



# STAFF REPORT

## SAUSALITO CITY COUNCIL

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### AGENDA TITLE:

Conduct biennial review of Conflict of Interest Code and adopt amendments for the Code for 2008

### RECOMMENDED MOTION:

Conduct biennial review of Conflict of Interest Code and adopt amendments for the Code for 2008

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### SUMMARY

The Political Reform Act requires every local government agency to review its conflict-of-interest code biennially. No later than October 1 of each even-numbered year, each agency must submit to the code reviewing body a notice indicating whether or not an amendment is necessary. The City Council is the code reviewing body for city agencies.

### BACKGROUND

The Sausalito Conflict of Interest Code was last reviewed by the City Council in 2006. Staff has reviewed Resolution No. 4843 that adopted amendments to the City's Code in 2006 and is recommending that changes be made to Appendix A of the Code, which lists the titles of the "Designated Employee Positions" that are required to file the annual Conflict of Interests Statement (Form 700) as required under Government Code Section 87300.

Amendments to the 2008 Conflict of Interest Code are recommended by staff as being necessary due to: 1) changes in titles of some positions; and 2) changes in staffing positions that have been deemed necessary for the most efficient operation of various City departments since the time the last Code was adopted. The inclusion of the particular staff positions that are designated in the Conflict of Interest Code is based on the fact that in the performance of their duties these positions in various ways deal with investments, interests in real property, income and business positions.

The recommended changes to the Code are limited to the following:

1. Finance Systems Technician: position eliminated;
2. Parking and Transportation Manager: position eliminated;
3. Administrative Services Manager: position eliminated;

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4. Fire Captain: removed from disclosure requirement due to staffing structure within the SMFD consolidation;
5. Accounting Technician: position removed from disclosure requirements
5. Deputy Planning Director: position added;
6. Recreation Supervisor: position added.

In reviewing the Council-appointed boards and commissions list whose members are required to file the Form 700, staff does not feel that any changes are necessary. The criteria for the boards that are listed are that they are not solely advisory and do have decision-making authority. The listed boards are:

1. Arts Commission
2. Board of Library Trustees
3. Historic Landmarks Board
4. Parks and Recreation Commission
5. Tree Committee
6. Underground Committee

Staff does not recommend any current changes to the standing boards, commissions or committees that are included in the list of required filers.

## ISSUES

The City of Sausalito is required by the Political Reform Act to review its Conflict of Interest Code during every even-numbered year and, through adoption of a resolution that is the revised Conflict of Interest Code, must make any required changes to ensure that our code is in compliance with the requirements of that Act.

## STAFF RECOMMENDATIONS


- 1) Council should review the changes to the Conflict of Interest Code as recommended by staff and specify any additional recommended changes to the Code.
- 2) Council should adopt a resolution amending the City's Conflict of Interest Code for 2008.

## ATTACHMENTS

- 1) Resolution to amend the City's Conflict of Interest Code in 2008

PREPARED BY:

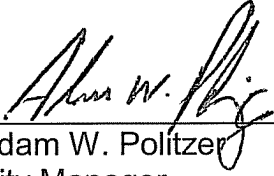
Reviewed by:

  
 \_\_\_\_\_  
 Debbie Pagliaro  
 Assistant to the City Manager

\_\_\_\_\_  
 Mary Wagner  
 City Attorney

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SUBMITTED BY:



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Adam W. Politzer  
City Manager

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RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAUSALITO  
AMENDING THE CITY'S CONFLICT OF INTEREST CODE**

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**WHEREAS**, pursuant to Resolution No. 2940, the City Council of the City of Sausalito adopted the Model Conflict of Interest Code found at Section 18730 of the Regulations of the Fair Political Practices Commission, codified in Title 1 of the California Code of Regulations as the Conflict of Interest Code for the City of Sausalito; and

**WHEREAS**, the Conflict of Interest Code for the City of Sausalito was most recently amended and readopted pursuant by Resolution No. 4843 on July 11, 2006 (the "City's Conflict of Interest Code"); and

**WHEREAS**, under the Political Reform Act, Government Code Section 81000, *et seq.*, (the "Political Reform Act") the City Council as the "code reviewing body" for the City is required to review the City's Conflict of Interest Code and to make any required amendments by October 1 of every even-numbered year; and

**WHEREAS**, the City Council of the City of Sausalito desires to amend the City's Conflict of Interest Code in order to adopt the revisions to the List of Designated Employees set forth on the attached Exhibit "A".

**NOW THEREFORE**, the City Council of the City of Sausalito does hereby resolve as follows:

**Section 1. Amendment to Conflict of Interest Code.** The List of Designated Employees set forth as Appendix A to the Conflict of Interest Code of the City of Sausalito is hereby amended as set forth on Exhibit "A" which is attached hereto and incorporated herein by reference.

**Section 2. Full Force and Effect.** Except as set forth herein, all other provisions of the Conflict of Interest Code of the City of Sausalito shall remain in full force and effect.

**Section 3. Severability.** If the title, or any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held by a court of competent jurisdiction to be invalid or unconstitutional such decision shall not affect the validity of the remaining portions of this Ordinance and its title and each section, subsection, clause and phrase hereof irrespective of the fact that the title or any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

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**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Sausalito on the \_\_\_<sup>th</sup> day of \_\_\_\_\_, 2008, by the following vote:

AYES: Councilmembers:  
NOES: Councilmembers:  
ABSENT: Councilmembers:  
ABSTAIN: Councilmembers:

\_\_\_\_\_  
MAYOR OF THE CITY OF SAUSALITO

ATTEST:

\_\_\_\_\_  
DEPUTY CITY CLERK

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EXHIBIT "A"

Appendix A

<u>Designated Employee Positions Under Government Code Section 87300</u>	<u>Disclosure Categories</u>
Members of the Arts Commission	2
Members of the Board of Library Trustees	2, 4
Members of the Historic Landmarks Board	2, 4, 6
Members of the Parks & Recreation Commission	2, 3, 4, 5, 6
Members of the Tree Committee	2, 4
Members of the Underground Committee	2, 4
<del>Finance Systems Technician</del>	<del>1, 2, 5, 6</del>
<del>Accounting Technician</del>	<del>5, 6</del>
Assistant to the City Manager	1, 2, 5, 6
Assistant Planner	2, 3, 4, 5
Associate Planner	2, 3, 4, 5
Building Inspector	2, 3, 4, 6
City Engineer	1, 2, 3, 4, 5, 6
Civil Engineer II	3, 4, 5, 6
City Librarian	1, 2, 5, 6
Community Development Director	1, 2, 5, 6
<b><u>Deputy Planning Director</u></b>	<b>1, 2, 5, 6</b>
<del>Fire Captain</del>	<del>1, 2, 5, 6</del>
Fire Chief	1, 2, 5, 6
<del>Parking and Transportation Manager</del>	<del>1, 2, 5, 6</del>
<del>Administrative Services Manager</del>	<del>1, 2, 5, 6</del>
Police Captain	1, 2, 5, 6
Police Chief	1, 2, 5, 6
<b><u>Police Lieutenant</u></b>	<b>1, 2, 5, 6</b>
Public Works Director	1, 2, 3, 4, 5, 6
Recreation Director	1, 2, 5, 6
Technology Manager	1, 2, 5, 6

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**Designated Consultant Positions:** Disclosure Categories to be determined by the City Manager

The City Manager shall review the duties of all consultants at the time of entering into any agreement with them and, if applicable, shall require the consultant to make appropriate disclosures in accordance with those required of the staff member categories listed in Exhibit A. A Consultant is an individual who, pursuant to a contract with the City, (1) serves in a staff capacity and in that capacity participates in making a governmental decision or performs the same or substantially the same duties for the City that a staff member would perform, or (2) the makes governmental decisions whether to approve a rate, rule or regulation; adopt, or enforce a law; issue, deny, suspend or revoke a permit, license, application, certificate, approval, order, or similar authorization or entitlement; authorize the City to enter into, modify or renew a contract provided it is the type of contract which requires agency approval; grant City approval to a contract which requires City approval and in which the City is a party or to the specifications for such a contract; grant City approval to a plan, design, report, or study, or similar item; or adopt, or grant City approval of policies, standards, or guidelines for the City or any subdivision thereof. (2 Cal. Code Regs. §18701(a)(2).)

**Note:**

The persons holding the following positions must comply with the separate disclosure requirements of Government Code Section 87200: City Manager/~~City Clerk~~, Mayor, City Councilmembers, Planning Commissioners, City Attorney, ~~Finance Director~~ Administrative Services Director/Treasurer.

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## APPENDIX B DISCLOSURE CATEGORIES

A. Persons holding positions listed in Appendix A are required to file the initial, annual, and leaving office statements of financial interest required by this Code for the types of financial interests indicated in the Disclosure Category column adjacent to the Designated Position column in Appendix A. It has been determined that the positions listed in the Designated Position column make or participate in the making of decisions which foreseeably may have a material financial effect on the types of financial interests required to be reported. (See Gov. Code §87302; 2 Cal. Code of Regs. §18730(b)(2).)

B. Where the Disclosure Category requires disclosure of interests in real property, the designated employee need only disclose real property which is located in whole or in part anywhere within and extending to within two miles outside the Sausalito City limits. (See Gov. Code §82033, 82035.)

C. Where the Disclosure Category requires disclosure of investments or sources of income, the designated employee need only disclosure investments in business entities and sources of income which do business in Sausalito, plan to do business in Sausalito, or have done business in Sausalito within the past two years. In addition to other activity, a business entity is doing business within Sausalito if it owns property in Sausalito. (See Gov. Code §82030, 82034.) Where disclosure requires "sources of income", income includes the official's community property interest in the income of his or her spouse but **does not** include salary or reimbursement for expenses received from a state, local or federal government. (See Gov. Code §82030; 2 Cal. Code of Regs. §18730(b)(7)(B) fn. 5.)

D. Where the Disclosure Category requires the disclosure of business positions, the designated employee need only disclosure positions of director, officer, partner, trustee, employee or any position of management in organizations or enterprises operated for profit. (See 2 Cal. Code of Regs. §18730(b)(7)(D).)

E. The Disclosure Categories are:

Category 1: Investments and sources of income

Category 2: Interests in real property

Category 3: Investments, interests in real property and sources of income subject to the regulatory, permit or licensing authority of the department

Category 4: Investments in business entities and sources of income which engage in land development, construction, or the acquisition or sale of real property

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Category 5: Investments in business entities and sources of income of the type which, within the past two years, have contracted with the City of Sausalito to provide services, supplies, materials, machinery or equipment. (See Gov. Code §1090.)

Category 6: Business positions

F. Please note that no city employee, consultant or official may make or participate in the making of any decision that might affect a financial interest whether or not that person is listed as a designated employee or whether the interest has been listed or not. (See 2 Cal. Code of Regs. §87302(c).)

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