



CONSENT CALENDAR

Agenda Item # 2

AGENDA REPORT SUMMARY

Meeting Date: October 13, 2020

Subject: Resolution No. 2020-36: Conflict of Interest Code

Prepared by: Andrea Chelemengos, City Clerk

Approved by: Chris Jordan, City Manager

Attachment(s):

1. Resolution No. 2020-36

Initiated by:

State Law

Previous Council Consideration:

November 27, 2018

Fiscal Impact:

None

Environmental Review:

Not applicable

Policy Question(s) for Council Consideration:

- Are the positions designated within the Conflict of Interest Code consistent with the regulation to identify those positions which make or participate in making governmental decisions?

Summary:

- Adoption of the City's Conflict of Interest Code is required every two years
- Those positions which make or participate in making governmental decisions have been identified

Staff Recommendation:

Adopt Resolution No. 2020-36 amending the City of Los Altos Conflict of Interest Code



Subject: Resolution No. 2020-36: Conflict of Interest Code

Purpose

To adopt the City's biennial Conflict of Interest Code.

Background

California Government Code Section 87300 *et seq.* requires all local government agencies to establish a Conflict of Interest (COI) Code and to review that Code biennially. The City of Los Altos COI was last amended on November 27, 2018

Discussion/Analysis

The purpose of the biennial COI Code review is to determine if changes to the code are needed. According to Fair Political Practices Commission (FPPC) Regulation 18730, the COI Code designates those positions in the City which "make or participate in the making of decisions which may foreseeably have a material effect on economic interests." The Code must further specify the extent of disclosure required. Upon a review of the City's current Code, it was determined that an amendment is necessary.

Since the last update to the COI Code, staff positions have been created and/or eliminated and titles and responsibilities have changed. In addition, the City Attorney's office has conducted a thorough review of the list of positions and determined that additional positions should be added to the list. Exhibit A to Resolution No. 2020-36 contains the list of positions and their designated disclosure requirements.

The following positions are recommended to be added to the City's Conflict of Interest Code and have been included in the proposed Resolution.

Engineering Services Director/City Engineer
Construction Inspector
Human Resources Analyst
Maintenance Services Director
Network Systems Administrator
Public Information Officer
Senior Accountant
Sustainability Coordinator

Each individual designated by the COI Code must file an annual Statement of Economic Interests (Form 700) with the City Clerk's Office, as well as Assuming Office and Leaving Office statements when applicable.

It should be noted that those serving on the City Council and the Planning Commission, as well as the City Manager, City Attorney and Administrative Services/Finance Director are designated in Government Code Section 87200 and therefore are not listed in the City's Code.



Subject: Resolution No. 2020-36: Conflict of Interest Code

Options

1) Adopt Resolution No. 2020-36 amending the City of Los Altos Conflict of Interest Code

Advantages: Updates the City's Conflict of Interest Code to reflect more accurately those positions which make or participate in making governmental decisions

Disadvantages: None identified

2) Do not adopt Resolution No. 2020-36

Advantages: None identified

Disadvantages: Certain positions which participate in making governmental decisions would not be required to file Statement of Economic Interests

Recommendation

The staff recommends Option 1.

RESOLUTION NO. 2020-36

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
APPROVING AND ADOPTING AN AMENDED CONFLICT OF INTEREST
CODE PURSUANT TO THE POLITICAL REFORM ACT OF 1974**

WHEREAS, the State of California enacted the Political Reform Act of 1974, Government Code Section 81000, et seq. (the “Act”), which contains provisions relating to conflicts of interest which potentially affect all officers, employees and consultants of the City of Los Altos (the “City”), and which requires all public agencies to adopt and promulgate a conflict of interest code; and

WHEREAS, the City Council adopted a Conflict of Interest Code (the “Code”), which was amended by Resolution No. 2018-43 in compliance with the Act; and

WHEREAS, subsequent changed circumstances within the City have made it advisable and necessary pursuant to Sections 87306 and 87307 of the Act to amend and update the City’s Code; and

WHEREAS, the potential penalties for violation of the provisions of the Act are substantial and may include criminal and civil liability, as well as equitable relief which could result in the City being restrained or prevented from acting in cases where the provisions of the Act may have been violated; and

WHEREAS, notice of the time and place of a public meeting on, and of consideration by the City Council of, the proposed amended Code was provided to each affected designated employee and was publicly posted for review; and

WHEREAS, a public meeting was held upon the proposed amended Code at a regular meeting of the City Council on October 13, 2020 at which all present were given an opportunity to be heard on the proposed amended Code.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Los Altos that:

1. The City Council does hereby approve and adopt the proposed amended Conflict of Interest Code, a copy of which is attached hereto and shall be on file with the City Clerk and available to the public for inspection and copying during regular business hours;
2. The said amended Conflict of Interest Code shall become effective immediately upon its adoption and approval; and
3. All previous conflict of interest codes of the City of Los Altos shall be rescinded upon effective date of said amended Code as approved by the City Council.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the ____ day of ____, 2020 20 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Janis C. Pepper, MAYOR

Attest:

Andrea M. Chelemengos, MMC CITY CLERK

CONFLICT OF INTEREST CODE OF THE CITY OF LOS ALTOS

CONFLICT OF INTEREST CODE OF THE CITY OF LOS ALTOS

(Proposed October 13, 2020)

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 Los Altos (the "City")**.

All officials and designated positions required to submit a statement of economic interests shall file their statements with the **City Clerk** as the City's Filing Officer. 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

EXHIBIT A

City Attorney and the City Treasurer, and forward the originals of such statements to the Fair Political Practices Commission. The **City Clerk** shall retain the original statements filed by all other officials and designated positions and will make all retained statements available for public inspection and reproduction during regular business hours. (Gov. Code § 81008.)

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 of Section 53235, and maintain required records indicating the dates that filers satisfied the training requirements and the entity that provided the training. These records shall be retained for five years after the date of training and are public records subject to disclosure under the California Public Records Act. (Gov. Code § 53235.2.)

APPENDIX

CONFLICT OF INTEREST CODE

OF THE

CITY OF LOS ALTOS

(Proposed October 13, 2020)

PART "A"

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. [Regs. § 18730(b)(3)]

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

It has been determined that the positions listed below are Other City Officials who manage public investments¹. These positions are listed here for informational purposes only.

Administrative Services/Finance Director

Investment Advisor

Investment Consultant

¹ Individuals holding one of the above-listed positions 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 § 87200.

DESIGNATED POSITIONS'
TITLE OR FUNCTION

DISCLOSURE CATEGORIES
ASSIGNED

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

DESIGNATED POSITIONS'
TITLE OR FUNCTION

DISCLOSURE CATEGORIES
ASSIGNED

Assistant City Manager	1, 2
Assistant/Associate Planner	2, 3, 5
Associate/Senior Planner	2, 3, 5
Building Inspector	6
Building Official	2, 3, 5, 6
City Attorney (not filing under GC § 87200, incl. deputy/assistant)	1, 2
City Clerk	1, 2
Community Development Director	1, 2
Construction Inspector	2, 3, 5, 6,
Deputy City Clerk	5
Deputy City Manager	1, 2
Deputy City Manager/ City Clerk	1, 2
Economic Development Manager/Coordinator	1, 2
Engineering Services Director/City Engineer	1, 2
Engineering Services Manager	2, 3, 5
Financial Services Manager	1, 2
Human Resources Analyst	5
Human Resources Manager	5
Information Technology Analyst	5
Information Technology Manager	5
Maintenance Services Director	1, 2
Maintenance Supervisor	5
Management Analyst	5
Network Systems Administrator	4
Planning Services Manager	1, 2

DESIGNATED POSITIONS'
TITLE OR FUNCTION

DISCLOSURE CATEGORIES
ASSIGNED

Police Captain	5
Police Chief	5
Police Services Manager	5
Project Manager	2, 3, 5
Public Information Officer	1, 2
Recreation Coordinator	5
Recreation Director	5
Recreation Manager	5
Senior Accountant	4
Senior/Recreation Supervisor	5
Special Projects Manager	2, 3, 5
Sustainability Coordinator	2, 3, 5, 6
Transportation Projects Manager	2, 3, 5

DRAFT

DESIGNATED POSITIONS'
TITLE OR FUNCTION

DISCLOSURE CATEGORIES
ASSIGNED

MEMBERS OF COMMITTEES,
BOARDS & COMMISSIONS

Complete Streets Commission	1, 2
Design Review Commission	2, 3, 6
Environmental Commission	1, 2
Financial Commission	1, 2
Historical Commission	5
Parks and Recreation Commission	2, 3, 5
Public Arts Commission	5

Consultants and New Positions²

² Individuals serving as a consultant as defined in FPPC Reg 18700.3(a) or in a new position created since this Code was last approved that makes or participates in making decisions must file under the broadest disclosure set forth in this Code subject to the following limitation:

The City Manager may determine that, due to the range of duties or contractual obligations, it is more appropriate to assign a limited disclosure requirement. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. (Gov. Code Sec. 82019; FPPC Regulations 18219 and 18734.). The City Manger'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. (Gov. Code Sec. 81008.)

PART "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned.³ "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: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the boundaries of the City.

Category 3: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the City.

Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the City.

Category 5: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the designated position's department, unit or division.

Category 6: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, subject to the regulatory, permit, or licensing authority of the designated employee's department, unit or division.

³ This Conflict of Interest Code does not require the reporting of gifts from outside this agency's jurisdiction if the source does not have some connection with or bearing upon the functions or duties of the position. (Reg. 18730.1)