



# **CITY OF ATASCADERO CITY COUNCIL**

---

## **DRAFT MINUTES**

**Tuesday, February 26, 2008, 7:00 P.M.**

**REGULAR SESSION: 7:00 P.M.**

Mayor Brennler called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

**ROLL CALL:**

Present: Council Members Clay, Luna, O'Malley, Béraud, and Mayor Brennler

Absent: None

Others Present: City Clerk / Assistant to City Manager Marcia McClure Torgerson, Deputy City Clerk Grace Pucci

Others Present: City Manager Wade McKinney, Assistant Manager Jim Lewis, Administrative Services Director Rachelle Rickard, Community Development Director Warren Frace, Public Works Director Steve Kahn, Community Services Director Brady Cherry, Police Chief Jim Mulhall, Deputy Public Works Director – Operations Geoff English, and City Attorney Brian Pierik.

**APPROVAL OF AGENDA:**

**MOTION:** By Council Member Luna and seconded by Council Member Clay to approve the agenda.  
*Motion passed 5:0 by a roll-call vote.*

**A. CONSENT CALENDAR:**

**1. City Council Meeting Minutes – January 22, 2008**

- City Clerk Recommendation: Council approve the City Council Meeting Minutes of January 22, 2008. [City Clerk]

**2. City Council / Planning Commission Special Joint Meeting Minutes – January 29, 2008**

- City Clerk Recommendation: Council approve the City Council / Planning Commission Special Joint Meeting Minutes of January 29, 2008. [City Clerk]

**3. December 2007 Accounts Payable and Payroll**

- Fiscal Impact: \$3,148,431.75.
- Recommendation: Council approve certified City accounts payable, payroll and payroll vendor checks for December 2007. [Administrative Services]

**4. City Council Agenda Format**

- Fiscal Impact: None.
- Recommendation: Council adopt on second reading by title only the Draft Ordinance, amending Title 2, Chapter 1 of the Atascadero Municipal Code (AMC) relating to Council Procedure. [City Manager]

**MOTION: By Council Member Clay and seconded by Mayor Pro Tem Béraud to approve Items #A-1, 2, 3, and 4.  
*Motion passed 5:0 by a roll-call vote. (Luna abstained Item #A-1) (Item #A-4 Ordinance No. 526)***

**B. PUBLIC HEARINGS:**

**1. PLN 2007-1243 / PLN 2007-1197 / PLN 2007-1251 General Plan Amendment & Planned Development 7 – Atascadero Avenue Triangle / 6905 Navajoa Avenue (City of Atascadero / MLW Holdings, LLC / Atascadero Homeowners, LLC)**

- Disclosure of Ex Parte Communications
- Description: General Plan Amendment to remove the park requirement from Master Plan of Development #12; a 9-unit Planned Development; and a 2-unit Planned Development with a private landscape feature.
- Fiscal Impact: Based on findings from the Taussig Study, revenue from new residential development including property tax revenues, vehicle licensing fees, sales taxes, and other revenues are insufficient to cover the maintenance and emergency services costs of new development. Based on the revenue projections from the Taussig Study, the City has developed standard conditions of approval for new development projects

that require the cost of maintenance and emergency services to be funded by the project through a combination of road assessment districts, landscape and lighting districts and community facilities districts (Conditions 8 and 9.) Since there are no common facilities proposed with these Planned Developments, and the private landscape feature will be maintained by the sole property owner, a Homeowners Association is not required.

- Recommendations: Planning Commission Recommends Council:
  1. Adopt Draft Resolution A certifying Proposed Mitigated Negative Declaration 2007-0027; and,
  2. Adopt Draft Resolution B approving General Plan Amendment 2007-0019, amending the development requirements identified in General Plan Table II-5, Master Plan of Development Overlay #12: "Atascadero Avenue Triangle," and changing the General Plan Land Use Designation on Lot 1 of APN 030-283-005 from Recreation (REC) to High Density Residential (HDR); and,
  3. Introduce for first reading, by title only, Draft Ordinance A approving Zoning Map Amendment 2007-0140, changing the Atascadero Municipal Code Zoning Designation on Lot 1 of APN 030-283-005 from Recreation (L) to Residential Multi-family, with 16 units per acre (RMF-16); and,
  4. Introduce for first reading, by title only, Draft Ordinance B approving Zone Change 2007-0145 to allow a 9-unit PD-7 and Zone Change 2007-0146 to allow a 2-unit PD-7 based on findings; and,
  5. Adopt Draft Resolution C approving Conditional Use Permit 2007-0208 (Master Plan of Development for 9-unit PD-7) based on findings and subject to Conditions of Approval and Mitigation Monitoring; and,
  6. Adopt Draft Resolution D approving Tentative Tract Map 2007-0101 to create nine parcels on Lots 2 and 3, based on findings and subject to Conditions of Approval and Mitigation Monitoring.
  7. Adopt Draft Resolution E approving Conditional Use Permit 2007-0219 (Master Plan of Development for 2-unit PD-7 and private landscape feature) based on findings and subject to Conditions of Approval and Mitigation Monitoring; and,
  8. Adopt Draft Resolution F approving Tentative Parcel Map 2007-0091 to create three parcels on Lot 1, based on findings and subject to Conditions of Approval and Mitigation Monitoring. [Community Development]

Community Development Director Warren Frace gave the staff report and answered questions of Council.

### Ex Parte Communications

- Council Member Clay stated he sat through the Planning Commission meeting on this item but spoke with no one regarding it.
- Council Member O'Malley stated his contacts with anyone on this project were several Councils ago at which time he met with a neighborhood group interested in doing a transfer of development credit.
- Mayor Brenner stated he has had two site visits, one with Mayor Pro Tem Béraud and one with Parks and Recreation Commission Chairperson Jay Sechrist. He has also received several emails from neighborhood citizens with concerns regarding density and traffic.
- Mayor Pro Tem Béraud stated she received several emails on the project and visited the site.
- Council Member Luna stated he received emails on this project and several years ago he spoke with the applicant at the time when there was a proposed transfer of development credit possibility; he has had no contact with anyone since then.

### **PUBLIC COMMENT**

Ty Green, applicant's representative, related some of the history regarding the proposed park for this site and stated the applicant will be paying all park fees in relation to what is being proposed. He referred to Condition #3 and commented that it was his understanding from the Planning Commission meeting that the traffic warrants study would be done by the city not the applicant. Mr. Green answered questions of the Council.

Kelly Gearhart, applicant, answered questions of the Council.

### ***Mayor Brenner closed the Public Comment period.***

Mayor Pro Tem Béraud suggested that the trees on lot #8 should be preserved and the home moved to accommodate the trees. She further recommended that this item should go back to staff and the Planning Commission to provide for open space that would be usable to those in the development.

Mayor Brenner commented that it was painful to lose the park component at that location, and that he would be open to the issue of having an open space component for those living there.

**MOTION: By Council Member O'Malley and seconded by Council Member Clay to adopt Draft Resolution A certifying Proposed Mitigated Negative Declaration 2007-0027; and, adopt Draft**

Resolution B approving General Plan Amendment 2007-0019, amending the development requirements identified in General Plan Table II-5, Master Plan of Development Overlay #12: "Atascadero Avenue Triangle," and changing the General Plan Land Use Designation on Lot 1 of APN 030-283-005 from Recreation (REC) to High Density Residential (HDR); and, introduce for first reading, by title only, Draft Ordinance A approving Zoning Map Amendment 2007-0140, changing the Atascadero Municipal Code Zoning Designation on Lot 1 of APN 030-283-005 from Recreation (L) to Residential Multi-family, with 16 units per acre (RMF-16); and, introduce for first reading, by title only, Draft Ordinance B approving Zone Change 2007-0145 to allow a 9-unit PD-7 and Zone Change 2007-0146 to allow a 2-unit PD-7 based on findings; and, adopt Draft Resolution C approving Conditional Use Permit 2007-0208 (Master Plan of Development for 9-unit PD-7) based on findings and subject to Conditions of Approval and Mitigation Monitoring; and, adopt Draft Resolution D approving Tentative Tract Map 2007-0101 to create nine parcels on Lots 2 and 3, based on findings and subject to Conditions of Approval and Mitigation Monitoring. Adopt Draft Resolution E approving Conditional Use Permit 2007-0219 (Master Plan of Development for 2-unit PD-7 and private landscape feature) based on findings and subject to Conditions of Approval and Mitigation Monitoring; and, adopt Draft Resolution F approving Tentative Parcel Map 2007-0091 to create three parcels on Lot 1, based on findings and subject to Conditions of Approval and Mitigation Monitoring with the following modification:

Conditions of Approval – City Engineer Project Condition No. 3 to read as follows: The project engineer shall investigate the feasibility of installing 4 way stop control on Navajoa at San Andres Ave and Atascadero Ave. The engineer shall present a schematic layout of a 4 way stop and produce a warrant analysis in accordance with the Manual on Uniform traffic Control Devices. The City Engineer shall decide if the 4 way stops shall be installed based on the information submitted. Improvement cost required by the warrant analysis shall be the responsibility of the City of Atascadero.

*Motion passed 3:2 by a roll-call vote. (Béraud, Brenner opposed) (Item #B-1.1 Resolution No. 2008-004, Item #B-1.2 Resolution No. 2008-005, Item #B-1.5 Resolution No. 2008-006, Item #B-1.6 Resolution No. 2008-007, Item #B-1.7 Resolution No. 2008-008, Item #B-1.8 Resolution No. 2008-009)*

## C. MANAGEMENT REPORTS:

### 1. Veterans Memorial Project Maintenance Agreement

- Fiscal Impact: All expenses related to the installation of the Veterans Memorial will be the responsibility of the Veterans Memorial Committee. City of Atascadero obligations for maintenance and upkeep of the proposed project will be approximately \$2,000 – \$2,500 annually. Building permit fees are expected to be \$1,000 or less. Staff is recommending the fees be waived, which is consistent with similar donated projects of this type on City property.
- Recommendations: Council:
  1. Authorize the City Manager to execute the Maintenance Agreement with the Veterans Memorial Committee and give staff direction on insurance requirements for the project, and,
  2. Approve waiving the building permit fees for the project, estimated to be approximately \$1,000. [Community Services]

Community Services Director Brady Cherry and City Attorney Brian Pierik gave the staff report and answered questions of Council.

### Ex Parte Communications

- Council Member Clay stated he goes to the Committee's meetings as a liaison, and has no financial interest in the memorial.
- Council Member O'Malley stated the Chastain's came to him several years ago regarding a memorial, and he opened discussions with the Chastain's and another group wanting to do a veterans memorial. He had asked the Main Street board to be the intermediary, and suggested Mr. Greenaway draft up examples. He is part of the general committee. He is the Council liaison to the CJPIA, and has had conversations with members of the community and the city attorney on this item.
- Mayor Brennler stated he had several contacts with friends in law enforcement, and conversations with Col. Hatch and Chuck Ward.
- Mayor Pro Tem Béraud stated she received a lot of emails on the item.
- Mayor Luna stated he received emails and had conversations with members of the community.

## PUBLIC COMMENT

Col. Bill Hatch, Chairperson of Veterans Memorial Foundation, spoke about the agreement and subsequent resolution of the liability question. He stated the current agreement is something they can live with and that the foundation expects to be around for a very long time. Col. Hatch answered questions of Council.

Chuck Ward reminded the City Council of the last time it met to consider this issue and of all those who spoke about what the memorial would mean to them.

Al Fonzi, Vice Chairman of Veterans Memorial Foundation, addressed the issue of the longevity of the Foundation and his belief that there are many veterans who will see that the memorial is always maintained.

Leslie Axcell, Veterans Memorial Foundation Board Member, read an email into the record from Sgt Paul Hufferd who was unable to attend as he is stationed in Kuwait. Sgt. Hufferd's statement was in support of the Veterans Memorial. (Exhibit A)

Donna Williams spoke in support of the Veterans Memorial.

Barbie Butz suggested that after the memorial is built an endowment fund could be started to maintain the memorial.

Ann Hatch, Secretary of Veterans Memorial Foundation, reported on the maintenance costs for the memorial, and spoke of how the memorial will benefit Atascadero financially.

John Jardine spoke about his family members who had volunteered to serve in the armed services since World War I, and of how much this wall will mean to him.

Robert Profit, Marine Corp League, spoke about a woman present in the audience who had lost a son in Iraq and of her many contributions to assist service men.

***Mayor Brennler closed the Public Comment period.***

**MOTION: By Council Member Clay and seconded by Council Member Luna to authorize the City Manager to execute the Maintenance Agreement with the Veterans Memorial Committee as agreed upon by the City Attorney and Col. Hatch and, waive the building permit fees for the project, estimated to be approximately \$1,000.**

***Motion passed 5:0 by a roll-call vote. (Contract No. 2008-007)***

***Mayor Brennler recessed the hearing at 8:58 p.m.***

***Mayor Brennler called the meeting back to order at 9:12 p.m.***

## **2. Interchange Operational Improvement Study**

- Fiscal Impact: None.
- Recommendation: Council receive report on the Interchange Operational Improvement Study. [Public Works]

Public Works Director Steve Kahn introduced Steve Weinberger of W-trans who presented the report on the Interchange Study. Director Kahn and Mr. Weinberger answered questions of Council.

## **PUBLIC COMMENT**

Joan O'Keefe stated she was disappointed that a roundabout could not be considered for the 41 / El Camino interchange, and commented that there could be a cost saving in electricity through elimination of the lights in the roundabout.

Ron Rothman asked if a bottle neck would be created at the roundabout if traffic is backed up at the signals at El Camino Real given its close proximity to the roundabouts.

***Mayor Brennler closed the Public Comment period.***

### **3. Confidentiality Policy Regarding Code Enforcement**

- Fiscal Impact: None.
- Recommendation: Council introduce for first reading by title only the Draft Ordinance, amending the Atascadero Municipal Code by adopting section 2-15.06, requiring City Council members and Planning Commissioners to divulge certain conflicts of interest relating to code enforcement and planning and zoning code matters. [City Attorney]

City Attorney Brian Pierik gave the staff report and answered questions of Council.

## **PUBLIC COMMENT – None**

Council Member Luna commented that this was overkill and could just as easily be put into a policy or Council Norms stating that if you file a complaint you should recuse yourself if it comes before you.

Mayor Pro Tem Béraud stated this was punitive, and the only way to get enforcement is complaint driven. She also commented that this issue could be handled as a policy or part of Council Norms.

**MOTION: By Council Member O'Malley and seconded by Council Member Clay to introduce for first reading by title only the Draft Ordinance, amending the Atascadero Municipal Code by adopting section 2-15.06, requiring City Council members and Planning Commissioners to divulge certain conflicts of interest relating to code enforcement and planning and zoning code matters, with the following changes as suggested by the City Attorney:**

- 1. Whereas, the City Council desires to clarify the conflict of interest provisions of the Municipal Code to ensure that a**

**City Council Member or Planning Commissioner does not participate in hearings or appeals relating to enforcement of the Municipal Code or enforcement of and revocation of Planning and Zoning Code approvals where the Member or Commissioner ~~initiated or took part in~~ filed the complaint leading to the hearing.**

- 2. Section 1.1: Amendment of the Municipal Code is necessary to clarify the City's conflict of interest provisions and ensure that no Council Member or Planning Commissioner participates in a hearing or appeal relating to enforcement of the Municipal Code or enforcement of and revocation of Planning and Zoning Code approvals where the Member or Commissioner ~~initiated or took part in~~ filed the complaint leading to the hearing.**
- 3. Section 1.2: The City of Atascadero would benefit from disclosure by City Council Members and Planning Commissioners who ~~initiate or participate in~~ file a complaint leading to enforcement of the Municipal Code or enforcement of and revocation of Planning and Zoning Code approvals to maintain the impartiality of the proceedings.**
- 4. Section 2-14.06 (2) Any member of the City Council or Planning Commission who files a complaint leading to an enforcement action pursuant to Title 12 of the Municipal Code or an enforcement action pursuant to Title 9, Chapter 8 of the Municipal Code must disclose that he or she ~~initiated or participated in the initiation of the action by~~ filing filed a complaint. Such disclosure must take place prior to the matter being heard by the body on which the officer sits.**

***Motion passed 3:2 by a roll-call vote. (Luna, Béraud opposed)***

## **COMMUNITY FORUM:**

Joan O'Keefe spoke about the lack of progress at the Printery, gave a timeline of events at that site, and asked the following questions: 1) what happens to the \$4 million in FEMA funds if the Printery is not restored, 2) what leverage does the city have with Mr. Gearhart, 3) why the plan checks if nothing has been done, 4) can the city recoup the cost of the plan checks, 5) what additional fees does the developer have to pay, and 6) when does the city anticipate posting the negative declaration.

***Mayor Brennler closed the Community Forum period.***

City Manager Wade McKinney addressed the questions raised by Mrs. O'Keefe.

Mayor Brennler asked the City Manager to address Mrs. O'Keefe's questions in writing.

## **COUNCIL ANNOUNCEMENTS AND REPORTS:**

Council Member O'Malley reported that he attended a Zoo Board meeting at the Community Center and was impressed with the range of activities going on there and the food offered at the site. He asked for Council consensus for co-hosting an EVC board meeting in Atascadero at the Lake Pavilion.

***There was Council consensus to put this item on a future agenda.***

Council Member Luna asked staff to add to the timeline for Printery, and check the timeline as presented by Mrs. O'Keefe.

## **C. COMMITTEE REPORTS:**

### Mayor Brennler

1. County Mayor's Round Table: at the last meeting the SLO County-wide planning process to end chronic homelessness was discussed. He will make himself available for the Leadership Council, and encouraged other Council members and a staff member to participate.

### Mayor Pro Tem Béraud

1. Integrated Waste Management Authority (IWMA): discussed the grocery bag ordinances around the state, and watching those to determine their success.

### Council Member O'Malley

1. S.L.O. Council of Governments (SLOCOG): Lisa Quinn has accepted a job in another area and will be missed.
2. Economic Vitality Corporation, Board of Directors (EVC): each city is presenting what they are doing in the area of economic development at the Board meetings. The presentation at this meeting is about the County's proposed ordinance on inclusionary housing and commercial linkage fees.
3. League of California Cities – Council Liaison and CITIPAC Board Member: legislative action days will be held in April.

## **D. INDIVIDUAL DETERMINATION AND/OR ACTION:**

### City Council

Mayor Pro Tem Béraud asked for Council consensus to place several issues on a future agenda as management reports: 1) the employee satisfaction survey, and 2) drive through restaurants.

Council Member O'Malley stated he would also like to see a discussion item on tourism.

City Manager Wade McKinney reported that each of the issues raised are a portion of the Council goals, and tourism will be included in the economic development strategy and the tourism report from the EVC.

**MOTION: By Council Member O'Malley and seconded by Council Member Clay to adjourn the meeting.**

***Motion passed 5:0 by a roll-call vote.***

**E. ADJOURNMENT:**

Mayor Brenner adjourned the meeting at 11:03 p.m. to the next regularly scheduled meeting of the City Council on March 11, 2008.

**MINUTES PREPARED BY:**

---

Grace Pucci, Deputy City Clerk

The following exhibit is available for review in the City Clerk's office:

Exhibit A – Sgt. Paul Hufferd, email