

City of Atascadero

Office of the City Clerk

TO: City Council

FROM: Marcia McClure Torgerson *MMT*
City Clerk / Assistant to the City Manager

SUBJECT: Additional Information Provided to City Council after
Agenda Packet Distribution

DATE: August 11, 2008

Attached is additional information that was provided after the City Council Agenda Packets were distributed. This information pertains to:

Agenda Item Number C-3

City Council Meeting Date: 8/12/08

This information will also be distributed to those on the Agenda Packet mailing list.

xc: W. McKinney



Atascadero City Council

Staff Report - City Attorney

Supplemental Report Campaign Finance Ordinances and Related Issues

DISCUSSION:

The City Attorney's Office (CAO) submitted a Report to the City Council at its meeting on July 8, 2008. At that meeting, the City Attorney presented the staff report and there were comments from the public. The Council continued this item to a future meeting for further consideration.

The July 8, 2008 Report included a discussion regarding the issues associated with posting Form 460s on the internet due to confidentiality issues, including the confidentiality of addresses for certain contributors including elected officials and criminal prosecutors.

The purpose of this Supplemental Report is to provide additional information on the confidentiality issue as it pertains to internet posting of Form 460s.

Government Code Section 6254.21(Attachment 18) provides that the city may not post on the internet the home address or telephone number of any elected or appointed official on the internet without first obtaining the written permission of that individual. Subsection (f) of 6254.21 gives 16 categories of person who are considered "elected or appointed officials" and #13 is public safety officials as defined in Section 6254.24(Attachment 19).

Section 6254.24 defines "public safety official" to include categories (a) to (l) which is another 12 categories. There is some overlap in the categories of those with confidential addresses which cannot be posted on the internet without written permission of the individual. However, it appears that there are approximately 25 categories of people that the City would have to redact addresses for if the 460s are to be posted on the internet which would involve a significant amount of manpower assuming the City was even able to identify which contributors fall into which of these categories. We believe this may explain why the cities which do post Form 460s on the internet redact the addresses.

FISCAL IMPACT:

Depending upon the direction we may receive from the City Council, we will then be in a position to provide an estimate of the expenses that would be associated with the preparation of any documents or further reports, the extent of staff time which would be involved with implementing Council direction and the cost of enforcement of any campaign ordinance.

ATTACHMENTS:

1. Government Code Section 6254.21
2. Government Code Section 6254.24



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Effective: January 1, 2006

West's Annotated California Codes Currentness

Government Code (Refs & Annos)

Title 1. General

Division 7. Miscellaneous

Chapter 3.5. Inspection of Public Records (Refs & Annos)

Article 1. General Provisions (Refs & Annos)

→ § 6254.21. Posting or sale of elected or appointed official's personal information on Internet; remedies for violation; liability of computer service or software provider

(a) No state or local agency shall post the home address or telephone number of any elected or appointed official on the Internet without first obtaining the written permission of that individual.

(b) No person shall knowingly post the home address or telephone number of any elected or appointed official, or of the official's residing spouse or child on the Internet knowing that person is an elected or appointed official and intending to cause imminent great bodily harm that is likely to occur or threatening to cause imminent great bodily harm to that individual. A violation of this subdivision is a misdemeanor. A violation of this subdivision that leads to the bodily injury of the official, or his or her residing spouse or child, is a misdemeanor or a felony.

(c)(1) No person, business, or association shall publicly post or publicly display on the Internet the home address or telephone number of any elected or appointed official if that official has made a written demand of that person, business, or association to not disclose his or her home address or telephone number. A written demand made under this paragraph by a state constitutional officer, a mayor, or a Member of the Legislature, a city council, or a board of supervisors shall include a statement describing a threat or fear for the safety of that official or of any person residing at the official's home address. A written demand made under this paragraph by an elected official shall be effective for four years, regardless of whether or not the official's term has expired prior to the end of the four-year period. For this purpose, "publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public.

(2) An official whose home address or telephone number is made public as a result of a violation of paragraph (1) may bring an action seeking injunctive or declarative relief in any court of competent jurisdiction. If a jury or court finds that a violation has occurred, it may grant injunctive or declarative relief and shall award the official court costs and reasonable attorney's fees.

(d)(1) No person, business, or association shall solicit, sell, or trade on the Internet the home address or telephone number of an elected or appointed official with the intent to cause imminent great bodily harm to the official or to any person residing at the official's home address.

(2) Notwithstanding any other provision of law, an official whose home address or telephone number is solicited, sold, or traded in violation of paragraph (1) may bring an action in any court of competent jurisdiction. If a jury or court finds that a violation has occurred, it shall award damages to that official in an amount up to a

maximum of three times the actual damages but in no case less than four thousand dollars (\$4,000).

(e) An interactive computer service or access software provider, as defined in Section 230(f) of Title 47 of the United States Code, shall not be liable under this section unless the service or provider intends to abet or cause imminent great bodily harm that is likely to occur or threatens to cause imminent great bodily harm to an elected or appointed official.

(f) For purposes of this section, "elected or appointed official" includes, but is not limited to, all of the following:

- (1) State constitutional officers.
- (2) Members of the Legislature.
- (3) Judges and court commissioners.
- (4) District attorneys.
- (5) Public defenders.
- (6) Members of a city council.
- (7) Members of a board of supervisors.
- (8) Appointees of the Governor.
- (9) Appointees of the Legislature.
- (10) Mayors.
- (11) City attorneys.
- (12) Police chiefs and sheriffs.
- (13) A public safety official as defined in Section 6254.24.
- (14) State administrative law judges.
- (15) Federal judges and federal defenders.
- (16) Members of the United States Congress and appointees of the President.

(g) Nothing in this section is intended to preclude punishment instead under Sections 69, 76, or 422 of the Penal Code, or any other provision of law.

CREDIT(S)

(Added by Stats.1998, c. 429 (S.B.1386), § 4. Amended by Stats.2002, c. 621 (A.B.2238), § 2; Stats.2005, c. 343 (A.B.1595), § 1.)

Current with urgency legislation through Ch. 235 of 2008 Reg.Sess. and Ch. 7 of 2007-2008 Third Ex.Sess., and Prop. 99

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Effective: January 1, 2007

West's Annotated California Codes Currentness

Government Code (Refs & Annos)

Title 1. General

Division 7. Miscellaneous

☞ Chapter 3.5. Inspection of Public Records (Refs & Annos)

☞ Article 1. General Provisions (Refs & Annos)

→ § 6254.24. "Public safety official" defined

As used in this chapter, "public safety official" means the following:

- (a) An active or retired peace officer as defined in Sections 830 and 830.1 of the Penal Code.
- (b) An active or retired public officer or other person listed in Sections 1808.2 and 1808.6 of the Vehicle Code.
- (c) An "elected or appointed official" as defined in subdivision (f) of Section 6254.21.
- (d) An attorney employed by the Department of Justice, the State Public Defender, or a county office of the district attorney or public defender, the United States Attorney, or the Federal Public Defender.
- (e) A city attorney and an attorney who represent cities in criminal matters.
- (f) A specified employee of the Department of Corrections and Rehabilitation who supervises inmates or is required to have a prisoner in his or her care or custody.
- (g) A sworn or nonsworn employee who supervises inmates in a city police department, a county sheriff's office, the Department of the California Highway Patrol, federal, state, or a local detention facility, and a local juvenile hall, camp, ranch, or home, and a probation officer as defined in Section 830.5 of the Penal Code.
- (h) A federal prosecutor, a federal criminal investigator, and a National Park Service Ranger working in California.
- (i) The surviving spouse or child of a peace officer defined in Section 830 of the Penal Code, if the peace officer died in the line of duty.
- (j) State and federal judges and court commissioners.
- (k) An employee of the Attorney General, a district attorney, or a public defender who submits verification from the Attorney General, district attorney, or public defender that the employee represents the Attorney General, district attorney, or public defender in matters that routinely place that employee in personal contact with persons under investigation for, charged with, or convicted of, committing criminal acts.
- (l) A nonsworn employee of the Department of Justice or a police department or sheriff's office that, in the

course of his or her employment, is responsible for collecting, documenting, and preserving physical evidence at crime scenes, testifying in court as an expert witness, and other technical duties, and a nonsworn employee that, in the course of his or her employment, performs a variety of standardized and advanced laboratory procedures in the examination of physical crime evidence, determines their results, and provides expert testimony in court.

CREDIT(S)

(Added by Stats.2002, c. 621 (A.B.2238), § 3. Amended by Stats.2003, c. 468 (S.B.851), § 4; Stats.2006, c. 466 (S.B.506), § 7; Stats.2006, c. 472 (A.B.2005), § 1.)

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