CITY OF ATASCADERO
CITY COUNCIL

DRAFT MINUTES

Tuesday, December 12, 2006, 7:00 P.M.

REGULAR SESSION: 7:00 P.M.

Mayor O’Malley called the meeting to order at 7:00 p.m. and Council Member Clay led the Pledge of Allegiance.

ROLL CALL:

Present: Council Members Clay, Luna, Pacas and Mayor O’Malley

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, Public Works Director Steve Kahn, Community Development Director Warren Frace, Community Services Director Brady Cherry, Fire Chief Kurt Stone, Police Chief John Couch, Deputy Community Development Director Steve McHarris, and City Attorney Patrick Enright.

COMMUNITY FORUM:

Mike Casey, Ministerial Association, led those present in prayer.

Eric Greening thanked Mayor Pro Tem Pacas for her service, and spoke about Council committee assignments. Mr. Greening commented on the presentation made by the Cal Poly students to the Planning Commission regarding designs for the downtown.
David Broadwater referred to the California Public Records Act and its requirements, read statements from the Attorney General’s booklet, and spoke about his recent attempts to procure records from City Hall.

City Attorney Patrick Enright stated he would look into Mr. Broadwater’s comments.

Tom Colemeyer, spokesperson for Oppose Wal Mart, stated that land use and development played a large role in the recent election, and spoke about the negative aspects of Wal Mart.

Charley Whitney, SLO County Transfer of Development Credits Blue Ribbon Committee, invited the City of Atascadero to participate on the committee.

Joni Biaggini, Executive Director SLO County Visitors and Conference Bureau, recognized the efforts of the Council and particularly Mayor O’Malley in championing the tourism industry especially in Atascadero.

Mayor O’Malley closed the Community Forum period.

APPROVAL OF AGENDA:

MOTION: By Council Member Luna and seconded by Council Member Clay to approve the agenda. 
Motion passed 4:0 by a roll-call vote.

A. CONSENT CALENDAR:

1. City Council Meeting Minutes – November 14, 2006
   - City Clerk Recommendation: Council approve the City Council meeting minutes of November 14, 2006. [City Clerk]

2. Reciting the Fact of the Special Municipal Election – November 7, 2006
   - City Clerk recommendation: Council adopt Draft Resolution, reciting the fact of the Special Municipal Election held on November 7, 2006, declaring the result and such other matters as provided by law. [City Clerk]

   - City Clerk recommendation: Council adopt Draft Resolution, reciting the fact of the General Municipal Election held on November 7, 2006, declaring the result and such other matters as provided by law. [City Clerk]
4. **October 2006 Accounts Payable and Payroll**
   - **Fiscal Impact:** $3,108,324.02.
   - **Recommendation:** Council approve certified City accounts payable, payroll and payroll vendor checks for October 2006. [Administrative Services]

Mayor O’Malley noted that Item #A-2 had an error in the original printing, which has since been corrected.

City Clerk Torgerson reviewed the changes to Item #A-2, the Resolution for the special election to fill the vacancy left by the resignation of Council Member Scalise. Under Section 4, bottom of 1st page, it should read: “Mike Brennler was elected as a member of the City Council for the remaining two years of a four year term.”

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

Motion passed 4:0 by a roll-call vote. (Item #A-2 Resolution No. 2006-098, Item #A-3 Resolution No. 2006-099)

**OATHS OF OFFICE:**

1. **Administration of Oaths of Office** – Newly-elected Council Members Ellen Béraud, Mike Brennler, and Tom O’Malley, City Clerk Marcia McClure Torgerson, and City Treasurer Joseph Modica will be sworn in by Deputy City Clerk, Grace Pucci.

Deputy City Clerk Grace Pucci administered the Oaths of Office to Newly-elected Council Members Ellen Béraud, Mike Brennler, and Tom O’Malley, City Clerk Marcia McClure Torgerson, and City Treasurer Joseph Modica.

*Council Members Béraud and Brennler joined the meeting.*

**CITY COUNCIL REORGANIZATION:**

1. **Council Appointment of Mayor** – The City Clerk will accept nominations from the Council Members.

**MOTION:** By Mayor O’Malley and seconded by Council Member Clay to nominate Council Member Luna to the position of Mayor.

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

2. **Council Appointment of Mayor Pro Tem** – The new Mayor will accept nominations from the Council Members.
MOTION: By Council Member O’Malley and seconded by Council Member Clay to nominate Council Member Béraud to the position of Mayor Pro Tem.

Council Member Béraud declined the nomination.

MOTION: By Council Member Béraud and seconded by Council Member O’Malley to nominate Council Member Brennler to the position of Mayor Pro Tem. 
Motion passed 5:0 by a roll-call vote.

PRESENTATIONS:

1. Presentation to Outgoing Council Member Becky Pacas

Mayor Luna thanked outgoing Council Member Pacas for her service to the community and presented her with an award of recognition.

Council Member O’Malley spoke about how he and Council Member Pacas had worked to build consensus on the Council and reviewed some of their accomplishments.

Council Member Clay spoke about Council Member Pacas’ growth on the Council and her complete independence, and hopes she will continue to be active in the community as far as city business is concerned.

Council Member Béraud commented that Council Member Pacas has been an inspiration to her and she appreciates the energy she has given to the community.

Mayor Pro Tem Brennler thanked Council Member Pacas for her service to the Community.

Outgoing Council Member Pacas spoke about serving with the Council and recognized Council Members O’Malley and Clay for their love of the community and the way they treat the public. She complimented the staff and thanked Council for their team work.

Council Member Béraud thanked those who voted for her, and spoke about the importance of working together and of her priorities for her coming term.

Mayor Pro Tem Brennler thanked his family and friends for their support and encouragement and spoke about his agenda for his term in office.

Council Member O’Malley thanked his wife for her support and thanked the voters for the opportunity to serve his community.
Council Member Clay wished the new Council his best and expressed his concern that all members of the community will be considered in all decisions.

Mayor Luna spoke about the message of the last election, his objectives for the new Council, and thanked the community for the opportunity to serve as their mayor.

*Mayor Luna recessed the hearing at 7:45 p.m.*

*Mayor Luna called the meeting back to order at 8:03 p.m.*

**COUNCIL ANNOUNCEMENTS AND REPORTS:**

Council Members made the following Commission Appointments:

Council Member Béraud  
Planning Commission: Dan O'Grady  
Parks and Recreation Commission: Sorrel Marks

Council Member Brennler  
Planning Commission: Douglas Marks  
Parks and Recreation Commission: Jay Sechrist

Council Member O'Malley  
No changes in his appointments

Mayor Luna asked Council Members to individually give direction to staff on consensus items they would like staff to tackle in the coming months. Each item was discussed by Council and the following are the items on which consensus was reached:

*There was Council consensus for staff to come back with a Turlock-style ordinance that can withstand legal attack and with the various parameters necessary, i.e. CEQA analysis, etc.*  (Mayor Luna)

*There was Council Consensus to start the ball rolling on a visioning process on what the community would like to do in cooperation with the property owners at the Del Rio interchange.*  (Mayor Luna)

*There was Council Consensus for staff to look into the idea of televising and/or web casting Council meetings for further discussion at strategic planning.*  (Council Member Béraud)
PUBLIC COMMENT

David Broadwater read from the current cable franchise agreement which states “The Cable Company agrees to modify the language of the existing franchise agreement to provide for Public Educational Governmental (PEG) television broadcasting access capability should Council determine the need within the franchise period.”

Mayor Luna requested staff look into the current franchise agreement and make that part of the report at strategic planning.

Mayor Luna closed the Public Comment period.

There was Council agreement to discuss at a future meeting a public workshop or task force to look at Atascadero’s policies regarding the Public Records Act and Brown Act, and for Council do decide to either revise what exists or adopt sunshine ordinances. (Council Member Béraud)

Council Member Béraud reported on the presentation to the Planning Commission by Cal Poly students on the downtown and asked staff to provide a copy of the presentation to Main Street, Council and Planning Commission.

Mayor Pro Tem Brennler stated his full agreement on the issue of advancing a sunshine ordinance.

Council Member O’Malley stated he would like to see the Council continue working on the Colony Square project, Lewis Avenue Bridge and Youth Center, and stated his intention to personally work on health care issues, tourism and historic preservation.

There was Council consensus to direct staff to prepare an outline of all that is going on in tourism and what staff efforts are and to present that as a future management report. (Council Member O’Malley)

There was Council consensus to support staff researching the Mills Act for possible implementation to assist property owners with historic preservation. (Council Member O’Malley)

PUBLIC COMMENT

Geraldine Brasher, Atascadero Historical Society, stated Society members would be willing to help in any way with preservation issues.

Mayor Luna closed the Public Comment period.

There was Council consensus to bring back a review of work force housing, equity sharing, loan program etc. to help city employees who wish to live in Atascadero. (Council Member Clay)
PUBLIC COMMENT

Eric Greening suggested staff could look into not building the cost of parking into affordable housing but rather make it a cost of auto ownership.

Mayor Luna closed the Public Comment period.

There was Council consensus for staff to prepare a strategy and discussion piece for Strategic Planning on how to brainstorm and include public input on the issue of expanding commercial development in the community. (Council Member Clay)

A. CONSENT CALENDAR (Continued):

5. City Council 2007 Meeting Schedule
   ▪ Fiscal Impact: None.
   ▪ Recommendation: Council approve City Council meeting schedule for 2007. [City Manager]

6. Final Map 2005-0121 (Tract 2522) 7955 Curbaril Avenue (TTM 2004-0050) (Gearhart)
   ▪ Fiscal Impact: None.
   ▪ Recommendations: Council:
     1. Adopt and approve Final Map 2005-0121 (Tract 2522); and,
     2. Reject, without prejudice to future acceptance, the offer of dedication for Public Utility Easement on behalf of the public. [Public Works]

7. Final Map 2006-0140 (Parcel Map AT 05-0142) 5155 Escarpa Ave. (TPM 2005-0072) (Miles)
   ▪ Fiscal Impact: None.
   ▪ Recommendation: Council accept Final Parcel Map 2006-0140 (Parcel Mat AT 05-0142). [Public Works]

Items pulled: Eric Greening Item #A-5.

MOTION: By Council Member O'Malley and seconded by Council Member Clay to approve Items #A-6 and 7.
Motion passed 5:0 by a roll-call.

Item #A-5

Eric Greening suggested amending the calendar to include the Strategic Planning dates as well as any future dates for a joint walking meeting of the downtown with the Commissions and the date for the Del Rio interchange meeting.
Richard Mullen stated it would be a public service to get a schedule of all meetings to the newspaper so they could publish a year's calendar of meetings and special meetings for the public.

Ann Fletcher spoke about the city's website and commented that it still lists Council meetings at the old City Hall location.

Mayor Luna closed the Public Comment period.

MOTION: By Council Member O'Malley and seconded by Council Member Béraud to approve the amended 2007 City Council meeting schedule with the inclusion of the dates for the Strategic Planning Session. Motion passed 5:0 by a roll-call vote.

B. MANAGEMENT REPORTS:

1. Amendment to Atascadero Municipal Code on Relationship of Council and Commissioners to Staff; Revision to Council Norms and Adoption of Commissioner Norms
   ▪ Fiscal Impact: None.
   ▪ Recommendations: Council:
     1. Introduce for first reading, by title only, Draft Ordinance which amends the Atascadero Municipal Code relating to the Council's relationship with Staff, and the Commissions’ relationship with Staff; and,
     2. Adopt Draft Resolution, amending the Council Norms and adopting Norms for the Planning Commissioners and Parks and Recreation Commissioners; and,
     3. Review and give staff direction on Draft Ethics Policy. [City Attorney]

City Attorney Patrick Enright gave the staff report regarding the relationship of Council and Commissions to staff and answered questions of Council.

PUBLIC COMMENT

Dan O'Grady inquired whether Council was planning on obtaining the opinions of the Commissioners before implementing the Ordinance. Mayor Luna explained why they were not.

Roberta Fonzi commented that she was in favor of ethics regulations, but that Commissioners must be allowed to approach staff for information in relation to items that are coming before the Commissions for consideration.

Mayor Luna closed the Public Comment period.
MOTION: By Council Member O'Malley and seconded by Council Member Clay to Introduce for first reading, by title only, Draft Ordinance which amends the Atascadero Municipal Code relating to the Council’s relationship with Staff, and the Commissions’ relationship with Staff with the amendments as recommended by the City Attorney.  
Motion passed 5:0 by a roll-call vote.

City Attorney Patrick Enright gave the staff report on Council and Commission Norms.

Council Member Clay suggested adding verbiage in the Norms to the effect that if a member of the City Council, Planning Commission or Parks and Recreation Commission has concerns or complaints of staff it would be a courtesy to go to the City Manager first before going to the media.

There was Council agreement to add a Condition No. 24 under Council Norms and No. 19 under Commission Norms to read as follows: “Council Members and Commissioners shall notify the City Manager first of any complaints or concerns regarding a city employee.”

There was Council agreement to amend the language of Council Norm No. 8 changing “hot issue” to “controversial issue.”

Council Member Béraud suggested including a more complete description of agenda items on the Agenda itself.

There was Council agreement to amend No. 5 to read: Commissioners shall notify the Community Development Director or Community Services Director when they are going to be absent from a Commission meeting.

PUBLIC COMMENT

Ann Fletcher commented that some of the wording is a little rough and agreed that “hot issue” should be changed to “controversial” and under Norm No. 26 the term “blindside” is inappropriate, and suggested “advance notification.”

Dan O’Grady thanked Council Member O’Malley for opening up Commissioner Norms for input from the Commissions.

Mayor Luna closed the Public Comment period.

There was Council consensus to send the norms back to staff for corrections, then send on to relevant Commissions for review, then brought back to Council on the Consent Calendar.
City Attorney Patrick Enright gave the staff report on the draft Ethics Policy and answered questions of Council.

Council suggestions included:
1. Checking with other towns on their ethics policies as well as the League of California cities.
2. Organizing a community workshop or a committee with members of the public involved.
3. Use of an extensive public process involving an education component.
4. Putting together a brief training or orientation with the City Attorney’s view of some of the questions raised by the public, with an opportunity for public input.

PUBLIC COMMENT

David Broadwater referred to a letter he had emailed to Council Members (Exhibit A), and spoke about the content of the code itself and the process followed to create it, and made suggestions on how to proceed with both aspects. He stated the importance of involving the public from the beginning.

Pamela Marshall Heatherington stated many ethic policy models should be brought to the public with a series of workshops and with the inclusion of Cal Poly.

Mayor Luna closed the Public Comment period.

Council directed staff to follow the recommendations in Mr. Broadwater’s handout (page one, items #1 through 4, and page three items #1 through 3) and then bring a staff report back to the Council to determine where to go from there.

2. Amendment to Municipal Code to Reduce the Number of Commissioners; Amend Appointment Process; Revision of Resolution for the Selection of Committee, Commission and Board Members
- Fiscal Impact: None.
- Recommendations: Council:
  1. Introduce for first reading, by title only, Draft Ordinance, amending Chapter 9 and 13 of Title 2 of the Atascadero Municipal Code relating to the appointment of Planning Commission members and Parks and Recreation Commission members; and,
  2. City Council adopt Draft Resolution, revising the procedures for the selection of committee, commission and board members. [City Attorney]

City Attorney Patrick Enright gave the staff report.
Council Remarks

Council Member O’Malley:
1. There is some benefit to having broader public representation and more members of the community participating in the process. He is supportive of continuing the Commissions at seven members rather than five.
2. Suggested that the Parks and Recreation Commission Student Representatives have the ability to vote.
3. Removal of a Commissioner should be by a Council super majority, not at the pleasure of the appointing Council Member.

Council Member Clay:
1. Supports maintaining the Commissions at seven members each, this number would more easily allow for a quorum if there are absences.
2. Is not in favor of Commissioners serving at the pleasure of their appointing Council Member, this practice might force a Commissioner to vote as a Council Member would like.
3. Suggested a one year appointment for Commissioners, then if there is a problem with a Commissioner he or she would not be reappointed.

Mayor Pro Tem Brennler:
1. Was troubled with the reduction in Commissioners given the past good service of the at-large Commissioners.
2. Was concerned that a reduction would mean losing additional perspectives from the community.
3. If the pool is reduced citizens lose the opportunity to educate themselves for other public service.
4. He is partial to removal of a Commissioner by a super majority.

Mayor Luna:
1. Both Commissions are advisory bodies to the City Council therefore a reduction would have nothing to do with checks and balances.
2. Serving at the pleasure of the appointing authority is important for accountability purposes.
3. Maintaining seven Commissioners limits the voice of individual Council Members
4. Five members provides more easily for a quorum.
5. He does not have a problem if removal of a Commissioner is at the pleasure of the Council or even a super majority of the council.

Council Member Béraud:
Chose to hold her comments until hearing from the public.
PUBLIC COMMENT

Roberta Fonzi, Planning Commissioner, expressed concern with the policy in general, and spoke of the importance of citizen involvement in city government. She stated the two at-large commissioners offer a unique and diverse point of view, and that it is important for the Council to hear points of view that may be divergent from their own.

Barbie Butz, Parks and Recreation Commissioner, spoke in favor of giving the Student Representatives the ability to vote. She stated the importance of having more input from the community and commented that the Commissions offer a training area for future leaders. She was supportive of leaving the Commissions at seven members each.

Eric Greening indicated he liked having the majority of appointments being individual; however he agrees that part of an open, community-friendly process is having applications from people that are not known to the Council. He did not support changing the number of Commissioners.

Steve LaSalle spoke in favor of a Commissioner being accountable to their appointing Council Member and supported the reduction to 5 members.

Ann Hatch urged Council to refrain from reducing the Commissions from seven to five as this risks being perceived as limiting public input into the process.

Geraldine Brasier suggested that regardless of the number of Commissioners, it is important to keep the two youth members on the Parks and Recreation Commission.

Bob Wilkins explained that he served on the original Council that determined the size of the Commissions and suggested that that number not be changed. He stated the city must keep people involved in serving the community.

Sorrel Marks suggested that if the Council decides to maintain seven members, it would be a good idea to have a unanimous rather than majority vote for the two at-large members, which insures that those members are broadly represented.

Marge Mackay stated she served on the first City Council and was against changing the Commissions to five members, which she thinks is undemocratic.

David Broadwater stated he becomes suspicious when a solution is proposed to a problem that is not accurately identified, and questioned whether this change was to consolidate control of the Commissions by the new Council majority.

Al Fonzi indicated that this is about checks and balances and accountability and the city would loose nothing if the Commissions were left at seven. He fears this would eliminate Commission members who are not politically inclined.
Mayor Luna closed the Public Comment period.

Mayor Luna withdrew his support for the proposal.

MOTION: By Council Member Béraud and seconded by Council Member O’Malley that when voting for the at-large Commissioners it be a unanimous vote.
Motion failed 2:3 by a roll-call vote. (Clay, Brennler, Luna opposed)

C. COMMITTEE REPORTS:

Council Member O’Malley

1. S.L.O. Council of Govts.(SLOCOG)/S.L.O. Regional Transit Authority (SLORTA): a) Recently got approval for the 41/101 overpass, cost increases in the future will not be the responsibility of the city, b) The city has received an additional $25,000 to go to the design of the footbridge, c) Will be making decisions on how the funds from Propositions 1A and 1B will be spent. Their top priority is the expansion of Highway 46 to four lanes from Paso Robles to Interstate 5, d) Will be applying for money from the gas tax windfall, and recommended that Council direct staff to move forward quickly in applying for these funds in a manner that would make the city more competitive for the Prop 1A and 1B funds.

Public Works Director Steve Kahn reported on possible projects for the funds.

PUBLIC COMMENT

Eric Greening explained the difference between the two windfalls: one is the gas tax, an ongoing and variable source of funding that can be used for transit operations, and the second is a capital funding component of Proposition 1B.

Mayor Luna closed the Public Comment period.

Council Member O’Malley (cont.)

SLOCOG: e) Spoke about the possibility of getting funding from SLOCOG to pave the area around the Lake Park Zoo, which could also be used for a Park and Ride lot.

2. Mayors Round Table: The maker of Proposition 90 is coming back with a rewrite to exclude utilities. Assemblyman Blakeslee is working on packages going before the assembly and Atascadero should get their requests in now.

MOTION: By Council Member O’Malley and seconded by Council Member Clay to go past 11:00 p.m.
Motion passed 5:0 by a roll-call vote.
4. League of California Cities: Going to conference in January.

Mayor Luna
1. Finance Committee: a) Met today and went through the CDBG recommendations, which will be forwarded to the County, b) Received an economic development update, c) The Buxton Report on business solicitations will go to each Council Member, d) Watched a PowerPoint on the financial condition of the City, which the Council will see in January.

D. INDIVIDUAL DETERMINATION AND/OR ACTION:

City Council

Mayor Luna directed staff to advertise for the at-large position on the Planning Commission, with interviews taking place by the second meeting of January.

Council Member Clay spoke about Council Member O’Malley’s term as Mayor and described him as a dynamic Mayor whose service on many committees was very much appreciated.

City Manager

City Manager Wade McKinney distributed the capital projects listings and a mockup of the sign for the Lewis Avenue Bridge.

E. ADJOURNMENT:

Mayor Luna adjourned the meeting at 11:06 to the Redevelopment Agency meeting. The next regularly scheduled meeting of the City Council will be held on January 9, 2007.

MINUTES PREPARED BY:

Grace Pucci, Deputy City Clerk

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

Exhibit A – David Broadwater, email