CITY OF ATASCADERO
CITY COUNCIL

DRAFT MINUTES

Tuesday, September 9, 2008 - 6:00 p.m.

REGULAR SESSION: 6:00 P.M.

Mayor Pro Tem Béraud called the meeting to order at 6:00 p.m. and lead the Pledge of Allegiance.

ROLL CALL

Present: Council Members Luna, Clay, O’Malley, Mayor Pro Tem Béraud.

Absent: Mayor Brennler

Others Present: City Clerk / Assistant to City Manager Marcia McClure Torgerson, and Deputy City Clerk Susanne Anshen.

Staff Present: City Manager Wade McKinney, Assistant City Manager Jim Lewis, Community Development Director Warren Frace, Public Works Director Steve Kahn, Police Chief Jim Mulhall, 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 4:0 by a roll-call vote.
PRESENTATIONS:

1. Recognition of Steven B. Kahn, City Engineer / Director of Public Works, for his years of service to the City of Atascadero.

A. CONSENT CALENDAR:

   ▪ Recommendation: Council approve the City Council Meeting Minutes of May 27, 2008. [City Clerk]

2. Observance of Veterans Day - Proposed Cancellation of City Council Meeting on November 11, 2008
   ▪ Fiscal Impact: None.
   ▪ Recommendation: Council authorize staff to cancel the City Council meeting of November 11, 2008, as it is a national holiday, noting the next regularly scheduled meeting will be on November 25, 2008. [City Clerk]

3. Atascadero Creek Reservation No. 3 - Acceptance of Quitclaim Deed and Acceptance of Assignment and Assumption of Lease (Revised)
   ▪ Description: Atascadero Creek Reservation No. 3 is the portion of Atascadero Creek from the El Camino Real Bridge to the Lewis Avenue Bridge. The Atascadero Unified School District currently owns this property and the Atascadero Historical Society holds a lease on this property.
   ▪ Fiscal Impact: There are no direct fiscal impacts resulting from the acceptance of Atascadero Creek Reservation # 3. There may be future fiscal impacts associated with the acquisition, such as legal costs, maintenance and irrigation.
   ▪ Recommendations: Council adopt the Draft Resolution, thereby:
     1. Accepting interest in real property conveyed by the Quitclaim Deed dated October 02, 2007 from the Board of Trustees of the Atascadero Unified School District; and,
     2. Accepting Assignment and Assumption of the Atascadero Historical Society Lease to the City. [City Manager]

4. Purchase of Two Police Patrol Vehicles
   ▪ Fiscal Impact: The combined cost of both vehicles is $51,908.74 including sales tax, shipping fees and mandatory tire fees. Funds are provided in the 2008/2009 City Budget.
   ▪ Recommendation: Council authorize the purchase of two (2) police patrol vehicles from Downtown Ford Sales in Sacramento California at a total cost of $51,908.74. [Police]
5. **Balboa Road Emergency Access Grading Improvements**
   - **Fiscal Impact:** An additional $15,060.00 over what was previously budgeted for this project.
   - **Recommendation:** Council authorize the Administrative Services Director to re-direct an additional $15,060.00 in Local Transportation Funds from the Road Rehabilitation 5-Year Maintenance Project to the Balboa Road Project. [Public Works]

6. **Final Map 2008-0169 (Parcel Map AT 07-0290) 7095 El Camino Real (TPM 2007-0093) - Adam Scattini**
   - **Fiscal Impact:** None.
   - **Recommendations:** Council:
     1. Adopt and approve Final Parcel Map 2008-0169 (Parcel Map AT 07-0093); and,
     2. Authorize and direct the City Clerk to endorse the Council’s approval on the Map. [Public Work]

**MOTION:** By Council Member Luna and seconded by Council Member Clay to approve Items A-1 through A-6 of the Consent Calendar. (Item A-3, Resolution No. 2008-059)

*Motion passed 4:0 by roll-call vote.*

**COMMUNITY FORUM:**

Pam Heatherington announced she is running for City Council and discussed the issues that are most important to her as a candidate.

David Broadwater spoke about posting late contributions on the Internet and how long before the election date they should be reported; and he suggested the deadline should be 30 days because of mail-in ballots.

Marge Mackey stated the Atascadero Land Preservation Society has formed a group that will advocate restoration of Stadium Park for use by the citizens and schools. Citizens can call her at 466-1811 to join.

Mike Jackson spoke about the sidewalk near the carwash and elm trees on West Mall that are very overgrown. He also spoke about the real estate financing market for first-time home buyers and FHA’s refusal to finance condominiums. He urged the City to help approve homes that will fit into FHA financing.

Jim Wilkins with the Atascadero Historical Society spoke about opening communication lines between the City and the Historical Society on important preservations issues.
Eric Greening thanked Steve Kahn for his service to the City and competence. He stated he hoped for a master plan for Stadium Park which will include public restrooms. He further asked about the timing to use the bus stop and parking area as a staging area before we get into the grant cycle for the permanent transit stop.

Lee Perkins spoke about Lon Allen’s article in the Tribune on Measure D-08 regarding the concern that big box stores may negatively impact the downtown and the traffic impact of expanding the Del Rio intersection.

Joanne Main with the Atascadero Chamber of Commerce read a statement from the Chamber Board of Directors, including the results of a survey of Chamber members conducted through an independent polling company. She further stated the Chamber favors a No vote on Measure D-08.

Roberta Fonzi commended Public Works Director Steve Kahn for a job well-done and for all his assistance to the Planning Commissioners.

Mary Arnold, Chairman of the Board for the Atascadero Chamber of Commerce, invited everyone to the Chamber’s Showcase Mixer on Thursday, September 18, 2008, from 5:00 p.m. to 7:30 p.m. at the Lake Pavilion.

Chuck Ward, a member of Atascadero Veterans’ Memorial Foundation, invited everyone to the formal dedication on Nov 7th, and to their fund raiser on Sept 20, at Lake Park, a motorcycle benefit ride called a Poker Run.

**Mayor Pro Tem Béraud Closed Community Forum.**

Mayor Pro Tem Béraud and Council Members asked staff questions regarding the public comments and discussion followed on the overgrown elm trees, FHA financing rules, Stadium Park and the need for restrooms for the Sunken Gardens.

**B. PUBLIC HEARINGS:**

1. **Federal Emergency Management Agency Requirement: Flood Damage Prevention Ordinance**
   - Disclosure of Ex Parte Communications: None.
   - Fiscal Impact: None.
   - Recommendation: Council introduce for first reading, by title only, a Draft Ordinance, amending Title 7, Chapter 11 of the Atascadero Municipal Code pertaining to Flood Damage Prevention. [Public Works]

Public Works Director Steve Kahn gave the staff report.

Ex Parte Communications: None.
Public Works Director Steve Kahn and City Attorney Brian Pierik answered questions of the Council.

PUBLIC COMMENT

Mary Arnold asked about changes to the FEMA designations and Public Works Director Steve Kahn answered the question.

*Mayor Pro Tem Béraud Closed the Public Comment period.*

**MOTION:** By Council Member Luna and seconded by Council Member O’Malley to introduce for first reading by title only the Draft Ordinance, amending Title 7, Chapter 11 of the Atascadero Municipal Code pertaining to Flood Damage Prevention. *Motion passed 4:0 by a roll-call vote.*

2. **Dormant Building Permit Applications Time Extensions -Title 8 Code Text Amendments**
   - Disclosure of Ex Parte Communications:
   - Fiscal Impact: Collection of unpaid plan check fees is estimated to provide a financial benefit to the City of approximately $150,000±.
   - Recommendation: Council introduce for first reading by title only the Draft Ordinance, amending Title 8 to retroactively extend dormant and expired single family residential, multi-family residential, industrial, and commercial building permit applications to June 30, 2010, once all outstanding, unpaid plan check fees have been paid; and to clarify the City’s building permit fee refund policy and Board of Appeals membership. [Community Development]

Community Development Director Warren Frace gave the staff report.

**Ex Parte Communications**

- Council Member O’Malley spoke with a number of folks in the building industry who are very thankful.

Community Development Director Warren Frace answered questions of the Council.

PUBLIC COMMENT

Geri Brasher Phemister asked what steps would be taken after the extension date to recover the fees; and Community Development Director Warren Frace stated that once the time is exhausted, they would be considered expired and would be turned over to collection.
Mayor Pro Tem Béraud Closed the Public Comment period.

Community Development Director Warren Frace answered questions of the public and Council Members.

MOTION: By Council Member O’Malley and seconded by Council Member Luna to introduce for first reading by title only the Draft Ordinance, amending Title 8 to retroactively extend dormant and expired single family residential, multi-family residential, industrial, and commercial building permit applications to June 30, 2010, once all outstanding, unpaid plan check fees have been paid; and to clarify the City’s building permit fee refund policy and Board of Appeals membership. Motion passed 4:0 by a roll-call vote.

C. MANAGEMENT REPORTS

1. Informational Background Report – Drive-Throughs – Overview of Zoning Issues and Impacts
   - Fiscal Impact: None.
   - Recommendation: Council provide staff and Planning Commission with policy interpretation and direction on drive-through facilities. [Community Development]

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

PUBLIC COMMENT

Lee Perkins asked what the downtown area designation was and what would happen to the current drive-throughs should those businesses leave—would new ones be allowed to replace them or would it be a separate request.

Pam Heatherington suggested the Council ask for presentations from both the Obesity Task Force for San Luis Obispo County as well as the Air Quality Control Board. As a Planning Commissioner, she spoke of her concern on duplicate restaurants in the City and feared Atascadero could become known as the “fast-food capital” of the county.

David Broadwater remarked on the listed drive-throughs in the presentation, and asked for a definition of the problem that the City is attempting to address.

Roberta Fonzi stated the Planning Commission had requested a public hearing on this issue as drive-throughs impact the physically impaired as well as air quality, and wanted to provide the citizens with a voice on this issue.
Eric Greening agreed all sectors of the community need to weigh-in on this issue. Eric Greening also spoke on the Board of Supervisors’ circumventing the local rights of cities.

Karyn Sturtevant spoke about having sick children in tow while attempting to pick up medications or meals, and stressed it was more of a health issue rather than a convenience issue.

**Mayor Pro Tem Béraud Closed the Public Comment Period.**

Council Member Luna asked staff about a moratorium on duplicate drive-throughs, and asked if the CUP process dealt with the land and not the applicant. Community Development Director Warren Frace indicated it would be difficult to legislate a limit on any one applicant, and it would probably need to be a Land-Use issue.

Mayor Pro Tem Béraud asked about downtown borders and the current drive-through uses. Community Development Director Warren Frace defined the downtown parameters and stated the current drive-throughs continue indefinitely as long as any lapse in use, regardless of ownership, does not continue for more than six months.

Council Member Clay spoke of his concern for the disabled, elderly, and soccer moms, and feels the current CUP process is adequate.

Mayor Pro Tem Béraud stated she would prefer to cap the number of drive-throughs at current CUPs and spoke about limiting drive-throughs to certain zones. She further asked staff about AB32. Community Development Director Warren Frace stated AB32 is a State mandate to reduce greenhouse gases, and projects must be analyzed subject to CEQA, with which we currently are complying.

Council Member O’Malley stated the current Conditional Use Permit process provides for a public hearing, and suggested we look at zoning requirements for certain areas. He also expressed concern about a negative economic impact on City revenues.

Council Member Luna spoke about government’s role and felt we should come back with a public hearing, or the next Council should address the issue in strategic planning sessions.

Council Member Clay stated caps and restrictions furthers Atascadero’s image as not being business friendly.

Council Member O’Malley stated he feels the strategic planning sessions would be the best venue for this topic.

Mayor Pro Tem Béraud stated she feels the role of government is to protect the public from growth that is unwanted, and the quality of how Atascadero grows is very important.
The Council unanimously agreed to bring this issue back as a topic for the future Council to review during strategic planning sessions.

2. Second Update on Economic Development Strategy
   - Fiscal Impact: None.
   - Recommendation: Council receive an update from representatives of Applied Development Economics on their progress to date regarding the economic development strategy. [City Manager]

Doug Svensson and Kathy Studwell (Applied Development Economics) gave the report and answered questions of the City Council.

Mayor Pro Tem Béraud recessed the meeting at 8:37 p.m.

Mayor Pro Tem Béraud reconvened the meeting at 8:56 p.m.

PUBLIC COMMENT

Dan Chacon suggests the subject of workforce be added to the report as a strength and add Cuesta College and Cal Poly as assets under “Workforce.”

Lee Perkins expressed concern that the workshop is the Saturday before Thanksgiving, and people may be leaving town.

Mayor Pro Tem Béraud Closed the Public Comment Period.

Mayor Pro Tem Béraud questioned Doug Svensson on the date selected for the workshop. Doug Svensson stated they were hoping to catch people before the holiday, and then if you get into December, people are too occupied. Assistant City Manager Jim Lewis answered some of the reasons for the date chosen. City Attorney Brian Pierik stated if the workshop was noticed as a special meeting, Council could attend as a whole.

The Council unanimously agreed to notice the workshop as a special meeting of the City Council so that all Council Members may attend, but not participate in, the meeting.

3. Proposed Government Channel Access Policy
   - Fiscal Impact: There is no fiscal impact to the City as a result of approving the attached Policy. However, funding is not available for the City to support programming of the government access channel at this time.
   - Recommendation: Council approve the attached draft Government Access Channel Policy for the City of Atascadero. [City Manager]
Assistant City Manager Jim Lewis gave the staff report and answered questions of the Council.

**PUBLIC COMMENT**

David Broadwater spoke about funding for candidate forums and where those funds would come from; and that he would like to see those discussions on budget televised. He also stated that on the draft policy, he would suggest other institutions should be able to use the channel for programs. And, finally, he spoke about building public trust and his feeling that sub-committee meetings should be televised.

Nancy Castle, co-owner of AGP Video, Inc., reviewed her memo dated September 9, 2008, which was handed to each Council Member this evening (Exhibit A) and which stated the policy is too restrictive; in particular, Item 1B should include produced programs that “have been endorsed by a department director to be of benefit to members of the community.” In regard to campaign forums, she would like to have it opened to all campaign forums. Finally, Item 3B precludes the hiring of an outside vendor to provide services, which needs to be reviewed because she feels that if you purchase equipment, you should be able to hire an outside vendor for assistance.

Lee Perkins urged the Council to include Measure D-08 in the candidate forums.

Joanne Main, Atascadero Chamber of Commerce, spoke about the candidate forums the Chamber has sponsored over the years, and hopes the services of the televised option will not go away. She also would like to be included if the policy will open the channel to other entities.

*Mayor Pro Tem Béraud Closed the Public Comment Period.*

Mayor Pro Tem Béraud addressed David Broadwater’s concern about secret subcommittee meetings, and stated the Council does not have secret meetings.

Assistant City Manager Jim Lewis, City Attorney Brian Pierik, and City Clerk Marcia Torgerson answered questions of the City Council.

**MOTION:** By Council Member Clay and seconded by Council Member Luna to approve the Government Access Channel Policy for the City of Atascadero.  
*Motion passed 3:1 on a roll-call vote. (Béraud opposing.)*
4. **Ordinance Amending Title 2, Chapter 1, Section 2-1.15 of the Atascadero Municipal Code, Pertaining to Voluntary Abstentions**

   - **Description:** This Ordinance, if adopted, would clarify the interpretation of an abstention vote.
   - **Fiscal Impact:** None.
   - **Recommendation:** Council introduce for first reading, by title only, the Draft Ordinance amending Title 2, Chapter 1, Section 2-1.15 of the Atascadero Municipal Code pertaining to voluntary abstentions. [City Attorney]

City Attorney Brian Pierik provided the staff report and answered questions of the City Council.

**PUBLIC COMMENT**

David Broadwater supports the traditional Robert’s Rules of Order, where an abstention would be considered a non-vote and recorded in minutes as such for citizens who want to track voting records.

*Mayor Pro Tem Béraud Closed the Public Comment Period.*

Mayor Pro Tem Béraud indicated this came as a request from the Planning Commission; and Community Development Director Warren Frace, City Clerk Marcia Torgerson, and City Attorney Brian Pierik answered further questions of City Council.

**MOTION:** By Council Member Clay and seconded by Council Member O’Malley to introduce for first reading, by title only the Draft Ordinance Amending Title 2, Chapter 1, Section 2-1.15 of the Atascadero Municipal Code pertaining to voluntary abstentions.

*Motion passed 3:1 on roll-call vote. (Luna opposing.)*

**COUNCIL ANNOUNCEMENTS AND REPORTS:** None

**D. COMMITTEE REPORTS**

Mayor Pro Tem Béraud will attend the Integrated Waste Management meeting tomorrow, and the City Schools has yet to set a meeting date.

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

None.
F. ADJOURNMENT:

The meeting was adjourned at 10:12 p.m. to the next regularly scheduled meeting of the City Council is on September 9, 2008.

MINUTES PREPARED BY:

Susanne Curtis Anshen, Deputy City Clerk

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

Exhibit A – Memo dated September 9, 2008, from AGP Video, Inc.