between Recology and the Town and based on our interpretation does not obligate the JPA financially to Recology for costs attributable to the Town as of the date of withdrawal. Additionally, the Town did NOT sign a new agreement with Recology for services to begin January 1, 2021, therefore, any future costs "intended" for the Town in Exhibit N of the model franchise agreement would not be recoverable from the Town. Since each member agency has its own agreement with Recology, our interpretation is that the JPA would not be responsible for any future costs "intended" for the Town.

SBR Related Costs/Obligations

Each of the member agencies pays a per ton rate for all materials brought to Shoreway to cover SBR's cost attributed to processing, transfer and transport of the material. This amount is paid during the year on actual tonnage brought to Shoreway from the collection activities within the Town. There is no minimum tonnage requirement.

Comment

The gate rate (per ton tip fee for material received by SBR) is calculated each year in accordance with the compensation section of the agreement. Briefly, the first year's proposed costs by various cost categories were totaled and then divided by the anticipated inbound tons (357,725 inbound tons net of recycling, and 74,022 recycling tons (Threshold Tons)). Each year thereafter the cost categories are adjusted by prescribed indices based on the category and per ton rates are adjusted appropriately.

The gate rate for the first year of the agreement included fixed and variable components. The fixed costs are therefore "paid" with the Threshold Tons received by SBR. Inbound tons have consistently been above the Threshold Tons). Therefore, the fixed component on the "excess tons" is considered extra profit to SBR.

Since the reduction of approximately 9,600 inbound tons related to Town's withdrawal would come out of the "excess tons", we believe there would be no liability related to SBR costs and/or obligations.

There should be no financial obligation owing SBR at the end of the calendar year unless an error in reported tons is discovered when the year-end reporting is reviewed or if the inbound tons fall below the Threshold Tons for the calendar year ending December 31, 2020.

SBWMA Related Costs/Obligations

The SBWMA provided the following list of potential SBWMA liability categories that may qualify as incurred at the time of the Town's potential withdrawal from the JPA.

- Contracts for long term services at a fixed amount in the future.
 - Accounting Services contract with Redwood City
 - Three year information systems contract
 - Legislative lobbying contract
- Insurance premium liabilities for active policies with renewal dates after January 1, 2021
- Audit fees paid in 2021 that pertain to the 2020 calendar year

MEMORANDUM

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- State reporting expensed for 2020 paid in 2021
- Property tax depending on when the invoice is due vs. the period levied.
- Insurance premium liabilities for active policies with renewal dates after January 1, 2021
- Compensated (accrued leave) of all employees as of the termination date.

Comment

With the exception of the insurance liability for active claims, all of these approved operating costs should have been covered by the per ton tip fee set for the current year at Shoreway. The SBWMA represented it has fully accrued for compensated absences and no unrecorded liability exists.

With regards to possible insurance claims related to the period prior to the Town's anticipated withdrawal from the JPA, HF&H recommends requesting an estimate from the SBWMA's insurance provider of potential increases or reserve funding due to claims initiating from incidents occurring prior to December 31st of 2020.



RESOLUTION NO. 2020-34

RESOLUTION OF THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS

Determining the Amount Required for the Town of Atherton to Liquidate its Proportionate Share of SBWMA Existing Debt in Connection with the Town's Notice of Intent to Withdraw from Membership in SBWMA; and Recommending Member Agencies Approve the Withdrawal, Subject to Certain Conditions.

WHEREAS, The SBWMA is a joint powers agency established through a Joint Exercise of Powers Agreement in 1999 by a number of San Mateo County entities to provide a regional approach to the collection and disposition of solid waste, recyclable materials, and organic materials; the Agreement has been amended and restated several times over the years, the current governing document, dated June 19, 2013, is entitled the "Second Amended and Restated Joint Exercise of Powers Agreement" ("JPA"); and

WHEREAS, , the SBWMA issued bonds in 2000 to acquire and reconstruct the Shoreway Environmental Center Facility, to be operated by the Authority to meet the regulatory requirements for solid waste and recyclables for its member agencies. The original bonds were defeased and new bonds issued in 2009. In 2019, the SBWMA refunded the 2009 bonds, saving the Authority money and, at the same time, raising new funds for certain capital improvements (the 2019A and 2019B bonds); and

WHEREAS, the SBWMA is comprised of 12 member agencies, including the Town of Atherton ("Atherton"), all of which are founding members of the SBWMA, and as such, "Equity Members" under the JPA. On June 29, 2020, Atherton sent the SBWMA a Notice of Intent to Withdraw from the SBWMA, specifying December 31, 2020 as the date of withdrawal; and

WHEREAS, Article 15.1 of the JPA provides that a Member may not withdraw from the SBWMA unless and until that Member achieves the following:

- a. The liquidation in full of its proportion of any and all existing debts, obligations, and liabilities incurred, earned, or expected to be earned by the date of withdrawal, including but not limited to the Revenue Bonds, as determined by the Board.
- b. The provision to the SBWMA of a written notice of intent to withdraw from the SBWMA at least six (6) months prior to the end of the current Rate Year, specifying the date on which the Member intends to withdraw.
- c. The approval of such withdrawal by a 4/5 affirmative vote of Equity Members; and

WHEREAS, pursuant to Article 15.1.a. of the JPA, the Board of Directors of the SBWMA ("Board") is required to determine the amount necessary for Atherton to achieve "the liquidation in full of its proportion of any and all existing debts, obligations, and liabilities incurred, earned, or expected to be earned by the date of withdrawal;" and

WHEREAS, pursuant to Article 15.1.c. of the JPA, four-fifths (10) of the Member Agencies are then required to approve the withdrawal in order for it to be effective; and

WHEREAS, On August 20, 2020, the Board held a properly noticed hearing to determine Atherton's liquidation obligation, and considered the staff report and all evidence, oral and documentary, presented to it at the hearing; and

WHEREAS, the Board, having reviewed and considered the evidence presented, and based thereon, hereby makes the following determination.

NOW, THEREFORE BE IT RESOLVED that the Board of the South Bayside Waste Management Authority hereby determines that in order to satisfy its requirement under Article 15.1.a., Atherton must fully defease its proportionate share of the 2019A and 2019B bonds, and pay for the costs associated with the defeasance. The Board determines that Atherton's proportionate share of the 2019A and 2019B bonds is 3.24 percent, based on Atherton's share of the SBWMA's overall franchise tonnage in 2019. The cost to defease Atherton's bond share is estimated to be \$2,203,016 (\$2,103,016 to defease + \$100,000 costs). The actual amount is subject to adjustment depending on market conditions at the time of defeasance. Staff is directed to work with SBWMA's financial consultants and Atherton staff to ensure the defeasance of the bonds occurs prior to December 31, 2020.

BE IT FURTHER RESOLVED that the Board recommends that its Member Agencies now review and approve Atherton's withdrawal from the SBWMA, effective December 31, 2020, provided that on or before December 31, 2020, Atherton satisfies its obligation to liquidate its proportionate share of debt, as determined by the Board. Pursuant to the JPA, a minimum of ten (10) Member Agencies must approve the withdrawal for it to take effect.

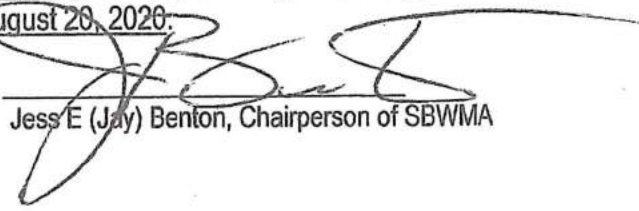
PASSED AND ADOPTED by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California, by the following vote:

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
Atherton		X			Menlo Park	X			
Belmont		X			Redwood City	X			
Burlingame	X				San Carlos	X			
East Palo Alto	X			X	San Mateo	X			
Foster City	X				County of San Mateo	X			
Hillsborough	X				West Bay Sanitary Dist	X			

I HEREBY CERTIFY that the foregoing Resolution No. 2020-34 was duly and regularly adopted at a special meeting of the South Bayside Waste Management Authority on August 20, 2020.

ATTEST:


 Cyndi Urman, Board Secretary


 Jess E (Jay) Benton, Chairperson of SBWMA



STAFF REPORT

City Council

Meeting Date: 11/10/2020

Staff Report Number: 20-242-CC

Informational Item: City Council agenda topics: November 2020 to January 2021

Recommendation

The purpose of this informational item is to provide the City Council and members of the public access to the anticipated agenda items that will be presented to the City Council. The mayor and city manager set the City Council agenda so there is no action required of the City Council as a result of this informational item.

Policy Issues

In accordance with the City Council procedures manual, the mayor and city manager set the agenda for City Council meetings.

Analysis

In an effort to provide greater access to the City Council's future agenda items, staff has compiled a listing of anticipated agenda items, Attachment A, through January 31, 2021. The topics are arranged by department to help identify the work group most impacted by the agenda item.

Specific dates are not provided in the attachment due to a number of factors that influence the City Council agenda preparation process. In their agenda management, the mayor and city manager strive to compile an agenda that is most responsive to the City Council's adopted priorities and work plan while also balancing the business needs of the organization. Certain agenda items, such as appeals or State mandated reporting, must be scheduled by a certain date to ensure compliance. In addition, the meeting agendas are managed to allow the greatest opportunity for public input while also allowing the meeting to conclude around 11 p.m. Every effort is made to avoid scheduling two matters that may be contentious to allow the City Council sufficient time to fully discuss the matter before the City Council.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

A. City Council agenda topics: November 2020 to January 2021

Report prepared by:
Judi A. Herren, City Clerk

Tentative City Council Agenda

#	Title	Department	Item type
1	AB 1600 impact fees report	ASD	Consent
2	City Council Community Funding Subcommittee’s recommendations regarding the 2020-21 community funding allocation, resolution adoption	ASD	Regular
3	Receive and file the CAFR for the fiscal year ended June 30, 2020	ASD	Regular
4	Authorize the city manager to execute an agreement for BMR administration services	CDD	Regular
5	Below market rate (BMR) housing fund - NOFA	CDD	Informational
6	Extend resolution, for notifying City Council and public of final Planning Commission actions	CDD	Consent
7	Housing Commission work plan	CDD	Committee Report
8	VCLT BMR fund request for acquisition of existing housing for conversion to affordable	CDD	Regular
9	Grand Jury response: Ransomware: it is not enough to think you are protected	CMO	Consent
10	Swearing in of new city councilmembers	CMO	Regular
11	Adopt Resolution No authorizing city staff to implement solid waste and water rate assistance program	CMO	Regular
12	Adopt solid waste rates	CMO	Public Hearing
13	Certify election results	CMO	Regular
14	City Council appointments to regional boards, commissions and committees	CMO	Regular
15	EQC CAP action recommendations for 2 ,4, and 6	CMO	Regular
16	EQC report out	CMO	Commission Report
17	Proclamation: Jerry Hill	CMO	Proclamation
18	Provide direction to the City’s voting delegate regarding regional vacancies for the City Selection Committee’s December meeting	CMO	Regular
19	Recognition of the outgoing city councilmember	CMO	Regular
20	Recognition of the outgoing Mayor	CMO	Regular
21	Review and approve 2021 City Council meeting schedule	CMO	Regular
22	Selection of the 2021 Mayor and Vice Mayor	CMO	Regular
23	Solid waste rate reserve options	CMO	Study Session
24	Update City’s conflict of interest code; reso adoption	CMO, CA	Consent
25	Adopt transportation master plan	PW	Regular
26	Agreement with FRM for water meter reading services	PW	Consent
27	Authorize city manager to enter into funding agreement with Bohannon for Chrysler Pump Station	PW	Consent
28	Authorize the city manager to execute an agreement with Presidio Management (1300 ECR) for Ravenswood/Laurel improvements; adopt resolution to install no parking zones	PW	Regular

Tentative City Council Agenda

#	Title	Department	Item type
29	BRIC grant update/PG&E partnership	PW	Consent
30	Emergency water supply update	PW	Informational
31	Presentation on Ruby Bridges day events by local schools	PW	Presentation
32	Transportation Management Association (TMA) update	PW	Informational