



## STAFF REPORT

**Date:** June 30, 2014  
**To:** Bryan H. Montgomery, City Manager  
**From:** Libby Vreonis, City Clerk/Paralegal  
**Cc:** William R. Galstan, Special Counsel  
**Subject:** Adopt a Resolution Amending Section 2.9.008(a) of the Oakley Municipal Code Regarding the City's Conflict of Interest Code

Approved and Forwarded to City Council:

  
Bryan Montgomery, City Manager

### FOR CONSIDERATION AT THE OAKLEY CITY COUNCIL MEETING ON JULY 8, 2014

#### Summary and Recommendation

Section 2.9.002 of the Oakley Municipal Code (known as the City's Conflict of Interest Code) provides for the disclosure of assets and income of designated employees of the City which may be materially affected by their actions and, in appropriate circumstances, to provide that designated employees should be disqualified from acting in an order that would create a conflict of interest. Section 2.9.006 provides disclosure categories that designated employees are subject to. Section 2.9.008(a) provides a list of designated employees and their respective disclosure categories. The Political Reform Act requires local government agencies to review its conflict of interest code biennially. The last review was performed in January 2014; however, due to staff turnover and new positions, staff recommends the City Council consider adding the following approved job classifications to Section 2.9.008(a) to provide clarity in the Code:

#### Job Classification

#### Disclosure Category

- |  |               |
|--|---------------|
| • Assistant to the Chief of Police     | 1             |
| • Code Enforcement Coordinator         | 2, 3 and 4    |
| • Economic Development Manager         | 1, 3, 4 and 5 |
| • Human Resources Manager              | 4 and 5       |
| • Parks and Landscape Division Manager | 2, 4 and 5    |
| • Recreation Events Coordinator        | 3 and 5       |
| • Senior Accountant                    | 3 and 5       |

Staff also recommends omitting the following job classifications as these positions are vacant and it is not foreseeable that these positions will be filled in the near future:

- Associate Engineer
- Associate Planner
- Development Manager
- Economic Development Coordinator



- Human Resources Administrator
- Parks and Landscape Supervisor
- Project Manager
- Recreation Supervisor

Section 2.9.008(a) of the Oakley Municipal Code is attached with these proposed changes (highlighted in red).

In January 2014, the City Council added Section 2.9.008(c) to allow future changes to job classifications and disclosure categories to be made by resolution as the changes are administrative and occur somewhat infrequently, usually when there are new job classifications. Therefore, staff recommends the City Council adopt a resolution with the proposed aforementioned amendments.

### **Fiscal Impact**

There are no significant fiscal impacts associated with the proposed amendment to the Code beyond the normal staff time and copy costs needed to distribute, collect and file the required disclosure statements.

### **Background Information**

The overarching purpose of the California Political Reform Act is to help ensure that a public officer or employee, in the course of his or her official duties, is not involved in making, or participating in the making of, decisions which may foreseeably have a material effect on any financial interest of the employee. To that end, Government Code Sections 87300, *et seq.*, require every local agency to promulgate a Conflict of Interest Code which contains (1) a specific listing of the positions within the City which involve the making, or participation in the making, of decisions which may foreseeably have a material effect on any financial interest, and (2) for each such position, the specific types of investments, business positions, interests in real property and sources of income which are reportable. All such designated employees are required to file an annual Form 700 Statement of Economic Interest.

In developing a disclosure list for the conflict of interest code, a "Designated Employee" is an officer, employee, member or consultant of an agency whose position is designated in the code because the position entails the making, or participation in the making, of governmental decisions which may foreseeably have a material effect on any financial interest. Making a governmental decision means the person: (1) votes on a matter; (2) appoints a person; (3) obligates or commits the City to any course of action; or (4) enters into any contractual agreement on behalf of the City. Participating in the making a decision means the person: (1) negotiates, without significant substantive review, with a governmental entity or private person regarding the decision; or (2) advises or makes recommendations to the decision-maker by conducting research or an investigation, preparing or presenting a report, analysis or opinion



which requires the exercise of judgment on the part of the employee and the employee is attempting to influence the decision.

It should be stressed that being listed as a designated employee (or not) does not relieve an individual from following any and all state statutes or FPPC regulations concerning conflicts of interest. This action is only an attempt by the City to appropriately notify the public of potential areas where a conflict may foreseeably arise as these individuals carry out their normal City duties.

### **Conclusion**

Staff recommends that the City Council adopt the proposed resolution.

### **Attachments**

1. Existing Section 2.9.008(a) of the Oakley Municipal Code with proposed changes (highlighted in red);
2. Resolution of the City Council of the City of Oakley Amending Section 2.9.008(a) of the Oakley Municipal Code Regarding the Conflict of Interest Code.

**CHAPTER 9  
CONFLICT OF INTEREST CODE**

**2.9.002 Purpose.**

Pursuant to the Political Reform Act, Cal. Gov. Code §§ 81000, et seq., (the "Act") the City of Oakley hereby adopts the following conflict of interest code. The provisions of the code are in addition to Government Code Section 87100 and other laws pertaining to conflicts of interest.

The purpose of this chapter is to provide for the disclosure of assets and income of designated employees of the City of Oakley 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.

**2.9.004 Definitions.**

Except as otherwise indicated, the definitions contained in Chapter 2 of Title 9 of the Act and in regulations of the Fair Political Practices Commission, 2 Cal. Code of Regulations, §§ 81000 et seq., are incorporated by reference herein and this code shall be interpreted in a manner consistent therewith.

**2.9.006 Disclosure statements.**

Designated employees listed in Section 2.9.008 shall be assigned to one or more of the following disclosure categories. Designated employees shall file an annual statement disclosing that employee's interests in investments, real property, gifts and income that are designated as reportable under the category or categories to which the employee's position is assigned in Section 2.9.008.

Disclosure Category 1: Interests in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by the agency; and investments and business positions in business entities; and income, including loans, gifts, and travel payments from all sources.

Disclosure Category 2: Interests in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by the City.

Disclosure Category 3: Investments and business positions in business entities; and income, including loans, gifts, and travel payments, from sources that provide services, supplies, materials, machinery, or equipment of the type utilized by the City.

Disclosure Category 4: Investments and business positions in business entities; and income, including loans, gifts, and travel payments, from sources that provide services, supplies, materials, machinery, or equipment of the type utilized by the department or division to which the designated employee is assigned duties.

Disclosure Category 5: Investments and business positions in business entities; and income, including loans, gifts, and travel payments, from sources that are of the type to request an entitlement from the City, or an entitlement to use City property or facilities, including but not limited to:

- A license;
- A vendor permit;
- A use permit;
- A regulatory permit;
- A grant or other form of financial assistance;
- Any development-related permit or entitlement.

**2.9.008 Designated employees.**

a. The persons holding the following listed positions are designated employees. Officers, employees, and independent contractors holding these positions are deemed to make, or participate in the making of, decisions which may foreseeably have a material effect on a financial interest. Therefore, these persons are subject to the disclosure categories as listed below:

<b>Designated Employee</b>	<b>Disclosure Categories</b>
Accounting Technician	Categories 3 and 5
<u>Assistant to the Chief of Police</u>	<u>Category 1</u>
Assistant to the City Manager	Categories 3 and 5
Assistant Engineer	Categories 2, 4 and 5
<del>Associate Engineer</del>	<del>Categories 2, 4 and 5</del>
<del>Associate Planner</del>	<del>Categories 2, 4 and 5</del>
Building Inspectors	Categories 2 and 5
Capital Projects Coordinator	Categories 2, 4 and 5
Chief Building Official	Category 1
Chief of Police	Category 1
City Clerk	Category 1
City Engineer / Public Works Director	Category 1
City Surveyor	Category 1
<u>Code Enforcement Coordinator</u>	<u>Categories 2, 3 and 4</u>
Code Enforcement Officer	Categories 2, 3 and 4

Code Enforcement Officer/Building Inspector	Categories 2, 3, 4 and 5
Community Program Coordinator	Category 4
<u>Economic Development Manager</u>	<u>Categories 1, 3, 4 and 5</u>
Development Manager	Categories 2, 4 and 5
<del>Economic Development Coordinator</del>	<del>Categories 1, 3, 4 and 5</del>
<del>Human Resources Administrator</del>	<del>Categories 4 and 5</del>
<u>Human Resources Manager</u>	<u>Categories 4 and 5</u>
Network Manager	Categories 4 and 5
Paralegal	Categories 2, 3 and 5
<u>Parks and Landscape Division Manager</u>	<u>Categories 2, 4 and 5</u>
<del>Parks and Landscape Supervisor</del>	<del>Categories 2, 4 and 5</del>
Permit Center Manager	Categories 2, 4 and 5
<del>Project Manager</del>	<del>Categories 2 and 4</del>
Public Works Inspector	Categories 2 and 5
<u>Recreation Events Coordinator</u>	<u>Categories 3 and 5</u>
Recreation Manager	Category 1
<del>Recreation Supervisor</del>	<del>Category 1</del>
Recreation Technician	Categories 4 and 5
<u>Senior Accountant</u>	<u>Categories 3 and 5</u>
Senior Engineer	Categories 2, 4 and 5
Senior Planner	Categories 2, 4 and 5
Stormwater Coordinator	Categories 2 and 5

b. Consultants. Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation:

- 1) The City Manager may determine in writing that a particular consultant, although a designated employee, 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 in this chapter. Such a 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 City Manager's determination is a public record and shall be retained for public inspection in the office of the City Clerk.

c. Amendments to Designated Employees and Disclosure Categories. Amendments to designated employees and disclosure categories may be made by adoption of a resolution by the Oakley City Council.

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

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY  
APPROVING AMENDING SECTION 2.9.008(a) OF THE OAKLEY MUNICIPAL  
CODE REGARDING THE CONFLICT OF INTEREST CODE**

**BE IT RESOLVED** that Section 2.9.008(a) of the Oakley Municipal Code is hereby amended as set forth in the attached Exhibit "A", and is hereby approved by the Oakley City Council.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 8th of July, 2014 by the following vote:

AYES:

NOES:

ABSTENTION:

ABSENT:

APPROVED:

\_\_\_\_\_  
Randy Pope, Mayor

ATTEST:

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date