

CITY OF SEBASTOPOL CITY COUNCIL
AGENDA ITEM REPORT FOR MEETING OF: June 18, 2024

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To: Honorable Mayor and City Councilmembers
From: Assistant City Manager/City Clerk Mary Gourley
Subject: Biennial Review of the Conflict of Interest Code

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RECOMMENDATION:

This item is to request that the City Council direct City Attorney 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.

EXECUTIVE SUMMARY:

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.

The Political Reform Act (the “PRA,” found at Government Code § 81000, et seq.) requires public agencies in California to adopt and issue conflict of interest codes. These codes are to be reviewed and, if necessary, updated every two years in order to stay abreast of the current state of the law and to accurately reflect the individual office holders subject to the requirements. As well, the Code is to be updated to add newly created or designated positions.

The Fair Political Practices Commission (the “FPPC”) is the body charged with, among other things, adopting and amending regulations pertaining to the PRA. As is pertinent here, section 18730 of Title 2 of the California Code of Regulations provides the FPPC’s ‘Provisions of the Conflict of Interest Codes’ to which the City must adhere in order to comply with the PRA. 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.

BACKGROUND:

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. However, exceptions for hard copy filing will be considered on a case by case basis and City staff will work with the filer.

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, 2024, indicating that an amendment is necessary, the amendment is due to the City Council by December 30, 2024. 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.

COMMUNITY OUTREACH:

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

FISCAL IMPACT:

There is no fiscal impact with reviewing of the Code.

OPTIONS:

There are no other options as this is a State requirement for review of the Code.

RESTATED RECOMMENDATION(S):

- That the City Council approve directing the City Attorney 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.

ATTACHMENTS:

None

APPROVALS:

Department Head Approval: Approval Date: 6-10-2024

CEQA Determination (Planning): Approval Date: 6-10-2024

The proposed action is not a project under the California Environmental Quality Act (CEQA)

Administrative Services (Financial) Approval Date: 6-10-2024

Costs authorized in City Approved Budget: Yes No N/A

Account Code (f applicable)

City Attorney Approval: Approval Date: 6-10-2024

City Manager Approval: Approval Date: 6-10-2024