

CITY OF PALM DESERT STAFF REPORT

MEETING DATE: September 26, 2024

PREPARED BY: Anthony J. Mejia, City Clerk

SUBJECT: RESOLUTION TO ADOPT THE CITY OF PALM DESERT CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL REFORM ACT

RECOMMENDATION:

Adopt a Resolution entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM DESERT, CALIFORNIA, ADOPTING THE CITY'S CONFLICT OF INTEREST CODE AND REPEALING RESOLUTION 2022-97."

BACKGROUND/ANALYSIS:

Under the Political Reform Act (PRA), Government Code Section 81000 et seq., all public agencies must adopt a Conflict of Interest Code (Code). This Code mandates that certain employees and public officials, who are most likely to be involved in government decision-making, file an annual Statement of Economic Interest, Form 700. The purpose of Form 700 is to notify the employee, public official, and the public of potential conflicts of interest and identify situations where disqualification from decision-making is necessary.

The PRA also requires local agencies to review their Code biennially, in even-numbered years, and adopt any amendments by December 30. On June 13, 2024, the City Council adopted Resolution No. 2024-026, directing staff to review the Code. Following this directive, staff reviewed the existing Code and identified areas requiring amendments due to organizational changes. As a result, staff filed that 2024 Local Agency Biennial Notice and began drafting the necessary amendments.

Terms of the Code

The Fair Political Practices Commission (FPPC) advises that agencies must incorporate Section 18730 of the California Code of Regulations by reference, along with appendices that provide disclosure categories and list designated positions, to form and implement a Code. The incorporation of Regulation §18730 establishes the legal basis for the Code, giving it the force and effect of law.

Disclosure Categories

The FPPC has provided guidance regarding the development of disclosure categories, emphasizing the need to strike an appropriate balance between preventing potential conflicts of interest and respecting an individual's right to privacy. The FPPC notes that one of the most common issues in local codes is requiring employees to disclose financial interests that are unrelated to their job responsibilities and area of authority.

Designated Positions

The Mayor; Members of the City Council and Planning Commission; the City Manager; the City Attorney; and the Finance Director/Treasurer are not designated positions under this Code because they are statutorily required to file a Form 700 under Government Code Section 87200. Furthermore, public officials managing investments must disclose their financial interests per Government Code Section 87200. After consulting with the Finance Director, it was determined that the Finance Committee does not manage the City’s investments. Therefore, it is recommended that the Finance Committee be designated under the Code with Disclosure Categories 1 and 2. Additionally, it is recommended that the Deputy Treasurer role be deleted as the Finance Director/City Treasurer performs these duties and files under Government Code Section 87200.

The FPPC states that a Code should enumerate positions that “make a government decision,” such as voting on a matter, obligating or committing the agency to any course of action, or enters into contractual agreements which may foreseeably have a material effect on any financial interest. It further defines those employees who “participate in governmental decisions” as those who, acting within the authority of their position and without significant substantive or intervening review, negotiate, advise, or makes recommendations to the decision-maker regarding the governmental decision.

The FPPC advises that local Codes are appropriate when agencies narrowly tailor the list of their designated positions. City staff has examined the organizational chart and job descriptions and recommends removing certain positions because they are subject to substantive or intervening review related to permits, contracts, and purchasing, or are clerical or ministerial positions. Any actions taken by ministerial positions are in obedience to the law, and any discretionary decisions are reviewed by or made entirely by a higher authority position or the City Council. Regardless of whether a position is designated, all employees are mandated to disqualify themselves from participation in a decision when acting within the position’s authority would result in a financial interest.

Positions Recommended for Deletion

In consultation with the Department Directors, the following positions are recommended for removal from the Code. These positions are either considered ministerial in nature, ensuring compliance with established laws and regulations, or are being removed due to organizational changes, such as the position being vacant with no intent to fill them currently, being reclassified, or consolidated under an umbrella position.

Title	Notes
Assistant City Clerk	Ministerial Position
Assistant to the City Manager	Position Deleted
Associate Planner	Ministerial Position
Building Inspector	Ministerial Position
Buyer	Position Deleted
Code Compliance Officer	Ministerial Position
Human Resources Manager	Reclassified to Director
Facilities Manager	Position Deleted

Landscape Inspector	Ministerial Position
Permit Center Supervisor	Position Deleted
Planning Manager	Position Deleted
Public Works Inspector	Ministerial Position
Senior Financial Analyst	Consolidated into "Analyst (All)"
Senior Management Analyst	Consolidated into "Analyst (All)"
Senior Project Manager	Consolidated into "Project Manager (All)"
Transportation Manager	Position Deleted
Finance Manager	Position Deleted

Positions Recommended for Addition

The chart below summarizes the positions recommended for addition to the Code:

Title	Disclosure Categories
Finance Committee	1, 2
Library Advisory Committee	5
Accounting Manager	4
Analyst (All)	5
Assistant Building Official	2, 3, 5, 6
Business Operations Manager	5
Capital Projects Manager	2, 4
City Engineer	1, 2
Community Relations Supervisor	5
Communications and Marketing Coordinator	5
Economic Development Coordinator	5
Executive Coordinator	2, 5
Homeless & Supportive Services Manager	2, 5
Landscape Supervisor	2, 3, 5
Library Manager	5
Project Manager (All)	2, 5
Senior Engineer	2, 4

Legal Review:

This report was reviewed by the City Attorney’s Office.

FINANCIAL IMPACT:

There is no direct fiscal impact associated with the adoption of the Code. However, a significant amount of staff time is required for the collection, review, logging, retention of statements, and responding to public requests for inspection or duplication of these statements.

ATTACHMENTS:

1. Draft Resolution/Conflict of Interest Code
2. Resolution No. 2022-97 (Current Code)