



## **Item No. 6 Town of Atherton**

### **CITY COUNCIL STAFF REPORT – CONSENT AGENDA**

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

**FROM: STEVEN D. MCCULLEY, CHIEF OF POLICE**

**DATE: FEBRUARY 15, 2023**

**SUBJECT: RESOLUTION AUTHORIZING THE DESTRUCTION OF RECORDS  
PURSUANT TO GOVERNMENT CODE SECTION 34090**

#### **RECOMMENDATION**

Adopt the attached Resolution authorizing the destruction of certain records pursuant to Government Code Section 34090.

#### **BACKGROUND**

Penal Code Section 832.5 requires that citizen complaints or internal affairs investigations against police department personnel and any related reports or findings be maintained for a period of at least five years where there is no sustained finding of misconduct and at least 15 years if there is such a sustained finding.

Government Code Section 34090 authorizes the Chief of Police, upon resolution of the City Council and written consent of the City Attorney, to destroy records, documents, instruments and other papers under his charge pursuant to an adopted records retention policy if the records are no longer required to be maintained by law or the retention policy.

The Police Department has 4 files that have exceeded the 5-year retention period and is no longer required to be maintained because it does not relate to a sustained finding of misconduct. In addition, 2 partial backgrounds – one for Police Officer and one for Dispatcher – both are past the 4 years of retention of the files. The Chief of Police and City Attorney have reviewed the status of the files noted above to ensure there is no legal or other reason to maintain such files.

#### **ANALYSIS**

The California Government Code authorizes the destruction of records and requires agencies to adopt compliant records retention schedules. These schedules ensure that certain records are maintained in perpetuity and other records are maintained for sufficient time periods, dependent

on the type of records, to allow standards and structure for local government records management efforts.

Maintaining old files can lead to the use of stale information in personnel and litigation matters that can be detrimental to staff, the department, and the Town. The information is of no useful value to the Town, is out of date and should be destroyed in compliance with Town and State records retention policies.

It is recommended that the City Council authorize this timely and appropriate destruction of old files in accordance with the law.

### **POLICY FOCUS**

Once records have been retained for the applicable period set forth in law and the Records Retention Schedule, they should be prepared for destruction in the manner prescribed by the Town's Original Resolution # 15-09 adopted March 18, 2015.

### **FISCAL IMPACT**

There is no fiscal impact in approving this resolution for the destruction of records.

### **GOAL ALIGNMENT**

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

Goal E – Strengthen Community Engagement and Transparency  
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 1,600 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but not limited to media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer) and regional elected officials.

### **COMMISSION/COMMITTEE FEEDBACK/REFERRAL**

This item \_\_\_\_ has or X has not been before a Town Committee or Commission.

\_\_\_\_ Audit/Finance Committee (meets every other month)  
\_\_\_\_ Bicycle/Pedestrian Committee (meets as needed)  
\_\_\_\_ Civic Center Advisory Committee (meets as needed)

**Records Destruction**

**February 15, 2023**

**Page 3 of 3**

- \_\_\_\_\_ Environmental Programs Committee (meets every other month)
- \_\_\_\_\_ Park and Recreation Committee (meets each month)
- \_\_\_\_\_ Planning Commission (meets each month)
- \_\_\_\_\_ Rail Committee (meets every other month)
- \_\_\_\_\_ Transportation Committee (meets every other month)
- \_\_\_\_\_ Tree Committee (meets each month)

**ATTACHMENTS**

ATTACHMENT 1 - Resolution