



Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Montgomery and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Robert V. Wadden, Jr., City Attorney
Liza Tamura, City Clerk
Terri Aliabadi, Senior Deputy City Clerk

DATE: September 16, 2008

SUBJECT: Consideration of a Resolution Adopting the 2008 Conflict of Interest Code for the City of Manhattan Beach

RECOMMENDATION:

It is recommended that the City Council adopt Resolution No. 6154 adopting the 2008 Conflict of Interest Code for the City of Manhattan Beach.

FISCAL IMPLICATION:

There are no fiscal implications associated with this recommendation.

BACKGROUND:

The California Political Reform Act requires that every local governmental agency review its Conflict of Interest Code biennially to determine if it is accurate and up-to-date or, alternatively, the Code must be amended. Once the determination has been made, a notice must be submitted to the City Council (who is the Code reviewing body) no later than October 1 of even-numbered years. In keeping with the mandate, staff has prepared an updated Conflict of Interest Code incorporating the changes in designated positions that have been modified, added or deleted.

DISCUSSION:

As determined by the City Manager and all Department Heads, Exhibit "A" of Resolution No. 6154 provides the list of designated positions which reflects all officers and employees that are deemed to make, or participate in the making of, decisions, which may have a foreseeable material effect on a financial interest.

The following revisions were made to the "Designated Positions": the addition of an Environmental Programs Manager (Management Services), Planning Manager (Community Development), Fire Inspector (Fire Department) and Senior Human Resources Analyst (Human Resources) and the deletion of the Community Programs Supervisor (Parks and Recreation Department) and Budget Analyst (Finance). These revisions are being proposed in the 2008 Conflict of Interest Code in order to stay consistent with the City's *Class Listing* and *Flex Class Status*.

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It is also important to note that while the City Councilmembers, City Treasurer, City Manager, City Attorney and Planning Commissioners are not listed in the City's Conflict of Interest Code, they are however, listed by law under Government Code Section 87200 as mandatory public official filers of the Statement of Economic Interests, Form 700.

All other provisions of the Conflict of Interest Code consistent with the foregoing amendment shall continue in full force and affect.

Attachment: Resolution No. 6154

RESOLUTION NO. 6154

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
MANHATTAN BEACH, CALIFORNIA, ADOPTING THE 2008 CONFLICT
OF INTEREST CODE OF THE CITY OF MANHATTAN BEACH

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES
HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The 2008 Conflict of Interest Code of the City of Manhattan Beach,
California, attached hereto and incorporated herein by this reference, is hereby adopted as the Conflict
of Interest Code for the City of Manhattan Beach.

SECTION 2. Adoption of this Resolution and the 2008 Conflict of Interest Code for the
City of Manhattan Beach supersedes all the previously approved Conflict of Interest Codes for the City
of Manhattan Beach.

SECTION 3. This resolution shall take effect immediately.

SECTION 4. The City Clerk shall certify to the passage and adoption of this Resolution;
shall cause the same to be entered among the original resolutions of the City; and shall make a minute
of the passage and adoption thereof in the records of the proceedings of the City Council of said City in
the minutes of the meeting at which the same is passed and adopted.

PASSED, APPROVED and ADOPTED this 16th day of September, 2008.

Ayes:
Noes:
Absent:
Abstain:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk

CONFLICT OF INTEREST

OF THE

CITY OF MANHATTAN BEACH, CALIFORNIA

SECTION 100. PURPOSE. Pursuant to the provisions of Government Code Sections 87300, et seq., the City of Manhattan Beach hereby adopts this following Conflict of Interest Code. The provisions of the Code are additional to Government Code Section 87100 and other laws pertaining to conflicts of interest. Except as otherwise indicated, the definitions contained in Chapter 2 of Title 9 of the Government Code (Sections 82000 et seq.) of said Act and regulations adopted by the Fair Political Practices Commission are incorporated herein and this Code shall be interpreted in a manner consistent therewith.

It is the purpose of this Code to provide for the disclosure of assets and income of designated employees of the City of Manhattan Beach which may be materially affected by their official actions, and, in appropriate circumstances, to provide that designated employees should be disqualified from acting in order that conflicts of interest may be avoided.

SECTION 200. DESIGNATED POSITIONS. The positions listed on Exhibit "A" are designated positions. Officers and employees holding those positions are designated employees and are deemed to make, or participate in the making of, decisions which may foreseeably have a material effect on a financial interest.

SECTION 300. DISCLOSURE STATEMENTS. Designated positions shall be assigned to one or more of the disclosure categories set forth on Exhibit "B". Each designated employee shall file an annual statement disclosing that employee's interest in investments, real property, and income, designated as reportable under the category to which the employee's position is assigned on Exhibit "B".

SECTION 400. PLACE AND TIME OF FILING.

- (a) All designated employees required to submit a statement of financial interest shall file the original with the City Clerk.
- (b) A designated employee required to submit an initial statement of financial interest shall submit the statement within thirty (30) days after the effective date of this Code.
- (c) All individuals appointed, promoted or transferred to designated positions shall file initial statements within thirty (30) days after assuming office.
- (d) Annual statements shall be filed by April 1st by all designated employees. Such statements shall cover the period of the preceding calendar year.
- (e) Every designated employee who leaves office shall file, within thirty (30) days of leaving office, a statement disclosing reportable investments, business positions, interests in real property, and income held or received at any time during the period between the closing date of the last statement required to be filed and the date of leaving office.

However, a designated employee who resigns his or her position within forty-five (45) days following initial appointment is not deemed to assume or leave office, provided that during the period between appointment and resignation, the individual does not make, participate in making, or use the position to influence any decision of the City of Manhattan Beach or receive or become entitled to receive any form of payment by virtue of being appointed to the position.

SECTION 500. CONTENTS OF DISCLOSURE STATEMENTS. Disclosure statements shall be made on forms supplied by the City Clerk, and shall contain the following information:

- (a) Contents of Investment and Real Property Reports:
When an investment, or an interest in real property, is required to be reported, the statement shall contain:
 - (1) A statement of the nature of the investment or interest;
 - (2) The names of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
 - (3) The address or other precise location of the real property;
 - (4) A statement whether the fair market value of the investment, or interest in real property, exceeds ten thousand dollars (\$10,000), and whether it exceeds one hundred thousand dollars (\$100,000). This information need not be provided with respect to an interest in real property which is used principally as the residence of the filer.

- (b) Contents of Personal Income Reports:
When personal income is required to be reported, the statement shall contain:
 - (1) The name and address of each source of income aggregating two hundred and fifty dollars (\$250) or more in value, or twenty-five dollars (\$25) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
 - (2) A statement whether the aggregate value of income from each source was greater than one thousand dollars (\$1,000), and whether it was greater than ten thousand dollars (\$10,000);
 - (3) A description of the consideration, if any, for which the income was received;
 - (4) In the case of a gift, the amount or value and the date on which the gift was received.
- (c) Contents of Business Entity Reports:
When income of a business entity, including income of a sole proprietorship, is required to be reported, the statement shall contain:
 - (1) The name, address, and general description of the business activity of the business entity;
 - (2) In the case of a business entity, the name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000) during a calendar year, and if that person from whom the business entity received payments was doing business with the agency or expecting to do business with the agency.
- (d) Initial Statement:
The first report filed by an employee appointed to a designated position shall disclose any reportable investments and interest in real property.
- (e) Acquisition or Disposal During Reporting Period:
If any otherwise reportable investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal.

SECTION 600. DISQUALIFICATION. Designated employees shall disqualify themselves from making or participating in the making or in any way attempting to use their official position to influence a governmental decision when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally on:

- (a) any reportable investment or interest in real property;
- (b) any reportable source of income other than loans by a commercial lending institution in the regular course of business, aggregating two hundred fifty dollars (\$250) or more in value received within twelve months prior to the time the decision is made;
- (c) any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management.

EXHIBIT "A"

<u>COMMUNITY DEVELOPMENT DEPARTMENT:</u>	
Community Development Director	1,2,3
Building Administrator (Building Official)	1,2,3
Senior Building Inspector	1,2,3
Planning Manager	1,2,3
Senior Planner	1,2,3
Senior Plan Check Engineer	1,2,3
Management Analyst	1,2,3
Associate Planner	1,2,3
Principal Building Inspector	1,2,3
Principal Plan Check Engineer	1,2,3
<u>FINANCE DEPARTMENT:</u>	
Controller	1,2,3
Revenue Services Manager	1,2,3
General Services Manager	1,2,3
General Services Coordinator	1,2,3
Information Systems Manager	1,2,3
<u>FIRE DEPARTMENT:</u>	
Fire Chief	1,2,3
Fire Marshal/Captain	1,2,3
Fire Battalion Chief	1,2,3
Fire Inspector	1,2,3
<u>MANAGEMENT SERVICES:</u>	
Assistant to the City Manager/Deputy City Manager	1,2,3
City Clerk	1,2,3
Environmental Programs Manager	1,2,3
<u>PARKS AND RECREATION DEPARTMENT:</u>	
Parks and Recreation Director	1,2,3
Recreation Services Manager	1,2,3
Cultural Arts Manager	1,2,3
<u>HUMAN RESOURCES DEPARTMENT:</u>	
Human Resources Director	1,2,3
Risk Manager	1,2,3
Senior Human Resources Analyst	1,2,3
<u>POLICE DEPARTMENT:</u>	
Police Chief	1,2,3
Police Captain	1,2,3
<u>PUBLIC WORKS DEPARTMENT:</u>	
Public Works Director	1,2,3
Utilities Manager	1,2,3
City Engineer	1,2,3
Public Works Inspector	1,2,3
Water Distribution Supervisor	1,2,3
Water Field Supervisor	1,2,3
Wastewater/Electrical Supervisor	1,2,3
Maintenance Supervisor	1,2,3
Maintenance Superintendent	1,2,3
Equipment Maintenance Supervisor	1,2,3
Management Analyst	1,2,3
Senior Management Analyst	1,2,3
<u>BOARDS/COMMISSIONS:</u>	
Cultural Arts Commission	1,2,3
Parking and Public Improvements Commission	1,2,3
Parks and Recreation Commission	1,2,3
Library Commission	1,2,3
<u>MISCELLANEOUS: Consultants (as designated by the City Manager)</u>	
Traffic Engineer	1,2,3,4
<u>OFFICIALS WHO MANAGE PUBLIC INVESTMENTS:</u>	
It has been determined that the positions listed below manage public investments and will file the Form 700 statement of economic interests:	
Finance Director	1,2,3,5
Finance Subcommittee Members	1,2,3,5
Assistant Finance Director	1,2,3,5

EXHIBIT "B"

Category 1.

Persons in this category shall disclose all interests in real property within the jurisdiction. Real property shall be deemed to be within the jurisdiction if within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by the local government agency.

Category 2.

Persons in this category shall disclose all investments. Investment means ...any financial interest in, business position in, or security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments and any partnership or other ownership interest, if the business entity or any parent, subsidiary or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this title. No asset shall be deemed an investment unless its fair market value exceeds one thousand dollars (\$1,000). The term "investment" does not include a time or deemed deposit in a financial institution, shares in a credit union, any insurance policy, or any bond or other debt instrument issued by any government or government agency. Investments of individuals include a pro rata share of investments of any business entity or trust in which the individual or spouse owns, directly, indirectly, or beneficially, a ten percent interest or greater...

Category 3.

Persons in this category shall disclose all income received from any source located or doing business within the jurisdiction or expecting to do business within the jurisdiction. Income received from a public agency need not be disclosed. Income of persons in this category also includes a pro rata share of any income of any business entity located or doing business within the jurisdiction in which the person or spouse owns, directly, indirectly or beneficially, a ten percent interest or greater.

Category 4.

Persons in this category shall disclose all income from and investments in business that manufacture or sell supplies of the type utilized by the Department in which the person is employed.

Category 5.

Persons in this category shall disclose all investments in and income from all banks, savings and loan associations, insurance companies, investment companies, stockbrokers, title companies, financial consultants, data processing firms or consultants.