



AGENDA REPORT
SAN CLEMENTE CITY COUNCIL MEETING
 Meeting Date: September 4, 2018

Agenda Item 6-F
Approvals:
 City Manager [Signature]
 Dept. Head [Signature]
 Attorney [Signature]
 Finance [Signature]

Department: City Clerk
Prepared By: Joanne Baade, City Clerk [Signature]
Subject: CONFLICT OF INTEREST CODE BIENNIAL UPDATE

Fiscal Impact: None.

Summary:

Pursuant to the Political Reform Act (the "Act"), the City Council, at its meeting of May 15, 2018, directed Staff to conduct a review of the City's Conflict of Interest Code ("Code") to determine if changes to the Code were necessary, and to report the results of the review to Council prior to October 2018.

During the review process, Staff found that updates and amendments to the City's Conflict of Interest Code are necessary and is proposing that the Code be revised.

Background:

The Political Reform Act of 1974, Government Code Section 81000 et seq. (the "Act"), requires all public agencies to adopt and maintain a Conflict of Interest Code. The Act further requires that agencies regularly review and update their Codes as necessary as directed by the code-reviewing body or when a change is necessitated by modified circumstances (Sections 87306 and 87306.5). The City Council is the City's code-reviewing body. As the code-reviewing body, the City Council directed that the Code be reviewed as required under the Act. During this review, Staff found that amendments to the Code are necessary.

Attachment 2 is a legislative (redlined) version of the proposed amended Code. The proposed revisions are based on the establishment and recognition of new positions that must be designated, the revision of titles of existing positions, and the deletion of positions that have been abolished.

Recommendation:

Adopt a Resolution entitled RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING AND ADOPTING AN AMENDED CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL REFORM ACT OF 1974.

Attachments:

- 1) Proposed Resolution with Conflict of Interest Code attached
- 2) Conflict of Interest Code (Legislative Version that shows proposed changes)

Notification:

- 1) A Notice of Intention to Amend the Conflict of Interest Code was posted on the City Hall Bulletin Board on August 17, 2018.
- 2) Employees whose positions are affected by changes in the updated Conflict of Interest Code were emailed copies of the "Notice of Intention to Amend the Conflict of Interest Code", together with a red-lined version of the proposed Code, on August 20, 2018.

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RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
SAN CLEMENTE, CALIFORNIA, APPROVING AND
ADOPTING AN AMENDED CONFLICT OF INTEREST
CODE PURSUANT TO THE POLITICAL REFORM ACT OF
1974**

WHEREAS, the State of California enacted the Political Reform Act of 1974, Government Code Section 81000, et seq. (the "Act"), which contains provisions relating to conflicts of interest which potentially affect all officers, employees and consultants of the City of San Clemente (the "City"), and which requires all public agencies to adopt and promulgate a conflict of interest code; and

WHEREAS, the City Council adopted a Conflict of Interest Code (the "Code"), which was amended on October 18, 2016, in compliance with the Act; and

WHEREAS, subsequent changed circumstances within the City have made it advisable and necessary pursuant to Sections 87306 and 87307 of the Act to amend and update the City's Code; and

WHEREAS, the potential penalties for violation of the provisions of the Act are substantial and may include criminal and civil liability, as well as equitable relief which could result in the City being restrained or prevented from acting in cases where the provisions of the Act may have been violated; and

WHEREAS, notice of the time and place of a public meeting on, and of consideration by the City Council of, the proposed amended Code was provided to each affected designated employee and was publicly posted for review; and

WHEREAS, a public meeting was held upon the proposed amended Code at a regular meeting of the City Council on September 4, 2018, at which all present were given an opportunity to be heard on the proposed amended Code.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of San Clemente that:

1. The City Council does hereby approve and adopt the proposed amended Conflict of Interest Code, a copy of which is attached hereto and shall be on file with the City Clerk and available to the public for inspection and copying during regular business hours;
2. The said amended Conflict of Interest Code shall become effective immediately upon its adoption and approval.

3. All previous conflict of interest codes of the City of San Clemente shall be rescinded upon the effective date of said amended Code as approved by the City Council.

APPROVED AND ADOPTED this _____ day of _____, 2018.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San Clemente,
California

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF SAN CLEMENTE)

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. _____ was adopted at a regular meeting of the City Council of the City of San Clemente held on the _____ day of _____, _____, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, _____.

CITY CLERK of the City of
San Clemente, California

Approved as to form:

City Attorney

LAW OFFICES OF
BEST BEST & KRIEGER LLP

CONFLICT OF INTEREST CODE

OF THE

CITY OF SAN CLEMENTE

CONFLICT OF INTEREST CODE OF THE CITY OF SAN CLEMENTE

(Adopted September 4, 2018)

The Political Reform Act (Gov. Code § 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. § 18730) that contains the terms of a standard conflict of interest code which can be incorporated by reference in an agency's code. After public notice and hearing Section 18730 may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This incorporation page, Regulation 18730 and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the **City of San Clemente (the "City")**.

All officials and designated positions required to submit a statement of economic interests shall file their statements with the **City Clerk** as the District's Filing Officer. The **City Clerk** shall make and retain a copy of all statements filed by the Mayor, Members of the City Council and Planning Commission, the City Manager, the City Attorney and the City Treasurer and forward the originals of such statements to the Fair Political Practices Commission. The **City Clerk** shall retain the original statements filed by all other officials and designated positions and will make all retained statements available for public inspection and reproduction during regular business hours. (Gov. Code § 81008.)

APPENDIX
CONFLICT OF INTEREST CODE
OF THE
CITY OF SAN CLEMENTE

(Adopted September 4, 2018)

PART "A"

The Mayor, Members of the City Council and the Planning Commission, the City Manager, the City Attorney, the City Treasurer, and All Other City Officials who manage public investments, as defined by 2 Cal. Code of Regs. §18700.3, are NOT subject to the City's Code but must file disclosure statements under Government Code Section 87200 et seq. [Regs. § 18730(b)(3)]

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

It has been determined that the positions listed below are Other City Officials who manage public investments¹. These positions are listed here for informational purposes only.

Investment Advisory Committee

Investment Consultant

¹ Individuals holding one of the above-listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by § 87200.

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED EMPLOYEES'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Assistant City Manager – Finance and Administrative Services Director	1, 2
Assistant Utilities Manager	5
Associate Civil Engineer	2, 3, 5, 6
Building Inspector (ALL)	2, 3, 6
Business Services Officer	2, 4
Chief of Police Services	5
City Clerk	5
City Fire Chief	5
City Planner	2, 3, 5, 6
Code Compliance Manager	2, 5, 6
Community Development Director	1, 2
Deputy Administrative Services Director	1, 2
Deputy Community Development Director	2, 3, 5, 6

LAW OFFICES OF
BEST BEST & KRIEGER LLP

<u>DESIGNATED EMPLOYEES'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Environmental Programs Supervisor	5
Financial Services Officer	4
Golf Course Manager	5
Human Resources Manager	4
Information Technology Manager	5
Legislative Administrator	5, 8
Maintenance Manager	5
Maintenance Operations Supervisor	5
Marine Safety Chief	5, 6
Principal Civil Engineer	1, 2
Principal Civil Engineer/Asset Manager	1, 2
Principal Planner	2, 3, 5, 6
Public Works Director/City Engineer	1, 2
Recreation Manager	5, 7
Risk Management/Human Resources Officer	5, 8
Senior Civil Engineer	1, 2
Management Analyst, II	2, 3, 5
Senior Plan Check Engineer	2, 3, 6
Senior Planner	2, 3, 6
Systems Applications Analyst	5

LAW OFFICES OF
BEST BEST & KRIEGER LLP

<u>DESIGNATED EMPLOYEES'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Transportation Engineering Manager	1, 2
Utilities Director	5
Utilities Maintenance Supervisor	5
Utilities Manager	5
Utilities Operations Supervisor (ALL)	5

MEMBERS OF BOARDS,
COMMITTEES & COMMISSIONS

Coastal Advisory Committee	9
Golf Course Committee	5
Human Affairs Committee	5
Beaches, Parks and Recreation Commission	2, 3, 5

Consultants and New Positions*

*Individuals serving as a consultant as defined in FPPC Reg 18700.3 or in a new position created since this Code was last approved that makes or participates in making decisions must file under the broadest disclosure set forth in this Code subject to the following limitation:

The City Manager may determine that, due to the range of duties or contractual obligations, it is more appropriate to assign a limited disclosure requirement. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. (Gov. Code Sec. 82019; FPPC Regulations 18219 and 18734.). The City Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code. (Gov. Code Sec. 81008.)

PART "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned.² "Investment" means financial interest in any business entity (including a consulting business or other independent contracting business) and are reportable if they are either located in, doing business in, planning to do business in, or have done business during the previous two years in the jurisdiction of the District.

Category 1: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the boundaries of the City.

Category 3: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the City.

Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the City.

Category 5: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the designated position's department, unit or division.

Category 6: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, subject to the regulatory, permit, or licensing authority of the designated employee's department, unit or division.

² This Conflict of Interest Code does not require the reporting of gifts from outside this agency's jurisdiction if the source does not have some connection with or bearing upon the functions or duties of the position. (Reg. 18730.1)

LAW OFFICES OF
BEST BEST & KRIEGER LLP

Category 7: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, or income from a nonprofit organization, if the source is of the type to receive grants or other monies from or through the City or its subdivisions.

Category 8: All investments and business positions in business entities, and sources of income, including gifts, loans, and travel payments, if such entities or sources have filed claims against the City in the past two years, or have a claim pending before the City.

Category 9: All interests in real property, and all investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are located in, do business in, or own real property within the geographical area of, and within two miles of, the designated position's assigned advisory area.

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LEGISLATIVE VERSION
(SHOWS CHANGES MADE)

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CONFLICT OF INTEREST CODE

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CONFLICT OF INTEREST CODE OF THE CITY OF SAN CLEMENTE

(Adopted ~~October 18, 2016~~ September 4, 2018)

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OF THE
CITY OF SAN CLEMENTE

(Adopted ~~October 18, 2016~~ September 4, 2018)

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DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED EMPLOYEES'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Assistant Beaches, Parks and Recreation Director	2, 5, 7
Assistant City Manager – Finance and Administrative Services Director	1, 2
Assistant Utilities Manager	5
Associate Civil Engineer	2, 3, 5, 6
Beaches, Parks and Recreation Director	2, 5
Building Official	3, 5, 6
Building Inspector (ALL)	2, 3, 6
Business Services Officer	2, 4
Chief of Police Services	5
City Clerk	5
City Fire Chief	5
City Planner	2, 3, 5, 6
Code Compliance Manager	2, 5, 6
Community Development Director	1, 2
Deputy Administrative Services Director	1, 2
Deputy Community Development Director	2, 3, 5, 6

<u>DESIGNATED EMPLOYEES'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Deputy Public Works Director	2, 3, 5
Environmental Programs Supervisor	5
Financial Services Officer	4
Golf Course Manager	5
Human Resources Manager	4
Information Technology Manager	5
Legislative Administrator	5, 8
Maintenance Manager	5
Maintenance Operations Supervisor	5
Marine Safety Chief	5, 6
Principal Civil Engineer	1, 2
Principal Civil Engineer/Asset Manager	1, 2
Principal Planner	2, 3, 5, 6
Public Works Director/City Engineer	1, 2
Recreation Manager	5, 7
Risk Management/Human Resources Officer	5, 8
Senior Civil Engineer	1, 2
Senior Management Analyst, <u>II</u>	2, 3, 5
Senior Plan Check Engineer	2, 3, 6
Senior Planner	2, 3, 6
<u>Systems Applications Analyst</u>	<u>5</u>

<u>DESIGNATED EMPLOYEES'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Transportation Engineering Manager	1, 2
<u>Utilities Director</u>	<u>5</u>
Utilities Maintenance Supervisor	5
Utilities Manager	5
Utilities Operations Supervisor (ALL)	5

MEMBERS OF BOARDS,
COMMITTEES & COMMISSIONS

Coastal Advisory Committee	9
Golf Course Committee	5
Human Affairs Committee	5
<u>Beaches</u> Parks and Recreation Commission	2, 3, 5

Consultants and New Positions*

*Individuals serving as a consultant as defined in FPPC Reg 18700.3 or in a new position created since this Code was last approved that makes or participates in making decisions must file under the broadest disclosure set forth in this Code subject to the following limitation:

The City Manager may determine that, due to the range of duties or contractual obligations, it is more appropriate to assign a limited disclosure requirement. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. (Gov. Code Sec. 82019; FPPC Regulations 18219 and 18734.) The City Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code. (Gov. Code Sec. 81008.)

PART "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned.² "Investment" means financial interest in any business entity (including a consulting business or other independent contracting business) and are reportable if they are either located in, doing business in, planning to do business in, or have done business during the previous two years in the jurisdiction of the District.

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Category 3: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the City.

Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the City.

Category 5: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the designated position's department, unit or division.

Category 6: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, subject to the regulatory, permit, or licensing authority of the designated employee's department, unit or division.

² This Conflict of Interest Code does not require the reporting of gifts from outside this agency's jurisdiction if the source does not have some connection with or bearing upon the functions or duties of the position. (Reg. 18730.1)

Category 7: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, or income from a nonprofit organization, if the source is of the type to receive grants or other monies from or through the City or its subdivisions.

Category 8: All investments and business positions in business entities, and sources of income, including gifts, loans, and travel payments, if such entities or sources have filed claims against the City in the past two years, or have a claim pending before the City.

Category 9: All interests in real property, and all investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are located in, do business in, or own real property within the geographical area of, and within two miles of, the designated position's assigned advisory area.