



# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
STEVEN E. WHITE, DIRECTOR

## Planning Commission Staff Report Agenda Item No. 4 Hearing Date, August 9, 2018

**SUBJECT:** Fresno County Planning Commission Conflict of Interest Code Update

Recommend for adoption the amended Conflict of Interest Code for Fresno County Planning Commission.

**PROPONENT:** County of Fresno

**STAFF CONTACT:** Kyle R. Roberson, Deputy County Counsel IV  
(559) 600-3479

**RECOMMENDATION:**

- Recommend that the Board of Supervisors adopt the amended Conflict of Interest Code for the Fresno County Planning Commission Conflict of Interest Code and direct staff to file the 2018 Local Agency Biennial Notice; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**EXHIBITS:**

1. Proposed amended Conflict of Interest Code for Fresno County Planning Commission
2. Draft 2018 Local Agency Biennial Notice

**ENVIRONMENTAL ANALYSIS:**

Adoption of the amended Conflict of Interest Code is not a "project" under CEQA, as defined by California Public Resources Code section 21065, because the recommended action will not cause a direct or indirect change in the physical environment. Therefore, no environmental analysis is required.

**PUBLIC NOTICE:**

Notice of this agenda item has been provided in accordance with the requirements of the Ralph M. Brown Act. No further notice is required.

## **PROCEDURAL CONSIDERATIONS:**

Per Government Code section 82011, the Board of Supervisors is the code reviewing body for any County agency. A decision by the Commission in support of adoption of the amended Conflict of Interest Code is an advisory action requiring an affirmative vote by a majority of the members present. A recommendation for approval is then forward to the Board of Supervisors for final approval. The amended Conflict of Interest Code is not effective until it has been approved by Board of Supervisors, as the code reviewing body. The Commission's decision not recommend approval of the amended Conflict of Interest Code will require this matter to be returned for future consideration for approval, based on recommended changes by the Commission. However, the Commission must submit its biennial notice to the Board of Supervisors by October 1, 2018, regardless of the action taken on the proposed code.

## **BACKGROUND INFORMATION:**

The Commission last reviewed and recommended for adoption the Conflict of Interest Code on September 30, 1992. The Board of Supervisors, as the code reviewing body, approved the current code on December 1, 1992. The Fair Political Practices Commission requires that agencies' conflict of interest codes be reviewed biennially (every two years) during even years. The Board of Supervisors, as the code reviewing body, requests the Commission review its Conflict of Interest Code.

Such a review has not be performed since adoption of the current code in 1992 because the only designated positions subject to the current Conflict of Interest Code are the Members of Commission. Because Members of the Commission are mandatory filers and subject to the procedures and requirements of Government Code section 87200 *et seq.*, review of Conflict of Interest Code was deemed unnecessary.

During this current review, staff determined that the Conflict of Interest Code is silent as to the disclosure obligations for staff that advise or come before the Commission. Per this review, staff modified the Conflict of Interest Code to reflect the County's model code; modernized the language of the code by incorporating by reference California Code of Regulations, Title 2, section 18730, which contain the terms of a standard conflict of interest code; added designated positions; and removed "Commissioners" as a designated position.

Under the proposed code, the new designated positions include Fresno County Planning Development Services and Capital Projects Division Managers; Fresno County Senior Planners and Planners I, II, and III assigned to present items to the Commission; Legal Counsel to the Commission; and Consultants hired by the Commission. The proposed code limits the reporting requirements for individual listed under a designated position to only information contained in the following disclosure categories:

### 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 6

Investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources of the type subject to the regulatory, permit or licensing authority of, or have an application for permit or entitlement pending before the agency, including but not limited to:

- a license
- utility permit
- station vendor permit.

The Conflict of Interest Code proposed for adoption governs only the designated positions listed above. The proposed code update does not affect the Members of the Commission. The Members of the Commission are included in Government Code 87200 and therefore must disclose all financial interests in Fresno County, not just those listed in the proposed code. The Members of the Commission are included in the proposed code only for disqualification purposes, and are not listed as a designated position. As mandatory filers, pursuant to Government Code section 87200, Members of the Commission will continue to submit their Form 700s to the Clerk of the Board of Fresno County Board of Supervisors annually.

The goal of the proposed update to the Conflict of Interest Code is increase public confidence in the Commission's actions and codify staff's obligation to consider and, when necessary, disclose conflicts of interests on matters presented to the Commission.

**PUBLIC COMMENT:**

None.

**CONCLUSION:**

Staff believes that the proposed amended Conflict of Interest Code is necessary to bring the Commission's code into compliance with the requirements of Fair Political Practices Commission.

**PLANNING COMMISSION MOTIONS:**

**Recommended Motion** (Approval Action)

- Recommend that the Board of Supervisors approve the amended Conflict of Interest Code for the Fresno County Planning Commission and direct staff to file the 2018 Local Agency Biennial Notice with code reviewing body; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**Alternative Motion** (Denial Action)

- Recommend that the Board of Supervisors not approve the amended Conflict of Interest Code for the Fresno County Planning Commission, direct staff revise the amended code with recommended changes, and direct staff to file the 2018 Local Agency Biennial Notice with the code reviewing body; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**CONFLICT-OF-INTEREST CODE FOR  
FRESNO COUNTY PLANNING COMMISSION**

The Political Reform Act (Government Code Section 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. Section 18730) that contains the terms of a standard conflict-of-interest code and may be incorporated by reference in an agency's code. After public notice and hearing, the standard code 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 regulation and the attached Appendices designating positions and establishing disclosure requirements shall constitute the conflict-of-interest code of the FRESNO COUNTY PLANNING COMMISSION ("Commission").

The Form 700s for designated positions shall be filed with the Secretary of the Commission. The Secretary of the Commission shall retain the original Form 700s of designated positions and shall make the Form 700s available for public review, inspection, and reproduction. (Gov. Code section 81008.)

The provisions of all conflict-of-interest codes and amendments thereto previously adopted by the Commission are hereby superseded.

## APPENDIX A

### Public Officials Who Manage Public Investments

It has been determined that positions listed below manage public investments *and will file a statement of economic interests pursuant to Government Code Section 87200*. These positions are listed for informational purposes only:

- None

An individual 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 Government Code Section 87200.

### DESIGNATED POSITIONS

<u>Designated Positions</u>	<u>Disclosure Categories</u>
• Development Services and Capital Projects Division Manager	1, 6
• Senior Planners assigned to present items to the Planning Commission	1, 6
• Planners I, II, III assigned to present items to the Planning Commission	1, 6
• Legal Counsel to the Commission	1, 6
• Consultants	1, 6*

The Members of the Commission are included in Government Code Section 87200 and therefore must disclose all financial interests in Fresno County, not just those listed in this code. As a result, the Members of the Commission are included in this code only for disqualification purposes, and are not listed in APPENDIX "A" as a designated position.

\* Consultants shall be included in the list of designated positions and shall disclose pursuant to the disclosure requirements in this code subject to the following limitation:

The Fresno County Department of Public Works and Planning, Development Services and Capital Projects Division Manager ("Manager") may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements in this section. Such 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 Manager'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.)

## APPENDIX B DISCLOSURE CATEGORIES

Individuals holding designated positions must report their interests according to their assigned disclosure category(ies).

### 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 agency.

### 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 agency.

### 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 designated position's division or department.

### Disclosure Category 5

Investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources, that filed a claim against the agency during the previous two years, or have a claim pending.

### Disclosure Category 6

Investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources of the type subject to the regulatory, permit or licensing authority of, or have an application for permit or entitlement pending before the agency, including but not limited to:

- a license
- utility permit
- station vendor permit.

## 2018 Local Agency Biennial Notice

Name of Agency: Fresno County Planning Commission

Mailing Address: 2220 Tulare Street, Suite 500, Fresno, California 93721

Contact Person: Kyle R. Roberson Phone No. (559) 600-3479

Email: kroberson@fresnocountyca.gov Alternate Email: \_\_\_\_\_

Accurate disclosure is essential to monitor whether officials have conflicts of interest and to help ensure public trust in government. The biennial review examines current programs to ensure that the agency's code includes disclosure by those agency officials who make or participate in making governmental decisions.

This agency has reviewed its conflict of interest code and has determined that (*check one BOX*):

An amendment is required. The following amendments are necessary:

(*Check all that apply.*)

- Include new positions
- Revise disclosure categories
- Revise the titles of existing positions
- Delete titles of positions that have been abolished and/or positions that no longer make or participate in making governmental decisions
- Other (*describe*) Complete revision

The code is currently under review by the code reviewing body.

No amendment is required. (If your code is over five years old, amendments may be necessary.)

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Verification (to be completed if no amendment is required)

*This agency's code accurately designates all positions that make or participate in the making of governmental decisions. The disclosure assigned to those positions accurately requires that all investments, business positions, interests in real property, and sources of income that may foreseeably be affected materially by the decisions made by those holding designated positions are reported. The code includes all other provisions required by Government Code Section 87302.*

\_\_\_\_\_  
*Signature of Chief Executive Officer*

\_\_\_\_\_  
*Date*

All agencies must complete and return this notice regardless of how recently your code was approved or amended. Please return this notice no later than **October 1, 2018**, or by the date specified by your agency, if earlier, to:

(PLACE RETURN ADDRESS OF CODE REVIEWING BODY HERE)

**PLEASE DO NOT RETURN THIS FORM TO THE FPPC.**