

City of Placerville
MEMORANDUM

DATE: October 18, 2010

TO: City Council

FROM: Susan Zito, CMC, City Clerk/Human Resource Officer

SUBJECT: **BIENNIAL CONFIRMATION OF THE CITY OF PLACERVILLE'S
CONFLICT OF INTEREST CODE**

RECOMMENDATION

That the Council adopt a Resolution confirming the City of Placerville Conflict of Interest Code, attached as Appendix "A", in accordance with the Political Reform Act requiring every local government agency to review its Conflict of Interest Code biennially in even-numbered years.

BACKGROUND

The Political Reform Act requires every local government agency to review its Conflict of Interest Code (The Code) biennially to determine if it is accurate or alternatively, that The Code must be amended by October of even-numbered years. The Conflict of Interest Code applies to an agency's Designated Employees and Consultants who managed public investments, if any. Those positions listed in Government Code Section 87200, referred to, as "87200 Filers" are not affected. (87200 Filers include Council Members, City Manager, City Attorney, Planning Commissioners, and City Treasurer).

The last revision, in September 2008, the City Council adopted Resolution No. 7638 amending the City's Conflict of Interest Code to incorporate changes in job titles that were added to the City's classification plan during the previous two years.

The attached Conflict of Interest Code has been reviewed by staff to confirm that the language required by Fair Political Practices Commission Regulation 18730 and the basic provisions required in Government Code section 87302, are included in our Code.

There is no fiscal impact associated with the requested action.

Prepared by:

Reviewed by:

Susan Zito
City Clerk/Human Resource Officer

John Driscoll
City Manager/Attorney

RESOLUTION NO. 7847

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF PLACERVILLE AMENDING
THE CITY'S CONFLICT OF INTEREST CODE**

WHEREAS, The Political Reform Act, Government Code Section 8100, 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. Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings; and

WHEREAS, the terms of 2 Cal. Code of Regs. Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference, and along with the attached Appendix "A" in which public officials and employees are designated and Appendix "B" in which disclosure categories are set forth, constitute the Conflict of Interest Code of the City of Placerville, which is considered the "agency" within the purview of this Code; and

WHEREAS, the Conflict of Interest Code of the City of Placerville so adopted amends and replaces Resolution No. 7638, adopted on September 9, 2008, previously in effect to conform to this newly adopted Code; and

WHEREAS, Designated Employees shall file their statements with the City Clerk, who shall perform the duties of Filing Officer for the City of Placerville. Statements shall be available for inspection and reproduction pursuant to Government Code Section 81008.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Placerville hereby confirms the Conflict of Interest Code.

The foregoing Resolution was moved for adoption at a regular meeting of the City Council of the City of Placerville held on October 26, 2010, by Councilmember Hagen. The motion was seconded by Councilmember Borelli. A poll vote was taken which stood as follows:

AYES: Acuna, Borelli, Hagen, Machado

NOES: None

ABSENT: Rivas

ABSTAIN: None

Vice-Mayor Dave Machado

ATTEST:

Susan Zito, CMC, City Clerk

**City of Placerville
Conflict of Interest Code
Appendix “A”**

“Public Official at any level of state or local government” means a member, officer, employee or consultant of a state or local government agency. The term “public official” also includes individuals who perform the same or substantially the same duties as an individual holding an office or a position listed in the Government Code Section 87200, including “other public officials who manage public investments” as that term is defined in 2 Cal. Code of Regs. Section 18730.

- (1) “Member” shall include, but not be limited to, salaried or unsalaried members of boards or commissions with decision-making authority. A board or commission possess decision-making authority whenever:
 - (A) It may make a final governmental decision;
 - (B) It may compel a governmental decision, or it may prevent a governmental decision either by reason of an exclusive power to initiate the decision or by reason of a veto which may not be overridden; or
 - (C) It makes substantive recommendations, which are, and over an extended period of time have been, regularly approved without significant amendment or modification by another public official or governmental agency.

- (2) A “designated employee” is an officer, employee, member or consultant of an agency whose position is designated in the code because the position entails the making or participation in the making of governmental decisions which may foreseeable have a material effect on any financial interest. (Government Code Section 82019)
 - (A) Making a governmental decision means the person:
 1. Votes on a matter;
 2. Appoints a person;
 3. Obligates or commits his or her agency to any course of action; or
 4. Enters into a contractual agreement on behalf of his or her agency.
 - (B) Participating in the making of a decision, means the person;
 1. Negotiates, without significant substantive review, with a governmental entity or private person regarding the decision; or
 2. Advises or makes recommendations to the decision-maker by conducting research or an investigation, preparing or presenting a report, analysis or opinion which requires

the exercise of judgment on the part of the employee and the employee is attempting to influence the decision.

The term “designated employee” does not include:

- Public officials specified in Government Code Section 87200;
- Planning Commissioners
- City Council Members
- Mayors
- City Managers
- City Attorneys
- City Treasurers
- Other city, county and local agency public officials who manage public investments

- Solely clerical, ministerial or manual positions

- Unsalaries members of boards or commissions, which are solely advisory

(3) “Consultant” means an individual whom, pursuant to a contract with a state or local government agency:

(A) Makes a governmental decision whether to:

1. Approve a rate, rule, or regulation;
2. Adopt or enforce a law;
3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order or similar authorization or entitlement;
4. Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract, which requires agency approval;
5. Grant agency approval to a contract with requires agency approval and in which the agency is a party or to the specifications of such a contract;
6. Grant agency approval to a plan, design, report, study, or similar item;
7. Adopt, or grant agency approval of, policies, standards, or guidelines for the agency or for any subdivision thereof; or

(B) Serves in a staff capacity with the agency and in that capacity perform the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency’s Conflict of Interest Code.

The City Manager or his designee may determine in writing that a particular consultant is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The City Manager or his designee's determination is a public record and shall be retained for public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

**City of Placerville
Conflict of Interest Code
Appendix "A"**

The following is a listing of those positions that are required to submit Statements of Economic Interests pursuant to the Political Reform Act of 1974, as amended:

Public Officials required to file Form 700, under Government Code § 87200, are not required to be part of the Conflict of Interest Code because they automatically file Form 700.

City Council
City Manager
City Attorney
City Clerk
City Treasurer
City Planning Commission

Citizen Commissions	Disclosure Category
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Recreation & Parks Commission

Designated Employees required to file Form 700:
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The following is a listing of those positions that are required to submit Statements of Economic Interests pursuant to the Political Reform Act of 1974, as amended:

Department	Position	Disclosure Category
<u>City Manager</u>	Administrative Specialist	1
	Information Technology Manager	2,4,5,11,12,15
<u>Community Dev.</u>	Director of Community Development	1
	Associate Planner	1
	Building Inspector	1
	Building Official	1
	City Planner	1
<u>Finance</u>	Accountant	1
	Accounting Supervisor	1
	Director of Finance	1
<u>Police</u>	Police Chief	1
	Police Support Services Supervisor	2,3,4,5,12,13

Engineering/
Public Works

Assistant Engineer	2,3,4,6,7,8,9,10,11
Associate Engineer	2,3,4,6,7,8,9,10,11
City Engineer	1
Director of Public Works	1
Engineering Specialist	2,3,4,6,7,8,9,10,11
Engineering Technician	2,3,4,6,7,8,9,10,11
Laboratory Director	2,4,6,8,9,10,11,13,15
Public Works Superintendent	2,3,4,6,7,8,9,10,11,12
Sr. Maintenance Mechanic	2,4,6,8,9,10,11,13,15
Sr. Maintenance Worker	2,4,6,7,8,9,10,11
Sr. Water Reclamation Facility Op.	2,4,6,7,8,9,10,11,13
Water Reclamation Facility Sprvr.	2,3,4,5,6,7,8,9,10,11,12,13

Community Services

Director of Community Services	1
Gold Bug Park Maintenance & Operations Specialist	2,3,4,6,7,8,9,10,11
Parks & Facilities Maintenance Superintendent	2,3,4,6,7,8,9,10,11
Recreation Superintendent	2,3,4,5
Recreation Supervisor	2,4,5

**City of Placerville
Conflict of Interest Code
Appendix “B”**

Appendix of Disclosure Categories

DEFINITION

“Unit” as used in this text means the particular department, board, commission, office or other entity using the disclosure category.

Disclosure Category	Definition of Disclosure Category
1	All investments and business positions in business entities, sources of income and interests in real property.
2	Investments and business positions in business entities, and all sources of income.
3	Interests in real property.
4	Investments and business positions in business entities, and sources of income from entities providing supplies, services, equipment or machinery of the type used by the designated employee’s unit.
5	Investments and business positions in, and income from, entities that are book outlets, vendors or providers of business services.
6	Investments and business positions in business entities and income from sources engaged in construction, building, or material supply.
7	Investments and business positions in business entities and income from sources engaged in construction development.
8	Investment and business positions in, and income from, sources engaged in the construction of public works projects.
9	Investments and business positions in business entities and income from construction companies involved in progress payments.
10	Investments and business positions in, and income from construction firms involved in construction projects subject to acceptance by City Council.
11	Investments and business positions in business entities and income from business entities of the type to provide bids, supplies, vehicles and equipment.
12	Investments and business positions in, and income from entities, which provide training, services or facilities of the type, utilized by the City.
13	Investments and business positions in business entities and source of income that provide services and supplies of the type used in emergency services coordination and training activities.

14	Investments and business positions in, and income from, Union Pension funds that may be affected by the outcome of negotiations involving monetary settlements and employer-employee memorandums.
15	Investments and business positions in, and income from business entities supplying or manufacturing electronic equipment, supplies or services of the type utilized by the employee's unit.
16	Investments and business positions in, and income from employment agencies or entities, which provide employment or pre-employment services. Services include, but are not limited to, testing, training, consulting, job classification studies and salary surveys.
17	Investments and business positions in, and income from, business entities, which are of the type to provide any of the various types of employee insurance coverage and/or actuarial services.