

RESOLUTION NO. 73517

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN
JOSE APPROVING A CITY OF SAN JOSE
DECLARATION OF CONFLICT OF INTEREST POLICY**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

The City Council of the City of San Jose hereby approves and adopts the following
Declaration of Conflict of Interest Policy:

CITY COUNCIL DECLARATION OF CONFLICT OF INTEREST POLICY

Policy Number _____

PURPOSE

The purpose of this policy is to require the Mayor and Councilmembers and members of City Boards and Commissions to conduct a review of agenda items in order to publicly disclose the nature of any conflict of interest with respect to an agenda item.

State law requires that immediately prior to the consideration of a matter before an agency, a public official (a) identify the financial interest that gives rise to the conflict in sufficient detail to be understood by the public; (b) publicly state his or her recusal from the matter; and (c) leave the room until after the disposition of the matter unless the matter appears on a consent calendar or other similar portion of an agenda for uncontested matters. (Gov. Code Section 87105).

This policy is intended to exceed the requirements of state law by requiring advance notice and disclosure of any conflict of interest with respect to the agenda item or matter in addition to the procedures required by Gov. Code Section 87105.

Any declaration of a conflict of interest shall be submitted to the City Clerk with a copy to the City Attorney at least 24 hours in advance of the meeting at which the agenda item will be discussed or heard. If knowledge of the conflict of interest arises within the 24 hours of the meeting, the declaration form shall be filed with the City Clerk with a copy to the City Attorney at the time the conflict of interest is known but no later than the end of the meeting at which the agenda item is heard.

SCOPE OF APPLICATION

This policy applies to the Mayor, City Councilmembers and members of City Boards and Commissions who are "public officials" under the state Political Reform Act. Gov. Code Section 81000 *et seq.* The reference to "member" in this Policy shall mean the Mayor, City Councilmembers or members of City Boards and Commissions.

POLICY

It is the policy of the City Council of the City of San Jose that the members of the City Council and members of City Boards and Commissions should disclose conflicts of interest which requires abstention or disqualification from participation in a City or Redevelopment Agency (Agency) decision in advance of a public City Council, Agency Board or Board or Commission meeting.

1. Conflicts of interest shall be publicly disclosed in a conflict of interest declaration form filed with the City Clerk and City Attorney at least 24 hours before a Council or Board or Commission meeting unless the conflict of interest becomes known to a member within the 24 hours before the meeting in which case the declaration shall be filed with the City Clerk with a copy to the City Attorney, whenever the conflict of interest becomes known but no later than at the end of the meeting at which the agenda item is heard.

The declaration shall be set forth in a form prepared by the City Clerk.

2. The member shall identify the following:
 - (a) The City, Agency, Board or Commission decision or item of business and each type of economic interest held by the member which is involved in the decision and which gives rise to the conflict of interest (i.e. investment, business position, interest in real property, personal financial effect, or the receipt or promise of income or gifts); and/or
 - (b) The City, Agency, Board or Commission agreement or contract and the member's financial interest in the agreement or contract.
3. Conflicts of interest including economic interests under the Political Reform Act shall be identified in the disclosure form by the following details:
 - (a) If an investment, the name of the business entity in which the investment is held;
 - (b) If a business position, a general description of the business activity and the name of the business entity;

- (c) If real property, the address or other indication of the location of the property, unless the property is the member's principal or personal residence, in which case, identification that the property is a residence;
 - (d) If income or gifts, the identification of the source; and
 - (e) If personal financial effect, then identification of the expense, liability, asset or income of the member affected.
4. Conflicts of interest including a financial interest in an agreement or contract as described in Gov. Code Section 1090 shall be identified in the declaration form by describing the interest in the agreement, including for example, agreements with nonprofits where the member serves on the nonprofit's board of directors.
 5. "Common Law" conflicts of interest shall be identified where a member's private or personal interests renders them unable to make a fair or impartial decision and therefore, conflicts with their official duties. This type of conflict of interest is based on case law and may apply to non-economic conflicts of interest.
 6. If a City, or Agency, Board or Commission decision is made during a closed session of a public meeting and a member's economic interest creates a conflict of interest under the Political Reform Act, Gov. Code Section 1090 or a "common law" conflict of interest, a declaration of a conflict of interest shall be filed with the City Clerk with a copy to the City Attorney as a part of the official public record. This declaration shall be filed at least 24 hours before the closed session unless knowledge of the conflict of interest arises within 24 hours of the closed session, at which time the declaration form shall be filed immediately with the City Clerk with a copy to the City Attorney. The declaration shall be limited to a declaration that the member's recusal is because of a conflict of interest under California Government Code Section 87100 of the Political Reform Act.

ADOPTED this 21st day of November, 2006, by the following vote:

AYES: CAMPOS, CHAVEZ, CHIRCO, CORTESE, LeZOTTE,
NGUYEN, PYLE, REED, WILLIAMS, YEAGER;
GONZALES

NOES: NONE

ABSENT: NONE

DISQUALIFIED: NONE

RON GONZALES
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk