

**Council Meeting: November 18, 2008**

SUBJECT: 2008 Conflict of Interest Code Biennial Review and Amendment

REPORT IN BRIEF

Consistent with requirements of the Political Reform Act, the City conducted a biennial review of its Conflict of Interest Code and determined that an amendment to the list of City positions subject to its provisions is necessary. Staff also revised the descriptions of the Disclosure Categories within the code. The proposed amendment and description revisions are the results of recent changes to designated positions and a recommendation from the Fair Political Practices Commission that the City revise its income disclosure definitions. Staff recommends that Council adopt the proposed resolution (Attachment C) amending the Code.

BACKGROUND

The Political Reform Act requires every local government agency to review its Conflict of Interest Code biennially to determine if the Code is accurate or in need of amendment. Any change in the list of City positions subject to the provisions of the code or disclosure categories requires such an amendment. When such a determination is made, the amended Code is not effective until approved by the City Council (designated code reviewing body for the City).

The Political Reform Act requires that no later than October 1 of each even-numbered year, each agency must submit to its code reviewing body, a notice indicating whether or not an amendment is necessary. This action (RTC #08-277) was taken on September 30, 2008, and Council approved the notice with the understanding that proposed revisions would be provided to Council within 90 days. Following Council action, a Notice of Intention to Amend Conflict of Interest Code (Attachment A), was officially posted on October 10, 2008, and this report outlines the proposed revisions.

EXISTING POLICY

Council Policy No. 7.3.7: – Standard Conflict of Interest Code (Attachment B) addresses procedures developed in compliance with the Political Reform Act.

DISCUSSION

The City's Conflict of Interest Code was last amended on October 24, 2006. Since that date, positions have either been added to or deleted from the City's

classification plan and salary resolution. Each of the individuals holding the positions designated in the Code are subject to filing a Statement of Economic Interests Form 700 with the Office of the City Clerk. The Fair Political Practices Commission (FPPC) also recommended that the City include additional descriptive text to the definition of "sources of income" for the City's three Disclosure Categories. All of the proposed changes are identified in Attachment B and the final version to be approved is identified in Exhibit "A" of the proposed resolution (Attachment C).

FISCAL IMPACT

There is no fiscal impact as a result of this action.

CONCLUSION

After review, staff determined that amendments to the Conflict of Interest Code and Disclosure Categories were necessary. Attached is a proposed resolution adopting an amended Conflict of Interest Code for Council consideration. Should the code reviewing body approve the resolution, the proposed 2008 Conflict of Interest Code shall be deemed adopted.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, in the Council Chambers lobby, in the Office of the City Clerk, at the Library, Senior Center, Community Center and Department of Public Safety; posting the agenda and report on the City's Web site; and making the report available at the Library and the Office of the City Clerk.

ALTERNATIVES

1. Council adopts the proposed resolution (Attachment C) amending the City's Conflict of Interest Code, in conformance with the Political Reform Act as submitted.
2. Council revises the proposed Conflict of Interest Code and approves it as revised
3. Council returns the propose Conflict of Interest Code to the agency (City of Sunnyvale) for revision and resubmission within 60 days and does not adopt the proposed resolution amending the Code.

RECOMMENDATION

Staff recommends that Council approves Alternative No. 1: Council adopts the proposed resolution (Attachment C) amending the City's Conflict of Interest Code, in conformance with the Political Reform Act.

Reviewed by:

Robert Walker, Assistant City Manager
Prepared by: Janice Clark, Deputy City Clerk

Approved by:

Amy Chan, City Manager

Attachments

Attachment A: Notice of Intention to Amend Conflict of Interest Code
Attachment B: Council Policy 7.3.7 – Standard Conflict of Interest Code
Attachment C: Proposed Resolution and Exhibit “A”

Attachment A

NOTICE OF INTENTION TO AMEND
CONFLICT OF INTEREST CODE

SUNNYVALE CITY COUNCIL
TUESDAY, NOVEMBER 18, 2008

NOTICE IS HEREBY GIVEN that the City of Sunnyvale intends to amend its Conflict of Interest Code pursuant to Government Code Section 87300 and 87306. Pursuant to Government Code Section 87302, the Code designates employees who must disclose certain investments, income, interests in real property and business positions, and who must disqualify themselves from making or participating in the making of governmental decisions affecting those interests.

A Public Hearing on this issue will be included in the Council Meeting, called to order at 7:00 p.m., on November 18, 2008 in the Council Chambers, 456 W. Olive Avenue.

Copies of the proposed code may be obtained from the Office of the City Clerk, 603 All America Way. Any inquiries concerning the proposed code should be directed to Janice Clark, Deputy City Clerk, (408) 730-7595.

ANTHONY (TONY) SPITALERI
Mayor

By: _____
Gail Borkowski
City Clerk

Dated and Posted: October 10, 2008

Attachment B

Policy 7.3.7 Standard Conflict of Interest Code

POLICY PURPOSE:

The purpose of this policy is to establish procedures developed in compliance with the terms of the Political Reform Act and related regulations concerning the adoption of Conflict of Interest Codes.

POLICY STATEMENT:

The Political Reform Act, Government 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, which contains the terms of a standard Conflict of Interest Code, which may be incorporated by reference and which may be amended by the FPPC to conform to amendments in the Political Reform Act; these provisions are incorporated by reference as the City's Conflict of Interest Code. The standard Conflict of Interest Code requires a list of City positions subject to its provisions, and these are found in Appendix A. City Councilmembers, Planning Commissioners, City Managers, City Treasurers and City Attorneys are treated separately under the Political Reform Act and are not listed in the Appendix as designated employees. The persons holding positions listed in Appendix A are designated employees. Members of the Board of Building Code Appeals and the Heritage Preservation Commission also have been designated in the Conflict of Interest Code. It has been determined that these persons make or participate in making decisions which may have an effect on financial issues. The disclosure categories they must file under are set forth following the list of positions.

In accord with Government Code Section 87306.5, the Conflict of Interest Code is reviewed in even-numbered years and Appendix A is updated, if necessary.

All designated employees and certain Board and Commission members shall file Statements of Economic Interests, on forms required by the Fair Political Practices Commission, with the City Clerk no later than April 1 of each calendar year.

(Adopted: RTC 91-3CA (2/29/1991); Amended: 92-265 (6/9/1992), 94-351 (6/14/1994), 96-386 (10/1/1996), 98-326 (9/22/1998), 00-307 (9/12/2000), 02-415 (10/22/2002), 04-342 (9/28/2004); (Clerical/clarity update, Policy Update Project 7/2005), Amended: 06-326 (10/24/2006))

Lead Department: Office of the City Manager

***DRAFT CHANGES/CORRECTIONS**
Appendix A
CITY OF SUNNYVALE – CONFLICT OF INTEREST CODE
DESIGNATED CITY POSITIONS REQUIRED TO FILE
(Pursuant to Resolution No.236-06)

Position	Disclosure Category
Accountant –Treasury	1
Administrative Assistant	1
Administrative Librarian	1
Administrative Services Manager	1
Affordable Housing Manager	1
Applications Development Manager	1
Assistant Buyer	2
Assistant City Attorney	1
Assistant City Engineer	1
Assistant City Manager	1
Assistant Director of Public Works/City Engineer	1
Assistant to the City Manager	1
Assistant to the Director of Parks and Recreation	1
Assistant Planner	1
Associate Planner	1
Building Inspector/Coordinator	1
Bureau of Technical Services Manager	1
Buyer	1
Child Care Manager	1
City Clerk	1
City Property Administrator	1
Civil Engineer	1
Communications Officer	1
Community Resources Manager	1
Deputy City Attorney	1
Deputy City Clerk	1
Deputy Communications Officer	1
Director of Community Development	1
Director of Employment Development	1
Director of Human Resources	1
Director of Information Technology	1
Director of Libraries	1
Director of Parks and Recreation	1
Director of Public Safety	1
Director of Public Works	1
Economic Development Manager	1
Employment Training Manager	1
Environmental Division Manager	1

Environmental Engineering Coordinator	2
Finance Manager	1
Fire Prevention Inspectors	3
Fleet Manager	2
Golf Operations Supervisor	2
Hazardous Materials Coordinator	3
Hazardous Materials Inspector	3
Housing Officer	1
Human Resources Analyst	1
Human Resources Manager	1
Human Resources Supervisor - DELETED POSITION	2
Industrial Waste Inspector	3
Information Technology Services Manager	1
Intergovernmental Relations Officer	1
Internal Auditor	1
Manager of Business Operations	2
Manager of Job Seeker Services	1
Neighborhood Preservation Officer - TITLE CHANGE Neighborhood Preservation Manager - NEW TITLE	1
Onizuka BRAC Project Manager	1
Operations Manager	3
Parks Supervisor	3
Permit Technician	1
Plan Check Coordinator	1
Plan Check Engineer	1
Plan Checker	1
Planning Officer	1
Principal Buyer	1
Principal Human Resources Analyst- ADDED POSITION	2
Principal Planner	1
Program Quality and Operations Manager	2
Public Safety Captain	1
Public Safety Deputy Chief	1
Public Works Construction Inspector	3
Public Works Supervisor	1
Recreation Supervisor	3
Recycling Supervisor - TITLE CHANGE Recycling Manager - NEW TITLE	1
Revenue Systems Supervisor	1
Senior Assistant City Attorney	1
Senior Building Inspector/Coordinator	1
Senior Buyer	1
Senior Engineer	1
Senior Industrial Waste Inspector	1
Senior Internal Auditor	1
Senior Construction Inspector/Coordinator	1
Senior Management Analyst/Economic Development	1
Senior Management Analyst /Finance	1

Senior Management Analyst /Human Resources	1
Senior Plan Check Engineer – NEW ADDITION	1
Senior Planner	1
Senior Traffic Engineer	2
Senior Transportation Planner	2
Solid Waste Contract Administrator	2
Solid Waste Program Manager	1
Superintendent of Building Inspection	1
Superintendent of Building Maintenance - TITLE CHANGE Superintendent of Facilities Maintenance – NEW TITLE	1
Superintendent of Field Services	1
Superintendent of Parks	1
Superintendent of Recreation	1
Superintendent of Trees and Landscape	1
Supervising Librarian	1
Transportation and Traffic Manager	1
Urban Landscape Supervisors	3
Volunteer Services Manager	1
Water Operations Manager – NEW ADDITION	
Water Pollution Operations Manager - NEW ADDITION	1
Water Pollution Control Lab and Pretreatment Manager	1
Water Pollution Control Maintenance and Facility Manager	1
Water Pollution Control Operations Manager	1
Youth and Family Resources Manager	1
Consultants	1
Designated appointees:	
Member, Board of Building Code Appeals	1
Member, Heritage Preservation Commission	1
State Required Filers:	
The following positions are <u>NOT</u> covered by the code because they must file under section 87200 and, therefore, are listed for informational purposes only:	
City Attorney	1
City Manager	1
Director of Finance	1
Member, Planning Commission	1
An individual holding one of the above listed positions (State Required Filers) 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 section 87200.	

Consultants are included in the list of designated employees and shall disclose pursuant to Category 1 subject to the following limitation:

The City Manager may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements 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's determination is public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

DISCLOSURE CATEGORIES

Category 1

A designated employee in this category must report all investments, interests in real property owned in the City of Sunnyvale, sources of income including gifts, loans and travel payments, and business entities in which he or she is a director, officer, partner, trustee, employee or holds any position of management.

Category 2

A designated employee in this category must report sources of income including gifts, loans and travel payments, and business entities in which he or she has an investment or is a director, officer, partner, trustee, employee or holds any position of management, if the business entity or source of income is of the type which has done business with the City of Sunnyvale within the previous two years.

Category 3

A designated employee in this category must report sources of income including gifts, loans and travel payments, and business entities in which he or she has an investment or is a director, officer, partner, trustee, employee or holds any position of management, if the business entity or source of income is of the type which within the previous two years has provided services, equipment, lease space, materials or supplies to the City.

Attachment C

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF SUNNYVALE AMENDING RESOLUTION NO. 236-06
DESIGNATING POSITIONS FOR WHICH CONFLICT OF
INTEREST FILINGS ARE REQUIRED**

WHEREAS, the City of Sunnyvale has previously adopted a Conflict of Interest Code in compliance with the provisions of the Political Reform Act, Government Code §81000, *et seq.*, by incorporating, by reference, California Code of Regulations §18730, along with the attached Appendix designated Exhibit "A," in which officials and employees of the City of Sunnyvale are designated and disclosure categories are set forth to constitute the Conflict of Interest Code of the City of Sunnyvale; and

WHEREAS, the City Council has reviewed and considered administratively suggested changes to the Appendix listing designated positions of City officials and employees along with assigned disclosure categories;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT it amends the Appendix to the City's Conflict of Interest Code as set forth in Exhibit "A" attached hereto and incorporated herein. Designated officials and employees shall file Statements of Economic Interests in compliance with the provisions of California Code of Regulations §18730(b)(4)(A).

Adopted by the City Council at a regular meeting held on _____, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM AND LEGALITY:

David E. Kahn, City Attorney

Policy 7.3.7 Standard Conflict of Interest Code

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Assistant to the City Manager	1
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Assistant Planner	1
Associate Planner	1
Building Inspector/Coordinator	1
Bureau of Technical Services Manager	1
Buyer	1
Child Care Manager	1
City Clerk	1
City Property Administrator	1
Civil Engineer	1
Communications Officer	1
Community Resources Manager	1
Deputy City Attorney	1
Deputy City Clerk	1
Deputy Communications Officer	1
Director of Community Development	1
Director of Employment Development	1
Director of Human Resources	1
Director of Information Technology	1
Director of Libraries	1
Director of Parks and Recreation	1
Director of Public Safety	1
Director of Public Works	1
Economic Development Manager	1
Employment Training Manager	1
Environmental Division Manager	1
Environmental Engineering Coordinator	2

Finance Manager	1
Fire Prevention Inspectors	3
Fleet Manager	2
Golf Operations Supervisor	2
Hazardous Materials Coordinator	3
Hazardous Materials Inspector	3
Housing Officer	1
Human Resources Analyst	1
Human Resources Manager	1
Industrial Waste Inspector	3
Information Technology Services Manager	1
Intergovernmental Relations Officer	1
Internal Auditor	1
Manager of Business Operations	2
Manager of Job Seeker Services	1
Neighborhood Preservation Manager	1
Onizuka BRAC Project Manager	1
Operations Manager	3
Parks Supervisor	3
Permit Technician	1
Plan Check Coordinator	1
Plan Check Engineer	1
Plan Checker	1
Planning Officer	1
Principal Buyer	1
Principal Human Resources Analyst	2
Principal Planner	1
Program Quality and Operations Manager	2
Public Safety Captain	1
Public Safety Deputy Chief	1
Public Works Construction Inspector	3
Public Works Supervisor	1
Recreation Supervisor	3
Recycling Manager	1
Revenue Systems Supervisor	1
Senior Assistant City Attorney	1
Senior Building Inspector/Coordinator	1
Senior Buyer	1
Senior Engineer	1
Senior Industrial Waste Inspector	1
Senior Internal Auditor	1
Senior Construction Inspector/Coordinator	1
Senior Management Analyst/Economic Development	1
Senior Management Analyst /Finance	1
Senior Management Analyst /Human Resources	1
Senior Plan Check Engineer	1
Senior Planner	1
Senior Traffic Engineer	2

Senior Transportation Planner	2
Solid Waste Contract Administrator	2
Solid Waste Program Manager	1
Superintendent of Building Inspection	1
Superintendent of Facilities Maintenance – NEW TITLE	1
Superintendent of Field Services	1
Superintendent of Parks	1
Superintendent of Recreation	1
Superintendent of Trees and Landscape	1
Supervising Librarian	1
Transportation and Traffic Manager	1
Urban Landscape Supervisors	3
Volunteer Services Manager	1
Water Operations Manager	1
Water Pollution Operations Manager	1
Water Pollution Control Lab and Pretreatment Manager	1
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