



# **CITY OF ATASCADERO CITY COUNCIL**

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## **DRAFT MINUTES**

**Tuesday, March 23, 2010**

**City Hall  
Council Chambers  
6907 El Camino Real, Atascadero, California**

**Community Redevelopment Agency Closed Session: 5:00 P.M.**

**City Council Closed Session: 5:00 P.M. (follows RDA Closed Session)**

**Community Redevelopment Agency Special Meeting: 6:00 P.M.**

**City Council: Immediately following the conclusion of the Community Redevelopment Agency meeting**

**CITY COUNCIL CLOSED SESSION: 5:00 P.M. (follows RDA Closed Session)**

**1. PUBLIC COMMENT – CLOSED SESSION - Closed**

## 2. CALL TO ORDER

- a. **Conference with Labor Negotiators**(Govt. Code Sec. 54957.6)  
Agency designated representatives: Jim Lewis, Assistant City Manager  
Employee Organizations: Atascadero Firefighters Bargaining Unit; Atascadero Police Association; Service Employees International Union, Local 620; Mid-Management/Professional Employees; Non-Represented Professional and Management Workers and Confidential Employees
  
- b. **Conference with Real Property Negotiators** (Govt. Code Sec. 54956.8)  
Property: APN #049-193-040  
Agency Negotiator: Jim Lewis, Assistant City Manager  
Negotiating Parties: Benjamin William Bright and Alissa Dalton Bright  
Under Negotiation: Instruction to negotiator will concern price and terms of payment

## 3. ADJOURN

### CLOSED SESSION REPORT

City Attorney Brian Pierik announced that there was no reportable action taken.

### REDEVELOPMENT AGENCY SPECIAL MEETING: 6:00 P.M.

### CITY COUNCIL REGULAR SESSION: Immediately following the conclusion of the Redevelopment Agency Special Meeting

Mayor Fonzi called the meeting to order at 6:45 p.m. and Council Member Clay led the Pledge of Allegiance.

### ROLL CALL:

Present: Council Members Clay, O'Malley, Kelley, Béraud and Mayor Fonzi

Absent: None

Others Present: City Clerk / Assistant to City Manager Marcia McClure Torgerson

Staff Present: Assistant City Manager Jim Lewis, Administrative Services Director Rachelle Rickard, Community Development Director Warren Frace, Public Works Director Russ Thompson, Community Services Director Brady Cherry, Police Chief Jim Mulhall, Fire Chief Kurt Stone, and City Attorney Brian Pierik.

**APPROVAL OF AGENDA:** Roll Call

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

**A. CONSENT CALENDAR:**

1. [City Council Special Meeting Draft Minutes – January 30, 2010](#)
  - Recommendation: Council approve the Draft Special Meeting Minutes of January 30, 2010. [City Clerk]
2. [City Council Meeting Draft Minutes – February 9, 2010](#)
  - Recommendation: Council approve the Draft Special Meeting Minutes of February 9, 2010. [City Clerk]
3. [City Council Meeting Draft Minutes – February 23, 2010](#)
  - Recommendation: Council approve the Draft Meeting Minutes of February 23, 2010. [City Clerk]
4. [California Cultural and Historical Endowment \(CCHE\) Grant Application](#)
  - Fiscal Impact: The possibility of up to \$500,000 in additional grant funding for the restoration of Atascadero’s historic City Hall.
  - Recommendations: Council:
    1. Adopt the Draft Resolution approving the grant application for additional California Cultural and Historical Endowment funds for restoration of the historic City Hall; and,
    2. Authorize the Administrative Services Director to execute a contract with the California Cultural and Historical Endowment if the City is awarded said grant. [Administrative Services]
5. [Final Map 2006-0145 \(Parcel Map AT 06-0211\) 6910 Navajoa \(TPM 2004-0065\) - Young](#)
  - Fiscal Impact: None.
  - Recommendations: Council:

1. Adopt and approve Final Parcel Map 2006-0145 (Parcel Map AT 06-0211), and,
  2. Reject without prejudice for future acceptance, on behalf of the public, the offer of dedication for public utility easement, and,
  3. Authorize and direct the City Clerk to endorse the Council's approval on the Map. [Public Works]
6. **Temporary Road Closure - Calvary Chapel of Atascadero**
- Fiscal Impact: \$190.00 for the installation of Road Closed signs by Public Works Staff. The road closure costs will be paid by the applicant.
  - Recommendation: Council adopt the Draft Resolution, approving a request by Calvary Chapel of Atascadero for the closure of Palma Avenue beginning at 4:00 p.m. April 3<sup>rd</sup> and ending at 3:00 p.m. April 4<sup>th</sup>, from East Mall to West Mall for events in the Sunken Gardens. [Public Works]
7. **Historic City Hall Restoration Project – Package 1 & 2 - Hazardous Materials Consultant**
- Fiscal Impact: The cost of awarding the initial phase of the contract is \$84,528.00 in FEMA and CalEMA funds. No City or Redevelopment Agency Funds are being committed at this point in time.
  - Recommendations: Council
    1. Council authorize the City Manager to execute a contract with Meca Consulting, Inc. (dba Millennium Consulting Associates) for the hazardous materials consulting services for the Historic City Hall Project and;
    2. Council approve amount of \$84,528.00 for Packages 1 & 2, investigation and design work for deconstruction and construction activities in the Repair and Hazard Mitigation categories of work. [Public Works]

Council Member Kelley pulled Item #A-7.

**MOTION: By Mayor Pro Tem O'Malley and seconded by Council Member Clay to approve Items #A-1 through #A-6 of the Consent Calendar.**

***Motion passed 5:0 by a roll-call vote. (#A-4: Resolution No. 2010-013, #A-4: Contract No. 2010-003, #A-6: Resolution No. 2010-014)***

**#A-7:** Council Member Kelley asked for clarification on how this project will be funded. Administrative Services Director Rachelle Rickard responded that FEMA and CalEMA will be funding this project. The City does not have a final agreement with FEMA, however the City does have approved funding of approximately \$15 million, and can submit invoices to FEMA for payment. FEMA is a reimbursement grant so we do not have the cash in hand; the City must spend the money and then file a reimbursement

claim to CalEMA for payment. This process can take anywhere from 30 days to 5 months, depending on how the State of California is doing.

Council Member Kelley asked why there was no mention of a profit ratio, or how would any additional costs be controlled. Ms. Rickard responded that the hourly rate will be the flat amount for any additional work required.

**MOTION: By Mayor Pro Tem O'Malley and seconded by Council Member Kelley to approve Item #A-7 of the Consent Calendar.  
*Motion passed 5:0 by a roll-call vote. (Contract No. 2010-004)***

#### **UPDATES FROM THE CITY MANAGER:**

Assistant City Manager Jim Lewis gave the update:

- The City is still waiting for WalMart to submit their plans. Staff does expect to receive their application very soon.
- The Colony Square project is progressing nicely.
- The La Plaza Workshop took place last Thursday. The direction given to Staff was to move forward with the CUP processing and Staff will be bringing it to the Planning Commission on April 20<sup>th</sup>.
- The Zoo has been accredited for another four years. There will be a reception to celebrate on April 15<sup>th</sup> at the Pavilion at 4:30 p.m. The construction of the Zoo remodel is progressing well.
- The Eagle Ranch project is coming in for a re-start meeting March 31<sup>st</sup>.
- The Police Department has launched a new technology called Nixle.com. Anyone can go to the website and sign up for a Nixle feed. If there is a major crime or incident that would be of interest to a neighborhood, the Police Department will send out a page to your cell phone to tell you of the urgent event.
- The Census questionnaire has been sent out to all households. He urged everyone to fill out the form completely and accurately and return as soon as possible. An accurate accounting of our residents is critical to formula funding from the State and Federal governments.
- The Restaurant Program is progressing very well. There are 16 participating restaurants. There will be radio ads promoting the [www.dineatascadero.com](http://www.dineatascadero.com) website, with a calendar of events and specials.

## COMMUNITY FORUM:

Mike Casey, member of the Atascadero Ministerial Association, led those present in prayer.

Karyn Sturtevant explained that Atascadero currently has a land use entitled Personal Service, which includes barber shops, beauty parlors, tattoo parlors, body piercing, fortune tellers and check cashing. This allows any of these businesses to open anywhere in town with no restrictions. She requested the City Council create a new land use definition, separating these uses and creating a restricted Personal Service category for tattoo parlors, body piercing, fortune tellers and check cashing. As the Main Street President she stated that she will be encouraging the Main Street Board to take a position on this issue.

Christine Le Fevre, County Public Health Department Tobacco Control Program, presented to the Council the results of a tobacco compliance check the County did with the Atascadero Police Department. They surveyed 17 stores in Atascadero, four of which sold cigarettes to minors. Ms. Le Fevre explained the importance of a tobacco retail licensing ordinance; as it would require a store owner to purchase an annual permit in order to sell a tobacco product. This fee helps pay for enforcement. She stated that the 13 stores that did not sell cigarettes to minors were: 76 Station, Circle K, Cigarettes for Less, Golden Gate Petroleum, Walgreens, 7/11 Store, El Camino Liquor, RiteAid, StageCoach Liquor, Spencer's Fresh Market, Chalk Mountain Liquor and Deli, and Chevron. In response to the Council's questions concerning tobacco retail licensing, Ms. Le Fevre stated that San Luis Obispo County and the cities of Grover Beach, Arroyo Grande, and San Luis Obispo already have tobacco retail licensing and that she would be happy to come back to the Atascadero City Council asking that they adopt a tobacco retail licensing ordinance.

Steve Martin announced, as the Main Street Executive Director, that Mike Zappos has been appointed to the Main St. Board. He also shared information concerning upcoming events. As the Tourism consultant, Mr. Martin announced that he has updated the [www.visitatascadero.com](http://www.visitatascadero.com) website, including a calendar of events.

### ***Mayor Fonzi closed the COMMUNITY FORUM period.***

There was a brief discussion concerning the issue of the land use definition for Personal Service.

There was Council consensus to ask the Chamber and Main Street to look into the issue of prohibiting tattoo parlors etc. The Council also directed the City Attorney to look into the possibility of the creation of a moratorium for tattoo parlors until Staff can develop a report to bring to Council for consideration.

**B. PUBLIC HEARINGS:**

1. [Proposed Ordinance Prohibiting the Establishment and Operation of Medical Marijuana Facilities in the City of Atascadero](#)
  - Ex Parte Communications
  - Fiscal Impact: None.
  - Recommendation: Council introduce for first reading by title only, the Draft Ordinance prohibiting the establishment and operation of Medical Marijuana Facilities in the City of Atascadero. [City Attorney's Office]

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

**PUBLIC COMMENT:**

Dana Holland explained to the Council that he is a responsible medical marijuana user because he is going blind. He asked the Council to allow him to have medical marijuana delivered to his home.

Richard Donald, representing Americans for Safe Access, urged the Council to postpone their decision until the current court case is settled.

Toni Paridis asked why methadone is allowed in Atascadero but not marijuana. She stated that her son is in real need and it is hard for him to travel. She asked the Council to give some help by allowing a medical marijuana facility.

Warren J. Sarvis III said that he is a community volunteer and a medical cannabis user. He stated that citizens in all 50 states have fallen victim to money thieves in bank robberies, liquor store robberies, fast food robberies, leading to vicious assaults and murder.

Armando Heredia expressed his concerns with medical marijuana dispensaries. He stated there will be a facility in Morro Bay and that is only 15 minutes away.

Linda Hill stated she has worked in criminal justice for over 30 years and feels that the Council should be compassionate to those that need medical marijuana.

Karyn Sturtevant encouraged the Council to not be swayed by the threats of litigation. She urged the Council to approve this Ordinance.

Paul Bishop stated that he has never used illegal drugs, but that he is fully in favor of those with the need to be able to access medical marijuana at dispensaries.

Richard Donald stated that the proposed Ordinance makes it a violation for a mother to get marijuana in another city and bring it back to her son in Atascadero.

Dana Holland urged the Council that if they ban storefront availability, to please allow delivery.

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

There was Council discussion on this issue and additional questions for the City Attorney and Police Chief.

**MOTION:** By Council Member Clay and seconded by Mayor Pro Tem O'Malley to introduce for first reading by title only, the Draft Ordinance prohibiting the establishment and operation of Medical Marijuana Facilities in the City of Atascadero with the following amendment:

The second sentence in Section 5.13.103 will read, "In addition, delivery of medical marijuana to any person, except as provided in Section 5-13.101, and except for deliveries by a primary caregiver to a qualified patient, is prohibited within the City limits."

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

***Mayor Fonzi recessed the meeting at 8:36 p.m.***

***Mayor Fonzi reconvened the meeting at 8:42 p.m.***

**C. MANAGEMENT REPORTS:**

**1. [Changes to the Moderate Income Affordable Housing Program \(Short Sale Provision and Establishment of an Allowance for Closing Costs upon Re-sale\)](#)**

- Fiscal Impact: The fiscal loss to the City is based on the number of participants experiencing financial hardship and the degree to which the loans are written off.
- Recommendations: Council:
  1. Adopt draft Resolution A establishing a provision for short sales in the Moderate Income Affordable Housing Program; and,
  2. Adopt draft Resolution B establishing a provision for closing cost allowance upon re-sale of all homes in the Moderate Income Affordable Housing Program. [Administrative Services]

Administrative Services Director Rachelle Rickard gave the staff report and introduced Lisa Wise of Lisa Wise Consulting who gave a report, distributed a handout, and answered questions from the Council. (Exhibit A)

**PUBLIC COMMENT:**

David Bentz said this program is the best he has seen in his career.

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

- MOTION:** By Mayor Pro Tem O'Malley and seconded by Mayor Fonzi to:
1. Adopt draft Resolution A establishing a provision for short sales in the Moderate Income Affordable Housing Program; and,
  2. Adopt draft Resolution B establishing a provision for closing cost allowance upon re-sale of all homes in the Moderate Income Affordable Housing Program.
- Motion passed 5:0 by a roll-call vote. (#1: Resolution No. 2010-015, #2: Resolution No. 2010-016)***

2. **[Inclusionary Housing Policy Moderate Income Unit Equity Sharing Policy Resale Restriction Waiver Option](#)**
  - **Fiscal Impact:** No immediate fiscal impact, however this change in policy will reduce future amounts available for investment in moderate income housing.
  - **Recommendation:** Council adopt Draft Resolution A giving the City Manager the authority to waive the requirement to record a silent second for moderate income units upon sale to a qualified buyer when the sales price and appraised value are at or below the maximum applicable moderate income sales price. [Community Development]

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

**PUBLIC COMMENT:**

Paul Bishop stated he is very impressed with this program.

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

- MOTION:** By Council Member Kelley and seconded by Council Member Clay to adopt Draft Resolution A giving the City Manager or his designee the authority to waive the requirement to record a silent second for moderate income units upon sale to a qualified buyer when the sales price and appraised value are within 2% or below the maximum applicable moderate income sales price.
- Motion passed 5:0 by a roll-call vote. (Resolution No. 2010-017)***

3. 2010 Community Development Block Grants Funding Recommendations

- Fiscal Impact: Available funds are currently estimated at between \$186,744 and \$200,000 for the 2010 cycle.
- Recommendation: Council review, and approve funding recommendations for the 2010 Community Development Block Grant (CDBG) program and approve distribution of any additional funds received over the amount estimated on a proportionate basis. [Public Works]

Public Works Director Russ Thompson gave the staff report and answered questions from the Council.

**PUBLIC COMMENT: None**

**MOTION: By Mayor Pro Tem O'Malley and seconded by Council Member Clay to approve funding recommendations for the 2010 Community Development Block Grant (CDBG) program and approve distribution of any additional funds received over the amount estimated on a proportionate basis.  
*Motion passed 5:0 by a roll-call vote.***

4. Oak Ridge Estates / 3F Meadows PD-11 Project Update

- Fiscal Impact: None.
- Recommendation: Council receive and file this report. [Public Works]

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

**PUBLIC COMMENT:**

Mitch Paskin stated the City is allowing Mr. Shetler to continue to build on existing permits even though he is out of compliance with the Municipal Code. He will only be required to comply if he decides to apply for a new building permit.

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

Council Member Kelley asked Staff to analyze the safety of the roads in question. If they are unsafe, how much of the Bond money is available to make them safe.

Mitch Paskin said the Bond states that the developer is to make and complete the on-site and off-site public improvements within 3 years of the issuance of the first

residential permit. Money had been released from the Bond before he complied with this requirement.

**There was Council consensus to receive and file this report.**

**COUNCIL ANNOUNCEMENTS AND REPORTS: None**

**D. COMMITTEE REPORTS:**

Mayor Pro Tem O'Malley

1. SLO Council of Governments, President (SLOCOG) – handout (Exhibit B)  
Council Member O'Malley distributed to the Council a summary of all of the SLOCOG investments in Atascadero.

**E. INDIVIDUAL DETERMINATION AND / OR ACTION: None**

**F. ADJOURNMENT:**

Mayor Fonzi adjourned the meeting at 9:45 p.m.

MINUTES PREPARED BY:

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Marcia McClure Torgerson, C.M.C.  
City Clerk / Assistant to the City Manager

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

Exhibit A – Moderate Income Affordable Housing Program – Ability to Pay Worksheet, submitted by Lisa Wise  
Exhibit B – SLOCOG History of Projects, submitted by Council Member Tom O'Malley