



Agenda Date: 10/17/2006  
Agenda Placement: 8A  
Set Time: 9:15 AM PUBLIC HEARING  
Estimated Report Time: 10 Minutes

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors  
**FROM:** Robert Westmeyer - County Counsel  
County Counsel  
**REPORT BY:** Brandi Periera, Paralegal, 251-1090  
**SUBJECT:** Public hearing and adoption of resolution amending County's Conflict of Interest Code.

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### **RECOMMENDATION**

County Counsel requests the following actions relating to the County's 2004 Conflict of Interest Code:

1. Continue to accept public testimony at the Public Hearing regarding objections or protests with respect to amending the Code; and
2. Close the Public Hearing and adopt the proposed resolution amending the 2004 Conflict of Interest Code.

**(CONTINUED FROM SEPTEMBER 12, 2006)**

### **EXECUTIVE SUMMARY**

Biannual review of the Conflict of Interest Code of the County is required by the Fair Political Practices Act. The purpose of the biannual review is to ensure that all positions that pose potential conflicts of interest are included in, and subject to, the County's Conflict of Interest Code.

The positions that must be included are positions the occupants of which make or participate in the making of, or might use their position to influence, decisions which may affect their economic interests.

The revised Conflict of Interest Code also requires the persons occupying those designated positions to attend periodic ethics training as authorized by new legislation relating to ethics (AB1234).

Changes to the County's Conflict of Interest Code are usually required every two years because of the fact that the county inevitably over time is required to add new positions or modify existing job descriptions. Additionally, changes to the Fair Political Practices Act, or the regulations implementing the Act, often mandate revisions to the County's Conflict of Interest Code as a part of the biannual review process.

**FISCAL IMPACT**

Is there a Fiscal Impact?                      No

**ENVIRONMENTAL IMPACT**

**ENVIRONMENTAL DETERMINATION:** General Rule. It can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

**BACKGROUND AND DISCUSSION**

In 1980, the Board of Supervisors adopted a Conflict of Interest Code (the "Code") for the County of Napa (Resolution No. 80-47). Enactment of the Code was required by the Political Reform Act of 1974 (Government Code section 87300 et seq.). Each jurisdiction's Code is required to designate all positions the occupants of which might make or participate in the making of, or might use their position to influence, decisions which may affect their economic interests. The holders of those positions must disclose certain economic interests. The Code designates the categories of interests that must be disclosed. The Code also establishes certain restrictions on gifts, loans and the like. Finally, pursuant to recent ethics legislation, the County is authorized to require ethics training of employees it specifies. The Code mandates periodic ethics training for all individuals occupying designated positions.

No later than July 1st of each even numbered year, the County is required to review its Code and amend it, if necessary, due to changed circumstances. Changed circumstances include, but are not limited to, the creation of new positions and relevant changes in the duties assigned to existing positions.

The Political Reform Act of 1974 further requires that a public hearing must be held prior to a county adopting or amending its Conflict of Interest Code. Insofar as local agencies such as the county are concerned, the review must be carried out under procedures which guarantee to officers, employees, members of local commissions, and consultants of the county, and to residents of the county, adequate notice and a fair opportunity to present their views on the proposed amendments to the Code. To comply with this requirement, County Resolution 98-145 was adopted and established the procedure to be followed when amending the Code. That resolution requires taking all of the following actions:

1. Solicit recommendations from each department head regarding whether the Code should be amended to reflect changed circumstances in his or her department.
2. Prepare the agenda item, including a draft resolution for adoption by the Board.
3. Publish notice of intent to conduct a public hearing to consider amendments to the Code at least 10 days prior to the public hearing and provide that same 10 days notice to all officers, employees, members, and consultants of the County who are affected by the amendments.

Pursuant to that Resolution, the proposed amendments were sent to the department heads of each affected employee and the department heads were asked to share them with the affected employees. Notice of the Board's intention to adopt these amendments was published pursuant to Government Code section 6061 at least 10 days prior to the public hearing. The consultants who are affected by the amendments were also provided notice of the hearing by the department heads who utilize those consultants.

After soliciting recommendations from each department head regarding whether the Code should be amended to reflect changed circumstances in his or her department, a number of changes were requested, all of which have been incorporated in Appendix A of the Resolution. The explanations of the disclosure categories are found in Appendix B. Each of these recommended changes are based on the independent determinations of the department heads. Approximately 90 new positions were designated and approximately 100 employees hold the newly designated positions incorporated in Appendix A. However, it should be noted that some of the 90 positions may involve a reclassification and/or name change for a previously designated position as opposed to a completely new designated position. Thus the 90 positions may be slightly overstated.

Regarding other Boards, Committees and Commissions whose members are appointed by the County Board of Supervisors (other than those already included in Appendix A), such as the Airport Advisory Committee, a review will be conducted to determine whether inclusion in the Code is warranted. If so, such a recommendation will be brought to the Board for consideration, later this year or early in 2007.

County Counsel recommends that the Board adopt the attached Resolution which will result in the adoption of the proposed revised Conflict of Interest Code.

#### **SUPPORTING DOCUMENTS**

A . Resolution/COIC/AppendixA&B

CEO Recommendation: Approve

Reviewed By: Maiko Klieman