



Atascadero City Council

Staff Report - City Attorney's Office

Code Enforcement Complaint Ordinance

RECOMMENDATION:

Council introduce for first reading by title only the Draft Ordinance, amending the Atascadero Municipal Code by adopting section 2-15.06, requiring City Council members and Planning Commissioners to divulge certain conflicts of interest relating to code enforcement and planning and zoning code matters.

REPORT-IN-BRIEF:

The City Attorney has been requested to draft an ordinance to provide that members of the City Council and Planning Commission who file code enforcement complaints disclose that they filed such a complaint when the complaint comes before their body for a decision and recuse themselves from participating in such a decision. This ordinance would require disclosure and recusal from any member finding himself or herself in this type of situation.

DISCUSSION:

The City of Atascadero ("City") has adopted policies and forms for citizen complaints regarding Municipal Code compliance and enforcement, and enforcement of and revocation of Planning and Zoning Code approvals. Those policies and forms allow for confidentiality for any citizen making a Municipal Code compliance complaint. The City currently has no ordinance that would require a member of the City Council ("Council") or Planning Commission ("Commission") to reveal his or her involvement in such a complaint if the complaint results in a hearing before the Council or Commission. This has created a situation in which a member of the City Council or Planning Commission may both make the complaint that results in a code enforcement action or permit revocation action, and sit in judgment at the hearing.

The City Attorney has been requested to draft an ordinance that would resolve this

issue by requiring the Council or Commission Member who made a complaint that gives rise to an enforcement action to disclose his or her involvement in that action. The ordinance also requires any Council or Commission Member who made a complaint that gives rise to an enforcement action to also recuse himself or herself from participating in any decision on the matter. The attached ordinance achieves those goals.

Accordingly, a member of the Council or Commission who has made such a complaint should both disclose this fact and recuse himself or herself from participating in a decision about the complaint.

Method of Disclosure and Recusal:

If a member of the Council or Commission has made such a complaint and it comes before his or her body for a decision, then the member must state on the record that he or she has a conflict of interest due to the filing of the complaint and must step down from the dais. The member must leave the room and cannot comment on the matter.

FISCAL IMPACT:

None.

ALTERNATIVES:

1. Council direct City Staff or the City Attorney to prepare an alternate ordinance as set forth by the Council at this hearing.
2. Council take no action.

ATTACHMENT: Draft Ordinance