CITY OF ATASCADERO
CITY COUNCIL

DRAFT MINUTES

Tuesday, April 24, 2007

CLOSED SESSION: 6:00 P.M.

1. PUBLIC COMMENT – CLOSED SESSION: None

2. CALL TO ORDER

   a. CONFERENCE WITH LABOR NEGOTIATORS (Govt. Code Sec. 54957.6)
      Agency Designated Representatives: City Manager Wade McKinney, Assistant City Manager Jim Lewis
      Employee Organizations: Department Heads, Confidential, Atascadero Police Association, Atascadero Professional Fire Fighters Association Local 3600.

   b. CONFERENCE WITH LEGAL COUNSEL - Existing Litigation (Govt. Code Sec. 54956.9 (a))
      1. City of Atascadero v. Pacific Gas and Electric

3. ADJOURN: 7:03 P.M.

CLOSED SESSION REPORT

City Attorney Patrick Enright announced that the City Council met in closed session and gave further direction to the labor negotiator for Item #2.a., and gave unanimous approval to legal council to seek appellate review in the case for Item #2.b.1.

REGULAR SESSION: 7:00 P.M.
Mayor Luna called the meeting to order at 7:08 p.m. and led the Pledge of Allegiance.

ROLL CALL:

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

Absent: None

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

Staff Present: City Manager Wade McKinney, Assistant City Manager Jim Lewis, Administrative Services Director Rachelle Rickard, Community Services Director Brady Cherry, Community Development Director Warren Frace, Public Works Director Steve Kahn, Fire Chief Kurt Stone, Police Lt. John Hough, and City Attorney Patrick Enright.

Mayor Luna announced that the creek setback issue will be heard on May 8th, and that information regarding creek setbacks is available on the city’s website, at the front counter at City Hall, and at the public library.

COMMUNITY FORUM:

Pastor Varnum Schultz, First Baptist Church, led those present in prayer.

Jolene Horn explained her concerns regarding the proposed creek setback ordinance and its effect on property owners throughout the city.

Mark Phillips encouraged the Council to allow AVP to assist with showing DVD presentations from the public, spoke about public speaking at meetings, and encouraged the city to act on election reform.

Joan O'Keefe spoke about the lack any activity at the Printery and shared her concerns regarding the broken windows and lack of compliance on the part of the developer.

Steve Martin, Executive Director Atascadero Main Street, announced that the Volvo Car Club West Coast Car Show will be held on September 8th in the downtown. He also announced that a benefit barbecue fundraiser for Joe Benson will be held on May 12th in the downtown Paso Robles City Park, and that an account has been opened at Heritage Oaks Bank for Mr. Benson.
Maria Hooper spoke about the Printery and gave a brief history of the project to date. She was concerned that the broken windows have not been addressed exposing the interior to the elements.

Chuck Cooper, President of Atascadero Association of Realtors, asked why the city would allow anyone along the creeks except for the owner if their goal is to protect the creeks, and expressed concern that the proposed trails would erode the creek further.

Eric Greening stated he shared the previous speakers’ concerns regarding the Printery, and announced that the California Transportation Commission would be in San Luis Obispo tomorrow and Thursday, and encouraged attendance at their meetings.

Mary Ubersax thanked the community for their support of the American Cancer Society and their activities and announced that the Relay for Life will be held August 18th and 19th. Also, on May 1st they will be “Painting the Town Purple” at the Atascadero Children’s Center.

Tom Comar, Oppose Wal Mart spokesperson, spoke about other communities that have enacted ordinances to prevent super centers and explained that a super center would be opposed to the city’s General Plan and not what the community wants.

Mark Gibbs complimented the Council for their citywide notification on the creek setback issue and spoke about the Planning Commission meeting for that issue and the lack of discussion between Commissioners as compared to the amount of public comment.

Ann Ketcherside spoke the negative effects of Wal Mart, referred to the creek setback issue and stated she didn’t think that it was right to take land that belongs to another, and disagreed that the contamination of the creek came from the junkyard.

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

Community Development Director Warren Frace gave an update on the Printery.

City Attorney Patrick Enright stated a staff report on the Printery would be prepared and included in the agenda packet for the May 8th meeting.

City Manager Wade McKinney stated that campaign reform would be coming before the Council either the end of June or July.

There was Council discussion regarding changing the manner in which the Public Comment period for the creek setback item at the May 8th meeting would be handled, however no consensus was reached.
APPROVAL OF AGENDA:

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

PRESENTATIONS:

1. Proclamation declaring May 2007 as “Bike Month” and May 14-18, 2007 as “Bike to Work & School Week.”

Council Member Béraud read the proclamation and presented it to Andy Mutziger of the San Luis Obispo County Air Pollution Control District who with Bill Arkfeld and Mary Ubersax spoke about Bike Month and the benefits of biking.

2. Parks and Recreation Commissioner Service Award Presentations to Robert Livick, Jr. and Bill Ausman.

Mayor Luna presented Mr. Livick with the Award for his service.

Council Member O'Malley presented Mr. Ausman with the Award for his service.

COUNCIL ANNOUNCEMENTS AND REPORTS:

Council Member Clay spoke about the Carlton Hotel’s problem with the creek, the poor reception on Channel 20 for Council meetings, the issue of facts and statements made by individuals, election reform, the community support for Joe Benson, and stated he is approached almost daily by citizens in support of having a Wal Mart in Atascadero.

Council Member Béraud thanked staff for their work in getting extra information to the public regarding the creek setback ordinance, and explained why she is not in favor of sending the Wal Mart issue to the ballot.

Council Member O'Malley spoke about Joe Benson and the BBQ fundraiser for him, and encouraged community volunteerism and involvement in any of the city’s many organizations and events.

Council Member Clay spoke in favor of an election to decide the Wal Mart issue.

Mayor Pro Tem Brennler commented that there are abandoned structures on the Wal Mart property that pose a hazard and he would like to see the issue resolved soon by working with the property owner.
A. CONSENT CALENDAR:

1. City Council Meeting Minutes – March 27, 2007
   - City Clerk Recommendation: Council approve the City Council Meeting Minutes of March 27, 2007. [City Clerk]

2. March 2007 Accounts Payable and Payroll
   - Recommendation: Council approve certified City accounts payable, payroll and payroll vendor checks for March 2007. [Administrative Services]

3. Amendment to the City of Atascadero Contract with the California Public Employees’ Retirement System (CalPERS)
   - Description: Request for authorization to amend the contract formula with CalPers from 2% @ 55 to 2.5% @ 55 for non-safety members.
   - Fiscal Impact: 1% of miscellaneous salaries (approximately $25,000 in 2007-2008).
   - Recommendation: Council adopt on second reading, by title only, the Draft Ordinance of the City Council of the City of Atascadero authorizing an amendment to the contract between the City Council of the City of Atascadero and the Board of Administration of the California Public Employees’ Retirement System. [City Manager]

4. Adjustments to Part-Time Employee Salary Schedule
   - Description: Approval of salary increases for part-time employee positions due to staffing shortages.
   - Fiscal Impact: The cost related to the increase in the minimum wage will be approximately $60,000 per year.
   - Recommendation: Council approve the new salary schedule for part-time employees raising salaries of part-time positions to remain competitive in the market place. [City Manager]

5. Addition to Engineering and Inspection Services List
   - Fiscal Impact: The costs of Engineering and Inspection Services are billed directly to the capital improvement accounts.
   - Recommendation: Council adopt the Modified Engineering and Inspection Services Qualified List. [Public Works]
6. **Subdivision Improvement Agreement Final Map 2006-0149 (Tract 2681) 2865 Ferrocarril Road (TTM 2004-0059) (Tharp)**
   - **Description:** Approval of the Agreement requires the developer to complete the subject improvements in one and one half years and bond for the improvements.
   - **Fiscal Impact:** None.
   - **Recommendation:** Council authorize the City Manager to execute a Subdivision Improvement Agreement for improvements required by Final Map 2006-0149. [Public Works]

7. **Temporary Road Closure – Family Bike Event**
   - **Fiscal Impact:** $160.00 per event for the installation of Road Closed signs by Public Works Staff.
   - **Recommendation:** Council approve a request by the Community Services Department for the temporary road closure of Palma Avenue, from East Mall to West Mall, from 6:00 p.m. – 10:00 p.m. for a Family Bike Event to be held on May 11th, 2007. [Public Works]

8. **Temporary Road Closure – Hot El Camino Cruise Nite 2007**
   - **Fiscal Impact:** None.
   - **Recommendation:** Council approve the Draft Resolution authorizing the closure of El Camino Real, from Curbaril to Entrada, on Friday, August 17, 2007 from 5:00 - 8:30 p.m. and the closure of East Mall, Palma and West Mall from 1:00 - 8:30 pm. [Community Services]

9. **Memorial Bench Request – Atascadero Lake Park**
   - **Fiscal Impact:** None.
   - **Recommendation:** Council approve a request by Lee Swam, Bob Christian, Rich Scheider, and Rita Robinson to install a Memorial Bench at Atascadero Lake Park, at bench site #1, in honor of Jerry Robinson. [Community Services]

**MOTION:** By Council Member O’Malley and seconded by Council Member Béraud to approve Items #A-1, 2, 3, 4, 5, 6, 7, 8, and 9. *Motion passed 5:0 by a roll-call vote. (Item #A-3 Ordinance No. 508, Item #A-6 Contract No. 2007-007, Item #A-8 Resolution No. 2007-014)*
B. PUBLIC HEARINGS:

1. Weed/Refuse Abatement Program
   - Description: This annual program addresses the abatement of vegetative growth and/or refuse, which constitute a hazard. Request is for Council to direct staff to begin the program for this year.
   - Fiscal Impact: The City recovers costs for administering this program through the 150% administrative fee, which is placed on the San Luis Obispo County Special Tax Assessment for the fiscal year 2007-2008 Tax Roll.
   - Recommendation: Council adopt the Draft Resolution, declaring vegetative growth and/or refuse a public nuisance, commencing proceedings for the abatement of said nuisances, and placing all abatement fees on the San Luis Obispo County Special Tax Assessment for the fiscal year 2007-2008 Tax Roll. [Fire]

Fire Chief Kurt Stone gave the staff report and answered questions of Council.

PUBLIC COMMENT

Gregory Ceisner explained that he was charged a fee for weed abatement after he had cleared the subject property twice. He distributed an aerial photograph showing that he does not own that property (Exhibit A) and questioned the city’s charge for weed abatement.

Rick Mathews stated that ANTA has traditionally included a brochure with the weed abatement notices and hopes that will continue.

Mayor Luna closed the Public Comment period.

Chief Stone addressed concerns raised by Mr. Ceisner and stated the ANTA brochure would be distributed with the notices.

MOTION: By Council Member Béraud and seconded by Council Member O’Malley to adopt the Draft Resolution, declaring vegetative growth and/or refuse a public nuisance, commencing proceedings for the abatement of said nuisances, and placing all abatement fees on the San Luis Obispo County Special Tax Assessment for the fiscal year 2007-2008 Tax Roll. Motion passed 5:0 by a roll-call vote. (Resolution No. 2007-015)

Mayor Luna recessed the hearing at 8:45 p.m.

Mayor Luna called the meeting back to order at 8:55 p.m.
C. MANAGEMENT REPORTS:

1. Stadium Park Public Planning Process Update
   - Fiscal Impact: None.
   - Recommendation: Council review Stadium Park Planning progress report and provide staff and planning committee direction on specific issues identified in the report as may be appropriate. [Community Services]

Community Services Director Brady Cherry gave the staff report and answered questions of Council.

PUBLIC COMMENT

Doug Chisholm, President of ALPS, explained why he did not think a permanent restroom should be put in at this time, stated there was power in the park historically and it is necessary if the city wants to consider larger scale events down the road, and commented that it would be good to have some lighting for walkway and safety issues.

Eric Greening spoke against restrooms for the park, in support of routing the water lines from Capistrano and looking at options for solar generated power, and expressed concern that having a lot of cost recovery events might exclude others wanting to use the park. He preferred that the safety plan be folded into the master plan.

Rick Mathews, Parks and Recreation Commissioner, stated that Stadium Park is a special place that captures the essence of Atascadero. He agreed with bringing in power and water but stated a public restroom is not necessary at this time. He urged the creation of a master plan, a re-vegetation plan, and a business plan to recoup costs.

Fred Frank indicated he prefers an incremental approach to the development of the park. He recommended that the Escarp route for power be investigated and agreed that power and water are needed. He commented that restrooms should be portable to minimize impact, and that a public safety study was a good idea.

5th District Supervisor Jim Patterson stated it was time to move forward with developing this park for the community. He commented that many parks are using portable restrooms and he would not recommend a permanent concrete structure. He thought it was possible to protect the park’s natural resources while allowing events attended by a large number of people.

Marge Mackay explained that she has been working on this and hoping for it for 40 years. She would like Council to consider including Stadium Park in the budget.

Sandy Jack, Parks and Recreation Commissioner, stated that the key issue is balance of how and when and under what circumstances the park would be used. He supported
a permanent public restroom from the standpoint that it is beneficial to small groups and children, and stated it would be costly for small groups to pay for portable restrooms.

Barbie Butz, Parks and Recreation Commissioner, explained why she thinks there should be permanent restrooms in the park and suggested utilizing donations to get them built. She urged Council to think about the trails leading into the park and a way to take people from the downtown core into the park.

Jonalee Istenes, Parks and Recreation Commissioner, spoke in support of bringing water and electricity into the park and urged Council to go slow when considering where to place the restroom; she thought it should be near the entrance rather than further into the park. She suggested that maintenance could be a problem, and perhaps there could be grant money for that. She encouraged the creation of trails and markers throughout the park.

Mike Jackson asked if there was a benefit to connecting Escarpa to the Capistrano water line as an upgrade to the Water Company’s system and getting some help from them for the cost of that.

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

**Council Comments:**

Council Member Clay

1. A trail system should go up the hill and utilize the 28 acres at the top.
2. Encouraged the use of permanent restrooms located further on in the park and on septic if needed.
3. The park is a beautiful place that needs to be seen and used.
4. Could support a better quality portable restroom.

Council Member Béraud

1. Concerned with putting in water and utilities when the city does not have an easement for that.
2. Concerned with spending more money for the water line when it can come in from above.
3. Public restrooms require maintenance and can be costly.
4. Supports the idea of an educational building out front.
5. Should find an easement that can be utilized.
Mayor Pro Tem Brennler
1. Concerned about the easement issue, which should be resolved if the city is going to bring in electricity and water.
2. Placement of restrooms near the front of park would be a good way to allow monitoring by the police.
3. Solar power should be explored.
4. A re-vegetation plan is valuable to address fire concerns.
5. He prefers an incremental approach to these issues.

Council Member O’Malley
1. Must keep forward momentum, the incremental approach is fine.
2. The list of uses is great.
3. Re-vegetation and fuel management is important.
4. There is potential for an easement and those options should be explored.
5. Would like to see video cameras in some of these areas to help with security.
6. Can do without the sewer line at this time; upper scale portable equipment could be used and the city could invest in those for multiple sites to use.
7. Agrees with the public safety plan.
8. Can support the recommendation for water and power.
9. Could support solar and other options if all related issues are considered.

Mayor Luna
1. Loves Stadium Park but is not convinced of the economic viability for county-wide events, but the park has a major benefit economically as a public venue for the people of Atascadero.
2. Concerned that the costs for the project will go up especially with an incremental approach. This is just the beginning and he is concerned that it will change Stadium Park forever and create a real impact to the General Fund.

MOTION: By Council Member O’Malley and seconded by Council Member Clay to go ahead with the Public Safety Plan and add $15,000 to the Fire Department budget to implement that. Motion failed 2:3 by a roll-call vote. (Béraud, Brennler, Luna opposed)

MOTION: By Council Member O’Malley and seconded by Council Member Clay support the staff recommendation to allocate $180,000 into the budget toward bringing water and electricity into the bowl. Motion failed 2:3 by a roll-call vote. (Béraud, Brennler, Luna opposed)
MOTION: By Council Member O’Malley and seconded by Council Member Clay to acknowledge the work and accept the list of potential uses suggested by the committee for:
1. Special events such as theatrical performances, musical concerts both acoustical and amplified, private events, evening events, scouting activities day and over night, religious services, movies, and art festivals.
2. Ongoing uses to include, hiking trails, picnic facilities, school educational kiosk, wildlife habitat, and botanical garden.

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

Council Member O’Malley expressed concern that the Council is not being proactive enough on seeking easements for passage and utilities. He would be opposed to future closed session discussions on this item and is fully supportive of acquiring the access needed to implement the uses Council is supporting and to provide the utilities that the citizen’s community group has recommended.

Mayor Luna suggested saving this issue for closed session.

2. Request for Funding Assistance from the Upper Salinas – Resources Conservation District (RCD) for the Atascadero Creek/Salinas River Trails Enhancement Project

- **Fiscal Impact:** The total cost of this request from the RCD is $9,350 to be appropriated from the General Fund Reserves and the waiving of an additional $2,612 in project permit fees.
- **Recommendations:** Council:
  1. Authorize the Administrative Services Director to appropriate $9,350 from the General Fund Reserves to assist RCD with the Atascadero Creek/Salinas River Trails Enhancement Project; and,
  2. Direct staff to waive the $2,612 permit fees for the Atascadero Creek/Salinas River Trails Enhancement Project. [Community Services]

Community Services Director Brady Cherry gave the staff report and answered questions of Council.

PUBLIC COMMENT

DJ Funk, Upper Salinas Las Tablas Resource Conservation District, answered questions of Council.

Don Blaise asked if there is an outline of the overall plan and where he can acquire it.
Mike Jackson questioned why the Council would vote for this when they do not know the cost, and then not spend $15,000 for a fire safety study for Stadium Park because they want to be fiscally responsible.

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

**MOTION:** By Council Member Béraud and seconded by Mayor Pro Tem Brenner to authorize the Administrative Services Director to appropriate $9,350 from the General Fund Reserves to assist RCD with the Atascadero Creek/Salinas River Trails Enhancement Project; and, direct staff to waive the $2,612 permit fees for the Atascadero Creek/Salinas River Trails Enhancement Project.  
*Motion passed 5:0 by a roll-call vote.*

**Mayor Luna recessed the hearing at 10:52 p.m.**

**Mayor Luna called the meeting back to order at 10:58 p.m.**

**MOTION:** By Council Member Clay and seconded by Mayor Luna to go past 11:00 p.m.  
*Motion passed 4:1 by a roll-call vote. (O’Malley opposed)*

3. **California Cultural and Historical Endowment (CCHE) Grant Agreement**

   - **Description:** Adoption of the Draft Resolution authorizes the execution of the grant agreement and approves its terms and conditions.
   - **Fiscal Impact:** $2,000,000 in grant funding for the restoration of Atascadero’s Historic City Hall.
   - **Recommendation:** Council adopt the Draft Resolution approving the grant agreement for California Cultural and Historical Endowment funds for restoration of the historic City Hall and authorizing the Administrative Services Director to execute the agreement. [Administrative Services]

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

**PUBLIC COMMENT**

Mike Jackson asked if there was any thought to removing and saving the façade, rebuilding the structure to a modern safe building, and then replacing the façade.

Director Rickard stated the city had not looked at that option because of historic preservation issues.
Mayor Luna closed the Public Comment period.

MOTION: By Council Member O’Malley and seconded by Council Member Béraud to adopt the Draft Resolution approving the grant agreement for California Cultural and Historical Endowment funds for restoration of the historic City Hall and authorizing the Administrative Services Director to execute the agreement.

*Motion passed 5:0 by a roll-call vote. (Resolution No. 2007-016, Contract No. 2007-008)*

There was Council consensus to continue Items #C-5 and 6 to another meeting.

4. Fee Waiver Request for Sunken Gardens Park

- **Fiscal Impact:** Potential fees of $100-$200, either collected or waived.
- **Recommendation:** Council review and deny the request for a fee waiver for use of the Sunken Gardens for a Peace Fair on May 26th, 2007.

[Community Services]

Community Services Director Brady Cherry gave the staff report and answered questions of Council.

**PUBLIC COMMENT**

Bill Arkfeld stated his two daughters are members of this group, and it is important for the city not to miss this opportunity to support a non-profit group and an event that is positive for the community.

Dee Carroll, organizer of the event, distributed a flyer regarding the fair (Exhibit B), and spoke about the event. She would like the community to support the youth of the area.

Brandon Istenes stated their goal was to promote peace and a peaceful lifestyle in the community, and is not political. He explained that they have taken care of the major part of what the fee is supposed to cover, i.e. trash pickup, power, etc.

Ted Jacobson indicated he would be happy to pay the fee, as sometimes it becomes political to pick one non-profit over another.

Barbie Butz, speaking on behalf of Main Street, explained that as a group they thought it was a great idea to involve the youth, but had declined to support the event, as it was not the right fit for Main Street. Barbie stated that several Main Street members personally donated money in the amount of $200 to help cover the fees.
Al Fonzi reminded Council that this event will take place on Memorial Day weekend and he thinks it is totally inappropriate to give them a fee waiver because they are a political group with a political agenda. He stated they have the right to have their event, but should pay the fee, and it would be a slap in face to those who have served their country to grant a fee waiver to this group at this particular time.

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

**MOTION:** By Council Member Clay and seconded by Mayor Luna to deny the request for a fee waiver for use of the Sunken Gardens for a Peace Fair on May 26th, 2007.  
*Motion passed 5:0 by a roll-call vote.*

Council Member Béraud stated for the record that she supports the Peace Rally but does not support waiving the fees.

5. **THIS ITEM WAS CONTINUED TO A DATE UNCERTAIN.**

**Native Tree Mapping and Inventory Project Final Report Presentation**
- **Description:** The Atascadero General Plan identified the need for a GIS based inventory of Atascadero’s woodlands and sensitive habitats. The completion of the Native Tree Mapping and Inventory project implements this General Plan program.  [Community Development]

6. **THIS ITEM WAS CONTINUED TO A DATE UNCERTAIN**

**Development Services Permit Streamlining Program Update Presentation**
- **Description:** Staff will present a report updating the status of the latest efforts to improve the permitting process.  [Community Development]

D. **COMMITTEE REPORTS:**

None

E. **INDIVIDUAL DETERMINATION AND/OR ACTION:**

City Attorney

City Attorney Patrick Enright announced that there would be a seminar tomorrow night on the Brown Act and conflicts for the Planning and Parks and Recreation Commissions.
City Manager

Community Development Director Warren Frace gave an update on the Jacobson / Patel project next to the Post Office. Director Frace explained that the applicants must move forward with pouring the retaining wall and would like Council agreement that it is within staff purview, as a 10% exception, that they can approve the wall to be poured.

There was Council agreement for staff to move forward.

F. ADJOURNMENT:

Mayor Luna adjourned the meeting at 11:40 p.m. to the next regularly scheduled meeting of the City Council on May 8, 2007.

MINUTES PREPARED BY:

Grace Pucci, Deputy City Clerk

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

Exhibit A – Gregory Ceisner, aerial photograph
Exhibit B – Dee Carroll, Peace Fair flyer