



# **CITY OF ATASCADERO CITY COUNCIL**

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## **DRAFT MINUTES**

**Tuesday, September 23, 2008 – 6:00 p.m.**

### **REGULAR SESSION:**

Mayor Brennler called the meeting to order at 6:00 p.m. and Council Member Clay led the Pledge of Allegiance.

### **ROLL CALL**

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

Absent: None

Others Present: City Clerk / Assistant to City Manager Marcia McClure Torgerson, and Deputy City Clerk Susanne Anshen.

Staff Present: City Manager Wade McKinney, Community Development Director Warren Frace, Redevelopment Specialist Marty Tracey, Police Chief Jim Mulhall, Deputy Public Works Director David Athey, City Attorney Brian Pierik, and Administrative Services Director Rachelle Rickard.

### **APPROVAL OF AGENDA:**

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

**PRESENTATIONS:**

1. **Recognition of Grace Pucci, former Deputy City Clerk, for her years of service to the City of Atascadero**
2. **Presentation of Employee Service Award: Jeff Wilhusen for 10 years on the Police Department.**

**A. CONSENT CALENDAR:**

1. **City Council Draft Minutes – June 10, 2008**
  - Recommendation: Council approve the City Council Meeting Minutes of June 10, 2008. [City Clerk]
2. **City Council Draft Minutes – June 24, 2008**
  - Recommendation: Council approve the City Council Meeting Minutes of June 24, 2008. [City Clerk]
3. **Ordinance Amendment Pertaining to Voluntary Abstentions**
  - Description: This ordinance, if adopted, would clarify the interpretation of an abstention vote.
  - Fiscal Impact: None.
  - Recommendation: Council adopt on second reading, by title only, the Draft Ordinance amending Title 2, Chapter 1, Section 2-1.15 of the Atascadero Municipal Code pertaining to voluntary abstentions. [City Manager]
4. **Dormant Building Permit Applications Time Extensions -- Title 8 Code Text Amendments**
  - Fiscal Impact: Collection of unpaid plan check fees is estimated to provide a financial benefit to the City of approximately \$150,000±.
  - Recommendation: Council adopt on second reading, by title only, draft Ordinance A amending Title 8 to retroactively extend dormant and expired single family residential, multi-family residential, industrial, and commercial building permit applications to June 30, 2010, once all outstanding, unpaid plan check fees have been paid; and to clarify the City's building permit fee refund policy and Board of Appeals membership. [Community Development]
5. **San Luis Obispo County Narcotics Task Force - Memorandum of Understanding**
  - Fiscal Impact: The fiscal impact is approximately \$150,000 of budgeted funds consisting of one full time police officer, and related equipment.
  - Recommendation: Council authorize the City Manager to execute the Memorandum of Understanding (MOU) between the State Office of the Attorney General, State Department of Justice, Bureau of Narcotics

Enforcement (BNE), and the City of Atascadero for operation of the county Narcotics Task Force. [Police]

**6. California Department of Alcoholic Beverage Control – Grant Assistance Program**

- Fiscal Impact: The fiscal impact is a positive \$29,254 in grant fund revenues and a corresponding \$33,754 in expenses to conduct special operations and to administer the grant. The \$4,500 difference in revenues and expenses will come from budgeted police funds.
- Recommendation: Council designate the 2008/2009 California Department of Alcoholic Beverage Control (ABC) monies for use in reducing the availability of alcoholic beverages to minors. [Police]

**7. Federal Emergency Management Agency Requirement - Flood Damage Prevention Ordinance**

- Fiscal Impact: None.
- Recommendation: Council adopt on second reading by title only, the Draft Ordinance, amending Title 7, Chapter 11 of the Atascadero Municipal Code pertaining to Flood Damage Prevention. [Public Works]

***Item No. A-3 was pulled from the Consent Calendar for discussion.***

**MOTION: By Council Member O'Malley seconded by Mayor Pro Tem Béraud to approve Item Nos. A-1, A-2, A-4, A-5, A-6, and A-7 of the Consent Calendar. (Item A-4, Ord. #533; Item A-5, Contract #2008-030; Item A-7, Ord. #534)  
*Motion passes 5:0 on a roll-call vote.***

**Item No. A-3**

Council Member Luna stated abstentions should be treated as in Roberts' Rules of Order.

Council Member Clay requested public comment on this issue.

**PUBLIC COMMENT**

David Broadwater stated he stands for Roberts Rules of Order, and the public needs to have a clear understanding of how members are voting.

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

Council Member Clay feels the issue has been thoroughly researched by our City Attorney, and supports the recommendation.

Council Member O'Malley supports the recommendation and explanation by City Attorney.

**MOTION:** By Council Member O'Malley seconded by Council Member Clay to adopt on second reading, by title only, the Draft Ordinance amending Title 2, Chapter 1, Section 2-1.15 of the Atascadero Municipal Code pertaining to voluntary abstentions. (Item A-3, Ord. #532)  
*Motion passes 3:2 on a roll-call vote. (Council Member Luna and Mayor Brennler opposed.)*

#### **COMMUNITY FORUM:**

Mitch Paskin spoke about broken asphalt on Los Altos Road and San Marcos Road due to the construction by Oak Ridge Estates and that Oak Ridge Estates should pay for those damages.

Pam Heatherington stated she is running for City Council and stated why she is seeking public office and the importance of public input on development projects.

Maria Hooper asked about the Printery Building's broken windows, and hoped mothballing the building for protection would be discussed in the near future.

Joan O'Keefe discussed the Gaughns v. City of Atascadero matter and her difficulties in securing public records on this case.

David Broadwater spoke on funds provided by the City to the Atascadero Chamber of Commerce since 2006, and the biannual reports required to be filed. (Exhibit A)

Ron Rothman spoke about Measure D and is concerned about the erroneous charge made that the measure is supported by unions.

Jolene Horn spoke on the Basin Plan R3-2008-005 that was voted on by the Regional Water Quality Control Board on May 9. It limits the use of properties with septic systems and she is concerned that a public workshop on this will not be held before the November 18th hearing in Sacramento.

Don Idler expressed support for Joanne Main and the Atascadero Chamber of Commerce.

Tom Comar stated he is a spokesperson for *Yes on Measure D08*, which has filed a complaint with the California Fair Practices Commission and the San Luis Obispo County Grand Jury against the Chamber of Commerce, claiming they have violated their non-profit status and have misused tax payers' money.

Lee Perkins spoke as Coordinator for *Yes on Measure D-08*, and is concerned about the confusion in town on the D-08 issue and it should be included in election forums. Also, Ms. Perkins asked for an update on Colony Square.

Ned Thompson stated his support for the Atascadero Chamber of Commerce and Joanne Main and urged a no vote on Measure D-08.

Bill White, President of the Atascadero Professional Firefighters Local 3600, and also on behalf of the President of the Atascadero Police Officers Association, expressed opposition for Measure D-08.

John Holman stated he supports D-08.

Kelly Long, a store owner who will be in competition with Walmart, wants Walmart in Atascadero, and commended the Chamber for the recent Showcase Mixer.

Shirley Lyons noticed the sign on El Camino Real and wants to know if it is on City property. She stated her concern with downtown shops, specifically, a tattoo parlor and a saloon, which are inappropriate for downtown.

Maggie White stated concern over the *Save Atascadero* signs and what we are saving it from; and feels Walmart's presence will not harm Atascadero.

Ron Walters, President of *A Better Atascadero*, stated his support for the Atascadero Chamber of Commerce and Joanne Main as she has always had best interest of City in mind.

Mike Talen, as a member of Atascadero Chamber of Commerce Board of Directors, spoke of his concern for contentious debates and attacks on the Walmart issue, his concern that unions may be behind the complaints and unfair tactics, and asked for a no vote on Measure D-08.

Clarisse McMillan supports Joanne Main and spoke on the need for a tax base for Atascadero.

Icey Hagedorn worries the Shield Initiative (anti-Walmart) will allow Costco but not Walmart, by its terms.

Bill Vargues stated Measure D-08 instills fear against Walmart, but shopping should be a choice not dictated by government. He also stated we need tax revenue.

Chad Porter, Atascadero Chamber Board Member, stated we do not need Measure D-08, and is proud of the community.

Scott Hallett, a member of the Local Firefighters Association, urged a No vote on Measure D-08.

Mike Jackson asked the status on the Highway 41/101 construction; and the status of our redevelopment money in the state budget. Mr. Jackson expressed concerned that the Yes

On D-08 committee is attacking the Chamber who has worked diligently for the City, and feels the City needs the Chamber to move ahead to provide positive future for business.

Bob Wilkins feels the attack on Chamber is unnecessary as the Chamber has provided a lot of service to the businesses of Atascadero and community members, and he is worried about the City's finances.

Thomas McGee expressed his concern about college students unable to find jobs and that his quarterly sales tax to the state is very small.

Karyn Sturtevant stated she is not fan of Walmart, but is a fan of Joanne Main and the Chamber of Commerce, and expressed her concerns about accusations and possible lawsuits when the integrity of the Chamber is called into question.

Sandy Jack feels Walmart could bring a large tax revenue base to Atascadero, and he supports the Chamber as they have the best interests of the City at heart.

Barbie Butz spoke in favor of the Chamber of Commerce as a former member and board member, and supports the Chamber's work as they are fair and honest.

Ann Ketcherside stated that Yes on Measure D-08 means you are against Walmart. She also stated two small towns in Kansas are dead because of Walmart and a Super Walmart there. She does not want Atascadero to look like every other town, and wants to save the small shops that have supported the tax base for many years.

Dan Chacon expressed concerned that the issue is not Walmart, but power.

Zoe Duty stated she wants to vote no on D-08, and the City Council should regulate what goes on in Atascadero.

Ann Hatch spoke about community and not looking back, but rather to the future.

Steve Martin, Executive Director of the Atascadero Main Street, stated his Board has taken no position on Measure D-08; however, over the last four weeks ten businesses have left downtown. He stated no new businesses are moving in behind them. Mr. Martin supports the Atascadero Chamber of Commerce as a professional organization which is well-received by the community. Personally, Mr. Martin feels there are people who fear Walmart more than they love Atascadero.

Joanne Main, President and CEO of the Atascadero Chamber and resident, stated she is proud to have worked with the Chamber since 2000. Ms. Main read the Chamber's mission statement. She also stated the Chamber has worked within the rights of the organization and the FPPC allegation against the Chamber was reviewed by an attorney who indicated the Chamber is well within their rights.

Chuck Ward, with the Veteran's Memorial Foundation, reported the Veterans' Memorial, which is now 85 percent completed, is scheduled for the Dedication on Nov. 8<sup>th</sup>. Mr. Ward said you can visit [www.Atascaderoveteransmemorial.com](http://www.Atascaderoveteransmemorial.com) and buy a brick to help fund this project. Over 1,000 commemorative bricks have already been purchased.

Nora Trinicosta stated she is saddened by the City Council and Chamber of Commerce restricting participation in discussion forums.

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

Mayor Pro Tem Béraud asked Steve Martin (Main Street) to define the differences between Main Street and the Chamber of Commerce. Steve Martin indicated that Main Street's goal is transforming the downtown into the historical, cultural, economic, and social center of the City; and the Chamber of Commerce's goal is much broader and addresses the business needs of all businesses within the city limits.

Mayor Pro Tem Béraud asked about the difference in the non-profit status of the Chamber and Main Street. Steve Martin indicated Main Street is a 501c3, which is not allowed to use resources to campaign and may only inform or educate voters; however, the Chamber of Commerce is a 501c6.

Mayor Brennler asked Joanne Main about the Chamber's obligation to provide reports including detailed breakdowns of expenditures. Joanne Main indicated the recently received semiannual report is what she has been providing twice a year since 2000, and has not been requested to provide any further information.

Mayor Pro Tem Béraud asked about a copy of the Chamber survey, and Joanne Main stated that the Chamber does not own the survey, it was commissioned through Walmart. She further apologized for the error in reading the report, which was an honest error. Ms. Main stated that notwithstanding her error, the percentages did not change. Joanne Main stated she would ask her Board if they wanted to provide the written survey results to the City Council.

Council Member Clay stated on the Chambers contract, on page 2, which states at Item (d) that the Chamber has the ability to "develop proper surveys wherein individuals may be induced to locate in the City"; and Ms. Main indicated that it was stated in this contract that the Chamber was well within their bounds. Council Member Clay further stated in that under Item (f), the contract states "aid in promoting the development and use of unoccupied commercial and industrial properties."

Mayor Brennler asked Joanne Main if she helped in structuring the language of this contract, where it reads, "develop proper surveys" and he asked if she knew what that language meant. Joanne Main stated that, being a Chamber of Commerce, they can develop surveys for whatever subject they want to survey the business community.

Mayor Brennler asked about the questions of Mr. Paskin about road conditions and asked City Clerk Marcia Torgerson if he has contacted her. Marcia Torgerson said he has not contacted her. Mayor Brennler asked Mr. Paskin to contact the City Clerk. City Manager Wade McKinney stated they will continue to follow these issues.

Mayor Brennler stated Maria Hooper and Joan O'Keefe both brought up the issue of the Printery mothballing and asked staff the status. City Manager Wade McKinney said staff and the City Attorney are working on legal options of doing the mothballing.

Mayor Brennler stated Joan O'Keefe has been attempting to obtain documents on the Gaughan case. City Attorney Brian Pierik suggested this be on a future agenda. He also said that the CJPIA made the settlement and the City Council was not consulted on the decision.

Mayor Brennler stated several speakers suggested adding Measure D-08 to the candidates' forums which staff suggested he bring up during Council Comments.

Mayor Brennler asked City Manager Wade McKinney about Jolene Horn's comments on the Basin Plan and City Manager Wade McKinney said the matter will be on the Council agenda on October 14, and public comment will be received at that time.

Mayor Brennler asked about Lee Perkins' request for an update on Colony Square, and City Manager Wade McKinney stated staff is working with the architect to revise drawings that will be resubmitted.

Mayor Brennler asked about Shirley Lyons' concern that D08 signs are on City property, and City Clerk Marcia Torgerson stated Caltrans owned the land and the Code Enforcement Officer has spoken to them about moving the sign.

Mayor Brennler asked about Mr. Wilkins' comment about the City going bankrupt, and City Manager Wade McKinney stated the City is not filing for bankruptcy. City Manager Wade McKinney answered questions of Council Members on the state budget's impact on the City.

***Mayor Brennler recessed the meeting at 8:20 p.m.***

***Mayor Brennler reconvened the meeting at 8:32 p.m.***

**B. PUBLIC HEARINGS:**

**1. California Manor Purchase and Renovation Funding**

- Disclosure of Ex Parte Communications:
- Fiscal Impact: None.
- Recommendation: Council adopt the Draft Resolution approving the issuance of Multifamily Housing Revenue Bonds for the purpose of financing the acquisition and rehabilitation of California Manor. [City Manager]

Deputy Executive Director Marty Tracey gave the staff report and answered questions of the Council Members.

Terence Murphy with the California Statewide Community Development Authority answered questions as to why this hearing is required by law, both Federal and City, and further provides a layer of transparency to the public on responsibilities for the City.

Ex Parte Communications: None.

Mr. Murphy answered questions of the City Council Members.

**PUBLIC COMMENT**

Roberta Fonzi asked how the property will be maintained, how eligibility is determined, and if City costs will be incurred.

Zoe Duty asked how the City will be involved.

Mr. Murphy stated public bonds are used for these types of projects and the City has oversight on the use of this type of bond money. Mr. Murphy stated eligibility will be dictated by whatever the agreement is between the project and the state, and maintenance will be covered by a \$25,000 per unit sum put into the rehab.

Zoe Duty asked who does weekly maintenance. Mr. Murphy said it was the owner's responsibility to maintain the property.

Mike Condry, proponent of the project, answered questions of the Council.

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

**MOTION: By Council Member O'Malley seconded by Council Member Clay to adopt the Draft Resolution approving the issuance of Multifamily Housing Revenue Bonds for the purpose of financing the acquisition and rehabilitation of California Manor.  
*Motion passed 5:0 on a roll-call vote. (Resolution #2008-060)***

**C. MANAGEMENT REPORTS:**

**1. Regional Water Quality Control Board (RWQCB) - Storm Water Management Plan - NPDES Phase II**

- Fiscal Impact: The long term fiscal impact is unknown at this time but could be significant. Staff is estimating the consultant costs will likely range between \$30,000 and \$50,000 to study the impacts of the new requirements and prepare a compliant SWMP.
- Recommendation: Council direct staff to file the 2004 Storm Water Management Plan (SWMP) with the Central Coast Regional Water Quality Control Board (RWQCB) with language that the City will conduct a future process to attempt to incorporate the Board's February 15, 2008 revised standards to the extent practicable for this community. [Public Works]

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

Matt Thompson, Civil and Environmental Engineer with the Regional Water Quality Control Board also answered questions of the City Council Members.

**PUBLIC COMMENT**

Pam Heatherington urged the City Council to take the RWQCB's recommendation to help protect the garbage in our oceans and the indirect contribution to global warming issues.

Susie Anderson spoke about the creek setback implementations, which is now worded as "buffer zones" and would like this explained to the community. Ms. Anderson urged the Council to protect private property rights from the appointed-member water board.

Mike Jackson took exception to the four additional items required by the RWQCB as a threat to the City and admires Lompoc for refusing to comply; and he asked how the cost of compliance will be recovered.

Jolene Horn asked why we did not have this dialogue before the matter was voted upon by the RWQCB on May 9<sup>th</sup> and why it comes to us only two months away from it going to RWQCB. Ms. Horn also asked why only cities over 10,000 in population in Region 3 have the four extra requirements, as Atascadero has creek reservations in place already.

Roberta Fonzi, Chairperson of the Planning Commission and candidate for City Council, stated we have not had adequate time and have not received answers from RWQCB of our staff's questions. She also stated the public has not had time to comment on this issue.

Len Colamarino asked if any inquiry was made into availability for legislative relief or judicial relief, what was the basis of Lompoc's challenge, and what is the prospect of their succeeding.

Fred Frank lives along a stream and wants this Plan implemented as soon as possible because of stream overflows.

Zoe Duty stated she understood the RWQCB only wants a plan, but we would have as much as four years to implement the plan.

Karyn Sturtevant agreed with Pam Heatherington and we have to protect our water resources.

Tom Johnson stated the RWQCB is not trying to force this on Atascadero, and we need to investigate the possible judicial or legislative relief available.

David Broadwater asked for more information on streams that are matters of concern and exactly what is the extent of the problems that we are facing.

Glen Horn stated this is a solution looking for a problem and urged our Council to protect the community from the RWQCB.

Mr. Thompson answered questions as to the RWQCB request for a storm water management plan. He stated buffer zones and creek setbacks are synonymous. As to whether anyone has achieved legislative or judicial relief, Mr. Thompson said he is unaware of any successful case. He stated they are talking about a management plan for surface water, not ground water.

Mr. Thompson and David Ennis, an environmental scientist with the RWQCB, answered further questions of the City Council.

A community member stated there are currently two vacancies on the Regional Water Quality Control Board, and Atascadero is not represented.

Ron Robin spoke about Graves Creek and the impact, and he has never been able to vote on the setbacks.

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

Community Development Director Warren Frace, City Manager Wade McKinney, Deputy Public Works Director David Athey, and City Attorney Brian Pierik answered further questions of City Council Members.

Council Member Luna made a motion to direct staff to file the 2004 Storm Water Management Plan (SWMP) with the Central Coast Regional Water Quality Control Board

(RWQCB) with language that the City will commit to a future process to incorporate the Board's February 15, 2008, revised standards for this community.

Mayor Pro Tem Béraud stated that she would second the motion with additional language on revising the plan.

Council Member O'Malley felt that the matter should be continued for public input.

Further discussion was held by the Council and questions were answered by City Manager Wade McKinney and City Attorney Brian Pierik who suggested further questions be asked of the Water Board representatives and then continue the matter over to the next meeting.

Matt Thompson returned to the lecturn and answered further questions.

Mayor Brennler noted the time is 11:00 p.m. and said that if the Council wants to continue the meeting, it would require a motion.

**MOTION: By Council Member Luna seconded by Mayor Pro Tem Béraud to continue the City Council Meeting past 11:00 p.m.  
*Motion passed 5:0 on a roll-call vote.***

Council Members continued discussions with Mr. Thompson and Mr. Ennis regarding the process for the Storm Water Management Plan.

Council Member Luna withdrew his motion.

**MOTION: By Council Member Luna seconded by Council Member O'Malley to continue Item C-1 to the next meeting on October 14, 2008.  
*Motion passes 5:0 on a roll-call vote.***

**MOTION: By Council Member O'Malley seconded by Council Member Clay to continue Item No. C-2 to the next meeting of the City Council.  
*Motion failed 2:3 on a roll-call vote. (Luna, Béraud, and Brennler opposed.)***

## **2. Draft Campaign Ordinance – Discussion of Council Options**

- Fiscal Impact: Depending upon the direction from the City Council, Staff will be in a position to provide an estimate of the expenses that would be associated with the preparation of any further documents and the extent of staff time which would be involved with implementing Council direction and the cost associated with any campaign ordinance. [City Attorney]

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

Council Member Luna suggested the issue of ex parte disclosures be continued to the next strategic planning session of the City Council.

**A majority of the City Council directed staff to continue that portion of Item No. C-2 dealing with ex parte disclosures to the next strategic planning session of the City Council.**

## **PUBLIC COMMENT**

David Broadwater provided an 11-page citizen report to the Council Members and briefed them on the contents. (Exhibit B)

Len Colamarino stated there should be ex parte disclosure and also agrees with the \$.50 per resident limit.

Mike Jackson asked how non-cash support items, such as a full-page ad, will be handled on ex parte disclosures.

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

City Attorney Brian Pierik and City Clerk / Assistant to the City Manager Marcia McClure Torgerson answered questions of the City Council.

**MOTION:** By Mayor Pro Tem Béraud and seconded by Council Member Luna to direct the City Attorney to prepare an Ordinance for first reading including the following options:  
(a) Alternative 2, a \$12,000 limit be set for voluntary campaign expenditures; and,  
(b) The section on ex parte disclosures is tabled; and  
(c) Staff to post all mid-year 460s on the website; and,  
(d) Reduce the amount required to be included in the Late Contribution reports.  
***Motion passed 3:2 on a roll-call vote. (O'Malley and Clay opposed.)***

**MOTION:** By Mayor Pro Tem Béraud seconded by Council Member Luna that all 460s are to be posted on the City's website.  
***Motion passes 5:0 on a roll-call vote.***

***Mayor Brennler recessed the meeting at 12:15 a.m.***

***Mayor Brennler reconvened the meeting at 12:23 a.m.***

### **3. Creation of a Vector Control Program and Benefit Assessment**

- Fiscal Impact: No fiscal impact to the City's budget. However, City residents would be assessed an annual rate of \$9.80 - \$25.00 per single-family residence depending on the number of acres.
- Recommendations: Council:
  1. Allow the County to provide vector control services within the Atascadero city limits; and,
  2. Allow property owners within Atascadero city limits to participate in the Proposition 218 Ballot Measure to fund the program. [City Manager]

Deputy Executive Director Marty Tracey gave the staff report and answered questions of the City Council.

Laurie Saylow, County Environmental Health Program, reviewed the report on vector control services within city limits and answered questions of the City Council.

**PUBLIC COMMENT** - None.

***Mayor Brenner Closed the Public Comment Period.***

**MOTION:** By Council Member Luna seconded by Mayor Pro Tem Béraud to:  
(1) Allow the County to provide vector control services within the Atascadero city limits; and,  
(2) Allow property owners within Atascadero city limits to participate in the Proposition 218 Ballot Measure to fund the program.  
***Motion passed 5:0 on a roll-call vote.***

**4. Amendments and Additions to Fee Schedule**

- Fiscal Impact: There will be an estimated annual increase in operating revenue of \$40,000 from the changes to these service fees.
- Recommendation: Council adopt Draft Resolution A adding new fees and amending selected existing fees. [Administrative Services]

Administrative Services Director Rachelle Rickard presented the staff report and answered questions of Council.

Council Member O'Malley stated he would step down for the portion of the report on the Colony Park Community Center as he owns property in that area, and therefore, the motion will need to be split into two motions.

**PUBLIC COMMENT** - None.

**MOTION:** By Council Member Luna, seconded by Council Member O'Malley to adopt Draft Resolution A Adding New Fees and Amending

**Selected Existing Fees (separating out those fees that relate to Colony Park Community Center).  
*Motion passed 5:0 on a roll-call vote. (Resolution #2008-061)***

Council Member O'Malley stated his recusal in relation to the Colony Park Item C-5 is because he owns property at 5990 Bajada across from the Community Center.

**MOTION: By Mayor Pro Tem Béraud seconded by Council Member Luna to adopt Draft Resolution A Adding New Fees and Amending "Fees For Planning And City Services" (Attachment A To Resolution 2006-080) on the Colony Park Community Center.  
*Motion passed 4:0:1 on a roll-call vote. (O'Malley abstained)***

**5. Colony Park Community Center Status Report**

- Fiscal Impact: None.
- Recommendation: Council review Colony Park Community Center status report and receive and file. [Community Services]

MOTION: By Council Member Luna, seconded by Council Member O'Malley, to continue Item C-5.

City Attorney Brian Pierik made a point of order that Council Member O'Malley could not vote on this item as previously stated.

Council Member O'Malley withdrew his second to the motion.

**MOTION: By Council Member Luna, seconded by Mayor Pro Tem Béraud, to continue Item C-5.  
*Motion passes 4:0 on a roll-call vote. (O'Malley abstained)***

**MOTION: By Council Member O'Malley, seconded by Council Member Clay to adjourn the meeting.  
*Motion fails 2:3 on a roll-call vote. (Luna, Béraud and Brenner opposed)***

**COUNCIL ANNOUNCEMENTS AND REPORTS:**

Mayor Pro Tem Béraud reported on the Public Trust Committee and expressed need for public education on Measure D-08 at the candidates' forum. The idea of public trust was to build trust and provide education. Written argument for and against has been prepared for the sample ballot, but we need to add Measure D-08 to candidates' forum on September 30, 2008, and it is necessary to educate the public on both sides of the issue.

City Attorney Brian Pierik and City Clerk / Assistant City Manager Marcia McClure Torgerson explained to the Council Members why they were opposed to Mayor Pro Tem Béraud's proposal. City Attorney Brian Pierik reminded the Council this issue was not an agenda item and no action could be taken.

**MOTION: By Council Member O'Malley, seconded by Council Member Clay to adjourn.**  
***Motion fails 2:3 on a roll-call vote. (Luna, Béraud, and Brennler opposed)***

Mayor Brennler expressed his difficulties in attempting to obtain information on lawsuits on the Gaughns and Mr. Tracey. Insofar as matters are now settled, he is at a loss to understand why the documents cannot be made available, and Mr. Tracey has provided a letter that he does not object.

City Attorney Brian Pierik stated the definition of public records and that insurance Company, CJPIA, has control over documents prepared by them, which are not public records of the City.

Mayor Brennler asked City Manager Wade McKinney if the De Anza bridges are to be discussed at the next meeting; and in particular, he wants this Council to be aware of why delays have occurred. City Manager Wade McKinney stated the matter could be discussed on the next agenda.

**F. ADJOURNMENT:**

**MOTION: By Council Member Luna, seconded by Council Member Clay, to adjourn the meeting.**  
***Motion passes 5:0 on roll-call vote.***

The meeting was adjourned at 1:25 a.m. to the next regularly scheduled meeting of the City Council.

**MINUTES PREPARED BY:**

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Susanne Curtis Anshen, Deputy City Clerk

The following exhibits are available for review in the City Clerk's office:

Exhibit A – David Broadwater: report on City funding of Atascadero Chamber of Commerce  
Exhibit B - David Broadwater: report dated September 23, 2008