CITY OF ATASCADERO
CITY COUNCIL

DRAFT MINUTES
Tuesday, February 13, 2007, 7:00 P.M.

CLOSED SESSION:
(Immediately following Redevelopment Agency Meeting)

1. PUBLIC COMMENT – CLOSED SESSION: None

2. CALL TO ORDER: 6:51 p.m.

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

3. ADJOURN: 7:01 p.m.

Mayor Luna announced that no reportable action was taken.

REGULAR SESSION: 7:00 P.M.

Mayor Luna called the meeting to order at 7:00 p.m. and the Boy Scouts 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 Manager Jim Lewis, Administrative Services Director Rachelle Rickard, Community Development Director Warren Frace, Public Works Director Steve Kahn, Community Services Director Brady Cherry, Police Chief John Couch, Fire Chief Kurt Stone and City Attorney Patrick Enright

COMMUNITY FORUM:

Pastor Tom Farrell, Atascadero Bible Church, led those present in prayer.

Ann Ketcherside expressed her concerns regarding the reconsideration of a Big Box Ordinance and stated that she does not want to see the zoning changed at the site proposed for the Wal Mart store.

Marty Brown spoke about the US Mayors Climate Protection Agreement, and read quotes from other Mayors who have signed onto the agreement.

Mark Phillips explained why he did not believe Wal Mart would be a good neighbor, and proposed several changes to campaign finance reform for Atascadero.

Tom Comar, spokesperson for Oppose Wal Mart, spoke about Wal Mart Corporation and the threats a super center presents to the community.

George Schrof spoke in favor of having Wal Mart in Atascadero and bringing this type of store into the community to help people financially meet their needs.

Lee Perkins announced that there would be a discussion at Atascadero Community Church, on February 22nd regarding workers justice and Wal Mart. In addition she read comments into the record from residents who could not attend the meeting and are opposed to a super Wal Mart in Atascadero.

Ray Jansen reminded Council that he has not received all their returns on a survey he sent regarding health care for all Californians. He also spoke in favor of clear elections and candidates shunning corporate contributions.

Doug Mollar stated he was asked to come and speak about Wal Mart for Pastor Wiley Drake of the Southern Baptist Convention to explain why he is opposed to it. Mr. Mollar distributed a handout regarding Wal Mart. (Exhibit A)
Eric Greening addressed several issues: 1) urged Council to consider the issues brought forward by Mark Phillips regarding campaign finance reform, 2) explained that those planning to attend the Inconvenient Truth showing can call the Rideshare office and arrange free transit, and 3) thanked Steve Kahn and Valerie Humphrey for preparing the application to the Council of Governments for State Transit Assistance Funding.

Diane Harrison, representing Ed and Norma Holtser, read a letter from them stating their opposition to Wal Mart.

Lynn Hunter expressed confusion regarding the Big Box Ordinance and the reconsideration, and spoke about Wal Mart labor practices.

Barbara Schinike stated she was opposed to Wal Mart and read a letter from Peggy Woodwarf Sharp in opposition to Wal Mart.

Joan O'Keefe asked the Council if it could make Mr. Gearhart comply with the city codes. She reviewed the conditions for the Printery that are not being complied with, and spoke about projects Mr. Gearhart starts before receiving city permits.

Steve La Salle read letters in opposition to Wal Mart from individuals who were unable to attend the meeting. Mr. La Salle stated he does not support a Wal Mart as the project is too large and opposed to the General Plan.

David Curtis responded to comments made at the last meeting by the Wal Mart representative, and shared his concerns which show Wal Mart would not be a good neighbor.

David Broadwater spoke about the following: 1) Mrs. O'Keefe's charges against Mr. Gearhart and his hopes that the Council will follow up, 2) his support for Marty Brown and the Mayors Climate Change Agreement and recommended Council send a delegate to the panel in San Luis Obispo, 3) his support for Mr. Phillips campaign finance reform idea which is a move in the right direction, and 4) asked for clarification from Wal Mart Corporation on the amount of money they are budgeting for public relations with Meridian Pacific Corporation.

Robert Skinner expressed concern regarding who was paying for the public relations effort in favor of Wal Mart and what are they arguing for.

Bob Morris asked Council to seek out the facts rather than listen to the negative comments they have heard tonight, commented that he has not heard Wal Mart make a threat of a lawsuit, and stated it was not unusual to amend the General Plan.

Tino Santos spoke about the freedom the community has to shop or not shop at Wal Mart, about preservation of the environment and his efforts to care for the trees on his
property, and read letters in support of Wal Mart from people who were unable to attend the meeting.

Joanne Main, Atascadero Chamber of Commerce, reported that their members, through a survey, have indicated they want more communication and more opportunities to meet other businesses. In response to this the Chamber has arranged for an Empower Hour every third Tuesday of the month, 7:30 a.m., at the Carlton Hotel.

Jim Shannon spoke about a piece of property that the city has purchased and asked Council to direct staff to find a contractor who will volunteer his time, labor and materials to erect the sign the city wants to place there so no more money is spent on the property.

Steve Tillman spoke about quality of life issues and the ability to have choices in the community, and asked Council to help the community to find the vision of who they are and what their identity is.

(No name given) suggested the city build a race track that could be sponsored by Wal Mart and local shops.

Richard Mullin suggested limiting speakers to three minutes at the upcoming Wal Mart project meeting, and also suggested the pro and con groups could elect two or three speakers then use a show of hands in support of their comments. He commented that a city wide election on this issue should be looked into.

Doug Mollar stated he was a full time investigator for violent crimes against children and spoke about his commitment to his profession.

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

Mayor Luna responding to issues raised during the Community Forum period stated he would be in favor of limiting comments to three minutes if there is a large public hearing and if it is advertised as such. It was decided that this issue would be looked at during Strategic Planning. Mayor Luna asked staff to get the list comments made by Joan O’Keefe and respond to them as part of their report on code enforcement at Strategic Planning.

Council Member Clay responded to remarks about made during the Community Forum period regarding Wal Mart, and stated he supports an election for the issue.

Council Member O’Malley addressed issues raised during the Community Forum period and spoke of the need for a process for independent analysis of issues raised by the community. Council Member O’Malley stated he supports a city-wide election regarding Wal Mart.
Mayor Pro Tem Brennler spoke about an email he had received from a constituent stating he was upset by a flyer he had received from Wal Mart that misrepresented the last City Council meeting and asked that it be introduced into the record.

APPROVAL OF AGENDA:

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

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

PRESENTATIONS:

1. **Boy Scouts of America, A Report on the Impact of Scouting in Atascadero.**

   Ingrid Olsen, representing the Boy Scouts, spoke about their Centennial Celebration and thanked the Council for their support. Boy Scout Matt Winslow spoke about Scout activities in the community.

2. **Proclamation declaring Tuesday, February 27, 2007 as “Spay Day USA.”**

   Council Member Béraud read the Proclamation and presented it to Casey Daniels, who spoke about spaying and neutering in the county and pet overpopulation, and thanked Council for their support.

3. **Proclamation recognizing Atascadero High School Community Challenge Days as March 12-13, 2007.**

   Council Member O'Malley read the proclamation and presented it to Anna Ferree, Activities Director at the High School, who spoke about Challenge Day and invited Council to participate.

COUNCIL ANNOUNCEMENTS AND REPORTS:

1. **Reconsideration - of City Council direction to staff on January 23, 2007, concerning Strategy and Timeline for Big Box Ordinance.** (Mayor George Luna)

   Mayor Luna explained the reason this item was on the agenda. He read a statement explaining his request for this reconsideration was due to the cost to the community in time, money and divisive debate. He stated his position that the Wal Mart proposal is not consistent with the General Plan and zoning for the site.
Mayor Pro Tem Brennler stated that a future ordinance consistent with that of Paso Robles and San Luis Obispo would be desirable. He commented that he recognized that the current General Plan has size restrictions and that development interests would be required to obtain a zone change, and for this reason an ordinance at this point might be premature. He wants the Council to be fiscally responsible, and follow the General Plan.

Council Member Béraud stated she supports the comments by Mayor Luna and Mayor Pro Tem Brennler. She indicated that because a big box ordinance wouldn't help in this situation, she encourages Council to choose instead to spend staff time and city money on finding quality development for the Del Rio area with the cooperation of the Rottman Group and the Mission Oaks owners.

Council Member Clay commented that Wal Mart only wants a fair shot and has made no threats to sue. He stated he did not support the ordinance to begin with and realizes that the zoning would have to be changed. He would like to see Atascadero be more business friendly.

Council Member O'Malley reiterated his position that the General Plan already has a 150,000 square foot limit, and that there is not sufficient land in Atascadero zoned for a large commercial project. He explained his concern that when Council looks at ordinances, many times the examples used are from areas that are not similar to Atascadero or already have a large area zoned and developed for commercial use. He stated he does not believe an ordinance is necessary because the city has greater protection from a super center with the current General Plan, explained the situations where he feels the city is vulnerable to a law suit, and stated the city must go through the public process and do the analysis.

*Mayor Luna recessed the hearing at 9:19 p.m.*

*Mayor Luna called the meeting back to order at 9:27 p.m.*

**PUBLIC COMMENT**

Eric Greening expressed concern with the way the reconsideration came about, and of the Council responses to a specific Council Member’s comments in the press. He stated he did not believe that Council or the public has the information needed to evaluate the reasons for changing course at this time.

Jim Shannon stated his agreement with the position that an ordinance is not needed because of the General Plan and commented that the fair thing to do is to put this to a vote of the people of Atascadero.

Tom Comar, Oppose Wal Mart, commented that the group is against Wal Mart for specific reasons and that it supports equal rights of all Americans. He explained that they thought the ordinance would be the best way to address the issue of a Super Wal
Mart, and spoke about another community where Wal Mart sent the issue to the electorate and effectively eliminated the review process.

George Schrof stated it is wise of the Council to reconsider its decision and indicated that the General Plan has a provision for this type of project.

David Broadwater commented that Wal Mart's project application was on file prior to the last City Council meeting and he does not see that any circumstances have changed. He questioned the Brown Act given what was said in the newspaper, and wondered if Council will stand by the General Plan and the zoning.

Tino Santos stated he can’t understand the hatred for a company that has a right to establish itself as long as it meets the requirements, and spoke in favor of an election.

Daniel George apologized to Mayor Luna for a letter to the editor that he wrote and stated he would be just as opposed to this type of project no matter who wanted to do it, as it is a bad fit for the community. He spoke in favor of the ordinance to keep a small town feel for Atascadero.

Dana Margon urged the Council to research Wal Mart and come to its own conclusion, and asked how Atascadero would be remembered in the future.

Ann Ketcherside stated she has questions regarding Mayor Luna changing his vote, and concerns with the application issue.

Mike Jackson disputed the statement that all the surrounding towns have a Big Box Ordinance, and stated the city wields the General Plan like a hammer when it benefits them. He commented that the city has run many businesses out of town.

Doug Mollar stated he has been a commercial real estate developer in the past and empathizes with the developers, but that the city must stick with the General Plan.

Jonalee Istenes stated her support for a Big Box Ordinance, and her belief that staff should do the research to determine the size of a store to be allowed in any ordinance. She commented that an ordinance would also serve to impose design criteria on this type of store.

Ron Rothman stated he was concerned that decisions have been made before public input has been taken. He spoke in favor of staff developing a Big Box Ordinance that would not take effect until after the Annex application.

Mark Phillips stated he supports the Big Box Ordinance, was concerned that the decision has already been made to abandon it, and suggested the city consider looking at the costs of an ordinance as well as the costs of a lawsuit.

Mayor Luna closed the Public Comment period.
MOTION: By Mayor Luna and seconded by to Council Member Béraud to reconsider the direction to staff at the January 23rd meeting to draft a Big Box Ordinance.
Motion passed 5:0 by a roll-call vote.

MOTION: By Mayor Luna and seconded by Council Member Béraud to direct staff to not prepare a Big Box Ordinance at this time.
Motion passed 5:0 by a roll-call vote.

2. Controversial agenda items – Request to discuss placing controversial agenda items at the beginning of agendas to accommodate the participating public. (Council Member Clay)

Council Member Clay requested that items which staff and Council recognize as controversial be placed at the beginning of the agenda. He explained that it is wrong to ask those who want to make a comment to wait until late in the meeting.

Mayor Luna stated that where possible, he agreed with placing controversial items early in the agenda.

Council Member O'Malley commented that he does not want to limit public comment but because of lengthy Community Forum periods it sometimes is not possible to get to many items of importance to the community. He would rather get more business done at meetings and keep projects moving forward by quickly handling some items before moving to the more controversial.

Mayor Pro Tem Brennler stated that if smaller items are put to the back of the agenda, those people would have to wait a long time for a minor issue to be resolved.

Council Member O'Malley stated he would like to see Presentations moved ahead of Community Forum as many times there are small children who must wait to receive their recognition.

There was Council consensus that this item would be looked at during the Strategic Planning Session.

3. Length of City Council meetings – Request to consider options. (Council Member Béraud)

Council Member Béraud indicated that there are other options available to deal with the length of meetings, and asked City Manager Wade McKinney to comment on those options.
City Manager McKinney encouraged a discussion of these options as part of Strategic Planning. He indicated they have looked at cities that add an additional meeting until they have handled a bulk of items, in addition items prioritized at Strategic Planning will be placed ahead of items with less priority. Staff has also looked at doing regular business at one Council meeting and new initiatives at another.

City Attorney Patrick Enright commented that other agencies such as the Board of Supervisors schedule certain items for a specific time.

Council Member Béraud questioned what kind of decisions can be made when Council goes past 11:00 p.m., and asked whether Council can ask the citizens to stay past 11:00.

There was Council consensus that this item would be looked at during the Strategic Planning Session.

Council Member Béraud referred to a letter inviting the City Council to a demonstration at Atascadero State Hospital regarding staffing issues. She stated it is important for Council to support the efforts of the hospital to be fully staffed, and recommended agendizing this for a future Management Report.

There was Council Consensus to write a letter to the Governor asking him to appoint a member of the Council as a liaison to Atascadero State Hospital.

PUBLIC COMMENT

Eric Greening explained why it was a good idea to have minor projects handled at the beginning of meetings and suggested one way to handle large numbers of people is to give those wanting to take only a minute or two the first opportunity to speak then those with prepared comments would come after.

Mayor Luna closed the Public Comment period.

Council Member Béraud referred to the letter Council has received from Bob Kelley making a formal complaint, and commented that she believes this is out of the Council’s jurisdiction and that she upholds the City Manager’s decision.

Mayor Pro Tem Brennler stated he also supports the City Manager’s decision and does not favor reinvestigating the matter at public expense.

Council Member Clay indicated that it was unfortunate that only three people of the seven in attendance were interviewed, and that he does not think anybody did anything wrong.

Council Member O’Malley suggested there must be a clearer stated process on how complaints are handled.
A. CONSENT CALENDAR:

   - City Clerk Recommendation: Council approve the City Council meeting minutes of January 9, 2007. [City Clerk]

2. December 2006 Accounts Payable and Payroll
   - Fiscal Impact: $1,980,937.87.
   - Recommendation: Council approve certified City accounts payable, payroll and payroll vendor checks for December 2006. [Administrative Services]

3. Chico Road – Traffic Way Drainage Improvement Project (Change Order #1)
   - Description: Request for approval of additional funding for drainage improvements at the intersection of Traffic Way and Chico Road.
   - Fiscal Impact: Expenditure of $3,556.53 in previously allocated Drainage Improvement funds.
   - Recommendation: Council authorize the Administrative Services Director to approve Change Order #1 for the Chico Road – Traffic Way Drainage Improvement project to Ajay Excavating, Inc. in the amount of $3,556.53. [Public Works]

4. Temporary Road Closure – Coromar Avenue (Paladini)
   - Description: Approval would grant the two-day day-time road closure request of Coromar Avenue to allow a new home to connect to the public sewer main.
   - Fiscal Impact: None.
   - Recommendation: Council approve the temporary road closure request by Pamela Paladini to close Coromar Avenue on February 21st – 22nd, 2007, from 9:00 a.m. – 4:30 p.m. [Public Works]

5. Historic Banker House Planned Development / ZCH 2005-0109 (5715/5735 Rosario Ave. / Ravatt)
   - Description: Project approval would allow a 10-unit residential planned development on a project site that is currently developed with a single family residence that has been identified as a Colony Home.
   - Fiscal Impact: Based on the revenue projections from the Taussig Study, the City has developed standard conditions of approval for new development projects that require the cost of maintenance and emergency services to be funded by the project through a combination of road assessment districts, landscape and lighting districts and community facilities districts or other approved means.
   - Recommendations: Council:
1. Adopt on second reading, by title only, Draft Ordinance A approving Zone Change 2006-0128 based on findings to establish Planned Development Overlay Zone #28; and,
2. Adopt on second reading, by title only, Draft Ordinance B approving Zone Change 2005-0109 based on findings. [Community Development]

**MOTION:** By Council Member O’Malley and seconded by Council Member Béraud to approve Items #A-1, 2, 3, 4 and 5.  
*Motion passed 5:0 by a roll-call vote. (Item #A-5.1 Ordinance No. 505, Item #A-5.2 Ordinance No. 506)*

**B. PUBLIC HEARINGS:**

1. **Road Abandonment 2006-0017 / Request to Summarily Vacate an Undeveloped Portion of East Front Road (Jacobson/Patel)**
   - **Description:** Upon approval, the City would abandon a 5400 square foot undeveloped portion of East Front Road to accommodate the construction of an 80 room, four story hotel.
   - **Disclosure of Ex Parte Communications**
   - **Fiscal Impact:** No significant fiscal impact is anticipated with this road abandonment.
   - **Recommendations:** Planning Commission Recommends Council:
     1. Adopt Draft Resolution A summarily vacating an undeveloped portion of East Front Road right-of-way based on findings and subject to conditions of approval; and,
     2. Seek market rate compensation for the undeveloped portion of East Front Road Right of Way. [Public Works]

Community Development Director Warren Frace gave the staff report and with Public Works Director Steve Kahn answered questions of Council.

**PUBLIC COMMENT**

Ted Jacobson, applicant, spoke about the request, gave a brief history of the land at issue and spoke of the costs incurred in the building of this project. Mr. Jacobson stated the city will be more than compensated for the land through the fees, property tax increase and TOT’s it will receive by the development of the project and he should not have to pay the market value of the land to the city. Mr. Jacobson answered questions of Council.

Sandy Jack stated that since the Planning Commission meeting where he made the motion he has had the opportunity to speak with Mr. Jacobson and gained additional information that he did not possess at that time. He indicated that if he had that knowledge at the time, he would not have made the motion.
Jonalee Istenes stated the city should be very careful about any road abandonment as this is public property and could have trails or bike paths across it.

*Mayor Luna closed the Public Comment period.*

**MOTION:** By Council Member O’Malley and seconded by Council Member Clay to adopt Draft Resolution A summarily vacating an undeveloped portion of East Front Road right-of-way based on findings and subject to conditions of approval, and minus the requirement for the applicant to pay any market rate compensation.

*Motion passed 5:0 by a roll-call vote. (Resolution No. 2007-005)*

C. MANAGEMENT REPORTS:

1. **Broadcasting of City Council Meetings**
   - **Description:** Request for Council direction concerning the broadcasting of City Council meetings.
   - **Fiscal Impact:** The cost for implementing the staff recommendation will range from approximately $34,000-49,000 annually depending on the desired options. In addition to this annual cost, $30,000-$40,000 will be required to set up the in-house camera system, which can be covered by PEG fee revenue.
   - **Recommendations:** Council direct staff to:
     1. Begin negotiations with Charter Communications regarding the implementation of a PEG fee with the proceeds to be used for installation of cameras and related recording and transmission equipment in the City Council Chamber; and,
     2. Design an appropriate in-house audio and video recording system; and,
     3. Implement live broadcasts of City Council meetings on Charter Cable channel 20, live web streaming over the Internet and a video-on-demand archive system; and,
     4. Solicit bids from broadcasting and web streaming companies; and,
     5. Enter into agreement with AGP Video of Morro Bay to broadcast Council meetings until the permanent in-house system and vendor are established. [City Manager]

Assistant City Manager Jim Lewis gave the staff report and answered questions of Council.

**MOTION:** By Council Member Clay and seconded by Mayor Luna to go past 11:00 p.m.

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

Nancy Castle, AGP Video, explained the options available and costs involved.

David Broadwater explained why he supports broadcasting Council meetings. He encouraged Council to direct staff to negotiate with Charter for the maximum and not settle for anything less than 1% for the PEG fees because the city may want to do this for other meetings.

Marty Brown stated she supports televising the City Council meetings as well as continuing to broadcast them on the radio.

*Mayor Luna closed the Public Comment period.*

**MOTION:** By Council Member O’Malley and seconded by Council Member Clay to begin negotiations with Charter Communications regarding the implementation of a PEG fee with the proceeds to be used for installation of cameras and related recording and transmission equipment in the City Council Chamber; and, design an appropriate in-house audio and video recording system; and, implement live broadcasts of City Council meetings on Charter Cable channel 20, live web streaming over the Internet and a video-on-demand archive system; and, Solicit bids from broadcasting and web streaming companies; and, Enter into agreement with AGP Video of Morro Bay to broadcast Council meetings until the permanent in-house system and vendor are established.

*Motion passed 5:0 by a roll-call vote. (Contract No. 2007-002)*

2. **City Council Strategic Planning**

   - **Description:** The City Council will discuss, and receive public input, on potential issues to be considered at their Strategic Planning Workshop.
   - **Fiscal Impact:** None.
   - **Recommendations:** Council:
     1. Invite community input regarding potential strategic planning issues for the February 23-24, 2007 workshop (there will be additional opportunities at the workshop); and,
     2. Add potential strategic planning issues from Council Members (there will be additional opportunities at the workshop); and,
     3. Review meeting logistics. [City Manager]

City Manager Wade McKinney gave the staff report and answered questions of Council.
Council Member O’Malley stated he supports the recommended format and suggested the city not entertain any additional goals that might be bought up at the time of the Council meeting.

Mayor Pro Tem Brennler suggested adding code enforcement complaints in relation to confidentiality. In addition he would like to have an employee satisfaction survey directed toward city management, including the Commissions and Council, and that it not be done in-house.

Mayor Luna stated he would like to see statistics on employee retention department by department.

Council Member Béraud stated she would like to consider a natural resources protection program.

Council Member O’Malley stated that it is important to reprioritize the list of to-do’s in light of income projection.

PUBLIC COMMENT

Mark Phillips commented that the process should include many opportunities for the public to speak, and asked where he could get a copy of the list. City Manager McKinney stated the revised list would be posted on the city’s website.

Mayor Luna closed the Public Comment period.

MOTION: By Council Member O’Malley and seconded by Council Member Clay to adjourn the meeting.

Motion passed 4:1 by a roll-call vote. (Béraud opposed)

ADJOURNMENT:

Mayor Luna adjourned the meeting at 11:53 p.m. to the next regularly scheduled meeting of the City Council on February 27, 2007.

MINUTES PREPARED BY:

Grace Pucci, Deputy City Clerk

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

Exhibit A – Doug Mollar, Wal Mart handout