ITEM NO. 23

STAFF REPORT

CITY OF OCEANSIDE

DATE: November 19, 2014

TO: Honorable Mayor and City Council

FROM: John P. Mullen, City Attorney

SUBJECT: **ADOPTION OF RESOLUTIONS AMENDING THE LOCAL CONFLICT OF INTEREST CODES FOR THE CITY OF OCEANSIDE, OCEANSIDE SMALL CRAFT HARBOR DISTRICT AND OCEANSIDE COMMUNITY DEVELOPMENT COMMISSION**

BACKGROUND

The Political Reform Act of 1974 requires local agencies to adopt local conflict of interest codes and to update those codes periodically to reflect changes to the employment positions within the agencies. The local conflict of interest codes must be consistent with the statute and with regulations adopted by the Fair Political Practices Commission ("FPPC"). Pursuant to Government Code section 87360.5, the local codes must be evaluated every even-numbered year and amended if necessary to reflect changes in the employment positions within the agency.

Sections 2.61 – 2.69 of the Oceanside City Code establish the local conflict of interest code for the City. As authorized by state law, the City Council has adopted the provisions of Title 2 California Code of Regulations section 18730 (a standardized local conflict of interest code) along with certain supplemental provisions as the local code for the City. City Code section 2.62 requires the City Council to adopt a resolution indicating the employee positions and members of boards, commissions and committees subject to conflict of interest disclosure requirements.

The City's local conflict of interest code references an appendix that sets forth the various City employment positions and members of boards, commissions and committees (often referred to as "designated positions/employees") along with the categories and disclosure requirements for those positions. The proposed resolutions would update the appendix for the City as required by Government Code section 87360.5.

The Community Development Commission and the Small Craft Harbor District are also required to have local conflict of interest codes. In order to formalize their reliance on the City's local conflict of interest code, it is recommended that both the Commission and the

District Board adopt resolutions adopting the City's local conflict of interest code and code appendix.

ANALYSIS

Government Code section 87306.5 requires each local agency to review its local conflict of interest code in even-numbered years and to make such amendments as may be necessary as a result of that review. The review has been accomplished by the City Attorney (and Commission General Counsel and Harbor Attorney). In light of that review, a revised Local Conflict of Interest Code Appendix, List of Designated Positions/Employees, and Disclosure Requirements has been prepared (hereinafter called "Appendix").

The revised Appendix makes several changes to the previous disclosure list and requirements by eliminating many positions that no longer exist, and adding new positions created within the City that did not exist the last time the conflict of interest code was amended.

Members of the City Council, the Planning Commission, the City Manager, the City Attorney, and the City Treasurer are required by statute to file FPPC form 700 disclosure statements and to disclose financial interests pursuant to state law. These positions are excluded from the list of positions contained in the Appendix. The Harbor District finance director is designated by the Appendix as a position responsible for the management of public investments and is also required to disclose investments on the 700 form.

RECOMMENDATION

The City Attorney recommends as follows:

1. That the Harbor District Board of Directors adopt the resolution adopting the City of Oceanside Local Conflict of Interest Code as the local conflict of interest code for the District and adopting the Appendix.

2. That the Community Development Commission adopt the resolution adopting the City of Oceanside Local Conflict of Interest Code as the local conflict of interest code for the Commission and adopting the Appendix.

3. That the City Council adopt the resolution adopting the Appendix and approving the local conflict of interest codes of the Commission and the District.

PREPARED AND SUBMITTED BY:

John P. Mullen
City Attorney

REVIEWED BY:
Michelle Skaggs Lawrence, Assistant City Manager

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE APPROVING AND ADOPTING AMENDMENTS TO THE APPENDIX OF THE CITY OF OCEANSIDE'S LOCAL CONFLICT OF INTEREST CODE

WHEREAS, the Oceanside City Council has by ordinance adopted a Local Conflict of Interest Code; and

WHEREAS, Section 2.62 of the Oceanside City Code provides that the list of designated positions and employees, and disclosure requirements shall be adopted by resolution; and

WHEREAS, the City Council has held a public hearing as required by law to allow interested officers, employees, members, consultants and residents of the City to present their views regarding the designation of positions and employees, and disclosure requirements; and

WHEREAS, adoption of a Local Conflict of Interest Code including the designation of positions and employees subject to the local conflict of interest code and the designation of disclosure categories for such designated positions and employees is mandated by the Political Reform Act of 1974, and

WHEREAS, since the last amendment of the Local Conflict of Interest Code, certain positions, employees, commissions, boards or committees have been modified and require the appendix to the local conflict of interest code to be amended.

NOW, THEREFORE, the City Council of the City of Oceanside does resolve as follows:

1. The foregoing recitations are true and correct.

2. The revised Local Conflict of Interest Code Appendix, list of designated Positions/Employees, Disclosure Requirements (2014 Update) is hereby approved.

3. The City Clerk is directed to provide a copy of the Oceanside Local Conflict of Interest Code and appendix to each person occupying a position or employment designated in the Appendix and also to each person occupying a position designated by state statute or the Appendix as being required to file a Fair Political Practices Commission form 700.

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4. This resolution and the appendix adopted hereby shall be effective upon adoption and shall apply to disclosures for the 2014 calendar year and for subsequent years, until amended or superseded.

PASSED AND ADOPTED by the City Council of the City of Oceanside, California, this _____ day of _____, 2014, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____
Mayor, City of Oceanside

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

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RESOLUTION NO. _____

A RESOLUTION OF THE COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF OCEANSIDE APPROVING AND ADOPTING AMENDMENTS TO THE APPENDIX OF THE CITY OF OCEANSIDE'S LOCAL CONFLICT OF INTEREST CODE

WHEREAS, the Oceanside City Council has by ordinance adopted a Local Conflict of Interest Code; and

WHEREAS, Section 2.62 of the Oceanside City Code provides that the list of designated positions and employees, and disclosure requirements shall be adopted by resolution; and

WHEREAS, the Community Development Commisison has held a public hearing as required by law to allow interested officers, employees, members, consultants and residents of the City to present their views regarding the designation of positions and employees, and disclosure requirements, and

WHEREAS, adoption of a Local Conflict of Interest Code including the designation of positions and employees subject to the local conflict of interest code and the designation of disclosure categories for such designated positions and employees is mandated by the Political Reform Act of 1974, and

WHEREAS, since the last amendment to the Local Conflict of Interest Code, certain positions, employees, commissions, boards or committees have been modified and require the appendix to the local conflict of interest code to be amended.

NOW, THEREFORE, the Community Development Commission of the City of Oceanside does resolve as follows:

1. The foregoing recitations are true and correct.

2. The revised Local Conflict of Interest Code Appendix, list of designated Positions/Employees, Disclosure Requirements (2014 Update) is hereby approved.

3. The City Clerk is directed to provide a copy of the Oceanside Local Conflict of Interest Code and appendix to each person occupying a position or employment designated in the Appendix and also to each person occupying a position designated by state statute or the Appendix as being required to file a Fair Political Practices Commission form 700.

4. This resolution and the appendix adopted hereby shall be effective upon adoption and shall apply to disclosures for the 2014 calendar year and for subsequent years, until amended or superseded.

PASSED AND ADOPTED by the Community Development Commission of the City of Oceanside, California, this _____ day of _____, 2014, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____
Chairman, Community Development Commission

ATTEST:

_____
Secretary

APPROVED AS TO FORM:

_____
General Counsel

RESOLUTION NO. _____

A RESOLUTION OF THE OCEANSIDE SMALL CRAFT HARBOR DISTRICT BOARD OF THE CITY OF OCEANSIDE APPROVING AND ADOPTING AMENDMENTS TO THE APPENDIX OF THE CITY OF OCEANSIDE'S LOCAL CONFLICT OF INTEREST CODE

WHEREAS, the Oceanside City Council has by ordinance adopted a Local Conflict of Interest Code; and

WHEREAS, Section 2.62 of the Oceanside City Code provides that the list of designated positions and employees, and disclosure requirements shall be adopted by resolution; and

WHEREAS, the Oceanside Small Craft Harbor District Board has held a public hearing as required by law to allow interested officers, employees, members, consultants and residents of the City to present their views regarding the designation of positions and employees, and disclosure requirements, and

WHEREAS, adoption of a Local Conflict of Interest Code including the designation of positions and employees subject to the Local Conflict of Interest Code and the designation of disclosure categories for such designated positions and employees is mandated by the Political Reform Act of 1974; and

WHEREAS, since the last amendment to the Local Conflict of Interest Code, certain positions, employees, commissions, boards or committees have been modified and require the appendix to the Local Conflict of Interest Code to be amended.

NOW, THEREFORE, the Oceanside Small Craft Harbor District Board of the City of Oceanside does resolve as follows:

1. The foregoing recitations are true and correct.

2. The revised Local Conflict of Interest Code Appendix, list of designated Positions/Employees, Disclosure Requirements (2014 Update) is hereby approved.

3. The City Clerk is directed to provide a copy of the Oceanside Local Conflict of Interest Code and appendix to each person occupying a position or employment designated in the Appendix and also to each person occupying a position designated by state statute or the Appendix as being required to file a Fair Political Practices Commission form 700.

4. This resolution and the appendix adopted hereby shall be effective upon adoption and shall apply to disclosures for the 2014 calendar year and for subsequent years, until amended or superseded.

PASSED AND ADOPTED by the Oceanside Small Craft Harbor District Board of the City of Oceanside, California, this _____ day of _____, 2014, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____
President, Small Craft Harbor District

ATTEST:

_____
Secretary

APPROVED AS TO FORM:

_____
Harbor District Attorney

CITY OF OCEANSIDE
LOCAL CONFLICT OF INTEREST CODE
APPENDIX

List of Designated Positions/Employees
Disclosure Requirements
(2014 Update)

SECTION I: AUTHORITY

The Political Reform Act of 1974 [Government Code sections 81000 -91015] requires local government agencies to adopt local conflict of interest codes. The local conflict of interest code for the City of Oceanside is contained in Sections 2.61 - 2.69 of the Oceanside City Code which adopts by reference the latest provisions of Section 18730 of Title 2 of the California Code of Regulations and in this list of designated positions/employees and disclosure requirements. The most recent version of 2 Cal. Code of Regs. section 18730 is on file with the City Clerk.

The local conflict of interest code for the City of Oceanside contains both reporting requirements for the disclosure of financial interests and disqualification requirements. Violations of the local conflict of interest code are subject to the administrative, criminal and civil sanctions of the Political Reform Act.

This list is adopted pursuant to the provisions of Section 2.62 of Chapter 2 of the Oceanside City Code and constitutes the "Appendix" referred to in subsection (b)(3) [Disclosure Categories] of 2 Cal. Code of Regs. section 18730.

The Mayor, members of the City Council, members of the planning commission, the city manager, the city attorney, the city treasurer, the financial services director (for finance director functions), the FSD revenue and treasury manager and the person serving as finance director for the Harbor District[1] are required to disclose financial interests pursuant to Government Code sections 87200 - 87210 and are therefore not included in the list set forth below.

[1] Pursuant to Government Code section 87200 and 2 Cal. Code of Regs. section 18720 it has been determined that the following positions manage public investments and will file the form 700 statement of economic interest: Administrative Services Director (as Finance Director), ASD Revenue/Treasury Manager and the City employee designated as the Finance Director for the Small Craft Harbor District.

SECTION II: **EFFECTIVE DATE**

This 2014~~2~~ update shall be effective the day following its approval by the code reviewing body, the City Council of the City of Oceanside, California, and shall remain in effect until repealed or superseded.

SECTION III: **LIST OF DESIGNATED POSITIONS/EMPLOYEES AND DISCLOSURE CATEGORIES**[2]

The positions within the City listed in this appendix are "designated positions." Any person whose employment position (whether full time, part time or temporary) with the City is a designated position, is a "designated employee" for the purposes of the local conflict of interest code. Designated employees shall disclose in the manner provided in the local conflict of interest code of the City of Oceanside, those financial interests, which are within the schedules and categories represented by the letter(s) following the listing position. The disclosure category requirements represented by categories 1-4 and are set forth in subsection (b)(7) [Manner of Reporting] of 2 Cal. Code of Regs. section 18730. Generally the disclosure categories are as follows:

Category	Financial Interest to be disclosed
1	**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 or used by the City, Agency or District.**
2	**All investments, business positions in and income sources of the type which provide services, supplies, materials machinery or equipment of the type utilized by the City, Agency or District.**
3	**All investments, business positions in, and sources of income which are subject to the regulatory, permit or licensing authority of the City, Agency or District.**
4	**All interests in real property and sources of income which are subject to the regulatory, permit or licensing authority of the City, Agency, or District.**

[2] The Community Development Commission has no designated positions or employees other than the Commission, the Redevelopment Advisory Committee, the Executive Director and the General Counsel. All other board, commissions and designated positions/employees which may perform Community Development Commission related services are of the City. The Small Craft Harbor District has entered into an agreement whereby the City provides management and other services to the District. Whenever a Harbor District position is designated, it shall mean the City employee providing those services for the District.

Designated Positions	**Disclosure Categories**
Legislative Bodies other than the City Council:	
Community Development Commission	1
*Small Craft Harbor District Board of Directors	1
Board, Commissions & Committees:	
~~Community Relations Commission~~	~~3~~
Downtown Advisory Commission	4
Economic Development Commission	1
~~Fire Board of Appeals~~	~~3~~
Historical Preservation Advisory Commission	4
Housing Commission	4
~~Housing~~ Rehabilitation Loan Committee	4
Library Board of Directors	3
Manufactured Home Fair Practices Commission	4
~~Oceanside Building Authority~~	~~3~~
~~Redevelopment Advisory Committee~~	~~4~~
~~Relocation Appeals Board~~	~~4~~
Utilities Commission	4
City Staff:	
Assistant Fire Marshal	2
Accounting Manager	2
Administrative Analyst II	2
Assistant Building Official	3
Assistant City Attorney	1
Assistant City Clerk	1
Assistant City Manager	1
Assistant Fire Chief	1
Building Plans Examiner	3
~~Building Services Administrator~~	~~3~~
Business License Inspector	3
Chief Building Official	1
Chief Information Officer	2
CIP Manager I	2
CIP Manager II	2
CIP Manager III	2
City Clerk	1
City Engineer	1
City Planner	1
City Traffic Engineer	3

Compliance Inspector	3
Compliance Officer	3
Council Aide	1
Consulting Assistant	2
**Consultants	(See explanation below)
Development Coordinator	4
Deputy City Attorney I	1
Deputy City Attorney II	1
Deputy City Manager	1
Development Services Director	1
Downtown Development Manager	1
~~Economic Development Division Manager~~	~~1~~
Environmental Officer	1
Financial Analyst	2
Financial Services Division Manager	2
Financial Services Director	1
Fire Chief	1
Fire Safety Specialist	2
Fleet Supervisor	2
Harbor Attorney	1
~~Harbor and Beaches Coordinator~~	~~2~~
Harbor Manager	1
Housing & Neighborhood Services Director	1
Housing Program Manager	4
Housing Program Analyst II	2
Human Resources Director	1
Human Resources Division Manager	2
Industrial Waste Inspector	3
Information Technology Division Manager	2
Information Technology Purchasing and Contract Coordinator	2
Library Director	1
Library Division Manager	2
Literacy Coordinator	2
Management Analyst	2
Neighborhood Services Division Manager	2
Police Captain	1
Police Chief	1
Police Lieutenant	3
Police Records Manager	2
Principal Engineering Staff Assistant	2
~~Principal Human Resource Analyst~~	~~2~~
Principal Librarian	2

Principal Planner	4
Property Agent	4
~~Property and Liability Program Manager~~	~~2~~
Public Safety Communications Manager	2
Public Works Division Manager	2
Purchasing Technician	2
Real Estate Manager	1
Records Manager	2
Revenue Compliance Inspector	2
Risk Manager	2
~~Safety Officer~~	~~3~~
~~Safety Specialist I~~	~~3~~
~~Safety Specialist II~~	~~3~~
~~Senior Building Inspector~~	~~3~~
Senior Civil Engineer	3
Senior Human Resource Analyst	2
Senior Information Technologies Analyst	2
Senior Management Analyst	2
Senior Planner	1
Senior Property Agent	4
Supervising Deputy City Attorney	1
Supervising Accountant	2
Supervising Housing Specialist	4
Supervising Property Agent	4
Transportation Planner	3
Treasury Manager	2
Water Utilities Director	1
Water Utilities Division Manager	2
Water/Wastewater Project Manager	2

FILING OFFICER

* The Clerk of the Board of Supervisors is filing officer for the Oceanside Small Craft Harbor District.

The City Clerk is the filing officer for the City of Oceanside and all city agencies, boards, commissions, committees and designated positions/employees.

**CONSULTANTS

Definition:

Fair Political Practices Commission regulation [2 Cal. Code of Regs. section 18700] defines "consultant" as an individual who, pursuant to a contract with a state or local governmental 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 a 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 which requires agency approval and in which the agency is a party or to the specifications for 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 of the agency; or

(b) Serves in an ongoing staff capacity with the agency and in that capacity 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 local conflict of interest code.

"Consultant" does not include persons who:

(1) Conduct research and arrive at conclusions with respect to his or her rendition of information, advice, recommendation or counsel independent of the control and direction of the agency or of any agency official, other than normal contract monitoring; and

(2) Possess no authority with respect to any agency decision beyond the rendition of information, advice, recommendation or counsel and only provide services on a sporadic basis.

Disclosure required:

(1) Consultants that meet the definition of paragraph (a), above, shall disclose according to disclosure categories 1-4 subject to the following limitation: The department head of the department for which the consultant provides primary services, with the approval of the City Attorney, 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 paragraph. The 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 written determination is a public record and shall be retained for public inspection in the office of the City Clerk.

(2) Consultants that meet the definition of paragraph (b), above, shall disclose financial interests in the same manner as is required for the designated position the duties of which are performed, in whole or in part, by the consultant.

DECLARATION

The proposed conflict of interest code specifically enumerates each of the positions within the City, Agency or District, which involve the making of decisions, which may foreseeably have a material financial effect on any financial interest. The City, Agency and District have satisfied all of the requirements of TITLE 2, Division 6 of the California Code of Regulations 18750.1(b) preliminary to approval of the proposed code.

_____
City Manager

APPROVED AS TO FORM:

_____
City Attorney

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