



Item No. 11 Town of Atherton

CITY COUNCIL STAFF REPORT – REGULAR AGENDA

**TO: HONORABLE MAYOR AND CITY COUNCIL
GEORGE RODERICKS, CITY MANAGER**

FROM: MONA EBRAHIMI, CITY ATTORNEY

DATE: NOVEMBER 15, 2023

SUBJECT: Conflict Waiver Request from Burke Williams and Sorenson

RECOMMENDATION

It is recommended that the City Council consider the conflict waiver requested by the law firm of Burke, Williams & Sorenson, and decide whether to grant a conflict waiver.

BACKGROUND

The law firm of Burke, Williams and Sorenson (BWS) provides the Town of Atherton legal advice and representation in labor and employment matters by attorney Mark Wilson and other attorneys at his office. On October 27, 2023, the City Manager received the attached email from Mr. Wilson, explaining that his colleague, Eric Phillips, had been asked by David Arata to represent him in connection with the Town's housing element and related approvals. Mr. Arata owns the property in town located at 23 Oakwood Boulevard.

ANALYSIS

The California Rules of Professional Conduct explain that in order for BWS to represent a property owner that may have an adverse interest to another client in which it is representing, both parties must agree to the dual representation by signing conflict of interest waivers. BWS reasonably believes that it will be able to provide competent and diligent representation to Mr. Arata and to the Town in the separate matters. At this time, representation does not involve the assertion of a claim by one client against another client in the same litigation, but that could be a possibility in the future if, for example, Mr. Arata challenged the Town's housing element or related approvals.

If the conflict-of-interest waiver is granted, the City Council may delegate authority to the Mayor to execute said waiver. If the conflict-of-interest waiver is not granted, staff would communicate this decision to BWS. Under the latter scenario, BWS would continue serving the Town but would not represent Mr. Arata.

FISCAL IMPACT

There is no identifiable fiscal impact to the Town.

GOAL ALIGNMENT

This Report and its contents are in alignment with the following Council Policy Goals:

- Goal Area A – Maintain Fiscal Responsibility
- Goal Area F – Be Forward-Thinking, Well-Managed, and Well-Planned

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders –to include, but be not limited to, media outlets, school districts, Menlo Park Fire Protection District, service providers (water, power, and sewer), and regional elected officials.

COMMISSION/COMMITTEE FEEDBACK/REFERRAL

This item has not been before a Town Committee or Commission

ATTACHMENTS

1. October 27, 2023 Conflict Waiver