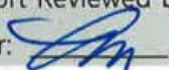


Agenda Report Reviewed by:
City Manager: 

CITY OF SEBASTOPOL
CITY COUNCIL
AGENDA ITEM REPORT

Meeting Date: June 21, 2022
To: Honorable Mayor and City Councilmembers
From: City Administration
Subject: Biennial Review of the Conflict of Interest Code
Recommendation : Staff is recommending that the City Council Direct City Staff To Review the Conflict of Interest Code
Funding: Currently Budgeted: _____ Yes _____ No XX N/A
Net General Fund Cost:
Amount: \$

Account Code/Costs authorized in City Approved Budget (if applicable) AK (verified by Administrative Services Department)

INTRODUCTION:

This item is to request that the City Council direct City Staff to review the Conflict of Interest Code and return to the City Council with recommendations for amendments, if any, to the Conflict of Interest Code for the City of Sebastopol.

BACKGROUND:

A local agency’s conflict of interest code must reflect the current structure of the organization and properly identify officials and employees who should be filing Statements of Economic Interests (Form 700s). A code tells public officials, governmental employees, and consultants what financial interests they must disclose on their Form 700s. It helps provide transparency in local government as required under the Political Reform Act.

California State Government Code Section 87300 requires that every state and local government agency adopt a Conflict of Interest Code. The Code lists each position within the agency filled by individuals who make or participate in making governmental decisions, which could affect their personal financial interests. The Code also requires individuals holding those positions to file annually disclosing certain personal interests. The State requires that each agency's Conflict of Interest Code be reviewed every other year in the even numbered year to be certain that the list of filers is consistent with government code.

DISCUSSION:

Public officials and employees who make or influence government decisions are required under California law to file a Statement of Economic Interests, or Form 700, to publicly identify the kinds of financial interests that could be affected by their governmental duties. These public disclosure filings serve as a tool to help detect and avoid potential conflicts of interests and promote public confidence that actions on governmental decisions are made without any regard to personal gain.

To ensure conflict of interest codes remain current and accurate, each local agency is required to review its code at least every even-numbered year. Under the Political Reform Act, all public agencies are required to adopt a conflict of interest code and make amendments as needed. A code designates positions required to file FPPC Statements of Economic Interests (Form 700), and assigns disclosure categories specifying the types of interests to be reported. The Form 700 is a public document intended to alert public officials and members of the public to the types of financial interests that may create conflicts of interests.

Each person who holds a position designated in the City's Conflict of Interest Code must disclose specified types of financial interests by filing a Statement of Economic Interest – Form 700 annually. The City has adopted City Ordinance requiring that any person holding a position listed in Government Code Section 82700 or designated in the City's local conflict of interest code adopted pursuant to Government Code Section 83700 shall file any required statement of economic interest reports (Form 700) electronically with the City Clerk. The former paper-based filing process was eliminated, making it easier for filers to submit filings online, increase filing efficiency for departments, and improve public access to reportable information once the filer's disclosure statement is submitted. An electronic filing will be the official record of such filing.

The City's local Conflict of Interest Code does not establish any disclosure obligation for City Councilmembers, Planning Commissioners, City Manager, City Attorney, and Public Officials who Manage Public Investments (City Treasurer), as Government Code Section 87200 et seq., requires disclosure for these positions as a matter of state law.

In accordance with Government Code § 87306.5, no later than July 1st of each even-numbered year, the City Council shall direct staff to conduct a biennial review of the City's Conflict of Interest Code, and if a change in the Code is required because of changes in changed circumstances, submit an amended Conflict of Interest Code in accordance with subdivision (a) of § 87302 and § 87303 to the City Council no later than October 1st of the same year.

When determining whether to amend, an agency should carefully review its current conflict of interest code and consider the following:

- Is the current code more than five years old?
- Have there been any substantial changes to the agency's organizational structure since the current code was adopted?
- Have any positions been eliminated or renamed since the current code was adopted?
- Have any new positions been added since the current code was adopted?
- Have there been any substantial changes in duties or responsibilities for any positions since the current code was adopted?

If an amendment to the agency's code is necessary, the code must be forwarded to the City Council for approval within ninety days (90 days). For example, if an agency files its notice on October 1, 2022, indicating that an amendment is necessary, the amendment is due to the City Council by December 30, 2022. An agency's amended code is not effective until it has been approved by the City Council.

Review of the Conflict of Interest Code consists of: (1) Evaluating the City's organizational structure to determine if any changes have occurred since the last review that would necessitate adding or deleting

positions in order to accurately reflect all the positions that make or participate in the making of governmental financial decisions; and, (2) any changes that may need to be incorporated into the designated disclosure categories.

CITY COUNCIL AND/OR GENERAL PLAN GOALS:

Goal 5 - Provide Open and Responsive Municipal Government Leadership

5.3.3 - Encourage and increase public awareness of City Policies, decisions, programs and all public processes and meetings, by investigating effective methods of communication and obtaining feedback from the community.

Policy D-6: Sebastopol will work to prevent homelessness and support housing services for the homeless.

PUBLIC COMMENT:

As of the writing of this staff report, the City has not received any public comment. However, if public comment is received from interested parties following the publication and distribution of this staff report, it will be provided to the City Council as supplemental materials before or at the meeting. In addition, public comments may be offered during the public comment portion of the agenda item.

PUBLIC NOTICE:

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to scheduled meeting date.

FISCAL IMPACT:

There is no fiscal impact to approval of this item tonight.

RECOMMENDATION:

That the City Council direct City Staff to review the Conflict of Interest Code and return to the City Council with recommendations for amendments, if any, to the Conflict of Interest Code for the City of Sebastopol.

Attachment:

Current Conflict of Interest Code

RESOLUTION NUMBER: 6307-2020

Resolution of the City of Sebastopol Approving
The Biennial Conflict of Interest Code Applicable to Designated Employees Pursuant to the Political
Reform Act of 1974

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 Regulation 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 positions and establishing disclosure categories, shall constitute the conflict of interest code of the City of Sebastopol; and

WHEREAS, The Political Reform Act requires certain City officials, specified in section 87200 of the California Government Code, to file economic disclosure forms ("Form 700") and abstain from making or participating in making governmental decisions which have a reasonably foreseeable material effect on an economic interest; and

WHEREAS, The Political Reform Act also requires the City to adopt a local conflict of interest code that enumerates specific City positions other than those specified in Government Code section 87200 which involve making or participating in making decisions which have a reasonably foreseeable material effect on an economic interest, and to designate for each position the specific types of investments, business positions, interests in real property and sources of income which are reportable based on the scope of the decision-making authority of the position; and

WHEREAS, The Political Reform Act requires local government agencies to adopt and promulgate a conflict of interest code, and to conduct a review of the code every two years; and

WHEREAS, It requires every local government agency to review its conflict of interest code biennially to determine if it is accurate or, alternatively, that the code must be amended; and

WHEREAS, In accordance with Government Codes 87306.5, at the June 16, 2020 City Council Meeting, the City Council directed the City Clerk and City Attorney to:

- 1) review the City of Sebastopol Conflict of Interest Code as it applies to designated employees, Planning Commission, Design Review Board, and consultants and
- 2) Return to the City Council with recommendations no later than October 1st, 2020; and

WHEREAS, City staff has reviewed the Code and found no amendments are required to be made to the Conflict of Interest Code at this time; and

WHEREAS, 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; and

WHEREAS, Attachment A to this resolution and a part of it, designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the City of Sebastopol; and

WHEREAS, Designated employees shall file statements of economic interests with the City Clerk who will make the statements available for public inspection and reproduction. (Gov. Code, § 81008.) Statements for all designated employees will be retained by the City Clerk; and

WHEREAS, 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 filed with the Fair Political Practices Commission.

All officials and designated positions required to submit a statement of economic interests shall receive ethics training as required pursuant to Government Code section 53235 (AB 1234). The City's Filing Officer shall annually provide all filers with information on training available to meet the requirements and maintain required records indicating the dates that filers satisfied the training requirements and the entity that provided the training. These records are public records subject to disclosure under the California Public Records Act.

NOW, THEREFORE, BE IT RESOLVED, that the City of Sebastopol City Council has determined that Code is approved as listed in Attachment A and all resolutions previous to or in conflict with this resolution are hereby rescinded.

The above and foregoing Resolution was duly passed, approved, and adopted at a meeting by the City Council on the 1st day of September 2020 by the following vote:

VOTE:

AYES: Councilmembers Carnacchi, Gurney, Hinton, Vice Mayor Glass and Mayor Slayter

NOES: None

ABSTAIN: None

ABSENT: None

APPROVED: _____

Mayor Patrick Slayter

ATTEST: _____

Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: _____

Larry McLaughlin, City Manager/Attorney

Attachment A
APPENDIX A
CITY OF SEBASTOPOL
CONFLICT OF INTEREST CODE

The persons occupying the following positions are designated employees for the purposes of this Conflict of Interest Code and shall disclose their financial interests in accordance with the disclosure categories set forth herein and are required to submit Statements of Economic Interest Interests pursuant to the Political Reform Act of 1974.

The Mayor, Members of the City Council and 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(b), are NOT subject to the City’s Code but must file disclosure statements under Government Code section 87200 et seq.

POSITION	DISCLOSURE CATEGORY
Building Official	1
City Clerk/Assistant City Manager	1
City Engineer	1
Engineering Manager	1
Fire Chief	1
Planning Director	1
Police Chief	1
Public Works Superintendent	1
Traffic Engineer	1
Design Review Board	1
Successor Agency	1
Successor Agency to the Former Sebastopol Community Development Agency (OVERSIGHT BOARD)	1

Consultants*

* Consultant means an individual who, pursuant to a contract with a State or local government agency: Makes a governmental decision whether to:

- (i) Approve a rate, rule or regulations;
- (ii) Adopt or enforce a law; Issue, deny, suspend, or revoke any permit, license, application, certificate, approval order, or similar authorization or entitlement;
- (iii) Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract that requires agency approval;
- (iv) Grant agency approval to a contract that requires agency approval and to which the agency is a party, or to the specifications for such a contract;
- (v) Grant agency approval to a plan, design, report, study or similar item;
- (vi) Adopt, or grant agency approval of policies, standards, or guidelines for the agency, or for any subdivision thereof; or Serves in a staff capacity with the agency and in that capacity participates in making a governmental decision as defined in regulation 18702.2 or performs 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 under Government Code Section 87302.

Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code 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 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'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.

**APPENDIX B
CITY OF SEBASTOPOL
CONFLICTOFINTERESTCODE
DISCLOSURE CATEGORIES**

All designated employees shall disclose their financial interests in accordance with the categories set forth in Appendix "A"

The disclosure category listed below identifies the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned.

"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 City.

Category 1:

Persons designated in this category shall disclose: All investments, business positions in, and income from sources located in or doing business in the jurisdiction. Interests in real property located in the jurisdiction, including property located within a two-mile radius of the jurisdiction or of any property owned by used by the agency. Income shall include gifts, loans) and travel payments. All sources of income, including investments, gifts, loans and travel payments as defined in Government Code Section 82030, or as amended.