CITY OF ATASCADERO
CITY COUNCIL

DRAFT MINUTES

Tuesday, April 10, 2007

CLOSED SESSION:  6:00 P.M.

1. PUBLIC COMMENT – CLOSED SESSION

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, Unrepresented Employees: Part-Time Employees.

b. CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Govt. Code Sec. 54956.8)
Property:  Easement from Capistrano Avenue to Stadium Park along APN# 029-105-028
Agency Negotiator:  Patrick Enright, City Attorney
Negotiating Parties:  Dr. Gary Renzaglia
Under Negotiation:  Instruction to negotiator will concern price and terms of payment.

 c. CONFERENCE WITH LEGAL COUNSEL – Existing Litigation (Govt. Code Sec. 54956.9 (a))

1. City of Atascadero v. Pacific Gas and Electric

3. ADJOURN:  7:08 p.m.
CLOSED SESSION REPORT

City Attorney Patrick Enright announced that Council met in Closed Session and for Items #2.a and b., further direction was given to the labor negotiator and real property negotiator, and Item #2.c was continued.

REGULAR SESSION: 7:00 P.M.

Mayor Luna called the meeting to order at 7:12 p.m. and Council Member O’Malley 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 Development Director Warren Frace, Public Works Director Steve Kahn, Community Services Director Brady Cherry, Police Lt. Carole Robinson, Fire Chief Kurt Stone, and City Attorney Patrick Enright.

COMMUNITY FORUM:

Tom Gaddis, Atascadero Ministerial Association, introduced Pastor Varnum Schultz of Atascadero First Baptist Church who led those present in prayer.

Greg Barbour stated his objections to the Administrative Use Permit process and indicated he was bothered that he had received the notice as he does not feel he has the right to oppose the project.

Glen Horn asked several questions regarding the proposal for creek setbacks and urged the city to get more information before the setbacks are imposed.

Jolene Horn spoke about the creek setback issue and expressed concern that it could potentially decrease the value of her property.
Mark Phillips played a DVD of a reporter interviewing an individual regarding the discovery of a surveillance operation that it is believed Wal Mart is using.

David Curtiss spoke about a report he had read regarding the City of Stockton, California and the legal events surrounding the proposed construction of a Wal Mart in that city.

Mike Jackson spoke about the creek setback proposal and expressed his concerns that such a proposal would affect almost every parcel in town. He also commented on the effect of woodland canopy on local streams and creeks.

John Shadak spoke about the last Planning Commission meeting where the creek setback proposal was voted on and stated that a majority of the public present were against it. He considered the setbacks a land seizure as property is being taken but the owner must continue to pay the taxes.

Kelly Long said she was a small business owner with a store across from the Del Rio property and spoke in favor of a Wal Mart, which she feels will stimulate business and bring foot traffic to the businesses at that end of town.

Mark Gibbs addressed the proposed creek setback ordinance and how it would affect many property owners in Atascadero. He hoped the City Council would work with the community before they take any action.

Lee Perkins stated she would like Atascadero to stay Wal Mart free. She indicated she would like to see diverse development at the Annex that would be good for the community but would not include a super Wal Mart.

Tino Santos commented that he had visited the Wal Mart in Paso Robles and found no negative employee issues there. He stated Atascadero needs the jobs and increased business a Wal Mart would bring.

Tom Comar, Oppose Wal Mart spokesperson, explained their primary mission and stated the proposed super center is dividing the community. He spoke of studies that show a super center would not bring good economic development to Atascadero.

Mayor Luna closed the Community Forum period.

APPROVAL OF AGENDA:

MOTION: By Council Member O'Malley and seconded by Council Member Clay to approve the agenda.

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

1. Proclamation declaring April 2007 “Month of the Child” and “Child Abuse Prevention Month” and April 14, 2007 “Day of the Child.”

Council Member Béraud read the proclamation and presented it to Carol Capito, Child Care Planning Council, who spoke about child care programs available in the North County and stated there was a serious lack of child care accessibility in the county.

COUNCIL ANNOUNCEMENTS AND REPORTS:

Council Member Clay commented that up to 50% of the property owners in Atascadero could be affected by the proposed creek setback ordinance. He stated that every property owner in the city should be noticed regarding the May 8th meeting to let them know that their property might be impacted.

There was Council consensus that city wide notification will be made for the hearing on the creek setback ordinance.

Council Member Clay spoke about the Wal Mart issue, and reported on the interview of the CEO of Wal Mart that he recently watched on cable television. He would like to see the issue go to a vote of the people.

Mayor Pro Tem Brennler reported that he attended the California Summit for Safe Communities with the City Manager and explained that this meeting dealt with the housing and placement of high risk sex offenders. He advocated writing an ordinance to establish residency restrictions for such individuals based on protected properties within the city.

City Manager Wade McKinney reported that the Police and Fire Chiefs are formulating an action plan on this topic under the Council’s public safety goal.

Council Member Béraud, in responding to the creek setback comments, reported that setbacks have been part of the General Plan since the city was incorporated. She asked staff to include in their report information on what other cities do to protect their riparian areas, and the recommendations from the tree inventory. She stated her appreciation to the public for bringing forth information regarding Wal Mart that is not available in the local media, and indicated that the City Council is pro business.

Council Member O’Malley made the following announcements: 1) He was asked to join the statewide League of California Cities Committee for Children’s Health Care, 2) He has asked Jo Ann Main of the Chamber to report on businesses in the community that have closed and those that have opened, 3) Received a report at the last Economic Vitality Corporation meeting from Chamber members who had visited China, 4) Has
asked SLOCOG to give a presentation to the Council on the model they use for assessing the economic impacts of council decisions as it pertains to Atascadero, 5) He is working with Main Street Executive Director Steve Martin on the potential for tourism in the area, and 6) the Finance Committee is committed to finding ways to promote and support business in Atascadero.

A. CONSENT CALENDAR:

   - City Clerk Recommendation: Council approve the City Council Strategic Planning Workshop Notes of February 23-24, 2007. [City Clerk]

   - City Clerk Recommendation: Council approve the City Council Strategic Planning Workshop Minutes of February 23-24, 2007. [City Clerk]

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

   - City Clerk Recommendation: Council approve the City Council Meeting Minutes of March 13, 2007. [City Clerk]

5. February 2007 Accounts Payable and Payroll Disbursements
   - Fiscal Impact: $2,448,838.51.
   - Recommendation: Council approve certified City accounts payable, payroll and payroll vendor checks for February 2007. [Administrative Services]

6. Acceptance of the Offers of Dedication Tract 2495 (Apple Valley)
   - Description: Acceptance of the Offers of Dedication and rejection of maintenance of the public improvements will allow the property owners of Apple Valley to fund the maintenance of the improvements.
   - Fiscal Impact: None.
   - Recommendations: Council:
     1. Adopt the Draft Resolution accepting the Offers of Dedication on Tract 2495 for
        a) Streets;
        b) Public Pedestrian Access Easements;
        c) Public Landscape Easement;
        d) Public Utility Easement;
        e) Public Drainage Easement;
        f) Public Sewer Easement;
g) Lots 71, 72, 73; and
2. Reject the improvements in the areas of dedication for maintenance. [Public Works]

7. **Final Map 2006-0144 (Parcel Map AT 06-0113) 8905 Montecito Road (TPM 2006-0085) (Gearhart)**
   - **Description:** Tentative Parcel Map approved the division of 1.11 acres into three (3) lots.
   - **Fiscal Impact:** None.
   - **Recommendations:** Council:
     1. Adopt and Approve Final Map 2006-0144 (Parcel Map AT 06-0113);
     and,
     2. Reject, without prejudice to future acceptance on behalf of the public, the offers of dedication for Public Utility, Drainage, and Pedestrian Access Easement.; and,
     3. Authorize and direct City Clerk to endorse the City Council's approval on the Map. [Public Works]

8. **Final Map 2004-0079 (Parcel Map AT 01-091) 9230 Vista Bonita (TPM 2002-0028) (Fredrick)**
   - **Description:** Tentative Parcel Map approved the division of 4.33 acres into two lots of 1.87 and 2.46 acres.
   - **Fiscal Impact:** None.
   - **Recommendations:** Council:
     1. Adopt and Approve Final Map 2004-0079 (Parcel Map AT 01-091).
     2. Order the abandonment of Vista Bonita Avenue (formerly El Dorado Avenue) as shown on the Map of Tract 5 in accordance with Government Code Section 66445j, with the filing of Parcel Map AT 01-091, and reserving the easements so designated on Parcel Map AT 01-091 as:
        a. For Private Access and Public Drainage Purposes and all uses incidental thereto for the use and benefit of the present or future owners of the lots affected by such easements, and
        b. For Public use and the benefit of the several Public Utility Companies and Atascadero Mutual Water Company (“AMWC”) which are authorized to serve in said subdivision, easements for public utility purposes, delineated on said map as “Public Utility Easement” or “P.U.E.”
     3. Authorize and direct City Clerk to endorse the City Council's approval on the Map and Certify that the City Council ordered the abandonment of Vista Bonita Avenue as shown on the map. [Public Works]
9. **Final Map 2006-0149 (Tract 2681) 2865 Ferrocarril Road (TTM 2004-0059)(Tharp)**
   - **Description:** Final Map 2006-0149 creates a five lot residential subdivision.
   - **Fiscal Impact:** None.
   - **Recommendations:** Council:
     1. Adopt and Approve Final Map 2006-0149 (Tract 2681).
     2. Reject, without prejudice to future acceptance on behalf of the public, the offers of dedication for all Public Roads and the Public Easement for equestrian and pedestrian purposes, as shown on the map.
     3. Authorize and direct City Clerk to endorse the City Council’s approval.

Items pulled: Council Member Béraud, Item #A-1.

**MOTION:** By Council Member Clay and seconded by Council Member O’Malley to approve Items #A-2, 3, 4, 5, 6, 7, 8, and 9. *Motion passed 5:0 by a roll-call vote. (Item #A-6 Resolution No. 2007-012)*

Item #A-1:

*There was Council consensus to continue this item for Council Members to individually review the Minutes and make structural comments.*

**B. MANAGEMENT REPORTS:**

1. **Adopt-A-Road Program**
   - **Description:** This program would provide an additional tool to assist with the litter removal aspect of road maintenance.
   - **Fiscal Impact:** Some City staff time will be necessary for the direction and coordination of the program participants, and purchase and installation of recognition signs will cost approximately $200.00 per sign.
   - **Recommendation:** Council authorize the Public Works Director to implement an Adopt-A-Road Program. [Public Works]

Public Works Director Steve Kahn spoke about the program and introduced Julia Beckia and Georgia Harrison of the Interactive Club who addressed the Council and answered their questions.

**PUBLIC COMMENT**

Eric Greening stated this is another sterling example of youth taking the leadership in making this a better place, and they should be supported.
Mayor Luna closed the Public Comment period.

MOTION: By Council Member O’Malley and seconded by Council Member Clay to authorize the Public Works Director to implement an Adopt-A-Road Program. Motion passed 5:0 by a roll-call vote.

2. Eagle Creek Golf Course Reuse – Study Session
   - Disclosure of Ex Parte Communications
   - Fiscal Impact: None.
   - Recommendation: Council provide direction to staff and Planning Commission on how to proceed with amendments to the Eagle Creek Golf Course project. [Community Development]

Ex Parte Communications
- Mayor Luna stated he met with Mr. Gearhart about a year ago regarding a different subject but this came up and he suggested that Mr. Gearhart hold a neighborhood meeting, which he did.
- Council Member O’Malley stated he had discussed the previous project proposal at this site with the applicant, and spoke with several neighbors regarding their thoughts on the current project. He also received an email from a neighbor to this project, which he forwarded to staff.
- Mayor Pro Tem Brennler stated he had contacted the neighborhood previous to his election, and had received an email from a neighbor to the project.

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

PUBLIC COMMENT

Jamie Kirk, applicant’s representative, gave a PowerPoint presentation on the project and answered questions of Council.

Doug Pirrto, spokesperson for the neighborhood property owners, stated the concerns of the neighbors, their principles regarding this project and their concerns for the value of their properties. He requested that this project move forward as quickly as possible, and submitted a packet containing neighborhood statements, implementation goals, emails and roster. (Exhibit A)

Mayor Luna closed the Public Comment period.

Council discussed the proposed project and gave the following direction to staff:
There was Council consensus to move forward with this project and expedite the process, there will be no second units, staff will process the General Plan Amendment and zoning map changes, staff may use one of the reserved General Plan Amendment cycles, and will concurrently process any permits along with the hearing for the amendment process.

Mayor Luna recessed the hearing at 9:42 p.m.

Mayor Luna called the meeting back to order at 9:51 p.m.

3. Adoption of Commissioner Norms
   - Description: Adoption of this Resolution will create conduct guidelines for Commissioners.
   - Fiscal Impact: None.
   - Recommendation: Council adopt Draft Resolution adopting Norms for the Planning Commissioners and Parks and Recreation Commissioners. [City Attorney]

City Attorney Patrick Enright gave the staff report and answered questions of Council.

Changes to Commissioner Norms agreed upon by Council included:

- Page 101, #11: Delete the word “lobby” and use the word “influence”.
- Page 102, #12: Leave in “visits a site”.
- Page 102, #16, bullet #3: Change to “Listen to speakers and Commissioners”.
- Page 107 Staff Suggestions: There was no consensus to include these. The City Attorney stated he can look at adding something on “Commissioner conduct with the public outside of meetings” to the Norms in the future.
- Page 101 #1: Change to “We will behave professionally and respect one another’s right to hold and voice differing positions or opinions”.
- Page 101, #6: Change “blindside” to “surprise”.

PUBLIC COMMENT

Sandy Jack, Planning Commissioner, clarified the Commission’s reasoning for the change they had made to Item #16, and stated their concern was that many times those running the meeting are not being attentive to the speaker.

Mayor Luna closed the Public Comment period.

There was Council consensus to continue this item and any Council input should go to the City Attorney to be drafted up and come back on a future agenda.
4. **Adoption of General Plan Amendment Policy**
   - **Description:** General Plan Amendment Policy would reflect current City process in written form.
   - **Fiscal Impact:** None.
   - **Recommendation:** Council adopt Draft Resolution establishing a policy for amending the General Plan. [City Attorney]

City Attorney Patrick Enright gave the staff report and answered questions of Council. A copy of the General Plan Amendment Policy was distributed to Council. (Exhibit B)

There was Council agreement Item A under Section 5 would be moved to become Item A under Section 3.

**PUBLIC COMMENT – None**

**MOTION:** By Council Member Béraud and seconded by Mayor Pro Tem Brennler to accept the General Plan Amendment Policy with revisions as identified.

*Motion passed 5:0 by a roll-call vote. (Resolution No. 2007-013)*

**D. COMMITTEE REPORTS:** None

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

City Council

Mayor Pro Tem Brennler suggested considering public comment on the creek setback issue, scheduled for May 8\(^{th}\), be limited to three minutes. City Attorney Patrick Enright explained that it is not possible for Council to change the time limit.

Mayor Pro Tem Brennler reaffirmed his support for an employee satisfaction survey. City Manager Wade McKinney stated this issue is on staff's future issues list.

Council Member Béraud asked if there will be another workshop when the Wal Mart/Rottman project comes in again. Community Development Director Frace explained that there would be, as they had withdrawn their application.

Mayor Luna suggested starting the May 8\(^{th}\) meeting early to accommodate the zone change/conditional use permit/precise plan for the hotel and office building next to the Post Office. The City Attorney stated he would check to see if this item could be heard at an earlier time on the 8\(^{th}\).
Council Member Clay inquired if there will be another Wal Mart meeting similar to the May 30th session. Director Frace stated that whatever is submitted will be packaged up and brought to the City Council to determine if staff should begin processing that project through, and that would be noticed as a public meeting.

City Manager

a. Commission Attendance Reports: City Manager Wade McKinney reported that the Commission Attendance Reports were circulated to the Council.

F. ADJOURNMENT:

Mayor Luna adjourned the meeting at 10:45 p.m. to the next regularly scheduled meeting of the City Council on April 24, 2007.

MINUTES PREPARED BY:

Grace Pucci, Deputy City Clerk

The following exhibits are available for review in the City Clerk's office:
Exhibit A – Doug Pirrto, informational packet
Exhibit B – City Attorney, General Plan Amendment Policy