



CITY OF ATASCADERO CITY COUNCIL

MINUTES

Tuesday, May 25, 2021

City Hall Council Chambers, 4th floor
6500 Palma Avenue, Atascadero, California

<u>City Council Closed Session:</u>	5:00 P.M.
<u>City Council Regular Session:</u>	6:00 P.M.

COUNCIL CLOSED SESSION: 5:00 P.M.

Mayor Moreno called Closed Session to order at 5:01 p.m.

1. **CLOSED SESSION -- PUBLIC COMMENT – None.**
2. **COUNCIL LEAVES TO BEGIN CLOSED SESSION**
3. **CLOSED SESSION -- CALL TO ORDER**
 - a. **Public Employee Performance Evaluation** (Govt. Code 54957)
Title: City Manager
 - b. **Public Employee Performance Evaluation** (Govt. Code 54957)
Title: City Attorney
 - c. **Conference with Labor Negotiators** (Govt. Code Sec. 54957.6)
Agency designated representatives: Rachelle Rickard, City Manager
Employee Organizations: Atascadero Professional Firefighters, Local 3600;
Atascadero Police Association; Service Employees International Union,
Local 620; Mid-Management/Professional Employees; Non-Represented
Professional and Management Workers and Confidential Employees
4. **CLOSED SESSION – RECESS – until after the adjournment of the Regular Session**
5. **COUNCIL RETURNS**
6. **CLOSED SESSION – REPORT**

Mayor Moreno noted that more time would be needed to complete the discussion on the Closed Session item and that Council would be recessing Closed Session until after the close of Regular Session.

REGULAR SESSION – CALL TO ORDER: 6:00 P.M.

Mayor Moreno called the meeting to order at 6:06 p.m. and led the Pledge of Allegiance.

ROLL CALL:

Present: **By Teleconference** - Council Members Bourbeau, Dariz and Funk, Mayor Pro Tem Newsom, and Mayor Moreno

Absent: None

Others Present: Treasurer Gere Sibbach

Staff Present: **By Teleconference** – City Manager Rachelle Rickard, Administrative Services Director Jeri Rangel, Community Development Director Phil Dunsmore, Deputy Public Works Director Ryan Hayes, City Attorney Brian Pierik, Deputy City Manager/City Clerk Lara Christensen, Public Works Analyst Ryan Betz, and IT Manager Luke Knight

APPROVAL OF AGENDA:

MOTION: By Council Member Bourbeau seconded by Mayor Pro Tem Newsom to:

1. Approve this agenda; and,
2. Waive the reading in full of all ordinances appearing on this agenda, and the titles of the ordinances will be read aloud by the City Clerk at the first reading, after the motion and before the City Council votes.

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

PRESENTATIONS: None.

A. CONSENT CALENDAR:

1. City Council Draft Action Minutes – May 11, 2021

- Recommendation: Council approve the May 11, 2021 Draft City Council Regular Meeting Minutes. [City Clerk]

2. April 2021 Accounts Payable and Payroll

- Fiscal Impact: \$2,405,702.17
- Recommendation: Council approve certified City accounts payable, payroll and payroll vendor checks for April 2021. [Administrative Services]

3. March 2021 Investment Report

- Fiscal Impact: None.
- Recommendation: Council receive and file the City Treasurer's report for quarter ending March 31, 2021. [City Treasurer]

4. Traffic Way Sewer Main Replacement Construction Award

- Fiscal Impact: Award of the contracts to Specialty Construction and Filippin Engineering will result in the expenditure of \$3,038,610 of wastewater funds.
- Recommendations: Council:
 1. Award a construction contract for \$2,740,040 to Specialty Construction, Inc. for the Traffic Way Sewer Main Replacement Project (Project No. C2019W01).
 2. Authorize the City Manager to execute a construction contract with Specialty Construction, Inc. for \$2,740,040 for the Traffic Way Sewer Main Replacement Project.
 3. Authorize the City Manager to execute a contract with Filippin Engineering for \$298,570 for construction management and materials testing services for the Traffic Way Sewer Main Replacement Project.
 4. Authorize the Director of Administrative Services to allocate an additional \$1,236,900 in Wastewater Enterprise Fund balance to the Traffic Way Sewer Main Replacement Project.
 5. Authorize the Director of Public Works to file a Notice of Completion with the County Recorder upon satisfactory completion of the Project. [Public Works]

5. Appointment of Board Members to the Atascadero Tourism Business Improvement District (ATBID) Board

- Fiscal Impact: None.
- Recommendation: Council appoint Corina Ketchum and Tom O'Malley to the ATBID Advisory Board for the term expiring June 30, 2023. [City Manager]

6. Atascadero Tourism Business Improvement District (ATBID) Annual Assessment

- Fiscal Impact: None.
- Recommendations: Council:
 1. Approve the ATBID Annual Report.
 2. Adopt Draft Resolution declaring intent to levy an annual Business Improvement District assessment on lodging businesses within the Atascadero Tourism Business Improvement District, and set a public hearing for June 8, 2021. [City Manager]

7. Downtown Parking & Business Improvement Area (DPBIA) Assessment

- Fiscal Impact: None.
- Recommendation: Council adopt Draft Resolution, declaring intent to levy the annual Downtown Parking and Business Improvement Area assessment, and set a public hearing for June 8, 2021. [City Manager]

MOTION: By Council Member Bourbeau and seconded by Mayor Pro Tem Newsom to approve the Consent Calendar. (#A-4: Contract Nos. 2021-014 and 2021-015) (#A-6: Resolution No. 2021-031) (#A-7: Resolution Nos. 2021-032)
Motion passed 5:0 by a roll-call vote.

UPDATES FROM THE CITY MANAGER:

City Manager Rachelle Rickard gave an update on projects and issues within the City.

COMMUNITY FORUM:

The following citizens spoke by telephone or through the webinar during Community Forum:
Josh Cross

Mayor Moreno closed the COMMUNITY FORUM period.

B. PUBLIC HEARINGS:

1. **Proposition 218 Majority Protest Process Relative to Proposed Increase to Wastewater (Sewer) Rates**

- **Fiscal Impact:** Approving staff recommendations will generate an estimated \$530,000 in additional revenue from sewer service charges collected in FY21/22.
 - **Recommendations: Council:**
 1. Conduct a public hearing to receive all written and verbal testimony regarding the proposed wastewater (sewer) rates and consider the results of protest proceedings in accordance with Proposition 218.
 2. Adopt one of the following resolutions certifying the protest results:
 - A. For a non-majority protest – Draft Resolution A certifying that the number of valid written protests were not received from property owners representing a majority of the parcels subject to the proposed rate increase.
- OR**
- B. For a majority protest – Draft Resolution B certifying that the number of valid written protests were received from property owners representing a majority of the parcels subject to the proposed rate increase.
 3. If no majority protest exists, adopt Draft Resolution C approving proposed wastewater rates effective July 1, 2021. [Public Works]

Ex Parte Communications

All Council Members reported having no ex parte communications.

Public Works Analyst Betz gave the report and answered questions from the Council.

PUBLIC COMMENT:

The following citizens spoke by telephone or through the webinar on this item: Charles Kania and Deborah McKrell

Mayor Moreno closed the Public Comment period.

MOTION: By Council Member Bourbeau and seconded by Council Member Funk to adopt Resolution No. 2021-033 certifying that the number of valid written protests were not received from property owners

representing a majority of the parcels subject to the proposed rate increase and adopt Resolution No. 2021-034 approving proposed wastewater rates effective July 1, 2021.
Motion passed 5:0 by a roll-call vote.

2. Title 9 Chapter 17 (Cannabis Activities & Regulations) Municipal Code Amendments to Add Non-Storefront Cannabis Delivery Services and Security Provisions (CPP20-0011)

- Fiscal Impact: Staff expects minimal fiscal impact from the adoption of the proposed Title 9 Chapter 17 Cannabis text amendments and full cost recovery for review of commercial Cannabis businesses projects. Additionally, the allowance of the additional use has the potential to increase tax revenue generation for the City.
- Recommendations: Council:
 1. Introduce for first reading, by title only, Draft Ordinance A amending Atascadero Municipal Code Title 9 Chapter 17 (Cannabis Activities & Regulations) and determining this Ordinance is exempt from review under the California Environmental Quality Act, based on findings.

OR

2. Introduce for first reading, by title only, Draft Ordinance B, amending Atascadero Municipal Code Title 9 Chapter 17 (Cannabis Activities & Regulations) and determining this Ordinance is exempt from review under the California Environmental Quality Act, which includes amendment suggestions discussed by the Planning Commission. [Community Development]

Ex Parte Communications

Council Member Funk reported speaking with Nick Andre.

Council Member Dariz, Bourbeau, and Mayor Moreno reported speaking with various community members on this topic.

Council Member Bourbeau also reported speaking with a former delivery service employee as well as a Council Member from a local jurisdiction on this topic.

Development Director Dunsmore gave the report and answered questions from the Council.

PUBLIC COMMENT:

The following citizens spoke by telephone or through the webinar on this item: Deborah McKrell

Mayor Moreno closed the Public Comment period.

MOTION: By Council Member Funk and seconded by Council Member Dariz to introduce for first reading, by title only, Draft Ordinance B, amending Atascadero Municipal Code Title 9 Chapter 17 (Cannabis Activities & Regulations) and determining this Ordinance is exempt from review under the California Environmental Quality Act and making the following changes to the Draft Ordinance:

1. **9-17.009(a)(9)(i) - leaving in the language “or misdemeanor”**
All owners, corporate officers, partners, managers, employees, or volunteers of a commercial cannabis activity permitted under this chapter shall comply with background criminal history requirements under state law. No person who is currently charged with or has been convicted within the previous ten years of a felony or misdemeanor involving moral turpitude or any crime involving the sale, possession for sale, manufacture, transportation, cultivation, or distribution of a controlled substance shall be employed by a cannabis business in the City.
2. **9-17.009(16) - adding the word “from” following “or unloaded”**
A Retail Non-Storefront Facility location in the City of Atascadero shall include an on-site concealed location within the building where all cannabis products and cash are loaded onto or unloaded from a delivery vehicle. The concealed location shall be within an enclosed area not visible or accessible to the public.
3. **9-17.005 (a) Table 17-1 - eliminating CUP from the CR and DO zones for Retail Non-storefront Facility**
4. **Fixing all typos as identified in the staff presentation**

City Clerk Christensen read the title of the Ordinance:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA, AMENDING THE ATASCADERO MUNICIPAL CODE TITLE 9, CHAPTER 17 (CANNABIS ACTIVITIES & REGULATIONS) AND DETERMINING THIS ORDINANCE IS EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

Mayor Moreno recessed the meeting at 7:59 p.m.

Mayor Moreno reconvened the meeting at 8:11 p.m. will all present.

3. **Title 9 Planning and Zoning Text Amendments - Annual Code Update (ZCH21-0004)**
 - Fiscal Impact: None.
 - Recommendation: Council introduce for first reading, by title only, a Draft Ordinance, amending the Atascadero Municipal Code, Title 9 Zoning Ordinance, Section 9-2.112 Permit Time Limits, Section 9-3.230 Agriculture and residential district allowable land uses, Section 9-3.262 Property development standards – RMF, Section 9-3.330 Nonresidential district allowable land uses, Section 9-3.331 Mixed Use residential density, Section 9-3.430 Public districts allowable land uses, Section 9-3.500 Definitions, Section 9-4.107 Side setbacks, Section 9-4.112 Measurement of height, Section 9-4.113 Height limitations, Section 9-4.128 Fencing and screening, Section 9-6.103 Accessory storage, Section 9-6.105 Home Occupations, Section 9-6.106 Residential accessory uses, Section 9-6.112 Farm animal raising, Section 9-6.113 Interim agricultural uses, Section 9-2.102 General Definitions, based on findings. [Community Development]

Ex Parte Communications

All Council Members reported having no ex parte communications.

Community Development Director Dunsmore gave the report and answered questions from the Council.

PUBLIC COMMENT:

The following citizens spoke by telephone or through the webinar on this item: Deborah McKrell

Emails from the following citizens were read into the record by Deputy City Manager/City Clerk Christensen: Rick Derevan

Mayor Moreno closed the Public Comment period.

MOTION: By Mayor Moreno and seconded by Mayor Pro Tem Newsom to introduce for first reading, by title only, a Draft Ordinance, amending the Atascadero Municipal Code, Title 9 Zoning Ordinance, Section 9-2.112 Permit Time Limits, Section 9-3.230 Agriculture and residential district allowable land uses, Section 9-3.262 Property development standards – RMF, Section 9-3.330 Nonresidential district allowable land uses, Section 9-3.331 Mixed Use residential density, Section 9-3.430 Public districts allowable land uses, Section 9-3.500 Definitions, Section 9-4.107 Side setbacks, Section 9-4.112 Measurement of height, Section 9-4.113 Height limitations, Section 9-4.128 Fencing and screening, Section 9-6.103 Accessory storage, Section 9-6.105 Home Occupations, Section 9-6.106 Residential accessory uses, Section 9-6.112 Farm animal raising, Section 9-6.113 Interim agricultural uses, Section 9-2.102 General Definitions, based on findings and making the following changes to the Draft Ordinance:

1. **9-6.106(2) – changing the square feet from 3,000 to 2,000**
Floor Area. The gross floor area of a detached accessory structure is not to exceed one hundred percent (100%) of the gross floor area of the principle structure, up to ~~3,000~~ 2,000 square feet.
2. **9-6.106(3) - adding Sections (viii) and (ix)**
(viii) The accessory structure shall be located no closer than ten (10) feet to the side property line as measured from the nearest roof eave.
(ix) The accessory structure shall be located no closer than forty (40) feet to the nearest residential dwelling on an adjacent property.
3. **9-3.330 Table 3-2 – removing CUP requirements for Mortuary Services in the CR and CS zones**
4. **Fixing all typos as identified in the staff presentation**

City Clerk Christensen read the title of the Ordinance:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA, AMENDING TITLE 9 PLANNING & ZONING, SECTION 9-2.112 PERMIT TIME LIMITS, SECTION 9-3.230 AGRICULTURE AND RESIDENTIAL DISTRICT ALLOWABLE LAND USES, SECTION 9-3.262 PROPERTY DEVELOPMENT STANDARDS – RMF, SECTION 9-3.330 NONRESIDENTIAL DISTRICT ALLOWABLE

LAND USES, SECTION 9-3.331 MIXED USE RESIDENTIAL DENSITY, SECTION 9-3.430 PUBLIC DISTRICTS ALLOWABLE LAND USES, SECTION 9-3.500 DEFINITIONS, SECTION 9-4.107 SIDE SETBACKS, SECTION 9-4.112 MEASUREMENT OF HEIGHT, SECTION 9-4.113 HEIGHT LIMITATIONS, SECTION 9-4.128 FENCING AND SCREENING, SECTION 9-6.103 ACCESSORY STORAGE, SECTION 9-6.105 HOME OCCUPATIONS, SECTION 9-6.106 RESIDENTIAL ACCESSORY USES, SECTION 9-6.112 FARM ANIMAL RAISING, SECTION 9-6.113 INTERIM AGRICULTURAL USES, SECTION 9-9.102 GENERAL DEFINITIONS, AND DETERMINING THIS ORDINANCE IS EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

C. MANAGEMENT REPORTS: None.

D. COUNCIL ANNOUNCEMENTS AND COMMITTEE REPORTS:

The following Council Members made brief announcements and gave brief update reports on their committees since their last Council meeting:

Mayor Moreno

1. County Mayors Round Table

Council Member Bourbeau

1. Integrated Waste Management Authority (IWMA)

Council Member Dariz

1. Air Pollution Control District

Council Member Funk

1. Homeless Services Oversight Council

E. INDIVIDUAL DETERMINATION AND / OR ACTION: None.

ADJOURN

Mayor Moreno recessed the Regular Meeting at 9:37 and reconvened the Closed Session Meeting at 9:38 p.m.

The meeting was adjourned at 10:18 pm; no reportable action.

MINUTES PREPARED BY:


Lara K. Christensen
Deputy City Manager / City Clerk

APPROVED: June 8, 2021

PUBLIC COMMENT PROVIDED BY EMAIL

B. PUBLIC HEARINGS

Item B-3

SUBMISSION FROM: Rick Derevan

From: Rick Derevan <rickderevan@gmail.com>

Sent: Monday, May 24, 2021 11:01 AM

To: City Clerk <cityclerk@atascadero.org>

Subject: Comment for agenda item B-3, May 25, 2021 meeting

I am writing to oppose a portion of the planning and zoning text amendments, Item B-3 on the May 25, 2021, agenda—staff report beginning on page 111 of the agenda packet. Specifically, I oppose this proposed change:

4. A zoning amendment to increase the size of allowed accessory structures on certain conforming properties when particular performance standards can be met. This amendment would allow accessory structures such as workshops, storage barns and related to be constructed up to 100% of the size of a primary structure without the need for a conditional use permit.

This change would harm neighbors and neighborhoods by doubling the size of accessory structures allowed. Under the zoning code, nonagricultural accessory buildings require only a five-foot setback from an adjoining property line. In my neighborhood, a property owner is proposing a 1,000 square foot workshop be placed five feet from our property line, which is very near a small, 1,000 square foot residence on our property. Since his home is 2,400 square feet, and attached garage 800 square feet, this new change would allow a 3,000 square foot "accessory" building to abut, and dwarf, the home on our property. Even 1,000 square feet is too much. This is not the rural living we signed up for when we bought this property nearly 20 years ago. I urge the City Council to reject this change.

The staff report tries to justify this proposed change claiming that small residences on large properties create anomalies and a more costly process for applicants. These are not good justifications for this change and ignore the effect of allowing accessory buildings to equal the size of large residences, particularly given the very narrow setback requirements. If cost is the concern, lower the fees. But the point of zoning regulations is to protect the neighbors, neighborhoods, and ultimately, the city. This change has the possibility of green-lighting large land use changes without proper oversight that will adversely affect the city. Please reject this proposed change.

Rick Derevan
5005 Cascabel
Atascadero, CA 93422