CITY OF ATASCADERO  
CITY COUNCIL  

DRAFT MINUTES  

Tuesday, April 22, 2008  

REGULAR SESSION:  6:00 P.M.  

Mayor Brennler called the meeting to order at 6:02 p.m. and Council Member O’Malley led the Pledge of Allegiance.  

*There was Council consensus that meetings should be televised beginning at 6:00 p.m. Council directed City Manager Wade McKinney to look into this and report back.*  

ROLL CALL:  

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

Absent:  None  

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

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 Lt. Carole Robinson, Fire Chief Kurt Stone, Public Works Director Steve Kahn, and City Attorney Brian Pierik.  

APPROVAL OF AGENDA:  

**MOTION:**  By Council Member Luna and seconded by Council Member Clay to approve the agenda.  

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

1. Quota Club Presentation – Donation for Pavilion on the Lake

Mayor Brennler thanked the Quota Club of Atascadero for their donation of $4,600 to the Pavilion on the Lake for the installation of acoustic panels. He introduced attending Quota members Linda Modica and Lynn Gutierrez.

Ms. Gutierrez said that Quota meets the 1st and 3rd Thursdays of each month at the Pavilion on the Lake. She said that Quota would like to express their appreciation for the usage of this facility and say thank you to the City.

A. CONSENT CALENDAR:

1. Apple Valley Assessment Districts
   - Fiscal Impact: The City General Fund will contribute $21,129 toward the cost of maintaining the park.
   - Recommendations: Council:
     1. Adopt Draft Resolution A initiating proceedings for the levy and collection of annual assessments for Atascadero Street and Storm Drain Maintenance District No. 01 (Apple Valley) for fiscal year 2008/2009.
     2. Adopt Draft Resolution B accepting and preliminarily approving the Engineer’s Annual Levy Report regarding the Atascadero Street and Storm Drain Maintenance District No. 01 (Apple Valley).
     3. Adopt Draft Resolution C declaring the City’s intention to levy and collect annual assessments within Atascadero Street and Storm Drain Maintenance District No. 01 (Apple Valley) in fiscal year 2008/2009, and to appoint a time and place for the public hearing on these matters.
     4. Adopt Draft Resolution D initiating proceedings for annual levy of assessments for the Atascadero Landscaping and Lighting Maintenance District No. 01 (Apple Valley) for fiscal year 2008/2009 pursuant to the provisions of Part 2 of Division 15 of the California Streets and Highways Code.
     6. Adopt Draft Resolution F declaring the City’s intention to levy and collect assessments for the Atascadero Landscaping and Lighting Maintenance District No. 01 (Apple Valley) for fiscal year 2008/2009. [Administrative Services]
2. Las Lomas (Woodridge) Assessment Districts
   - Fiscal Impact: The City General Fund will contribute $3,769 toward the cost of the trails, once these improvements are accepted by the City.
   - Recommendations: Council:
     1. Adopt Draft Resolution A initiating proceedings for the levy and collection of annual assessments for Atascadero Street and Storm Drain Maintenance District No. 02 (Woodridge) for fiscal year 2008/2009.
     2. Adopt Draft Resolution B accepting and preliminarily approving the Engineer’s Annual Levy Report regarding the Atascadero Street and Storm Drain Maintenance District No. 02 (Woodridge).
     3. Adopt Draft Resolution C declaring the City’s intention to levy and collect annual assessments within Atascadero Street and Storm Drain Maintenance District No. 02 (Woodridge) in fiscal year 2008/2009, and to appoint a time and place for the public hearing on these matters.
     4. Adopt Draft Resolution D initiating proceedings for annual levy of assessments for the Atascadero Landscaping and Lighting Maintenance District No. 02 (Woodridge) for fiscal year 2008/2009 pursuant to the provisions of Part 2 of Division 15 of the California Streets and Highways Code.
     6. Adopt Draft Resolution F declaring the City’s intention to levy and collect assessments for the Atascadero Landscaping and Lighting Maintenance District No. 02 (Woodridge) for fiscal year 2008/2009.

3. Weed/Refuse Abatement Program
   - 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 2008-2009 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 2008-2009 Tax Roll. [Fire]

4. Proposed Ordinance to Amend Title 12, Chapter 1 of the Atascadero Municipal Code Pertaining to Attorneys’ Fees
   - Description: Ordinance, if adopted, would allow the “prevailing party” to recover attorneys’ fees in civil and administrative nuisance abatement actions.
   - Fiscal Impact: The ordinance would allow the City to recover its attorneys’ fees if it is the prevailing party in a nuisance abatement action. The exact fiscal impact cannot be determined in advance of a particular nuisance abatement action.
- Recommendation: Council adopt on second reading, by title only, the Draft Ordinance amending Section 12-1.06 and adding Section 12-1.08 of Title 12, Chapter 1 of the Atascadero Municipal Code pertaining to attorneys' fees. [City Attorney]

5. TPM 2002-0032 Final Map Acceptance Clarification Resolution – Traffic Way Park Dedication

- Fiscal Impact: Acceptance of the property will obligate the City to maintain the property. Staff estimates the cost of maintaining 1.5 acres of unimproved parkland to be approximately $2000 annually. If the property is improved as a park in the future, the maintenance costs will be significantly higher.
- Recommendation: Council approve draft Resolution A accepting the dedication of a 1.71 acre gross public park dedication on Traffic Way as part of Tentative Parcel Map 2002-0032 (AT 02-278). [Community Development]

MOTION: By Council Member Luna and seconded by Council Member Clay to approve Items #A-1, 2, 3, 4, and 5.


COMMUNITY FORUM:

Tom Gaddis, Atascadero Ministerial Association, led those present in prayer.

David Tissue, who lives in the Eagle Creek subdivision, expressed his concerns about the lack of work being done on the conversion project at the former Eagle Creek Golf Course. He asked the Council for expedient attention to this matter.

Eric Greening inquired about the status of the U.S. Mayor’s Climate Protection Agreement. He asked Council to agendize a status report on what specifically the City agreed to take on by signing the agreement and how the City is proceeding and what are the next steps.

Ron Walters, representative of the new organization A Better Atascadero, explained they formed this organization to help coordinate like-minded people in order to unite their efforts and concerns for the economic vitality of our City, to protect property rights
and to promote City Council candidates who believe in local control of our City. Mr. Walters encouraged the public to visit their website, www.abetteratascadero.com.

Bob Wilkins, member of A Better Atascadero, explained that they are working to put real life back into this community for the citizens and not just for an elected few or group of people who happen to be really vocal. Mr. Wilkins asked citizens to become members of A Better Atascadero.

Marge Mackey, read a prepared statement, invited the Council to attend an event in Stadium Park. The Atascadero Land Preservation Society (ALPS) is sponsoring a picnic on May 4th, from 1:00 – 4:00 p.m. She said that there is no charge for the event and you are to bring your own food; beverages will be available. She also mentioned parking options and that a shuttle would be available for people who might have difficulty walking up into the bowl. (Exhibit A)

Geraldine Brasher, member of ALPS, encouraged the Council to attend the Stadium Park event the previous speaker spoke about. She commended the Council for their accomplishments and is sorry to see them criticized so frequently.

Mayor Brennler closed the Community Forum period.

City Manager Wade McKinney addressed Mr. Tissue’s concerns about the progress of the Eagle Creek improvements. Mr. McKinney relayed project submittal and correction dates for the project plans and the Final Map. The Final Map was returned for second corrections, which include issues with landscaping, re-grading and re-vegetation, on April 15, 2008. The City is currently still waiting for those corrections.

City Manager Wade McKinney addressed Mr. Greening’s inquiry about the climate control initiative. Mr. McKinney clarified that the City didn’t actually sign the final control initiative but rather signed a letter in support of it, noting that there were a variety of the actions that the City didn’t have staff or the budget to accomplish. Staff is preparing another update to be posted on the website containing the most recent actions of the City. He said that an inventory is not planned or budgeted at this time.

B. MANAGEMENT REPORTS:

1. De Anza Estates Assessment Districts
   - Fiscal Impact: Annual assessments for 2008/2009 will total $35,454 for road/drainage system maintenance and $30,457 for landscape and lighting maintenance. These amounts will be assessed to the owners of parcels in De Anza Estates. There is no fiscal impact to general residents within the City.
   - Recommendations: Council:
     1. Adopt Draft Resolution A initiating proceedings for the levy and collection of annual assessments for Atascadero Street and Storm Drain Maintenance District No. 03 (De Anza Estates) for fiscal year 2008/2009.
2. Adopt Draft Resolution B accepting and preliminarily approving the Engineer's Annual Levy Report regarding the Atascadero Street and Storm Drain Maintenance District No. 03 (De Anza Estates).

3. Adopt Draft Resolution C declaring the City's intention to levy and collect annual assessments within Atascadero Street and Storm Drain Maintenance District No. 03 (De Anza Estates) in fiscal year 2008/2009, and to appoint a time and place for the public hearing on these matters.

4. Adopt Draft Resolution D initiating proceedings for annual levy of assessments for the Atascadero Landscaping and Lighting Maintenance District No. 03 (De Anza Estates) for fiscal year 2008/2009 pursuant to the provisions of Part 2 of Division 15 of the California Streets and Highways Code.


6. Adopt Draft Resolution F declaring the City's intention to levy and collect assessments for the Atascadero Landscaping and Lighting Maintenance District No. 03 (De Anza Estates) for fiscal year 2008/2009. [Administrative Services]

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

PUBLIC COMMENT

Kimbra Brookman, who lives in the De Anza Estates, requested that the assessment stay as it currently is and supports the staff recommendations.

Mayor Brennler closed the Public Comment period.

Mayor Brennler re-opened the Public Comment period.

A resident of De Anza Estates stated that he and the majority of the homeowners support staff's recommendations.

Mayor Brennler closed the Public Comment period.
MOTION: By Council Member Clay and seconded by Council Member Luna to adopt:

1. Draft Resolution A initiating proceedings for the levy and collection of annual assessments for Atascadero Street and Storm Drain Maintenance District No. 03 (De Anza Estates) for fiscal year 2008/2009; and,

2. Adopt Draft Resolution B accepting and preliminarily approving the Engineer’s Annual Levy Report regarding the Atascadero Street and Storm Drain Maintenance District No. 03 (De Anza Estates); and,

3. Adopt Draft Resolution C declaring the City’s intention to levy and collect annual assessments within Atascadero Street and Storm Drain Maintenance District No. 03 (De Anza Estates) in fiscal year 2008/2009, and to appoint a time and place for the public hearing on these matters; and,

4. Adopt Draft Resolution D initiating proceedings for annual levy of assessments for the Atascadero Landscaping and Lighting Maintenance District No. 03 (De Anza Estates) for fiscal year 2008/2009 pursuant to the provisions of Part 2 of Division 15 of the California Streets and Highways Code; and,

5. Adopt Draft Resolution E for preliminary approval of the Annual Engineer’s Levy Report for the Atascadero Landscaping and Lighting Maintenance District No. 03 (De Anza Estates) for fiscal year 2008/2009; and,

6. Adopt Draft Resolution F declaring the City’s intention to levy and collect assessments for the Atascadero Landscaping and Lighting Maintenance District No. 03 (De Anza Estates) for fiscal year 2008/2009.

Motion passed 5:0 by a roll-call vote. (Item #B-1.1 Resolution No. 2008-026, Item #B-1.2 Resolution No. 2008-027, Item #B-1.3 Resolution No. 2008-028, Item #B-1.4 Resolution No. 2008-029, Item #B-1.5 Resolution No. 2008-030, Item #B-1.6 Resolution No. 2008-031)

2. City of Atascadero Employee Ethics Survey and Follow-up
   - Fiscal Impact: $5,000.
   - Recommendation: Council receive and file this report. [City Manager's Office]

City Manager Wade McKinney gave a brief report and answered questions of the Council.

Council received and filed the report.
PUBLIC COMMENT

Joan O'Keefe referred to the results that stated that over 50% of employees responded to the survey. Ms. O'Keefe inquired exactly what percent over 50 it was and how many City employees there are. She also suggested that employees might feel safer about anonymity if a written survey was given rather than an internet survey.

*Mayor Brennler closed the Public Comment period.*

Council Member Luna stressed the importance of Council setting an example with regards to gifts and gratuities. He commended Mayor Brennler and Mayor Pro Tem Beraud for being true to the platform for which they ran on; transparency. Mr. Luna relayed his doubts about percentages and his disappointment in the survey. He expressed hope that there will be more surveys in the future.

Mayor Pro Tem Beraud concurred with Council Member Luna. She believes that if we expect our employees to follow a policy that Council should follow the same. Ms. Beraud would like to see more participation next survey. She mentioned that the point system wasn’t touched on in the results and suggested figuring out the point value for a more clear demonstration of how we are progressing from year to year. She encouraged the public to read the report and expressed the need to have government that the public can trust and that the employees feel good about working for.

Council Member Clay asked to go on record for support of the City’s Management Team and employees. Mr. Clay expressed the importance to note that the Management Team rated quite a bit higher than the City Council themselves. Overall, he said he thinks the survey was a good start and, if funds are available, he would like to see another survey in a year to see where we are at.

Council Member O’Malley thinks that the lack of participation by employees is a sign of distrust. He commented on the last workshop and the progress made there. Mr. O’Malley stated that it is important to have questions answered in a timely manner to help build public trust. He agrees that another format might be more encouraging and he would support doing surveys on a regular basis.

Mayor Pro Tem Beraud addressed Ms. O'Keefe’s questions. She stated there were 76 respondents to the survey and there are approximately 122 employees. Ms. Beraud stated she sees the survey as a starting point and hopes that in future years we can build upon this. She supports surveying annually. She inquired about the typical time frame and if it would have to be a budget item to be discussed. City Manager Wade McKinney confirmed the annual time frame and that it would also be a budget item.

Mayor Brennler found the fact that a lot of employees didn’t participate problematic. He thinks there’s a failure in the process. Mr. Brennler suggested that when the City embarks on issues in the future, they take time to really study what it is they are trying to achieve with Council Members and the consultant to ensure the consultant clearly understands what they are trying to learn. He agrees that Council sets the bar, as far as ethical conduct of the City, and would support pursuing future surveys.
There was Council consensus to conduct an employee survey annually.

3. Planning Commission Requests
   - Fiscal Impact: Will depend on Council’s direction.
   - Recommendation: Council give staff direction on interpretation of abstention vote, drive-through policy development, and tree mitigation fee review. [City Manager’s Office]

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

PUBLIC COMMENT

Joan O'Keefe said that her action on a tree removal request before the Planning Commission caused the Planning Commission to make the request concerning abstention. She doesn’t understand how you could do silence and thinks it would be incredibly confusing to the clerk to try to interpret the silence. Ms. O'Keefe asked what constitutes the necessity for action.

City Attorney Brian Pierik responded to Ms. O'Keefe question that it depends upon the matter that is presented before the body as to whether or not it is necessary for action. He stated that sometimes a majority vote is sufficient, sometime a majority of a quorum is sufficient and that in some instances, such as a Resolution of Necessity or with eminent domain, you need a four fifths vote. He explained that the purpose is to avoid stalemates. Mr. Pierik suggested bringing this item back for further in depth discussion.

A discussion ensued about agenda items and the process and timeline by which items are placed on the agenda.

City Manager Wade McKinney and Administrative Services Director Rachelle Rickard answered questions of the Council regarding tree mitigation fees.

Joan O'Keefe asked if other City fees are tied in with CEQA.

Roberta Fonzi stated that the Planning Commission thought that the tree mitigation fees seemed low for replacement of a tree and that is why they made the request to the Council. She stated that it was not explained to Commission that this item would have to go to a full blown study and a consultant would have to be hired. Ms. Fonzi suggested that the Planning Commission would like to see fees being on a sliding scale, if possible, and that if it has to go to a consultant, perhaps it should go back before the Commission for further consideration.

Joanne Main urged the Council not to encumber the City with the added expense of another study at this time.

Mayor Brennler closed the Public Comment period.
There was Council consensus for the following:

1. Staff to bring back to Council the issue of amending the Atascadero Municipal Code concerning abstentions;
2. Staff to bring back the issue of Drive-throughs as already scheduled;
3. Staff to address the issue of reviewing the tree mitigation fees in the regular cycle for development fees, probably in 2010.

COUNCIL ANNOUNCEMENTS AND REPORTS:

Council Member Luna gave each Council Member a handout concerning Go-21, which pertains to federal issues regarding rail growth and expanding the rail structure in the Country to handle much of the cargo that is coming in from China and other countries. He suggested the Council read the information and they can discuss at a later time. (Exhibit B)

Council Member O’Malley informed the Council that the San Luis Obispo Council Of Governments (SLOCOG) has secured a $400,000+ grant for Safe Routes to Schools in our community. He stated, however, that the grant is in jeopardy due to funding shortages for the 10% match that is required. Mr. O’Malley encouraged Council to consider contributing towards matching funds.

There was Council consensus to have Council Member O’Malley participate in a discussion with other local public agency representatives concerning encouraging monetary contributions for additional safe school routes and report back to Council.

Council Member O’Malley asked the Council to agree to consider allowing extensions on building permits since the economy is impacting builders. City Manager Wade McKinney stated that staff is already looking into this issue including the ability to allow extensions retroactively. He explained that this issue is not currently scheduled to come before Council.

There was Council consensus to have staff bring back the issue of extensions on building permits.

C. COMMITTEE REPORTS:

Mayor Brennler

County Mayor’s Round Table – Discussed having a united front to Sacramento about our regional state parks and trying to avoid cuts in funding. Subsequently, it appears we may not need to send a letter now because the State has backed off from cutting that funding.
Air Pollution Control District – Re-stated that they have a program where you can turn in your gas powered lawn mower and, in return, you can obtain a cordless, rechargeable lawn mower (value at about $400) for a reduced price of about $160. There will be an event May 17th at the Paso Robles support services facility. For more program details, you can visit www.slocleanair.org.

Finance Committee – Next meeting is April 28th at 3:00 p.m.

Mayor Pro Tem Béraud

City / Schools Committee – Atascadero Unified School District is active in trying to promote healthy foods in their cafeterias. The school system has put into place efforts to cut down on sugar intake.

Council Member O’Malley

Economic Vitality Corporation, Board of Directors (EVC) – There is an upcoming retreat. They are in the process of working on a tourism study to address the issues that many cities have with promoting a positive business environment, having sustainable communities, and diversifying economies.

League of California Cities – Several Council Members are attending later this year.

D. INDIVIDUAL DETERMINATION AND/OR ACTION:

City Council

Council Member Clay has heard conflicting figures about the budget and asked for clarification on how many years we have left before our reserves run out.

City Manager Wade McKinney stated that somewhere around $400,000 of the reserves had been proposed to be used for this fiscal year. There has been modifications, and Administrative Services Director Rachelle Rickard will give a presentation of the City mid-year budget status at the May 13th Council Meeting.

Council Member Clay suggested the Council view the Tourism Presentation by Steve Martin.

There was Council consensus to have the Tourism Presentation by Steve Martin shown during a shorter Council meeting.

City Manager

a. Commission Attendance Report
City Manager Wade McKinney referred Council to the attachment in their packet.

b. Update by Public Works staff on the National Pollution Discharge Elimination System (NPDES) Phase II Plan, and the Basin Plan Update.

Public Works Director Steve Kahn gave the report and distributed flyers on the Regional Water Quality Board (Exhibit C). He answered questions of Council. He also mentioned that on Saturday, April 26th, the City will conduct the bi-annual Residential Clean-Up Day at the Wastewater Treatment Plant on Garbada and at Atascadero Lake Park, in the dirt parking lot, from 8:00 a.m. until 2:00 p.m.

PUBLIC COMMENT

Roberta Fonzi expressed her concern that this issue was only noticed to public agencies. She also stated that there were many inaccuracies in the documentation submitted by the Regional Water Quality Control Board.

Geraldine Brasher commended Roberta Fonzi for her work on this issue. She agreed that the public needs to be included.

Roberta Fonzi listed more of her concerns for these strict requirements.

Mayor Brennler closed the Public Comment period.

Council expressed support in staff’s efforts thus far and asked staff to prepare a letter from the Mayor stating that public comment has not been adequately addressed.

E. ADJOURNMENT:

Mayor Brennler adjourned the meeting at 9:12 p.m. to the next regularly scheduled meeting of the City Council on May 13, 2008.

MINUTES PREPARED BY:

Marcia McClure Torgerson, C.M.C., City Clerk

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

Exhibit A – April 22, 2008, statement from Marge Mackey
Exhibit B – Handout from Council Member Luna
Exhibit C – Regional Water Quality Control Board flyer