CITY OF ATASCADERO  
CITY COUNCIL  

DRAFT MINUTES  

Tuesday, January 22, 2008 – 7:00 P.M.  

REGULAR SESSION: 7:00 P.M.  

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

ROLL CALL:  

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

Absent: Council Member Luna  

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, Police Chief Jim Mulhall, Fire Chief Kurt Stone, Redevelopment Agency Deputy Executive Director Marty Tracey, Deputy Community Development Director Steve McHarris, Deputy Public Works Director David Athey, Senior Planner Kelly Gleason, and City Attorney Brian Pierik.

APPROVAL OF AGENDA:  

MOTION: By Council Member Clay and seconded by Mayor Pro Tem Béraud to approve the agenda.  

Motion passed 4:0 by a roll-call vote.
A. CONSENT CALENDAR:

1. **City Council Meeting Minutes – December 11, 2007**
   - City Clerk Recommendation: Council approve the City Council Meeting Minutes of December 11, 2007. [City Clerk]

2. **August 2007 Investment Report**
   - Fiscal Impact: None
   - Recommendation: Council approve the City Treasurer’s report for August 2007. [Treasurer]

3. **November 2007 Accounts Payable and Payroll**
   - Fiscal Impact: $2,694,705.52
   - Recommendation: Council approve certified City accounts payable, payroll and payroll vendor checks for November 2007. [Administrative Services]

4. **George Beatie Skate Park Lease Agreement with Austin Miller, DBA Esteem**
   - Fiscal Impact: The Contractor will provide a minimum of $50,000 annual operating subsidy to operate the Skate Park, saving the City these costs.
   - Recommendation: Council authorize the City Manager to execute a Lease Agreement between the City of Atascadero and Austin Miller, DBA Esteem to operate the George Beatie Skate Park under City specified conditions. [Community Services]

5. **Property Lease Agreement and Operating Agreement for A BMX Track**
   - Fiscal Impact: BMX is responsible for all maintenance and operating costs of the facility. There will be a minimal expense to the City in staff needed to administer the agreements.
   - Recommendations: Council:
     1. Authorize the City Manager to execute a Lease Agreement between the City of Atascadero and the Atascadero Mutual Water Company to use property at 6575 Sycamore Road as a BMX Track; and,
     2. Authorize the City Manager to execute a License Agreement between the City of Atascadero and Atascadero BMX for the Track operations. [Community Services]

6. **Agreement for Services with the Central Coast Zoological Society in Support of the Charles Paddock Zoo**
   - Fiscal Impact: It is expected that this will have a net positive fiscal impact to the city of $10,000 to $70,000 annually from the operating contribution, volunteer assistance, capital improvements and special events.
- **Recommendation:** Council authorize the City Manager to execute an Agreement for Services between the City of Atascadero and the Central Coast Zoological Society in support of the Charles Paddock Zoo. [Community Services]

7. **On-site Alcohol Sales License Determination - PLN 2007-1268 / 5855 El Camino Real (Morro Rd. Homes, LLC / Holladay)**

    - **Description:** Request to approve an on-site sale of beer and wine Alcohol Beverage Control license application to open a new Beer and Wine Bar
    - **Fiscal Impact:** None.
    - **Recommendation:** Council adopt Draft Resolution A finding that public convenience would be served by allowing the issuance of an on-site sale of beer and wine license for a new beer and wine bar at 5855 El Camino Real. [Community Development]

Items pulled: Administrative Services Director Rachelle Rickard and David Broadwater, Item #A-3.

**MOTION:** By Council Member Clay and seconded by Mayor Pro Tem Béraud to approve Items #A-1, 2, 4, 5, 6, and 7.  
*Motion passed 4:0 by a roll-call vote.*  

Item #A-3

Administrative Services Director Rachelle Rickard corrected a formula typographical error on Item #A-3 (see Exhibit A).

David Broadwater referred to an invoice reflected in the disbursement listing, and clarified the amount the city is actually paying on that invoice. Mr. Broadwater requested the Council include language in their approval of this item to clarify what is actually being paid.

Director Rickard explained that some of the entries in the disbursement journal reflect partial payments.

**MOTION:** By Council Member Clay and seconded by Council Member O’Malley to approve Item #A-3.  
*Motion passed 4:0 by a roll-call vote.*
B. PUBLIC HEARINGS:

1. Appeal of the Planning Commission Approval of an Amendment to CUP 2007-0217 Allowing A Drive-Through Restaurant at 7085 El Camino Real PLN 2007-1230 (Carl’s Jr.)

   - Disclosure of Ex Parte Communications
   - Fiscal Impact: None.
   - Recommendation: Council adopt Draft Resolution A denying the appeal and upholding Planning Commission’s approval of Conditional Use Permit 2007-0217 based on findings and subject to conditions of approval and mitigation monitoring, with additional conditions requiring the building’s efficiency standards to exceed Title 24 by 10% and adding bike racks to the proposed building. [Community Development]

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

Ex Parte Communications

- Council Member Clay stated the applicant’s father called him and they talked.
- Council Member O’Malley stated he received an email from Planning Commissioner Doug Marks, but hasn’t had any discussions on this project. When the original Lube N Go project first came forward he had spoken with the original applicant.
- Mayor Pro Tem Béraud stated she spoke with the appellant Planning Commissioner Pam Heatherington, and with Planning Commissioner Dan O’Grady.
- Mayor Brennler stated he had a conversation with one of the applicant’s, Joe Simonin, and received a letter from and had a discussion with Planning Commissioner Doug Marks.

PUBLIC COMMENT

Planning Commissioner Pamela Heatherington, appellant, suggested the hearing be postponed because the email from the Air Pollution Control District (APCD) (Exhibit B) was not included in the Council’s report and the EIR must be updated to reflect the air quality issues. Ms. Heatherington explained the reasons for her appeal of the Planning Commission’s decision.

Stuart Voltz, CKE Restaurants, applicant, stated they are in agreement with the additional conditions added by staff and addressed issues raised by the appellant. Mr. Voltz answered questions of Council.

Doug Marks, Planning Commissioner, stated the success of the downtown and the Colony Square project will depend on pedestrian traffic, which he believes this project will discourage.
Dan O’Grady, Planning Commissioner, explained why he supports the appeal of the Planning Commission’s decision, and expressed concern with the number of drive-through businesses already existing in Atascadero.

Eric Greening stated a continuance would be the proper course tonight because the record before the Council and the public is incomplete.

Lee Perkins asked that the Council take up the issue of drive-through’s and write an ordinance to keep any more drive-through’s out of the downtown area.

Robert Fonzi, Planning Commissioner, explained why she had voted in favor of this project. She believes the issue of drive-through’s should be considered by the Council with a public hearing, but stated the city should not change the rules on an applicant midstream through the process based on personal preferences.

Al Fonzi stated this project will be an improvement for the site, and that air pollution is not really an issue given the freeway across the street. He suggested Atascadero has many retirees and young families for whom drive-through’s are much easier.

Marty Brown spoke in support of the appeal and about the US Mayor’s Climate Protection Agreement.

Joanne Main, President/CEO Chamber of Commerce, urged the Council to uphold the Planning Commission’s decision and spoke about the improvements to the site through the current development. She expressed concern about changing the rules mid-stream.

Gary Kirkland spoke about free enterprise and capitalism and against government restricting what people can do with their own property.

Lisa Lampman stated she has watched Atascadero grow and was concerned with the loss of many businesses. She said property owners should be allowed to develop their projects within the process required by the city.

Adam Scattini, land owner of the subject property, explained the many positive aspects this project will bring to Atascadero. He explained why this site is actually pedestrian friendly.

Steve Martin, Executive Director Atascadero Main Street, stated he was grateful for the concern expressed for the downtown, but that the downtown has greater challenges than one more drive through restaurant. He stated the city must provide consistency, and the rules must be clear, fair and evenly applied.

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

**MOTION:** By Council Member Clay and seconded by Council Member O’Malley to adopt Draft Resolution A denying the appeal and
upholding Planning Commission’s approval of Conditional Use Permit 2007-0217 based on findings and subject to conditions of approval and mitigation monitoring, with additional conditions requiring the building’s efficiency standards to exceed Title 24 by 10% and adding bike racks to the proposed building.

Council Discussion:

Mayor Pro Tem Béraud stated she would like to continue this item as she does not like to have missing gaps in information.

Council Member O’Malley stated the rules on businesses should not be changed mid project, and that consistency and predictability are important.

Council Member Clay commented that the customer must be considered and some do not want to get out of their cars. He believes the leakage for jobs and shopping creates much more pollution than a drive-through restaurant.

Mayor Pro Tem Brennler stated that fundamental fairness and consistency is important, that the applicant has played by the rules and the city has an obligation to respect that.

MOTION: By Council Member Clay and seconded by Council Member O’Malley to adopt Draft Resolution A denying the appeal and upholding Planning Commission’s approval of Conditional Use Permit 2007-0217 based on findings and subject to conditions of approval and mitigation monitoring, with additional conditions requiring the building’s efficiency standards to exceed Title 24 by 10% and adding bike racks to the proposed building, and on page 131 and 132 of the Draft Resolution the date of hearing to be amended to January 22nd. 
Motion passed 3:1 by a roll-call vote. (Béraud opposed) (Resolution No. 2008-003)

Mayor Brennler recessed the hearing at 8:41 p.m.

Mayor Brennler called the meeting back to order at 8:51 p.m.

2. 2008 Community Development Block Grant Allocations
   - Disclosure of Ex Parte Communications:
   - Fiscal Impact: Available funds are estimated at $190,884 for the 2008 cycle.
   - Recommendations: Council:
     1. Forward to the County Board of Supervisors allocation recommendations for the 2008 Community Development Block Grant (CDBG) funds; and,
2. Forward the following reallocations of prior year funds as a matter of fiscal housekeeping to allow for the close out of these activities. [Public Works]

Public Works Technician Valerie Humphrey gave the staff report and answered questions of Council.

Ex Parte Communications

- Council Member O’Malley stated as a member of the Finance Committee he has reviewed the applications and through that process many applicants had come to the meetings and spoke about their projects. He stated he serves on the board of ECHO, which is a recipient this year.
- Mayor Brennler stated he attended the Finance Committee meeting as a member of the public and heard the recommendations.

PUBLIC COMMENT

Joan O’Keefe expressed concern with the process for award of these funds and that the decision is made by the time it comes before the public for a hearing. She urged the city to make this truly a public hearing process.

Susan Warren, North County Connection, stated her concern that the process is confusing, and would like the process to be clearer with more public access.

Eric Greening stated he shared the concerns of the previous speakers, and explained that in the past the organizations would make their presentations at a public hearing and request the funds, which provided the public an opportunity to learn about those organizations.

Mayor Brennler closed the Public Comment period.

MOTION: By Council Member Clay and seconded by Mayor Pro Tem Béraud to forward to the County Board of Supervisors allocation recommendations for the 2008 Community Development Block Grant (CDBG) funds; and, forward the reallocations of prior year funds as a matter of fiscal housekeeping to allow for the close out of these activities. Motion passed 4:0 by a roll-call vote.

C. MANAGEMENT REPORTS:

1. Economic Development Strategy Consultant Selection
   - Fiscal Impact: Depending on the level of public outreach and input, the cost of developing the strategy will range from $90,000-$120,000. Related support costs and costs for the public process are estimated to be
$20,000. Additionally, the cost for the “Just Listening…Summit on Downtown,” (which Council authorized staff to conduct in February, 2008) will be approximately $10,000, for an estimated total of $150,000.

In June, the Council budgeted $110,000 for economic studies. Of that amount, $7,000 was spent on “Just Listening…Thoughts on Economic Development,” and $14,500 has been allocated to tourism studies, leaving a balance of $88,500. To fund the full study and related activities, an additional $61,500 is needed. Funding is available in Redevelopment Fund Reserves. If the Council approves moving forward with the study and related public outreach activities, staff will return to the Redevelopment Agency to request appropriation of these additional funds.

- Recommendation: Council authorize the City Manager to execute a contract with Applied Development Economics of Walnut Creek, California, to serve as the City’s economic development consultant to update the City’s Economic Development Strategy. [City Manager]

City Manager Wade McKinney reviewed the process followed for this item and Assistant City Manager Jim Lewis gave the staff report.

Doug Svensson, Applied Development Economics (AED), gave a PowerPoint presentation on their company and their approach to economic development, and answered questions of Council.

Kathie Studwell, AED, spoke about the public input process.

Irv Hamilton, AED, explained how they approach place branding and marketing.

PUBLIC COMMENT

David Broadwater suggested a decision on this firm not be made tonight as the public should be allowed to listen to a presentation by all four firms being considered. He reviewed the history of ADE and their Wal Mart connections and urged Council to reject their application.

Steve Tillman spoke about the need to keep the process fair and free of corporate bias and for a community vision. He asked Council work to insure impartial expertise from the consultant selected.

Tom Comar, Oppose Wal Mart spokesperson, stated it would be premature to decide on a consultant tonight without looking at the presentations by the other top three candidates.

Gary Kirkland suggested those opposed to this firm, should find a firm that fits their needs and pay for it themselves.
Joan O’Keefe stated she is not opposed to the city hiring a consultant but is interested in knowing what specific things were done in each specific city they worked for.

Richard Mullin suggested the committee’s recommendation should be trusted and it was time to move forward and not waste any more time.

Ron Rothman stated the community and the consultants must be clear in setting their goals, and there must be a consensus to those goals.

**MOTION:** By Council Member Clay and seconded by Council Member O’Malley to go past 11:00 p.m.  
*Motion passed 4:0 by a roll-call vote.*

Steve Martin, Executive Director Atascadero Main Street, commented that the City has received sufficient information on this topic and there has been more opportunity for public input through this Council than ever before, so as a Council it is time to move forward and make a decision.

Doug Svensson responded to issues raised during the Public Comment period.

*Mayor Brennler closed the Public Comment period.*

**MOTION:** By Mayor Pro Tem Béraud and seconded by Council Member O’Malley to authorize the City Manager to execute a contract with Applied Development Economics of Walnut Creek, California, to serve as the City’s economic development consultant to update the City’s Economic Development Strategy.

There was Council discussion on the motion.

Council Member Béraud withdrew her motion.

**MOTION:** By Mayor Pro Tem Béraud to continue this item until there is a complete Council.

The motion failed for lack of a second.

**MOTION:** By Council Member O’Malley and seconded by Council Member Clay to authorize the City Manager to execute a contract with Applied Development Economics of Walnut Creek, California, to serve as the City’s economic development consultant to update the City’s Economic Development Strategy, including the revised timetable that the study will be brought to Council for action in October 2008.  
*Motion passed 4:0 by a roll-call vote.* *(Contract No. 2008-006)*
MOTION: By Mayor Pro Tem Béraud to adjourn. 

Mayor Pro Tem Béraud withdrew her motion.

*Mayor Brennler recessed the hearing at 11:24 p.m.*

*Mayor Brennler called the meeting back to order at 11:33 p.m.*

MOTION: By Mayor Pro Tem Béraud and seconded by Mayor Brennler to continue Items #C-2 and 3 to the next meeting.  
*Motion failed 2:2 by a roll-call vote.  (Clay, O’Malley opposed)*

2. **City Council Agenda Format Review**
   - **Fiscal Impact:** None.
   - **Recommendations:** Council direct staff to return to the Council with the following recommended amendments to the Atascadero Municipal Code (AMC), Redevelopment By-Laws, and Council agenda format:
     1. Location of Council meetings are in the Council Chambers of City Hall, 6907 El Camino Real, Atascadero, immediately following the Redevelopment Agency meeting scheduled at 6:00 p.m.; and, 
     2. Maintain the Redevelopment Agency agenda ahead of the City Council agenda, starting at 6:00 p.m.; and, 
     3. Place Community Forum before Consent Calendar and change the public comment time limit to “up to three (3) minutes.” and, 
     4. Create a new category entitled Council Reports that will follow Community Forum; and, 
     5. Create a new category entitled Individual Announcements and/or Action at the end of the agenda before Committee Reports.  [City Manager]

Assistant to City Manager Marcia McClure Torgerson gave the staff report and answered questions of Council.

**PUBLIC COMMENT**

Lon Allen spoke in support of three minutes for public comment, which could not be exceeded by anyone for any reason.

Tom Comar stated he was not opposed to the three minute limit, and likes the idea of a one minute rebuttal.  His suggestion was to start the meeting at a set time with Community Forum in front for up to 1 hour, and any issue presented by a set number of individuals that requires further discussion should go automatically to the next agenda.
Maggie White spoke in support of a three minute limit per speaker and 30 minute time limit for Community Forum with an option to extend 30 minutes. She spoke against a one minute rebuttal stating the Community Forum is not for back and forth or rebuttal, it is for presenting a point of view.

David Broadwater stated he was not in favor of a 30 minute limit on the Community Forum; however the three minutes per speaker was okay, as was placing the Community Forum period at the beginning of the meeting.

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

**MOTION:** By Council Member O’Malley and seconded by Council Member Clay to direct staff to return to the Council with the following recommended amendment to the Atascadero Municipal Code (AMC), Redevelopment By-Laws, and Council agenda format: Location of Council meetings are in the Council Chambers of City Hall, 6907 El Camino Real, Atascadero.

*Motion passed 4:0 by a roll-call vote.*

**MOTION:** By Council Member O’Malley and seconded by Council Member Clay to direct staff to return to the Council with the following recommended amendment to the Atascadero Municipal Code (AMC), Redevelopment By-Laws, and Council agenda format: Maintain the Redevelopment Agency agenda ahead of the City Council agenda, starting at 6:00 p.m.

*Motion passed 4:0 by a roll-call vote.*

**MOTION:** By Council Member O’Malley and seconded by Council Member Clay to direct staff to return to the Council with the following recommended amendment to the Atascadero Municipal Code (AMC), Redevelopment By-Laws, and Council agenda format: Place Community Forum after the Consent Calendar.

*Motion passed 3:1 by a roll-call vote. (Béraud opposed)*

Mayor Pro Tem Béraud spoke in support of flexibility for the proposed changes.

**MOTION:** By Council Member O’Malley and seconded by Council Member Clay to direct staff to return to the Council with the following recommended amendment to the Atascadero Municipal Code (AMC), Redevelopment By-Laws, and Council agenda format: Change the public comment time limit to three (3) minutes.

*Motion passed 3:1 by a roll-call vote. (Béraud opposed)*
There was Council discussion regarding recommendations 4 and 5, but no further motions were made.

3. **Update on Printery and Community Center**

*There was Council consensus to continue Item #C-3 to the next City Council meeting.*

**COMMUNITY FORUM:**

David Broadwater reported that there will be a forum for government officials on January 31st at the Chumash Auditorium regarding implementation of actions to deal with global warming, and urged the city to send a representative to this meeting.

*Mayor Brennler closed the Community Forum period.*

**MOTION:** By Council Member O’Malley and seconded by Council Member Clay to adjourn the City Council meeting at 12:44 a.m. and reconvene to the Redevelopment Agency meeting. *Motion passed 4:0 by a roll-call vote.*

**MINUTES PREPARED BY:**

Grace Pucci, Deputy City Clerk

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

Exhibit A – Corrected November 2007 Accounts Payable and Payroll Staff Report

Exhibit B – Pamela Heatherington, APCD memo.